

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0038

Application to Receive Spirits and/or Denatured Spirits by Transfer in 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 of up to \$13.50 per gallon on distilled spirits produced in the United States. To protect that revenue, the IRC at 26 U.S.C. 5173 and 5181 generally requires proprietors of distilled spirits plants (DSPs) and alcohol fuel plants (AFPs, a type of DSP), respectively, to furnish a bond before starting operations. Those bond requirements are 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 Specific to this information collection request, the IRC at 26 U.S.C. 5005(c) provides that when non-taxpaid distilled spirits are transferred in-bond from the premises of one DSP to another, the tax liability for the in-transit spirits falls upon the proprietor of the receiving DSP, “pursuant to application made by him.” As provided in section 5551(d), the IRC treats small DSPs exempted from its bond requirements as if they have a bond, and those DSPs may transfer spirits as provided in section 5005(c).

Therefore, as required by 26 U.S.C. 5005(c), the TTB regulations require DSP proprietors to file an application for the in-bond transfer of non-taxpaid distilled spirits between DSPs on TTB F 5100.16, Application to Receive Spirits and/or Denatured Spirits by Transfer in Bond, which TTB must approve the application before the transfer may occur. This form notifies TTB that a DSP intends to receive spirits in bond and allows TTB to ensure that the receiving plant has adequate bond coverage. The specific TTB regulations requiring or

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.

regarding the use of TTB F 5100.16 are found in 27 CFR Part 19, Distilled Spirits Plants, at §§ 19.403 through 19.407 for DSPs and at §§ 19.733 through 19.736 and 19.739 for AFPs.

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?

A proprietor of a DSP desiring to have non-taxpaid distilled spirits or denatured spirits transferred in bond to their plant from another domestic DSP completes TTB F 5100.16 in order to inform TTB of the proposed transfer. In order to protect the revenue, TTB uses the information provided on TTB F 5100.16 to ensure the receiving DSP has adequate bond coverage, since, under the IRC, the excise tax liability for the transferred spirits falls upon the receiving DSP's proprietor. Once approved, TTB returns two copies of the form to the applicant. The applicant keeps one copy of the form and sends the other copy to the shipping DSP as TTB's authorization to make the shipment.

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 submit the information required under this collection using the "Transfer in Bond" section of the Permits Online (PONL) applications for new or amended Distilled Spirits Plant or Alcohol Fuel Producer permits, as appropriate. Access to PONL and its customer support materials is available on the TTB website at <https://www.ttb.gov/ponl/customer-support>. When applicants complete the Transfer in Bond section in PONL, that system will generate and attach a completed copy of TTB F 5100.16, Application to Receive Spirits and/or Denatured Spirits by Transfer in Bond, to the approved PONL application. The applicant then will supply the transferring DSP with a copy of that form. Additionally, TTB F 5100.16 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 to each respondent and is specific to their request to receive non-taxpaid distilled spirits transferred in bond. As far as TTB can 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 requirement to make an application to receive transferred non-taxpaid distilled spirits in bond is a statutory requirement of the IRC, prescribed to protect the revenue. As such, TTB cannot waive that requirement merely because the respondent's business is small. The

collected information is minimal and is required so that TTB can determine if the receiving DSP has adequate bond coverage if not otherwise exempt from the bond requirement.

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 requirement to make an application to receive transferred distilled spirits in bond is statutory, and, as such, TTB cannot waive this requirement at its option. As such spirits are non-taxpaid, without this information collection, TTB would be unable to verify that the receiving DSP has adequate bond coverage to protect the revenue or is a small taxpayer exempt from bond requirements. Therefore, not collecting this information or collecting it less frequently 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).)*

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 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 these 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. 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: Based on recent experience, TTB estimates that 250 respondents annually submit this information collection an average of six times, resulting in 1,500 total responses. TTB estimates that each response takes an average of 0.152 hours (approximately 9 minutes) to complete, resulting in an estimated total annual burden of 228 hours. The specific burden estimates for the two methods of submitting the required information are as follows:

Collection Instrument	Respondents	Responses/ Respondent	Annual Responses	Hours/ Response	Total Burden Hours
TTB F 5100.16 (paper)	130	6	780	0.2	156
PONL (electronic)	120	6	720	0.1	72
Totals	250	6	1,500	0.152	228

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/Hour² = \$29.65						
Collection Instrument	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
TTB F 5100.16 (paper)	0.2 hr.	\$5.77	6	\$34.62	780	\$4,500.60
PONL (electronic)	0.1 hr.	\$2.88	6	\$17.28	720	\$2,073.60
Totals	0.152 hr.	(\$4.3828)	6	(\$26.2968)	1,500	\$6,574.20

² 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 19.575 and 19.716, DSP and AFP proprietors, respectively, must maintain their copies TTB F 5100.16 for at least three years after the last use of the approved transfer.

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 start-up, maintenance, or operational costs to respondents associated with this occasional, low-burden 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. As there are 250 respondents making an average of 6 responses each to this collection annually, for a total of 1,500 responses, this results in mailing costs of \$12.00 per respondent and \$3,000 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 in 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 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	1,500	\$4,815.00
GS-13, Step 5, Supervisor	\$83.96	3 minutes	\$4.20	1,500	\$6,300.00
TOTALS	\$49.40	9 minutes	\$7.41	1,500	\$11,115.00

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

³ 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); and (2) 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.

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?*

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 5100.16, 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?*

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.