**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement –– Information Collection Request**

**OMB Control Number 1513–0041**

**Distilled Spirits Plants—Records and Monthly Reports of Processing Operations,**

**TTB REC 5110/03**

**Changes Since Last Approval**

Changes made to the Supporting Statement since this collection’s last approval:

* Throughout the Supporting Statement, TTB is making minor editorial and grammatical changes for clarity;
* In Question 8, TTB is updating the 60-day notice publication information for this information collection;
* In Question 12, TTB is increasing the number of annual responses, responses, burden hours; and respondent labor costs associated with this information collection;
* In Question 13, TTB is decreasing the mailing costs associated with this information collection due to increased use of Pay.gov to submit the required monthly operations report;
* In Question 14, TTB is increasing its labor costs for this information collection due to increases in employee fully-loaded labor rates; and
* TTB is revising Question 15 regarding the reasons for the adjustments made to this information collection’s respondent burden as reported in Question 12.

**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, wines, 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 (IRC, 26 U.S.C.). TTB administers these IRC provisions 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 Order 120–01.

In general, the IRC at 26 U.S.C. 5001 imposes Federal excise tax on all distilled spirits produced in or imported into the United States. To safeguard this revenue, the IRC at 26 U.S.C. 5207 requires distilled spirits plant (DSP) proprietors to maintain records and submit reports regarding their production, storage, denaturation, and processing activities as the Secretary prescribes by regulation. Under that section, DSP processing activities include receipt or transfer of alcoholic ingredients used in spirits production, bottling and packaging of distilled spirits, and removal of distilled spirits from the DSP premises.

Under the authority of 26 U.S.C. 5207, TTB has issued regulations regarding DSP records and reports, which are contained in 27 CFR Part 19, Distilled Spirits Plants. Regulations at 27 CFR 19.571–19.582 specify TTB’s general requirements regarding the content, format, location, availability, retention, and maintenance of DSP records, including those related to DSP processing activities.

Specific to this information collection, the TTB regulations at 27 CFR 19.596–19.604 prescribe the records that DSP proprietors must keep that are unique to their processing operations. These include daily or transaction records related to: Receipt, transfer and use of distilled spirits and wines in production of distilled spirits products; production, bottling and packaging of distilled spirits; alcohol content and fill tests; redistillation; receipt and use of liquor bottles, and rebottling, relabeling and reclosing of bottled products. In addition, § 19.622 requires DSP proprietors to keep processing records for any wholesale liquor dealer operations or taxpaid storeroom operations they conduct, and § 19.624 requires proprietors to keep processing records related to rums from Puerto Rico and the U.S. Virgin Islands, and for rums imported from other locations. Certain DSP processing record requirements are amplified or cross-referenced in §§ 19.343, 19.353, 19.357, 19.360, 19.362, and 19.363. DSP proprietors maintain the required processing records under TTB recordkeeping requirement TTB REC 5110/03.

In addition, under § 19.632, DSP proprietors must report their processing activities to TTB on a monthly basis using form TTB F 5110.28, Monthly Report of Processing Operations. Or, under § 19.634, proprietors may substitute a computer-generated monthly operations report without TTB preapproval if the report approximates the physical layout, matches each line, and contains the penalty of perjury statement from the TTB form. Compiled from the required processing records, DSP proprietors use the report to summarize their daily processing activities and taxable removals of distilled spirits during the reporting period.

This information collection is aligned with:

Line of Business/Sub-function: General Government/Taxation Management.

IT Investment: Tax Major Application Systems.

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

TTB requires the DSP processing activity records and the monthly reports approved under this information collection to protect the revenue, ensure industry compliance with Federal law and regulations, analyze industry trends, effectively allocate TTB field resources, and compile industry statistics. TTB personnel use the required records to verify the quantity and kind of distilled spirits produced, received, removed, and transferred from a DSP in order to establish a DSP proprietor’s excise tax liability and the adequacy of their bond coverage, if a bond is required. TTB personnel use the required monthly processing operations reports as an audit tool to protect the revenue and to monitor compliance with Federal law and regulations. TTB also uses the reports to determine the amount of excise tax revenue generated by distilled spirits brought into the United States from Puerto Rico and the U.S. Virgin Islands to be transferred to their governments as prescribed by 26 U.S.C. 7652. In addition, TTB uses information from the monthly reports to analyze trends within the industry, allocate its field resources, and compile monthly DSP production statistical releases, which provides generalized government agencies, academic institutions, the media, industry trade associations, and the general public.

