

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0044

**Distilled Spirits Plants—Notices of Alternations and Changes in Production Status,
and Alternating Premises Records.**

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.

Under the IRC at 26 U.S.C. 5178(a), a distilled spirits plant (DSP) is a delineated place on which only certain authorized activities may be conducted. However, under section 5178(b), the Secretary may authorize other businesses on a DSP's premises upon application, if such activities will not jeopardize the revenue or are not otherwise prohibited by the IRC. The IRC at 26 U.S.C. 5221 also requires DSP proprietors to give written notification to the Secretary, in the form and manner prescribed by regulation, when they begin, suspend, or resume production of spirits. In addition, the IRC at 26 U.S.C. 5555 requires those liable for any tax imposed by chapter 51 of the IRC to keep such records, submit such returns and statements, and comply with such rules and regulations as the Secretary may prescribe.

Under those IRC authorities, the TTB regulations in 27 CFR Part 19, Distilled Spirits Plants, require DSP proprietors to provide written notification of alternations of their plants between proprietors or for customs purposes, and when making changes to the production status of spirits. The TTB regulations also require DSP proprietors to keep records when alternating their premises, including with an adjacent bonded wine cellar, taxpaid wine bottling house or brewery, as a manufacturer of eligible flavors, or as general premises. The TTB regulations related to those information collection requirements are:

Issued under authority of 26 U.S.C. 5178(b):

- Section 19.141 governs the alternation of DSP premises between different proprietors. Paragraph (b) of that section requires that each proprietor file with TTB a letterhead notice (or the proprietors may file a jointly-signed notice) listing certain information about

the alternation, such as names and plant numbers of the proprietors involved, the date and time of the alternation, and the purpose of the alternation.

- Section 19.142 governs alternations of DSPs for customs purposes. Paragraph (c) of that section requires a proprietor to file with TTB a letterhead notice listing certain information about the alternation, such as name and plant number of the proprietor involved, the date and time of the alternation, the purpose of the alternation, and the class of the temporary customs warehouse, if applicable.
- Section 19.143 governs alternations of DSPs for other purposes, including as an adjacent bonded wine cellar, taxpaid wine bottling house, or brewery, as a manufacturer of eligible flavors, or as general premises. While no prior notification to TTB is required for such alternations, paragraph (e) of this section requires DSPs proprietors to keep the alternating premises records required by § 19.627 each time a proprietor alternates operations at their premises (see below).¹

Issued under authority of 26 U.S.C. 5221:

- Section 19.292 requires DSP proprietors to file with TTB a letterhead notice when they begin production of distilled spirits, when they suspend production of spirits for more than 90 days, and when they resume production of spirits after such a suspension.

Issued under the authority of 26 U.S.C. 5555:

- Section 19.627 requires DSP proprietors who alternate premises to or from bonded or taxpaid wine operations, a brewery, a manufacturer of nonbeverage products, or general premises to keep commercial records or a logbook documenting certain information, including the date and hour of the alternation, the kind of premises involved, and the purpose of the alternation.

The required letterhead notices alert TTB to the alternation of DSP premises between different proprietors or for customs purposes, or to changes in the production status of DSPs, and the required records document alternations of operations at DSPs. The collected information is necessary to protect the revenue and ensure compliance with relevant laws and regulations concerning allowable and prohibited operations at DSPs.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

The letterhead notices and records required under this information collection alert TTB to, or document, alternations and production changes at DSPs. The required notices and records allow TTB to determine, at any given time, which DSP proprietor is legally liable for a plant's operations and any resulting Federal excise tax liability, what other authorized activities the proprietor is conducting at the plant, and the plant's spirits production status. TTB uses the

¹ Section 19.144 governs alternations of DSP premises with volatile fruit-flavor concentrate plant premises. In such cases, the required alternation approval and recordkeeping requirements are found in the TTB regulations in 27 CFR part 18, and are approved under OMB control number 1513–0006.)

required information to protect the revenue and ensure compliance with relevant laws and regulations concerning authorized and prohibited activities at DSPs.

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 the required information. DSP proprietors prepare the required notices and keep the required alternation records using technologies of their choice, provided that they can make required records readily available to TTB personnel.

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 requirement contains information that is pertinent to each respondent and specific to the issue of alternations of DSP premises and changes in the production status of DSPs. 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?

