

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0078

Application for Permit to Manufacture or Import Tobacco Products or Processed Tobacco or to Operate an Export Warehouse, and Applications to Amend Such Permits

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 (the Secretary) has delegated certain IRC administrative and enforcement authorities to TTB through Treasury Order 120-01.

The IRC at 26 U.S.C. 5712 requires every manufacturer or importer of tobacco products or processed tobacco, and every export warehouse proprietor, to obtain the permit provided for in 26 U.S.C. 5713 before commencing business and at such other times as the Secretary prescribes by regulation.¹ IRC section 5712 also provides that such permit applications must be made in the form the Secretary prescribes by regulation and contain the information called for on the application. In addition, IRC section 5712 sets forth certain conditions and circumstances under which tobacco industry permit applications may be denied, including when the Secretary finds that: (1) The proposed business premises is not adequate to protect the revenue, (2) the proposed activity does not meet minimum capacity or activity requirements prescribed by the Secretary, or (3) the applicant, including any corporate officer, director, or principle stockholder, is not likely to lawfully operate because of business experience, financial standing, trade connections, certain legal proceedings or criminal convictions, or failure to disclose information or false statements made on an application.

Under its delegated IRC authorities, the TTB regulations require a person seeking a new permit to operate as a manufacturer of tobacco products or processed tobacco, or as an export warehouse proprietor, to complete and submit form TTB F 5200.3. In lieu of TTB F 5200.3, a person may electronically complete and submit the appropriate new permit application using TTB's Permits Online (PONL) system. Similarly, a person seeking a new

¹ Under chapter 52 of the IRC, "tobacco products" include: Small and large cigars, small and large cigarettes, snuff, chewing tobacco, pipe tobacco, and roll-your-own tobacco, and each type of article is subject to Federal excise tax. Processed tobacco, which is used to manufacture taxable tobacco products, is regulated but is not subject to Federal excise tax under chapter 52.

permit to operate as an importer of tobacco products or processed tobacco must complete and submit form TTB F 5230.4 or its PONL equivalent. (All tobacco-related manufacturer, importer, and export warehouse permits are hereafter collectively referred to as “tobacco industry permits.”)

The TTB regulations also prescribe situations in which a person holding a tobacco industry permit must inform TTB of certain changes to their business or its control by obtaining an amended permit. A manufacturer of tobacco products or processed tobacco, or an export warehouse proprietor, must complete and submit form TTB F 5200.16 or its PONL equivalent to amend their existing permit. An importer of tobacco products or processed tobacco must complete and submit form TTB F 5230.5 or its PONL equivalent to amend their existing permit.

In addition, under the TTB regulations, an applicant for a new or amended tobacco industry permit may be required to submit additional supporting documentation with the appropriate permit application form. The additional documentation may consist of corporate documents, articles of partnership or association, a trade name certificate and/or a description and diagram of the applicant’s premises. All such supporting documentation becomes a part of the application for the new or amended tobacco industry permit.

TTB requires the information collected in new and amended tobacco industry permit applications so that it can determine if an applicant is eligible to hold such a permit under the provisions of the IRC at 26 U.S.C. 5712. Once a permit is issued or amended, the permit holder must retain copies of their permit application(s) and any supporting documents for as long as they continue in business, and these records must be made available to any appropriate TTB officer upon request.

The TTB regulations that implement this information collection are found in 27 CFR at:

40.62	40.63	40.64	40.65	40.69	40.73
40.76	40.91	40.92	40.93	40.101	40.102
40.103	40.104	40.111	40.112	40.114	40.492
40.494	40.495	40.496	40.497	40.501	40.502
40.511	40.512	40.513			
41.191	41.193	41.194	41.195	41.197	41.201
41.202	41.203	41.220	41.221	41.222	41.223
41.224	41.225*	41.226	41.227	41.228	41.232
41.233	41.234	41.235	41.236	41.237	41.241
41.242	41.243	41.251	41.252	41.253	
44.82	44.83	44.84	44.85	44.88	44.91
44.93	44.101	44.102	44.103	44.104	44.105
44.106	44.107	44.108	44.109	44.111	44.112.

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 required on new and amended tobacco industry such applications identifies the applicant, their business and criminal history, and their partners or, for corporations, their officers, directors, or principal investors. The application also identifies the type of tobacco industry permit applied for, the reason(s) for the application, and the proposed or existing business, including its location, mailing address, and any associated trade name(s). In addition, tobacco manufacturer and export warehouse proprietor permit applicants must include a physical description and, if required, a diagram, of their proposed premises.

