

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

Application for Operating Permit Under 26 U.S.C. 5171(d)

OMB Control Number 1513–0040

Information Collections Issued under this Title:

- Application for Operating Permit Under 26 U.S.C. 5171(d). (Includes form TTB F 5110.25 and its Permits Online (PONL) equivalent.)

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 the distilled spirits-related provisions of chapter 51 of the Internal Revenue Code (IRC; 26 U.S.C. chapter 51), 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.

As required by the IRC at 26 U.S.C. 5171(d), before beginning production or operations, persons who, for industrial use, intend to distill spirits, denature spirits, bottle or package, or warehouse spirits must apply for and obtain a distilled spirits plant (DSP) operating permit. That IRC section also requires persons who intend to manufacture articles using distilled spirits, and persons who intend to warehouse bulk spirits for non-industrial use without bottling, to obtain a DSP operating permit. Each individual DSP requires an operating permit, which specifies its authorized operations.

Under that IRC authority, the TTB regulations in 27 CFR Part 19, Distilled Spirits Plants, require persons to apply for, and receive an operating permit using form TTB F 5110.25 before beginning operations. The form identifies the name and principal business address of the applicant, the DSP's location (if different from the business address), and the operations to be conducted at the plant. The form's instructions also require the applicant to submit a statement of business organization, information regarding the persons with significant interest in the business, and a list of trade names to be used in connection with the specified operations.

Collection of this information by TTB is necessary to protect the revenue as it allows TTB to determine if the applicant is qualified under chapter 51 of the IRC to enter into the specified distilled spirits operations. This helps ensure that DSP proprietors are likely to operate their businesses in conformity with Federal laws and regulations, and assists in limiting the illicit manufacture and sale of non-taxpaid distilled spirits and/or the diversion of industrial alcohol to taxable beverage use.

The 27 CFR part 19 regulations that list the requirements to obtain an operating permit, prescribe the filing of the permit application, including supporting documents, or require amending and posting of the permit are found at:

| | | | | |
|--------|--------|--------|--------|---------|
| 19.91 | 19.92 | 19.93 | 19.94 | 19.95 |
| 19.97 | 19.126 | 19.128 | 19.129 | 19.130 |
| 19.131 | 19.132 | 19.133 | 19.134 | 19.135. |

(TTB also administers the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*), and TTB issues basic permits for distilled spirits beverage operations under that Act; see OMB Control No. 1513–0018; TTB F 5100.24.)

This information collection is aligned with:

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Permits Online (PONL).

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

The information provided by a respondent in an operating permit application enables TTB to identify the name and principle business address of the applicant, the location of the DSP, its proposed operations, and its ownership or control. TTB uses the collected information to protect the revenue as it allows TTB to determine if the applicant is qualified under chapter 51 of the IRC to enter into the specified distilled spirits operations. Such permitting assists in limiting the number of persons engaged in the illicit manufacture and sale of non-taxpaid distilled spirits and/or the diversion of industrial alcohol to taxable beverage use.

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 information.

Currently, respondents may electronically complete, sign, and submit applications for operating permits using TTB's electronic, web-based "Permits Online" (PONL) system; see <https://www.ttb.gov/ponl/permits-online.shtml>. In addition, TTB F 5110.25 is available as a fillable-printable form on the TTB website at <https://www.ttb.gov/forms/5000.shtml>.

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 operating permit application collects information that is pertinent to each respondent and applicable to their specific non-beverage distilled spirits activities or to their warehousing of non-industrial spirits without bottling operations. As far as TTB can determine, similar information is not available to the Bureau 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 statute to obtain an operating permit to engage in certain specified non-beverage distilled spirits operations or in the warehousing of non-industrial spirits without bottling. This information collection is required in order to determine if a person is qualified to receive an operating permit under the IRC at 26 U.S.C. 5171(d), and, as such, and it cannot be waived because the respondent's business is small.

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?*

If TTB did not collect this information, it would be unable to determine if an applicant is legally eligible to receive an operating permit under chapter 51 of the IRC. In addition, respondents complete this information collection when first entering business and then only as necessary to update certain information when the permittee has a change in name, trade name, business address or plant location, or control. As such, TTB cannot conduct this collection less frequently.

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?*

There are no special circumstances associated with this information collection.

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 information collection on TTB F 5110.25. 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. TTB maintains operating permit applications 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.

A Privacy Impact Assessment (PIA) has been conducted for TTB's electronic Permits Online (PONL) system and Tax Major Application systems, which contain personally identifiable information (PII) collected under this request. A Privacy Act System of Records notice (SORN) has been issued for those systems under TTB .001--Regulatory Enforcement Record System, which was published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB's PIAs are available on the TTB website at <https://www.ttb.gov/foia/pia.shtml>.

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

Applications for operating permits under 26 U.S.C. 5171(d) are filed by proprietors of new or existing DSPs who wish to engage in certain specific industrial alcohol or warehousing operations, and by proprietors of DSPs holding operating permits that have a change in name, trade name, business address or plant location, or control.

According to recent data provided by TTB's National Revenue Center, which processes operating permit applications, the Bureau estimates that up to 100 respondents will file one such application annually and that each response will take one hour to complete. Therefore, the estimated total annual burden for this information collection is 100 hours.

(100 respondents x 1 annual response per respondent = 100 annual responses x 1 hour per response = 100 total annual burden hours.)

TTB estimates that 70 of the 100 applications (70 percent) will be filed electronically using the PONL system.

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)?

TTB estimates the average costs to respondents resulting from this information collection at \$4.00 per response in overhead and material costs, for a total of \$400.00 in such costs. In addition, TTB estimates the average salary costs to respondents resulting from this information collection as \$34.40 per response, for a total of \$3,440.00 in such costs. Therefore, based on an average cost per response of \$38.40, the total estimated cost to respondents resulting from this information collection is \$3,840.00.

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

Estimates of annual cost to the Federal Government are:

| | |
|--|--------------|
| Clerical costs | 400 |
| Other Salary costs (review, supervisory, etc.) | 3,600 |
| TOTAL COSTS | 4,000 |

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 (www.ttb.gov).

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

There are no program changes associated with this collection.

As for adjustments, due to a change in agency estimates, TTB is increasing the estimated time to complete a response to this information collection from 15 minutes to one hour in order to properly account for the operating permit application's supplemental information requirements, which are included as attachments to the TTB F 5110.25 form or the PONL operating permit applications. As part of their operating permit application, instructions 2(a) and (b) on TTB F 5110.25 and in PONL require respondents to provide TTB with a statement of business organization and of the persons interested in the business, along with a list of trade names used by the business in connection with the operations specified in the application. This will increase the estimated total burden for this information collection from 25 hours to 100 hours. The total number of annual respondents and responses to this collection remain the same as previously reported, 100 respondents each making one annual response.

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?*

As a cost-saving measure for both TTB and the general public, TTB requests approval to not display the expiration date for OMB approval of this information collection on TTB F 5110.25 or in the PONL operating permit application. By not displaying the expiration date of this collection on the paper form or in PONL, TTB will not have to update the expiration date on the PONL website pages or on the paper form each time the information collection is approved. More importantly, this avoids confusion among respondents to this information collection when the OMB approval date may have passed but the approval for this collection continues on a month-to-month basis while the collection is under OMB review. In addition,

TTB-regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any versions of the forms produced by some businesses, at their own expense, for use with their electronic systems or for sale.

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. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.