

Congress of the United States
Washington, DC 20515

March 4, 2015

B. Todd Jones, Director
Bureau of Alcohol, Tobacco, Firearms and Explosives
99 New York Avenue, NE
Washington, DC 20226

Dear Director Jones:

We are writing to express our serious concern with the “ATF Framework for Determining Whether Certain Projectiles are ‘Primarily Intended for Sporting Purposes’ Within the Meaning of 18 U.S.C. 921(a)(17)(C),” issued on February 13, 2015.

The proposed “Framework” purports to establish an “objective” test for determining whether certain projectiles otherwise considered “armor piercing” under federal law qualify for an exemption allowing them to be lawfully manufactured, imported, and sold on the civilian market in the United States. The “Framework,” however, establishes an unduly restrictive standard, does not comport with the letter or spirit of the law, and will interfere with Second Amendment rights by disrupting the market for ammunition that law abiding Americans use for sporting and other legitimate purposes.

As you know, the ban on “armor piercing” ammunition was created by the Law Enforcement Officers Protection Act (LEOPA) of 1986. The Act was conceived to protect police officers from the hazards presented by so-called “armor piercing” projectiles—originally designed for law enforcement and military use—that can be fired from handguns and penetrate the sort of soft body armor typically worn by police officers.

To do this, LEOPA bans various sorts of non-lead projectiles or projectile “cores” that “may be” used in handguns. As LEOPA’s authors realized, however, bullets fired from most common rifle cartridges can penetrate soft body armor, and some rifle bullets can be loaded into ammunition for handguns. Congress therefore incorporated an exemption into LEOPA for projectiles “which the Attorney General finds [are] primarily intended to be used for sporting purposes” to protect ordinary rifle ammunition from being swept up in the ban.

The “Framework” is intended to answer the question of how the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) will make “sporting purposes” determinations. It creates a two-prong test. First, ATF will exempt a “.22 caliber projectile ... if the projectile weighs 40 grains or less AND is loaded into a rimfire cartridge.” Second, ATF will exempt other projectiles if they are “loaded into a cartridge for which the only handgun that is readily available in the ordinary channels of commercial trade is a single shot handgun.” Even then, ATF—under this supposedly “objective” test—“retains the discretion to deny any application for a ‘sporting purposes’ exemption if substantial evidence exists that the ammunition is not primarily intended for such purposes.”

The effects of these restrictive interpretations are untenable. For example, since 1986 ATF has considered the M855 5.56 x 45mm cartridge to be “exempt” under the sporting purposes test (although its core contains a substantial amount of lead, raising questions about its classification as “armor piercing” in the first place). ATF has now rescinded that exemption because repeating handguns that fire the M855 round are commercially available. Yet this round is amongst the most commonly used in the most popular rifle design in America, the AR-15. Millions upon millions of M855 rounds have been sold and used in the U.S., yet ATF has not even alleged – much less offered evidence – that even one such round has ever been fired from a handgun at a police officer. The idea that Congress intended LEOPA to ban one of the preeminent rifle cartridges in use by Americans for legitimate purposes is preposterous.

While the banning of these popular cartridges is the most visible and immediate effect of ATF’s shifting policy, the “Framework” has other serious implications. It will, for example, inhibit the development and use of rifle ammunition containing non-lead materials, even as efforts are afoot both at the federal and state levels to impose bans or restrictions on lead ammunition. The eventual collision of these trends could result in drastically reduced options for lawful ammunition users.

Neither LEOPA nor any other provision of federal law is intended to restrict the development of ammunition or handguns that were designed and intended to be used by private citizens for legitimate purposes. Instead, LEOPA should be construed in accordance with the American tradition of lawful firearms ownership, as protected by the Second Amendment. The term “primarily intended to be used for sporting purposes” should be broadly understood to incorporate the many legitimate uses Americans make of their firearms including target practice, hunting, organized and casual competition, training and skills development, and instructional activities.

The “Framework” does not comport with LEOPA’s meaning and intent and should be abandoned. ATF should refocus its efforts on serious threats to law enforcement officers from specially designed armor piercing projectiles that are intended for use in the sort of handguns commonly carried and concealed by criminals. Under no circumstances should ATF adopt a standard that will ban ammunition that is overwhelmingly used by law-abiding Americans for legitimate purposes.

Of additional concern is the manner in which ATF issued the proposed “Framework.” The Administrative Procedures Act (APA) (5 U.S.C. 533) requires that “general notice of proposed rulemaking shall be published in the Federal Register...” To date, the “Framework” has not been published in the Federal Register.

In order for Congress to more fully understand the rationale behind the “Framework” please respond to the following questions by March 13, 2015:

- 1) How does ATF determine what constitutes the “core” of a projectile that has more than one discrete component or section beneath an outer jacket and upon what provision of law or other principle is that determination based?
- 2) Why did the ATF not publish the proposed “Framework” in the Federal Register as required by the APA?
- 3) Under the “Framework,” what other rounds is the ATF considering regulating as armor piercing ammunition?

Thank you for your prompt attention to this request. If you have any questions, please contact Jason Cervenak, Senior Counsel, of the House Judiciary Committee at 202-225-3951.

Sincerely,



Bob Goodlatte, Chairman
Committee on the Judiciary
U.S. House of Representatives



F. James Sensenbrenner, Chairman
Subcommittee on Crime, Terrorism, Homeland Security and Investigations
Committee on the Judiciary
U.S. House of Representatives

Additional Member signatures attached.

