

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0078

Information Collection Request Title:

Application for Permit to Manufacture or Import Tobacco Products or Processed Tobacco or to Operate an Export Warehouse, and Applications to Amend Such Permits.

Information Collections Issued under this Title:

■ Paper Forms:

- TTB F 5200.3: Application for Permit to Manufacture Tobacco Products or Processed Tobacco or to Operate an Export Warehouse;
- TTB F 5200.16: Application for Amended Permit to Manufacture Tobacco Products or Processed Tobacco or to Operate an Export Warehouse;
- TTB F 5230.4: Application for Permit to Import Tobacco Products or Processed Tobacco; and
- TTB Form 5230.5: Application for Amended Permit to Import Tobacco Products or Processed Tobacco.

■ Permits Online (PONL) Electronic Applications:

- Application for New Manufacturer of Processed Tobacco (substitutes for TTB F 5200.3);
- Application for New Manufacturer of Tobacco Products (substitutes for TTB F 5200.3);
- Application for New Tobacco Export Warehouse (substitutes for TTB F 5200.3);
- Application for New Tobacco Importer (substitutes for TTB F 5203.4);
- Amended Tobacco Permit Applications (substitutes for TTB F 5200.16 or TTB F 5230.5).

NOTE: Hereafter, all references to a TTB form number in this document are assumed to include a reference to the form's PONL substitute, if applicable.

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.

The IRC at 26 U.S.C. 5712 requires that every person, before commencing business as a manufacturer or importer of tobacco products or processed tobacco, or as an export warehouse proprietor, and at such other time as prescribed by regulation, must make application for the permit provided for in 26 U.S.C. 5713. IRC section 5712 also provides that these permit applications shall be made in the form prescribed by regulation and shall contain the information required by the application form. In addition, IRC section 5712 sets forth certain conditions and circumstances under which permit applications may be denied, including if TTB finds that: (1) The proposed business premises is not adequate to protect the revenue, (2) the proposed activity does not meet minimum capacity or activity requirements prescribed by the Secretary, or (3) the applicant(s) or, in the case of a corporation, any officer, director, or principle stockholder, is unfit to hold a permit by reason of business experience, financial standing, or certain criminal proceedings or convictions.

Under the TTB regulations, a person seeking a permit to operate as a manufacturer of tobacco products or processed tobacco, or as an export warehouse proprietor, must complete and submit form TTB F 5200.3. Similarly, a person seeking a permit to operate as an importer of tobacco products or processed tobacco must complete and submit form TTB F 5230.4. (Hereafter, for reader convenience, these permits are collectively referred to tobacco industry permits.)

The TTB regulations also prescribe situations in which a person holding a tobacco industry permit must inform TTB of certain changes affecting the accuracy of the information on their current permit and obtain a corrected, amended permit. A manufacturer of tobacco products or processed tobacco, or an export warehouse proprietor, must complete and submit form TTB F 5200.16 to amend their existing permit. An importer of tobacco products or processed tobacco must complete and submit form TTB F 5230.5 to amend their existing permit.

In addition, under the TTB regulations, an applicant for a tobacco industry permit or amended permit may be required to submit additional supporting documentation with the appropriate TTB application form. The additional documentation may consist of corporate documents, articles of partnership or association, a trade name certificate and/or a description and diagram of the applicant's premises. All such documentation will become a part of the application for permit or amended permit.

TTB requires the information collected in these applications and in any required supporting documents so that it can determine whether an applicant is entitled to and will be issued a tobacco industry permit or amended permit. Once a permit is issued or amended, the permit holder must retain copies of their permit application(s) and any supporting documents for as long as they continue in business, and these records must be made available to any appropriate TTB officer upon request.

The TTB regulations that implement this information collection are found in 27 CFR at:

40.62	40.63	40.64	40.65	40.69	40.73
40.76	40.91	40.92	40.93	40.101	40.102
40.103	40.104	40.111	40.112	40.114	40.492
40.494	40.495	40.496	40.497	40.501	40.502
40.511	40.512	40.513			
41.191*	41.193*	41.194*	41.195*	41.197*	41.201*
41.202*	41.203*	41.220*	41.221*	41.222*	41.223*
41.224*	41.225*	41.226*	41.227*	41.228*	41.232
41.233	41.234	41.235	41.236	41.237	41.241*
41.242*	41.243	41.251	41.252	41.253	
44.82	44.83	44.84	44.85	44.88	44.91
44.93	44.101	44.102	44.103	44.104	44.105
44.106	44.107	44.108	44.109	44.111	44.112.

