

Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

Supporting Statement - Information Collection Request

1140-0098

ATF F 5070.1, Prevent All Cigarette Trafficking (PACT) Act Registration Form

A. Justification:

1. In addition to enforcing federal laws relating to the manufacture and commerce of firearms and explosives, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) assist the states in their effort to eliminate interstate trafficking in, and the sale and distribution of cigarettes and smokeless tobacco in avoidance of federal and state taxes. On March 31, 2010, President Obama signed into law the Prevent All Cigarette Trafficking Act of 2009 (PL 111-154). The law requires any person who sells, transfers or ships for profit cigarettes and/or smokeless tobacco in interstate commerce must register with the Attorney General of the United States (delegated to ATF) and the state tax administrators of the state in which the shipment is made or in which state such advertisement or offer is disseminated.
2. Recognizing that the range in state cigarette and smokeless tobacco taxes creates a potential for interstate trafficking of these products to avoid state tax, Congress has enacted federal laws to help ensure the state cigarette and smokeless tobacco taxes are paid. The law requires any person that sells, transfers or ships for profit cigarettes and/or smokeless tobacco in interstate commerce to register with ATF. Respondents will register the information on ATF F 5070.1, Prevent All Cigarette Trafficking (PACT) Act Registration Form. The purpose of the form is to register delivery sellers of cigarettes and/or smokeless tobacco products with the Attorney General in order to legally continue to sell and/or advertise these tobacco products. The information will

assist ATF in creating a list of Delivery Sellers that have not registered with ATF and make that list available to the attorney general and tax administrator of each state, common carriers and any other person that the Attorney General of the United States deems appropriate to receive the list.

3. The form will be available on the ATF website so it can be downloaded and mailed to ATF. If adequate funding is obtained, ATF plans to create a database that will allow any person to register electronically and also have the option of printing the form for their records.
4. ATF uses a uniform subject classification system to identify duplication and to ensure that any similar information already available cannot be used or modified for use for the purpose of this information collection.
5. ATF has conducted an assessment on the impact on small businesses and other small entities under the Regulatory Flexibility Act (5 U.S. C. 601 et seq.) and has concluded that there will not be a significant impact on small businesses and other small entities.
6. The consequences if this collection of information is not adhered to would be that any person required to register with ATF would be in violation of the PACT Act and would subsequently be placed on the list of non-compliant Delivery Sellers. Placement on this list would severely limit the Delivery Sellers legal ability to continue to operate their business.
7. The collection of information is consistent with the provisions of 5 CFR 1320.6.
8. ATF has worked with the state tax administrators, the National Association of Attorneys General (NAAG) and Tribal Leaders regarding the proposed regulations and the collection form. A 60-day and 30-day Federal Register notice was published in order to solicit comments from the general public. One comment was received that stated that the form did not completely list the authorized agent as described in the Pact Act. The program office accepted the suggestion and as a result, item 12a on the form was reworded to reflect the commenter's suggestion.

9. No payment or gift is associated with this collection.
10. The assurance of confidentiality is contained in the Privacy Act. Confidentiality is not assured.
11. No questions of sensitive nature are asked.
12. ATF estimates that no more than 3,000 respondents will be impacted by this new registration requirement, furthermore ATF estimates that it will take the respondents approximately one hour to complete ATF F 5070.1 and send that form to ATF. This registration requirement will only be conducted one time by each person required to register with ATF. The total number of responses is 3000. The total annual burden hours associated with this collection is 3000 hours.

13. ATF estimates the cost to businesses impacted will be \$42,000 collectively. ATF has derived this figure by assuming that each business impacted will have to file an ATF F 5070.1, the cost of a stamp and envelope has been estimated at \$.50, the labor to complete the form has been estimated at one hour and the labor cost is estimated at \$13.50 per hour. The table below illustrates the estimated costs:

Labor Costs: \$13.50 x 3,000 businesses	\$40,500
Mailing Costs: \$.50 x 3,000 businesses	\$ 1500
Total Costs:	\$42,000

14. Estimates of annual costs to the Federal government are:

Printing	\$1,000.00
Distribution	18,000.00
Salary	136,000.00
Overhead	1,000.00
Total	156,000.00

15. Item 12a. on the form was reworded as a result of a comment received from the Federal Register notice .

16.The results of this collection will not be published.

17.ATF does not request approval to not display the expiration date of OMB approval for this collection.

18.There are no exceptions to the certification statement.

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

Not applicable.

Terms of Clearance Per NOA Dated 07/08/2010 – Prior to its next submission, the agency will reach out to FDA to explore opportunities to share common data and address potential duplication.

The Alcohol & Tobacco Diversion Division had a conference call with FDA to discuss sharing of information. The FDA provided 3 forms from their web page that were somewhat similar to the PACT Act Registration Form. ATF reviewed the forms for duplication of what already exists (see the links). Larry Penninger, Acting Division Chief, A&T Diversion Division stated that it does not appear that ATF is duplicating information that already exists. It was determined that the PACT Act Registration Form was not a duplication of information that already exists.

Form 3741- Establishment Registration and Product Listing

(<http://www.fda.gov/downloads/TobaccoProducts/ResourcesforYou/ForIndustry/UCM189555.pdf>)

Form 3742- Listing of Ingredients in Tobacco Products

(<http://www.fda.gov/downloads/TobaccoProducts/ResourcesforYou/ForIndustry/UCM191985.pdf>)

Form 3743- Tobacco Health Document Submissions

(<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM209068.pdf>)