*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?*

Under 27 CFR 19.572 and 19.573, DSP proprietors may use electronic systems to keep the records required under part 19, which they may maintain at a central location. Also, under § 19.634, DSP proprietors may provide TTB with computer-generated monthly operations reports without TTB preapproval if the resulting report approximates the physical layout, matches each line, and contains the penalty of perjury statement of the corresponding TTB report form. In addition, DSP proprietors may electronically complete and submit TTB F 5110.28, Monthly Report of Processing Operations, via the Federal government’s online Pay.gov system at *https://www.pay.gov/public/home*. That report also is available as a fillable-printable form on the TTB website at *https://www.ttb.gov/forms*, and the TTB website includes a tutorial and detailed instructions for the form.

*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 contains information specific and unique to each DSP proprietor respondent and their distilled spirits processing operations. 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?*

In order to protect the revenue, the IRC at 26 U.S.C. 5207 requires all DSP proprietors, regardless of size, to keep records and make reports regarding their processing activities, as required by regulation. TTB believes the DSP processing records and monthly reports required by its regulations in 27 CFR part 19 are the minimum necessary to protect the revenue, and that many of the required DSP processing records are usual and customary records kept during the normal course of business for production and inventory control purposes. TTB also notes that small DSPs will have fewer processing transactions and therefore will keep fewer records. In addition, the TTB regulations in 27 CFR part 19 allow for the use of electronic recordkeeping systems and electronic reporting methods at the respondent’s discretion.

*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 DSP processing records and reports covered under this information collection are among those required to provide a complete accounting of a proprietor’s production and removal of distilled spirits. Since DSP proprietors conduct processing operations prior to the payment of the Federal distilled spirits excise tax, the required records and reports are necessary to establish a proprietor’s excise tax liability and the adequacy of any required bond coverage. If TTB did not conduct this collection, it would have to rely solely on field inspectors to monitor compliance with the laws and regulations governing DSP operations, which would require more inspectors and place greater costs and burdens on TTB and DSP proprietors. In addition, DSP proprietors maintain the required processing records on a continuing basis. As such, the required records cannot be required on a less frequent basis. TTB also believes that less than monthly reporting of DSP processing operations would jeopardize the revenue and would impair TTB’s ability to detect discrepancies at DSPs in a timely manner.

*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 OMB guidelines, requiring reporting on more than a quarterly basis is a special circumstance. This information collection requires DSP proprietors to submit processing operations reports on a monthly basis. At this time, TTB believes that less frequent submission of this report would jeopardize the revenue and impair its ability to detect discrepancies at DSPs in a timely manner.

*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 general public regarding this information collection, TTB published a “60-day” comment request notice in the Federal Register on April 3, 2023, 19711. TTB received no comments regarding this collection in response to that notice.

*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 the DSP processing records and monthly reports required under 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 law. DSP proprietors maintain the required records at their premises, while the monthly reports are maintained by TTB in secure file rooms and computer systems.

*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, and it does not collect personally identifiable information (PII) in a Government 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?*

Burden Estimate: Based on recent data, TTB estimates the annual burden for this information collection request is as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Information Collection | Respondents | Responses  Per Year | Annual Responses | Hours per Response | Total Annual Burden Hours |
| TTB REC 5110/03 (recordkeeping) | 4,900  (4,800 private industry & 100 State & local government) | 12 | 58,800  (57,600 private industry & 1,200 State & local govt.) | 1 hour | 58,800  (57,600 private industry & 1,200 State & local govt.) |
| TTB F 5110.28 (reporting) | 1 hour | 58,800  (57,600 private industry & 1,200 State & local govt.) |
| **TOTALS** | **4,900** | **12** | **58,800** | **2 hours** | **117,600**  **(115,200 private industry & 2,400 State & local govt.)** |

Labor cost burden: TTB estimates the per-respondent and total labor cost burden for this information collection as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Respondent Type** | **Fully-loaded Average Labor Rate[[1]](#footnote-2)** | **Per Respondent** | | | **Totals for All Responses** |
| **Burden Hours[[2]](#footnote-3)** | **Labor Costs** | **Respondents** | **Labor Costs** |
| Private Industry | $32.92 | 24 | $790.08 | 4,800 | $3,792,384.00 |
| State & Local Government | $35.36 | 24 | $848.64 | 100 | $84,864.00 |
| **TOTALS** | **($32.9698)** | **24** | **($791.2751)** | **4,900** | **$3,877,248.00** |

Record Retention: Per 27 CFR 19.575, respondents must maintain the records required under 27 CFR part 19 for at least three years from the date of the record or the date of the last entry required to be made, whichever is later.