* Revised regulatory section in temporary rule T.D. TTB-115, published at 78 FR 38555 on June 27, 2013.

This information collection is aligned with:

- Line of Business/Sub-function: Law Enforcement/Substance Control.
- IT Investment: Tax Major Application System.

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

TTB's National Revenue Center (NRC) personnel use TTB F 5200.3, TTB F 5230.4, and any required supporting documents, to determine the qualifications of applicants for original tobacco industry permits under 26 U.S.C. 5712, and to issue those permits when appropriate. The information collected on these two forms identifies the type of tobacco industry permit applied for, the reason for the application, and the proposed business, including its location, mailing address, and any trade name(s) associated with the business. Each form also collects information regarding the identity and business and criminal history of the applicant, any partners, or, in the case of a corporation, its officers, directors, or principal investors. In addition, TTB F 5200.3 requires tobacco manufacturer and export warehouse proprietor applicants to include a physical description and, if required, a diagram,

of the proposed premises so that TTB can determine, as required by statute, whether the premises adequate to protect the revenue. Once the information on TTB F 5200.3 or TTB F 5230.4 has been reviewed, it is used to prepare a permit if the applicant is found qualified.

The two amended permit application forms, TTB F 5200.16 and TTB F 5230.5, and any required supporting documents, provide the same type of information as the two original permit application forms. NRC personnel use the information collected on the two amended permit applications to prepare amended permits when there has been a change affecting the accuracy of the original permit. The applicant completes only those portions of TTB F 5200.16 and TTB F 5230.5 (and attaches any required supporting documents) necessary to identify the applicant, their business, and the change(s) that have occurred at the premises. As such, the burden on the applicant for an amended permit is less than that of an applicant for an original permit.

TTB uses the information collected on these forms to determine the qualifications of applicants for tobacco industry permits and to document changes in permit holders' application information. The required information is necessary to ensure the lawful operation of the tobacco products and processed tobacco industries and to protect the revenue.

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.

Currently, respondents may complete and electronically submit all of the tobacco industry permit applications approved under this information collection by using TTB's internet-based "Permits Online" system (PONL) and its "Tobacco Permits" application function. See <https://www.ttbonline.gov/permitsonline/>.

In addition, all four tobacco permit-related paper forms are available as "fillable/printable" forms on the TTB website's forms page at <http://www.ttb.gov/forms/5000.shtml>.

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 provides TTB with information that is pertinent and unique to each applicant for an original or amended tobacco industry permit. As far as TTB 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 the IRC at 26 U.S.C. 5712 to apply for and obtain a permit before engaging in business as a manufacturer or importer of tobacco products or processed tobacco, or as an export warehouse proprietor, and that statute sets specific disqualifications for such permits. Pursuant to that statute, the form of the

application is prescribed by regulation. The type and amount of information requested by the TTB tobacco industry permit application forms are the minimum necessary to determine if a person is qualified for a permit or amended permit and if that permit or amended permit can be issued. The amount of information that a small business will have to collect and file with TTB is normally less than a larger, more complex business. Waiver or reduction of the requirements of this information collection, simply because the respondent's business is small, could cause jeopardy to the revenue by harming TTB's ability to ensure that permits are only issued to entities who are qualified.

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?

Respondents complete the applications approved under this information collection only when applying for an original (new) tobacco industry permit relevant to their business and also at certain other times, which are specified by regulation, when applying for an amended tobacco industry permit. If the information required by TTB F 5200.3, 5200.16, 5230.4, 5230.5, and any required supporting documents, was not collected, or was collected less frequently, TTB would not be able to adequately identify persons who engage in business in the TTB-regulated tobacco industries, including those who should be prohibited from engaging in such businesses for the reasons set forth at 26 U.S.C. 5712. Consequently, TTB would be unable to protect 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?

Under the OMB regulations at 5 CFR 1320.5(d)(2)(iv), a requirement to retain records for more than three years is a special circumstance. Under the TTB regulations, tobacco industry permit holders are required to retain at their place of business an application file containing their permit(s), permit applications(s), and any required supporting documents for as long as the permitted business remains in operation. Retention of this documentation is necessary for TTB auditors and investigators to verify that tobacco industry permit holders are operating lawfully and to perform related fieldwork.

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 regarding 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. However, Federal law at 5 U.S.C. 552 prohibits disclosure of proprietary business information, and 26 U.S.C. 6103 prohibits disclosure of taxpayer information, unless disclosure is specifically authorized by law. TTB maintains the collected information in secure office space with controlled access and in password-protected computer systems.

