

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement – Information Collection Request**

**OMB Control Number 1513–0027**

**Removals of Tobacco Products and Cigarette Papers and Tubes without Payment of Tax**

Information Collections and Collection Instruments Issued under this Title:

- Removals of Tobacco Products and Cigarette Papers and Tubes without Payment of Tax.
  - o TTB F 5200.14, Removal of Tobacco Products, Cigarette Papers and Tubes without Payment of Tax.
- Tobacco Export Documentation and Monthly Summary Report Alternate Procedure under Industry Circular 2004–3.
  - o Monthly Summary Reports of Removals of Tobacco Products, Cigarette Papers and Tubes without Payment of Tax.
- Letterhead Notices and Applications Related to Removals of Tobacco Products and Cigarette Papers and Tubes without Payment of Tax.
  - o Letterhead Notices Regarding Consignment or Shipping Information Reported on TTB F 5200.14.
  - o Letterhead Applications to Use the Monthly Summary Report Alternate Procedure for Reporting Removals of Tobacco Products and Cigarette Papers and Tubes.

**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 (IRC), as amended, (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 (Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120–01.

The IRC at 26 U.S.C. 5704(b) provides, among other things, that a manufacturer or export warehouse proprietor may, in accordance with regulations prescribed by the Secretary, transfer tobacco products and cigarette papers and tubes, without payment of tax, to the

bonded premises of another such entity, or may remove such articles, without payment of tax, for shipment or consumption beyond the jurisdiction of the internal revenue laws of the United States. In addition, the IRC at 26 U.S.C. 5722 requires that manufacturers of tobacco product and cigarette papers and tubes and export warehouse proprietors make reports as the Secretary may by regulation require.

Issued under the authority of those IRC sections, the TTB regulations regarding removals of tobacco products and cigarette papers and tubes, without payment of tax, are contained in 27 CFR part 44. Those regulations provide for such removals by a manufacturer (including a customs bonded manufacturing warehouse) or an export warehouse proprietor for the purposes of: (1) Exportation to a foreign country, Puerto Rico, the Virgin Islands, or possession of the United States; (2) transfer to a Federal agency or the armed forces for subsequent export; (3) transfer to a vessel or aircraft for consumption as supplies beyond the jurisdiction of the internal revenue laws of the United States; or (4) transfer to an export warehouse or foreign-trade zone. In addition, the regulations allow an export warehouse proprietor to remove tobacco products and cigarette papers and tubes, without payment of tax, for return to the original manufacturer or for destruction under TTB supervision.

The part 44 regulations also require that a manufacturer or export warehouse proprietor report removals of tobacco products and cigarette papers and tubes, without payment of tax, and obtain certification of the articles' export, receipt, transfer, or destruction, using form TTB F 5200.14. The TTB regulations that require or govern the use of TTB F 5200.14 are found at §§ 44.142, 44.198 – 44.208, 44.210, 44.213, and 44.256 – 44.267. In addition, §§ 44.209 and 44.212 require manufacturers and export warehouse proprietors to file letterhead notices with TTB when they wish to divert a shipment to a different consignee than that originally designated on TTB F 5200.14, or when the loading of a shipment is delayed more than 30 days at the port of exportation.

Alternatively, as authorized by § 44.72 and as described in TTB Industry Circular 2004–3, instead of using TTB F 5200.14 to make per-removal reports to TTB, respondents may apply to submit a “Monthly Summary Report” of removals of tobacco products and cigarette papers and tubes made without payment of tax for export purposes. Under this industry circular, respondents submit a letterhead application to TTB requesting approval to use the alternate procedure. After approval, respondents complete the notice of shipment section of TTB F 5200.14 for each removal, but maintain the forms and the usual and customary business records documenting each export shipment at their premises, to be made available for TTB inspection upon request. Using the information from the forms and records, respondents submit Monthly Summary Reports listing the required data regarding each removal made without payment of tax for export purposes. While there is no TTB form for these summary reports, the industry circular contains a suggested format for the alternate procedure application and the monthly report, which respondents electronically submit to TTB via a dedicated e-mail address.

