

Department of Justice
Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)
Information Collection Request (ICR)
OMB 1140-0081

Appeals of Background Checks

SUPPORTING STATEMENT

A. JUSTIFICATION

1. Explain the circumstances that make the information collection necessary.

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 CFR part 555. include certain information about responsible persons and those authorized to possess explosives to fulfill their duties, as an employee of the applicant. 18 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 states that the Attorney General must provide notification to anyone who is determined to have a 'disability' (a record that causes a person to be prohibited from possessing explosives) as listed under § 842(i), as well as information about how individuals can apply for relief from a disability determination -- once they receive a letter from ATF denying their approval as a responsible person or employee possessor. Federal regulations at 27 CFR § 555.33 also state that anyone who wishes to challenge a disability determination must direct their appeal to the Director. Further, such appeals must be accompanied by two properly completed fingerprint cards.

2. Indicate how, by whom, and for what purpose the information is to be used.

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 possessor 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 possessor 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 of the decision regarding an appeal application, and the basis for that decision.

3. Describe whether, and to what extent, the information collection involves using automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection.

Submissions may contain fingerprint cards. While ATF has no policy prohibiting persons from electronically submitting fingerprint cards or other forms, technical and funding barriers currently limit the Bureau's capacity to implement a fully electronic filing option for more than just a handful of forms. ATF has identified license/permit applications as the forms with the broadest use and prioritized those as the first ones to develop for full electronic conversion, as funding permits. The fingerprint card is used on a limited basis in comparison to other forms being embedded with full electronic signature and submission capability. ATF is researching options and feasibility of other electronic submission capabilities for this collection, also pending funding availability.

4. Describe efforts to identify duplication.

This information is not duplicative and requires only information a given person might choose to submit for the specific purpose of appealing results from a background check.

5. If the information collection impacts small businesses or other small entities, describe any methods used to minimize burden.

There information collection does not have a significant impact on small entities.

6. Describe the consequence to federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

This collection allows applicants, employees, or other affected personnel the opportunity to appeal the results of background checks. Without this collection, individuals with possibly extenuating circumstances or additional information would not have a second opportunity to apply to possess explosive materials.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.6.

There are no special circumstances associated with this information collection, which is conducted in a manner consistent with 5 CFR 1320.6.

8. If applicable, provide a copy and identify the date and page number, of the agency's notice published in the *Federal Register*, as required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB.

The 60-Day Notice was published in the Federal Register on [DATE] (XX FR XXXXX). The comment period ended on [DATE]. ATF received no comments.

9. Explain any decision to provide any payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift is associated with this information collection.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

ATF has not assured respondents of confidentiality. However, the information being collected includes PII and is protected by the Privacy Act. The information is maintained by ATF in a system of records, Justice/ATF-003, Regulatory Enforcement Record System. All documents related to this information collection will be kept in a secured location.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not ask questions or require information of a sensitive nature.

12. Provide estimates of the information collection's hour burden.

According to ATF historical data, there were an average of 132 appeals submitted during each of the past two years. ATF therefore estimates that this average volume would extend to the future.

Individuals looking to appeal their initial determinations need to obtain and submit fingerprints in paper format. The respondents can obtain fingerprint cards for free from ATF and travel to select law enforcement offices that perform fingerprinting services (usually also for free).

ATF estimates that it may take up to two hours to compose an appeal letter, to travel to and obtain fingerprinting services, and to obtain the required documentation. Therefore, the total burden hours associated with this information collection is 264 (132 respondents * 2 hours).

Activity	Number of respondents	frequency	Total annual responses	Time per response	Total annual burden (hours)
Appeals of Background Checks	132	1/annually	132	2 hours	264hrs.

13. Provide an estimate of the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

There are no additional costs associated with this information collection.

14. Provide estimates of the annualized cost to the Federal Government.

There is no cost to the federal government.

15. Explain the reasons for any program changes or adjustments.

The estimated burden hours have been adjusted due to a decrease in the number of respondents from 500 to 132, and a corresponding change in the time burden to respondents from 1,000 to 264 hours.

16. For information collections whose results will be published, outline plans for tabulations and publication.

ATF will not publish the results of this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

ATF intends to display the OMB expiration date for this information collection. However, because there is no form associated with this information collection, ATF is displaying the OMB control number and expiration date on its website at the location where it provides instructions to appellants on how to submit an appeal.

18. Explain each exception to the certification statement.

This information collection does not include any exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.

This collection does/does not contain statistical data.