



Summary of Proposed Rule Impacting Stabilizing Braces

- On June 7, 2021, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) introduced a Notice of Proposed Rule Making (NPRM) titled “Factoring Criteria for Firearms with Attached ‘Stabilizing Braces.’” The notice represents a second attempt by ATF to regulate stabilizing braces after it withdrew a previous “Notice on the Objective Factors for Classifying Weapons with ‘Stabilizing Braces’” in December 2020.
- The NPRM proposes amending the definition of the term “rifle,” as contained in 27 CFR §§ 478.11 and 479.11, to “clarify that the term ‘rifle’ includes any weapon with a rifled barrel and equipped with an attached ‘stabilizing brace’ that has objective design features and characteristics that indicate that the firearm is designed to be fired from the shoulder, as indicated on ATF Worksheet 4999.”
- ATF explains that the purpose of the amendments would be to target attachments to pistols that the agency contends are designed to evade restrictions imposed by the Gun Control Act and the National Firearms Act. While ATF acknowledges that some stabilizing braces are intended to assist those with disabilities or limited strength to fire pistols, ATF argues that the intent of many such braces is effectively to convert pistols into unregulated short-barreled rifles (SBRs).
- While ATF has previously discussed in individual letter rulings criteria it uses to determine whether a stabilizing brace converts a pistol into a regulated SBR, ATF explains that the purpose of the rule it proposes in the NPRM would be “to aid the firearms industry and public in understanding the criteria that [Firearms and Ammunition Technology Division] considers when evaluating firearm samples that are submitted.”
- To that end, ATF proposes applying a point system, as specified in ATF Worksheet 4999, which is included in the NPRM, to determine whether a particular stabilizing brace would convert an otherwise unregulated pistol into an SBR. According to ATF Worksheet 4999, a firearm that receives fewer than four points in “Section II (Accessory Characteristics)” and fewer than four points in “Section III (Configuration of Weapon)” “will generally be determined not to be designed to be fired from the shoulder, unless there is evidence that the manufacturer or maker expressly intended to design the weapon to be fired from the shoulder.”
- Under such a regime, a weapon would receive one point if ATF deems that it “*could* be fired from the shoulder,” two points if it “*may* be designed and intended to be fired from the shoulder,” three points if it is “*likely* designed and intended to be fired from the shoulder,” and four points if the weapon “*is* designed and intended to be fired from the shoulder.” Regardless of a manufacturer’s intent, ATF will evaluate characteristics such as weight and overall length “to determine if the firearm will even be considered as a possible pistol or immediately determined to be a rifle.”



- ATF briefly encourages manufacturers that received classifications previously to resubmit their weapons with attached stabilizing braces for reevaluation. It is unclear whether ATF still considers previous rulings to be precedential.
- ATF says it reserves the right to classify a firearm as an SBR, even it satisfies the point system on the Worksheet 4999.
- Individuals in current possession of a firearm that would run afoul of the new rule may, before the final rule's effective date, (1) permanently remove the stabilizing brace, provided the firearm was not purchased with the brace attached, (2) attach a longer barrel, (3) destroy the firearm, (4) forfeit the firearm to ATF, or (5) register the firearm (and pay a \$200 tax). Federal firearms licensees may choose options one through four or submit an ATF Form 1 (along with payment of the \$200 tax). Licensed manufacturers would submit an ATF Form 2 instead of Form 1.
- Comments about the rule may be submitted for ATF's consideration 90 days after the NPRM is published in the Federal Register. After it reviews the comments, the ATF will issue a final rule, which will become effective at least 60 days after the final rule is published, unless ATF can show good cause to shorten that time."

