

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0033

**Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes;
Report—Manufacturer of Processed Tobacco.**

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.

In general, chapter 52 of the IRC imposes Federal excise taxes on tobacco products, cigarette papers, and cigarette tubes manufactured or imported into the United States. However, that chapter exempts exported and certain transferred articles from that tax, and it allows credit, refund, or allowance of the tax paid on such articles withdrawn from the market and those lost or destroyed. In addition, while processed tobacco is not subject to Federal excise tax, it is subject to other provisions of chapter 52 and to the resulting regulations prescribed by the Secretary.¹

Specific to this information collection request, the IRC at 26 U.S.C. 5722 requires every manufacturer of tobacco products, cigarette papers and tubes, and processed tobacco to make reports containing such information, in such form, at such times, and for such periods as the Secretary prescribes by regulation. Under that IRC authority, the TTB regulations at 27 CFR 40.202 and 40.422 require manufacturers of tobacco products and manufacturers of cigarette papers and tubes, respectively, to submit monthly reports to TTB showing all such articles produced, received, removed subject to tax, removed without payment of tax, lost or destroyed, and on hand. Under those regulations, respondents use form TTB F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes, to file the required reports. In addition, 27 CFR 40.522 requires manufacturers of processed tobacco to submit monthly reports to TTB showing the processed tobacco manufactured, received,

¹ Under the IRC at 26 U.S.C. 5701, tobacco products subject to Federal excise tax are small cigars, large cigars, small cigarettes, large cigarettes, smokeless tobacco (snuff and chewing tobacco), pipe tobacco, and roll-your-own tobacco. Section 5702 defines those terms for tax purposes, as well as the terms cigarette papers, cigarette tubes, and processed tobacco. Section 5704 list exemptions to the excise tax, while section 5705 describes circumstances under which credit, refund, or allowance of that tax may be given.

removed, used, transferred, exported, destroyed, and on hand. Under that regulation, respondents use form TTB F 5250.1, Report—Manufacturer of Processed Tobacco, to file the required monthly report.

This information collection request is necessary to protect the revenue and ensure compliance with applicable Federal laws and regulations. TTB uses the collected data to verify that manufacturers have properly paid Federal excise taxes due on tobacco products and cigarette papers and tubes, and to prevent or detect diversion of taxable articles into the market, as well as diversion of processed tobacco, which is not subject to tax, to illicit tobacco product manufacture.

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?

TTB uses the information collected under this request to protect the revenue and ensure that manufacturers of tobacco products, cigarette papers and tubes, and processed tobacco conduct their operations in compliance with Federal law and regulations. For example, TTB personnel may examine the data reported on TTB F 5210.5 to ensure that manufacturers of tobacco products and cigarette papers and tubes have paid the proper amount of excise tax on those articles. TTB personnel also may examine and verify the collected information to detect unusual activities, errors, and omissions in order to prevent and detect diversion of untaxed articles into the taxable market. In addition, because processed tobacco is not subject to tax, TTB uses the information collected from manufacturers of processed tobacco on TTB F 5250.1 to prevent and detect the diversion of that article, which is used to produce taxable tobacco products, to illicit manufacturers.

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, respondents may electronically file TTB F 5210.5 and TTB F 520.1 through the Pay.gov website; see the TTB website at <https://www.ttb.gov/epayment> and the Pay.gov website at <https://www.pay.gov/public/home> for more information.

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?

TTB F 5210.5 and TTB F 5250.1 collect information that is pertinent to each respondent and applicable to their specific monthly operations. 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?

Under the authority of the IRC at 26 U.S.C. 5722 and the TTB tobacco regulations, all entities, regardless of size, are required to complete the appropriate monthly report on TTB F 5210.5 or TTB F 5250.1. Waiver or reduction of this requirement, simply because the respondent's business is small, could jeopardize the revenue and cause diversion to go undetected. In addition, TTB believes that these monthly report forms collect the minimum information necessary and do not have a significant impact on a substantial number of small businesses or other entities.

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 were not able to collect the tobacco-related information required on TTB F 5210.5 and TTB F 5250.1, or if it collected the information less frequently, TTB would not be able to fulfill its obligation to protect the revenue, ensure compliance with Federal laws and regulations, and prevent and detect diversion of tobacco-related articles into the taxable market.

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 5 CFR 1320.5(d)(2)(i), requiring respondents to report information to an agency more often than quarterly is a special circumstance. In general, under the IRC at 26 U.S.C. 5703, manufacturers of tobacco products and cigarette papers and tubes are required to pay Federal excise tax on such articles on a semi-monthly basis. As such, TTB believes that requiring manufacturers of tobacco products, cigarette papers and tubes, and processed tobacco to report their production, removals, returns, and related data on a monthly basis is necessary to protect the revenue. The collected information allows TTB to verify that such manufacturers have properly paid Federal excise taxes due on tobacco products and cigarette papers and tubes, and prevent and detect diversion of untaxed articles and processed tobacco, which is not taxed, into the illicit market.