Under the IRC and the TTB regulations, manufacturers and export warehouse proprietors making removals of tobacco products and cigarette paper and tubes, without payment of tax, remain liable for the Federal excise tax on those articles until they are exported or destroyed. As such, TTB requires the information collected about such removals to protect the revenue as it assists in preventing diversion of articles removed without payment of tax to otherwise taxable uses.

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?*

The information collected under this request allows TTB to maintain accountability over tobacco products and cigarette papers and tubes removed without payment of tax under the authority of the IRC at 26 U.S.C. 5704(b) and the related regulations in 27 CFR part 44. TTB headquarters and field personnel may compare the information provided by respondents under this collection request with the information they provide on periodic reports regarding their operations and with information contained in records maintained at their premises to ensure that all removals made without payment of tax are accounted for and receipt of delivery for export or destruction is verified. The required information is necessary to protect the revenue as it assists TTB in preventing the diversion of tobacco products and cigarette papers and tubes removed without payment of tax to otherwise taxable uses.

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, once approved to use the alternate procedure described in TTB Industry Circular 2004–3, respondents electronically submit the required Monthly Summary Report to TTB as an attachment to an e-mail sent to [exports@ttb.gov](mailto:exports@ttb.gov). In addition, TTB F 5200.14 is available as a fillable-printable form on the TTB Web site (see <https://www.ttb.gov/forms/5000.shtml>). The related letterhead notices are generated by the respondent and may include the use of information technology.

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 TTB requires under this collection request contains data pertinent and unique to each respondent and applicable to specific removals of tobacco products and cigarette papers and tubes, without payment of tax, made by the respondent. As far as TTB can determine, similar information regarding such removals is not available elsewhere.

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

TTB requires all entities, regardless of size, to provide the required information concerning removals of tobacco products and cigarette papers and tubes, without payment of tax, in order to prevent diversion of such articles to otherwise taxable uses. As such, waiver or reduction of this collection requirement, simply because the respondent's business is small, would jeopardize the Federal revenue. In addition, TTB notes that respondents may request to use the alternative Monthly Summary Report in place of the per-removal reports made to

TTB on TTB F 5200.14, which TTB believes reduces the burden of this collection request for all respondents.

*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?*

TTB collects information regarding removals of tobacco products and cigarette papers and tubes, without payment of tax, to protect the revenue. The required information allows TTB to account for such removals and assists TTB in preventing the diversion of such articles removed without payment of tax to otherwise taxable uses. TTB requires respondents to provide the required information only when such removals are made, or, alternatively, on a monthly basis. TTBA's such, not collecting the required information, or collecting it less frequently, would pose a 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?*

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 request, respondents must report removals of tobacco products and cigarette papers and tubes, without payment of tax, made for the purposes authorized by the IRC at 26 U.S.C. 5704(b) each time such a removal is made, or, alternatively, via a summary report submitted monthly to TTB. TTB believes that this frequency of reporting is necessary to protect the revenue as the collected information allows TTB to account for such removals and it assists TTB in preventing the diversion of tobacco products and cigarette papers and tubes removed without payment of tax to otherwise taxable uses.

*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 Friday, August 24, 2018, at 83 FR 42975. TTB received no comments on this information collection.

*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 TTB F 5200.14 or for the related letterhead notices. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from regulated businesses and individuals. In addition, the IRC at 26 U.S.C. 6103 prohibits disclosure of tax returns and

related information, including that collected under this request, 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 request contains no questions of a sensitive nature. In addition, this request does not collect personally identifiable information (PII) in an 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?*

Based on recent data, TTB estimates the annual burden associated with this information collection request as follows:

<b>Information Collection</b>	<b>No. of Respondents</b>	<b>Avg. No. of Responses / Respondent</b>	<b>No. of Responses</b>	<b>Time Burden Per Response</b>	<b>Total Estimated Burden Hours</b>
Removal Reports Submitted on TTB F 5200.14	200	24	4,800	1.0 hour	4,800
Monthly Summary Report (Alternate Procedure)	80	12	960	7.0 hours*	6,720
Letterhead Applications and Notices	12	1	12**	1.0 hour	12
<b>TOTALS</b>	<b>292</b>	<b>(Avg. 19.767)</b>	<b>5,772</b>	<b>(Avg. 1.9979)</b>	<b>11,532 hrs.</b>

\* 6 hours of recordkeeping and 1 hour of reporting.

