

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0130

Reports of Removal, Transfer, or Sale of Processed Tobacco

Information Collections Issued under this Request Title:

- Reports of Removal, Transfer, or Sale of Processed Tobacco (TTB F 5250.2).
- Monthly Summary Report of Processed Tobacco Removals for Export.

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 and 5713, requires any person that wishes to engage in business as a manufacturer or importer of tobacco products or processed tobacco, or as an export warehouse proprietor, to first apply for and obtain a permit. The IRC at 26 U.S.C. 5722 requires all such tobacco-related permit holders to "make reports containing such information, in such form, at such times, and for such periods as the Secretary shall by regulation prescribe."

While processed tobacco is not subject to Federal excise tax under the IRC, processed tobacco may be used to manufacture tobacco products that are subject to such taxes. As such, TTB believes that transfers of processed tobacco from TTB permit holders to non-permit holders could lead to diversion of processed tobacco to illegal tobacco product manufacturers. To protect the revenue by minimizing such diversion, TTB has issued regulations under the authority of 26 U.S.C. 5722 that require certain TTB permittees to report all removals of processed tobacco made for export or shipment to any domestic entity that does not hold a specified TTB permit. These regulations are contained in 27 CFR parts 40 and 41.

Specifically, under 27 CFR 40.522(d)(1), manufacturers of processed tobacco who remove processed tobacco for export or for shipment to any domestic entity that does not hold a

TTB permit as an importer or manufacturer of processed tobacco, as a manufacturer of tobacco products, or as an export warehouse proprietor must report each such removal by the close of the next business day using form TTB F 5250.2, Report of Removal, Transfer, or Sale of Processed Tobacco. Through cross-references in §§ 40.72 and 40.202, manufacturers of tobacco products also must report removals of processed tobacco made for export or for shipment to any non-TTB permittee as required under § 40.522.

In addition, under 27 CFR 41.262(d)(1), importers of processed tobacco or tobacco products who export processed tobacco or who transfer or sell processed tobacco to any domestic entity that does not hold a TTB permit as an importer or manufacturer of processed tobacco or tobacco products or as an export warehouse proprietor must report each such action by the close of the next business day using TTB F 5250.2.

Under 27 CFR 40.522(d)(2), as alternative to using TTB F 5250.2 to make per-shipment reports, manufacturers of tobacco products or processed tobacco may submit to TTB a “monthly summary report” of processed tobacco removals made for export. The regulation requires a respondent to submit a letterhead application to TTB requesting approval to use the monthly summary report and its proposed format as there is no prescribed TTB form for this alternative report. Similarly, under 27 CFR 41.262(d)(2), importers of processed tobacco may submit a monthly summary report of removals of processed tobacco made for export, provided that the importer first obtains the approvals noted above.

TTB F 5250.2 and the monthly summary report require information identifying the TTB permit holder making the processed tobacco shipment, the type and quantity of processed tobacco shipped, the person(s) purchasing (or receiving) and delivering the processed tobacco, and the destination address of the shipment.

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?

While processed tobacco is not subject to Federal excise tax under the IRC, tobacco products subject to such taxes may be manufactured using processed tobacco. Therefore, to protect the revenue by minimizing diversion of processed tobacco to illegal tobacco product manufacturers, TTB believes that it must be able to account for all shipments of processed tobacco made by TTB permit holders for export or for delivery to domestic entities who do not hold TTB permits. The information required under this information collection request allows TTB to track shipments of processed tobacco to non-TTB regulated persons and to take action to investigate or prevent diversion of processed tobacco to illegal tobacco product 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 F 5250.2 is available at no cost to the public on the TTB website at as a fillable-printable form (see <https://www.ttb.gov/forms/5000.shtml>). The alternative monthly summary report, which is generated by the respondent, may be generated through the use of information technologies.

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?

The information required under this collection request contains data pertinent and unique to each respondent and applicable to the specific issue of shipments of processed tobacco made by TTB permit holders for export or for delivery to domestic entities who do not hold such TTB permits. As far as TTB is able to determine, similar information regarding such processed tobacco shipments is not available to the Bureau elsewhere.

5. If this collection of information impacts small businesses or other small entities, what methods are used to minimize burden?

TTB believes that the required information is the minimum necessary to protect the revenue, and, due to the low number of respondents to this information collection request, this collection requirement does not have a significant impact on a substantial number of small entities. In addition, TTB notes that processed tobacco exporters may use the alternative monthly summary report in place of the per-shipment reports made on TTB F 5250.2, and that smaller respondents will have fewer processed tobacco shipments to report.

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 information required in this collection request, TTB would be severely hampered in its ability to track processed tobacco shipments made by TTB permit holders for export or for delivery to domestic entities who do not hold TTB permits. Such tracking is necessary to prevent processed tobacco, which is not subject to Federal excise tax, from being diverted for use in the illegal, unpermitted manufacture of tobacco products, which are subject to that tax. Not collecting the required information regarding processed tobacco shipments, or collecting it less frequently, would pose jeopardy to 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? (See 5 CFR 1320.5(d)(2).)

Under 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. In the case of this information collection, the relevant TTB regulations and the instructions on form TTB F 5250.2 require respondents to report all shipments of processed tobacco made for export and all shipments of processed tobacco to domestic entities not holding a TTB permit in a tobacco-related business by the close of the next business day. The alternative summary report for processed tobacco shipments made for export is required on a monthly basis. TTB believes that this frequent reporting of processed tobacco shipments by TTB permit holders to persons who do not

hold such permits is necessary to protect the revenue by minimizing diversion of processed tobacco, which is not subject to excise tax, for use in the illegal manufacture of tobacco products, which are subject to that tax.

