

DEPARTMENT OF THE TREASURY  
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU

Supporting Statement – Information Collection Request

OMB Control Number 1513-0130

TTB F 5250.2 Report 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 include the following: Align the information collection to Treasury's Strategic Goals, Line of Business/Sub-function, and IT Investment, if one is used.

On February 4, 2009, President Obama signed into law the Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. 111-3, 123 Stat. 8 (the Act). Section 702 of the Act included amendments to the Internal Revenue Code of 1986 (IRC) to extend permit, inventory, reporting, and recordkeeping requirements to manufacturers and importers of processed tobacco even though such processed tobacco is not subject to excise tax under the IRC.

Under 26 U.S.C. 5722, as amended by the Act, every manufacturer or importer of tobacco products, processed tobacco, or cigarette papers and tubes, and every export warehouse proprietor, shall make reports containing such information, in such form, at such times, and for such periods as the Secretary shall by regulation prescribe. TTB believes that unregulated transfers or sales of processed tobacco to persons who do not hold TTB permits could lead to processed tobacco being sold to illegal manufacturers. In order to effectively regulate processed tobacco and to minimize its transfer to illegal manufacturers, TTB promulgated regulations, at 27 CFR 40.72, 40.202, 40.522, and 41.262, to include a requirement that manufacturers and importers of tobacco products or processed tobacco file a report with TTB covering all such transfers or sales. This report protects the revenue.

This information collection is aligned with:

Treasury Strategic Goal: Effectively Manage U.S. Government Finances.

Line of Business/Sub-function: General Government/Taxation Management.

IT Investment: Tax Major Application Systems.

2. How, by whom, and for what purpose is this information used?

This report provides timely information concerning transfers of processed tobacco to unregulated persons, allowing TTB to track processed tobacco and take timely action against potential diversion to illegal manufacturing.

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?

The regulations at 27 CFR part 73 set forth the provisions under which TTB may accept electronic submission of forms and electronic signatures for such submissions. We will approve, on a case-by-case basis, the use of technology for the submission of this 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 only requires reports that are pertinent to each manufacturer or importer's specific operation. As far as we 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?

Sale or transfer of processed tobacco to an unregulated entity can occur without regard to the size of the business, and TTB believes that the information required to be reported is the minimum necessary to protect the revenue. However, smaller manufacturers and importers of processed tobacco should have fewer transactions that would require such reporting.

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 of information, TTB would be severely hampered in tracking processed tobacco and determining whether the processed tobacco is being illegally diverted. Not collecting this information or less frequent collection of this information would pose jeopardy 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?

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.

A temporary rule (74 FR 29401) and notice of proposed rulemaking (74 FR 29433) were published in the Federal Register on Monday, June 22, 2009. The temporary rule solicited comments from the general public regarding this collection of information, as well as other collections of information.

A 60-day Federal Register notice was published for this information collection on Friday, September 18, 2009 (74 FR 47990). The notice solicited comments from the general public.

A final rule (77 FR 37287) was published in the Federal Register on Thursday, June 21, 2012, in which TTB addressed comments concerning this collection of information. All of these comments were received in response to the temporary rule.

Several commenters recommended that export shipments and certain other shipments of processed tobacco to non-permit holders should not have to be reported on TTB F 5250.2. Commenters also suggested that the reporting deadline for the form be extended beyond the close of business the day after the transfer. Under the final rule, manufacturers and importers may remove processed tobacco to non-permit holders for certain purposes such as scientific testing or testing of equipment without having to report the removal on TTB F 5250.2. In addition, under the final rule, manufacturers and importers may apply for and obtain authorization to report removals of processed tobacco for export in a monthly summary, and in a format approved by TTB, rather than filing TTB F 5250.2 each time they make such removals. TTB states in the final rule that it will not otherwise delay the reporting required on the form because the timely collection of this information is an important enforcement tool.

Commenters also requested that TTB remove a requirement for information about the person picking up the processed tobacco for delivery. In the final rule, TTB explains that it finds this information effective in tracking processed tobacco and preventing diversion to illegal manufacturers, but the final rule does amend the regulations to clarify that, where an address is required, a business address, rather than a personal address, should be provided. The final rule also provided an alternate method for retaining the type of information in question where a shipment is by common carrier.

TTB published a 60-day Federal Register notice (79 FR 20305) on Friday, April 11, 2014 for the renewal of this information collection. The notice solicited comments from the general public. TTB received no comments.

9. What decision was made to provide any payment or gift to respondents, other than remuneration of contractors or grantees?

No payment or gift is associated with this collection.

10. What assurance of confidentiality was provided to respondents and what was the basis for the assurance in statute, regulations, or agency policy?

No specific assurance of confidentiality is provided; however, TTB protects the confidentiality of tax information under 26 U.S.C. 6103.

11. What justification is there for questions of a sensitive nature? If personal 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 Privacy Act System of Records notice (SORN) that has been issued for the electronic system in which the PII is being stored.

We ask no questions of a sensitive nature. This collection is not associated with a PIA or SORN.

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

TTB estimates that 800 respondents would be required to prepare and submit reports. Thus, the reporting burden is calculated as follows:

800 respondents x 6 responses per respondent = 4,800 responses  
 @ .50 hour per response = 2,400 hours

Total Burden Hours = 2,400

13. What is the estimated total annual cost burden to respondents or recordkeepers resulting from this collection of information(excluding the value of the burden hours in Question 12 above)?

The total annual cost estimate associated with this paperwork requirement is allocated entirely to operations and maintenance. Annual costs are allocated as follows:

Wage \$7.25/hour	Preparation 2,400 hours @ \$7.25	=	\$17,400
Postage:	4,800 annual reports @ \$0.49	=	<u>\$ 2,352</u>
Total:			\$19,752

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

Estimates of annual cost to the Federal Government are as follows:

Clerical Cost	\$ 14,500
Other Salary (review by specialist, etc.)	80,000
Overhead	<u>9,500</u>
TOTAL	\$104,000

Printing and distribution cost has either significantly decreased or no longer exist due to the availability of TTB forms on TTB.gov and in our electronic systems (PONL, FONL, COLA Online, and/or Pay.gov) and. As a result, there is no longer printing and distribution cost for this collection.

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

There is an adjustment associated with this information collection. The burden hours have increased because of an increase in the number of importer/manufacturers.

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

The results of this collection will not be 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?

We are not seeking approval to not display the expiration date for OMB approval.

18. What are the exceptions to the certification statement?

- (c) See item 5 for explanation regarding burden to small businesses.
- (f) This is not a recordkeeping collection so there is no retention period.
- (i) There is no statistical method used for this collection.
- (j) See item 3 for explanation regarding the use of information technology.

**B. Collection of Information Employing Statistical Methods**

This collection does not employ statistical methods.