

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0041

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

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 Federal excise tax on all distilled spirits produced in or imported into 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 regarding their production, storage, denaturation, and processing activities, in such form and manner as the Secretary prescribes by regulation. Under that 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.

Under the authority of 26 U.S.C. 5207, TTB has issued regulations regarding DSP records and reports, which are contained in 27 CFR Part 19, Distilled Spirits Plants. Regulations at 27 CFR 19.571–19.582 specify TTB's general requirements regarding the content, format, location, availability, retention, and maintenance of DSP records, including those related to DSP processing activities.

Specific to this information collection, the TTB regulations at 27 CFR 19.596–19.604 prescribe the records that DSP proprietors must keep that are unique to their processing operations. These include daily or transactional records related to the receipt, transfer and use of distilled spirits and wines in manufacturing distilled spirits products, dump and batch records, and records related to bottling and packaging, alcohol content and fill tests, finished products, redistillation, the receipt, use and disposition of liquor bottles, and the rebottling, relabeling and reclosing of bottled products. Certain DSP processing record requirements are also amplified or cross-referenced in §§ 19.343, 19.353, 19.357, 19.360,

19.362, and 19.363. In addition, § 19.622 requires proprietors to keep processing records for any wholesale liquor dealer operations or taxpaid storeroom operations they conduct, and § 19.624 requires proprietors to keep processing records related to rums from Puerto Rico and the U.S. Virgin Islands, as well as for rums imported from other locations. These processing activity records are maintained under TTB recordkeeping requirement TTB REC 5110/03.

As required by 27 CFR 19.632, DSP proprietors also 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 required processing records, DSP proprietors use this report to summarize their daily processing activities and taxable removals of distilled spirits 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 at a DSP and used in the manufacturing of distilled spirits products, and to account for the production and disposition of the DSP's finished products. Since these DSP operations are conducted prior to the payment of 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 their bond coverage, if a bond is required. TTB field personnel also use records of any wholesale liquor dealer operations or taxpaid storeroom operations conducted by a DSP proprietor to verify removals of finished goods when no bona fide transaction records are available.

TTB personnel use the required monthly processing operations reports, filed on TTB F 5110.28, as an audit tool to protect the revenue and to monitor compliance with Federal law and regulations. TTB also uses information from those reports to determine the amount of Federal excise tax revenue generated by distilled spirits brought into the United States from Puerto Rico and the U.S. Virgin Islands to be paid (or "covered over") to the treasuries of their governments as prescribed by 26 U.S.C. 7652. In addition, TTB uses the information collected on the monthly reports to analyze trends within the industry, to effectively allocate its field resources, and to compile a monthly statistical release, which provides generalized DSP production data to other Federal agencies, State and local governments, academic institutions, the media, and DSP trade associations.

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?

The TTB regulations allow for the use of improved information technology for the collection and maintenance of required information. Currently, under 27 CFR 19.572 and 19.573, DSP proprietors may use electronic systems to keep the records required under part 19, which they may maintain at a central location. Also, under § 19.634, DSP proprietors may provide TTB with computer-generated monthly operations reports without preapproval if the resulting report approximates the physical layout, matches each line, and contains the penalty of perjury statement of the corresponding TTB report form.

In addition, DSP proprietors may electronically complete and submit TTB F 5110.28, Monthly Report of Processing Operations, via the Federal government's online Pay.gov system at <https://www.pay.gov/public/home>. That monthly report also is available as a fillable-printable form on the TTB website at <https://www.ttb.gov>. In addition, the TTB website also includes a tutorial 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 collection contains information pertinent to each DSP proprietor respondent and specific to their distilled spirits 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, as required by regulation. TTB believes the DSP processing records and monthly reports required by its regulations in 27 CFR part 19 are the minimum necessary to protect the revenue. TTB also notes that many of the required DSP processing records are usual and customary records kept during the normal course of business. Additionally, TTB expects that small DSPs will have fewer processing transactions and will, therefore, have to keep fewer records. In addition, the TTB regulations in 27 CFR part 19 allow for the use of electronic recordkeeping systems and electronic reporting methods 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?

The DSP processing records and reports covered under this information collection are among those required to provide a complete accounting of a proprietor's production of distilled spirits. Since DSP proprietors conduct processing operations prior to the payment of the Federal distilled spirits excise tax, the required processing records and reports are essential in establishing a proprietor's excise tax liability and the adequacy of any required bond coverage. If TTB did not conduct this information collection, it would have to rely solely on field inspectors to monitor compliance with the laws and regulations governing DSP operations, which would require more inspectors and place greater costs and burdens on TTB and DSP proprietors. In addition, DSP proprietors maintain the required

processing records on a continuing basis. As such, the required records cannot be required on a less frequent basis. TTB also believes that less than monthly reporting of DSP processing operations would jeopardize the revenue, and would impair TTB's ability to detect discrepancies at DSPs in a timely manner.

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).)

