

Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Supporting Statement - Information Collection Request

OMB # 1140-0098

ATF F 5070.1, Prevent All Cigarette Trafficking (PACT) Act Registration Form and
ATF F 5070.1A, Prevent All Cigarette Trafficking (PACT) Act Registration Continuation Sheet

A. Justification:

1. In addition to enforcing federal laws relating to the manufacture and commerce of firearms and explosives, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) assist the states in their effort to eliminate interstate trafficking in, and the sale and distribution of cigarettes and smokeless tobacco in avoidance of federal and state taxes. On March 31, 2010, President Obama signed into law the Prevent All Cigarette Trafficking Act of 2009 (PL 111-154). The law requires any person who sells, transfers, or ships for profit cigarettes and/or smokeless tobacco in interstate commerce must register with the Attorney General of the United States (delegated to ATF) and the state tax administrators of the state in which the shipment is made or in which state such advertisement or offer is disseminated.

Effective March 27, 2021, electronic nicotine delivery systems (ENDS) became subject to regulation under the Prevent All Cigarette Trafficking (PACT) Act (15 U.S.C. §§ 375 *et. seq.*). “any electronic device that, through an aerosolized solution, delivers nicotine, flavor, or any other substance to the user inhaling from the device.” ENDS may include e-cigarettes, e-hookahs, e-cigars, vape pens, advanced refillable personal vaporizers, electronic pipes and any component, liquid, part, or accessory of such a device, regardless of whether that item is sold separately from the device. All electronic devices that deliver aerosolized nicotine solutions to the user are regulated as ENDS, regardless of whether the nicotine they contain is derived from tobacco or synthetically derived and non-nicotine electronic devices, including those devices that aerosolize and deliver other types of substances (including CBD, THC, Delta-8, Delta-9, etc.) are also regulated as ENDS. Therefore, sellers of ENDS products must register with ATF and States and localities that these products are shipped into and report sales into these jurisdictions and requires distributors who engage in delivery sales to comply with State and local tax, and regulatory laws involving the distribution of ENDS to minors.

2. Recognizing that the range in state cigarette and smokeless tobacco taxes creates a potential for interstate trafficking of these products to avoid state tax, Congress has enacted federal laws to ensure the state cigarette and smokeless tobacco taxes are paid. The law requires any person that sells, transfers, or ships for profit cigarettes (includes ENDS) and/or smokeless tobacco in interstate commerce to register with ATF. Respondents will register using ATF F 5070.1, Prevent All Cigarette Trafficking (PACT) Act Registration Form. The purpose of the form is to register delivery sellers of cigarettes (includes ENDS) and/or smokeless tobacco products with the Attorney General to legally sell, advertise, and distribute these tobacco products. The collected information will assist ATF in creating and maintaining a PACT Act registration database for registrants and a database for the unregistered/non-compliant delivery sellers. The non-compliant list is available to the attorney generals and tax administrators of each state, common carriers, and any other person that the Attorney General of the United States deems appropriate to receive the list.
3. The 508 compliant fillable form is available on the ATF public website. It can be emailed to (pactactregistrationinbox@atf.gov) and mailed to ATF. If adequate funding is obtained, ATF plans to create a database that will allow any person to register electronically and also have the option of printing the form for their records.
4. ATF uses a uniform subject classification system to identify duplication and to ensure that any similar information already available cannot be used or modified for use for the purpose of this information collection.
5. ATF has conducted an assessment on the impact on small businesses and other small entities under the Regulatory Flexibility Act (5 U.S. C. 601 et seq.) and has concluded that there will not be a significant impact on small businesses and other small entities.
6. The consequences if this collection of information is not conducted would be that delivery sellers and any person required to register with ATF would be unable to register with ATF, would be in violation of the PACT Act, and would subsequently be placed on the list of non-compliant delivery sellers. Placement on this list would severely limit the delivery sellers' legal ability to continue to operate their business.
7. The collection of information is consistent with the provisions of 5 CFR 1320.6.
8. ATF has worked with the state tax administrators, the National Association of Attorneys General (NAAG) and Tribal Leaders regarding the regulations and the collection form. A 60-day and 30-day Federal Register notice was published in order to solicit comments from the general public.
9. No payment or gift is associated with this collection.

10. The assurance of confidentiality is contained in the Privacy Act. Confidentiality is not assured.
11. No questions of sensitive nature are asked.
12. ATF estimates that no more than 800 respondents will be impacted by this registration requirement, furthermore ATF estimates that it will take the respondents approximately one hour to complete ATF F 5070.1 and send that form to ATF. This registration requirement will only be conducted one time by each person required to register with ATF. The total number of responses is 800. The total annual burden hours associated with this collection is 800 hours.
13. ATF estimates the cost to businesses impacted will be \$27,368 collectively. ATF has derived this figure by assuming that each business impacted will have to file an ATF F 5070.1, the cost of a stamp and envelope has been estimated at \$.63, the labor to complete the form has been estimated at one hour and the labor cost is estimated at \$33.58 per hour. The table below illustrates the estimated costs:

Labor Costs: \$33.58 x 1-hour x 800 businesses	\$26,864
Mailing Costs: \$.63 x 800 businesses	\$ 504
Total Costs:	\$27,368

14. Estimates of annual costs to the Federal government are:

Printing	\$ 2,000.00
Distribution	\$ 36,000.00
Total	\$38,000.00

15. There has been adjustments associated with this collection. The adjustments are an increase in the number of respondents by 400 to include ENDS delivery sellers, and an increase in postage cost to \$.63.
16. The results of this collection will not be published.
17. ATF does not request approval to not display the expiration date of OMB approval for this collection.
18. There are no exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

Not applicable.