



Factoring Criteria for Firearms with Attached Stabilizing Braces

27 CFR Parts 478 and 479

Docket No. 2021R-08; AG Order No. 5070-2021

RIN 1140-AA55

Notice of Proposed Rulemaking

Preliminary Regulatory Analysis and Initial Regulatory Flexibility Analysis

June 2021

Prepared by:
Office of Regulatory Affairs
Bureau of Alcohol, Tobacco, Firearms, and Explosives
Washington, D.C.

This page left intentionally blank

Table of Contents

Abbreviations.....	6
Executive Summary.....	7
OMB A4 Accounting Statement.....	10
1. Introduction.....	13
1.1 Statutory Authority.....	14
1.2 Need for Federal Regulatory Action.....	14
2. Population.....	16
2.1 Individuals.....	18
2.2 Type 1 FFL dealer.....	18
2.3 Type 7 FFL manufacturer and non-FFL manufacturer.....	19
3. Cost to Turn in Firearms with Attached “Stabilizing Braces” to ATF.....	21
3.1 Population.....	21
3.2. Costs.....	22
4. Convert Firearm into Rifle.....	24
4.1 Population.....	24
4.2 Costs.....	24
5. Apply to Register Under the NFA.....	26
5.1 Population Under NFA.....	26
5.2 Cost to Apply Under the NFA.....	27
6. Cost to Permanently Remove or Alter Affected “Stabilizing Braces” Currently in Circulation and Forgone Future Sales.....	31
6.1 Population Under Permanent Removal or Alteration of Affected Stabilizing Brace.....	31
6.2 Cost to Permanently Remove or Alter Stabilizing Braces.....	33
6.3 Future Revenue of “Stabilizing Braces” Lost from Loss of Production.....	34
7. Summary of the Overall Cost of the Rule.....	36
7.1 Primary (Low Estimate) cost of the proposed rule.....	36
7.2 Transfers from Industry to Public.....	37
7.3 Midrange Cost of the Proposed Rule.....	38
7.4 High Cost of the Proposed Rule.....	39
8. Benefits.....	41
9. Analysis of Alternatives Considered.....	42
9.1 This Proposed Rule—Factoring Criteria for Firearms with Attached “Stabilizing Braces.”.....	42

9.2 Alternative 1—No change alternative.....	43
9.3 Alternative 2—Simple Criteria.....	43
9.4 Alternative 3—Grandfather all existing firearms with an attached “stabilizing brace”.....	43
9.5 Alternative 4—Guidance Documents.....	44
9.6 Alternative 5—Forgiveness of the NFA tax.....	44
10. Initial Regulatory Flexibility Act.....	45
10.1 Summary of Findings.....	45
10.2 Preliminary Initial Regulatory Flexibility Analysis.....	46
10.3 A description of the reasons why action by the agency is being considered.....	47
10.4 A succinct statement of the objectives of, and legal basis for, the proposed rule.....	47
10.5 A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.....	48
10.6 An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.....	49
10.7 Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.....	49
11. Collection of Information.....	50

Table of Tables

Table ES.1 Summary of Affected Population, Costs, and Benefits.....	8
Table 3.1 Loaded Wage Rate for Travel Time	23
Table 5.1 Wage Categories used for Type 1 Responsible Persons.....	28
Table 5.2 Wage Categories used for Type 7 Responsible Persons.....	29
Table 6.1 Individuals and FFLs Affected Across all Scenarios, Including “Stabilizing Braces”	32
Table 7.1 Societal Cost of Proposed Rule Per Scenario	36
Table 7.2 Societal 10-year cost of rule	36
Table 7.3 Cost of Proposed Rule Per Scenario	38
Table 7.4 Mid-range 10-year cost of rule	38
Table 7.5 High Cost of Proposed Rule Per Scenario	39
Table 7.6 High 10-year cost of rule	40
Table 9.1 Summary of Cost and Benefits of the Alternatives	42

Abbreviations

ATF	Bureau of Alcohol, Tobacco, Firearms, and Explosives
BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations
DOT	Department of Transportation
FATD	Firearms Ammunitions Technology Division
FFL	Federal Firearms License
GSA	General Services Administration
IRFA	Initial Regulatory Flexibility Analysis
NAICS	North American Industry Classification System
NPRM	Notice of Proposed Rulemaking
OMB	Office of Management and Budget
RFA	Regulatory Flexibility Act
§	Section symbol
SBA	Small Business Administration
SME	Subject Matter Experts
SOT	Special Occupational Tax
U.S.	United States
U.S.C.	United States Code

Executive Summary

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic benefits, environmental benefits, public health and safety effects, distributive impacts, and equity).

Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (“OMB”) has determined that this proposed rule is a “significant regulatory action” that is economically significant under section 3(f)(1) of Executive Order 12866 because, as discussed, the proposed rule will have an annual effect on the economy of \$100 million or more. Accordingly, the proposed rule has been reviewed by OMB.

This preliminary Regulatory Impact Analysis (“RIA”) provides supporting documentation for the regulatory evaluation in the preamble of the notice of proposed rulemaking (“NPRM”) for the Factoring Criteria for Firearms with Attached “Stabilizing Braces” [2021R-08]. We did not attempt to replicate precisely the regulatory language of the NPRM in this analysis; the regulatory text of an effective rule, not the text of this analysis, would be legally binding.

In recent years, there has been an increase in the production of firearm accessories that, when attached to a firearm, enable the firearm to circumvent the existing regulatory regime under the National Firearms Act (“NFA”). This proposed rule would set forth standards for evaluating “stabilizing braces” in conjunction with how they modify a firearm. In other words, this rule would create weighted criteria to assist in assessing whether the firearm with an

attached accessory would constitute a firearm under the Gun Control Act of 1968 (“GCA”) or under the NFA. However, not only would this rule impact how new firearms with certain attached firearm accessories are to be evaluated, but it would also affect existing firearms with attached “stabilizing braces.” Should individuals and FFLs be in possession of a firearm with an attached “stabilizing brace” such that the firearm constitutes a firearm under the NFA in addition to the GCA, the affected persons or FFLs would need to choose one of the following options:

- Turn the entire firearm with an attached “stabilizing brace” into ATF;
- Convert the firearm into a long-barreled rifle;
- Apply to register under the NFA; or
- Remove and destroy the “stabilizing brace.”

Table ES.1 summarizes the affects that this proposed rule would have on the industry and public.

