

**DEPARTMENT OF THE TREASURY**  
**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**  
**Supporting Statement -- Information Collection Request**  
**OMB Control Number 1513-0033**

Information Collection Request Title:

Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes; Report—Manufacturer of Processed Tobacco.

Information Collections Issued under this Title:

- TTB F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes.
- TTB F 5250.1, Report—Manufacturer of 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.

The IRC at 26 U.S.C. 5722 requires every manufacturer of tobacco products, cigarette papers and tubes, and processed tobacco to make reports containing such information, in such form, at such times, and for such periods as the Secretary of the Treasury shall by regulation prescribe.

Under this authority, the TTB tobacco regulations at 27 CFR 40.202 and 40.422 require, respectively, manufacturers of tobacco products and manufacturers of cigarette papers and tubes to submit a monthly report to TTB using form TTB F 5210.5 showing all such articles manufactured, received, removed subject to tax, removed without payment of tax, lost or destroyed, and on hand at the beginning and end of the reported month. In addition, 27 CFR 40.522 requires manufacturers of processed tobacco to submit a monthly report to TTB using form TTB F 5250.1 showing the processed tobacco manufactured, received, removed, used, transferred, exported, destroyed, and on hand at the beginning and end of the reported month.

This information is necessary to protect the revenue. TTB uses the collected information to detect diversion of taxable articles and processed tobacco (which is not taxed) into the illicit market, and to ensure that Federal excise taxes have been properly paid and that manufacturers are in compliance with applicable Federal law and regulations.

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: Tax Major Application System.

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

TTB uses the information collected on these monthly tobacco reports to ensure that manufacturers conduct their operations in a manner that protects the revenue and is in compliance with Federal law and the TTB regulations.

TTB compares the information collected on TTB F 5210.5 with tobacco products and cigarette papers and tubes manufacturers' tax returns to ensure proper payment of the applicable excise tax. TTB also examines and verifies entries so that unusual activities, errors, and omissions may be identified. For example, TTB personnel may compare a monthly report to a manufacturer's on-hand inventory records to verify the reported information, including the accuracy of additions and computations, and may verify that the bond required of all such manufacturers is sufficient.

Because processed tobacco is not taxed, TTB uses the information collected from processed tobacco manufacturers on TTB F 5250.1 to prevent and detect the diversion of materials used for making taxable tobacco products to illegal manufacturers.

*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, TTB provides an electronic means for submitting monthly reports filed on TTB F 5210.5 and TTB F 5250.1 through the Pay.gov website (see <https://www.pay.gov/public/home>).

*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?*

TTB F 5210.5 and TTB F 5250.1 collect information that is pertinent to each respondent and applicable to their specific monthly operations. 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?*

Under the authority of the IRC at 26 U.S.C. 5722 and the TTB tobacco regulations, all entities, regardless of size, are required to complete the appropriate monthly report on TTB F 5210.5 or TTB F 5250.1. Waiver or reduction of this requirement, simply because the respondent's business is small, could jeopardize the revenue and cause diversion to go undetected. In addition, TTB believes that these monthly report forms collect the minimum information necessary and do not have a significant impact on a substantial number of small businesses or other entities.

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?*

If TTB were not able to collect the tobacco-related information required on TTB F 5210.5 and TTB F 5250.1, or if the information were collected less frequently, the Bureau would not be able to fulfill its obligation to protect the revenue, ensure compliance with Federal laws and regulations, and prevent and detect 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 September 11, 2017, at 82 FR 42722. TTB received one comment in response, filed by the Smith Moore Leatherwood law firm on behalf of John Middleton Co., Philip Morris USA Inc., Sherman's 1400 Broadway N.Y.C., LLC, U.S. Smokeless Tobacco Company LLC, and U.S. Smokeless Tobacco Products LLC (collectively, the "Companies").

