

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0047

**Distilled Spirits Production Records (TTB REC 5110/01) and
Monthly Report of Production Operations.**

Changes Since Last Approval

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

- In Question 8, TTB is updating the 60-day notice publication information for this information collection request.
- In Question 12, TTB is revising the estimated respondent burden and labor costs associated with this information request.
- In Question 13, TTB is revising the estimated respondent non-labor costs for this information collection request.
- In Question 14, in revising the estimated costs to the Federal government associated with this information collection request.
- In Question 15, TTB explains the adjustments in agency burden estimates for this information collection request.

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. 5001 sets forth, in general, the Federal excise tax rates for distilled spirits produced in or imported into the United States. To protect that revenue, the IRC also provides at 26 U.S.C. 5207 that proprietors of distilled spirits plant (DSPs) must maintain records of production, storage, denaturation, and processing activities and must render reports covering those operations at such times, in such form and manner, and containing such information as the Secretary prescribes by regulation.

Under those IRC authorities, the TTB regulations in 27 CFR Part 19, Distilled Spirits Plants, require DSP proprietors to keep certain records and render certain reports. The regulations

in §§ 19.584 through 19.586, as amplified by other sections of the part 19 regulations, require the keeping of records unique to DSP production operations, which largely consist of usual and customary distilled spirits production and inventory records kept during the normal course of business. These records include those necessary to account for materials used for the production of spirits (§§ 19.293, 19.294, 19.295, 19.308, and 19.584), the production of spirits and withdrawal of spirits from the production account (§ 19.585), and byproduct spirit production (§§ 19.309 and 19.586). These records must be retained for at least three years, as required by § 19.575.

Using data from those production records, § 19.632 requires DSP proprietors to submit monthly distilled spirits production reports on form TTB F 5100.40, Monthly Report of Production Operations. Per § 19.634, proprietors may substitute a computer-generated report for the TTB form if that report has the same data elements, has a similar physical layout, and contains the same penalty of perjury statement as the TTB form.

The information collected under this request is necessary to protect the distilled spirits excise tax revenue lawfully due under the IRC at 26 U.S.C. 5001.

This information collection is aligned with Line of Business/Sub-function: *General Government/Taxation Management*.

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

To protect the revenue, TTB uses the information collected under this request to account for a DSP proprietor's distilled spirits excise tax liability and adequacy of their bond coverage (if a bond is required). TTB also uses the collected information to ensure compliance with relevant IRC provisions and TTB regulations, to detect anomalies and effectively allocate audit and inspection resources, as an audit tool during revenue inspections, to analyze industry trends, and to compile generalized statistical reports for public release.

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, DSP proprietors may submit TTB F 5110.40 electronically through the Federal Government's Pay.gov website (<https://www.pay.gov/paygov/home>). TTB F 5110.40 also is available on the TTB website (<https://www.ttb.gov/forms>) as a fillable, printable form that respondents may then submit to TTB via postal mail.

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 records and reports required under this information collection request are pertinent to each respondent and specific to their production of distilled spirits. As far as TTB is able 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?

All DSPs, regardless of size, are required by statute (26 U.S.C. 5207) to maintain records and submit reports regarding their distilled spirits production operations as the Secretary prescribes by regulation. Under that authority, the TTB regulations require all DSPs to keep certain records and to submit monthly reports accounting for the materials used to produce distilled spirits and the amount of distilled spirits produced. TTB believes the required information is the minimum necessary to verify a DSP proprietor's excise tax liability. As such, TTB cannot reduce this information collection request's requirements based on a DSP's size. TTB notes, however, that its regulations allow DSP proprietors to substitute a self-generated computer report for the TTB monthly distilled spirits production report form, TTB F 5100.40, alleviating the need for a proprietor to transfer production data from their records or data system to the TTB form.

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?

TTB believes the required information is the minimum necessary to verify the amount of distilled spirits produced by a DSP. Not collecting the required information or collecting it less frequently would jeopardize the revenue as TTB would not be able to, or would be less able to, determine the amount of spirits produced at a DSP and the proprietor's resulting excise tax liability. Not collecting the required information or collecting it less frequently also would harm TTB's ability to enforce relevant statutes and regulations, detect production anomalies at DSPs, allocate audit and inspection resources, perform DSP audits, analyze industry trends, and compile generalized statistical reports for use by government agencies, academic institutions, trade associations, and industry members.

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 the OMB regulations at 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. The IRC at 26 U.S.C. 5207 requires DSP proprietors to maintain records and submit reports regarding their distilled spirits production activities as the Secretary prescribes by regulation. Under that authority, the TTB regulations require DSP proprietors to report their production activities to TTB on a monthly basis, a frequency that TTB believes is necessary to protect the revenue.

