

**DEPARTMENT OF THE TREASURY**

**ALCOHOL AND TOBACCO TAX AND TRADE BUREAU**

**Supporting Statement — Information Collection Request**

**OMB Control Number 1513–0025**

**Notice of Release of Tobacco Products, Cigarette Papers, or Cigarette 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, 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 Department Order 120–01.

The IRC at 26 U.S.C. 5704(c) provides that tobacco products and cigarette papers and tubes imported into the United States may be released from customs custody, without payment of tax, for delivery to an authorized export warehouse proprietor or a manufacturer of tobacco products or cigarette papers and tubes if the articles are not put up in packages. The IRC at 26 U.S.C. 5704(d) also provides that tobacco products and cigarette papers and tubes exported from and subsequently returned to the United States may be released from customs custody, without payment of tax, for delivery to the original manufacturer or to an export warehouse proprietor authorized by that manufacturer to receive the articles. Each of those sections also require that such releases be made in accordance with the regulations and under the bonds prescribed issued by the Secretary.

Issued under those IRC authorities, the TTB regulations in 27 CFR 41.85, 41.85a and 41.86 govern the release of imported and returned tobacco products, cigarette papers, and cigarette tubes from customs custody without payment of tax. Specific to this information collection, § 41.86(c), requires manufactures or export warehouse proprietors to file TTB F 5200.11, Notice of Release of Tobacco Products, Cigarette Papers, or Cigarette Tubes., in cases where they do not electronically file the related import entry with U.S. Customs and Border Protection.<sup>1</sup> TTB F 5200.11 identifies the manufacturer or export warehouse proprietor under whose bond the articles are to be released, the address of the receiving manufacturer or proprietor, and the articles to be released by type and their number or weight (as appropriate for their tax class). The form also certifies TTB's approval of the

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<sup>1</sup> TTB does not require the filing of TTB F 5200.11 in cases where the respondent electronically files the related import entry with U.S. Customs and Border Protection. The submission of TTB-related import information via CBP's electronic systems, including information related to the release of articles from customs custody without payment of tax, is approved under OMB Number 1513–0064, Importer's Records and Reports (TTB REC 5170/1).

requested release, and it documents the release by the customs warehouse proprietor or government official with custody of the listed articles. The collected information allows TTB to document the release and movement of articles removed from customs custody without payment of tax, which is necessary to protect the revenue.

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?*

In cases where entries of certain imported or returned tobacco products and cigarette papers and tubes are not made electronically, respondents use TTB F 5200.11 to request TTB approval to remove such articles from customs custody without payment of tax. TTB uses the collected information to identify the parties and articles involved, and track the movement of the untaxpaid articles, which prevent diversion of the articles into the taxable domestic market. As such, the collected information is necessary to protect the revenue and ensure that releases of such articles from customs custody without payment of tax are made in compliance with the applicable statutes and regulations.

*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 5200.11, which is used by non-electronic import entry filers, is available as a fillable-printable form on the TTB Web site at <https://www.ttb.gov/forms>.

*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 data that is pertinent to each respondent and applicable to the specific issue of requesting release of imported and returned tobacco products and cigarette papers and tubes from customs custody, without payment of tax, for transfer to an authorized manufacturer or export warehouse proprietor. 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 filing import entries non-electronically, regardless of size, that desire to obtain the release of tobacco products or cigarette papers and tubes from customs custody without payment of tax, as authorized by 26 U.S.C. 5704(c) and (d), are required by 27 CFR 41.86 to complete TTB F 5200.11. Waiver or reduction of this requirement, simply because the respondent's business is small, would jeopardize the revenue.

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 this information collection, TTB would not have a mechanism to identify non-electronic import entry filers that seek to obtain the release of tobacco products and cigarette papers and tubes from customs custody, without payment of tax. Additionally, without this collection, such respondents would not have a mechanism for providing documentation to CBP that shows TTB's authorization for the release. The collected information allows TTB to protect the revenue and ensure that such releases from customs custody are made in compliance with the applicable statutes and regulations.