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 March 13, 2018, at 83 FR 10948. 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 information collection request.

10. *What assurance of confidentiality was provided to respondents, and what was the basis for the assurance in statute, regulations, or agency policy?*

While TTB F 5250.2 contains Paperwork Reduction Act and Privacy Act Information notices, no specific assurance of confidentiality is provided on that form, or for the alternative monthly summary report or its related letterhead application. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from 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 the collected information in secure file rooms and in 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. A Privacy Impact Assessment (PIA) has been conducted for information collected under this request as part of the Tax Major Application System. A Privacy Act System of Records notice (SORN) has been issued 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 <https://www.ttb.gov/foia/pia.shtml>.

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

Based on an analysis made by TTB’s National Revenue Center of recent submissions of TTB F 5250.2 and the alternative monthly summary report (including its associated letterhead application), TTB estimates the annual burden for this information collection request as follows:

<i>Information Collection</i>	<i>No. of Annual Respondents</i>	<i>Ave. Responses per Respondent</i>	<i>No. of Annual Responses</i>	<i>Time Burden Per Response</i>	<i>Total Annual Estimated Burden</i>
F 5250.2	13	222	2,886	0.5 hour	1,443 hours
Monthly Summary Report	7	12.1428	85	2 hours	170 hours
TOTALS	20	(148.55)	2,971	(1.8419)	1,613 hours

Recordkeeping burden: Under the regulations at 27 CFR 40.185, 40.524, and 41.208, TTB requires respondents to keep copies of all records, applications, and reports required under 27 CFR parts 40 and 41 for three years following the close of the year the item was filed or made. Also, under 27 CFR 40.521(c) and 41.261(b), respondents to this information collection request must maintain operational and transaction records supporting the submitted information for the same time period. These supporting recordkeeping requirements are approved under OMB Control Nos. 1513–0068 for manufacturers of tobacco products or processed tobacco and 1513–0106 for importers of tobacco products or processed tobacco.

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 the annual cost burden to respondents associated with this information collection request as follows: \$6060.60 for TTB F 5250.2 (\$2.10 per response, \$466.20 per respondent), and \$1,020 for the Monthly Summary Report (\$12.00 per response, \$145.72 per respondent), for a total cost to respondents of \$7,080.60.

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

Estimates of annual cost to the Federal Government for this information collection are:

Clerical costs	\$5,230
Other Salary costs (review, supervisory, etc.)	21,425
Overhead	745
TOTAL COSTS	\$27,400

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 website (see <https://www.ttb.gov/forms/5000.shtml>).

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

Program changes: Previously, TTB has not reported the Monthly Summary Report of Processed Tobacco Removals for Export as an information collection under this collection request. Due to the low number of respondents using this alternative to the per-shipment report made on TTB F 5250.2, TTB believes this information collection is not subject to the Paperwork Reduction Act, which generally exempts information collections with fewer than 10 annual respondents from its requirements. However, as a matter of agency discretion, and for reasons of transparency, TTB now elects to include this information collection under this collection request, with the information collection containing two collection instruments: (1) the Monthly Summary Report of Processed Tobacco Removals for Export, and (2) the Letterhead Application to Use the Monthly Summary Report.

While the estimated annual burden associated with the Monthly Summary Report information collection accounts for 7 respondents, 85 responses, and 170 burden hours, the addition of this collection to this request does not increase the request's overall annual burden because, as described below, TTB is lowering the overall burden associated with this request due to a change in agency estimates.

Adjustments: As for adjustments associated with this information collection request:

TTB is decreasing the number of annual respondents, responses, and burden hours associated with the Reports of Removal, Transfer, or Sale of Processed Tobacco (TTB F 5250.2) portion of this information collection request. Since TTB first required this collection in 2009, TTB has reported all manufacturers and importers of tobacco products or processed tobacco as potential respondents to that collection. However, based on analysis of recent data by TTB's National Revenue Center, which is the office that processes the collected information, TTB has determined that only a small number of such TTB-regulated entities ship processed tobacco for export or for delivery to domestic entities that do not hold a TTB permit, but that each respondent makes many such shipments each year. Therefore, TTB is reducing the number of respondents making daily reports to TTB on TTB F 5250.2 from 800 respondents to 13, but is increasing the average number of annual responses per respondent from 8 to 222. These changes decrease the estimated total annual burden for the TTB F 5250.2 information collection from 4,800 responses to 2,886, and from 2,400 hours to 1,443.

In addition, as a result of a re-evaluation of the costs associated with this information collection request, TTB is decreasing the costs to respondents from \$19,752 to \$7,080.60, and is decreasing the costs to the Federal Government from \$104,000 to \$27,400.

Miscellaneous: TTB is revising TTB F 5250.2 to clarify its instructions and its Paperwork Reduction Act and Privacy Act Information notices. TTB also is removing Items 19 and 20 from the form as TTB no longer requires the two declarations referenced in those items. In addition, TTB is correcting the IRC legal authority under which this collection is required, and is correcting the per-response burden and the TTB headquarters address listed in the form's Paperwork Reduction Act notice.

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

TTB will not publish the results of the information collections approved under this request.

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 for OMB approval of this information collection request on form TTB F 5250.2. There are no prescribed TTB forms for the alternative monthly summary report and its related letterhead application, and, as such, there is no medium for TTB to display the relevant OMB approval expiration date on those collection instruments.

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.