Table ES.1 Summary of Affected Population, Costs, and Benefits

Category	Affected Populations, Costs, and Benefits
Affected Population	<ul style="list-style-type: none"> • 8 Manufacturers of affected “stabilizing braces” • 3,881 Manufacturers of short-barreled rifles that have a “stabilizing brace” attachment • 13,210 Dealers of short-barreled rifles that have a “stabilizing brace” attachment • 1.4 million firearm owners who have purchased pistols with “stabilizing braces” attached and those who intend to purchase them in the future
Costs (annualized)	<ul style="list-style-type: none"> • \$125.7 million at 7% • \$114.7 million at 3%
Total Quantified Transfers from Industry, to the Government (annualized)	<ul style="list-style-type: none"> • \$20.1 million at 7% • \$17.2 million at 3%

Unquantified Benefits	<ul style="list-style-type: none">• To prevent manufacturers and individuals from circumventing the requirements of the NFA.• To enhance public safety by reducing the criminal use of such firearms, which are easily concealable from the public and first responders.
-----------------------	---

OMB A4 Accounting Statement

OMB has determined that this is an “economically significant” rule, within the definition of Executive Order (“EO”) 12866, because estimated annual costs or benefits exceed \$100 million in any year. As required by OMB Circular A-4 (available at <http://www.whitehouse.gov>), the ATF has prepared an accounting statement showing the classification of expenditures associated with the NPRM.

Agency/Program Office: ATF
 Rule Title: Factoring Criteria for Firearms with Attached Stabilizing Brace
 RIN#: 1140-AA55
 Date: June 2021

Category	Primary Estimate	Minimum Estimate	Maximum Estimate	Units			Notes
				Dollar Year	Disc	Period Covered	
Benefits							
Annualized monetized benefits (\$ Millions/year)	N/A	N/A	N/A	2020	7%	10 years	
	N/A	N/A	N/A	2020	3%	10 years	
Annualized quantified	N/A	N/A	N/A	2020	7%	10 years	
	N/A	N/A	N/A	2020	3%	10 years	
Qualitative	<ul style="list-style-type: none"> - To prevent manufacturers and individuals from circumventing the requirements of the NFA. - To enhance public safety by reducing the criminal use of such firearms, which are easily concealable from the public and first responders. 						
Costs							

Annualized monetized costs (\$ Millions/year)	\$125.7	\$125.7	\$303.5	2020	7%	10 years	
	\$114.7	\$114.7	\$278.2	2020	3%	10 years	
Annualized quantified	N/A	N/A	N/A	2020	7%	10 years	
	N/A	N/A	N/A	2020	3%	10 years	
Qualitative (unquantified)	N/A						
Transfers							
Federal Annualized Monetized (\$ Millions/year)	\$20.1	\$20.1	\$46.7	2020	7%	10 years	
	\$17.2	\$17.2	\$40.0	2020	3%	10 years	
From/To	From: Individuals and FFLs			To: Federal Government			
Other Annualized monetized transfers (\$ Million/year)	N/A	N/A	N/A	2020	7%	10 years	
	N/A	N/A	N/A	2020	3%	10 years	
From/To	From: N/A			To: N/A			
Effects							
State, local, and/or tribal governments	The rule would not have a significant intergovernmental mandate, significant or unique effect on small governments, or have Federalism or Tribal implications						
Small businesses	Approximately 3 manufactures of “stabilizing braces” would be significantly affected by more than 10% of their revenue. May affect						

	13,210 Type 1 FFLs and 3,881 Type 7 FFLs. Most Type 1 FFLs are small businesses, but likely would need to make less than \$2,357 in revenue to have an impact of 10 percent or more.	
Wages	N/A	
Growth	N/A	

1. Introduction

This analysis provides an assessment of the impacts to industry and government from proposed changes detailed in the Factoring Criteria for Firearms with Attached “Stabilizing Braces” NPRM. We did not attempt to precisely replicate the regulatory language of the proposed rule in this RIA; the regulatory text, not the text of this analysis, would be legally binding.

In recent years, there has been an increase in the production of firearm accessories that, when attached to a firearm, enable the firearm to circumvent the existing regulatory regime under the NFA. This proposed rule would set forth standards for evaluating “stabilizing braces” in conjunction with how they modify a firearm. In other words, this rule would create weighted criteria to assist in evaluating if the firearm with an attached accessory would constitute a firearm under the GCA or under the NFA. However, not only would this rule impact how new firearms with certain attached firearm accessories are to be evaluated, but it would also affect existing firearms with attached “stabilizing braces.” Should individuals and FFLs be in possession of a firearm with an attached “stabilizing brace” such that the firearm constitutes a firearm under the NFA in addition to the GCA, the affected persons or FFLs would need to choose one of the following options:

- Turn the entire firearm with an attached “stabilizing brace” into ATF;
- Convert the firearm into a long-barreled rifle;
- Apply to register under the NFA; or
- Remove and destroy the “stabilizing brace.”

1.1 Statutory Authority

The Attorney General is responsible for enforcing the GCA, as amended, and the NFA, as amended.¹ This includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A)(ii), 7805(a). The Attorney General has delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF, subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 CFR 0.130(a)(1)–(2). Accordingly, the Attorney General and ATF have promulgated regulations implementing both the GCA and the NFA. *See* 27 CFR parts 478, 479. The ATF Director delegated the authority to classify firearms pursuant to the GCA and NFA to ATF’s Firearms Technology Criminal Branch (“FTCB”) and the Firearms Technology Industry Services Branch (“FTISB”), within the Firearms and Ammunition Technology Division (“FATD”), Office of Enforcement Programs & Services (“EPS”).² This proposed rule clarifies that certain “stabilizing braces” may be manufactured to be primarily used as stocks when attached to firearms.

1.2 Need for Federal Regulatory Action

One of the reasons ATF is considering the proposed rule is the failure of the market to compensate for negative externalities caused by commercial activity. A negative externality can be the by-product of a transaction between two parties that is not accounted for in the transaction. A negative externality addressed by this rule is that individuals and affected entities may try to use purported “stabilizing braces” and affix them to firearms to circumvent the

¹ NFA provisions still refer to the “Secretary of the Treasury.” However, the Homeland Security Act of 2002, Pub. L. 107-296, 116 Stat. 2135, transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this notice refers to the Attorney General throughout.

² Delegation of Authorities within the Bureau of Alcohol, Tobacco, Firearms and Explosives, Delegation Order 1100.168C (Nov. 5, 2018).

requirements of the NFA, which requires registration and taxes to be paid on the making and transfer of NFA weapons. Further, Congress chose to regulate these items more stringently, finding them to be especially dangerous to the community if not regulated since they are used for violence and criminal activity. *See United States v. Gonzalez*, No. 2:10-cr-00967, 2011 WL 5288727, at *5 (D. Utah Nov. 2, 2011) (“Congress specifically found that ‘short-barreled rifles are primarily weapons of war and have no appropriate sporting use or use for personal protection.’” (quoting S. Rep. No. 90-1501, at 28 (1968))). Therefore, if persons can circumvent the NFA by effectively making unregistered short-barreled rifles by using an accessory, such as a “stabilizing brace,” these weapons can continue to proliferate and could pose an increased public safety problem given that they are easily concealable.

2. Population

This proposed rule would not affect “stabilizing braces” that are objectively designed and intended as a “stabilizing brace” for use by individuals with disabilities, and not for shouldering the weapon as a rifle. Such stabilizing braces are designed to conform to the arm and not as a buttstock and would be given a low score under the proposed factoring criteria. However, for those firearms with attached “stabilizing braces” that constitute NFA weapons under the proposed rule, ATF anticipates that future sales of those braces would diminish significantly, if not completely.

