

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0056

Distilled Spirits Plants—Transaction and Supporting Records (TTB REC 5110/05)

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 Order 120-01.

In general, the IRC at 26 U.S.C. 5001 imposes Federal alcohol excise tax on distilled spirits produced or imported into the United States. The IRC at 26 U.S.C. 5207 also provides that distilled spirits plant (DSP) proprietors must maintain records related to their production, storage, denaturing, and processing activities and render reports covering those activities “as the Secretary shall by regulations prescribe.” In addition, other IRC sections, including 26 U.S.C. 5008, 5201, 5204, 5211–5215, 5223, 5362, 5370, 5373, 5555, and 5559, require or authorize recordkeeping regarding various actions related to those DSP activities, such as destruction, gauging, redistillation, and inventories of distilled spirits.

Under those IRC authorities, the TTB regulations in 27 CFR parts 19, 26, 27, and 28 require DSP proprietors to keep certain records related to their production, storage, denaturing, and processing activities. This information collection, approved under OMB control number 1513-0056, consists of the transaction and supporting records that are common to all four of those DSP activities. Proprietors use those common records, as well as records that are unique to each activity, to document the data provided on their monthly DSP production, storage, denaturing, and processing operations reports. (The keeping of records unique to each of those four DSP activities, and the four related monthly DSP operations reports, are approved under other OMB control numbers.¹)

¹ The transaction and supporting records that are unique to each of the four DSP activities, and the four related monthly DSP operations reports, are approved under OMB control numbers 1513-0047 (production operations, reported on TTB F 5110.40), 1513-0039 (storage operations, reported on TTB F 5110.11), 1513-0049 (denaturing operations, reported on TTB F 5110.43), and 1513-0041 (processing operations, reported on TTB F 5110.28).

The transaction and supporting records common to each of the four DSP activities noted above include production, receiving, return, shipment, transfer, destruction, loss, and inventory records, as well as records regarding the addition of oak chips to and gauges of distilled spirits. TTB believes that such transaction and supporting records are usual and customary records kept by DSP proprietors during the normal course of business for cost accounting and inventory control purposes. The TTB regulatory requirements to keep these records are necessary to protect the revenue as the required records allow TTB to verify the data provided by DSP proprietors on their monthly production, storage, denaturing, and processing operations reports, which assist TTB in determining a DSP proprietor's Federal excise tax liability.

The following regulatory sections in 27 CFR contain requirements related to the transaction and supporting records approved under this information collection:²

19.226	19.283	19.284	19.286	19.287	19.288	19.289	19.303
19.306	19.307	19.312	19.322	19.324	19.331	19.333	19.360
19.371	19.372	19.383	19.389	19.394	19.402	19.405	19.406
19.414	19.419	19.425	19.427	19.431	19.434	19.435	19.452
19.454	19.457	19.459	19.462	19.465	19.571	19.573	19.574
19.575	19.576	19.577	19.616	19.617	19.618	19.619	19.620
19.621	19.623	19.626	26.164a	26.204	26.273b	27.139	28.98 and 28.192.

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?

The transaction and supporting records required to be kept under this information collection are among the source documents that DSP proprietors use to compile their monthly operations reports summarizing their production, storage, denaturing, and processing activities. During field audits or compliance investigations, TTB personnel may examine the required records to verify the data provided by DSP proprietors in their monthly operations reports as those reports assist TTB in determining a DSP proprietor's Federal excise tax liability. As such, this information collection is necessary to protect the revenue and ensure compliance with TTB regulatory requirements.

² In addition, for all records required under part 19: § 19.571 explains general record requirements, § 19.572 allows records to be kept in paper, film, or electronic formats; § 19.573, requires records to be kept at the DSP where the operation or transaction took place or, with notice to TTB, at a central recordkeeping location maintained by the DSP proprietor; § 19.574 explains when records must be made available to TTB for inspection; § 19.575 states that records must be retained for at least three years from the date of the record or last entry, whichever is later; and § 19.576 requires records to be preserved in a readable state or a proprietor must create an accurate and legible reproduction of the original record.

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. This information collection requires DSP proprietors to keep certain transaction and supporting records. Under 27 CFR 19.572, proprietors may keep the required records in paper, microfilm, microfiche, or electronic formats using information technologies of their choice, provided that the required information is readily available to TTB personnel during on-site audits and inspections.

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 information collection requires the keeping of transaction and supporting records that are pertinent to each DSP proprietor and applicable to their distilled spirits production, storage, denaturing, and processing activities. 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?

