

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0049

**Distilled Spirits Plant Denaturation Records (TTB REC 5110/04), and
Monthly Report of Processing (Denaturing) Operations (TTB F 5110.43).**

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 (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury 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. 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" of their production, storage, denaturation, and processing activities. However, the IRC at 26 U.S.C. 5214 authorizes the withdrawal of denatured distilled spirits from a bonded premises for certain specified uses free of tax, subject to such regulations as the Secretary shall prescribe. As such, a full accounting of the denatured distilled spirits produced, received, transferred, withdrawn, or lost at DSPs is necessary to protect the revenue by preventing the diversion of such spirits to taxable uses.

The TTB regulations regarding the records and reports required under this information collection accounting for denatured spirits are contained in 27 CFR Part 19, Distilled Spirits Plants. Specifically, the TTB regulations in § 19.606, Denaturation records, and § 19.607, Article manufacture records, as amplified by §§ 19.381 through 19.396, prescribe those records that are unique to denaturing operations at DSPs. These records are kept under the recordkeeping requirement TTB REC 5110/04, Distilled Spirits Plant Denaturation Records. In addition, the regulations at §§ 19.571 through 19.576 and §§ 19.580 and 19.581 specify the general requirements for the content, format, organization, maintenance, and retention of DSP account records, including those related to denaturing operations. (Some data elements for these denaturing operations records are sourced from the DSP

transaction records required under TTB REC 5110/05, approved under OMB control number 1513-0056.)

As required by §§ 19.632, DSP proprietors must report their denaturing activities to TTB on a monthly basis using form TTB F 5110.43, Monthly Report of Processing (Denaturing) Operations. Compiled from the denaturing operations records noted above, DSP proprietors use this report to summarize their daily denaturing activities 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?

The records and the monthly reports regarding DSP denaturing operations required under this information collection are necessary to protect the revenue, ensure industry compliance with Federal law and regulations, analyze industry trends, effectively allocate TTB field resources, and compile industry statistics.

As noted, denatured spirits removed from a DSP for certain specified uses are not subject to Federal excise tax. In order to protect the revenue by detecting and preventing diversion of denatured spirits to taxable uses, TTB personnel examine the monthly report required under this information collection for mathematical accuracy and indications of unusual activities. TTB field personnel also may examine a proprietor's monthly denaturing reports and the required supporting records to verify that the DSP's denaturing operations are conducted in compliance with the law and regulations, and may verify the quantity and kind of denatured distilled spirits on hand at a DSP during tax audits and compliance inspections.

TTB managers also use the collected information to analyze trends within the distilled spirits industry and to effectively allocate TTB field personnel. Given the limited number of TTB field personnel in relation to the number of regulated industry members, information allowing Bureau managers to determine tax audit and compliance inspection priorities is essential to effective tax administration and revenue protection. In addition, TTB personnel use the information provided on the monthly report to compile generalized statistical reports for use by TTB, industry members, and the public.

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, in regard to the required denaturing operations 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 reports of operations, such as TTB F 5110.43, 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, sign, and submit TTB F 5110.43 to TTB electronically via the Pay.gov online system (see <http://www.pay.gov>). In addition, TTB F 510.43 is available on the TTB website at <https://www.ttb.gov/forms/5000.shtml> as a fillable/printable form. The TTB website forms page also includes a separate posting of a tutorial about, and detailed instructions for completing, TTB F 5110.43.

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 their distilled spirits denaturing 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?

This collection of information constitutes a complete accounting of the denatured spirits produced, used, and disposed of by DSPs. The information required is the minimum necessary for that accounting, and the collection of less information would render the accounting incomplete and thus useless to TTB. Therefore, TTB cannot reduce the requirements on the basis of the size of the entity. However, a small DSP may be expected to have fewer and smaller transactions, and the recordkeeping burden would be commensurately less. 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?

Without the records and reports of DSP denaturation operations or if such reports were filed less frequently, TTB would not be able to monitor a respondent's denaturation activities, and this would pose a jeopardy to the revenue. Also, TTB would not be able to produce the generalized distilled spirits statistical reports used by the government, industry, and the general public, which are often used for economic planning and analysis.

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).)

Under OMB guidelines, requiring reporting more often than quarterly is considered a special circumstance. DSP proprietors conducting denaturing operations are required by regulation

at 27 CFR 19.632 to submit TTB F 5110.43 on a monthly basis. This is necessary in order to protect the revenue.

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 Thursday, March 28, 2019, at 84 FR 11867. 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 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 taxpayer-related information, unless disclosure of the information is specifically authorized by law. TTB maintains these records 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?*

While TTB estimates that it currently regulates 2,300 DSPs, not all DSPs engage in denaturing activities. Therefore, based on the recent experience of TTB personnel who process form TTB F 5110.43, TTB currently estimates that 385 DSP proprietors respond 12 times a year (once per month) to this information collection, for a total of 4,620 annual responses. TTB estimates that each response takes one hour to complete (evenly divided between recordkeeping and reporting), for an estimated total annual burden of 4,620 hours.

(385 respondents X 12 annual responses = 4,620 responses per year X 1 hour per response = 4,620 total annual burden hours.)

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 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?*

TTB estimates that the annual costs to the Federal Government for this information collection total is \$4,380 for data entry.

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 <https://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 changes in agency estimates resulting from growth in the number of DSPs that engage in denaturing activities, TTB is reporting an increase in the number of annual respondents to this information collection, from 365 to 385. This results in corresponding increases in the number of annual responses and estimated total burden hours for this information collection, from 4,380 to 4,620 responses and hours.

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

Data from monthly report of denaturing operations, filed on form TTB F 5110.43, is included within the generalized monthly and yearly Distilled Spirits Statistics Reports published by TTB on its website at <https://www.ttb.gov/spirits/spirits-stats.shtml>. These reports only disclose aggregate totals of the amounts of distilled spirits produced and withdrawn from DSPs each month and cumulatively for the year.

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 5110.11. As for the recordkeeping portion of this information collection request, there is no medium for TTB to display the expiration date of its OMB approval.

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

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

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.