This proposed rule would affect the retail purchases that individuals have already made on currently owned firearms with attached “stabilizing braces” and future sales of them. Based on anecdotal evidence from the manufacturers of the affected “stabilizing braces,” the manufactures have sold between 3 million and 7 million stabilizing braces between the years 2013 to 2020. Subject matter experts (“SMEs”) estimate that the manufacturers may have likely inflated their sales estimates, and therefore, estimate the number sold to be 3 million. Additionally, based on overall manufacturing of all firearms in general, ATF estimates that 3 million is likely to be the primary estimate.

Furthermore, this proposed rule would affect the future sales of affected “stabilizing braces” or firearms with affected “stabilizing braces” already attached. In 2012, ATF received its first submission of a “stabilizing brace” to determine if it changed the classification of a “pistol.” Since then, “stabilizing braces” have been modified and sold in such a way that when they are affixed to certain weapon platforms, these firearms would now constitute an NFA firearm. For the purposes of this analysis, ATF estimates that between 3 and 7 million affected “stabilizing braces” have been sold in 8 years (from 2013 to 2020). Dividing the estimated range

of firearms sold with “stabilizing braces” by 8 years, ATF might have estimated that the future number of firearms sold with “stabilizing braces” would range from 375,000 to 875,000 a year.

However, in lieu of promulgating a proposed regulation, ATF has used and will continue to use enforcement actions, to include criminal actions, against existing FFLs that manufacture firearms that do not comply with the intent of the law. Since 2013, ATF has brought 3 actions against manufacturers of firearms with “stabilizing braces” that do not comply with the intent of the law. Those actions have not been concluded. ATF estimates that in the absence of this proposed rule, these individual enforcement actions against existing FFLs would change the market perception of these “stabilizing braces” and may affect the overall demand for these items regardless of the implementation of the proposed rule. Therefore, ATF estimates that the overall future demands of “stabilizing braces” would be less than it has been in the recent past, even in the absence of the publication of this proposed rule. For the purposes of this analysis, ATF estimates that the overall future demand for “stabilizing braces” would decrease overall since Type 1 and Type 7 FFLs would no longer carry firearms with these “stabilizing braces” attached, making the primary estimate of future “stabilizing braces” 211,178 per year.³

Overall, ATF anticipates that this proposed rule would affect the manufacturers of these “stabilizing braces”; Type 1 FFL dealers who sell either “stabilizing braces” or the completed firearm with an attached “stabilizing brace”; Type 7 FFL manufacturers who attach these “stabilizing braces” to their firearms and sell them as a completed firearm with a “stabilizing brace”; and individuals who have either purchased these “stabilizing braces” and attached them to existing firearms or individuals who have purchased a firearm with an attached “stabilizing brace.” Based on SME estimates, ATF estimates that 25 percent of Type 1 and Type 7 FFLs

³ 211,178 future “stabilizing braces” = 375,000 annual “stabilizing braces” – (13,210 Type 1 FFL * 3 stabilizing braces) – (3,881 Type 7 FFL * 32 stabilizing braces).

would be affected by this proposed rule. Based on ATF licensing numbers, there are 52,840 Type 1 FFLs, of which 13,210 would be affected. Based on the same licensing numbers, there are 15,524 Type 7 FFLs, of which 3,881 would be affected.

ATF notes that these numbers may be overestimates due to the source of information. ATF requests information or data on the potential number of “stabilizing braces” that this proposed rule may affect. Because braces themselves are not regulated items, ATF requests comments regarding the population, methodology, and scope of this scenario.

2.1 Individuals

This proposed rule would affect all individuals who currently own or intend to own a firearm with an attached “stabilizing brace” as well as individuals who intend to purchase a firearm and attach a “stabilizing brace” to the firearm. Based on information gleaned from the disposal of bump-stock-type devices, ATF estimates that individual owners may own between 1 and 63 of one type of firearm accessory.⁴ However, the mean ownership is approximately 2, which ATF uses for the purposes of this analysis. Because there may be approximately between 3 million and 7 million “stabilizing braces” currently in circulation, ATF uses 1.4 million⁵ as the primary estimate of the number of individuals that would be affected by this proposed rule.

2.2 Type 1 FFL dealer

This proposed rule would affect dealers who sell either the affected “stabilizing braces” or firearms with an affected “stabilizing brace” already attached. Based on ATF licensing numbers, there are 52,840 Type 1 FFL dealers; however, ATF anticipates that not all FFLs deal

⁴ ATF anticipates that the demand for “stabilizing braces” would have been similar to the demand for bump stock type devices since the demand for both items stems from the desire to have NFA items without paying for and undergoing the NFA regulatory regime. Therefore, the information found from the disposal of bump stocks was used as a source of information about “stabilizing braces.”

⁵ 1,430,523 affected individuals = 150,000 affected individuals converting firearm into a rifle + 375,000 affected individuals apply under the NFA + 905,523 affected individuals disposing of “stabilizing brace”

in firearms using the affected “stabilizing braces” or deal in the affected “stabilizing braces” as an accessory. Because “stabilizing braces” are not regulated by ATF, ATF does not know exactly the number of FFLs that deal in these items. Therefore, for the purposes of this analysis, ATF estimates that 25 percent, or 13,210, of Type 1 FFLs deal in these items.

A subcategory of Type 1 FFLs are those with an SOT. These Type 1 FFLs with SOT may be the ones most likely to apply under the NFA. As described in Chapter 5 of this RIA, FFLs have the option to retain these firearms with an attached “stabilizing brace” so long as they apply to register under the NFA. ATF assumes FFLs likely to take this route are Type 1 FFLs with an SOT. Based on ATF licensing and registration numbers, of the total number of Type 1 FFLs, there are 6,717 Type 1 FFLs with an SOT. We anticipate 25 percent of them (1,679) deal with affected “stabilizing braces.” For more details about this population and the effects this rule would have on them, please refer to Chapter 5 of this RIA. ATF notes that all other Type 1 FFLs are divided among the remaining applicable scenarios.

2.3 Type 7 FFL manufacturer and non-FFL manufacturer

The proposed rule would affect Type 7 FFLs that purchase the affected “stabilizing braces” and attach them to firearms as part of a firearms product. Based on ATF licensing numbers, there are 15,524 Type 7 FFL manufacturers. However, not all Type 7 FFLs sell firearms with an attached “stabilizing brace.” For the purposes of this analysis, ATF estimates that 25 percent or 3,881 Type 7 FFL manufacturers manufacturer complete firearms with an attached “stabilizing brace.”

