

Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Information Collection Request
OMB 1140-0076
Application for Restoration of Explosives Privileges - ATF Form 5400.29

A. Justification

1. Necessity of Information Collection (IC)

ATF is charged with enforcing Title XI of the Organized Crime Control Act (the Act) of 1970, and implementing regulations contained at 27 CFR, Part 555. Subtitle C of *Public Law No. 107-296*, the Safe Explosives Act, enacted November 25, 2003, amended the Act to give the Director authority to grant relief from disability to any person who is prohibited from shipping, transporting, receiving, or possessing an explosive under section 842(i) of the Act. The regulations at 27 CFR 555.142 state that the Director may grant relief to an applicant, if it is established that their disability, record, and reputation are such that they are not likely to act in a manner that endangers public safety.

The Application for Restoration of Explosives Privileges - ATF Form 5400.29, is used by ATF to conduct background investigations on all applicants for the restoration of explosives privileges. The form is also used to verify that an applicant has a record and reputation confirming that they are unlikely to endanger public safety, and to ensure that granting an applicant relief would not be contrary to public interest.

ATF is requesting approval to make the following changes to the Application for Restoration of Explosives Privileges - ATF Form 5400.29:

General Changes

- **Block 9:** Residences During Past Ten Years Beginning with Current Residence in Chronological Order and Without Breaks (*In columns (b) and (c) enter the months and years of residence*).
- **Block 10:** Name and Address of Employer (*Number, Street, City, and State*)
- **Block 15:** Name and Address (*Number, Street, City and State*)
- **Block 16 d:** Are you now on probation or parole, or have not been discharged from probation or parole for at least two years?
- **Block 16 j:** Additional Information (6): Change “INS-issued” to “U.S.-issued”

- **Block 16 f:** Have you ever been adjudicated mentally defective (which includes having been adjudicated incompetent to manage your own affairs) or have you been committed to a mental institution? (*If “yes,” see Additional Information 3.*)
- **Block 16 g:** Have you ever been required by a court or other lawful authority to undergo mental health evaluation or treatment? (*If “yes”, see Additional Information 4.*)
- **Block 16 h:** Have you ever been the subject of an order by a court or other lawful authority prohibiting your receipt or possession of firearms? (*If “yes”, see Additional Information 5.*)
- Blocks 16 g-k are re-lettered to “i-m.”
- **Block 19:** Mail or Email Application Form To: NCETR – Relief of Disabilities Program (moved email address to under address/phone number)
- Move Fingerprint card requirement under EROD address.

Additional Information Included

- (1): A “conviction” of a crime punishable by imprisonment for a term exceeding one year is determined under Federal, not State law. A person remains “convicted” of an offense for purposes of the Federal explosives laws despite issuance of a State pardon, expunction, set aside, or restoration of civil rights. In the case of an applicant having been convicted of a crime punishable by imprisonment for a term exceeding one year, a certified copy of the indictment or information on which the applicant was convicted, the judgement of conviction or record of any plea of nolo contendere, or plea of guilty or finding of guilt by the court must be provided.
- (3): In the case of an applicant who has been adjudicated a mental defective or committed to a mental institution, the following must be provided with your application: a certified copy of the order of a court, board, commission or other lawful authority that made the adjudication or ordered the commitment; any petition that sought to have the applicant so adjudicated or committed; any medical records reflecting the reasons for commitment and diagnosis of the applicant AND any documentation showing that the applicant has been determined by a court, board, commission, or other lawful authority showing the applicant has been restored to mental competency AND to be no longer suffering from a mental disorder AND to have all rights restored.
- (4): In the case of an applicant who has been required by a court or other lawful authority to undergo a mental health evaluation or treatment, please provide a certified copy of any order(s) issued by a court, or any other record (such as a police

report) which authorized your admission to a mental health facility for evaluation or treatment.

- (5): In the case of an applicant who has been subject to an order by a court or other lawful authority prohibiting your receipt or possession of firearms, please provide a certified copy of any such order.
- (8): Change INS-issued to “U.S.-issued.”
- Renumber 4-6 to “6-8.”

