

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0041

Information Collection Request Title:

Distilled Spirits Plants—Records and Monthly Reports of Processing Operations, TTB REC 5110/03.

Information Collections Issued under this Title:

- Records of Processing Operations (TTB REC 5110/03), and Monthly Reports of Processing Operations.

A. Justification

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine, and beer), chapter 52 (tobacco products, processed tobacco, and cigarette papers and tubes), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.) pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

In general, the IRC at 26 U.S.C. 5001 imposes a Federal excise tax of \$13.50 per proof gallon on distilled spirits produced in the United States for beverage purposes. To safeguard this revenue, the IRC at 26 U.S.C. 5207 requires distilled spirits plant (DSP) proprietors to maintain records and submit reports in such form and manner “as the Secretary shall by regulations prescribe” regarding their production, storage, denaturation, and processing activities. Under this section, processing activities include the receipt or transfer of distilled spirits, wines and other alcoholic ingredients, the bottling and packaging of distilled spirits, and the removal of distilled spirits from a DSP.

The TTB regulations regarding the records and reports required under the authority of 26 U.S.C. 5207 are contained in 27 CFR Part 19, Distilled Spirits Plants. Regulations in 27 CFR 19.596 through 19.604, as amplified by other sections of part 19, prescribe the records DSP proprietors must keep that are unique to processing operations. These include daily or transactional manufacturing records, dump and batch records, records related to bottling and packaging, alcohol content and fill tests, finished products, redistillation, receipt, use and disposition of liquor bottles, and records related to the rebottling, relabeling, and reclosing of bottled products. In addition, § 19.622 requires

proprietors to keep separate processing records for any wholesale liquor dealer operations or taxpaid storeroom operations they conduct, and § 19.624 requires proprietors to keep separate processing records related to rums from Puerto Rico and the U.S. Virgin Islands and for rums imported from other locations. These records are maintained under TTB recordkeeping requirement TTB REC 5110/03.

(The regulations at 27 CFR 19.571 through 19.576 and §§ 19.580 through 19.581 specify the general requirements for the content, format, organization, maintenance, and retention of DSP account records, including those related to processing activities.)

As required by 27 CFR 19.632, DSP proprietors must report their processing activities to TTB on a monthly basis using form TTB F 5110.28, Monthly Report of Processing Operations. Compiled from the processing account record requirements noted above, DSP proprietors use this report to summarize their daily processing activities and taxable removals during the monthly reporting period.

This information collection is aligned with:

Line of Business/Sub-function: General Government/Taxation Management.

IT Investment: Tax Major Application Systems.

2. *How, by whom, and for what purpose is this information used?*

TTB requires the DSP processing activity records and the monthly reports approved under this information collection to protect the revenue, ensure industry compliance with Federal law and regulations, analyze industry trends, effectively allocate TTB field resources, and compile industry statistics.

TTB field personnel use the required records to verify the quantity and kind of distilled spirits received for and used in the manufacturing of distilled spirits products, and to account for the production and disposition of finished products. Since these operations are conducted prior to the payment of the Federal distilled spirits excise tax, the verification of processing operations through records is essential to establish a DSP proprietor's tax liability and adequacy of bond coverage, if a bond is required.

TTB investigators also use records of any wholesale liquor dealer operations or taxpaid storeroom operations conducted by the proprietor to verify removals of finished goods when no bona fide, arm's length transaction records are available.

DSP proprietors are required by 27 CFR 19.632 to submit a Monthly Report of Processing Operations on TTB F 5110.28, which is essentially a summary of various data elements from the proprietor's daily processing records. TTB personnel use this report to monitor compliance with Federal law and regulations, and as an audit tool to protect the revenue. TTB also uses information from these reports to analyze trends within the industry, to effectively allocate field resources, and to compile a monthly statistical release. Users of the monthly statistical releases include other Federal agencies, State and local governments, academic institutions, members of the press, and trade associations.

The monthly report of processing operations is also used by TTB to determine the amount of the revenue to be paid (or "covered over") to the treasuries of Puerto Rico and the Virgin Islands under 26 U.S.C. 7652.

3. To what extent does this collection of information involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology? What consideration is given to use information technology to reduce burden?

TTB has approved and will continue to approve the use of improved information technology for the collection and maintenance of required information.

Currently, in regards to the required processing records and reports (as well as other records and operations reports required under part 19), the TTB regulations at 27 CFR 19.572 and 19.573 provide that proprietors may keep the required information electronically and that proprietors may maintain this information at the DSP or at a central recordkeeping location. The TTB regulations at 27 CFR 19.634 allow proprietors to provide TTB with computer-generated operations reports, such as TTB F 5100.28, without TTB's preapproval if the resulting document approximates the physical layout, matches each line, and contains the penalty of perjury statement of the corresponding TTB report or form.