Personnel at TTB's National Revenue Center (NRC) use the information collected on new and amended tobacco industry permit applications to determine if the applicant is qualified under the provisions of the IRC at 26 U.S.C. 5712 to hold such a permit. In addition, TTB field personnel may examine a tobacco industry member's permit file to ensure that their operations are being conducted in conformity with their permit. The information collected on tobacco industry permit applications, and the determinations made by TTB regarding an applicant's qualifications, are necessary to protect the revenue and ensure the lawful operation of tobacco products and processed tobacco industry members and export warehouse proprietors.

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?*

Currently, respondents may electronically complete and submit all tobacco industry permit applications approved under this information collection by using TTB's internet-based "Permits Online" (PONL) system and its "Tobacco Permits" application function. See <https://www.ttb.gov/ponl/permits-online.shtml>. Also, the tobacco permit-related paper forms, TTB F 5200.3, TTB F 5200.16, TTB F 5230.4, and TTB F 5230.5, are available as "fillable-printable" forms on the TTB website at <https://www.ttb.gov/forms/5000.shtml#Tobacco>.

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?*

This collection provides TTB with information that is pertinent and unique to each applicant for an original or amended tobacco industry permit. 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?*

All entities, regardless of size, are required by the IRC at 26 U.S.C. 5712 to apply for and obtain a permit before engaging in business as a manufacturer or importer of tobacco products or processed tobacco, or as an export warehouse proprietor, and that statute sets

specific disqualifications for such permits. The information requested by TTB in its tobacco industry permit applications is the minimum necessary to determine if a person is statutorily qualified for a new or amended permit. Waiver or reduction of the requirements of this information collection, simply because the respondent's business is small, could cause jeopardy to the revenue by harming TTB's ability to ensure that permits are only issued to entities who are lawfully qualified to hold such permits.

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 did not collect the required tobacco industry permit information, it would not be able to determine if applicants are qualified under the IRC to hold such permits. The issuance of such permits to unqualified persons would jeopardize the revenue and could allow tobacco industry members to unlawfully operate. In addition, respondents submit new or amended tobacco industry permit applications only when commencing business or when certain changes occur to an existing business or its control. As such, this information collection cannot be conducted less frequently.

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 the OMB regulations at 5 CFR 1320.5(d)(2)(iv), a requirement to retain records for more than three years is a special circumstance. Under the TTB regulations, tobacco industry permit holders are required to retain, at their place of business, an application file containing their permit(s), permit applications(s), and any related supporting documents for as long as the permitted business remains in operation. Retention of those records is necessary for TTB auditors and investigators to verify that tobacco industry permit holders are operating lawfully and to perform related fieldwork.

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 21, 2019, at 84 FR 23157. 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.

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 this information collection. However, each TTB form and PONL application issued under this information collection approval contains a Privacy Act Information Notice explaining TTB’s authority to collect the required information, the purpose of the collection, how TTB routinely uses the information, and the effect if the applicant does not provide the requested information. In addition, Federal law at 5 U.S.C. 552 prohibits disclosure of proprietary business information, and 26 U.S.C. 6103 prohibits disclosure of taxpayer information, unless disclosure is specifically authorized by law. TTB maintains the collected information in secure office space with controlled access and in password-protected computer systems.

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, and a Privacy Act System of Records notice (SORN) has been issued for this system under TTB .001–Regulatory Enforcement Record System and 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 recent experience, TTB estimates that there are 470 total annual respondents to the 8 information collections contained in this collection request, each making one annual response, at an average of 1.34 hours per response, for an estimated total annual burden of 630 hours. TTB also estimates that approximately 75 percent of respondents are private, for-profit businesses and 25 percent are Native American tribal governments. Therefore, TTB estimates this collection’s e annual burden as follows:

Information Collection	No. of Annual Respondents & Responses		Total Annual Respondents & Responses	Hours Per Response	No. of Burden Hours		Total Annual Burden Hours
	Private Sector	Tribal Govts			Private Sector	Tribal Govts	
New Manufacturer of Tobacco Products or Processed Tobacco, or Export Warehouse Proprietor (F 5200.3 or PONL Equivalent)	42	12	54	2	84	24	108
Amended Manufacturer of Tobacco Products or Processed Tobacco, or Export Warehouse Proprietor (F 5200.16 or PONL Equivalent)	146	48	194	1	146	48	194

New Importer of Tobacco Products or Processed Tobacco (F 5230.4 or PONL Equivalent)	80	26	106	2	160	52	212
Amended Importer of Tobacco Products or Processed Tobacco (F 5230.5 or PONL Equivalent)	88	28	116	1	88	28	116
TOTALS	356	114	470	(1.34)	478	152	630

Recordkeeping: Under the TTB regulations, respondents who are granted new or amended tobacco industry permits by TTB are required to permanently retain, at their place of business, their permit and copies of the related applications and supporting documents. Permittees must make these documents available for inspection by any appropriate TTB officer upon request.

