

DEPARTMENT OF THE TREASURY  
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU  
Supporting Statement – Information Collection Request

OMB Control Number – 1513-0032

TTB F 5210.9 Inventory – Manufacturer 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? Also include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.

The Internal Revenue Code of 1986 at 26 U.S.C. 5721 requires that every manufacturer of tobacco products, processed tobacco, or cigarette papers or tubes make a true and accurate inventory at the commencement of business, conclusion of business, and at any other time as prescribed by regulations. Inventory records are to be maintained in the manner prescribed by regulations and available for inspection by TTB officers as required by 26 U.S.C. 5741. The requirement for submission of the inventory form, TTB F 5210.9, appears in the regulations at 27 CFR 40.201 and 40.523.

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

This form provides a uniform format for recording inventories of tobacco products. The information provided on TTB F 5210.9 enables TTB to determine the appropriate tax liability. Tax liability is established to ensure appropriate tax is paid on tobacco products.

In addition to tobacco products, the inventory form also provides for the accounting of processed tobacco. TTB uses this information to prevent the diversion of materials used for making tobacco products to illegal manufacturers.

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 encourages the use of technological advances to collect, store, and retrieve this information. TTB has approved and will continue to approve, on a case-by-case basis, the use of improved technology for the collection and maintenance of required information.

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 information collection request only requires inventory reports that are pertinent to each manufacturer's specific operation. As far as we can determine, similar information is not available elsewhere.

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

This reporting requirement is considered to be the minimum necessary to ensure compliance. This collection of information is not appropriate for 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?

Not collecting this information or less frequent collection of this information would pose jeopardy to the revenue.

7. Are there any special circumstances associated with this information collection that would require it to be conducted in a manner inconsistent with OMB guidelines?

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? Summarize the public comments that were received and describe the action taken by the agency in response to those comments.

A temporary rule (74 FR 29401) and notice of proposed rulemaking (74 FR 29433) was published in the *Federal Register* on June 22, 2009. The temporary rule solicited comments from the general public regarding this collection of information, as well as other collections of information.

A 60-day *Federal Register* notice was published for this information collection on September 18, 2009, 74 FR 47990. The notice solicited comments from the general public. TTB received no comments.

On June 21, 2012, TTB published a final rule in the *Federal Register* (77 FR 37287) T.D. TTB-104, which addressed 19 comments received concerning the temporary rule and collection of information by TTB. Two comments were received regarding this collection of information.

The first commenter requested that TTB clarify how often TTB F 5210.9 must be submitted. This commenter asserted that the specific times which inventories are required, as set forth in 27 CFR 40.523, are vague and undefined, specifically in stating that the an inventory must be made "at such other time as any appropriate TTB office may require." TTB responded that the prescribed inventory requirements mirror those at 27 CFR 40.201, which state that inventories must be made at the time of commencing business, at the time of transferring ownership, at the time of changing the location of a factory, at the time of concluding business, and at such other time as any appropriate TTB officer may require. With regard to the latter, we noted that the regulation provides TTB with the authority to require an inventory when necessary, for example, in connection with an audit or investigation of an industry member, which is the most common use by TTB of the authority to require an inventory.

The second commenter asserted that there were inconsistencies within the proposed regulations regarding the reporting of inventories, in part because manufacturers of processed tobacco were required to submit an inventory while importers of processed tobacco were not. In addition, this commenter expressed concern over the date an initial inventory had to be taken

which did not correspond with the date of the manufacturer's monthly report. TTB agreed with the commenter that importers of processed tobacco should be required to perform an inventory for the very same reasons a manufacturer of processed tobacco must perform an inventory. TTB stated that the omission of this requirement for importers was an oversight corrected in the final rule through the addition of a new section 27 CFR 41.264. TTB also stated that issues relating to the timing of the inventory vis-à-vis the monthly report were being addressed with individual industry members, on a case-by-case basis, and TTB did not believe that any further regulatory action was necessary.

TTB published a 60-day *Federal Register* notice (79 FR 20305) on April 11, 2014 for the renewal of this information collection. 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 remuneration 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?

This information collection is maintained at our National Revenue Center in secure file rooms with controlled public access. Moreover, 26 U.S.C. 6103 protects the confidentiality of the tax information collected.

11. What justification is there for questions of a sensitive nature? If personally identifiable information (PII) is being collected in an electronic system, identify the Privacy Impact Assessment (PIA) that has been conducted for the information collected under this request and/or Privacy Act System of Records notice (SORN) that has been issued for the electronic system in which the PII is being stored.

We ask no questions of a sensitive nature. This collection is not associated with a PIA or SORN.

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

TTB estimates that 250 manufacturers of tobacco products, processed tobacco, or cigarette papers and tubes would be required to prepare and submit one report per year. Thus, the reporting burden is calculated as follows:

Inventory

250 respondents x 1 year = 250 responses  
@ 2 hours per response = 500 hours

Total Burden Hours = 500

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information (excluding the value of the burden hours in Question 12 above?)

The total annual cost estimate associated with this paperwork requirement is allocated entirely to operations and maintenance. Annual costs are allocated as follows:

500 hours X \$7.25 = \$ 3,625  
 Postage: 250 reports @ \$0.49 = \$ 123

Total: \$ 3,748

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

Estimates of annual cost to the Federal government are as follows:

Clerical Cost	\$ 130
Other Salary (review supervisory, etc.)	<u>490</u>
Total	\$ 620

Printing and distribution cost has either significantly decreased or no longer exist due to the availability of TTB forms on TTB.gov and in one or more of our various electronic systems (PONL, FONL, COLA Online, and/or Pay.gov). As a result, there is no longer printing and distribution cost for this collection.

15. What is the reason for any program changes or adjustments reported?

There is an adjustment associated with this information collection. The burden hours have increased, since we last reported, due to an increase in manufacturers required to use this form.

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?

We are not seeking approval to not display the expiration date for OMB approval.

18. What are the exceptions to the certification statement?

- (c) See item 5 for explanation regarding burden to small businesses.
- (f) This is not a recordkeeping collection so there is no retention period.
- (i) There is no statistical method used for this collection.
- (j) See item 3 for explanation regarding the use of information technology.

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

This collection does not employ statistical methods.