\*\* 10 letterhead notices modifying information on a TTB F 52100.14 and 2 letterhead applications to use the alternate method described in Industry Circular 2004-3.

Recordkeeping: The TTB regulations at 27 CFR 44.142, 44.199, and 44.257 require respondents filing TTB F 5200.14 with TTB to keep a record copy of each form for 3 years following the close of the calendar year in which the reported shipments or transfers were received or removed.

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)?*

The information provided by respondents under this collection requirement is sourced from usual and customary records, such as shipping and consignment records, kept during the

normal course of business. As such, there are no annualized costs associated with this occasional information collection request, and respondents who elect to submit paper forms for each removal made without payment tax only incur negligible material and postal costs associated with printing and submitting the required forms.

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

Estimates of the annual cost to the Federal Government for this information collection request are \$8,500 for clerical, review, and overhead costs. Due to the availability of TTB forms on its website (<https://www.ttb.gov/forms/5000.shtml>) and the use of the alternate procedure for this information collection, printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate.

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

Program changes: Previously, TTB has reported only one information collection under this collection request; however, this did not make clear that respondents have two options for reporting removals of tobacco products and cigarette papers and tubes, without payment of tax, for export purposes, and that certain matters require letterhead notices or applications be filed with TTB. Therefore, as a matter of agency discretion, and for purposes of transparency, TTB is dividing this collection request into three information collections to properly account for the two reporting options and their associated letterhead notices and applications contained under this information collection request:

- Removals of Tobacco Products, Cigarette Papers and Tubes without Payment of Tax (containing the per-removal reports made to TTB on form TTB F 5200.14);
- Tobacco Export Documentation and Monthly Summary Report Alternate Procedure under Industry Circular 2004–3 (containing the Monthly Summary Reports submitted to TTB, backed by export documentation maintained at a respondent's premises); and
- Letterhead Notices and Applications Related to Removals of Tobacco Products and Cigarette Papers and Tubes without Payment of Tax (containing the letterhead notices submitted to TTB to report modifications to consignment or shipping information on previously-submitted TTB F 5200.14 forms, and the letterhead applications submitted by respondents requesting permission to use the Monthly Summary Report alternate procedure).

Therefore, due to the division of this collection request into three information collections, TTB is increasing the number of overall respondents to this collection request, from 280 to 292, and is reporting new burdens for the two new information collections. However, due to the use of the alternate Monthly Summary Report procedure by 80 of the 292 respondents to this information collection request, TTB is reporting significant decreases in the overall number of annual responses and burden hours for this request, from 61,600 responses and 61,600 hours to 5,772 responses and 11,532 hours.

Adjustments: As all reported changes to the number of respondents, responses, and burden hours for this information collection request result from the program changes noted above, there are no other adjustments to this information collection request.

Form TTB F 5200.14: For the table contained in Instruction E, TTB is revising footnote 1 to reference only the alternate procedure proscribed in TTB Industry Circular 2004–3 as that circular revoked the earlier alternate procedures currently noted in footnote 1.

*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?*

As a cost-saving measure for both TTB and the general public, TTB requests approval to not display the expiration date for OMB approval of this information collection on form TTB F 5200.14. By not displaying the approval expiration date for this collection, TTB will not have to update that date on the paper form each time OMB approves the collection. This will avoid confusion among respondents when the collection's approval date may have passed but its approval continues on a month-to-month basis while it is under OMB review. In addition, respondents and other businesses will not have to update their stocks of paper forms or alter electronic copies of the forms, including any versions produced for sale to others. In addition, TTB notes that the Monthly Summary Report and the letterhead applications and notices associated with this information collection request are generated by respondents and, as such, there is no medium for TTB to display the OMB approval expiration date for this collection request 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.

**B. Collection of Information Employing Statistical Methods.**

This collection of information does not employ statistical methods.