Proprietors also may complete and submit TTB F 5110.28 to TTB electronically via the Pay.gov online system. In addition, TTB F 5110.28 is available on the TTB website at <http://www.ttb.gov> as a fillable/printable form. The TTB website also includes a separate posting of a tutorial about, and detailed instructions for, TTB F 5110.28.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

This information collection contains information pertinent to each respondent and applicable to the specific issue of the respondent's DSP processing operations. As far as TTB is able to determine, similar information is not available elsewhere.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

In order to protect the revenue, the IRC at 26 U.S.C. 5207 requires all DSP proprietors, regardless of size, to keep records and make reports regarding their processing activities. TTB believes the processing records and monthly reports required by its regulations in 27 CFR part 19 are the minimum necessary to protect the revenue. TTB also expects that small DSPs will have a fewer processing transactions and will thus have to keep fewer records. In addition, the TTB regulations in 27 CFR part 19 allow for the use of electronic recordkeeping systems at the respondent's discretion.

6. What consequences to Federal program or policy activities and what, if any, technical or legal obstacles to reducing burden will occur if this collection is not conducted or is conducted less frequently?

DSP proprietors maintain the processing records prescribed by the IRC and the TTB regulations on a continuing basis, and these records constitute a complete accounting of a proprietor's production of distilled spirits. Since processing operations are conducted prior to the payment of the Federal distilled spirits excise tax, the required processing records and monthly processing reports are essential to establishing a proprietor's tax liability and adequacy of any required bond coverage. Less frequent submission of the required information would jeopardize the revenue and impair TTB's ability to detect discrepancies and to respond to them in a timely manner. If TTB did not conduct this collection of information, it would have to rely solely on field inspectors to monitor compliance with the laws and regulations governing storage operations. This would require a larger number of inspectors, placing greater costs on TTB and creating a greater burden for industry members.

7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?

OMB guidelines consider requiring reporting on more than a quarterly basis to be a special circumstance. This information collection requires DSP proprietors to submit processing operations reports, TTB F 5110.28, on a monthly basis. At this time, TTB believes that less frequent submission of this report would jeopardize the revenue and impair its ability to detect discrepancies and to respond to them in a timely manner.

8. What effort was made to notify the general public about this collection of information? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.

To solicit comments from the general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on Tuesday, February 14, 2017, at 82 FR 10630. TTB received no comments in response to this notice.

9. Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?

No payment or gift is associated with this collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

No specific assurance of confidentiality is provided for the required DSP processing activities records, which proprietors maintain at their premises, or for the monthly processing operations report form, copies of which are maintained by proprietors and TTB's National Revenue Center. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by law. TTB maintains its copies of the processing operations report forms in secure file rooms with controlled access and in password-protected computer systems.

11. *What is the justification for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

12. *What is the estimated hour burden of this collection of information?*

TTB has issued permits to 2,276 distilled spirits plant proprietors (2,176 private entities and 100 government entities), all of whom are required to respond to this information collection requirement on a monthly basis, resulting in 27,312 annual responses (26,112 from private entities and 1,200 from government entities).

TTB estimates that each monthly response to this information collection takes 2 hours to complete (1 hour for recordkeeping and 1 hour for reporting), resulting in an estimated annual burden of 54,624 hours (52,224 hours for private entities and 2,400 for government entities).

1513-0041	Respondents	Responses Per Year	Annual Responses	Hours per Response	Total Annual Burden Hours
TTB REC 5110/03 (recordkeeping)	2,276	12 (1 per month)	27,312	1 hour	27,312
TTB F 5110.28 (reporting)				1 hour	27,312
TOTALS	2,276	12	27,312	2 hours	54,624

The retention requirement for this information collection is 3 years.

13. *What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above)?*

TTB believes that DSP proprietors would keep most of the required processing records during the normal course of business in order to account for and track production of their distilled spirits products. Therefore, TTB does not believe respondents bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement.

14. What is the annualized cost to the Federal Government?

Estimates of annual costs to the Federal Government for this information collection are \$21,100 for clerical costs. Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB website at <http://www.ttb.gov>.

15. What is the reason for any program changes or adjustments?

There are no program changes associated with this collection.

As for adjustments, TTB is reporting an increase in the number of respondents, responses, and annual burden hours due to significant growth in the number of distilled spirits plants, particularly in the number of small "craft" distillers, all of which are required by the TTB regulations to respond to this information collection. Therefore, for this information collection, we are reporting an increase of 1,281 respondents, 15,372 annual responses, and 30,744 annual burden hours.

To clarify that this information collection applies only to distilled spirits plants and involves both records and reports, TTB is modifying the title of this information collection request from "Monthly Report of Processing Operations – TTB REC 5110/03" to "Distilled Spirits Plants—Records and Monthly Reports of Processing Operations, TTB REC 5110/03." On the TTB F 5110.28 form, we are updating the TTB headquarters address mailing address shown in the form's Paperwork Reduction Act notice.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

Among other things, TTB uses the information gathered by this collection to compile a generalized monthly statistical reports regarding distilled spirits industry activities, but no individual respondents are identifiable in these reports.

17. If seeking approval to not display the expiration date for OMB approval of this information collection, what are the reasons that the display would be inappropriate?

As a cost saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection. By not displaying the expiration date of this collection on the related form, TTB will not have to update the form's expiration date on its electronic systems and website pages or on the form's paper version each time the information collection is approved. Similarly, TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any marginally-punched continuous printed versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on this form will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the form could continue in use regardless of when OMB's approval has expired.

18. *What are the exceptions to the certification statement?*

- (c) See item 5.
- (i) Not a survey.

B. Collection of Information Employing Statistical Methods

This collection of information does not use statistical methods.