

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU
Supporting Statement — Information Collection Request

OMB Control Number 1513–0103

Information Collection Request Title:

Tobacco Bonds—Collateral, Tobacco Bonds—Surety, and Tobacco Bonds.

Information Collections Issued under this Title:

- TTB F 5200.25, Tobacco Bond—Collateral.
- TTB F 5200.26, Tobacco Bond—Surety.
- TTB F 5200.29, Tobacco Bond.

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 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. 5711 requires that every person, before commencing business as a manufacturer of tobacco products or cigarette papers and tubes, or as an export warehouse proprietor, file a bond in accordance with TTB regulations. The IRC at 26 U.S.C. 7101 provides that, as a general rule, such bonds shall be surety bonds. However, section 7101 also permits persons required to furnish bonds to deposit bonds or notes of the United States in lieu of surety bonds.

The TTB regulations require provision of a surety bond or the deposit of collateral as security, in an amount equivalent to the potential tax liability of the manufacturer or export warehouse proprietor, with a minimum and a maximum amount set by regulation. The TTB regulations also require provision of a strengthening bond where the amount of a bond is found to be insufficient and provision of a superseding bond where a current bond is no longer valid for reasons specified by regulation.

In the case of a surety bond, the bond form is a contract between the manufacturer or export warehouse proprietor and an authorized surety company to provide such a bond. The

information provided on the bond form identifies the manufacturer or export warehouse proprietor, the factory or export warehouse covered by the bond, the surety company, and the bond amount.

In the case of a collateral bond, the bond form shows that the manufacturer or export warehouse proprietor has deposited cash or government obligations of the United States and is responsible for the terms and conditions of the bond. The information provided on the bond form identifies the manufacturer or export warehouse proprietor, the factory or export warehouse covered by the bond, the bond amount, and additional details about the collateral.

The TTB regulations that implement this information collection are found in 27 CFR part 40 for manufacturers of tobacco products and cigarette papers and tubes at 27 CFR 40.66, 40.67, 40.135, 40.136, 40.392, 40.405, and 40.406, and in 27 CFR part 44 for export warehouse proprietors at 27 CFR 44.86, 44.124, and 44.125.

Currently, these regulations prescribe the use of TTB F 5200.25, Tobacco Bond—Collateral, and TTB F 5200.26, Tobacco Bond—Surety. TTB intends to amend these regulations to provide for use of the TTB F 5200.29, Tobacco Bond, which is a comprehensive form developed by TTB to replace TTB F 5200.25 and F 5200.26. Until the regulations are amended, TTB F 5200.29 can be used to meet the requirements of the applicable regulations as an alternate procedure. TTB will discontinue the use of TTB F 5200.25 and TTB F 5200.26 once the appropriate regulatory changes are made.

This information collection is aligned with:

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

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

TTB uses this information to ensure that manufacturers of tobacco products or cigarette papers and tubes and export warehouse proprietors comply with the IRC requirement that that such entities provide adequate bond coverage or collateral 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, TTB F 5200.25, F 5200.26, and F 5200.29 are available at no cost to the public on the TTB website at as fillable-printable forms (see <https://www.ttb.gov/forms/5000.shtml>).

In addition to submission via U.S. mail, respondents may electronically upload and submit any of the tobacco bond forms as an attachment to a tobacco permit application in TTB's Permits Online (PONL) system (see <https://www.ttb.gov/ponl/permits-online.shtml>).

4. What efforts are used to identify duplication? Why can't any similar information already available be used or modified for use for the purposes described in Item 2 above?

Each of the three tobacco bond forms collects information that is pertinent and unique to each respondent and applicable to the specific issue of filing a bond for the protection of the revenue. As far as TTB is able to determine, similar information 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?

All manufacturers of tobacco products or cigarette papers and tubes and all export warehouse proprietors, regardless of size, are required by statute to obtain a bond, which requires the completion of this information collection, before beginning business. Therefore, TTB cannot limit the bond information required from small businesses, but the information required of all such businesses by TTB on its tobacco bond forms is minimal.

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?

Pursuant to the IRC at 26 U.S.C. 5711 and 7101, the TTB regulations require this information collection to protect the revenue. This information is collected only as often as necessary to ensure that those engaging in business as manufacturers of tobacco products or cigarette papers and tubes, or as export warehouse proprietors, have bond coverage to cover their potential tax liability, as prescribed by statute and regulation. Eliminating or reducing the frequency of this collection would pose serious jeopardy to the revenue and would not be consistent with the statutory requirements.

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 May 30, 2018, at 83 FR 24842. 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 these information collections.

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 these information collections. 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 the collected information 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.

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 <http://www.ttb.gov/foia/pia.shtml>.

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

Based on recent data from TTB’s National Revenue Center, which processes the tobacco bond forms, we estimate that 215 respondents will submit one response per year to this information collection request (5 for TTB F 5200.25, 5 for TTB F 5200.26, and 205 for TTB F 5200.29). TTB further estimates that each response requires one hour to complete, resulting in an estimated total burden of 215 hours.

(215 respondents x 1 annual response = 215 annual responses x 1.0 hour per response = 215 total burden hours.)

13. *What is the estimated annual cost burden to respondents or recordkeepers resulting from this information collection request (excluding the value of the hour burden in Question 12 above)?*

TTB estimates the cost to respondents resulting from this information collection as follows: \$2.60 per response in overhead and material costs, for a total of \$559.00 in such costs for this information collection. In addition, TTB estimates respondents have \$34.40 in salary costs per response, for a total of \$7,396.00 in such costs for this information collection. Therefore, the total estimated total cost to respondents resulting from this information collection is \$37.00 per response, for a total estimated cost of \$7,955.00 for this information collection request.

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

Total annual cost to the Federal Government is \$6,200 (clerical and other salary costs). 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 (<https://www.ttb.gov/>).

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

There are no program changes to this information collection request. As for adjustments, due to a change in agency estimates, TTB is decreasing the per-respondent burden associated with each information collection contained in this request from 1.7 hours per response to 1.0 hour per response, which also results in a decrease in the total burden associated with this collection request from 367 hours to 215 hours.

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

TTB will not publish the results of this information collection 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 forms TTB F 5200.25, TTB F 5200.26, and TTB F 5200.29.

18. *What are the exceptions to the certification statement?*

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

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.