

Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Information Collection Request
OMB 1140-0081
Appeals of Background Checks

A. Justification

1. Necessity of Information Collection

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is responsible for enforcing Title XI of the Organized Crime Control Act (the Act) of 1970 and implementing regulations contained in 27 Code of Federal Regulations (CFR) Part 555. Subtitle C of Public Law No. 107-296, the Safe Explosives Act, enacted November 25, 2003, amended the Act to require that an application for a Federal explosives license or permit, also include certain information about responsible persons and those authorized to possess explosives to fulfill their duties, as an employee of the applicant. 18 United States Code (U.S.C.) § 843(h) requires the Attorney General to conduct background checks on the person(s) whose name(s) and descriptions accompany the Federal explosives license or permit application. This section further obligates that the Attorney General provide notification of disability to anyone who is determined to be so under § 842(i) of this Chapter, as well as information about how individuals can apply for relief from a disability determination. The regulations at 27 CFR § 555.33 also states that anyone who wishes to challenge a disability determination may direct their appeal to the Director. Further, such appeals must be accompanied by two properly completed fingerprint cards.

2. Needs and Uses

This information collection is used by ATF to reexamine determinations of disability and accompanying applications for explosives licenses and permits. A responsible person or employee may challenge the adverse determination set out in the letter of denial in writing, within 45 days of the issuance of such determination. Specifically, they may direct their challenge to the Director, and request information about the basis for the adverse determination, or the accuracy of the record upon which the adverse determination is based. The appeal request must include appropriate documentation or record(s) establishing the legal and/or factual basis for the challenge. Any record or document from a court or other governmental entity or official furnished in support of an appeal, must be certified as a true copy. In the case of an employee or responsible person who did not previously submit fingerprints to accompany their initial application, they must include two properly completed FBI Forms FD-258 (fingerprint cards) with their appeal application. The Director must advise the appellant in writing about his decision regarding an appeal application, and the basis for his decision.

3. Use of Information Technology

Submissions will contain certified copies of court documents and fingerprint cards. Therefore, it is impractical to use automated, electronic, or other mechanical collection techniques.

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 information collection.

5. Minimizing Burden on Small Businesses

This collection does not affect small businesses.

6. Consequences of not conducting or less frequent Collection

This collection allows applicants, employees, or other affected personnel the opportunity to appeal the results of background checks. Without this collection, there would not be a second opportunity for individuals to apply to possess explosive materials.

7. Special Circumstances

There are no special circumstances associated with this collection.

8. Public Comments and Consultations

No comments were received during the 60-day Federal Register (FR) notice period. A 30-day FR notice will be 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

All documentation related to this information collection will be kept in a secured location. Confidentiality is not assured.

11. Justification for Sensitive Questions

No questions of a sensitive nature are asked.

12. Estimate of Respondent's Burden

We estimate that there are 500 respondents associated with this information collection. The total number of responses is 500. We estimate that each respondent will spend approximately 2 hours completing the required appeal documentation. The total annual burden hours associated with this collection 1,000 hours.

13. Estimate of Cost Burden

There is no cost burden to the respondents.

14. Cost to Federal Government

There is no cost to the Federal government.

15. Reason for Change in Burden

There are no program changes or adjustments associated with this collection.

16. Anticipated Publication Plan and Schedule

The results of this information collection will not be published.

17. Display of Expiration Date

ATF does not request approval to omit the Office of Management and Budget expiration date for this collection.

18. Exception to the Certification Statement

There are no exceptions to the certification statement.

B. This Collections of Information Employs No Statistical Methods.