

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

Supporting Statement – Information Collection Request

OMB Control Number 1513–0125

Distilled Spirits Bond

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.

In general, the IRC at 26 U.S.C. 5001 imposes a Federal excise tax on all distilled spirits produced in or imported into the United States. To protect that revenue, the IRC at 26 U.S.C. 5173 and 5181 requires proprietors of distilled spirits plants (DSPs) and alcohol fuel plants (AFPs), respectively, to furnish a bond before starting operations, subject to regulations issued by the Secretary and the exemptions for certain small producers provided under 26 U.S.C. 5551(d) and 5181(c).¹ Under the IRC at 26 U.S.C. 7101, and subject to regulations prescribed by the Secretary, the proprietor may furnish a surety bond, under which a surety company guarantees payment of the proprietor's unpaid tax liabilities, or the proprietor may submit a collateral bond backed by United States Treasury securities or notes. TTB also accepts cash or cash equivalents as a collateral bond.

The TTB regulations regarding distilled spirits bonds are contained in 27 CFR Part 19, Distilled Spirits Plants. In part 19, subpart F, § 19.151 describes the general rules for distilled spirits bonds, and requires DSP proprietors to file their bonds using form TTB F 5110.56, Distilled Spirits Bond. Additionally, § 19.154 concerns bonds guaranteed by deposit of securities, §§ 19.161 through 19.165 concern the types of distilled spirits bonds, and §§ 19.167 and 19.168 concern strengthening and superseding bonds, respectively. In part 19, subpart X, § 19.699 concerns the bonds required for AFPs, and that section also cross-references the general DSP bond regulations in subpart F.

¹ Under 26 U.S.C. 5551(d), DSP proprietors who are eligible to file excise taxes on an annual or quarterly basis are exempt from the DSP bond requirement. Under 26 U.S.C. 5061(d)(4), to use annual filing, a DSP proprietor must reasonably expect to be liable for not more than \$1,000 in excise taxes for the calendar year and must be liable for not more than \$1,000 in such taxes in the preceding calendar year. To use quarterly filing, the DSP must reasonably expect to be liable for not more than \$50,000 in excise taxes for the calendar year and must be liable for not more than \$50,000 in such taxes in the preceding calendar year. Under 26 U.S.C. 5181(c), AFPs producing no more than 10,000 gallons of alcohol fuel per year are not required to submit a distilled spirits bond.

On TTB F 5110.56, the respondents identify themselves and their surety company (if any), the type of bond (operations, withdrawal, unit, AFP), the kind of bond (original, strengthening, or superseding), and the premises covered by the bond. Per the form's instructions, respondents file two original copies with TTB. After TTB notes its approval of the bond on the form, it returns one copy to the respondent to keep for their records.

This information collection is aligned with —

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

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

TTB uses the collected information to identify the respondent and their surety company (if any), the type of bond being submitted (operations, withdrawal, unit, AFP), the kind of bond (original, strengthening, or superseding), and the premises covered by the bond. TTB reviews the collected information to ensure that the respondent's bond coverage is adequate and that the Secretary has approved the involved surety (if any).² If TTB accepts the bond, it notes its approval on the form and returns a copy to the respondent to keep for their records. The collected information is necessary to protect the revenue as an approved bond ensures payment by the appropriate surety or collateral holder of any distilled spirits excise tax liabilities that a proprietor does not pay in a timely manner.

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 file bond information and upload completed, signed copies of form TTB F 5110.56, Distilled Spirits Bond, using the bond portion of the Distilled Spirits Plant application or the Alcohol Fuel Plant application, as appropriate, in 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, TTB F 5110.56, Distilled Spirits Bond, 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?

The collected information is pertinent to each respondent and applicable to the specific issue of filing a bond for a DSP or AFP as required by the IRC. As far as TTB is able to determine, similar information is not available elsewhere.

² The Secretary publishes a list of approved surety companies for Federal bonds in Department of the Treasury Circular 570, maintained by the Bureau of the Fiscal Service and posted at <https://www.fiscal.treasury.gov/surety-bonds/circular-570.html>.

5. *If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?*

As noted above, the IRC now exempts most small DSP and AFP proprietors from its general requirement to provide a bond. In cases where a proprietor is required to provide a bond, TTB cannot waive or reduce the IRC's requirement to do so simply because the proprietor's business is small. Given the exemptions to the bond requirement and the minimal information collected from those proprietors required to submit a bond, TTB believes that this information collection does not have a significant impact on a significant number of small businesses.