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 believes that respondents do not bear any annualized capital or start-up costs or any increased operation or maintenance costs as a result of this occasional information collection requirement. However, TTB estimates each new tobacco industry permit application requires \$120.00 in salary and overhead costs to complete and submit, and that each amended permit application requires \$65.00 in salary and overhead costs to complete and submit. Therefore, the total cost estimate to respondents for this information collection requirement is \$39,350.

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

Based on recent experience, TTB estimates the cost to the Federal Government for this information collection request as follows:

Overhead costs	\$1,000
Clerical costs	\$2,000
Other Salary costs (review, supervisory, etc.)	\$185,000
TOTAL COSTS	\$188,000

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of all tobacco industry permit applications on the TTB website within the PONL system or the TTB forms page (see Question 3).

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 largely caused by increases in the number of applications submitted to TTB for amended tobacco industry permits, TTB is increasing the overall number of annual respondents, responses, and burden hours reported for this collection request. This collection request's overall number of annual respondents and responses has increased from 298 to 470, and the overall number of burden hours has increased from 535 to 630. The specific burden estimate changes for each information collection contained within this collection request are shown below:

Information Collection	No. of Annual Respondents & Responses		Total Change in Annual Respondents & Responses	No. of Burden Hours		Change in Total Annual Burden Hours
	2016	2019		2016	2019	
New Manufacturer of Tobacco Products or Processed Tobacco, or Export Warehouse Proprietor (F 5200.3 or PONL Equivalent)	52	54	+ 2	104	108	+ 4
Amended Manufacturer of Tobacco Products or Processed Tobacco, or Export Warehouse Proprietor (F 5200.16 or PONL Equivalent)	4	194	+ 190	4	194	+ 194
New Importer of Tobacco Products or Processed Tobacco (F 5230.4 or PONL Equivalent)	185	106	- 79	370	212	- 158
Amended Importer of Tobacco Products or Processed Tobacco (F 5230.5 or PONL Equivalent)	57	116	+ 59	57	116	+ 116
TOTALS	298	470	+ 172	535	630	+ 95

In addition, TTB is increasing the costs to respondents associated with this information collection request to account for slightly increased salary costs resulting from general inflation. TTB estimates costs for new permit submissions have increased from \$113.20 to \$120.00 per response, while submissions for amended permits have increased from \$62.00 to \$65.00.

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. The IRC at 26 U.S.C. 6103 protects taxpayer records from public disclosure unless disclosure is specifically authorized by law. Therefore, TTB does not publish lists of tobacco industry permit holders.

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 is seeking approval not to display the expiration date for OMB approval of this information collection. By not displaying the expiration date of this collection in PONL and on its paper forms, TTB will not have to update its electronic systems and the multiple paper forms associated with this collection request each time it is approved by OMB. Similarly, TTB-regulated businesses will not have to update their own electronic or paper copies of the collection's forms. Additionally, not displaying the OMB approval expiration date on the paper forms will avoid confusion among industry members and members of the public who may have copies of paper forms with different expiration dates in their possession. By not displaying the expiration date on the paper forms, industry members and the public may continue to use copies of the form regardless of when this collection OMB's approval has expired.

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. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.

Information Collection Instruments Issued under this Collection Request:

Paper Forms:

- TTB F 5200.3: Application for Permit to Manufacture Tobacco Products or Processed Tobacco or to Operate an Export Warehouse;
- TTB F 5200.16: Application for Amended Permit to Manufacture Tobacco Products or Processed Tobacco or to Operate an Export Warehouse;
- TTB F 5230.4: Application for Permit to Import Tobacco Products or Processed Tobacco; and
- TTB F 5230.5: Application for Amended Permit to Import Tobacco Products or Processed Tobacco.

Permits Online (PONL) Electronic Applications:

Substitutes for TTB F 5200.3:

- New Manufacturer of Processed Tobacco or Tobacco Products, or New Tobacco Export Warehouse, Permit Applications.

Substitutes for TTB F 5200.16:

- Amended Manufacturer of Processed Tobacco or Tobacco Products, or Amended New Tobacco Export Warehouse, Permit Applications.

Substitutes for TTB F 5230.4:

- New Tobacco Importer Permit Application.

Substitutes for TTB F 5230.5:

- Amended Tobacco Importer Applications.