Under IRC at 26 U.S.C. 5178(b), 5221, and 5555, all entities, regardless of size, are required to give notice of alternations of DSP premises, provide notification of changes in the production status of spirits, and keep the required alternation records. As such, respondents submit the collected information only on an as-needed basis, and TTB considers this collection to be the minimum necessary to ensure compliance with the IRC and its related regulations. To minimize the burden on all entities, the TTB regulations allow for the use of letterhead notices and the keeping of logbooks or commercial records, to comply with the requirements of this information collection.

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 IRC requires DSP proprietors to submit notifications of alternations of their premises and changes in the production status of spirits, and TTB cannot waive those statutory requirements. In addition, DSP proprietors submit the required letterhead notices and keep the required alternation records only on an as-needed basis, and, as such, TTB cannot conduct this collection less frequently. In any case, if TTB did not collect the required information or collected it less frequently, TTB would not be able to determine, at any given time, which DSP proprietor is legally liable for a plant's operations and resulting excise tax liability, which would jeopardize the revenue. In addition, not conducting this collection or conducting it less frequently would also jeopardize TTB's ability to ensure compliance with relevant laws and regulations concerning authorized and prohibited activities at DSPs.

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).)*

No special circumstances are 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 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 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 disclosure. TTB maintains the letterhead notices received under this information collection in secure file rooms with controlled access. The required alternating premises records remain under the control of respondents at their premises.

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). Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this information collection.

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

Estimated Respondent Burden: This collection requirement consists of two information collections: (1) Notices of Alternations and Changes in Production Status at Distilled Spirits Plants, and (2) Alternating Premises Records for Distilled Spirits Plants. Based on recent data, TTB estimates the annual respondent burden for the two collections as follows:

Collection	Respondents	Avg. Responses per Respondent	Total Responses	Burden Hours Per Response	Total Burden Hours
Letterhead Notices	50	5	250	0.5 hours	125
Alternating Premises Records	1,200	5	6,000	0.5 hours	3,000
TOTALS	1,250	5	6,250	0.5 hours	3,125

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

NAICS 312000 - Beverage & Tobacco Product Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour = \$29.65²						
Collection	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Letterhead Notices	0.5 hour	\$14.83	5	\$74.15	250	\$3,707.50
Alternating Premises Records	0.5 hour	\$14.83	5	\$74.15	6,000	\$88,980.00
Totals	0.5 hours	\$14.83	5	\$74.15	6,250	\$92,687.50

NOTE: All costs rounded to the nearest whole cent.

Respondent Record Retention: Under 27 CFR 19.575, DSP proprietors must maintain copies of letterhead notices and alternation records or logbooks for at least 3 years from the date of the record or the last entry, whichever is later. TTB may require proprietors to retain such records for up to an additional 3 years if TTB deems it appropriate for the protection of the revenue.

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 believes that there are no annualized non-labor costs associated with this collection. As for mailing costs for the letterhead notices information collection, TTB estimates that respondents have \$1.00 in mailing supply and postage costs for each response. As there are 50 annual respondents making an average of 5 submissions each to that collection annually, for a total of 250 responses, this results in mailing costs of \$5.00 per respondent and \$250 in total mailing costs for that information collection.

² Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), 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 BLS website at https://www.bls.gov/oes/current/naics3_312000.htm.

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

There are no annualized non-labor costs to the Federal Government associated with this information collection request, which consists of letterhead notices generated by DSP proprietors and alternation records kept by such proprietors at their premises. As for labor costs to the Federal Government, while there are no such costs for the alternation records information collection, TTB estimates the annual labor costs to the Federal Government for the letterhead notices information collection as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio Notices of Alternations and Changes in Production Status at Distilled Spirits Plants					
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	6 minutes	\$3.21	250	\$802.50

NOTE: Labor costs are rounded to the nearest whole cent.

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

There are no program changes or adjustments associated with this information collection at this time.

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?*

This information collection request consists of letterhead notices sent to TTB by DSP proprietors and alternation records kept by DSP proprietors at their premises. There is no prescribed TTB form for this collection, and, as such, there is no medium for TTB to display the collection's OMB approval expiration date.

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 rate for the Cincinnati, Ohio, wage area for a GS-5, step 5, employee is \$32.13 (\$19.71 in wages plus \$12.42 in benefit costs). See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/CIN_h.pdf.

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

- (c) See item 5 above.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.