

DEPARTMENT OF THE TREASURY

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement — Information Collection Request

OMB Control Number 1513–0130

Reports of Removal, Transfer, or Sale 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.

The IRC, at 26 U.S.C. 5712 and 5713, requires any person that wishes to operate as a manufacturer or importer of tobacco products or processed tobacco, or as an export warehouse proprietor, to first apply for and obtain a permit. The IRC, at 26 U.S.C. 5722, also requires all such permit holders to “make reports containing such information, in such form, at such times, and for such periods as the Secretary shall by regulation prescribe.”

While processed tobacco is not subject to Federal excise tax under the IRC, it may be used to manufacture tobacco products that are subject to such taxes. As such, transfers of processed tobacco from tobacco-related permit holders to non-permit holders could lead to diversion of processed tobacco to the illegal manufacture of tobacco products. To protect the revenue by minimizing such diversion, TTB has issued regulations under the authority of 26 U.S.C. 5722 that require certain tobacco-related permit holders to report removals of processed tobacco made for export or shipment to any domestic entity that does not hold such a permit. These regulations are contained in 27 CFR parts 40 and 41.

Specifically, under 27 CFR 40.522(d)(1), manufacturers of processed tobacco who remove processed tobacco for export to a foreign buyer or for shipment to any domestic entity that does not hold a TTB permit as an importer or manufacturer of processed tobacco, a manufacturer of tobacco products, or an export warehouse proprietor must report each such removal to TTB. Under that section, the manufacturer must report such transfers by the close of the next business day using form TTB F 5250.2, Report of Removal, Transfer, or Sale of Processed Tobacco. Through cross-references in §§ 40.72(b) and 40.202(b), manufacturers of tobacco products also must report removals of processed tobacco as required under § 40.522. Similarly, under 27 CFR 41.262(d)(1), tobacco importers also must report processed tobacco exports and shipments to any domestic entity that does not

hold a TTB tobacco-related permit by the close of the next business day using form TTB F 5250.2.

As an alternative to making daily reports on TTB F 5250.2, under 27 CFR 40.522(d)(2), manufacturers of processed tobacco or tobacco products may report removals of processed tobacco made for export using a Monthly Summary Report of Processed Tobacco Removed for Export. That regulation requires the respondent to submit a letterhead application to TTB requesting approval to use the monthly summary report and approval of the report's proposed format, as there is no prescribed TTB form for that alternative report. Similarly, under 27 CFR 41.262(d)(2), importers of processed tobacco may also submit a monthly summary report of removals of processed tobacco made for export after obtaining the TTB approvals noted above.

TTB F 5250.2 and the alternative monthly summary report require information identifying the permit holder making the processed tobacco shipment, the type and quantity of processed tobacco shipped, the person(s) purchasing (or receiving) and delivering the processed tobacco, and the destination address of the shipment.

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?

While processed tobacco is not subject to Federal excise tax under the IRC, tobacco products subject to such taxes may be manufactured using processed tobacco. As such, the information collected under this request is necessary to protect the revenue. The collected information allows TTB to track shipments of processed tobacco to entities that do not hold TTB permits, and to take action to investigate and prevent diversion of processed tobacco to illegal tobacco product 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 obtain free, fillable-printable copies of TTB F 5250.2 on the TTB website at <https://www.ttb.gov/forms>. For the alternative monthly summary report, respondents may use information technology of their choice to generate the report, provided that TTB has approved the report's format beforehand.

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?

The information required under this collection request contains data specific to TTB tobacco permit holders regarding their removal, transfer, or sale of processed tobacco to entities that do not hold such permits. As far as TTB is able to determine, similar information regarding such processed tobacco deliveries is not available elsewhere.

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

TTB believes that this information collection request is the minimum necessary to protect the revenue. Due to its low number of respondents, TTB believes that this collection request does not have a significant impact on a substantial number of small entities. In addition, TTB notes that processed tobacco exporters may use the alternative monthly summary report in place of the daily shipment reports made on TTB F 5250.2, and that smaller respondents will have fewer processed tobacco shipments to report.

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 the information required in this collection request, TTB would be severely hampered in its ability to track processed tobacco shipments made by its tobacco permit holders for export or for delivery to persons who do not hold such permits. Such tracking is necessary to prevent unscrupulous persons from diverting processed tobacco, which is not subject to Federal excise tax, to the illegal manufacture of tobacco products, which are subject to that tax. Not collecting the required information regarding processed tobacco shipments, or collecting it less frequently, would jeopardize to the revenue.

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 the case of this information collection, the relevant TTB regulations and the instructions on form TTB F 5250.2 require respondents to report all shipments of processed tobacco made for export and all shipments of processed tobacco to domestic entities not holding a TTB tobacco-related permit by the close of the next business day. The alternative summary report for processed tobacco shipments made for export is required on a monthly basis. TTB believes that such frequent reporting is necessary to track shipments of processed tobacco, which is not subject to excise tax, in order to detect and prevent diversion of that material to the illegal manufacture of tobacco products, which are subject to excise tax.

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 request in the Federal Register on June 15, 2021, at 86 FR 31818. TTB received no comments on this collection request 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 request.

