

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement – Information Collection Request**

**OMB Control Number 1513–0048**

Information Collection Request Title:

Registration of, and Miscellaneous Requests and Notices for, Distilled Spirits Plants; and Distilled Spirits Related Requests and Notices for Non-Distilled Spirits Plants.

Information Collections Issued under this Title:

- TTB F 5110.41, Registration of Distilled Spirits Plants. (Includes new registrations, amended registrations, and amended registrations due to change in DSP bond status.)
- Miscellaneous Requests and Notices for Distilled Spirits Plants.
- Requests and Notices for Non-Distilled Spirits Plants.

**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.

Registration of Distilled Spirits Plants

The IRC at 26 U.S.C. 5171 sets out the requirements to establish a distilled spirits plant (DSP), and paragraph (c) of that section requires all DSP proprietors, before beginning operations or at such other times as the Secretary may require by regulation, to apply for and obtain notice of registration for such a plant. The IRC at 26 U.S.C. 5172 mandates that all applications for DSP registration shall, in the manner and form as the Secretary may prescribe by regulation, identify the applicant and persons interested in the business, identify the nature, location and extent of the premises, show the specific type of operations to be conducted on the premises, and show any other information required by regulation.

Under those authorities, TTB has issued regulations regarding the registration of DSPs, which, with one exception, are contained in 27 CFR Part 19 Distilled Spirits Plants.

Specifically, the TTB regulations at 27 CFR 19.71 and 19.72 require that any person who intends to establish a DSP must, before commencing operations, make application for and receive notice of registration of the DSP, using form TTB F 5110.41. This form essentially serves as a transmittal document for the supporting documents and information that DSP proprietors must submit as part of their registration application. The TTB regulations that describe the required supporting documents and information are found at 27 CFR 19.73 through 19.79.

A DSP proprietor also is required to amend the plant's registration when changes occur that affect the information provided in the application for registration. Some changes require the filing of a new TTB F 5110.41, while other changes may be documented by submitting a letterhead application or a letterhead notice to TTB. The regulations governing changes to DSP registrations are found in 27 CFR 19.112 through 19.123. In addition, under the TTB regulations at 27 CFR 19.136, a DSP proprietor must file TTB F 5110.41 to amend the registration to report a change in the proprietor's bond status if the proprietor becomes exempt from the DSP bond requirement under 26 U.S.C. 5551(d) or if a previously-exempt proprietor becomes subject to the DSP bond requirement.

In addition, 27 CFR 19.143 requires separate registration applications for alternating DSP premises. Under 27 CFR 18.39, the proprietor of a volatile fruit-flavor concentrate plant operating a contiguous DSP may alternate the use of such plants between the two functions by submitting a DSP registration application and certain other prescribed information.

#### Miscellaneous Requests and Notices for Distilled Spirits Plants

In addition, the IRC at 26 U.S.C. 5201 requires DSPs to conduct all operations "under such regulations as the Secretary shall prescribe." However, both the IRC and the TTB regulations recognize that, under certain circumstances, the efficiency of industry and interests of the Government may be best served by allowing variations from the usual regulatory requirements. Therefore, the regulations in 27 CFR part 19 and part 28 (exports) provide for the submission of various miscellaneous requests or notices to vary from the prescribed requirements of that part. Specifically, 27 CFR 19.26 and 19.27 concern, respectively, authorization of and application for ongoing alternate methods or procedures, while § 19.28 concerns emergency alternate methods or procedures. In addition, various regulations in 27 CFR part 19 allow for the submission of variance requests for specific activities at DSPs or require the submission of a miscellaneous notice to TTB. These regulations include:

§ 19.54	§ 19.55	§ 19.56	§ 19.60	§ 19.114	§ 19.116
§ 19.170	§ 19.171	§ 19.192	§ 19.261	§ 19.281	§ 19.352
§ 19.372	§ 19.384	§ 19.388	§ 19.392	§ 19.434	§ 19.441
§ 19.459	§ 19.462	§ 19.487.			