TTB believes that the DSP transaction and supporting records required under this information collection are usual and customary records kept by DSP proprietors during the normal course of business, and, as such, this information collection imposes no additional burden on small entities.

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 IRC at 26 U.S.C. 5207 requires DSP proprietors to keep records and render reports regarding their distilled spirits production, storage, denaturing, and processing activities as the Secretary by regulation prescribes. If TTB did not require DSP proprietors to keep the transaction and supporting records required under this information collection, it could not fulfill that statutory mandate, and it would not be able to verify a DSP proprietor's reported operations data. If TTB could not verify that data, it could not accurately determine a DSP proprietor's Federal excise tax liability, which would jeopardize the revenue. In addition, because the required records are kept by DSP proprietors on an ongoing basis, the required information cannot be collected 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?

There are no special circumstances 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 general public, TTB published a “60-day” comment request notice for this information collection in the Federal Register on November 18, 2019, at 84 FR 63716. 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?*

No specific assurance of confidentiality is provided for this information collection, which consists of usual and customary distilled spirits transaction and supporting records kept by DSP proprietors during the normal course of business. In cases where TTB inspects those records, 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.

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 annual burden hours: This information collection consists of usual and customary distilled spirits transaction and supporting records kept by DSP proprietors at their premises during the normal course of business for cost accounting and inventory control purposes, and would be kept regardless of any TTB regulatory requirements to do so. Therefore, in accordance with 5 CFR 1320.3(b)(2), the keeping of such usual and customary records imposes no burden on the 3,340 DSP proprietors that respond once annually to this ongoing information collection.

Record retention: The TTB regulations at 27 CFR 19.575 require DSP proprietors to retain the required records for at least three years from the date of the record or last entry, whichever is later.

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)?*

There is no cost to respondents associated with this information collection as it consists of certain usual and customary records kept by DSP proprietors during the normal course of business, regardless of any TTB regulatory requirements to do so.

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

This information collection consists of distilled spirits transaction and supporting records kept by DSP proprietors at their premises. As such, there is no cost to the Federal Government for this information collection.

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

Program changes: Previously, this information collection included three types of DSP records that are not usually and customarily kept during the normal course of business: (1) Security device records, (2) alternating premises records, and (3) wine tax credit records. As part of a rulemaking to update and reorganize its DSP regulations in 27 CFR part 19, which was finalized in 2011,³ TTB removed the security device recordkeeping requirement from part 19 as unnecessary. In addition, TTB transferred the alternating premises and wine tax credit recordkeeping requirements for DSPs to the information collections approved by OMB under, respectively, control numbers 1513–0044 and 1513–0045. TTB notes that the rulemaking-related revisions made to those two information collections have been previously reviewed and approved by OMB.

However, TTB inadvertently did not revise this information collection to reflect the removal of the DSP security device recordkeeping requirement, and the transfer of the alternation and wine tax credit recordkeeping requirements, as noted above. Therefore, as a matter of agency discretion, TTB is now eliminating those non-customary recordkeeping requirements from this information collection. This, in turn, eliminates this collection's previously-reported total annual burden of 47,916 hours. (As previously reported: 2,198 respondents, each taking annually an average of 12 hours to keep security device records, 1.8 hours to keep alternation of premises records, and 8 hours to keep wine tax credit records, resulted in an average annual total of 21.8 hours of burden per respondent, which equaled an estimated total annual burden of 47,916 hours.)

Adjustments: Due to a change in agency estimates resulting from continued growth in the number of DSPs operating in the United States, TTB is increasing this information collection's estimated number of annual respondents, from 2,198 to 3,340. And, given that each respondent makes one annual response to this recordkeeping information collection, TTB also is increasing this collection's number of annual responses, from 2,198 to 3,340. However, because this information collection now consists only of usual and customary records kept by DSP proprietors during the normal course of business, there is no annual burden associated with this collection, per the OMB regulations at 5 CFR 1320.3(b)(2).

³ See the notice of proposed rulemaking, published in the Federal Register as Notice No. 83 on May 8, 2008, at 73 FR 26200, and the final rule, published in the Federal Register as T.D. TTB–92 on February 16, 2011, at 76 FR 9080.

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?*

This information collection consists of certain transaction and supporting records kept by DSP proprietors at their premises. As such, there is no prescribed medium for TTB to display the OMB approval expiration date for this information collection.

18. *What are the exceptions to the certification statement?*

(c) See item 5 above.

(g) This information collection consist of certain usual and customary records kept by DSP proprietors at their premises. As such, there is no prescribed medium for TTB to inform respondents of the information called for under 5 CFR 1320.8(b)(3).

(i) No statistics are involved.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.