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 information collection request. However, Federal law at 5 U.S.C. 552 protects the confidentiality of proprietary information obtained by the Government from businesses and individuals, and 26 U.S.C. 6103 prohibits disclosure of tax returns and related information unless that section specifically authorizes such disclosure. TTB maintains the collected information in secure file rooms and in computer systems 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. TTB has completed a Privacy Impact Assessment (PIA) for personally identifiable information collected under this request as part of the Tax Major Application System. TTB has issued a Privacy Act System of Records notice (SORN) for that system under Department of the Treasury, Alcohol and Tobacco Tax and Trade Bureau (TTB) .001—Regulatory Enforcement System of Records, which was published in the Federal Register on February 10, 2021, at 86 FR 8988. TTB’s PIAs are available on its 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 from TTB’s National Revenue Center, TTB estimates the annual burden for this information collection request follows:

<i>Information Collection</i>	<i>No. of Respondents</i>	<i>Ave. Responses per Respondent</i>	<i>No. of Responses</i>	<i>Time Burden Per Response</i>	<i>Total Estimated Burden</i>
TTB F 5250.2	18	222	3,996	0.5 hour	1,998 hours
Monthly Summary Report	8	13*	104	2 hours	208 hours
TOTALS	26	(157.69)	4,100	(0.538)	2,206

* Includes a one-time letterhead application to use Monthly Summary Reports of Processed Tobacco Removals for Export, and 12 such reports submitted annually.

Respondent labor costs: Based U.S. Department of Labor average wage estimates for tobacco industry office and administrative support 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 Hour¹ = \$31.95*						
Information Collection	Avg. Time / Response	Labor Cost / Response	Responses / Respondent	Labor Costs / Respondent	Total Respondents	Total Labor Costs
TTB F 5250.2	0.5 hour	\$15.98	222	\$3,547.56	18	\$63,856.08
Monthly Summary Report	2 hours	\$63.90	13	\$830.70	8	\$6,645.60
TOTALS					26	\$70,501.68

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

Recordkeeping burden: Under the regulations at 27 CFR 40.185, 40.524, and 41.208, TTB requires respondents to keep copies of all applications, reports, and records mandated under 27 CFR parts 40 and 41 for three years following the close of the year in which the item was filed or made.

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 estimates that respondents have no capital, overhead, or start-up costs related to this information collection request. The tracking of inventories and documenting shipments of manufactured produced products such as processed tobacco are usual and customary businesses practices, and, under OMB regulations at 5 CFR 1320.3(b)(2), such practices do not impose an additional burden on respondents. TTB estimates the annual mailing cost burden to respondents for this information collection request as follows: (1) For TTB F 5240.2, \$2.10 per response, \$466.20 per respondent, and \$8,391.60 in total; and (2) for the Monthly Summary Report, \$12.00 per response, \$156.00 per respondent, and \$1,248 in total. Together, the two information collections contained in this collection request total \$9,639.6 in respondent mailing costs.

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

Printing and distribution costs to the Federal government have decreased to \$0.00 in TTB's cost estimate due to the availability of TTB forms to the public on the TTB website. TTB

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 (May 2020) 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 \$31.95 (\$22.19 in wages plus \$9.76 in benefit costs). See the BLS website at https://www.bls.gov/oes/current/naics4_312200.htm.

estimates the annualized labor costs to the Federal Government for this information collection request as follows:

Labor Costs for Personnel at TTB's National Revenue Center in Cincinnati, Ohio, for OMB No. 1513-0130*						
Information Collection	Position	Fully-loaded Labor Rate/Hour ²	Processing Time per Response	Labor Costs per Response	Total Responses	Total TTB Labor Costs
TTB F 5250.2	GS-5, Step 5, Clerk	\$32.45	0.1 hour	\$3.25	3,996	\$12,987.00
	GS-11, Step 5, Specialist	\$59.50	0.4 hour	\$23.80		\$95,104.80
Monthly Summary Report	GS-5, Step 5, Clerk	\$32.45	0.1 hour	\$3.25	104	\$338.00
	GS-11, Step 5, Specialist	\$59.50	1.9 hours	\$113.05		\$11,757.20
TOTALS				(\$29.3139)	4,100	\$120,187.00

* Labor costs rounded to the nearest whole cent.

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

Program changes and Adjustments: There are no program changes associated with this information collection request at this time. As for adjustments, due to changes in agency estimates, TTB is increasing the number of respondents to this collection request, from 20 to 26, the number of total responses from 2,977 to 4,100, and the total burden hours from 1,613 to 2,206. Those overall increases are divided as follows: (1) TTB F 5250.2, from 13 to 18 respondents, from 2,886 to 3,996 responses, and from 1,443 to 1,998 burden hours; and (2) for the Monthly Summary Report, from 7 to 8 respondents, from 91 to 104 responses, and from 182 to 208 burden hours. There is no change to the estimated per-response burdens for either information collection contained in this collection request.

Miscellaneous: On TTB F 5250.2, in the form's Paperwork Reduction Act Notice, TTB is revising the title of the person to whom comments regarding the form and its burden are directed, from "Reports Management Officer," to "Paperwork Reduction Act Officer," and is adding a reminder not to mail completed forms to the comment submission address.

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

TTB will not publish the results of the information collections approved under this request.

² Federal Government Fully-loaded Labor Rate = Hourly wage rate x 1.63 to account for benefit costs. Per the most recent Office of Personnel Management (OPM) hourly 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-11, step 5 = \$59.50/hour (\$36.50 in wages plus \$23.00 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.

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 request on form TTB F 5250.2. By not displaying that date on the form, TTB will not have to update the form 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 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. In addition, there are no prescribed TTB forms for the alternative Monthly Summary Report and its related letterhead application, and, as such, there is no medium for TTB to display the relevant OMB approval expiration date on those collection instruments.

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 request does not employ statistical methods.