

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**
- **Edited the following questions:**
 - **Item 11** – Removed Maroon as eye color option
 - **Item 22** – Added option to include previous FEL/P name and/or number, if known
 - **Item 23** – Changed question to ask if the applicant is or will be an employee of the FEL/P
 - **Item 24** – Changed question to ask if the applicant will have actual or constructive possession of explosive materials in the course of their employment
- **Removed the under 21 years of age question**

- **Added legal citations throughout**

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

No comments were received during the 60-day and 30-day Federal Notice period.

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 83,125 respondents associated with this information collection request. Each respondent will respond once per year to this IC. As such, the total annual responses are 83,125. We estimate that each respondent will spend approximately 20 minutes completing this form. The total annual burden hours associated with this request is 27,708.

13. Estimate of Cost Burden

There are no public costs associated with this IC since all applications can be 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

ATF currently processes approximately 95,000 explosives background checks per year, 7/8^{ths} of those are for employee possessors. Thus, the current number of respondents is estimated to be 83,125 ($7/8 \times 95,000 = 83,125$). The annual burden hours were also updated based on the increase in estimated respondents, however the estimated 20 minutes per respondent to complete the form remained the same.

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.