A subcategory of Type 7 FFLs are those with an SOT. These Type 7 FFLs with SOT may be the ones most likely to apply under the NFA. As described in Chapter 5 of this RIA, FFLs have the option to retain these “stabilizing braces” so long as they apply to register under

the NFA. Based on ATF licensing numbers, of the total number of Type 7 FFLs, there are 7,057 Type 7 FFLs with an SOT. We anticipate 25 percent of them (1,764) manufacture firearms with affected “stabilizing braces.” For more details about this population and the effects this rule would have on them, please refer to Chapter 5 of this RIA. ATF notes that all other Type 7 FFLs are divided among the remaining applicable scenarios.

While this topic is primarily discussed in Chapter 10 of this RIA, this proposed rule would indirectly and significantly affect non-FFL manufacturers. Non-FFL manufacturers are companies that manufacture “stabilizing braces.” Based on SMEs, ATF estimates that there are at least eight manufacturers of “stabilizing braces.” As “stabilizing braces” will continue to be an unregulated product, these non-FFL manufacturers may continue to sell firearm accessories, but due to this proposed rule, three are expected to incur a significant loss in revenue as affected “stabilizing braces,” when attached to a firearm with a short barrel, would now constitute NFA weapons. ATF anticipates that changing the designation of firearms with attached “stabilizing braces” from a firearm under GCA to NFA would significantly affect the demand for these items.

3. Cost to Turn in Firearms with Attached “Stabilizing Braces” to ATF

As stated before, there are four means of complying with this proposed rule. Individuals and FFLs could turn in their firearms with attached “stabilizing braces” to ATF. ATF does not anticipate anyone choosing this option, so no cost was attributed to this section. ATF would not be allowed to accept only “stabilizing braces,” as ATF does not have seizure authority of these items alone. As the individual possessing the firearm would be permitted to simply permanently remove or alter the “stabilizing brace” such that it cannot be reattached, while retaining the firearm, ATF believes it would be unlikely that individuals would turn in their entire firearm into ATF to be destroyed. Furthermore, SMEs suggest that turning in the entire firearm is an unlikely scenario. However, ATF uses this section to describe the number of firearms with an attached “stabilizing brace” that FFLs and individuals may possess. While this does not change the population or cost of this scenario, the methodology is used throughout the rest of the other scenarios.

Because braces themselves are not regulated items, ATF requests comments regarding the population, methodology, and scope of this scenario.

3.1 Population

Based on information gleaned from individuals and FFLs who turned in bump-stock-type devices, ATF estimates that individuals may have an average of 2 “stabilizing braces” each and FFLs may have an average of 3 “stabilizing braces” each. This information will be used in other scenarios.

3.2. Costs

ATF estimates the potential wage rates that may be used in other scenarios. ATF uses some possible wage rates from the Bureau of Labor Statistics (“BLS”) and uses the average wage rate as the wage rate for all FFLs. Table 3.1 shows the estimated wage rates.

Table 3.1 Loaded Wage Rate for Travel Time

Wage Series	Series Code	Unloaded Wage Rate	Load Rate	Loaded Wage Rate	Source
Individual		N/A	N/A	\$16.52	https://www.transportation.gov/sites/dot.gov/files/docs/2016%20Revised%20Value%20of%20Travel%20Time%20Guidance.pdf ⁶
Minimum wage rate	Minimum Wage	\$7.25		\$10.33	https://www.bls.gov/opub/reports/minimum-wage/2020/home.htm
Packers and Packers, Hand	53-7064	\$14.07		\$20.05	https://www.bls.gov/oes/2020/may/oes537064.htm
Retail Salespersons	41-2031	\$14.87		\$21.19	https://www.bls.gov/oes/2020/may/oes412031.htm
Building Cleaning Workers, All Other	37-2019	\$18.68	1.42	\$26.61	https://www.bls.gov/oes/2020/may/oes372019.htm
Average				\$19.55	

ATF uses a loaded wage rate to account for fringe benefits such as insurance. The load rate used for this proposed rule is 1.42.⁷

Because it is a viable option, even though ATF assumes that no one would choose this option, ATF requests information as to how likely individuals and FFLs would be to turn in their firearm for disposal.

⁶ ATF updated the leisure wage based on 2019 data. Based on the Department of Transportation (“DOT”), the leisure wage is based on the median household income. In 2019, the median household income was \$68,703 <https://www.census.gov/library/publications/2020/demo/p60-270.html>.

(date accessed Apr. 23, 2021) / 2080 a constant derived by DOT * 50% = \$16.52.

⁷ BLS Series ID CMU201000000000D, CMU201000000000P (Private Industry Compensation = \$35.87 / BLS Series ID CMU202000000000D, CMU202000000000P (Private Industry Wages and Salaries = \$25.18) = 1.42. BLS average 2020. U.S. Bureau of Labor Statistics, [https://beta.bls.gov/dataQuery/find?fq=survey:\[cm\]&s=popularity:D](https://beta.bls.gov/dataQuery/find?fq=survey:[cm]&s=popularity:D).

4. Convert Firearm into Long-Barreled Rifle

Another scenario is for individuals and FFLs to retain the “stabilizing brace” but convert the firearm into a firearm under the CGA rather than under the NFA. More specifically, they may convert the firearm into a long-barreled rifle.

4.1 Population

Based on SME commentary, not all firearm models would be capable of converting into a long-barreled rifle, and ATF estimates that this scenario would affect upwards of 10 percent of the affected firearms with attached “stabilizing braces.”

As stated in Chapter 2 on population, ATF estimates that this proposed rule would affect 17,091 FFLs.⁸ However, not all affected FFLs would choose to convert their firearms with an attached “stabilizing brace” into a rifle. Therefore, for this scenario, ATF uses the 10 percent estimate from the SMEs to estimate this would affect 1,709 FFLs.⁹

Based on this 10 percent estimate, ATF anticipates this scenario would affect 150,000 individuals (owning 300,000 firearms with an attached “stabilizing brace”) and 1,709 FFLs (owning 5,127 firearms with an attached “stabilizing brace”). The total number of firearms with an attached “stabilizing brace” affected would be 305,127.

4.2 Costs

ATF estimates the cost to convert an existing firearm with an attached “stabilizing brace” from a short-barreled rifle into a long-barreled rifle. To do so, ATF anticipates the minimum needed is to purchase a long barrel and handrails. The average cost of a long barrel is \$198.¹⁰

⁸ 17,091 Affected FFLs = 13,210 Type 1 FFLs + 3,881 Type 7 FFLs.

⁹ 1,709 FFLs = 17,091 * 10 percent.

¹⁰ <https://www.brownells.com/rifle-parts/barrel-parts/rifle-barrels/ar-15-6mm-arc-barrels-heavy-profile-prod135844.aspx> (accessed May 10, 2021); <https://www.hinterlandoutfitters.com/mossberg-92062-rifled-barrel-wsights-gauge-slug-p-13798.html> (accessed May 10, 2021); <https://www.hinterlandoutfitters.com/mossberg-90831->

The average cost for handrails is \$212,¹¹ making the cost per firearm \$410.¹² Based on information gleaned from persons turning in bump-stock-type devices, ATF estimates that the average affected individual may own approximately 2 firearms with attached “stabilizing braces,” while affected FFLs own an average of 3 firearms with attached “stabilizing braces.” Using that same information, ATF estimates that the individual cost for this scenario is \$820 and \$1,230 for an FFL. The total cost for this scenario is \$125.1 million.¹³ ATF has not estimated individuals’ cost of time to purchase and install long barrels and handrails on their firearms and seeks comment on the likely cost of this for individuals.

