

DEPARTMENT OF THE TREASURY  
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement

OMB Control Number – 1513-0091

Tobacco Products Manufacturers --- Notice for Tobacco Products, TTB REC 5210/12 and Records of Operations, TTB REC 5210/1

A. Justification

1. What are the circumstances that make this collection of information necessary and what legal or administrative requirements necessitate the collection?

Tobacco products have historically been a major source of excise tax revenues for the Federal government. In order to safeguard these taxes, tobacco product manufacturers are required to maintain records designed to establish accountability over the tobacco products produced.

Under 26 U.S.C. 5741, every manufacturer of tobacco products is required to keep such records as the Secretary of the Treasury prescribes by regulation.

The regulation that contains the recordkeeping requirement is 27 CFR 40.181. It requires that tobacco products manufacturers maintain records showing the information specified in more detail in the related regulations (27 CFR 40.182, 40.183, 40.184, 40.186, and 40.201). This includes a record of tobacco received, shipped or delivered, lost, and destroyed; a record of tobacco products that shows the quantities manufactured, received in bond or received by return to bond, removed by whatever means, consumed or otherwise used, or disclosed as an inventory lost or gain; records in support of removals subject to tax; records in support of transfers in bond; and inventory records. Under 27 CFR 40.185, these records must be retained for a period of three years.

The authority for the Secretary of the Treasury to issue regulations pertaining to the labeling and marking requirements of tobacco products is contained in 26 U.S.C. 5723. Securing the revenue is the prime objective of the authorizing statutes. The regulations ensure effective administration of the Federal excise taxes imposed on tobacco products. TTB is responsible for the collection of the tax on tobacco products and the notice requirements support collection of the tax on imported tobacco products. TTB uses the notice information to ensure that claims relating to taxes paid on tobacco products may be verified.

This submission covers 27 CFR 40.212-217, 41.72-74, and 45.42-46, which prescribe tobacco products notice requirements.

The information TTB requires to be displayed on labels is minimal. It is information that is maintained by the manufactures as a part of cost and quality control measures. Therefore, TTB believes those tobacco products manufacturers and importers do not expend time or expense in collecting the information necessary to provide the requisite label and marking requirements for tobacco products.

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

The comprehensive record system is essential in enabling TTB personnel to trace tobacco products transactions and determine that tax liabilities have been accurately determined and discharged by the manufacturer. For example, by taking an inventory and comparing it to the recorded receipts of tobacco and finished products and to the removal and other dispositions, it can be determined if any products have been manufactured and removed without payment of tax. The recordkeeping requirements tie in with one another to form an inclusive system that provides a high degree of accuracy regarding the determination of tax liabilities.

TTB uses the collection of information required for the marking of tobacco products to validate the correctness of related revenue collected by correlating label information to information contained in the required records.

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?

We have approved and will continue to approve, on a case-by-case basis, the use of improved information technology for the maintenance of required records. We do not believe that the notices are adaptable to advanced data technology.

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

We terminated the Federal Information Locator System (FILS) Program for agency use. However, we search an agency subject classification system to identify duplication. Similar information is not available elsewhere for this information collection requirement.

In many cases, commercial records that would normally be maintained as usual and customary business records are used by the manufacturers to satisfy these requirements. Where the commercial records are not adequate for that purpose, the manufacturer must keep supplemental and auxiliary records used to compile that record.

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

This collection of information is not susceptible to reduced requirements for small business.

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?

This recordkeeping requirement is considered to be the minimum necessary to ensure compliance and prevent jeopardy to the revenue. If this collection of information were discontinued or conducted less frequently, it would jeopardize collection of the revenue.

7. Are there any special circumstances associated with this information collection?

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?

A 60-day Federal Register notice was published for this information collection on Wednesday, November 8, 2006, 71 FR 65569. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than reenumeration of contractors or grantees?

No payment or gift is associated with this collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

These records are maintained at the premises of the regulated individual. Additionally, 26 U.S.C. 6103 and 5 U.S.C. 552 protect the confidentiality of proprietary information obtained by the Government from regulated individuals.

11. What justification is there for questions of a sensitive nature?

We ask no questions of a sensitive nature.

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

These recordkeeping requirements involve usual and customary business records. In accordance with 5 CFR 1320.7(b)(1), the total annual burden, for all 170 regulated individuals, is estimated to be one hour.

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information?

There is no cost associated with this collection.

14. What is the annualized cost to the Federal government?

There is no cost to the Federal government.

15. What is the reason for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I?

There are no program changes or adjustments with this collection; however, the estimated number of respondents and responses has increased to 170 but the burden remains at 1 hour.

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

The results of this collection will not be published.

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?

It would be inappropriate to display the expiration date for OMB approval because this is a recordkeeping requirement and unlike the form there is no medium on which to display the date.

18. What are the exceptions to the certification statement?

There are no exceptions to the certification statement.

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

This collection does not employ statistical methods.