

**DEPARTMENT OF THE TREASURY**  
**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
**Supporting Statement -- Information Collection Request**  
**OMB Control Number 1513-0070**

Information Collection Request Title:

Tobacco Export Warehouse Proprietor — Records of Operations (TTB REC 5220/1).

**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, processed tobacco, and cigarette papers and tubes), 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 revenue for the Federal government, and the Federal excise tax on tobacco products generated over \$14 billion in revenue in 2015. To safe-guard these revenues, the IRC at 26 U.S.C. 5741 provides that members of the regulated tobacco industry, including export warehouse proprietors, “shall keep such records in such manner as the Secretary shall by regulation prescribe.” This IRC section authorizes record-keeping requirements applicable to export warehouse proprietors because such businesses receive and store nontaxpaid tobacco products and cigarette papers and tubes, as well as processed tobacco (which is not taxed), until those products are removed without payment of tax for export to a foreign country, Puerto Rico, the Virgin Islands, or for consumption beyond the Internal Revenue laws of the United States.

Under this authority, the TTB regulations in 27 CFR Part 44, Exportation of Tobacco Products, and Cigarette Papers and Tubes, Without Payment of Tax, or With Drawback of Tax, Subpart G, Operations by Export Warehouse Proprietors, require such proprietors to maintain records related to their operations. Specifically, under 27 CFR 44.142, the required records must show the date, kind, and quantity of tobacco products, cigarette papers and tubes, and processed tobacco received, removed, transferred, destroyed, lost, or returned to the manufacturer or customs bonded warehouse proprietor. These records allow transactions involving those products to be traced and verified, thereby ensuring that no tax liabilities were incurred.

Section 44.142 prescribes no particular form for the required records, and export warehouse proprietors may use commercial records to satisfy the recordkeeping requirements, but the required information must be readily ascertainable. The records required under § 44.142 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 any appropriate TTB officer upon request.

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 required records, which are usual and customary records kept during the normal course of business, are maintained at the premises of the regulated individual. These records are routinely used by TTB personnel during tax compliance examinations to verify that nontaxpaid tobacco products and cigarette papers and tubes, or processed tobacco, are not being diverted into domestic commerce. This may include verification of the operational data reported to TTB on TTB F 5220.4, Report—Proprietor of Export Warehouse (approved under 1513–0024). These efforts ensure that tax revenues are protected.

*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. These records are maintained by export warehouse proprietors at their business premises, and they may keep the required records in electronic formats at their discretion.

*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 request requires usual and customary records kept during the normal course of business that are pertinent and unique to each recordkeeper. 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?*

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, to account for operations potentially giving rise to excise tax liability, and to ensure that nontaxpaid tobacco products and cigarette papers and tubes, as well as processed tobacco, are not being diverted into domestic commerce.

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 be faced with a significant information gap that would make it difficult or impossible to determine what operations are being conducted at the premises of a tobacco export warehouse proprietor. As a result, it would be difficult or impossible for TTB to ensure that diversion 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 unnecessarily hinder TTB's ability to identify and prevent diversion, which would jeopardize 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.*

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?*

No specific assurance of confidentiality is provided for this information collection, which consists of records maintained by regulated industry members at their business premises. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless disclosure is specifically authorized by the IRC.

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, which consists of usual and customary records maintained by industry members at their business premises, contains no questions of a sensitive nature. In addition, this information collection does not collect personally identifiable information (PII) in a government 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?*

This information collection involves usual and customary business records that would be kept by regulated industry members at their premises even without the TTB regulatory requirements to keep such records. Therefore, in accordance with 5 CFR 1320.3(b)(2), the total annual burden for the 86 export warehouse proprietors required to keep these usual and customary business records is estimated to be one hour (represents a place holder not an actual estimate of burden). The record retention requirement for this information collection is 3 years.

*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)?*

This information collection consists of usual and customary business records that a proprietor keeps at their premises during the normal course of business for the purpose of inventory control. As such, there is no cost to respondents associated with this collection.

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

There is no cost to the Federal Government for the maintenance of usual and customary business records by proprietors at their business premises.

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

There are no program changes associated with this information collection.

As for adjustments, we are increasing the estimated number of respondents from 80 to 86 to reflect an increase in the number of export warehouse proprietors regulated by TTB. Since this information collection consists of usual and customary records kept during the normal course of business, there is no increase in the reported annual burden hours.

*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 usual and customary business records that regulated industry members keep at their business premises as a normal part of doing business. As such, there is no prescribed TTB form for this collection, and, 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.