Because braces themselves are not regulated items, ATF requests comments regarding the population, methodology, and scope of this scenario.

[ulti-barrel-wparkerized-finish-accu-chokes-gauge-ulti-slug-p-13809.html](https://www.gunpartscorp.com/category/barrels/rifle-barrels/sig-sauer/516-sig) (accessed May 10, 2021);
<https://www.gunpartscorp.com/category/barrels/rifle-barrels/sig-sauer/516-sig> (accessed May 10, 2021);
<https://www.gunpartscorp.com/category/barrels/rifle-barrels/sig-sauer/516-sig> (accessed May 10, 2021);
<https://www.gunpartscorp.com/category/barrels/rifle-barrels/colt/lightning-cf-rifle> (accessed May 10, 2021);
<https://www.midwayusa.com/product/1017600744> (accessed May 10, 2021);
<https://www.midwayusa.com/product/1017600744> (accessed May 10, 2021);
<https://www.midwayusa.com/product/1017600744> (accessed May 10, 2021);
<https://www.midwayusa.com/product/1023207522> (accessed May 10, 2021).

¹¹ <https://www.aeroprecisionusa.com/ar15-atlas-r-one-m-lok-handguard> (accessed Apr. 14, 2021);
<https://slrrifleworks.com/hand-guards/5-56-handguards/ion-series/ion-ultra-lite/> (accessed Apr. 14, 2021);
https://www.odinworks.com/O2_Lite_M_LOK_Forend_p/f-12-ml-o2.htm (accessed Apr. 14, 2021);
<https://seekinsprecision.com/noxs-mlok-rail-1-1.html> (accessed Apr. 14, 2021).

¹² \$410 = \$198 + \$212

¹³ \$125.1 million = ((150,000 individuals * 2 firearms) + (1,709 FFLs * 3 firearms)) * \$410 cost per firearm

5. Apply to Register Under the NFA

As stated before, there are four means of complying with this proposed rule. Individuals and FFLs could keep their firearms with attached “stabilizing braces” and apply to register them under the NFA. Individuals and Type 1 FFL dealers would need to complete a Form 1 application for each and every firearm affected by this proposed rule. Type 7 FFL manufacturers would complete a Form 2 notice for all their affected firearms in inventory. FFLs would then be able to sell these firearms with an attached “stabilizing brace” as NFA weapons to individuals who wish to purchase them.

5.1 Population Under NFA

For the purposes of this analysis, ATF assumes that the only people that would apply under the NFA are Type 1 and Type 7 FFLs that currently possess an SOT because FFLs need an SOT in order to deal in NFA items. Based on ATF licensing numbers, there are 6,717 Type 1 FFLs with an SOT and 7,057 Type 7 FFLs with an SOT. As stated in Chapter 2 above, ATF estimates that this proposed rule would affect 25 percent of FFLs, including those with an SOT. For the purposes of this analysis, ATF uses 25 percent of Type 1 FFLs with an SOT (1,679) and 25 percent of Type 7 FFLs with an SOT (1,764). Based on SMEs, ATF estimates that 25 percent of individuals may opt to file a Form 1 under the NFA or 375,000 individuals.

For the purposes of this analysis, ATF estimates that Type 7 FFL manufacturers may have 32 firearms with an attached stabilizing brace.¹⁴ Because ATF does not have any information as to how many firearms Type 7 FFLs would have in inventory, ATF has taken the

¹⁴ ATF estimates that Type 7 manufacturers would have more in inventory than Type 1 FFLs because they are producing firearms for sale to a greater number of Type 1 FFLs. Furthermore, ATF estimates that bump-stock-type devices were primarily sold to only individuals and Type 1 FFLs because ATF is not aware of Type 7 manufacturers who dealt with bump-stock-type devices in their manufacturing.

average of the total number of estimated “stabilizing braces” produced over the 8 years of production to come up with an average of 375,000 “stabilizing braces” per year.¹⁵ Because these affected “stabilizing braces” were sold to individuals, Type 1 FFLs, and Type 7 FFLs, ATF split the average production among the 3 groups.¹⁶ As stated in Chapter 2 above, ATF estimates that this proposed rule would affect 3,881 Type 7 FFL manufacturers. ATF divided the remaining number of “stabilizing braces” (125,000) evenly among these Type 7 manufacturers to derive an estimated 32 “stabilizing braces” per Type 7 FFL manufacturer.¹⁷ The total number of firearms with an attached “stabilizing brace” affected would be 811,485.¹⁸

5.2 Cost to Apply Under the NFA

Individuals and Type 1 FFL dealers (regardless of whether they have an SOT or not) would need to file a Form 1 should they opt to retain their firearm with an attached “stabilizing brace.” When individuals complete a Form 1, there is a making tax of \$200 per item. Because this tax is considered a transfer payment from industry to the Federal government, and thus is not a net societal cost to the economy, these NFA taxes are included under the Transfer Payment section of this RIA, section 7.2. Based on the collection of information OMB 1140-0011, ATF estimates that it takes 4 hours to fill out a Form 1, making the total burden hours for an individual filling out two Form 1 applications, 8 hours, but notes that the actual burden hours may be 4 hours since most, if not all, the information would be duplicated. As stated above in Chapter 3, section 3.2, an individual’s leisure wage is estimated to be \$16.52 and the cost for an individual to apply for two firearms with attached “stabilizing brace” would be \$132.¹⁹

¹⁵ For more information, please refer to Chapter 6 on future foregone sales.

¹⁶ 125,000 arm braces = 3,000,000 arm braces currently in circulation / 8 years of production / 3 group types.

¹⁷ 32 arm braces per Type 7 FFL = 125,000 arm braces held by Type 7 FFL / 3,881 Type 7 FFL affected by this proposed rule.

¹⁸ 811,485 stabilizing braces = (375,000 individuals * 2 stabilizing braces) + (1,679 Type 1 FFLs * 3 stabilizing braces) + (1,764 Type 7 FFLs * 32 stabilizing braces).

¹⁹ \$132 = ((\$16.52 leisure hourly wage * 4 hours) * 2 applications).

As estimated in Chapter 3, section 3.1, ATF estimates that Type 1 FFLs may have on average 3 firearms with attached “stabilizing braces.” The total burden hours for a Type 1 FFL to complete three Form 1 applications is estimated to be 12 hours. While in Chapter 3, ATF assumes certain wage rates to turn in firearms with attached “stabilizing braces” to ATF, ATF does so because anyone could turn in the firearm into ATF. However, for the purposes of filling out a Form 1, ATF assumes that a responsible person would fill out the form. ATF reviewed ATF’s databases on responsible persons by FFL type and attempted a crosswalk between the responsible persons’ listed job title and occupations listed on the BLS wage rates. Table 5.1 shows the BLS codes used for the various job titles listed under the responsible persons.

