

Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
OMB 1140-0072
Information Collection Request
Explosives Employee Possessor Questionnaire - ATF Form 5400.28

A. JUSTIFICATION

1. Necessity of Information Collection

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is charged with enforcing the provisions of Title XI of the Organized Crime Control Act of 1970, and its implementing regulations 27 CFR Part 555. One of the primary purposes of the Act is to protect interstate and foreign commerce against interference and interruption, by reducing the hazard to persons and property arising from the misuse of explosive materials.

This responsibility has been expanded by the recent enactment of legislation to combat terrorism and defend the Nation against terrorist acts, among others. This legislation in part, has amended the provisions of 18 U.S.C. § 842(d), to expand the list of persons prohibited from receiving explosive materials. 18 U.S.C. § 843 requires that all applicants submit the names and other appropriate identifying information for all employees they authorize to possess explosive materials. ATF requires all employee possessors (EPs) in an explosives business to complete the Explosives Employee Possessor Questionnaire - ATF Form 5400.28.

ATF requests approval to make the following changes to OMB 1140-0072 (Explosives Employee Possessor Questionnaire - ATF Form 5400.28):

- **Revise the format and layout of the form to improve user experience**
- **Request additional biometric information:**
 - Updated “sex” category to include “non-binary” as a selection
 - Additional information being collected include:
 - weight
 - eye color
 - hair color
- **Add the following new questions:**
 - Have you ever worked for a Federal Explosives Licensee or Permittee? (*If so, please include their FEL/P number*)
 - Have you ever been a Responsible Person on another Federal Explosives License or Permit? (*If so, please include FEL/P number*)

- o Have you ever been an Employee Possessor on another Federal Explosives License or Permit? *(If so, please include FEL/P number)*
 - o Have you ever been denied permission to handle explosives materials by ATF?
 - o Have you ever been granted Explosives Relief of Disability? *(Please attach copy of relief letter.)*
 - o Have you ever renounced your United States citizenship?
 - o Are you an alien illegally or unlawfully in the United States?
 - o Are you an alien who has been admitted to the United States under a nonimmigrant visa?
 - o If you are an alien, record your U.S.-issued Alien or Admission number *(e.g., AR, USCIS or I-94 number)*. *(Please note than an employment authorization card is insufficient to qualify to serve as an EP. Attach supporting documentation to this questionnaire.)*
- **Item 13** - Addition of an instruction to include “State of issuance” for drivers licenses, and
 - **Instruction 6** - Both the web address and phone number for the ATF distribution center were updated.

2. Needs and Uses

Persons employed in the explosives business or operations industry, who are required to ship, transport, receive, or possess explosive materials, must complete the Explosives Employee Possessor Questionnaire - ATF Form 5400.28. The completed form must be submitted to ATF and will be used to determine if the person who provided the information, is qualified to be an EP in an explosives business. ATF personnel will review the completed ATF Form 5400.28 and any previously submitted Application for Explosives License or Permit - ATF Form 5400.13/5400.16, in order to validate the identity of an EP, and verify that they are not prohibited from shipping, transporting, receiving, or possessing explosive materials.

3. Use of Information Technology

A completed ATF Form 5400.28 can be submitted to the Federal Explosives Licensing Center by mail, or electronically by fax (304-616-4401) or email (FELCFAX@atf.gov). A Federal explosives licensee/permittee (FEL/P) or a responsible person (RP) listed on the permit or license, must also submit a completed ATF Form 5400.28, along with a letter requesting an EP be added to

their existing explosives license or permit. The FELC still accepts completed ATF Form 5400.28 that are signed with a wet signature and mailed for processing. However, a RP can also submit a completed ATF Form 5400.28 that is scanned and electronically or digitally signed by an EP. Once signed, these forms can be printed, faxed, or emailed to the FELC for processing. The use of an electronic or digital signature and the recent implementation of an e-submission capability for ATF Form 5400.28, eliminates the need for a mail-in notification.

4. Efforts to Identify Duplication

ATF uses a uniform subject classification system to identify duplication, and to ensure that previously provided information, cannot be reused or modified for this information collection (IC).

5. Minimizing Burden on Small Business

This collection of information has no significant impact on small businesses.

6. Consequences of Not Conducting or Less Frequent Collection

ATF will be unable to ensure that prohibited persons do not possess explosives without this IC.

7. Special Circumstances

There are no special circumstances associated with this IC. Respondents must provide the requested information as required by explosive laws.

8. Public Comments and Consultations

All comments received during the 60-day Federal Notice period received a response. A 30-day FR notice will now be published 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 employees with suitable security clearance will process submitted ATF Form 5400.28. Confidentiality is not assured.

11. Justification for Sensitive Questions

Questions about an individual's criminal history, immigration status, and mental state are asked, in order to ensure that the provisions of existing explosives legislation are effectively enforced.

12. Estimate of Respondent's Burden

ATF estimates that there are 10,000 respondents, who will respond once per year to this IC request. As such, the total annual responses are 10,000. We estimate that each respondent will take approximately 20 minutes to complete this form. Therefore, the total annual burden hours associated with this request is 3,334.

13. Estimate of Cost Burden

There are no public costs associated with this IC, since all applications are submitted electronically by fax or email to ATF for processing.

14. Cost to Federal Government

There is no Federal government cost associated with this IC.

15. Reason for Change in Burden

There are no adjustments to the public burden for this collection IC.

16. Anticipated Publication Plan and Schedule

The results of this collection will not be published.

17. Display of Expiration Date

ATF requests authorization to avoid displaying the expiration date on the form for this IC for several reasons. Printing the expiration date on the form will increase Government costs to replace form inventories that become obsolete when a new expiration date for this IC. Use of the current version of the form for this IC can continue unchanged through several Office of Management and Budget renewal cycles. Additionally, it would be costly to maintain a substantial inventory of forms to meet the demand of the explosives industry if the expiration date is printed on the form.

18. Exception to the Certification Statement

There are no exceptions to the certification statement.

B. STATISTICAL METHODS:

1. This collection of information employs no statistical methods.