1 Paul A. Lear

2 Dan Benoit

3 Ted S. York

4 Rudy K. Weber

5  TN-04

6 Tom Maino

7 David Rhee

8 ~~Sam D. Mite~~

9 Ken Buck

10 

11 ~~Scott Ryan~~

12 Joseph R. Pitts

13 Jackie Walorski

14 Bruce Poliquin

15 Mike Bishop

16 Rick Hutson

17  NV-2

18 Bob Sily

19 Fred Munt NH1

20 John Ratcliffe

21 Richard Ann

22 Doug LaMalfa

23 Candice S. Miller

24 Mike Ryan

25 Will Hurd

26 Thomas Massie

27 ~~David~~

28 Chuck Flier

29 ~~Bo~~

30 John Modenaro

31 ~~Jeff~~
32 ~~Tom J. Walsh~~

33 ~~Bob Blou~~

34 ~~Off~~
35 ~~CPA~~

36 Rodney

37 Don Bales (TX-36)

38 ~~Mike~~

39 ~~Gene~~

40 ~~Ryan~~

41 Thomas Price

42 Blake Fentrell

43 Bill Pacy

44 ~~Mark~~

45 ~~Ben~~

46 ~~Frank~~

47 Bill Johnson

48 Jay Newhouse

49 Ron Kind

50 Doug Colby

51 Jeff Fortson

52 Duke Kelly

53 J. Jahn

54 Hans MD-01

55 ML Boat

56 Candy Fyke

57 Bill Hinzinger

58 Renee Ellen

59 Scott Long

60 Pat Tevin

61 Alex & Hove

62 D. French (Hir)

63 Mo Brooks

64 Roger Williams

65 Duane Black

66 J. T. Sutt

67 Markwayne Mullin

68 Tim Huelskamp

69 G. Wagner

70 Bob Ross

71 Glenn Thompson

72 Hunt

73 Jan Heck

74 Kevin Yoder

75 Jim Bidmantine

76 Robert Rutledge

77 Jay G. Anderson

78 ~~Greg~~ Greg

79 Gregg Harper

80 Jeff Miller

81 Don Brat

82 ~~David~~ David

83 D-D Royce

84 Cress Hardy

85 Larry Braden

86 Mya Tompa

87 Tom Em

88 Dan W. Ah

89 Diller

90 Jim Nun

91 Steve Steve

92 David Nelson PL-10

93 Chris Collins

94 Jaime Herrera Beutler

95 Peter Olson

96 J. Rudy Forbes

97 Prof. [unclear]
98 [unclear]

109 Doug Lantour
110 [unclear]

99 K. Yint [unclear]
100 [unclear]

111 Lamar Smith
112 [unclear]

101 [unclear]

113 [unclear]

102 John Kline

114 [unclear]

103 Blaine [unclear]

115 Tom Graves

104 [unclear]

116 Ken Maunt

105 [unclear]

117 [unclear]

106 Robert Wittman

118 [unclear]

107 [unclear]

119 [unclear]

108 [unclear]

120 John Culberson

121 Steve Christ

133 Tim Murphy

122 Leonard Lance

134 J. M. S.

123 J. H. Bryan (M)

135 John Carter

124 E. Whitfield

136 Lynn A. Westmead

125 Cecil Palmer

137 Mac July

126 Steve King

138 C. W. Dunt

127 J. S. 11.15

139 J. H. Henshaw

128 J. G. Wilson

140 B. S. Sessing

129 Aubrey Smith
NE-3

141 Van Buren

130 D. H. T.

142 Mark Soper

131 Bill Shuster

143 P. R. O. O. O.

132 Marsha Blackburn

144 Ronnie Schmitt

145 Vicky Hartner

146 [Signature]

147 [Signature]

148 Virginia Fox

149 [Signature]

150 Joe Baton

151 [Signature]

152 Patrick J. McHenry

153 Walter B. Jones

154 Frank A. DeBenedis

155 [Signature] Tom Reed, NY 23

156 [Signature]

157 Ed Royce

158 Sam Johnson

159 [Signature]

160 [Signature]

161 Ken Calvert

162 [Signature]

163 Michael B. Jensen

164 Steve Scalise

165 [Signature]

166 Brett Guthrie

167 Mike Colman

168 [Signature]

169 Glen Gahn

181 Stuart Rogers

170 Evan H. Gerkin

182 Ch Stewart

171 Son Hoig

183 Mark Walk

172 Luke Messer

184 Y. K. Spofford

173 David Young

185 Coach Howard Rodger

174 J. J. J.

186 Red Blum

175 Ryan Costello

187 Tom Rice

176 Carl L. Buddy Carter

188 Barbara Conner

177 Ann Wagner

189 C. W. M.

178 John G. Meek

190 D. O. Ross

179 Martha Riley

191 Edward B. Adelman

180 [Signature]

192 Mimi K. Walker

193 Mitch McCall

205 Bruce Westerman

194 Steve Russell

206 Erik Paulsen

195 Tom Barletta

207 Justin Amodeo

196 [Signature]

208 Ray Stange

197 Martina McFally

209 Jill Young

198 [Signature]
AT203

210 [Signature]
Paul Ryan

199 Paul P. Joyce

211 [Signature]

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212 [Signature]

201 Keith J. Rothfus

213 Fred R. Wasthof

202 CW. Bauscom Jr

214 Andy Barr

203 Trey Gowdy

215 [Signature]

204 Susan Brooks

216 D. Reichert

217 Kevin McCarty

229 Lynn Jenkins

218 Mike Munn

230 Betty Long

219 Fred Dehner

231 [Signature]

220 Hal Rogers

232 Bob Woodall

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222 Kent Starks

234 D. R. My

223 S. L. Linder

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227 Gody Tice

228 Raúl R. Labrador

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124	Ed Whitfield	167	Mike Coffman
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127	John Shimkus	170	Evan Jenkins
128	Joe Wilson	171	George Holding
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