

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement for Information Collection Request
OMB Control Number 1513–0052

**Alcohol Fuel Plants (AFP) Reports, and Miscellaneous Letterhead Applications,
Notices, Marks, and Records.**

Information Collections Contained in this Request:

- Alcohol Fuel Plant Reports (TTB F 5110.75)
- Alcohol Fuel Plants — Miscellaneous Letterhead Applications and Notices, Marks, and Records (REC 5110/10).

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 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.

Under the IRC at 26 U.S.C. 5001, distilled spirits produced or imported into the United States are subject to an excise tax of up to \$13.50 per proof gallon. However, under 26 U.S.C. 5214(a)(12) distilled spirits used for fuel purposes may be withdrawn from a distilled spirits plant (DSP) free of tax. Under 26 U.S.C. 5181, a person may establish a DSP solely for the purpose of producing, processing, and storing, and using or distributing, distilled spirits exclusively for fuel use, provided that such spirits are rendered unfit for beverage use to protect the revenue. Such DSPs are known as alcohol fuel plants (AFPs). In addition, as DSP proprietors, 26 U.S.C. 5201 and 5207 require AFP operators to conduct all authorized operations, keep records, and render reports as the Secretary by regulation prescribes.

Under those IRC authorities, TTB has issued AFP regulations, which are contained in 27 CFR Part 19, Distilled Spirits Plants, Subpart X, Distilled Spirits for Fuel Use. The regulations specific to the Miscellaneous Letterhead Applications and Notices, Marks, and Records (REC 5110/10) information collection require AFP operators to submit applications or notices to TTB related to alternate methods or procedures, emergency variations, certain permit changes and plant alternations, and materials used to make alcohol fuel unfit for

beverage use. These regulations also require AFP operators to keep and maintain records related to plant operations and alcohol fuel production, transfers, withdraws, and other activities, and to place certain marks on alcohol fuel containers. The 27 CFR part 19 regulations included under the TTB REC 5110/10 information collection request are:

19.665	19.666	19.667	19.683	19.685	19.687
19.688	19.691	19.692	19.693	19.695	19.709
19.710	19.714	19.715	19.716	19.717	19.718
19.719	19.724	19.727	19.729	19.733	17.734
19.735	19.736	19.739	19.747	19.749	19.752.

In addition, the AFP regulations at 27 CFR 19.720 regulations require AFP operators to make an annual operations report on form TTB F 5110.75.

TTB requires the collected information to protect the revenue. The collected information allows TTB to evaluate requested variations from prescribed AFP methods, procedures, and requirements, and it keeps AFP permit information current, including a plant's location, ownership and control, and operating status.¹ In addition, the required marks, records, and reports allow TTB to account for and verify the disposition of distilled spirits produced at AFPs, which is withdrawn from such plants free of tax when it is produced in accordance with the requirements of the IRC and the TTB regulations.

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?*

In general, under the IRC at 26 U.S.C. 5001, distilled spirits are subject to a Federal excise tax of up to \$13.50 per proof gallon. However, under 26 U.S.C. 5214(a)(12), distilled spirits produced for fuel use may be withdrawn free of tax from an AFP established under the provisions of 26 U.S.C. 5181, provided that such spirits are rendered unfit for beverage use.

TTB staff members use the letterhead applications and notices, marks, records, and annual operations reports required under this information collection request to:

- (1) Determine whether requests for alternate methods and procedures, emergency variations from regulatory requirements, and alternative materials for making AFP-produced distilled spirits unfit for beverage use will protect the revenue, not hinder administration of the TTB regulations, and not be contrary to the law;
- (2) Identify the person(s) responsible for AFP operations and any potential excise tax liability by keeping AFP permit information up-to-date, including a plant's location, ownership and control, and operating status; and

¹ Applications to establish an AFP and certain changes to the application are filed on TTB F 5110.74, which is approved under OMB control number 1513-0051.

- (3) Account for the distilled spirits produced, received, used on premises, destroyed, lost, transferred, redistilled, and withdrawn to determine the amount, kind, and taxable status of the spirits removed from an AFP.

Given that alcohol produced at an AFP may be diverted and used for taxable beverage use unless otherwise rendered unpotable as required by the IRC and the TTB regulations, the information collected under this request is necessary to protect the revenue.

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 of required information.

Currently, TTB F 5110.75 is available on the TTB website as a fillable-printable form (see <https://www.ttb.gov/forms/5000.shtml>). Respondents also may electronically file TTB F 5110.75 through the Pay.gov system (see <http://www.ttb.gov/epayment/epayment.shtml>).

Respondents may generate the required letterhead applications and notices, and keep and maintain the required records, in electronic formats at their discretion.

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 collected information is pertinent and specific to each respondent and their alcohol fuel plant operations. As far as TTB can 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?*

All entities, regardless of size, are required by regulation to submit or keep the required information to protect the revenue, and, as such, this information collection's requirements cannot be waived simply because a respondent's business is small. However, TTB believes that the required information is the minimum necessary to protect the revenue, and TTB notes that the required annual report may be compiled from usual and customary business records. As a result, TTB believes that this information collection does not have a substantial impact on a significant number of small entities.