#### Requests and Notices for Non-Distilled Spirits Plants

Also included in this information collection are various miscellaneous requests required of persons who are neither registered DSPs nor applicants for registration but are required by

law or regulation to submit requests or notices related to distilled spirits or DSP activities. The ICR sections, TTB regulations in 27 CFR part 19, distilled spirits activities, and respondent group involved are:

- 26 U.S.C. 5312(b) authorizes establishment of experimental DSPs and the issuing of related regulations. Under this authority, § 19.33 requires persons to submit an application containing certain information to TTB before commencing operations at an experimental DSP.
- 26 U.S.C. 5312(a) authorizes regulations to allow certain educational and scientific institutions to produce, receive, blend, treat, test or store distilled spirits for experimental or research use. Under this authority, § 19.35 requires such institutions to submit an application containing certain information to TTB before commencing such activities.
- Under the IRC at 26 U.S.C. 5201(b), proprietors who produce non-potable distilled spirits in an industrial process, and who meet certain conditions, may apply for a waiver of the requirements of 26 U.S.C. chapter 51, and § 19.37 prescribes the required information for such an application.
- The TTB regulations at §§ 19.171 and 19.172 provide for a notice by a surety for any bond required by part 19 to be relieved of liability. The notice informs TTB of the termination of liability so that TTB may take appropriate action to protect the revenue.
- The TTB regulations at § 19.420 require that an educational or scientific institution qualified under 27 CFR 19.71 (see above) must submit a request to withdraw spirits free of tax from a DSP. The approved request constitutes the authorization for the DSP to remove the spirits free of tax.

#### Justification

Respondents to these information collections are persons who are applying to register a new DSP or who are applying to amend the registration of an existing DSP, as well as DSP proprietors and non-proprietors who are required to submit various requests and notices to TTB related to certain specified DSP operations or other distilled spirits-related activities.

The required information is mandated by statute or TTB regulation. The information collected under this clearance is necessary to protect the revenue. The collected information allows TTB to determine if a person is qualified to engage in the specified DSP operation or distilled spirits-related activity and to verify compliance of such persons with statutory and regulatory requirements related to distilled spirits, which are subject to a substantial Federal excise tax.

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?*

Respondents to these information collections are persons who are applying to register a new DSP or who are applying to amend the registration of an existing DSP, as well as DSP proprietors and non-proprietors who are required to submit various requests and notices to TTB related to certain specified DSP operations or other distilled spirits-related activities.

The information collected under this clearance is mandated by statute or TTB regulation and is necessary to protect the revenue generated by the production of distilled spirits, which are subject to a substantial Federal excise tax (unless otherwise exempted). The collected DSP registration information allows TTB to determine if a person is qualified to operate a DSP and if the DSP complies with statutory and regulatory requirements regarding, among other things, its operations, location, extent, production capacity, and security.

As for the requests and notices required under this clearance, the collected information allows TTB to identify DSPs engaged in certain operations and activities, and is necessary to ensure compliance with the statutes and regulations related to the specified DSP operations or distilled spirits-related activities.

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, on a case-by-case basis, the use of improved information technology for the collection and maintenance of required forms, records, and reports.

Currently, respondents may submit the information required on TTB F 5110.41, Registration of Distilled Spirits Plants, using the “Original DSP Application” or “Original AFP Application” function,<sup>1</sup> as appropriate, of TTB’s Permits Online (PONL) system; see <https://www.ttonline.gov/permitonline>. A PONL Tutorial and a PONL Customer User Guide are available on the TTB website at, respectively, [https://www.ttb.gov/ponl/permits\\_online-tutorials.shtml](https://www.ttb.gov/ponl/permits_online-tutorials.shtml) and <https://www.ttb.gov/ponl/customer-reference-manual-permits-online-0515.pdf>.

