

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0051

Application for an Alcohol Fuel Producer Permit Under 26 U.S.C. 5181

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 Department Order 120–01.

The IRC at 26 U.S.C. 5181(a)(1) states that “[o]n such application and bond and in such manner as the Secretary may prescribe by regulation,” a person may establish a distilled spirits plant (DSP) solely for the purpose of producing, processing, storing, and using or distributing spirits for use as alcohol fuel. Such DSPs are known as alcohol fuel plants (AFPs). Also, as a type of DSP, AFPs are subject to the location, construction, and security regulations issued by the Secretary under the authority of 26 U.S.C. 5178(a), and to the still registration requirements of 26 U.S.C. 5179. In addition, the distilled spirits produced at an AFP are potable, and, under 26 U.S.C. 5001, potable spirits are subject to a Federal excise tax of up to \$13.50 per proof gallon unless otherwise exempt from that tax. To prevent conversion of distilled spirits produced at an AFP to taxable beverage use via diversion or theft, the IRC at 26 U.S.C. 5181(e) requires such spirits to be denatured (rendered unpotable) before they may be withdrawn from the AFP free of tax as authorized by 26 U.S.C. 5214(a)(12).

Under the IRC authorities noted above, TTB has issued regulations concerning the establishment, bonding, construction, equipment, security, and operation of AFPs. These regulations are set forth in 27 CFR Part 19, Distilled Spirits Plants, Subpart X, Distilled Spirits for Fuel Use. Specifically, those regulations require that a person wishing to establish a new AFP must submit an application for an alcohol fuel producer permit using form TTB F 5110.74. The regulations also require existing AFP proprietors to use that form to make certain amendments to their permit information. TTB F 5110.74 and its required supporting documents describe, among other things, the applicant, the proposed AFP's location and layout, its stills, its size category (small, medium, or large) based on the amount of alcohol fuel to be produced annually, and the security measures to be taken to prevent theft and diversion of the distilled spirits produced.

The following TTB regulations in 27 CFR part 19, subpart X, prescribe the use of TTB F 5110.74 to apply for an original or amended alcohol fuel producer permit, or the inclusion of additional documentation with such an application:

§ 19.673, Small plant permit applications.	§ 19.675, Medium plant permit applications.
§ 19.676, Large plant permit applications.	§ 19.677, Large plant applications — organizational documents
§ 19.680, Registration of stills.	§ 19.683, Changes affecting permit applications.
§ 19.684, Automatic termination of permits.	§ 19.685, Change in type of alcohol fuel plant.
§ 19.686, Change in name of proprietor.	§ 19.688, Change in proprietorship.
§ 19.689, Continuing partnerships.	§ 19.690, Change in location.
§ 19.692, Qualifying for alternating proprietorship.	

The information required for an alcohol fuel producer permit is necessary to protect the revenue. The provided information allows TTB to determine the applicant's eligibility under the IRC to obtain or modify a permit, and to determine whether the applicant's operations will be in conformity with Federal law and regulations, including those related to the construction, equipment, location, operations, and security of the AFP.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Permits Online and Tax Major Application systems.

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

The collected information allows TTB to determine the applicant's eligibility under the IRC to obtain or modify an alcohol fuel producer permit, and to determine if the applicant's AFP operations will be in conformity with Federal law and regulations. Such determinations are necessary to protect the revenue as the distilled spirits produced at an AFP are potable and thus subject to a Federal excise tax of up to \$13.50 per proof gallon unless the spirits are denatured for fuel use, which is not subject to tax under the IRC.

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?

Currently, respondents may electronically complete and file a new or amended alcohol fuel producer permit using TTB's Permits Online (PONL) system. TTB also provides online tutorials and other guidance for its PONL system. Access to PONL and its related customer support materials is available on the TTB website at <https://www.ttb.gov/ponl/customer-support>. Additionally, the paper form, TTB F 5110.74, Application and Permit for an Alcohol

Fuel Producer Under 26 U.S.C. 5181, is available as a fillable-printable form on the TTB website at <https://www.ttb.gov/forms>.