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?*

As noted above, the IRC at 26 U.S.C. 5001 imposes an excise tax of up to \$130.50 per proof gallon on distilled spirits produced or imported into the United States, while 26 U.S.C. 5214(a)(12) allows distilled spirits produced for fuel use to be withdrawn free of tax from an AFP established under 26 U.S.C. 5181. Without the records, reports, and notices required

under this information collection, TTB would not be able to protect the revenue derived from that excise tax since unadulterated distilled spirits produced at an AFP can be diverted to taxable beverage use. The operational records, notices, and annual reports on TTB F 5110.75 constitute a complete accounting, on a continuing basis, of spirits and alcohol fuel produced at an AFP. Any less frequent collection would render the accounting meaningless.

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? (See 5 CFR 1320.5(d)(2).)

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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 May 30, 2018, at 83 FR 24842. TTB received no comments on this information collection in response.

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 information 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 collection. 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 that section. The records required under this information collection generally are maintained by respondents who control the confidentiality of those documents. Records, notices, and reports submitted to TTB are maintained in secure file rooms and computer systems with controlled access.

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?*

Respondents to this information collection are the proprietors of the 1,900 AFPs established under the authority of 26 U.S.C. 5181. Based on data provided by TTB specialists with extensive experience assisting AFP proprietors to comply with our regulatory and information collection requirements, we estimate the burden associated with this collection as follows:

Information Collection	No. of Respondents	No. of Responses Per Respondent	Annual Responses	Hours Per Response	Total Burden
AFP Reports on TTB F 5110.75	1,900	1	1,900	1.0	1,900
Misc. Applications & Notices, Marks & Records	(62*)	1	62	1.0	62
TOTALS	1,900	(ave. 1.0326)	1,962	(1.0)	1,962

*Respondents to this element are within the 1,900 AFP proprietors who respond to this information collection request.

The records required for AFP operations and transactions may consist of commercial documents maintained by proprietors during the normal course of business, such as inventory, production, and shipping records, if the documents contain all of the information required by the TTB regulations. In addition, TTB also believes that AFP proprietors would place the required marks on alcohol fuel containers regarding their contents and non-potable nature regardless of any regulatory requirement to do so. As such, the recordkeeping and marking requirements of this information collection impose no burden on the respondent as defined by 5 CFR 1320.3(b)(2).

Record retention: 27 CFR 19.716 requires AFP proprietors to maintain the records required under this information collection for a period of not less than three years from the date of the record's creation or the date of the last entry required to be made in the record, whichever is later.

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

TTB estimates the annual cost burden to respondents associated with this information collection as follows: \$2.00 for overhead and materials for TTB F 5110.75, totaling \$3,800 for that collection, and \$5.00 for occasional letterhead applications or notices, totaling \$310 for that collection. This results in a total overhead and material cost for this collection request of \$4,110. There are no costs associated with the AFP recordkeeping and marking requirements as these are usual and customary business practices that impose no burden

on respondents per 5 CFR 1320.3(b)(2). In addition, TTB estimates respondents have \$17.20 in salary costs per response to this collection request, for a total of \$33,746.40 in such costs for this collection request. Therefore, the total estimated total cost to respondents resulting from this information collection request is \$37,856.40 (approximately \$19.30 per response).

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

Costs to the Federal Government associated with the filing of TTB F 5110.75 and miscellaneous AFP letterhead applications and notices are as follows:

Clerical costs	\$393
Other Salary costs (review, supervisory, etc.)	14,146
Overhead	981
TOTAL COSTS	\$15,520

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

There are no program changes associated with this information collection.

As a result of changes in agency estimates, TTB is making adjustments to the information collection request's annual estimated burden. While TTB is increasing the number of AFPs from 1,663 to 1,900, and is therefore increasing the number of AFP annual reports submitted to TTB on TTB F 5110.75, TTB is decreasing the number of responses to the Miscellaneous Letterhead Applications and Notices, Marks, and Records information collection due to a decrease in the number of letterhead applications and notices received, from 955 to 62. In addition, we are decreasing the estimated time to complete a TTB F 5110.75 from 1.1 hours to 1.0 hour.

Therefore, the overall number of respondents and responses to this information collection request has decreased from 2,618 to 1,962, and the estimated annual burden hours have decreased from 2,784 to 1,962. TTB also is adding respondent costs to its reported burden estimate.

In addition, for clarity, TTB is altering the title of this information collection request to read "Alcohol Fuel Plants (AFP) Reports, and Miscellaneous Letterhead Applications and Notices, Marks, and Records."

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

TTB will not publish the results of this information 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?

TTB will display the expiration date for OMB approval of this information collection request on form TTB F 5110.75. The letterhead application and notice and recordkeeping requirements contained under this information collection request offer no medium for TTB to display the OMB approval expiration date.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collection of Information Employing Statistical Methods.

This collection of information does not employ statistical methods.