

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0068

Information Collection Request Title:

Records of Operations – Manufacturer of Tobacco Products, Cigarette Papers and Tubes, or Processed Tobacco (TTB REC 5210/1).

A. Justification

1. What are the circumstances that make this collection of information necessary, and what legal or administrative requirements necessitate the collection? Also align the information collection to TTB's Line of Business/Sub-function and IT Investment, if one is used.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers chapter 51 (distilled spirits, wine and beer), chapter 52 (tobacco products, cigarette papers and tubes, and processed tobacco), and sections 4181–4182 (firearms and ammunition excise taxes) of the Internal Revenue Code of 1986, as amended, (IRC, 26 U.S.C.) pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Department Order 120-01.

Tobacco products have historically been a major source of excise tax revenues for the Federal government, and these taxes generated over \$14 billion in revenue in 2015. In order to safeguard this revenue, the IRC at 26 U.S.C. 5741 requires every manufacturer of tobacco products, cigarette papers and tubes, and processed tobacco to keep such records as the Secretary of the Treasury prescribes by regulation to maintain accountability for those products. The TTB regulations issued under this authority are contained in 27 CFR Part 40, Manufacture of Tobacco Products, Cigarette Papers and Tubes, and Processed Tobacco.

The regulations in Subpart H, Operations by Manufacturers of Tobacco Products, require such manufacturers to maintain records related to daily operations. Required records include records of processed tobacco received, shipped or delivered, lost, and destroyed; records of tobacco products that show the quantities manufactured, received in bond or received by return to bond, removed by whatever means, consumed or otherwise used, or disclosed as an inventory loss or gain; records in support of removals subject to tax; and records in support of transfers in bond. A manufacturer may use commercial records from which the required information may be readily ascertained to satisfy these requirements. A tobacco products manufacturer also must keep the auxiliary and supplemental records from which such records are compiled. Records required under subpart H generally must be retained for three years following the close of the calendar year in which filed or made, and they must be made available for inspection by the appropriate TTB officer upon request.

The regulations in Subpart K, Manufacture of Cigarette Papers and Tubes, require manufacturers of these products to maintain records related to daily operations. The required records include records of cigarette papers and tubes manufactured; received without payment of tax from another factory, an export warehouse, customs custody, or by withdrawal from the market; removed by whatever means; and lost or destroyed. Records required under subpart K generally must be retained for three years following the close of the calendar year in which filed or made, and must be made available for inspection by the appropriate TTB officer upon request.

The regulations in Subpart L, Manufacturer of Processed Tobacco, require such manufacturers to maintain records related to daily operations. The required records include records of daily operations and transactions showing total quantity of processed tobacco on hand, used in the manufacture of tobacco products, processed, received, removed from the factory for shipment to a person holding a TTB permit, removed from the factory for shipment to a person not holding a TTB permit, removed from the factory for export, removed for any other purpose, lost, or destroyed. Records required under subpart L must be retained for three years following the close of the calendar year in which filed or made, and they must be made available for inspection by the appropriate TTB officer upon request.

This comprehensive recordkeeping system is essential in enabling TTB officers to trace transactions involving tobacco products, cigarette papers and tubes, and processed tobacco; determine that tax liabilities are accurately determined and discharged by the manufacturer; and ensure that no diversion has occurred which would jeopardize the revenue. The records form an inclusive system that provides a high degree of accuracy regarding the determination of tax liabilities.

The regulations implementing this information collection are contained in 27 CFR:

40.181	40.182	40.183	40.184
40.185	40.186	40.421	40.435
40.521	40.524		

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

The industry member maintains the required records at their business premises. TTB routinely uses these records during tax compliance examinations to verify that all tobacco products, cigarette papers and tubes, and processed tobacco can be accounted for, and to verify that recorded transactions are consistent with information reported to TTB in monthly operational reports. Industry members must maintain these records to allow TTB to trace transactions involving tobacco products and processed tobacco, and determine that tax liabilities have been accurately determined and discharged.

Access to these records strengthens TTB's enforcement authority over tobacco products and processed tobacco, and helps TTB prevent diversion of materials used to make 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 collection and maintenance of required information. Respondents may use information technology to maintain the required records, provided that the records are readily available to TTB personnel for inspection.

4. What efforts are used to identify duplication? Can similar information already available be used or modified for use for the purposes described in Item 2 above?

This information collection contains information pertinent to each respondent and applicable to the specific issue of maintaining records related to manufacturers of tobacco products, cigarette papers and tubes, or processed tobacco. As far as TTB is able to 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?

All entities, regardless of size, are required by statute to maintain the records prescribed by regulation. Waiver or reduction of this requirement, simply because the respondent's business is small, could cause jeopardy to the revenue by harming TTB's ability to verify operational information reported to TTB and to account for operations giving rise to excise tax liability.

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?

Without the recordkeeping requirements authorized by this information collection, TTB would face a significant information gap, which would make it difficult or impossible to trace and verify transactions surrounding the manufacture and removal of tobacco products, cigarette papers and tubes, and processed tobacco. As a result, it would be difficult or impossible to ensure that excise tax liabilities were properly determined and paid, and to ensure that diversion resulting in failure to pay the appropriate tax had not occurred. TTB believes that the regulations require respondents to keep records only as often as necessary to meet their own business requirements, and that less frequent collection of this information would hinder TTB's ability to identify and prevent diversion.

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.*

To solicit comments from the general public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on February 24, 2016, at 81 FR 9245. TTB received no comments on this information collection in response.

9. *Was any payment or gift given to respondents, other than remuneration of contractors or grantees? If so, why?*

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 industry member. Additionally, 26 U.S.C. 6103 protects the confidentiality of tax information obtained by the Government from regulated individuals.

11. *What is the justification 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 the Privacy Act System of Records notice (SORN) issued for the electronic system in which the PII is being stored.*

This information collection contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in an electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this collection.

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

Based on the current number of active tobacco industry permits, TTB estimates that 250 respondents are required to keep the records required under this information collection, with each respondent making one response per year, for a total of 250 responses. While many of the required records are usual and customary records kept during the normal course of business for purposes of production and inventory control, TTB estimates that each respondent will require 2 hours to comply with the recordkeeping requirements of this information collection, for an estimated total annual burden of 500 hours. These records must be retained for three years following the close of the calendar year in which they were filed or made.

(250 respondents X 1 response/year = 250 responses/year X 2 hours/response = 500 total annual burden hours.)

13. *What is the estimated annual cost burden to respondents or record keepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

There is no cost to respondents associated with this collection.

14. *What is the annualized cost to the Federal Government?*

There is no annualized cost to the Federal Government associated with this collection.

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

There are no program changes associated with this collection. As for adjustments, TTB is increasing the number of respondents to this information collection from 193 to 250 due to an increase in the number of tobacco industry members holding TTB-issued permits. This increase has resulted in a corresponding increase in the number of annual responses, from 193 to 250, and the total annual burden hours, from 386 to 500.

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

TTB 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?*

This information collection consists of records kept by respondents at their business premises, and, as such, there is no prescribed TTB form for this collection. Therefore, there is no medium for TTB to display the OMB approval expiration date.

18. *What are the exceptions to the certification statement?*

(c) See item 5 above.

(i) No statistics are involved.

(j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.