

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement -- Information Collection Request
OMB Control Number 1513-0106

Information Collection Request Title:

Record of Operations — Importer 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 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.

Under the IRC at 26 U.S.C. 5741, every manufacturer and importer of tobacco products, processed tobacco, or cigarette papers and tubes, and every export warehouse proprietor, must “keep such records in such manner as the Secretary shall by regulation prescribe,” and such records must be available for inspection by the government during business hours.

Certain TTB regulations issued under that IRC authority are contained in 27 CFR Part 41, Importation of Tobacco Products, Cigarette Papers and Tubes, and Processed Tobacco. The regulations relevant to this information collection require importers of tobacco products or processed tobacco to maintain the usual and customary records kept during the normal course of business showing the receipt and disposition of imported tobacco products or processed tobacco. Importers use these records to prepare form TTB F 5220.6, Monthly Report—Tobacco Products or Processed Tobacco (approved separately under OMB control number 1513-0107). TTB requires the information contained in these records and reported on TTB F 5220.6 to account for tobacco products and processed tobacco imported into the United States. This allows TTB to ensure that the appropriate Federal excise taxes are paid on imported tobacco products and to detect diversion of processed tobacco, which is not taxed, to illegal tobacco product manufacturing.

Specifically, 27 CFR 41.204 requires tobacco product importers to keep records “of the physical receipt and disposition of tobacco products,” while the recordkeeping requirements for processed tobacco importers are prescribed in 27 CFR 41.261. Under 27 CFR 41.208 and 41.263, records concerning imports of, respectively, tobacco products and processed tobacco must be maintained chronologically by transaction date, and the records must be

kept at the importer's principal place of business unless another place is authorized by the appropriate TTB officer. A three-year retention requirement for records concerning imported tobacco products is also contained in 27 CFR 41.208, while a three-year retention requirement for "all records required to be kept under this part" is stated in 27 CFR 41.22.

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?

During audits of tobacco product or processed tobacco importers, TTB personnel use the records required under this information collection approval to verify that all imported tobacco products and processed tobacco are correctly accounted for on the monthly operations reports filed by importers of such commodities on TTB F 5220.6. The information contained in the required records and reports assists TTB in protecting the revenue by allowing TTB to verify that the appropriate Federal excise taxes are paid on imported tobacco products and to detect diversion of processed tobacco, which is not taxed, to illegal tobacco product manufacturing.

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?

The required records are maintained by respondents at their business premises and may be inspected by TTB personnel. Respondents may keep the required records, or make them available to TTB personnel, in paper or 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 requires the keeping of usual and customary business records that are pertinent and specific 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?

This information collection has no impact on small businesses or any other entities since it consists of usual and customary records kept during the normal course of business. In addition, respondents may keep the required records, or make them available to TTB personnel, in paper or electronic formats at their discretion.

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, it would be difficult or impossible for TTB to trace and verify transactions surrounding the importation of tobacco products or processed tobacco. As a result, it would be difficult or impossible for TTB to ensure that excise tax liabilities were properly determined and paid by importers. It would also be difficult for TTB to detect diversion of processed tobacco, which is not taxed, to illegal tobacco product manufacturing. Together, this 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(b)(4) 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 consists of usual and customary business records maintained by industry members at their business premises. As such, it contains no questions of a sensitive nature, and it 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 during the normal course of business 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 all 444 current importers of tobacco products or processed tobacco required to respond to this information collection is estimated to be one hour (represents a place holder not an actual estimate of burden).

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 proprietors keep at their premises during the normal course of doing business. Therefore, 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 associated with this recordkeeping requirement since it involves usual and customary records kept by respondents during the normal course of business.

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 decreasing the estimated number of respondents from 586 to 444 to reflect a decrease in the number of importers of tobacco products or processed tobacco regulated by TTB.

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 during the normal course of 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?*

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.