

Explosives Employee Possessor Questionnaire

1. **EACH EMPLOYEE POSSESSOR MUST COMPLETE AND SIGN A SEPARATE QUESTIONNAIRE - ATF FORM 5400.28.** In the future, if you need to add an additional Employee Possessor (EP) to your Federal Explosives License or Permit (FEL/P), the EP being added must complete a new ATF Form 5400.28. A Responsible Person (RP) must submit a signed written request along with a completed ATF Form 5400.28, granting permission to add a new EP to an existing FEL/P.

2. List any given, married, and maiden names in Item 4 (e.g., "Mary Alice (Smith) Jones," not "Mrs. John Jones."). (If additional space is needed, attach a separate sheet. See Instruction 1.)

1. Federal Explosives Licensee or Permittee Name	2. Federal Explosives License or Permit Number (If being added to an existing FEL/P)
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3. Name of Employee Possessor (Last, First, Middle)	4. Aliases (Include given, married, maiden names)	5. Position/Title
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6. Social Security Number	7. Date of Birth (MM/DD/YYYY)	8. Place of Birth (City & State OR Foreign Country)
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9. Current Full Residential Address	10. Mailing Address (If different from residential address)
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11. Telephone Number (Including area code)	12. E-mail Address	13. Driver's License or State ID Number (include State of issuance)
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14. Previous Address(es) - (Please provide residential history and dates for the past five years. Use additional sheet(s) if necessary.)	15. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Non-Binary	16. Height _____ Feet _____ Inches	17. Weight (lbs)	18. Eye Color <input type="checkbox"/> Black <input type="checkbox"/> Blue <input type="checkbox"/> Brown <input type="checkbox"/> Gray <input type="checkbox"/> Green <input type="checkbox"/> Hazel <input type="checkbox"/> Maroon <input type="checkbox"/> Multiple <input type="checkbox"/> Pink <input type="checkbox"/> Other _____	19. Hair Color <input type="checkbox"/> Bald <input type="checkbox"/> Black <input type="checkbox"/> Blond <input type="checkbox"/> Brown <input type="checkbox"/> Gray <input type="checkbox"/> Red <input type="checkbox"/> Sandy <input type="checkbox"/> White <input type="checkbox"/> Other _____
20. Ethnicity Hispanic or Latino <input type="checkbox"/> Yes <input type="checkbox"/> No		21. Race (Please check one or more boxes.) <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Black or African American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> Asian <input type="checkbox"/> White			

For the following questions give full details on a separate sheet for all "Yes" answers (See Instruction 1)	Yes	No
22. Have you ever worked for a Federal Explosives Licensee or Permittee? (If so, please include FEL/P number) _____		
23. Have you ever been a Responsible Person on another Federal Explosives License or Permit? (If so, please include FEL/P number) _____		
24. Have you ever been an Employee Possessor on another Federal Explosives License or Permit? (If so, please include FEL/P number) _____		
25. Have you ever been denied permission to handle explosive materials by ATF?		
26. Have you ever been granted Explosives Relief from Disability? (If so, please attach a copy of the relief letter.)		
27. Are you under indictment or information in any court for a felony, or any other crime, for which the judge could imprison you for more than one year?; Or are you a current member of the military who has been charged with violation(s) of the Uniform Code of Military Justice, and whose charge(s) have been referred to a general court-martial?		
28. Have you ever been convicted in any court, including a military court, for a felony, or any other crime, for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence, including probation?		
29. Are you a fugitive from justice?		
30. Are you under 21 years of age?		
31. Are you an unlawful user of or addicted to marijuana, any depressant, stimulant, narcotic drug, and/or any other controlled substance? Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes by state law.		
32. Have you ever been adjudicated as a mental defective or committed to a mental institution?		

Instructions

- 1. Who must fill out and complete this form?** EACH employee possessor (EP), as defined below, MUST personally complete the Explosives Employee Possessor Questionnaire - ATF Form 5400.28, and certify that the answers are true, accurate, and complete. EPs whose sole responsibility is transporting explosives in commerce are not required to complete ATF Form 5400.28.
- 2. To whom do I submit this form?** You must complete and submit this form to your employer (*applicant for federal explosives license/permit (FEL/P)*). The employer will submit this form on your behalf to ATF for processing. If this form is being submitted AFTER and FEL/P has been issued in order to ADD you as an EP, then the completed form number must be accompanied by a signed letter from the licensee or permittee requesting that you be added as an EP. If this form is being submitted for at least a second time, in relation to the same FEL/P renewal, the EP may follow Instruction 3 below, and submit the form to: ATF National Services Center, Federal Explosives Licensing Center, 244 Needy Road, Martinsburg, WV 25405.
- 3. Resubmission of form upon three-year renewal of license/permit.** The person completing the form may choose to resubmit a photocopy of their original ATF Form 5400.28, provided the information has not changed. You must certify that all the answers are still true, accurate and complete, by signing and dating the form.
- 4. Why is this form required?** Title 18, United State Code, Chapter 40, was amended by the Safe Explosives Act of 2002 (*the Act*). The Act made it unlawful for certain persons to ship, transport, receive, or possess explosives materials. The Act also made it unlawful to distribute explosive materials to certain persons. Information you provide on this form will allow ATF to determine whether you, an EP in the explosives business or operations, are prohibited from shipping, transporting, receiving, or possessing explosive materials. 18 U.S.C. § 842(d), (i).
- 5. Should documentation be attached to clarify a response to a question or item?** Providing additional documentation to clarify a response to a specific question or item on the front of this form could help prevent a delay in processing your completed ATF Form 5400.28. Please ensure that your name is on any attached document(s). In addition, if your employer is renewing an FEL/P ensure that the employer's current FEL/P number is on any attached documents.
- 6. How do I obtain additional forms?** ATF Form 5400.28 can be downloaded from ATF's website in Adobe PDF format www.atf.gov/resource-center/forms-library. The form can be ordered using ATF's Online Distribution Center Order Form www.atf.gov/distribution-center-order-form. The form can also be ordered by calling ATF's Distribution Center at 240-828-5316.
- 7. What do I do if I am prohibited from possessing explosives as indicated above?** If you are prohibited from possessing explosives, you may request relief from your Federal explosives disability by filing an Application for Restoration of Explosives Privileges - ATF Form 5400.29. This form can be downloaded from ATF's website www.atf.gov/resource-center/forms-library or may be obtained by calling 240-828-5316. Please be advised that you cannot possess explosives until that relief from Federal explosives disabilities is granted by ATF. You may file a relief application, but you cannot possess explosives until such time that ATF may grant you relief.
- 8. Need assistance in completing the form?** Please review information online concerning this form at www.atf.gov. Please contact the ATF Explosives Licensing Center at 877-ATF-FELC, or your local ATF office.