As for Miscellaneous Requests and Notices for Distilled Spirits Plants, and Requests and Notices for Non-Distilled Spirits Plants, these are currently submitted to TTB on paper as letterhead applications or notices, as appropriate.

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?*

The information collected is pertinent and specific to each respondent and applicable to the statutory requirement to register DSPs, or to the regulatory requirements to submit

---

<sup>1</sup> “AFP” = Alcohol Fuel Plant, which is a type of DSP.

requests or notices to TTB related to certain DSP 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?*

The IRC at 26 U.S.C. 5171(c) requires all DSP proprietors, regardless of size, to apply for and receive notice of registration for their plants, and 26 U.S.C. 5172 sets out the information required in such registration applications. In addition, as authorized by the IRC at 26 U.S.C. 5201, the TTB regulations require DSP proprietors to file letterhead requests and notices to identify certain, specific operational activities. Registration of DSPs, amendments to such registrations, and letterhead requests and notices are filed only on an as-needed basis. TTB considers the burden associated with this information collection to be the minimum necessary to protect the revenue and ensure that DSP operations comply with Federal law and TTB regulations.

*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?*

Registration of DSPs, amendments to such registrations, and the letterhead requests and notices required under this information collection are filed by respondents only on an as-needed basis, and, as such, the frequency of this information collection cannot be reduced. If TTB did not collect information related to the registration of DSPs, it would not be able to fulfill the IRC's statutory mandate to register all DSPs. In addition, if TTB did not require submission of the distilled spirits-related requests and notices approved under this collection, TTB would not have any method to approve alternate methods or procedures to its usual regulatory requirements for operations related to distilled spirits, and the industry would lack the flexibility accorded thereby.

*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?*

Under 5 CFR 1320.5(d)(2)(iv), requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years is a special circumstance. In the case of this information collection, DSP proprietors are required by 27 CFR 19.81 to maintain copies of the approved registration applications and supporting documents on the plant premises as long as the DSP remains in business. DSP proprietors also must maintain copies of approved variance requests for as long as they continue to use the approved alternate method or procedure.

*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 June 9, 2017, at 82 FR

26837. TTB received one comment on this information collection in response from Pharmco Products, Inc. of Brookfield, Connecticut, a manufacturer of ethanol and solvents. The comment stated:

OMB Number: 1513-0048, Registration of Distilled Spirits Plants, etc: Older registrations and other miscellaneous DSP notices/requests that were previously submitted before Permits Online should be uploaded / migrated to the new online system. This would facilitate the formal storage of submitted / approved documents for those older, more established DSP's and allow those companies to conduct future business in a much easier and efficient manner. It's especially beneficial to those industry members that possess permits and registrations both through paper / mail only and through the PONL system. There is obviously significant work required to accomplish this, but we feel the efforts would be well paid back in the long run.

TTB Response: TTB is already planning to load all current permittees who are not already in Permits Online into the Permits Online system upon the release of the next version, which will likely be in November. Additionally, any permittee who would like to start using Permits Online may be manually added to the system by sending an email to TTB's National Revenue Center.

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 this information collection. However, TTB F 5110.41 includes a general Privacy Act Statement explaining what TTB uses the requested information for and to whom and for what purposes the information may be disclosed. In addition, 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 that section. TTB maintains these records in secure file rooms and computer systems with controlled access, as appropriate.

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.

Personally identifiable information (PII) is collected on the TTB F 5110.41 and may be collected on letterhead requests and notices, and such information is entered into a

government electronic system. A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application system, and a Privacy Act System of Records Notice (SORN) has been issued for this system under TTB .001–Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB’s PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

In summary, based on data from TTB’s National Revenue Center, which processes responses to this information collection request, there are an estimated 2,300 respondents, 2,950 responses, and 4,386 burden hours associated with this information collection request on an annual basis.

