

Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

Supporting Statement - Information Collection Request

OMB # 1140-0098

Prevent All Cigarette Trafficking (PACT) Act Registration Form, ATF F 5070.1

A. Justification:

1. In addition to enforcing federal laws relating to the manufacture and commerce of firearms and explosives, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) assist the states in their effort to eliminate interstate trafficking in, and the sale and distribution of cigarettes and smokeless tobacco in avoidance of federal and state taxes. On March 31, 2010, President Obama signed into law the Prevent All Cigarette Trafficking Act of 2009 (PL 111-154). The law requires any person who sells, transfers, or ships for profit cigarettes and/or smokeless tobacco in interstate commerce must register with the Attorney General of the United States (delegated to ATF) and the state tax administrators of the state in which the shipment is made or in which state such advertisement or offer is disseminated.
2. Recognizing that the range in state cigarette and smokeless tobacco taxes creates a potential for interstate trafficking of these products to avoid state tax, Congress has enacted federal laws to help ensure the state cigarette and smokeless tobacco taxes are paid. The law requires any person that sells, transfers, or ships for profit cigarettes and/or smokeless tobacco in interstate commerce to register with ATF. Respondents will register the information on ATF F 5070.1, Prevent All Cigarette Trafficking (PACT) Act Registration Form. The purpose of the form is to register delivery sellers of cigarettes and/or smokeless tobacco products with the Attorney General in order to legally continue to sell and/or advertise these tobacco products. The information will assist ATF in creating a list of Delivery Sellers that have not registered with ATF and make that list available to the attorney general and tax administrator of each state, common carriers and any other person that the Attorney General of the United States deems appropriate to receive the list.
3. The fillable form is available on the ATF website. It can be downloaded and mailed to ATF. If adequate funding is obtained, ATF plans to create a database that will allow any person to register electronically and also have the option of printing the form for their records.

4. ATF uses a uniform subject classification system to identify duplication and to ensure that any similar information already available cannot be used or modified for use for the purpose of this information collection.
5. ATF has conducted an assessment on the impact on small businesses and other small entities under the Regulatory Flexibility Act (5 U.S. C. 601 et seq.) and has concluded that there will not be a significant impact on small businesses and other small entities.
6. The consequences if this collection of information is not adhered to would be that any person required to register with ATF, would be in violation of the PACT Act and would subsequently be placed on the list of non-compliant Delivery Sellers. Placement on this list would severely limit the Delivery Sellers legal ability to continue to operate their business.
7. The collection of information is consistent with the provisions of 5 CFR 1320.6.
8. No public comments were received for either the 60-day or 30-day notices that were published in the Federal Register.
9. No payment or gift is associated with this collection.
10. The assurance of confidentiality is contained in the Privacy Act. Confidentiality is not assured.
11. No questions of sensitive nature are asked.

ATF estimates that about 400 respondents are impacted by this registration requirement. To estimate the number of affected businesses, we have totaled the number of PACT registrants ATF currently receives, the total number of non-compliance letter the ATEB sends to business, and increased the estimate to reflect that ATF does not capture all businesses with its non-complaint letters. Since 2010, ATF has received between 14 and 200 Pact Act Registration forms annually. We anticipate this number will increase in the coming years as ATF focuses on improving enforcement measures. In 2016, ATEB forwarded approximately 112 Non-Compliant violation letters to delivery sellers advertising the sale or selling cigarettes on the internet without being registered with ATF or the state in which they are doing business.

ATF estimates that it will take the respondents approximately one hour to complete ATF F 5070.1 and send that form to ATF. Each person required to register with ATF will conduct this registration requirement one time. The total number of responses is 400. The total annual burden hours associated with this collection is 400 hours.

12. ATF estimates the cost to businesses impacted will be \$9,396 collectively. ATF has derived this figure by assuming that each business impacted will have to file an ATF F 5070.1, the cost of a stamp and envelope is estimated at \$.50, the labor to complete the form has been estimated at one hour and the labor cost is estimated at \$22.99 per hour for service-providing civilian workers.

13. The table below illustrates the estimated costs:

Labor Costs: \$22.99 ¹ x 400 businesses	\$ 9,196
Mailing Costs: \$.50 x 400 businesses	\$ 200
Total Costs:	\$ 9,396

14. Estimates of annual costs to the Federal government are:

Printing	\$ 1,000.00
Distribution	\$ 18,000.00
Salary	\$136,000.00
Overhead	\$ 1,000.00
Total	\$156,000.00

15. This revision is due to ATF's most recent figures regarding the number of affected businesses annually, which have resulted in a decrease of respondents from 3,000 to 400, and a reduction in burden hours from 3,000 to 400. The wage rate is also updated to the September 2016 BLS wage rate, and also reflects a reduction in the burden costs for this collection from \$42,000 to \$9,396.

16. The results of this collection will not be published.

17. ATF does not request approval to not display the expiration date of OMB approval for this collection.

18. There are no exceptions to the certification statement.

¹ Cost estimates are based on employee compensation data for September 2016, as determined by the U.S. Department of Labor, Bureau of Labor Statistics and announced in its news release dated December 8, 2016, which is available at <https://www.bls.gov/news.release/pdf/ecec.pdf>. The Bureau of Labor Statistics determined a wage cost of \$22.99 per hour for service-providing civilian workers.

B. Collection of Information Employing Statistical Methods

Not applicable.