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, using 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 at DSPs 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 regarding this information collection, TTB published a "60-day" comment request notice in the Federal Register at 85 FR 785 on Tuesday, January 7, 2020. TTB received no comments in response to that 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 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 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, and it does not collect personally identifiable information (PII) in a Government 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?*

Burden Estimate: Based on recent estimates by TTB personnel, the estimated annual burden for this information is as follows:

Collection Instrument	Respondents	Responses Per Year	Annual Responses	Hours per Response	Total Annual Burden Hours
TTB REC 5110/03 (recordkeeping)	3,700 (3,600 private industry & 100 State & local government)	12	44,400 (43,200 private industry & 1,200 State & local govt.)	1 hour	44,400 (43,200 private industry & 1,200 State & local govt.)
TTB F 5110.28 (reporting)				1 hour	44,400 (43,200 private industry & 1,200 State & local govt.)
TOTALS	3,700	12	44,440	2 hours	88,800 (86,400 private industry & 2,400 State & local govt.)

Record Retention: Per 27 CFR 19.575, respondents must maintain the records required under 27 CFR part 19 for at least three years from the date of the record or the date of the last entry required to be made, whichever is later.

Labor cost burden: TTB estimates the per-respondent and total labor cost burden for this information collection as follows:

Respondent Type	Fully-loaded Average Labor Rate ¹	Per Respondent			Totals for All Responses
		Burden Hours ²	Labor Costs	Respondents	Labor Costs
Private Industry	\$29.59	24	\$710.16	3,600	\$2,556,576.00
State & Local Government	\$33.63	24	\$807.00	100	\$80,712.00
TOTALS				3,700	\$2,637,288.00

¹ TTB believes that the DSP personnel who keep the records and prepare the reports required under this information collection are mostly in office and support function positions. Also, the Fully-Loaded Labor Rate = Hourly wages plus benefits. For the private sector, per the most recent U.S. Dept. of Labor, Bureau of Labor Statistics, National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312100—Beverage Manufacturing, the average fully-loaded labor rate for office and support functions personnel is \$29.59 per hour (\$20.55 wages + 9.04 benefits); see https://www.bls.gov/oes/current/naics4_312100.htm. For State and local government, the average fully-loaded labor rate for office and administrative support staff is \$33.63 per hour (\$21.02 wages + 12.61 benefits); see https://www.bls.gov/oes/current/naics4_999200.htm.

² Each respondent provides 12 annual responses at 2 hours per response, equaling 24 hours of annual burden.

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 will acquire production control, measuring devices, and other equipment and software used to generate the required record data during the normal course of business for the purpose of tracking the amount of materials used and products produced. As such, TTB also believes that most of the DSP processing activity records required under this information collection are usual and customary records kept by DSP proprietors during the normal course of business. In addition, the required monthly DSP processing operations reports are generated directly from the required records. Therefore, TTB believes that DSP proprietors do not bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this collection requirement.

Mailing costs for the required monthly processing operations reports are no more than \$2.00 response or \$24.00 per year per respondent for 12 responses, and TTB notes that it provides no-cost electronic submission methods for those reports. Approximately 30 percent of respondents use the electronic filing so 70 percent of respondents may incur the mailing costs. Therefore, it's estimated that the total out-of-pocket costs are \$62,160.00. (3,700 x 70% = 2,590 x \$24.00 = \$62,160.00)

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

There are no costs to the Federal Government for the recordkeeping portion of this information collection (TTB REC 5110/03) as the required records are kept and maintained by DSP proprietors at their business premises.

For the reporting portion of this information collection, TTB F 5110.28, TTB estimates the annual costs to the Federal Government as follows:

Category	Cost per Response	Annual Responses	Total Costs ³
Overhead	\$2.00	3,700	\$7,400.00
Clerical costs (GS-5, step 5) ⁴	\$5.368		\$19,862.00
TOTALS	\$7.368	3,700	\$27,262.00

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>.

³ Total costs are rounded to the nearest whole dollar amount.

⁴ Federal Government Fully-loaded Labor Rate = Hourly wage plus benefits; calculated as hourly wage x 1.63. Therefore, in the Cincinnati, Ohio, locality pay area, GS-5, step 5, clerical worker hourly wage of \$19.76 x 1.63 = \$32.21 fully loaded labor rate (benefits = \$12.45 per hour) @ 10 minutes per response = \$5.368 per response x 3,700 responses = \$19,861.60. See <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/> and <https://www.cbo.gov/sites/default/files/112th-congress-2011-2012/workingpaper/2012-04fedbenefitsswp0.pdf>.

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

There are no program changes associated with this collection. However, TTB has made adjustments due to changes in agency estimates resulting from continued growth in the number of DSPs in the United States, particularly small distilleries. As such, TTB is increasing the number of annual respondents, responses, and burden hours reported for this collection, from 2,276 to 3,700 respondents, from 27,312 to 44,400 responses, and from 54,624 to 88,800 hours. In addition, TTB is accounting for respondent mailing costs for those respondents that submit their monthly reports by mail.

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

TTB uses the data gathered by this information collection to compile Monthly Statistical Releases for distilled spirits production, withdrawals, net inventory, and distilling materials used. These reports are generalized for the distilled spirits industry as a whole, and no individual respondents are identifiable. TTB posts these reports for public viewing on its website statistics page at <https://www.ttb.gov/statistics>.

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 its related form, TTB F 5110.28. By not displaying that date on the form, TTB will not have to update the form on its website and on Pay.gov each time OMB reapproves this information collection. Similarly, TTB-regulated and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the report made for sale to other businesses. Additionally, not displaying the information collection's OMB approval expiration date on the form will avoid confusion among members of the public who may have copies of the form with different expiration dates in their possession.

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.