

DEPARTMENT OF JUSTICE  
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

Information Collection Request  
Supporting Statement

OMB 1140-0011 ATF Form 1 (5320.1)  
Application to Make and Register a Firearm

A. JUSTIFICATION

1. The ATF Form 1 (5320.1) is required to affect the registration of a National Firearms Act (NFA) firearm by any person, other than a qualified manufacturer, who wishes to make and register an NFA firearm. Under the provisions of 26 U.S.C. § 5822, no person can make an NFA firearm until he or she has applied for and received approval from the Attorney General (delegated to ATF). Subject to certain exceptions, the making of an NFA firearm is subject to a tax of \$200. Unless the making is exempt from tax, applicants are required to submit their tax payment with the Form 1. Section 5822 also requires that the application form identify the firearm and the maker, and that if the maker is an individual, his or her fingerprints and photographs must accompany the application and the chief local law enforcement officer (police chief or sheriff) must certify the application. Finally, § 5822 provides that applications to make NFA firearms shall be denied if the making or possession of the NFA firearm would place the maker in violation of law. The form is filed by government agencies, members of the firearms industry, and the general public.

The Law Enforcement Certification on the reverse of the application form satisfies the requirements of § 5821 and § 479.63.

Form Changes. ATF is proposing the following changes to ATF Form 1 (5320.1):

- Incorporate information currently captured by ATF F 5330.20, Certification of Compliance with 18 U.S.C. 922(g)(5)(B), eliminating the completion of an additional form for any application submitted. As the same information is requested, there is no increase to the submission time.
- Allow the applicant to pay the transfer tax by credit or debit card in addition to payment by check or money order. This revision should decrease the submission time by capturing the credit/debit card information rather than writing a check or obtaining a money order.
- Revise instructions to address payment by credit/debit card; and other instructions have been revised for clarity.

## ATF Form 1 (5320.1)

2. The information on this form is used by the NFA Branch personnel to determine the legality of the application under Federal, State and local law. Section 5822 provides that an application shall not be approved if the making or possession would place the person making the firearm in violation of law. The applicant is asked to respond, under penalties of perjury, to questions to determine whether he or she is prohibited by Federal law from possessing firearms. The requirement for fingerprints allows ATF to determine, based on criminal history checks, whether the applicant would be prohibited by Federal law from possessing a firearm. The law enforcement certification required of the applicant and included in the application allows ATF to make a determination that the making or possession is in violation of State or local law.

The application is submitted in duplicate. The approval of the application effectuates the registration of the firearm to the maker. Both copies of the application are noted to reflect the approval – one copy is returned to the applicant as his/her proof of registration and the other is retained by ATF as part of the National Firearms Registration and Transfer Record. The information is used to verify any subsequent transfer and registration of the firearm. In addition, registration information used to determine the non-registration of a firearm, a violation as specified in § 5861.

3. The form is available on the ATF website and it is fillable. However, due to the fact that an original signature is required and, in some cases, requires the submission of fingerprints and photographs, and the original signature on a certificate from the chief local law enforcement officer, respondents cannot respond electronically. Form 1 is part of an ongoing ATF project to implement eForms when the fingerprints, photographs, and law enforcement certificate are not required. When implemented, ATF anticipates that electronic submission will decrease the filing time and increase the accuracy and completeness of the filing. Electronic submission will assist in increasing the efficiency of ATF's processing.
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. The information on this form is unique to the person supplying it and would have minimal or no impact on small businesses or other small entities.
6. The consequences of not conducting this collection would result in a person being in unlawful possession of a firearm. The information provided is used to ensure the legal making and possession of a firearm and effectuate the

## ATF Form 1 (5320.1)

registration of the firearm from the National Firearms Registration and Transfer Record.

