

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

SUPPORTING STATEMENT FOR INFORMATION COLLECTION REQUEST

OMB Control Number 1513–0043

**Application and Permit to Ship Puerto Rican Spirits to the United States
Without Payment of Tax**

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. 7652 imposes on Puerto Rican distilled spirits shipped to the United States for consumption or sale a tax equal to the excise tax imposed in the United States on distilled spirits of domestic manufacture. However, the IRC at 26 U.S.C. 5232 provides that persons may withdraw spirits imported or brought into the United States in bulk containers from Customs custody and transferred to the bonded premises of a domestic distilled spirits plant without payment of the internal revenue tax imposed on such spirits, under regulations prescribed by the Secretary. The IRC at 26 U.S.C. 5314 also states that spirits may be withdrawn from the bonded premises of a distilled spirits plant in Puerto Rico pursuant to an authorization issued under the laws of Puerto Rico.

Under those IRC authorities, TTB has issued regulations in 27 CFR part 26 that require respondents to use form TTB F 5110.31, Application and Permit to Ship Puerto Rican Spirits to the United States Without Payment of Tax, to apply for and receive permission to make such untaxed withdrawals and shipments. The form identifies the specific distilled spirits the respondent will ship, the actual amount of spirits subsequently received, and the shipment's consignor in Puerto Rico and consignee in the United States. The collected information is necessary to protect the revenue. The specific TTB regulations requiring or governing the use of TTB F 5110.31 are found at 27 CFR 26.199, 26.199a, 26.199b, 26.199d, and 26.199f.

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?

Respondents use TTB F 5110.31 to apply for and receive permission to ship Puerto Rican distilled spirits to the United States without payment of Federal excise tax. The Government of Puerto Rico and U.S. Customs and Border Protection use the collected information to identify the specific distilled spirits the respondent will ship, the actual amount of spirits subsequently received, and the shipment's consignor in Puerto Rico and consignee in the United States. TTB uses the collected information to account for Puerto Rican spirits brought into the United States without payment of Federal excise tax since such taxes are subsequently due on those spirits upon their removal from domestic distilled spirits plants. In addition, as required by the IRC at 26 U.S.C. 7652(a)(3), TTB then covers over (transfers) most of the taxes collected on such products to the government of Puerto Rico. As such, TTB requires the collected information to ensure that the relevant provisions of the IRC and the TTB regulations are appropriately applied.

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 required information. Currently, TTB F 5110.31 is available free to the public on the TTB website as a fillable-printable form; see <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?

TTB F 5110.31 contains information pertinent to each respondent and applicable to the specific issue of shipments of Puerto Rican distilled spirits to the United States without payment of Federal excise tax. As far as TTB is able to determine, similar information is not available to the Bureau elsewhere.

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

All entities, regardless of size, are required to submit TTB F 5110.31 in order to meet the relevant IRC and TTB regulatory provisions related to shipments of Puerto Rican distilled spirits to the United States. Waiver or reduction of these requirements, simply because the respondent's business is small, could jeopardize the revenue.

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?

Without this collection, TTB would be less able, to account for Puerto Rican distilled spirits brought into the United States without payment of tax. Since such spirits are subject to tax upon their subsequent removal from domestic distilled spirits plants, not conducting this collection or conducting it less frequently would jeopardize the revenue. In addition, without

this collection, TTB would be less able to fulfill its statutory obligations regarding the cover over (transfer) of the majority of the taxes subsequently collected on such spirits to the government of Puerto Rico.

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?

Under 5 CFR 1320.5(d)(2)(iii), requiring respondents to submit more than an original and two copies of any document is a special circumstance. The instructions for TTB F 5110.31 require respondents to prepare an original and five copies of the form for distribution to the shipment's consignor and consignee and to various government offices, as described in the form's instructions.

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 regarding this information collection in the Federal Register on June 15, 2021, at 86 FR 31818. 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 action. TTB maintains its copies of TTB F 5110.31 in secure file rooms and computer systems 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) 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, annually, there are 10 respondents to this information collection, each making 50 responses, for 500 total responses. TTB further estimates that each response takes 0.75 hour (45 minutes) to complete, resulting in an estimated annual burden of 37.5 hours per respondent and 375 hours in total.

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

NAICS 312000 – Beverage Manufacturing – Office & Administrative Support Occupations – Fully-loaded Labor Rate/Hour¹ = \$30.50*					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
0.75 hour	\$22.88	50	\$1,144.00	500	\$11,440.00

* Labor costs rounded to the nearest whole cent.

Respondent Record Retention: For persons and distilled spirits plant proprietors bringing liquors into the United States from Puerto Rico, the TTB regulations at 27 CFR 26.163 and 26.164 cross-reference the recordkeeping requirements of 27 CFR parts 31 and 19, respectively. Under those cross-references (see 27 CFR 31.191, and 27 CFR 19.574 and 19.575), such persons or proprietors must retain records of such transactions for at least 3 years and make those records available for TTB inspection during that time period.

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 there are no annualized start-up or ongoing operation or maintenance costs to respondents for this occasional information collection, which largely consists of customary consignment and shipment information kept during the normal course of business. TTB estimates respondent's postage and mailing supply costs to be no more than \$6.50 per response. Given that 10 annual respondents make 50 responses to this collection, TTB estimates mailing costs to be \$325.00 per respondent annually, and \$3,250.00 in total for all 10 respondents.

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

TTB estimates its annualized labor costs for this information collection request as follows:

¹ The Fully-loaded Labor Rate = Hourly wage rate + benefit costs, which, for the private sector, is calculated as hourly wage x 1.44. 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 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations (43–0000) is \$30.50 (\$21.18 for hourly wages plus \$9.32 for benefit costs); see https://www.bls.gov/oes/current/naics4_312100.htm.

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0043*					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-9, Step 5 Specialist	49.18	0.2 hour	\$9.84	500	\$4,920.00

* Labor costs rounded to the nearest whole cent.

However, TTB's printing and distribution costs have decreased to \$0.00 in due to the availability of its forms to the public on the TTB website's forms page at <https://www.ttb.gov/forms>.

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. On form TTB F 5110.31, in the Paperwork Reduction Act notice, TTB is adding 26 U.S.C. 5232 to the authority citation for this information collection and revising the position title of the staff member who receives public comments on the burden estimates associated with its collections.

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 5110.31. By not displaying that date on the form, TTB will not have to update the form 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.

² Federal Government Fully-loaded Labor Rate = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-9, step 5, employee = \$49.18 (\$30.17 in wages plus \$19.01 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/CIN_h.pdf.

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

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.