

Department of the Treasury

Alcohol and Tobacco Tax and Trade Bureau

Supporting Statement – Information Collection Requirement

OMB Control Number 1513-0106

Record of Operations – Importer of Tobacco Products or Processed Tobacco

A. Justification

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

TTB has been delegated the authority to administer the provisions of 26 U.S.C. 5712 and 5713. 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 to manufacturers and importers of processed tobacco even though such processed tobacco is not subject to excise tax under the IRC. 26 U.S.C. 5712 and 5713 require that importers of tobacco products or processed tobacco apply for and receive a permit before engaging in the business of importing tobacco products or processed tobacco. As part of the requirements after receiving a permit for importing tobacco products or processed tobacco, these persons will be required to maintain certain records. The authority for requiring these records is located at 26 U.S.C. § 5741. These records are defined in 27 CFR 41.11.

27 CFR 41.204 and 41.208 are the sections of regulations that require recordkeeping by importers of tobacco products. 27 CFR 41.261 and 41.263, contained in the temporary rule implementing certain provisions of the Act, are the sections of regulations that require recordkeeping by importers of processed tobacco.

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

TTB is requiring these records to protect the revenue and to be able to determine the compliance of importers with regulatory requirements regarding the importation of tobacco products and processed tobacco, such as the accuracy of importers' monthly reports (TTB F 5220.6). The records will be maintained to allow TTB officers to trace tobacco product and processed tobacco transactions and determine that tax liabilities have been accurately determined and

discharged by the importer. On occasion, importers will be subject to audit by TTB officers.

TTB also uses these records in order to strengthen enforcement authority over tobacco products and processed tobacco, and thus prevent the diversion of materials used for making tobacco products to unauthorized manufacturers who would not be accountable to TTB.

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 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 business which engages in importing tobacco products and processed tobacco.

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

Since this information collection is usual and customary, there is no impact to small businesses or other entities. In addition, the recordkeeping requirement at 27 CFR 41.204, 41.208, 41.261, and 41.263 can be in a number of formats, including electronic, to accommodate any recordkeeping maintained by a business, large or small.

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. TTB uses these records to validate revenue collections and establish the compliance level of a particular importer and the importer community as a whole. If this collection of information were discontinued, the consequence on the TTB program of administering the Federal laws and regulations applicable to tobacco products and processed tobacco would be the failure of TTB to satisfy the statutory objective of revenue protection.

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 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?

This recordkeeping requirement involves usual and customary business records that the proprietor would normally maintain in the course of doing business. Therefore, in accordance with 5 CFR 1320.3(b)(2), the total annual burden is estimated to be one hour. However, there is a decrease (from 1500 to 586) in the number of respondents and total annual responses.

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

No cost is 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 (from 1500 to 586) in the number of respondents and total annual responses, due to a decrease in the number of respondents regulated by TTB.

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. Therefore, unlike the form, there is no medium to display the expiration 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.