

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement — Information Collection Request**

**OMB Control Number 1513–0040**

**Application for Operating Permit Under 26 U.S.C. 5171(d)**

**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 the distilled spirits-related provisions of the Internal Revenue Code (IRC; 26 U.S.C. chapter 51), pursuant to section 1111(d) of the Homeland Security Act of 2002 (6 U.S.C. 531(d)). In addition, the Secretary of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120–01.

As required by the IRC at 26 U.S.C. 5171(d), persons who intend to distill, process, or warehouse distilled spirits for non-beverage use, who intend to manufacture articles using distilled spirits, or who intend warehouse bulk spirits for non-industrial use without bottling are required to obtain a distilled spirits plant (DSP) operating permit before beginning such operations. Under that IRC authority, the TTB regulations in 27 CFR Part 19, Distilled Spirits Plants, require such persons to apply for a DSP operating permit using form TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d). The form and its supporting documents identify the applicant and their business, as well as the DSP's location, operations, business organization, and the persons with a significant interest in the business.<sup>1</sup> In addition, using the same form, proprietors must apply for a new or amended operating permit when certain changes occur to the DSP, including changes in its location, control, ownership, or operations.<sup>2</sup>

This collection allows TTB to determine if a DSP operations permit applicant is qualified under chapter 51 of the IRC to engage in certain distilled spirits-related production, manufacturing, or warehousing activities. This determination ensures that such applicants are likely to operate in conformity with Federal laws and regulations, and assists in limiting the illicit manufacture and sale of non-taxpaid distilled spirits or the diversion of industrial distilled spirits to taxable beverage use.

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<sup>1</sup> TTB issues basic permits for distilled spirits beverage operations under the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*), and it collects information regarding such applicants using other forms, which are approved under OMB Control No. 1513–0018.

<sup>2</sup> Under the part 19 regulations, DSP operators may report certain other changes by filing a letterhead notice, including changes to the proprietor's name or trade name, or changes in major stockholders, directors, officers, or managers that do not result in a change in control. TTB collects such letterhead notices under OMB No. 1513–0061.

The following 27 CFR part 19 regulations list the requirements to obtain an operating permit, prescribe the filing of the permit application and its supporting documents, or require amending and posting of the permit:

19.91	19.92	19.93	19.94	19.95
19.97	19.126	19.128	19.129	19.130
19.131	19.132	19.133	19.134	19.135.

This information collection is aligned with:

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

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

The information provided by a new or amended DSP operating permit applicant enables TTB to identify the applicant's name and business address, and the DSP's location, proposed operations, control, and ownership. TTB uses the collected information to determine if a DSP operations permit applicant is qualified under chapter 51 of the IRC to engage in the specified distilled spirits-related production, manufacturing, or warehousing activities. This determination allows TTB to protect the revenue as it helps ensure that such applicants will operate in conformity with Federal laws and regulations, and it assists in limiting the illicit manufacture and sale of non-taxpaid distilled spirits or the diversion of industrial distilled spirits to taxable beverage use.

*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?*

Respondents may complete, sign, and submit applications for DSP operating permits using TTB's electronic, web-based "Permits Online" (PONL) system; see the TTB website at <https://www.ttb.gov/ponl/customer-support>. The PONL system also allows respondents to edit such applications and track their approval. In addition, TTB F 5110.25, Application for Operating Permit Under 26 U.S.C. 5171(d) 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 DSP operating permit application collects information that is specific to each respondent and applicable to their qualifications under the IRC to engage in certain non-beverage distilled spirits operations or to engage the warehousing of non-industrial spirits without bottling. As far as TTB can 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?*

The IRC requires all entities, regardless of size, to obtain an operating permit to engage in certain non-beverage distilled spirits operations or in the warehousing of non-industrial spirits without bottling. TTB requires the collected information in order to determine if the applicant is qualified under the IRC to receive such a permit, and, as such, TTB cannot waive this collection requirement because the respondent's business is small.

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 collect this information, it would be unable to determine if an applicant is legally eligible to receive a DSP operating permit under chapter 51 of the IRC. In addition, respondents complete this information collection when first entering business and then only as necessary to update certain permit information such as a change in name, trade name, business address or plant location, or control. As such, TTB cannot conduct this 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).)*

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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 16, 2021, at 86 FR 51720. 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 on TTB F 5110.25 or on its PONL equivalent. 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 DSP operating permit applications 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. TTB has completed Privacy Impact Assessments (PIAs) for the Tax Major Application and Permits Online (PONL) systems, which contain the personally identifiable information (PII) gathered under this information collection. TTB also has published a Privacy Act System of Records notice (SORN) for those systems under the “Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001–Regulatory Enforcement Record System;” see the Federal Register of February 10, 2021, at 86 FR 8988. 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, TTB estimates the annual burden associated with this information collection request as shown in the table below. TTB estimates that 70 percent of respondents file this information collection electronically using its PONL system.