In addition, each form issued under this information collection contains a Privacy Act Information notice explaining TTB's authority to collect the information, the purpose of the collection, how TTB routinely uses the information, and the effect if the applicant does not provide the requested information.

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.

A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application System, and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001—Regulatory Enforcement Record System and published in the Federal Register on January 28, 2015, at 80 FR 4637. TTB's PIAs are available on the TTB website at <http://www.ttb.gov/foia/pia.shtml>.

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

Based on recent experience, TTB estimates that there are 298 annual respondents to this information collection, each making 1 annual response, at an average of 1.795 hours per response, for an estimated total annual burden of 535 hours.

The annual burden for each of the four TTB forms associated with this information collection is as follows:

TTB Form	No. of Respondents	Annual Responses	Total Responses	Hours Per Response	Total Burden
5200.3	52	1	52	2	104
5200.16	4	1	4	1	4
5230.4	185	1	185	2	370
5230.5	57	1	57	1	57
TOTALS	298	1	298	1.795	535

Also based on recent experience, TTB notes that of all respondents, approximately 75 percent are private businesses and 25 percent are Native American tribal governments.

Under the TTB regulations, applicants granted permits by TTB are required to permanently retain, at their place of business, their permit and the returned copies of the related application and supporting documents. Permittees must make these documents available for inspection by any appropriate TTB officer upon request.

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)?

Form #	Costs per Form				Total Forms Received	Total Costs
	Form	Salary	Clerical & Filing Costs	Overhead	Total Cost/Form	
5200.3	72.00	19.20	22.00	113.20	52	\$5,886.40
5200.16	36.00	12.00	14.00	62.00	4	\$248.00
5230.4	72.00	19.20	22.00	113.20	185	\$20,942.00
5230.5	36.00	12.00	14.00	62.00	57	\$3,534.00
Totals					298	\$30,610.40

We do not believe respondents bear any additional capital or start-up costs or any increased operation or maintenance costs as a result of this information collection requirement, particularly now that the regulatory requirements for processed tobacco permits have been in effect for over 6 years.

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

Based on recent experience, TTB estimates the cost to the Federal government for this information collection as follows:

	Specialist (GS 11/5)	Supervisory Review (GS 12/5)	Cost per response	Annual responses	Total annual cost
<i>Original Permit Applications</i>					
F 5200.3	\$32.37 @ 20 hours/each response = \$647.40 / response	\$38.80 @ 2 hours/each response = \$77.60 / response	\$725.00 / response	52	\$ 37,700
F 5230.4				185	\$ 134,125
					(171,825.00)

Amended Permit Applications					
F 5200.16	\$32.37 @ 6 hours/each response = \$194.22 / response	\$38.80 @ 1 hours/each response = \$38.80 / response	\$233.02 / response	4	\$932.08
F 5230.5				57	\$13,282.14
					(14,214.22)
TOTALS					\$186,039.22

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB Web site at <http://www.ttb.gov/forms/index.shtml>.

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 decreasing the estimated number of respondents, from 1,518 to 298, and the resulting total annual burden hours associated with this information collection, from 2,277 to 535, due to a decrease in the number of new and amended tobacco industry permit applications received by TTB. As required by the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA; Pub. L. 111-3, 123 Stat. 8), most tobacco processors have already applied for and received permits, and, as required by TTB temporary rule T.D. TTB-115 (78 FR 38555, June 27, 2013), most tobacco importers have already applied for and received new 5-year permits. Therefore, decreases in the number of new tobacco processor and tobacco importer permits have resulted in the recent overall decrease in the number of new and amended tobacco industry permit application received by TTB.

In addition, TTB has reevaluated the costs to respondents associated with this collection. While the per-response cost for this collection has risen due to increases in salary and other costs, the total cost for this collection has decreased due to the decrease in the number of respondents to this collection.

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?

As a cost saving measure for both TTB and the general public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection. By not displaying the expiration date of this collection on the related form, TTB will not have to update the form's expiration date on its electronic systems and website pages or on the form's paper version each time the information collection is approved. Similarly, TTB-

regulated businesses will not have to update their stocks of paper forms or alter electronic copies of the form, including any marginally-punched continuous printed versions of the form produced by some businesses, at their own expense, for use with their electronic systems or for sale to other businesses or individuals. Additionally, not displaying the OMB approval expiration date on this form will avoid confusion among members of the public who may have identical forms with different expiration dates in their possession. By not displaying the expiration date, supplies of the form could continue in use regardless of when OMB's approval has expired.

18. What are the exceptions to the certification statement?

- (c) See item 5 above.
- (f) This is not a recordkeeping requirement.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.