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 provides TTB with information that is pertinent and unique to each respondent and applicable to the respondent's qualifications to operate an AFP as authorized by 26 U.S.C. 5181. 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 TTB regulations recognize three sizes of AFPs—"small" plants are those that produce and receive 10,000 proof gallons or less per year, "medium" plants produce and receive more than 10,000 but not more than 500,000 proof gallons per year, and "large" plants produce and receive more than 500,000 gallons per year. The IRC and the TTB regulations require all entities, regardless of size, to apply for a permit to operate an AFP. Waiver of this requirement, simply because the respondent's business is small, could jeopardize the revenue.

However, the TTB regulations do reduce the burden on those applicants who wish to establish a "small" AFP. While the TTB regulations require applicants intending to operate medium and large plants to provide personal information, including criminal history, on the plant's owners, officers, and directors, and information on their business financing, TTB does not apply these requirements to applicants intending to operate small AFPs. As such, TTB believes that this information collection does not have a significant impact on a substantial number of small businesses or other 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?

TTB uses the information provided by this collection to determine an applicant's eligibility to obtain or modify an alcohol fuel producer permit, and to determine whether the applicant's operations will be in conformity with Federal law and regulations. Not collecting the information required to make such determinations would jeopardize the revenue as the distilled spirits produced at an AFP are potable and, as such, subject to an excise tax of up to \$13.50 per proof gallon unless those spirits are denatured as required by the IRC for fuel use. In addition, given that respondents complete this collection one time to obtain an alcohol fuel producer permit and, afterwards, only on an as-needed basis to amend such permits, TTB cannot conduct this information 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? (See 5 CFR 1320.5(d)(2).)

Under the OMB regulations at 5 CFR 1320.5(d)(2)(iv), requiring record retention for more than 3 years is a special circumstance. The TTB regulations at 27 CFR 19.81, Maintenance of registration file, requires all DSP and AFP proprietors to keep a file containing their permit and plant registration documents and their supporting documents. That regulation also requires such proprietors to maintain this file at their plant premises for as long as the plant is in operation, and it must be readily available for inspection by appropriate TTB officers.

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 public comments, TTB published a "60-day" comment request notice for this information collection in the Federal Register on July 31, 2020, at 85 FR 46221. 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?

TTB provides no specific assurance of confidentiality 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 that section specifically authorizes such disclosure. TTB F 5110.74 and its related PONL applications contain Privacy Act Information notices describing TTB's authority to collection the required information, its purpose for doing so, and to whom and for what purpose TTB may disclose the information. TTB maintains these application records in secure computer systems and file rooms 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. However, this collection does contain personally identifiable information (PII), which TTB maintains in the Permits Online and Tax Major Application electronic systems. TTB has conducted Privacy Impact Assessments (PIAs) for those systems, and has issued a Privacy Act System of Records notice (SORN) for those systems under TTB .001-Regulatory Enforcement Record System, which TTB 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/privacy-impact-assessments>.

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

Estimated Respondent Burden: Based on recent data provided by TTB's National Revenue Center, which processes alcohol fuel producer permits, the annual burden estimate for this information collection is as follows:

Collection Instrument & Respondent Type	Respondents	Responses / Respondent	Responses	Hours / Response	Burden Hours
Private Sector					
PONL AFP Application	125	1	125	1.3	163
TTB F 5110.74	65	1	65	1.8	117
<i>Subtotals</i>	190	1	190	(1.473)	280
Individuals					
PONL AFP Application	30	1	30	1.3	39
TTB F 5110.74	20	1	20	1.8	36
<i>Subtotals</i>	50	1	50	(1.5)	75
Totals	240	1	240	(1.479)	355

Estimated Respondent Labor Costs: Based on U.S. Labor Department, Bureau of Labor Statistics wage data for basic chemical manufacturing occupations, TTB estimates the per-respondent and total respondent labor costs for this information collection as follows:

NAICS 3250A1 – Chemical Manufacturing (3251, 3252, 3253, and 3259 Only); NAICS 325100 – Basic Chemical Manufacturing, Office & Administrative Support Occupations ¹					
Information Collection	Fully-loaded Labor Rate ²	Avg. Per Response Burden	Labor Cost/Response	Total Responses	Total Labor Costs
AFP Permit Application	\$31.71/hour	1.479 hours	\$46.90	240	\$11,256.00

Respondent Record Retention: Under 27 CFR 19.81, Maintenance of registration file, all DSP proprietors, including AFP proprietors, must keep a file containing their registration documents, which includes any DSP and AFP permits and their supporting documents. Proprietors are also required to maintain this file at their plant premises for as long as the plant is in operation, and be readily available for inspection by the appropriate TTB officers.

¹ Per the U.S. Department of Labor, Bureau of Labor Statistics website, occupations related to the manufacture of biofuels, which includes alcohol fuel, fall under the North American Industry Classification System (NAICS) statistical category NAICS 325100 – Basic Chemical Manufacturing. See “Careers in Biofuels” at <https://www.bls.gov/green/biofuels/biofuels.htm>.

² Private Sector Fully-loaded Labor Rate per Hour = Wage rate x a factor of 1.4 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, wage data for NAICS 3250A1 – Chemical Manufacturing, which includes NAICS 325100 – Basic Chemical Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations is \$31.71 (\$22.65 in wages plus \$9.06 in benefit costs). See the Bureau of Labor Statistics website at https://www.bls.gov/oes/current/naics4_3250A1.htm.

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 annualized start-up or maintenance costs to respondents associated with this occasional information collection. As for mailing costs, TTB estimates that 85 respondents send one paper AFP permit application to TTB annually, with mailed response costing up to \$4.00 in postage and mailing supplies, resulting in an estimated total of \$340.00 in annual respondent mailing costs for this information collection.

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

In general, TTB has determined that there are no annualized non-labor, printing, or distribution costs to the Government associated with this information collection because the alcohol fuel producers permit application is available on the TTB website as an electronic PONL application or as a fillable-printable form.

As for Federal Government labor costs, TTB has determined that its labor costs for this information collection are as follows:

Alcohol Fuel Producers Permit Government Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio					
Position	Fully-loaded Labor Rate/Hour ³	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.13	10 minutes	\$5.36	240	\$1,286.40
GS-11, Step 5, Specialist	\$58.91	2 hours	\$117.82		\$28,276.80
GS-12, Step 5, Supervisor	\$70.61	10 minutes	\$11.77		\$2,824.80
TOTALS	(\$62.285)	2 hours, 10 minutes	\$134.95	240	\$32,388.00

³ Federal Government Fully-loaded Labor Rate per Hour = Wage rate x a factor of 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$32.13 (\$19.71 in wages plus \$12.42 in benefit costs); (2) GS-11, step 5, employee = \$58.91 (\$36.14 in wages plus \$14.77 in benefit costs); (3) GS-12, step 5, employee = \$70.61 (\$43.32 in wages plus \$27.29 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/CIN_h.pdf.

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

There are no program changes associated with this information collection. As for adjustments, due to changes in agency estimates, TTB is decreasing this collection's estimated number of annual respondents and responses from 251 to 240, its per-response burden from 1.5 hours to 1.479 hours, and its total burden from 377 hours to 355 hours. These decreases are due to a drop in the number of alcohol fuel producer permit applications TTB has received in recent years, and a more accurate accounting of the per-response burden difference between PONL applications (1.3 hours) and paper applications (1.8 hours). The number of annual responses per respondent (one) remains the same as previously reported. TTB also is now accounting for the mailing costs associated with this collection.

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 public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5110.74, and its PONL equivalent. By not displaying that date on the form, TTB will not have to update the form on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the form 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?*

- (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.