

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement -- Information Collection Request

OMB Control Number 1513-0068

Records of Operations – Manufacturer of Tobacco Products, Cigarette Papers and Tubes, or Processed Tobacco (TTB REC 5210/1)

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, cigarette papers and tubes, and processed tobacco), 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.

In general, chapter 52 of the IRC (26 U.S.C. chapter 52) imposes Federal excise tax on all tobacco products and cigarette papers and tubes manufactured in, or imported into, the United States, while exempting such articles removed for export and certain other uses, as well as all processed tobacco, from that tax.¹ To safeguard that revenue, the IRC at 26 U.S.C. 5741 requires every manufacturer of tobacco products, cigarette papers and tubes, and processed tobacco to keep such records as the Secretary of the Treasury prescribes by regulation to maintain accountability for those products.

Under that IRC authority, the TTB regulations in 27 CFR Part 40, Manufacture of Tobacco Products, Cigarette Papers and Tubes, and Processed Tobacco, require such manufacturers to keep certain daily operational records. In particular, the regulations in part 40, subpart H, require tobacco product manufacturers to keep daily records of: Processed tobacco received, shipped or delivered, lost, and destroyed; records of tobacco products that show the quantities manufactured, received in bond or received by return to bond, removed by whatever means, consumed or otherwise used, or disclosed as an inventory loss or gain; records in support of removals subject to tax; and records in support of transfers in bond. A tobacco products manufacturer also must keep the auxiliary and supplemental records from which such records are compiled.

The regulations in part 40, subpart K, require manufacturers of cigarette papers and tubes to

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

keep daily records of: Cigarette papers and tubes manufactured; received without payment of tax from another factory, an export warehouse, customs custody, or by withdrawal from the market; removed by whatever means; and lost or destroyed. The regulations part 40, subpart L, require manufacturers of processed tobacco to keep daily records of operations and transactions showing total quantity of processed tobacco on hand; used in the manufacture of tobacco products; processed, received, or removed from the factory for shipment to a person holding a TTB permit; removed from the factory for shipment to a person not holding a TTB permit; removed from the factory for export; removed for any other purpose; or lost, or destroyed.

The part 40 regulations also provide that manufacturers may use usual and customary business records, where possible, to keep and maintain the required data, provided that TTB may readily ascertain the information. The regulations additionally require manufacturers to maintain the required records for 3 years and make them available for TTB inspection upon request.

This information collection is necessary to protect the revenue. The required records provide TTB with accountability over the receipt, production, and disposition of tobacco products, cigarette papers and tubes, and processed tobacco, allow TTB to determine that excise tax liabilities are accurately determined and discharged by manufacturers; and ensure that no diversion of untaxed articles to taxable uses has occurred.

The regulations implementing this information collection are contained in 27 CFR:

40.181	40.182	40.183	40.184	40.185	40.186
40.421	40.435	40.521 and	40.524.		

This information collection is aligned with —

- Line of Business/Sub-function: General Government/Taxation Management.
- IT Investment: None.

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

The industry member maintains the required records at their business premises. TTB routinely uses these records during tax compliance examinations to verify that all tobacco products, cigarette papers and tubes, and processed tobacco can be accounted for, and to verify that recorded transactions are consistent with information reported to TTB in monthly operational reports. Industry members must maintain these records to allow TTB to trace transactions involving tobacco products and processed tobacco, determine that tax liabilities have been accurately determined and discharged, and ensure no diversion has occurred.

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.

Respondents may use information technology to maintain the required records, provided that the records are readily available to TTB personnel for inspection.

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 information collection contains information pertinent to each respondent and applicable to the specific issue of maintaining records related to manufacturers of tobacco products, cigarette papers and tubes, or processed tobacco. As far as TTB is able to 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 statute to maintain the records prescribed by regulation. Waiver or reduction of this requirement, simply because the respondent's business is small, could cause jeopardy to the revenue by harming TTB's ability to verify operational information reported to TTB and to account for activities giving rise to excise tax liability.

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 believes that the regulations require respondents to keep operational records only as often as necessary to meet their own business requirements, and, as such, the frequency of this collection cannot be reduced. If TTB did not require the recordkeeping associated with this information collection, TTB would not be able to trace and verify transactions related to the manufacture and removal of tobacco products, cigarette papers and tubes, and processed tobacco, verify that excise tax liabilities were properly determined and paid, and ensure that diversion resulting in failure to pay the appropriate tax had not occurred.

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).)

There are no special circumstances associated with this information collection that would require it to be inconsistent with OMB guidelines.

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, which consists of usual and customary business records maintained by export warehouse proprietors at their business premises. 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 the IRC.

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, which consists of business records kept at the respondent's premises, contains no questions of a sensitive nature and does not collect personally identifiable information (PII) in a government electronic system. Therefore, no Privacy Impact Assessment (PIA) or System of Records Notice (SORN) is required for this information collection.

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

Based on the current number of active tobacco industry permits, TTB estimates that 235 respondents are required to keep the records required under this information collection, with each respondent making one response per year, for a total of 235 responses. While many of the required records are usual and customary commercial records kept during the normal course of business for purposes of production and inventory control, TTB estimates that each respondent will require 2 hours to comply with the recordkeeping requirements of this information collection, for an estimated total annual burden of 470 hours. These records must be retained for 3 years following the close of the calendar year in which they were filed or made.

(235 respondents X 1 response/year = 235 responses/year X 2 hours/response = 470 total annual burden hours.)

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)?*

There is no cost to respondents associated with this information collection.

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

There is no annualized cost to the Federal Government associated with this collection.

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

There are no program changes associated with this collection. As for adjustments, due to a change in agency estimates resulting from a decrease in the number of tobacco-related manufacturers in the United States, TTB is decreasing the number of annual respondents to this information collection, from 250 to 235. That decrease results in corresponding decreases in the number of annual responses, from 250 to 235, and in the total annual burden hours, from 500 to 470.

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.

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?*

This information collection consists of records kept by respondents at their business premises and there is no TTB form associated with this collection. As such, there is no medium for TTB to display the collection's OMB approval expiration date.

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

- (c) See item 5 above.
- (i) No statistics are involved.
- (j) See item 3 above.

B. Collections of Information Employing Statistical Methods.

This collection does not employ statistical methods.