7. There are no special circumstances associated with this collection and the collection is conducted in a manner consistent with the requirement in 5 CFR 1320.6.
8. Within ATF, there are industry analysts who work with the industry and are aware of the industries needs and concerns. These concerns were taken into consideration when developing the form. A 60-day and 30-day Federal Register notice was published in order to solicit comments from the public. We have received several comments requesting the size of the proposed form not change to 8 ½” x 14” but remain as 8 ½” x 11”. These comments have been addressed and ATF decided to keep the form size as 8 ½” x 11”.
9. No payment or gift is associated with this collection.
10. In addition to the requirements for confidentiality contained in the Privacy Act, this information is classified as "tax information" or "tax return information" and any release is severely restricted by the Tax Reform Act (26 USC section 6103).
11. This collection of information does include questions of a sensitive nature. These relate to the qualifications of the applicant, such as whether the applicant has been convicted of any crime, is a fugitive from justice, is a drug user, is an illegal alien, etc. This information is needed to determine whether the applicant is prohibited by Federal law from possessing firearms.
12. In CY 2012, 9,662 Form 1 applications were processed. The filing of the Form 1 is an independent event for when a person; including a legal entity, State, or local government agency, is requesting permission to make an NFA firearm.

After review, we found that the number of respondents identified in the last justification (1,071) was low, thus providing an under-reported number for burden hours, and we also questioned whether the 4 hours per respondent was accurate.

Based on our analysis of Form 1 applications processed during CY 2012, ATF found that the completion times for each form actually vary between individuals, legal entities, and FFL/government agencies. For example, if the application is by an individual, due to the requirements for fingerprints, photographs and Law Enforcement Certification, the submission will take 230

## ATF Form 1 (5320.1)

minutes. For an application by a legal entity and FFL or government agency, there is no requirement for fingerprints, photographs or Law Enforcement Certification. Therefore, the submission by an FFL or licensee, legal entity, and government agency takes less than four hours, in fact, 20 minutes. The estimated time now represents an average of the different times for the three subsets (i.e., individuals, legal entities, and FFL/government agencies) and is:

- 20 minutes (to complete and mail the form) for a submission by an FFL or government agency
- 230 minutes for submission by an individual (50 minutes to procure photographs; 60 minutes to procure fingerprints, 100 minutes to procure the Law Enforcement Certification; and 20 minutes to complete and mail the form)
- 20 minutes (to complete, including attach a copy of the legal documents, and mail the form) for submission by a legal entity.

The estimated number of respondents is 9,662 (576 FFL/government agencies, 5,328 legal entity responders, and 3,758 individual responders). Each respondent will respond one time.

The estimated burden hours are 16,374

- 192 hours for FFL/government agencies (576 respondents x 20 minutes divided by 60)
- 1,776 hours for legal entities (5,328 respondents x 20 minutes divided by 60)
- 14,406 hours for individuals (3,758 respondents x 230 minutes divided by 60).

The estimated average burden per respondent is 1.69 hours.

13. As noted in section 12, we reviewed our prior submission and found that there were operational costs that had not been considered. There is no start-up cost associated with this form, but there are costs associated with providing the information.

*Estimated operational costs:* \$146,766

- \$120,256 cost for fingerprints (\$24) and photographs (\$8) (Individuals -  $\$32 \times 3,758 = \$120,256$ )
- \$7,992 cost for providing copies of legal documents establishing legal entity ( $\$1.50 (\$.10 \text{ per page with an average of 15 pages}) \times 5,328$ )

## ATF Form 1 (5320.1)

- \$18,517.60 cost for mailing (\$2 each for 9,086 respondents and \$.60 for 576 respondents)
14. The estimated annual cost of \$83,525 to the Federal Government is as follows:
    - \$96.62 for printing 9,662 Forms 1 (9,662 x .01)
    - \$54,491 for processing fingerprints (\$14.50 x 3,758)
    - \$28,937 for conducting and reviewing background checks of individual respondents (\$7.70 (15 minutes at \$30.80 per hour) x 3,758)
  15. The adjustments made to this collection are an increase in the number of respondents to 9,662, a change in total annual burden hours to 16,374, and an increase in cost burden because we have now considered the operational costs associated with this collection.
  16. The results of this collection will not be published.
  17. ATF does not request approval to not display the expiration date of the OMB approval for this collection.
  18. There are no exceptions to the certification statement.
- B. Collections of Information Employing Statistical Methods

No statistical methods are associated with this collection.