Table 5.1 Wage Categories used for Type 1 Responsible Persons

Job Category	Wage Rate	Loaded Wage Rate	Source
11-2022 Sales Managers	\$70.95	\$101.08	https://www.bls.gov/oes/2020/may/oes112022.htm
11-3061 Purchasing Managers	\$63.78	\$90.87	https://www.bls.gov/oes/2020/may/oes113061.htm
1-4199 Metal Workers and Plastic Workers, All Other	\$18.98	\$27.04	https://www.bls.gov/oes/2020/may/oes514199.htm
33-9099 Protective Service Workers, All Other	\$16.66	\$23.74	https://www.bls.gov/oes/2018/may/oes339099.htm
41-2011 Cashiers	\$12.36	\$17.61	https://www.bls.gov/oes/2020/may/oes412011.htm
41-2031 Retail Salespersons	\$14.87	\$21.19	https://www.bls.gov/oes/2020/may/oes412031.htm
43-5071 Shipping, Receiving, and Traffic Clerks	\$17.89	\$25.49	https://www.bls.gov/oes/2020/may/oes435071.htm

43-6014 Secretaries and Administrative Assistants, Except Legal, Medical, and Executive	\$19.43	\$27.68	https://www.bls.gov/oes/2020/may/oes436014.htm
53-7064 Packers and Packagers, Hand	\$14.07	\$20.05	https://www.bls.gov/oes/2020/may/oes537064.htm
Weighted Average	\$57.61	\$82.08	

* Note: Date accessed Apr. 25, 2021.

ATF used the weighted average across all Type 1 FFLs to determine an average of \$82.08 (loaded wage rate) to fill out three Form 1 applications, making the cost per Type 1 FFLs to fill out 3 Form 1s \$985.²⁰ While individuals and Type 1 FFLs would need to pay a \$200 makings tax, per firearm, under the NFA, because this is a transfer payment from industry to the Federal government and thus is not a net cost to the economy, the payment of these taxes are described under section 7.2 of this RIA.

Type 7 FFL manufacturers with an SOT would not need to pay a tax but would still need to fill out one Form 2 for all their existing inventory. Based on the collection of information OMB 1140-0012, ATF estimates that it takes 0.75 hours to fill out a Form 2. ATF used the same review of ATF's database and performed a crosswalk between the job titles of responsible persons for Type 7 FFLs to the listed BLS wage rates in order to determine the average wage rate of a Type 7 FFLs filling out a Form 2. Table 5.2 provides the different wage categories used.

Table 5.2 Wage Categories used for Type 7 Responsible Persons

Job Category	Wage Rate	Loaded Wage Rate	Source
11-3051 Industrial Production Managers	\$56.82	\$80.95	https://www.bls.gov/oes/2020/may/oes113051.htm
11-3071 Transportation, Storage, and Distribution Managers	\$50.53	\$71.99	https://www.bls.gov/oes/2020/may/oes113071.htm

²⁰ \$985 = (\$82.08 average loaded hourly wage * 4 hours) * 3 applications.

17-3027 Mechanical Engineering Technicians	\$29.27	\$41.70	https://www.bls.gov/oes/2020/may/oes173027.htm
43-6014 Secretaries and Administrative Assistants, Except Legal, Medical, and Executive	\$19.43	\$27.68	https://www.bls.gov/oes/2020/may/oes436014.htm
51-4199 Metal Workers and Plastic Workers, All Other	\$18.98	\$27.04	https://www.bls.gov/oes/2020/may/oes514199.htm
51-9199 Production Workers, All Other	\$17.13	\$24.40	https://www.bls.gov/oes/2020/may/oes519199.htm
Weighted Average	\$44.18	\$62.93	

*Note: date accessed Apr. 25, 2021.

ATF used the weighted average across all Type 7 FFLs to determine an average of \$62.93 (loaded wage rate) to fill out a Form 2, making the cost per Type 7 FFL to fill out a Form 2 \$47.²¹ The total industry cost to this scenario is a one-time cost of \$51.3 million.

Because braces themselves are not regulated items, ATF requests comments regarding the population, methodology, and scope of this scenario.

²¹ \$47 = \$62.93 average loaded hourly wage * 0.75 hours.

6. Cost to Permanently Remove or Alter Affected “Stabilizing Braces” Currently in Circulation and Forgone Future Sales

This section addresses the loss in retail value of the affected “stabilizing braces” that are disposed of, and forgone future sales.

6.1 Population Under Permanent Removal or Alteration of Affected Stabilizing Brace

As stated in the population chapter above, ATF uses the low number of 3 million “stabilizing braces” as our primary estimated number of “stabilizing braces” currently in circulation. However, because there are four methods of how the affected public can comply with law, ATF estimates that not all of these “stabilizing braces” would be permanently removed or altered. ATF estimates that no firearms with attached “stabilizing braces” would be turned into ATF for disposal, 305,127 would be converted into rifles, and 811,485 would undergo the NFA registration process. For details on the population of “stabilizing braces” turned into ATF, being converted into rifles, and firearms with attached “stabilizing braces” undergoing the NFA registration process, please refer to Chapters 3, 4, and 5, respectively.

In order to account for the number of individuals choosing to dispose of their “stabilizing braces,” ATF first determined the remaining number of FFLs that would potentially be affected. For the purposes of this analysis, ATF estimates that 10,677 Type 1 FFL dealers and 1,263 Type 7 FFL manufacturers would simply permanently remove or alter their “stabilizing braces.”^{22,23}

²² 10,642 Type 1 FFL = 13,210 affected Type 1 FFLs – 0 FFL under turn into ATF – (1,709 FFLs Convert into rifles / 2 groups of FFLs) – 1,679 Type 1 FFLs under NFA.

²³ 1,263 Type 7 FFLs = 3,881 affected Type 7 FFLs – (1,709 FFLs Convert into rifles / 2 groups of FFLs) – 1,764 Type 7 FFLs under NFA.

To determine the number of individuals who would choose this scenario, ATF multiplied 10,677 Type 1 FFL dealers by 3 and 1,263 Type 7 FFLs manufacturers by 32 to obtain the number of “stabilizing braces” that these FFLs may have in inventory.^{24,25} The “remaining” number of “stabilizing braces” that have not been accounted for were estimated to have been purchased by individuals, making the number of individuals choosing this scenario 905,471.²⁶

In order to simplify the different populations of individuals and FFLs, and the numbers of “stabilizing braces” affected across all scenarios, Table 6.1 shows a line-by-line estimated accounting of individuals, FFLs, and “stabilizing braces.”

