

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 Bursdale

3 Ted S. York

4 Rudy K. Weber

5  TN-04

6 Tom Mairino

7 David Rhee

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9 Ken Buck

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11 

12 Joseph R. Pitts

13 Jackie Wolowicki

14 Bruce Poliquin

15 Mike Bishop

16 Rick Hubron

17  N-2

18 Bob Sily

19 Ted Mount NH1

20 John Ratcliffe

21 Richard Hann

22 Doug LaMalfa

23 Candice S. Miller

24 Mike Ryan

25 Will Hurd

26 Thomas Massie

27 ~~Robert~~

28 Chuck Fleischman

29 ~~Bob~~

30 John Moderno

31 ~~Jeff~~

32 ~~Tom J. Walsh~~

33 ~~Al Blaine~~

34 ~~Jeff~~

35 ~~CPM~~

36 Rodney Davis

37 Ben Bales (TX-36)

38 ~~Mike~~

39 ~~Gene~~

40 Ryan Zinke

41 Thomas Price

42 Blake Farenthold

43 Bill Posey

44 Mark Stabenow

45 ~~Phil Flores~~

46 ~~Frank~~

47 Bill Johnson

48 Kay Kucan

49 Ron Kind

50 Doug Colby

51 Jeff Fortson

52 Duke Kelly

53 J. John
Mans MD-01

55 M. Boat

56 Randy Nease

57 Bill Huizenga

58 Renee Ellen

59 Scott Long

60 Pat Teerin

61 Alex & Hue

62 Strensh (Hir)

63 Mo Brooks

64 Roger Williams

65 Duane Black

66 J. T. Bitt

67 Markwayne Mullin

68 Tim Huelskamp

69 C. McHugh

70 Bob Bly

71 Glenn Thompson

72 Phil

73 Jan Heck

74 Kevin Yoder

75 Jim Bidemstone

76 Robert Rutledge

77 Jay G. Jankow

78 K. E. Bragg

79 Gregg Harper

80 Jeff Miller

81 Don Brat

82 ~~David Shunk~~

83 D. D. Royce

84 Cresent Hardy

85 Larry Boehm

86 Myra Tompso

87 Tom Em

88 Ric W. Ah

89 Dallen

90 Jim Nun

91 Steve Steer

92 David Webster PL-10

93 Chris Collins

94 Jaime Herrera Beutler

95 Peter Olson

96 J. Rody Forbes

97 Prof. [unclear]
98 [unclear]

109 Doug Landon
110 [unclear]

99 K. Yint [unclear]
100 [unclear]

111 Lamar Smith
112 [unclear]

101 Tim Walberg

113 [unclear]
114 [unclear]

102 John Kline

103 Blaine Luetjens

115 Tom Graves

104 [unclear]

116 Ken Mann

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 Lanza

134 J. C. S.

123 J. L. Brown (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. 12.15

139 J. H. Henshaw

128 J. G. Wilson

140 G. S. Sessing

129 Aubrey Smith
NE-3

141 Van Buren

130 D. H. H.

142 Mark Soper

131 Bill Shuster

143 P. Brown

132 Marsha Blackburn

144 Ronnie Schmitt

145 Vicky Hartner

146 [Signature]

147 [Signature]

148 Virginia Fox

149 [Signature]

150 Joe Baton

151 [Signature]

152 [Signature]

153 Walter B. Jones

154 Frank A. deBlonde

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 Alvin Rogers

170 Evan H. Gierkin

182 Ch Stewart

171 Son Holly

183 Mark Walk

172 Luke Messer

184 Y. K. S. P. P.

173 David Young

185 Cecy Ann Rodgen

174 J. J. J.

186 Rod B.

175 Ryan Costello

187 Tam Rice

176 Carl L. Buddy Carter

188 Barbara Canasta

177 Ann Wagner

189 C. W. W.

178 John G. Meek

190 D. O. O.

179 Martha Riley

191 Carole B. Adams

180 [Signature]

192 Mimi R. R.

193 Michael McCall

205 Bruce Westerman

194 Steve Amell

206 Erik Paulsen

195 Tom Barletta

207 Justin Amodeo

196 [scribble]

208 Ray Stange

197 Martina McFally

209 Il Young

198 [scribble]
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210 [scribble]

199 Paul P. Joyce

211 Paul Ryan

200 [scribble]

212 A.O.C.

201 Keith J. Rothfus

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202 C.W. Bauscom Jr

214 Andy Barr

203 Trey Gowdy

215 Lam L.

204 Susan Brooks

216 D. Beicht

217 Kevin McCarty

229 Lynn Jenkins

218 Mick Munn

230 Betty Long

219 Fred Doherty

231 [Signature]

220 Hal Rogers

232 Bob Woodall

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