Impact of Proposed Rule

- This proposed rule would be the largest Executive Branch firearms ban/registration scheme in American history—forcing the registration or destruction of millions of privately-owned firearms, and the loss of thousands of good paying jobs from hundreds of companies.
- The Congressional Research Service estimates that there are 10-40 million firearms in circulation with pistol stabilizing braces.
- Through the creation of an arbitrary points system (ATF Worksheet 4999), the proposed rule would ensure that 99% of the firearms already in circulation are suddenly unlawfully possessed.
 - Pistols with certain sights or other accessories would suddenly become short-barreled rifles.
- Despite the creation of the point system, ATF says it reserves the right to classify a firearm as an SBR, even it satisfies the point system on the Worksheet 4999.
 - In other words, ATF is free to ignore the points system it has created.
- As a justification for the rule, ATF cites only two shootings that involved pistols with stabilizing braces.



- The ATF explicitly rejects grandfathering and instead leaves the millions of lawful gun owners (who relied on ATF guidance) with the following options:
 1. Add a longer barrel to their firearm,
 2. Surrender their firearm to ATF,
 3. Remove the brace and destroy it, but only if they assembled the firearm themselves (the minority of brace guns in circulation), removal of the brace from an OEM-made firearm is NOT an option, as a pistol cannot be made from something that was first manufactured as a rifle.
 4. Destroy their firearm, or
 5. Pay a \$200 tax and register the firearm with ATF.
 - Note that federal law only requires taxation on the making or registration of an NFA firearm. Here, ATF is requiring Americans to pay a tax that has already been transferred and already been made.

- The impact of this rule will be devastating to the firearms industry. If allowed to stand, its financial impact will be felt for years to come.

- By ATF's own admission in the economic impact statement, this NPRM would force a loss of over a billion dollars in firearms business and countless jobs.

How to Submit a Comment:

Due Date: Comments must be submitted on or before September 8, 2021

Submit comments in any of three ways, but do not submit the same comment multiple times or by more than one method. Hand-delivered comments will not be accepted.

1. ***Federal eRulemaking Portal:***

- a. ATF recommends that you submit your comments via the Federal eRulemaking portal at www.regulations.gov and following the instructions
 - a. Link to Comment: [Federal Register :: Factoring Criteria for Firearms With Attached "Stabilizing Braces"](#)
- b. Keep the comment tracking number that is provided after you have successfully uploaded your comment.

2. ***Mail:***

- a. Send written comments to:
Denise Brown
Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives
ATTN: ATF 2021R-08
Mail Stop 6N-518
99 New York Ave. NE
Washington DC 20226
- b. Written comments must include the following:
 - i. Reference agency and docket number: **ATF 2021R-08**



- ii. Legible and appear in minimum 12-point font size (.17 inches)
 - iii. Commenter's first and last name
 - iv. Commenter's full mailing address
 - v. Must be signed
 - vi. Must be postmarked on or before September 8, 2021
3. **Facsimile:**
 - a. Submit comments by facsimile transmission to (202) 648-9741
 - b. Faxed comments must include the following:
 - i. Reference agency and docket number: **ATF 2021R-08**
 - ii. Legible and appear in minimum 12-point font size (.17 inches)
 - iii. 8 ½" x 11" paper
 - iv. Commenter's first and last name
 - v. Commenter's full mailing address
 - vi. Must be signed
 - vii. Must be transmitted on or before September 8, 2021
 - viii. No more than five pages long

Please be aware of the following:

1. ATF may not consider, or respond to, comments that do not meet the requirements or comments containing excessive profanity.
2. ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, available for public viewing at ATF and on the Internet through the Federal eRulemaking Portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who do not want their name or other personal identifying information posted on the Internet should submit comments by mail or facsimile, along with a separate cover sheet containing their personal identifying information. Both the cover sheet and comment should reference this docket number (ATF 2021R-08). For comments submitted by mail or facsimile, information contained on the cover sheet will not appear when posted on the Internet but any personal identifying information that appears within a comment will not be redacted by ATF and will appear on the Internet.
3. A commenter may submit to ATF information identified as proprietary or confidential business information. The commenter shall place any portion of a comment that is proprietary or confidential business information under law on pages separate from the balance of the comment with each page prominently marked "PROPRIETARY OR CONFIDENTIAL BUSINESS INFORMATION" at the top of the page. ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it received but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.