Table 6.1 Individuals and FFLs Affected Across all Scenarios, Including “Stabilizing Braces”

Scenario 1: Turn into ATF	Individuals/FFLs	“Stabilizing Braces” Affected
Individuals	0	0
Type 1 FFLs		
Type 7 FFLs	0	0
Subtotal of “Stabilizing Braces” Affected		0
Scenario 2: Convert into Rifles	Individuals/FFLs	“stabilizing braces” Affected
Individuals	150,000	300,000
Type 1 FFLs		
Type 7 FFLs	1,709	5,127
Subtotal of “stabilizing braces” Affected		305,127
Scenario 3: Apply under NFA	Individuals/FFLs	“stabilizing braces” Affected
Individuals	375,000	750,000
Type 1 FFLs	1,679	5,037
Type 7 FFLs	1,764	56,448

²⁴ 32,031 arm braces = 10,677 Type 1 FFLs * 3 arm braces per FFL.

²⁵ 40,416 arm braces = 1,263 Type 7 FFLs * 32 arm braces per FFL.

²⁶ 905,471 individuals = (3 million “stabilizing braces” – 0 “stabilizing braces” turned into ATF – 305,127 “stabilizing braces” converted into rifles – 811,485 “stabilizing braces” applied under NFA – 32,031 “stabilizing braces” owned by Type 1 FFLs under this scenario – 40,416 “stabilizing braces” owned by Type 7 FFLs under this scenario) / 2 arm braces per individual.

Subtotal of “stabilizing braces” Affected		811,485
Scenario 4: Permanently Remove or Alter Existing	Individuals/FFLs	“stabilizing braces” Affected
Individuals	905,471	1,810,941
Type 1 FFLs	10,677	32,031
Type 7 FFLs	1,263	40,416
Subtotal of “stabilizing braces” Affected		1,883,388
Total of Affected “stabilizing braces”		3,000,000

ATF estimates that 905,471 individuals, 10,677 Type 1 FFL dealers, and 1,263 Type 7 FFL manufacturers would simply permanently remove or alter 1.9 million “stabilizing braces.”

6.2 Cost to Permanently Remove or Alter Stabilizing Braces

All parties affected could simply permanently remove or alter their “stabilizing braces” as they see fit. However, ATF has determined this would be a loss of property. Because ATF has no way to determine how these affected “stabilizing braces” have been purchased, ATF uses the direct retail sales of these “stabilizing braces” as a proxy for the amount that individuals, FFL dealers, and FFL manufacturers have purchased. There are various types of “stabilizing braces” that would be affected by this proposed rule. We assume that the lost value to owners of a “stabilizing brace” would be at least as much as the cost of a new “stabilizing brace.” The average cost for a “stabilizing brace” is \$236.²⁷ Prior to the publication of ATF’s proposed guidance document in December 2020 regarding “stabilizing braces,” the retail price of a firearm with an attached “stabilizing brace” may have ranged from \$549 to \$1,980.²⁸ On the other hand,

²⁷ <https://www.sb-tactical.com/product/sba3/> (accessed Apr. 22, 2021); <https://www.sb-tactical.com/product/sbm47/> (accessed Apr. 22, 2021); <https://www.sb-tactical.com/product/hkpdw/> (accessed Apr. 22, 2021); <https://www.sb-tactical.com/product/tac13-sba3/> (accessed Apr. 22, 2021); <https://www.sb-tactical.com/product/czpdw/> (accessed Apr. 22, 2021); <https://www.sb-tactical.com/product/fs1913/> (accessed Apr. 22, 2021); <https://www.pewpewtactical.com/best-ar-15-pistols/> (accessed Apr. 22, 2021).

²⁸ <https://www.pewpewtactical.com/best-ar-15-pistols/> (accessed May 23, 2021).

a short-barreled rifle may retail anywhere from \$1,295 to \$5,795, plus the \$200 NFA tax.²⁹ ATF estimates that the majority of individuals and FFLs would be inclined to retain the firearm regardless of whether they retain the “stabilizing brace” or not. At 1.9 million “stabilizing braces” affected under this scenario, ATF estimates that the cost for permanently removing or altering currently existing “stabilizing braces” would be \$443.9 million.³⁰

6.3 Future Revenue of “Stabilizing Braces” Lost from Loss of Production

Furthermore, while these “stabilizing braces” have been purchased over the course of eight years, ATF uses that information to estimate the expected lost value of these affected “stabilizing braces” forgone. This lost value would be equal to the consumer and producer surplus from these forgone sales, which would be equal to the area under purchasers’ demand curves and above producers’ costs curves. Lacking data on producers’ costs, this might be proxied with an estimate of the expected reduction in future sales revenues from “stabilizing braces.” ATF considered basing its estimate of future sales in the absence of a rule on recent sales averages, however, ATF expects even without a rule, sales of “stabilizing braces” would fall in the future. In lieu of promulgating a proposed regulation, ATF has been using and will continue to use enforcement actions, to include criminal actions, against existing FFLs that manufacture firearms that do not comply with the intent of the law. ATF estimates that in the absence of this proposed rule, these individual enforcement actions against existing FFLs would change the market perception of these “stabilizing braces” and may affect the overall demand for these items regardless of the implementation of the proposed rule. Therefore, ATF estimates that the overall future demands of “stabilizing braces” would decrease by the estimated amount

²⁹ <https://www.capitolarmory.com/class-3-nfa/sbr-short-barrel-rifle.html> (accessed May 23, 2021).

³⁰ \$443.9 million = ((905,523 individuals * 2 “stabilizing braces”) + (10,642 Type 1 FFLs * 3 “stabilizing braces”) + (1,263 Type 7 FFLs * 32 “stabilizing braces”)) * \$236 cost per “stabilizing brace.”

attributed to Type 1 and Type 7 FFLs, making the primary estimate of future “stabilizing braces” affected 211,178 per year.³¹ As ATF stated above, ATF estimates that this would be a loss in sales of 211,178 “stabilizing braces” each year, which would mean a loss of \$49.8 million in sales per year.³²

However, ATF requests comments on how likely an individual would be to purchase a short-barreled rifle without a “stabilizing brace” compared to a firearm with an attached “stabilizing brace” (assuming this proposed rule does not go into effect). Also, how would this proposed rule affect the quantity of sales for manufacturers and dealers in terms of selling firearms with an attached “stabilizing brace” versus firearms without a “stabilizing brace”?

Because braces themselves are not regulated items, ATF requests comments regarding the population, methodology, and scope of this scenario.

³¹ 211,178 future “stabilizing braces” = 375,000 annual “stabilizing braces” – (13,210 Type 1 FFL * 3 stabilizing braces) – (3,881 Type 7 FFL * 32 stabilizing braces).

³² Because this proposed rule would have a significant impact on the future sales of “stabilizing braces,” it would affect the consumer and producer surpluses of these items. Because ATF does not have this information, ATF was not able to attribute part of the revenue due to consumer surplus versus producer surplus; therefore, the whole revenue was used as a proxy.