Collection Instrument	No. of Annual Respondents	No. of Annual Responses (1 per respondent)	Hours per Response	Total Annual Burden Hours
Permits Online (PONL)	70	70	1.0 hour	70 hours
Paper (F 5100.25)	30	30	1.0 hour	30 hours
<b>Totals</b>	<b>100</b>	<b>100</b>	<b>1 hour</b>	<b>100 hours</b>

\* PONL = Permits Online, TTB’s electronic permit application system.

Estimated Respondent Labor Costs: Given that each respondent makes one response per year, TTB estimates the annual per-respondent and total respondent labor costs for this information collection request as follows:

<b>Respondent Labor Costs: NAICS 312100 – Beverage Manufacturing – Office &amp; Administrative Support Occupations. Fully-loaded Labor Rate = \$30.50<sup>3</sup> (One annual response per respondent)</b>				
Collection Instrument	Avg. Time per Response	Labor Cost per Response & Respondent	Total Responses	Total Labor Costs

<sup>3</sup> Fully-loaded Labor Rate = Hourly wage rate + benefit costs, which, for the private sector, this is calculated as hourly wages x 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 312100—Beverage Manufacturing, the average fully-loaded labor rate per hour for Office and Administrative Support Occupations is \$30.50 (\$21.18 in wages plus \$9.32 in benefit costs). See the BLS website at [https://www.bls.gov/oes/current/naics3\\_312000.htm](https://www.bls.gov/oes/current/naics3_312000.htm).

PONL	1.0 hour	\$30.50*	70	\$2,135.00
TTB F 5100.25	1.0 hour	\$30.50	30	915.00
<b>TOTALS:</b>	<b>1.0 hour</b>	<b>\$30.50</b>	<b>100</b>	<b>\$3,050.00</b>

\* Labor costs rounded to the nearest whole cent unless otherwise noted.

Respondent Record Retention: Under 27 CFR 19.95, proprietors must post their operating permit at the DSP and have it available for inspection by appropriate TTB officers. The TTB regulations otherwise do not require proprietors to retain a record copy of their DSP operating permit application as TTB retains such applications submitted electronically or on paper in its PONL system.

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 start-up, capital, or ongoing costs to respondents for this information collection. Respondents apply for new or amended DSP operating permits only on an as-needed basis, such as when beginning business or when changes in location, control, or ownership of the DSP occur. In addition, the required information concerning the DSP and its control and ownership is readily available to applicants.

As for postage and mailing supply costs, TTB estimates that the 30 respondents who submit paper applications have no more than \$10.00 in such costs for one annual response, which results in a total of \$300.00 in such costs per year.

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

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

<b>Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0040*</b>					
Position	Fully-loaded Labor Rate/Hour <sup>4</sup>	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.45	0.25 hour	\$8.11	100	\$811.00
GS-11, Step 5, Specialist	\$59.50	0.75 hour	\$44.63		\$4,463.00
<b>Totals</b>	<b>(avg. \$54.74)</b>	<b>1.0 hour</b>	<b>\$54.74</b>	<b>100</b>	<b>\$5,274.00</b>

\* Fully-loaded labor costs rounded to the nearest whole cent.

<sup>4</sup> 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) Federal hourly wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-6, step 5, employee = \$36.17 (\$22.19 in wages plus \$13.98 in benefit costs); and (2) GS-11, step 5 = \$59.50/hour (\$36.50 in wages plus \$23.00 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](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/CIN_h.pdf).

In addition, TTB estimates that it has \$1.00 in overhead costs for each new or amended DSP operating permit application submitted, for a total of \$100.00 in such costs. However, government printing and distribution costs have decreased to \$0.00 in due to the use of the PONL system and the public availability of TTB's forms on its website's forms page at <https://www.ttb.gov/forms>.

As such, total cost to the Federal Government for this information collection is \$5,374.00 (labor costs plus overhead costs).

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

There are no program changes or adjustments associated with this information collection, and TTB is submitting it for extension purposes only. On form TTB F 5110.25, in the Paperwork Reduction Act Notice, TTB is revising the title of the person to whom comments regarding the information collection and its burden are directed, from "Reports Management Officer," to "Paperwork Reduction Act Officer, and is adding a reminder to respondents not to mail completed forms to the comment submission address.

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 request on form TTB F 5110.25. By not displaying that date, TTB will not have to update that form and its electronic equivalent 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.