ATF Form 5400.28 is used to determine the eligibility of the EPs to possess explosives materials. Under Federal explosives laws it is unlawful for certain prohibited persons to possess explosives. 18 U.S.C. §§ 842(d), (i). Under 18 U.S.C. § 845(a)(1) these prohibitions do not apply to any "aspects of transportation of explosives materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the United States Department of Transportation or the Department of Homeland Security." The Department of Transportation and the Transportation Security Administration have exercised their regulatory authority concerning employee qualifications to transport explosive materials. Accordingly, ATF does not have to determine the eligibility of EP who fall within this exception to possess explosives.

Definitions

- 1. Under Indictment or Information or Convicted in Any Court.** An indictment, information, or conviction in any Federal, State, military, or local court.
- 2. Employee Possessor (EP).** An EP is an individual who has **actual or constructive possession** of explosive materials during the course of his employment. **Actual possession** exists when a person is in immediate possession or control of explosive materials (*e.g., an employee who physically handles explosives materials as part of the production process; or an employee, such as a blaster, who actually uses explosives materials*). **Constructive possession** exists when an employee lacks direct physical control over explosive materials, but exercises dominion and control over the explosive materials, either directly or indirectly through others, (*e.g., an employee at a construction site who keeps keys for magazines in which explosive materials are stored or who directs the use of explosive materials by other employees; or an employee transporting explosive materials from a licensee to a purchaser*).
- 3. Alien.** An alien in the United States means any person who is not a citizen or national of the United States.

Exceptions

- 1.** A person who has been convicted of a felony, or any other crime, for which the judge could have imprisoned the person for more than one year, is not prohibited from shipping, transporting, possessing, or receiving explosives if: (1) the conviction was properly invalidated by a court on the basis that the conviction was unconstitutional; (2) in the case of a Federal conviction, the person received a Presidential pardon; or (3) ATF granted relief from Federal explosives disabilities under 18 U.S.C. § 845(b) and 27 C.F.R. § 555.142.
- 2.** For purposes of this form, aliens can be EPs if they are lawful permanent residents. 18 U.S.C. § 842(d)(7); (i)(5).

Privacy Act Information

The following information is provided pursuant to Section 3 of the Privacy Act of 1974 (5 U.S.C. § 552a(e)(3)):

- 1. Authority.** Solicitation of this information is made pursuant to 18 U.S.C. §§ 842 and 843. Disclosure of this information by the EP is mandatory if the EP wishes to possess explosives.
- 2. Purpose.** The purpose of this collection is to determine the eligibility of the EP to possess explosives materials.
- 3. Routine Uses.** The information will be used by ATF to make determinations set forth in paragraph 2. In addition, information may be disclosed to other Federal, State, foreign, and local law enforcement and regulatory agency personnel to verify information on the completed ATF Form 5400.28, and to aid in the performance of their duties with respect to the regulation of explosives unless such disclosure is prohibited by law. Finally, the information may be disclosed to members of the public in order to verify the information on the questionnaire, when such disclosure is not prohibited by law.
- 4. Effects of Not Supplying the Requested Information.** Failure to supply complete information will delay processing and may cause denial of the application.
- 5. Disclosure of Social Security Number (SSN).** Disclosure of the individual's SSN is voluntary. Under 18 U.S.C. §§ 842(f) and 843, and Executive Order 9397, November 22, 1943, ATF has the authority to solicit an individual's SSN. The SSN may be used to verify the individual's identity.

Paperwork Reduction Act Notice

This request is in accordance with the Paperwork Reduction Act of 1995. The purpose of this information collection is to determine the eligibility of the EP to engage in certain operations. The information requested is required to obtain or retain a benefit and is mandatory by statute. 18 U.S.C. § 843.

The estimated average burden associated with this collection is 20 minutes per respondent, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to Report Management Officer, Resource Management Staff, Contracts and Forms Office, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue, NE, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.