

DEPARTMENT OF THE TREASURY  
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU  
Supporting Statement – Information Collection Requirement  
OMB Control Number – 1513-0070

TTB REC 5220/1 - Tobacco Export Warehouse - Record of Operations

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. Collections total more than five billion dollars per year. In order to safeguard these taxes, members of the regulated tobacco industry are required to maintain a system of records designed to establish accountability over the tobacco products manufactured.

On February 4, 2009, President Obama signed into law the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, 123 Stat. 8 ("the Act"). Section 702 of the Act included amendments to the Internal Revenue Code of 1986 (IRC) to extend permit, inventory, reporting, and recordkeeping requirements of export warehouse proprietors to include processed tobacco, even though such processed tobacco is not subject to excise tax under the IRC.

Tobacco Export Warehouses receive and store tobacco products, processed tobacco, and cigarette papers and tubes in bond (that is, untaxpaid) until such time as they are exported to a foreign country, Puerto Rico, or the Virgin Islands, or otherwise sent for consumption beyond the Internal Revenue laws of the U.S. The regulatory requirements set forth in 27 CFR 44.142-146 pertain to the records used by the proprietor to maintain accountability over the tobacco products and the temporary rule implementing the Act amends §44.142 in regard to processed tobacco. These records must show the date, kind, and quantity of tobacco products and processed tobacco received, removed, transferred, destroyed, lost, or returned to the manufacturer or Customs warehouse. These records allow transactions involving tobacco products and processed tobacco to be traced and verified, thereby ensuring that no tax liabilities were incurred.

The records required by this submission are usual and customary business records. They include the normal inventory and transaction records all businesses must keep in order to maintain control over their stock and engage in daily operations. Also included in this submission are the requirements for a special inventory if there is suspected jeopardy to the revenue. TTB believes that the regulated individuals could not succeed in business without maintaining these kinds of records.

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

These records are maintained at the premises of the regulated individual, and are routinely used by TTB personnel during field tax compliance examinations to verify that untaxpaid tobacco products or processed tobacco are not being diverted to domestic consumption. This ensures that tax revenues are protected. Although TTB believes that most of these records would have to be kept anyway, as usual and customary business records, without this recordkeeping requirement no recording of the data elements necessary to verify these transactions would be prescribed.

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.

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?

The required records do not duplicate any existing records and are usual and customary for a Tobacco Export Warehouse operation.

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?

If these records were not kept it would create a gap in the audit trail that would make it difficult, if not impossible, to determine what operations are being conducted at Tobacco Export Warehouse premises. Respondents keep records only as often as necessary to meet their own business requirements and comply with the regulations.

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?

The general public will be notified of this information collection in a temporary rule and notice of proposed rulemaking published in the Federal Register. The notice will solicit comments from the general public.

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 protects the confidentiality of any tax 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 regulated individuals is estimated to be one hour. The record retention requirement for this information collection is 3 years.

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 is a decrease in the number of covered entities due to a change in criteria based on the new statute.

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

We will not publish the results of this 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?

Displaying the expiration date for OMB approval would be inappropriate because this is a recordkeeping collection. Unlike the form, there is no medium on which to display the expiration date for OMB approval.

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 of information does not employ statistical methods.