*13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above?*

TTB believes that DSP proprietors acquire production control, measuring devices, and other equipment and software used to generate the required distilled spirits processing record data during the normal course of business for production and inventory control purposes, and that the majority of the processing records required under this information collection are usual and customary records kept by proprietors during the normal course of business. Additionally, proprietors generate the required monthly distilled spirits processing operations reports directly from the required records. As such, TTB believes that DSP proprietors do not bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this collection requirement.

As for other costs, TTB notes that it provides no-cost electronic submission methods for the required monthly reports, which are utilized by 80 percent of respondents. For the remaining 20 percent of respondents who file the required monthly reports on paper, TTB estimates that they have mailing costs of no more than $2.00 per response, totaling $24.00 per year for 12 responses. Therefore, TTB estimates total mailing costs of $23,040.00 for 960 private sector respondents and $480.00 for State and local government respondents, for a total of $23,520.00 in mail costs per year for this information collection.

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

There are no costs to the Federal Government for the recordkeeping portion of this information collection (TTB REC 5110/03) as the required records are kept and maintained by DSP proprietors at their business premises.

For the reporting portion of this information collection, filed on TTB F 5110.28, TTB estimates the annual costs to the Federal Government as follows:

|  |  |  |  |
| --- | --- | --- | --- |
| **Category** | **Cost per Response** | **Annual Responses** | **Total Costs[[3]](#footnote-4)** |
| Overhead | $1.00 | 58,800 | $58,800 |
| Clerical costs (GS-5, step 5 employee in Cincinnati, OH) at  18 minutes per response[[4]](#footnote-5) | $10.425 | $612,990 |
| **TOTALS** | **$11.425** | **58,000** | **$671,790** |

Printing and distribution costs to the Federal government have decreased to $0.00 in TTB’s cost estimate due to the availability of TTB forms to the public on the TTB website at *https://www.ttb.gov*.

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

There are no program changes associated with this collection. However, due to changes in agency estimates resulting from continued growth in the number of DSPs in the United States, particularly small distilleries TTB is increasing the number of annual respondents, responses, and burden hours reported for this collection, from 3,700 respondents to 4,900, from 44,400 responses to 58,800, and from 88,800 hours to 117,600. However, due to changes in agency estimates resulting from more DSP respondents using Pay.gov to submit their monthly processing operations reports at no cost to themselves, TTB is decreasing the mailing costs associated with this information collection.

On TTB F 5110.28, TTB has updated the suite number in the mailing address for the submission of completed forms and, in the Paperwork Reduction Act notice, has revised the title of the TTB officer to whom comments on this information collection’s burden estimate should be addressed. These changes do not affect the data collected or the collection’s burden estimate.

*16. Outline plans for tabulation and publication for collections of information whose results will be published.*

TTB uses the data gathered by this information collection to compile monthly statistical releases for distilled spirits production, withdrawals, net inventory, and distilling materials used. These reports are generalized for the distilled spirits industry as a whole, and no individual respondents are identifiable. TTB posts these reports for public viewing on its website statistics page at *https://www.ttb.gov/statisti*cs.

*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 general public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5110.28. By not displaying that date on the form, TTB will not have to update the form on its website and on Pay.gov each time OMB reapproves this information collection. Similarly, TTB-regulated and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the report 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.

(i) Not a survey.

## **B. Collection of Information Employing Statistical Methods**

This information collection request does not use statistical methods.

1. Fully-Loaded Labor Rate = Hourly wages plus benefit costs. For the private sector, per the most recent U.S. Dept. of Labor, Bureau of Labor Statistics, National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312100—Beverage Manufacturing, the average fully-loaded labor rate for office and support functions personnel is $32.92 per hour; see *https://www.bls.gov/oes/current/naics4\_312100.htm*. For State and local governments, the average fully-loaded labor rate for office and administrative support staff is $35.36 per hour; see *https://www.bls.gov/oes/current/naics4\_999200.htm*. [↑](#footnote-ref-2)
2. Each respondent provides 12 annual responses at 2 hours per response, equaling 24 hours of annual burden. [↑](#footnote-ref-3)
3. Total costs are rounded to the nearest whole dollar amount. [↑](#footnote-ref-4)
4. Federal Government Fully-loaded Labor Rate = Hourly wage plus benefits; calculated as hourly wage x 1.63. In the Cincinnati, Ohio, locality pay area, GS–5, step 5, clerical worker hourly wage of $21.32 x 1.63 = $34.75 fully loaded labor rate per hour. See *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/CIN\_h.pdf*. [↑](#footnote-ref-5)