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 public, TTB published a "60-day" comment request notice for this information collection in the Federal Register on September 3, 2020, at 85 FR 55067. 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?*

While TTB provides no specific assurance of confidentiality for this information collection, 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 computer systems and file rooms 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. Additionally, this information collection does not collect personally identifiable information (PII). 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?*

*Respondent burden estimate:* Based on recent data, TTB estimates that, annually, 10 respondents make 6 responses each for a total of 60 responses. TTB also estimates that each response takes 0.25 hour (15 minutes) to complete, resulting in an estimated total annual burden of 15 hours.

(10 respondents x 6 responses per respondent = 60 responses x 15 minutes per response = 15 total burden hours.)

*Respondent labor costs:* Based U.S. Department of Labor wage estimates for tobacco industry office and administrative support function positions, TTB estimates respondent labor costs for this information as follows:

<b>NAICS 312200 –Tobacco Product Manufacturing: Office &amp; Administrative Support Occupations – Fully-loaded Labor Rate Per Hour<sup>2</sup> = \$30.79</b>						
Information Collection	Avg. Time / Response	Labor Cost / Response*	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
Notice of Release of Tobacco Products (TTB F 5200.11)	0.25 hr.	\$7.70	6	\$46.20	60	\$462.00

\* Rounded to the nearest whole cent.

*Respondent record retention:* Under the authority of the IRC at 26 U.S.C. 5741, the TTB regulations at 27 CFR 41.22 require tobacco industry members to copies of notices of release file on TTB F 5200.11 for 3 years after the close of year in which they filed the release. That regulatory section also requires respondents to make such records available for inspection by the 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 there are no annualized non-labor costs to respondents associated with this low-volume, occasional information collection. As for mailing costs, TTB estimates that this collection's 10 annual respondents have \$4.00 in such costs per response, resulting in annual mailing costs of \$24.00 per respondent and \$240.00 in total mailing costs.

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

<sup>2</sup> Private Sector Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.44 to account for benefit costs. Per the most recent U.S. Department of Labor, Bureau of Labor Statistics (BLS), data for National Industry-Specific Occupational Employment and Wage Estimates for NAICS 312200—Tobacco Product Manufacturing, the average fully-loaded labor rate for Office and Administrative Support Occupations is \$30.79 (\$21.38 in wages plus \$9.41 in benefit costs). See the BLS website at [https://www.bls.gov/oes/current/naics4\\_312200.htm](https://www.bls.gov/oes/current/naics4_312200.htm).

TTB has determined that there are no annual, non-labor costs to the Federal Government associated with this low-volume, occasional information collection. Printing and distribution costs to the Federal Government have decreased to \$0.00 in due to the availability of TTB forms to the public on its website's forms page at <https://www.ttb.gov/forms/all-forms>.

As for Federal Government labor costs, TTB estimates that its labor costs for this information collection as follows:

<b>Alcohol Fuel Producers Permit Government Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio</b>					
Position	Fully-loaded Labor Rate/Hour <sup>3</sup>	Processing Time per Response	Labor Costs per Response*	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.13	0.1	\$3.21	60	\$192.60
GS-11, Step 5, Specialist	\$58.91	0.25	\$14.73		\$883.80
<b>TOTALS</b>	<b>(\$51.257)</b>	0.35	<b>\$17.94</b>	<b>60</b>	<b>\$1,076.40</b>

\* Rounded to the nearest whole cent.

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

There are no program changes or adjustments associated with this information collection at this time.

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?*

As a cost saving measure for both TTB and the public, TTB is seeking approval not to display the expiration date for OMB approval of this information collection on its related form, TTB F 5200.11. By not displaying that date on the form, TTB will not have to update the form on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper form, self-produced electronic copies of the form, or versions of the form made for sale to other businesses. Additionally, not displaying the information collection's OMB approval

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<sup>3</sup> Federal Government Fully-loaded Labor Rate = Hourly wage rate x a factor of 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) wage data, the fully-loaded labor rates for the Cincinnati, Ohio, wage area are: (1) GS-5, step 5, employee = \$32.13 (\$19.71 in wages plus \$12.42 in benefit costs); and (2) GS-11, step 5, employee = \$58.91 (\$36.14 in wages plus \$22.77 in benefit costs). See the OPM website at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/CIN\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/CIN_h.pdf).

expiration date on the form will avoid confusion among members of the public who may have copies of the form with different expiration dates in their possession.

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 information collection does not employ statistical methods.