

**2011 SUPPORTING STATEMENT
for
TOBACCO REPORT
OMB NO. 0581-0004**

A. Justification.

- 1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION.**

The authority for the mandatory collection of information on **Form TB-26, Tobacco Stocks Report**, is Public Law No. 661, commonly known as the Tobacco Statistics Act (7 U.S.C. 501-508) enacted in 1929. The Act directs the Department of Agriculture (USDA), to collect statistics on the quantities of leaf tobacco held by dealers and manufacturers in the United States and Puerto Rico.

The information collection under the regulations and in this request affects 57 respondents (45 dealers and manufacturers reporting stocks information, and 12 snuff, smoking and chewing tobacco manufacturers.)

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) directs and authorizes USDA to collect, tabulate, and disseminate statistics on marketing agricultural products including market supplies, storage stocks, quantity, quality and condition of such products in various positions in the marketing channel, utilization of sub-products, shipment, and unloads.

- 2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.**

The information collected from respondents is used by authorized Agricultural Marketing Service (AMS) Cotton and Tobacco Programs' staff. Only combined national totals are published on a quarterly basis in the Tobacco Stocks report. Once the quarterly Tobacco Stocks report is published a PDF

version is added to the more than 30 of historical Tobacco Stocks reports available on the Agricultural Marketing Service Web site. A direct link to the report selection page is provided below:

<http://www.ams.usda.gov/TBMarketNews>

TB-26, Tobacco Stocks Report. The basic purpose of the information collection is to ascertain the total supply of unmanufactured tobacco available to domestic manufacturers and to calculate the amount consumed in manufactured tobacco products. USDA would not be able to publish statistics on stocks of tobacco without this information, and would be in violation of the Act.

TB-39, Quarterly Report of Manufacture and Sales of Snuff, Smoking, and Chewing Tobacco. The purpose of this form is the result of a request to USDA by the manufacturers of snuff, smoking, and chewing tobacco products. Data collection is based on the authority for market news reporting, Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627).

The data collected on form TB-39 is used by the industry to monitor the size, growth, or decline of the market and are useful to USDA as well as other government entities interested in the consumption of these products. Without this information collection, USDA would not be able to disseminate marketing information on these products as directed and authorized in the Act.

3. **DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.**

The Tobacco Statistics Act gives the USDA broad authority to collect data in whatever detail is deemed necessary to fulfill the purposes of the Act. In actual practice, there has been a

consistent trend toward reducing the burden. The current Form TB-26 requests less data than earlier editions and was adapted for automated data processing over 25 years ago. Data from the form is now entered into a computer for processing and report creation.

Electronic online fillable and printable versions of the TB-26 and TB-39 are available on the AMS Web site. Though AMS is committed to complying with the e-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible, the availability and submission of forms electronically is discretionary. A direct link to the forms selection page is provided below:

<http://eforms.ams.usda.gov/#CustomersTB>

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSE(S) DESCRIBED IN ITEM 2 ABOVE.

Statistics on the manufacture and sale of snuff, smoking and chewing tobacco products were available prior to 1965 from Treasury publications on the collection of taxes. With the repeal of the Federal tax in 1965, the industry requested that the collection of basic data be continued to maintain the statistical series. All the major manufacturers of these products agreed to furnish the basic information. Federal taxes were re-imposed in 1985 for snuff and chewing tobacco and Treasury is again reporting data on these products, but not in the detail desired by the industry. The type of report desired by the industry cannot be constructed from the Treasury data.

Treasury data now covers pipe tobacco and the "smokeless" products such as snuff and chewing tobacco, while the AMS report covers these products as well as the roll your own smoking tobacco. The AMS report also breaks the products down into retail categories such as firm and soft plug, moist and dry snuff while Treasury uses particle size to make a distinction between snuff and chewing tobacco.

There is no single industry association covering all of these products. The Pipe Tobacco Council, Inc. is comprised of

manufacturers producing smoking tobacco (pipe and roll your own) and is one of several industry associations covering different components or products produced by the industry.

The information collected on Form TB-26 is unique and there is no similar data collected by any other source.

5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF THE OMB FORM 83-I), DESCRIBE THE METHODS USED TO MINIMIZE BURDEN.

The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than \$750,000 and small agricultural service firms (first handlers and importers) as those having annual receipts of no more than \$6.5 million. Under these definitions, the majority of dealers and manufacturers impacted by these information collections are not considered small entities. We currently have 57 respondents for these information collections. While we do not know specifically their annual receipts, we estimate that 14 are considered small businesses.

The Tobacco Statistics Act requires all dealers to submit reports but exempts manufacturers who produce less than a specified amount of cigarettes, cigars, or smoking tobacco. Producers of tobacco are also exempt.

Manufacturers of snuff, smoking and chewing tobacco are under no obligation whatever to provide information on form TB-39 and over the years some of the smaller concerns have discontinued reporting. However, due to the shrinking market we believe that the remaining respondents still constitute over 95 percent of the industry so the statistical integrity of the series remains high. This collection does not impact small businesses or other small entities.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

The Tobacco Statistics Act requires this mandatory collection to

be made quarterly. Reports on snuff, smoking and chewing products are also made quarterly so that comparisons with stocks data can be made and because there is some overlap between the reporting entities.