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 conduct this information collection, DSP and AFP proprietors required to submit a bond would have no means to comply with the statutory requirement to do so. In addition, as respondents only provide the required information when they need to submit, strengthen, or supersede a bond, TTB cannot conduct this collection less frequently. Given the significant amount of excise tax imposed on potable distilled spirits, lack of bond coverage for DSPs and AFPs required to file a bond would jeopardize the revenue.

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. Under 27 CFR 19.81, Maintenance of registration file, respondents must retain their copies of all approved, active bond forms within their DSP or AFP registration file, which, under that regulation, they must maintain at their premises, readily available for TTB inspection, for as long as they remain in business.

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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on September 3, 2020, at 85 FR 55067. 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 information 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. TTB maintains the collected information in secure computer systems and office space 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. Additionally, this information request 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?*

Estimated Respondent Burden: Based on recent data, TTB estimates that 310 respondents file one response annually, resulting in 310 annual responses. TTB further estimates that respondents require 1 hour to complete each response, resulting in a total estimated annual burden of 310 hours.

(310 respondents x 1 response each annually = 310 annual responses x 1 hour per response = 310 total annual burden hours.)

Estimated Respondent Labor Costs: TTB estimates the annual per-respondent and total respondent labor costs for this information collection as follows:

NAICS 312000 - Beverage & Tobacco Product Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour³ = \$29.65						
Information Collection	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Distilled Spirits Bond	1.0 hour	\$29.65	1	\$29.65	310	\$9,191.50

³ Private Sector Fully-loaded Labor Rate = Hourly wage rate + benefit costs, calculated as hourly wage x 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics, data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312000—Beverage and Tobacco Product Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations is \$29.65 (\$20.59 in wages plus \$9.06 in benefit costs). See the Bureau of Labor Statistics website at https://www.bls.gov/oes/current/naics3_312000.htm.

Respondent Record Retention: Under 27 CFR 19.81, proprietors of bonded premises must retain a copy of the TTB-approved bond form as part of their permit file, which they kept at their premises, readily available for TTB inspection, for as long as they remain in business.

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 annual costs to respondents associated with this information collection. As for mailing costs, TTB estimates that each response to this collection costs no more than \$2.00 in mailing supplies and postage. Given that each of 310 respondents make 1 response annually, this results in mailing costs of \$2.00 per respondent and \$620.00 in total mailing costs for this collection.

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

TTB has determined that there are no annualized non-labor costs to the Federal Government associated with this information collection. Printing and distribution costs to the Federal Government for this collection have decreased to \$0.00 due to the availability of TTB forms to the public on its website's forms page at <https://www.ttb.gov/forms>.

TTB estimates the annual labor costs to the Federal Government for this information collection as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio*					
Position	Fully-loaded Labor Rate/Hour ⁴	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.13	6 minutes	\$3.21	310	\$995.10
GS-11, Step 5, Specialist	\$58.91	15 minutes	\$14.73		\$4,566.30
GS-13, Step 5, Supervisor	\$83.96	3 minutes	\$4.20		\$1,302.00
TOTALS	(\$55.35)	24 minutes	\$22.14	310	\$6,863.40

* Labor costs per respondent rounded to the nearest whole cent.

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

⁴ Federal Government Fully-loaded Labor Rate = Hourly 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, 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 \$22.77 in benefit costs); and (3) GS-13, step 5 employee = \$83.96 (\$51.51 in wages plus \$32.45 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.

There are no program changes associated with this information collection. As for adjustments, due to changes in agency estimates, TTB is decreasing the number of annual respondents, responses, and burden hours associated with this information collection. In 2017, TTB reported 357 respondents to this collection and that each respondent made 2 annual responses due to the requirement to submit 2 originals of the bond form, per the form's instructions. As a result, at 1 hour per response, the annual estimated burden previously reported for this collection was 716 hours. However, TTB has determined that, while each response requires the submission of two original forms, this constitutes only a single response that requires 1 hour to complete. Therefore, given the now estimated 310 respondents to this collection, each making 1 annual response at 1 hour per response, TTB now estimates the total annual burden for this collection is 310 hours.

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 5110.56, and the related PONL information screens. By not displaying that date on the form and in PONL, TTB will not have to update PONL or the form as posted 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. Collection of Information Employing Statistical Methods

This information collection does not employ statistical methods.