

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513–0069

**Tobacco Products Manufacturers – Supporting Records for Removals for
the Use of the United States (TTB REC 5210/6)**

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.

Under the IRC at 26 U.S.C. 5701, tobacco products, cigarette papers, and cigarette tubes manufactured or imported into the United States are subject to a Federal excise tax. However, pursuant to 26 U.S.C. 5704(b), manufacturers of such articles may remove them without payment of tax for use of the United States under regulations prescribed by the Secretary. In addition, under 26 U.S.C. 5741, all manufacturers of tobacco products or cigarette papers and tubes are required to keep records in the manner the Secretary prescribes by regulation.

Under those IRC authorities, TTB has issued regulations regarding removals of tobacco products and cigarette papers and tubes, without payment of tax, for use of the United States, which are contained in 27 CFR part 45. As described in 27 CFR 45.51, TTB requires manufacturers of such articles to keep records related to their removal for use by the United States. The records must show the date of removal, the name and address of the Federal agency receiving the articles, the kind and quantity of the articles removed, and, for large cigars, the sale price. If a Federal agency returns any such articles, § 45.51 also requires manufacturers to keep records of such returns. In addition, that section requires manufacturers to retain such records for 3 years following the close of the year covered by the records, and requires manufactures to make those records available for inspection by any appropriate TTB officer upon request.

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?

TTB personnel examine the required records during field audits and investigations to account for and verify removals of tobacco products or cigarette papers, made without tax, for use of the United States. The required records document such removals and allow TTB personnel to confirm whether the removals were eligible for tax-exempt treatment. Accordingly, the required records are necessary 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 does not prescribe a format for this recordkeeping requirement. As such, respondents may use automated, electronic, or other technological collection techniques or other forms of information technology to keep the required records. In addition, under 27 CFR 45.51, respondents may use commercial records, including automated and electronic records, to keep the required information.

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?

This information collection request requires records that are pertinent and unique to each manufacturer's specific operations. As far as TTB can determine, similar information regarding removals of tobacco products or cigarette papers and tubes, without payment of tax, for use of the United States is not available elsewhere.

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

In order to protect the revenue, 27 CFR 45.51 requires all entities, regardless of size, to keep the records required under this information collection. Any waiver or reduction of that requirement, simply because the respondent's business is small, could jeopardize the revenue. TTB notes that manufacturers may meet this information collection requirement with invoices or other commercial records kept at the factory.

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 requires the collected information as part of the comprehensive record system that enables it to examine tobacco product transactions and verify that manufacturers have accurately determined and paid their excise tax liabilities. If TTB did not require manufacturers to keep records related to removals of tobacco products and cigarette papers and tubes for use of the United States, TTB would not be able to verify that such products are eligible for tax-free removal. Manufacturers keep the required records only on an as-needed basis, and, as such, TTB cannot conduct this collection 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?*

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 November 3, 2020, at 85 FR 69680. 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?*

TTB provides no specific assurance of confidentiality for the required records, which respondents maintain 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 that section.

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. In addition, this information collection, which consists of records maintained by respondents at their business premises, 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 collection.

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

Estimated Respondent Burden: Based on recent data, TTB estimates that 205 respondents will compile the required records one per year, at an estimated burden of 1 hour per response, resulting in an estimated total burden of 205 hours for this information collection.

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

NAICS 312200 –Tobacco Product Manufacturing: Office & Administrative Support Occupations – Fully-loaded Labor Rate Per Hour ¹ = \$30.79*					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
1 hour	\$30.79	1	\$30.79	205	\$6,311.95

* Labor costs rounded to the nearest cent.

Respondent record retention: Under 27 CFR 45.51, manufacturers must retain the records required under this information collection for 3 years following the close of the year covered by the records.

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)?*

Because manufacturers track removals and returns of their products during the normal course of business, TTB believes that there are no additional annual costs to respondents associated with this information collection.

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

This information collection consists of records maintained by respondents at their business premises, and, as such, there is no cost to the Federal Government associated with this information collection.

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.

¹ 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.

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?*

There is no prescribed TTB form for this information collection, which consists of records kept by respondents at their business premises. As such, there is no medium for TTB to display this information 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. Collection of Information Employing Statistical Methods

This information collection does not employ statistical methods.