Specifically, the burdens for the three information collections that make up this request are:

Information Collection	Format	Respondents	Responses/ Respondent	Annual Responses	Burden per Response	Total Burden Hours
Registration of DSPs	New Reg. on F 5110.41	50	1.0	50	4.0	200
	New Reg. via PONL	550	1.0	550	3.0	1,650
	Amended DSP Reg. (F 5110.41 & PONL)	680	1.5	1,020	1.0	1,020
	DSP Bond Exemption Applications* (F 5110.41 & PONL)	350	1.0	350	1.0	350
	<b>Subtotal:</b>		<b>1,630</b>	<b>(1.2086)</b>	<b>1,970</b>	<b>(1.6345)</b>
Misc. DSP Requests and Notices	Letterhead	620	1.5	930	1.2	1,116
Non-DSP Requests and Notices	Letterhead	50	1.0	50	1.0	50
<b>TOTALS:</b>		<b>2,300</b>	<b>(1.2826)</b>	<b>2,950</b>	<b>(1.48678)</b>	<b>4,386</b>

\* NOTE: Effective January 1, 2017, section 332 of the Protecting Americans from Tax Hikes Act (PATH Act; Division Q of Public Law 114–113) amended the IRC at 26 U.S.C. 5061(d) (4) to provide for a new annual tax return period for certain small alcohol excise taxpayers, and at 26 U.S.C. 5551 to add, in paragraph (d), an exemption to bond requirements for alcohol beverage producers who are eligible to file excise taxes on an annual or quarterly basis. Under 26 U.S.C. 5061(d)(4), as amended, to use annual filing, a taxpayer must

reasonably expect to be liable for not more than \$1,000 in excise taxes for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year, and, to use quarterly filing, a taxpayer must reasonably expect to be liable for not more than \$50,000 in excise taxes for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year.

Under the TTB regulations at 27 CFR 19.136, a DSP proprietor must file TTB F 5110.41 to amend the registration relating to the proprietor's bond status if the proprietor becomes exempt from the DSP bond requirement under 26 U.S.C. 5551(d), as amended. TTB reported this as a program change in its last approval submission for this information collection request. However, as an adjustment due to a change in agency estimates, we are reporting that up to 350 DSP proprietors will file one registration amendment in each of the next three years in order to apply for the bond exemption described above. On average, TTB estimates that the bond exemption application will require 1 hour to complete using either the paper TTB F 5110.41 or its PONL equivalent.

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

There are no capital/start-up or ongoing operation/maintenance costs associated with this information collection.

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

Estimates of annualized costs to the Federal Government are presented below for TTB F 5110.41. There is no cost to the Federal Government for the various letterhead notices and letterhead applications required.

Clerical costs	600
Other salary costs (review, supervision, etc.)	4,000
<b>Total</b>	<b>\$ 4,600</b>

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 (<http://www.ttb.gov>).

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

There are no program changes associated with this information collection approval request.

As for adjustments, due to changes in agency estimates, TTB is reporting an increase in the number of annual respondents and annual responses to this information collection request. These increases are due to an increase in the number of DSPs registered with TTB, an increase in the anticipated number of new DSP registrations due to growth in the "craft" segment of the industry, and an increase in the number of DSPs that will apply for



the recently-enacted bond exemption (reported as a program change in the last approval submission for this information collection request). However, due to a TTB re-evaluation of the burden associated with new DSP registration applications, we are decreasing the overall estimated annual burden hours associated with this information collection. Specifically, TTB notes an overall increase of 674 responses to the three information collections included in this request, but a decrease of 1,497 estimated annual burden hours.

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

TTB will not publish the results of this collection.

*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 on TTB F 5110.41, Registration of Distilled Spirits Plants. By not displaying the expiration date of this collection, TTB will not have to update the form's paper version or update its electronic systems and website pages 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.

As for the Miscellaneous Requests and Notices for Distilled Spirits Plants and Requests and Notices for Non-Distilled Spirits Plants information collections approved under this request, these are submitted to as letterhead applications and notices, and, as such, there is no medium for TTB to display the expiration date for OMB approval of this information collection request.

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

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.