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 request in the Federal Register on August 6, 2024, at 89 FR 64039. In response, TTB received one comment on this collection from the Bureau of Economic Analysis (BEA, Department of Commerce). In its comment, BEA stated that it "strongly supports the continued collection" of DSP production data by TTB as BEA uses the collected data to prepare quarterly national accounts, including seasonal adjustment factors for excise taxes collected on distilled spirits. TTB notes that it has no plans to discontinue the collection of DSP production data as approved under this information collection request because TTB uses that information to protect the revenue.

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 request.

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 request. 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 disclosure. Proprietors maintain the required records at their DSP or other approved premises, while TTB maintains its copies of TTB F 5110.40 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 request contains no questions of a sensitive nature. In addition, this request does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy and Civil Liberties Impact Assessment (PCLIA) or System of Records Notice (SORN) is required for this collection request.

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

Estimated Respondent Burden: Based on recent data, TTB estimates that 4,800 respondents will keep the required distilled spirits production records and will file 12 monthly DSP production reports per year, resulting in 57,600 total annual responses to this information collection. TTB further estimates that each response requires 2 hours to complete (1 hour for recordkeeping and 1 hour for reporting), resulting in an estimated total annual burden of 115,200 hours.

Estimated Respondent Labor Costs: Based on a fully-loaded labor rate of \$34.56 per hour for office and administrative support occupations in the beverage manufacturing industry,¹ TTB estimates the annual respondent labor costs for this information collection request as \$69.12 per response, \$829.44 per respondent, and \$3,981,312.00 in total for 4,800 DSP respondents, where each response requires 2 hours of labor and each respondent keeps the required distilled spirits production records on an ongoing basis and submits 12 monthly DSP production reports to TTB.

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 \$34.56, based on a mean hourly wage of \$24.00; see https://www.bls.gov/oes/current/naics4_312100.htm.

Respondent Record Retention: The TTB regulations in 27 CFR part 19 require DSP proprietors to keep the records required under that part, including copies of any reports submitted to TTB, for at least three years from the date of the record or the date of the last entry, whichever is later. In addition, DSP proprietors must make the required records available for TTB inspection during normal business hours. See 27 CFR 19.574, 19.575, and 19.632.

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 capital, start-up, operational, or maintenance costs to respondents associated with this information collection request, as it largely consists of usual and customary distilled spirits production and inventory records kept during the normal course of business and monthly submissions of distilled spirits production reports based on those records. As for the submission of the required monthly reports, for the estimated 70 percent of respondents (3,360 of 4,800) who submit those reports via the Pay.gov website, there are no mailing costs. As for the estimated 30 percent of respondents (1,440 of 4,800) who submit their monthly production reports to TTB by mail, TTB estimates annual postage and mailing supply costs as follows: \$2.00 for each response, \$24.00 for each respondent making 12 annual responses, and \$34,560.00 in total.

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

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

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0047					
Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
GS-6, Step 5, Clerk	\$40.68	6 minutes	\$4.068	57,600	\$234,316.60
GS-11, Step 5, Specialist	\$66.90	6 minutes	\$6.69		\$385,344.00
Totals	(\$53.79)	12 minutes	\$10.758	57,600	\$619,660.60

TTB estimates that it has \$1.00 in overhead costs for each monthly DSP production report submitted, for a total of \$57,600.00 in such costs for this information collection. 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>. As such, total cost to the Federal Government for this information collection request is **\$677,260.60** (\$619,660.60 in labor costs plus \$57,600 in overhead costs).

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-6, step 5, employee = \$40.68 based on an hourly wage of \$24.96; and (2) GS-11, step 5 = \$66.90 based on an hourly wage of \$41.04. See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/CIN_h.pdf.

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

There are no program changes associated with this collection request at this time, and TTB is submitting it for extension purposes only. As for adjustments, due to changes in agency estimates, TTB is increasing the annual estimated burden associated with this information collection, from 2,500 to 4,800 respondents, from 30,000 responses to 57,600, and from 60,000 burden hours to 115,200. These increases result from continued growth in the number of active distilled spirits plants in the United States, particularly in the number of small “craft” spirits producers.

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

TTB uses the data submitted on TTB F 5110.40, Monthly Report of Production Operations, to compile and publish monthly and year-to-date distilled spirits statistical reports, which, among other things, list statistics regarding net distilled spirits production by spirits type and the materials used by type of grain. These reports are generalized and do not disclose the identity of individual respondents. See <https://www.ttb.gov/statistics/reports-and-data>.

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?

TTB will display the expiration date for OBM approval of this information collection request on its related report form, TTB F 5110.40, Monthly Report of Production Operations. However, TTB notes that for the recordkeeping portion of this collection request, DSP proprietors keep the required distilled spirits production records at their premises and, as such, TTB cannot display this collection’s expiration date for OBM approval on that portion of this information collection request.

18. What are the exceptions to the certification statement?

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

B. Collections of Information Employing Statistical Methods.

This information collection request does not employ statistical methods.