Congress in 2005 in consultation with the tobacco industry and other interested entities made significant changes to the laws governing the operation of the tobacco program. None of the significant changes that were made, although they had a considerable impact on many aspects of the government tobacco program, impacted the Tobacco Statistics Act, nor have the changes prompted the snuff, smoking and chewing tobacco manufacturers to request any changes in the basic information being collected or the frequency at which it is reported.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

- **REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;**
- **REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;**

The law requires respondents to respond within 15 days after January 1, April 1, July 1, and October 1 of each year. Blank TB-26 and TB-39 forms are mailed to contributors in advance of these dates so that the statistical series can be maintained to provide data as of these reporting dates.

- **REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;**
- **REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN 3 YEARS;**

- **IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;**
- **REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;**
- **THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR**
- **REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.**

The Tobacco Statistics Act requires that data collected from individual firms be kept confidential. Only combined national totals are published. Documents are locked in a file cabinet when not being utilized and the Oracle database is maintained on an agency secure server with firewall and anti-virus protection, as well as backup and password protection. The same procedures and security guidelines are followed for snuff, smoking and chewing tobacco documents and data.

- 8. IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE**

TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THESE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.

Agency notice appeared in the *Federal Register* dated December 21, 2010, Vol. 75, No. 244, Page 80037. One comment was received.

The respondent strongly supported the data collected on the TB-26 and TB-39. They indicated that the data collected on these forms is crucial to key components of the Bureau of Economic Analysis development of economic statistics. No proposed changes in the data collected or the frequency with which it is collected are planned.

DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO BE RECORDED, DISCLOSED, OR REPORTED.

The Tobacco Statistics Act places sole responsibility on USDA and provides rather sweeping authority to fulfill that task. Major revisions in the collection procedure are discussed with the industry, interested federal agencies, and submitted to the public through regular rulemaking procedures. Since the information collected from the TB-39 is requested by the industry and is voluntary in nature, the Federal government does not make any changes without consulting the industry. In fact, the only major change that has taken place since 1965 was an industry request that was adopted as of January 1, 1982.

Contacts regarding the need for this report are:

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CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS -- EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE CIRCUMSTANCES SHOULD BE EXPLAINED.

There are no specific situations or circumstances that preclude consultation and generally a small number of contributors are contacted each quarter to clarify questions on data submitted or keep up with changing trends in the industry.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

No payments or gifts are provided to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

The Tobacco Statistics Act requires that data collected from individual firms be kept confidential and only combined national totals are published. These same guidelines are followed for the snuff, smoking and chewing tobacco reports.

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY

QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.

The data collected does not contain data of a sensitive nature.

12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION.

THE STATEMENT SHOULD:

- INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCE IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOURS FOR CUSTOMARY AND USUAL BUSINESS PRACTICES.

- IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEM 13 OF OMB FORM 83-I.

- PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES.

Estimates of the burden of collection of information have been summarized on AMS Form 71 enclosed.

The 57 respondents' estimated annual cost in providing information to Cotton and Tobacco Programs is \$3,406.80. This total has been estimated by multiplying 204 total burden hours by \$16.70, an average of mean hourly earnings by local white collar administrative clerical employees. Data for computation of this hourly wage was obtained from the U. S. Department of Labor Statistics publication, *National Compensation Survey, Occupational Wages in the United States, 2007*, published August 2008 (Bulletin 2704). This publication which was revised September 9, 2010, can also be found at the following Web site:
<http://www.bls.gov/ncs/ncswage2007.htm>

13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

- **THE COST ESTIMATE SHOULD BE SPLIT INTO TWO COMPONENTS: (a) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER ITS EXPECTED USEFUL LIFE); AND (b) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COST FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.**
- **IF COST ESTIMATES ARE EXPECTED TO VARY**

WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.

- **GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE: (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION OR KEEPING RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.**

There are no capital/start-up or operation and maintenance costs beyond the usual and customary business or private practices since the data provided is quarterly inventory or sales information.

- 14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COST, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATION EXPENSES (SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF), AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.**

The estimated cost to the Federal government has risen since 2005 due to the significant downsizing of the AMS Cotton and Tobacco Programs. Remaining duties have shifted from a staff

of lower grade employees to the remaining higher grade supervisor. Despite an overall reduction in the number of hours being spent on the complete data collection and publication preparation the hours being spent now are more expensive since they are the hours of a higher grade employee.

The estimated annual cost to the Federal government is \$23,850.

The cost includes:

GS-14	480 hours	\$23,000.00
Postage		250.00
Printing		<u>600.00</u>
TOTAL		\$23,850.00

15. EXPLAIN THE REASON FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-I.

Since the last submission, there are no changes or adjustments.

16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.

The Tobacco Statistics Act specifies that data be collected as of the first day of January, April, July, and October. Information collected on the TB-39 is also collected on a quarterly basis and is incorporated into the same publication.

Verification and data entry followed by compilation and the generation of the completed 16 page publication and its submission for publication usually takes from 45 to 60 days each quarter. The actual number of work days to complete the quarterly publication takes approximately 15 days each quarter as the work is completed in several stages with some wait time between the individual steps.

17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL OF THE INFORMATION

COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE INAPPROPRIATE.

The Cotton and Tobacco Programs orders forms well in advance of the marketing year, so forms are mailed to respondents in a timely manner. Our office attempts to order forms in quantities large enough to get a price break. If the program office needs to order more forms prior to an OMB submission for extension of approval, there is no guarantee that a requested expiration date will be used by OMB. There has also been some confusion by respondents between the date the forms are printed and the OMB expiration date for approval of the forms. By not including the OMB expiration date the confusion is removed and the forms need only be printed when changes are necessary, the supply of forms becomes exhausted or the burden or non-discrimination statement needs to be updated. Therefore, we are seeking approval to not display the OMB expiration date on these forms.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This information collection does not employ statistical methods.