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 regarding this information collection in response to that notice.

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 this collection. 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 that section specifically authorizes its disclosure. 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 request contains no questions of a sensitive nature. However, this request does collect personally identifiable information (PII) in an electronic system. As such, TTB F 5210.5 and TTB F 5250.1 contain Privacy Act statements, and TTB has conducted a Privacy Impact Assessment (PIA) for the information collected under this request as part of the Tax Major Application system. In addition, TTB has issued a Privacy Act System of Records notice (SORN) for that system under TTB .001–Regulatory Enforcement Record System, which TTB published in the Federal Register on February 10, 2021, at 86 FR 8988. TTB's PIAs and a link to the SORN are available on the TTB website at <https://www.ttb.gov/foia/privacy-impact-assessments>.

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

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

Information Collection	Respondents	Responses / Respondent	Responses	Burden / Response	Total Burden
Report–Manufacturer of Tobacco Products or Cigarette Papers & Tubes (TTB F 5210.5)	205	12	2,460	1 hour	2,460 hours
Report–Manufacturer of Processed Tobacco (TTB F 5250.1)	30	12	360	1 hour	360 hours
TOTAL	235	12	2,820	1 hour	2,820 hours

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 collection request as follows:

NAICS 312200 –Tobacco Product Manufacturing: Office & Administrative Support Occupations – Fully-loaded Labor Rate Per Hour² = \$30.79*					
Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Responses	Total Labor Costs
1 hour	\$30.79	12	\$369.48	235	\$86,827.80

* Respondent labor costs are rounded to the nearest whole cent.

Respondent record retention: Under 27 CFR 40.185, manufactures of tobacco product and cigarette papers and tubes must maintain record copies of the required reports for at least 3 years after the close of the calendar year in which they file the report. Under 27 CFR 40.524, manufacturers of processed tobacco must retain copies of the required report for the same period.

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)?*

Manufacturers of tobacco products, cigarette papers and tubes, and processed tobacco track and keep records regarding the amount of such articles they produce, remove, transfer, lose, destroy, or receive as returns during the normal course of business for production control, inventory, and cost accounting purposes. As such, TTB believes that there are no start-up or ongoing capital costs, or annual maintenance or operational costs to respondents associated with this information collection request. As for the annual mailing costs associated with this collection request, TTB estimates that respondents spend no more than \$2.00 per response, resulting in mailing costs of \$24.00 per respondent and \$5,640.00 (for 235 respondents, each making 12 responses, for a total of 2,820 responses).

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

TTB has determined that there are no annual, non-labor costs to the Federal Government associated with this information collection request. 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>.

As for Federal Government labor costs, TTB estimates such costs for this information collection request as follows:

² 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.

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio*					
Position	Fully-loaded Labor Rate/Hour ³	Processing Time per Response	Labor Costs per Response*	Total Responses	Total TTB Labor Costs
GS-5, Step 5, Clerk	\$32.45	0.25 hour	\$8.11	235	\$1,905.85
GS-12, Step 5, Specialist	\$71.31	1.0 hour	\$71.31		\$16,757.85
TOTALS	(\$63.54)	1.25 hours	\$79.42	235	\$18,663.70

* Federal Government labor costs are rounded to the nearest whole cent.

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

There are no program changes associated with this information collection at this time. As for adjustments, due to a change in agency estimates, TTB is adjusting the respondent costs previously reported for this collection to reflect only is annualized non-labor costs; see question 13 above. TTB is now correctly reporting respondent labor costs associated with this collection in question 12 above.

16. Outline plans for tabulation and publication for collections of information whose results will be published.

On a monthly and annual basis, TTB publishes summaries of the tobacco production and removal data collected on TTB F 5210.5, Report—Manufacturer of Tobacco Products or Cigarette Papers and Tubes. TTB posts those releases on its website for public viewing at <https://www.ttb.gov/tobacco/tobacco-statistics>. TTB generalizes the published data, and, as such, no individual tobacco products manufacturer can be identified in the published releases. Data related to the production of cigarette papers and tubes, and data collected on TTB F 5250.1, Report—Manufacturer of Processed Tobacco, is not published.

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 forms, TTB F 5210.5 and TTB F 5250.1. By not displaying that date on those forms, TTB will not have to update the forms on its website each time OMB reapproves this information collection. Similarly, respondents and other businesses will not have to update stocks of the paper forms, self-produced electronic copies of the forms, or versions of the forms made for sale to other businesses. Additionally, not displaying the information collection's OMB

³ 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 = \$32.45 (\$19.91 in wages plus \$12.54 in benefit costs); and (2) GS-12, step 5, employee = \$71.31 (\$43.75 in wages plus \$27.56 in benefit costs). See the OPM website at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/CIN_h.pdf.

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

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 information collection request does not employ statistical methods.