Privacy Act Information

- 3. Routine Uses.
- The information will be used by ATF to make the determinations set forth in paragraph 2. In addition, the information may be disclosed to other Federal, State, foreign and local law enforcement and regulatory agency personnel to verify information on the application and to aid in the performance of their duties with respect to the regulation of explosives. “*See 68 Fed. Reg. 3551.*”

Authority for Release of Information

- Create a space between Medical Information Records columns and signature line.

2. Needs and Uses

Persons who wish to ship, transport, receive, or possess explosive materials, but are prohibited from doing so, will complete ATF Form 5400.29. The form will be submitted to ATF and help to determine whether the person who provided the information is likely to act in a manner dangerous to public safety and that the granting of relief is not contrary to the public interest.

3. Use of Information Technology

Individuals with disabilities can access this form, which is 508 Compliant. Respondents have the option of downloading and electronically completing the form. However, the form cannot be submitted electronically, since it requires an original signature from the respondent, to fulfill the requirements for the restoration of their explosives privileges. Additionally, the completed application must be accompanied by other submissions including certified copies of court documents and original fingerprint cards, which cannot be automated or made electronic.

4. Efforts to Identify Duplication

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 IC.

5. Minimizing Burden on Small Businesses

This collection will not affect small businesses.

6. Consequences of Not Conducting or Less Frequent Collection

The consequences of not conducting this collection would result in persons not having the opportunity to apply for relief of disabilities.

7. Special Circumstances

There are no special circumstances associated with this collection.

8. Public Comments and Consultations

All comments received during the 60-day Federal Register notice period received a response. A 30-day notice will now be published in the Federal Register to solicit public comments.

9. Provision of Payments or Gifts to Respondents

No payment or gift is associated with this collection.

10. Assurance of Confidentiality

Responses are kept in a secured location. ATF staff who review and process the form have “special government clearances.” Confidentiality is not assured.

11. Justification for Sensitive Questions

Questions about an individual’s criminal history, immigration status and mental status are asked, such as; “Are you a fugitive from justice?” Although this is a prohibited category under (Title XI of the Organized Crime Control Act of 1970), this question must be asked in order to ensure that applicants certify that they are not prohibited persons. These questions are also necessary to ensure that the restoration of explosives privileges to an individual will not endanger public safety and public interest.

12. Estimate of Respondent’s Burden

We estimate that there are 300 respondents associated with this IC. Since each respondent responds only once per year to this IC, the total number of responses is also 300. It will take approximately 30 minutes for each respondent to complete this form. Therefore, the total annual burden hours associated with this request is 150 hours.

13. Estimate of Cost Burden

The estimated public cost burden associated with this IC are outlined as follows:

- ATF in-person interview of applicant's previous explosives supervisor:
300 x 0.5 (hour) x \$42 (hourly wage for technical specialist/responsible person)
= **\$6,300.**
- ATF in-person interview of applicant's previous explosives co-worker:
300 x 0.5 (hour) x \$22 (hourly wage for employee possessor)
= **\$3,300.**
- The respondent can mail the application to ATF. Therefore the cost of postage is estimated at 300 respondents x .55 (cost to mail each form)
= **\$165.00.**

Total combined public cost burden is: \$6,300 + \$3,300 + \$165.00 = **\$ 9,765**

14. Cost to Federal Government

The estimated Federal government cost to print the form is \$420.00.

15. Reason for Change in Burden

The adjustment to this IC include an increase in the public burden cost to \$ 9,765, which is due to inclusion of the cost for ATF in-person interview with both the respondent's supervisor and a coworker, as well as mailing costs.

16. Anticipated Publication Plan and Schedule

The results of this collection will not be published.

17. Display of Expiration Date

ATF requests approval exclude the OMB expiration date from the header of the form for this IC. Printing the expiration date on the form will result in increased government costs to replace form inventories that become obsolete with the passage of their expiration dates. Without the expiration date, the current edition of a form can be utilized during several cycles of OMB renewal. Additionally, a substantive inventory of forms can be easily maintained to meet the demands of the explosive industry, if the expiration date is omitted from the printed form.

18. Exception to the Certification Statement

There are no exceptions to the certification statement.

B. Collections of Information Employing Statistical Methods.

This collection of information employs no statistical methods.