The Companies state that, when an error is discovered in the information reported on a prior monthly report (TTB F 5210.5), the monthly report bearing the original error and all subsequently-submitted TTB F 5210.5s must be amended. By comparison, for semimonthly tax returns (TTB F 5000.24), if an adjustment needs to be made to account for a discrepancy on a prior tax return, the adjustment can be made on the current tax return without amending the prior tax returns, regardless of when the discrepancy originally occurred. The Companies request that TTB evaluate TTB F 5210.5 and the process associated with it, and either revise the form and/or amend the use of the form in a manner that would allow any report adjustments to be processed in a more efficient manner. Specifically, the Companies request that a manufacturer be allowed to show any necessary adjustments to its monthly reports on the TTB F 5210.5 submitted for the month in which the need for the adjustment(s) is discovered. TTB will consider this issue and potential changes to the form and/or filing procedures at a later date.

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 on this form. 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 that section. TTB maintains these records in secure file rooms and computer systems with controlled access.

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. However, this information does collection personally identifiable information in an electronic system. As such, TTB F 5210.5 and TTB F 5250.1 contain Privacy Act statements, and TTB has conducted a Privacy Impact Assessment (PIA) for information collected under this request as part of the Tax Major Application System. TTB has issued a Privacy Act System of Records notice (SORN) for that system under TTB .001-Regulatory Enforcement Record System, which was 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 data from TTB's National Revenue Center, which processes the forms associated with this information collection request, TTB currently regulates 200 manufacturers of tobacco products, 5 manufacturers of cigarette papers and tubes, and 30 manufacturers of processed tobacco, each of which is required to file 12 monthly reports per year. TTB also estimates that each reports requires 1 hour to compile and submit, resulting in 12 hours of annual burden per respondent.

Given the numbers of annual respondents, responses, and per-respondent burden hours listed above, TTB estimates the annual burden associated with this information collection request as follows:

	<b>Respondents</b>	<b>Responses</b>	<b>Total Annual Burden Hours</b>
TTB F 5210.5	205	2,460	2,460
TTB F 5250.1	30	360	360
<b>TOTAL</b>	<b>235</b>	<b>2,820</b>	<b>2,820</b>

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)?*

TTB estimates that the annual operations and maintenance costs to respondents to this information collection is \$96.00 per respondent, and the total estimated cost to all respondents is \$22,560.

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

Estimates of annual costs to the Federal Government are as follows:

Clerical Costs	\$7,185
Other Salary (review by specialist, supervision, etc.)	39,520
Overhead	4,620
<b>TOTAL:</b>	<b>\$51,325</b>

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB F 5210.5 and TTB F 5250.5 to the public on the TTB website at <https://www.ttb.gov/>.

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

There are no program changes associated with this information collection request. As for adjustments, due to changes in agency estimates, TTB is decreasing the number of annual respondents, responses, and burden hours, and costs associated with this information collection request.

Regarding TTB F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes, TTB is decreasing the number of annual respondents from 250 to 205, resulting in a decrease in the number of annual responses and burden hours from 3,000 to 2,460. This change in agency estimate is due to a decrease in the number of such manufacturers regulated by TTB.

Regarding TTB F 5250.1, Report—Manufacturer of Processed Tobacco, TTB is decreasing the number of annual respondents from 250 to 30, resulting in a decrease in the number of annual responses and burden hours from 3,000 to 360. This processed tobacco information collection is a recent addition to TTB's inventory, and when first calculating the new collection's burden, TTB made an assumption that all tobacco product manufacturers would also manufacture processed tobacco. However, TTB is now able to accurately report that it regulates only 30 manufacturers of processed tobacco, which results in this change in agency estimate.

As a result of these decreases in the number of respondents, responses, and burden hours, TTB is also reporting decreases in the estimated costs to respondents and the Federal Government associated with this information collection request, from \$44,970 to \$22,560 in respondent costs, and from \$104,000 to \$51,325 in Government costs.

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

The tobacco production and removal data collected on TTB F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes, is collectively summarized by TTB and published as the Tobacco Statistical Release on a monthly and annual basis. TTB posts these reports on its website for public viewing at <https://www.ttb.gov/tobacco/tobacco-stats.shtml>. However, the data published in these statistical releases is generalized and cannot be traced to individual tobacco products manufacturers. Data related to the production of cigarette papers and tubes, and data collected on TTB F 5250.1, Report—Manufacturer of Processed Tobacco, is not published.

*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?*

TTB will display the expiration date of OMB approval for this collection on TTB F 5210.5 and TTB F 5250.1.

*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.