7. Summary of the Overall Cost of the Rule

As stated in Chapter 2 Population, there may be a range between 3 and 7 million “stabilizing braces” already purchased by the public. This Chapter reviews the potential costs depending on the estimated number of “stabilizing braces,” with ATF’s primary estimate being 3 million, the midpoint being 5 million, and the high point being 7 million “stabilizing braces.”

7.1 Primary (Low Estimate) cost of the proposed rule

This section summarizes the total costs of this proposed rule as described throughout this RIA. In order to simplify the expected costs of this rule, ATF summarizes each of the scenarios and frequency of the scenarios. Table 7.1 shows the industry costs for each scenario.

Table 7.1 Societal Cost of Proposed Rule Per Scenario

Scenario	Cost	Frequency
Turn in Firearm to ATF	\$0	one-time
Convert into Rifle	\$125,116,355	one-time
Apply Under NFA	\$51,282,474	one-time
Loss in Existing “stabilizing braces”	\$443,922,623	one-time
Forgone Revenue	\$49,775,560	Annual

As noted in Chapter 5, \$151.0 million of the cost for applying under the NFA would be considered a transfer payment from the public to the Federal government and thus is not included in the societal cost of the rule. Based on the above information, ATF shows the industry 10-year cost of the rule using a primary estimate of 3 million “stabilizing braces.” Table 7.2 shows the 10-year cost.

Table 7.2 Societal 10-year cost of rule

Year	Undiscounted	Discounted	
		3%	7%
1	\$620,321,453	\$602,253,838	\$579,739,676

2	\$49,775,560	\$46,918,239	\$43,475,902
3	\$49,775,560	\$45,551,688	\$40,631,684
4	\$49,775,560	\$44,224,940	\$37,973,536
5	\$49,775,560	\$42,936,835	\$35,489,286
6	\$49,775,560	\$41,686,248	\$33,167,557
7	\$49,775,560	\$40,472,085	\$30,997,717
8	\$49,775,560	\$39,293,286	\$28,969,829
9	\$49,775,560	\$38,148,822	\$27,074,606
10	\$49,775,560	\$37,037,691	\$25,303,371
total	\$1,068,301,490	\$978,523,672	\$882,823,163
Annualized		\$114,712,826	\$125,694,157

The annualized cost of this proposed rule would be \$114.7 million and \$125.7 million, at 3 percent and 7 percent respectively.

7.2 Transfers from Industry to Public

As stated under section 5.2, individuals and Type 1 FFLs would need to pay the \$200 makings tax in Form 1 under the NFA per firearm. For the purposes of this analysis, ATF estimates that individuals may have 2 “stabilizing braces” on average and Type 1 FFLs may have 3 on average; therefore, individuals would need to pay \$400 per individual in taxes and Type 1 FFLs would need to pay \$600 in taxes. This makes the total transfer payment \$151.0 million.

7.3 Government Costs of the Rule

In addition to the societal costs to this rule, there would be government costs associated with enforcing this rule. ATF would undertake enforcement actions against non-FFL manufactures who have manufactured “stabilizing braces” that are in fact intended to enable a weapon to be fired from the shoulder. At this time, ATF has not calculated the government cost to enforce these actions.

7.3 Midrange Cost of the Proposed Rule

This section summarizes the total costs of this proposed rule as described throughout this RIA. In order to simplify the expected costs of this rule, ATF summarizes each of the scenarios and frequency of the scenarios. Table 7.3 shows the midrange costs for each scenario.

Table 7.3 Cost of Proposed Rule Per Scenario

Scenario	Cost	Frequency
Turn in to ATF	\$0	one-time
Convert into Rifle	\$207,125,719	one-time
Apply Under NFA	\$84,312,763	one-time
Loss in Existing “stabilizing braces”	\$741,190,983	one-time
Forgone Revenue	\$88,576,728	Annual

Based on the above information, ATF shows the 10-year cost of the rule using a midpoint estimate of 5 million “stabilizing braces.” Table 7.4 shows the 10-year cost.

Table 7.4 Mid-range 10-year cost of rule

Year	Undiscounted	Discounted	
		3%	7%
1	\$1,032,629,465	\$1,002,552,878	\$965,074,266
2	\$88,576,728	\$83,492,061	\$77,366,344
3	\$88,576,728	\$81,060,254	\$72,304,995
4	\$88,576,728	\$78,699,275	\$67,574,762
5	\$88,576,728	\$76,407,063	\$63,153,983
6	\$88,576,728	\$74,181,615	\$59,022,414
7	\$88,576,728	\$72,020,985	\$55,161,134
8	\$88,576,728	\$69,923,287	\$51,552,462
9	\$88,576,728	\$67,886,686	\$48,179,871
10	\$88,576,728	\$65,909,404	\$45,027,917
total	\$1,829,820,014	\$1,672,133,509	\$1,504,418,147
Annualized		\$196,025,058	\$214,195,299

The annualized cost of this proposed rule would be \$196.0 million and \$214.2 million, at 3 percent and 7 percent respectively.

7.4 High Cost of the Proposed Rule

This section summarizes the total high costs of this proposed rule as described throughout this RIA. In order to simplify the expected costs of this rule, ATF summarizes each of the scenarios and frequency of the scenarios. Table 7.5 shows the costs for each scenario.

Table 7.5 High Cost of Proposed Rule Per Scenario

Scenario	Cost	Frequency
Turn in to ATF	\$0	one-time
Convert into Rifle	\$289,135,083	one-time
Apply Under NFA	\$117,343,051	one-time
Loss in Existing “stabilizing braces”	\$1,038,875,125	one-time
Forgone Revenue	\$128,292,664	Annual

Based on the above information, ATF shows the 10-year cost of the rule using a high estimate of 7 million “stabilizing braces.” Table 7.6 shows the 10-year cost.

Table 7.6 High 10-year cost of rule

Year	Undiscounted	Discounted	
		3%	7%
1	\$1,445,353,258	\$1,403,255,591	\$1,350,797,438
2	\$128,292,664	\$120,928,140	\$112,055,781
3	\$128,292,664	\$117,405,962	\$104,725,029
4	\$128,292,664	\$113,986,370	\$97,873,859
5	\$128,292,664	\$110,666,379	\$91,470,896
6	\$128,292,664	\$107,443,087	\$85,486,819
7	\$128,292,664	\$104,313,676	\$79,894,224
8	\$128,292,664	\$101,275,414	\$74,667,499
9	\$128,292,664	\$98,325,644	\$69,782,709
10	\$128,292,664	\$95,461,791	\$65,217,485
total	\$2,599,987,236	\$2,373,062,054	\$2,131,971,740
Annualized		\$278,195,267	\$303,544,812

The annualized high cost of the proposed rule would be \$278.2 million and \$303.5 million, at 3 percent and 7 percent respectively.

8. Benefits

This proposed rule is intended to affect attempts by manufacturers and individuals to circumvent the requirements of the NFA and affect the criminal use of weapons with a purported “stabilizing brace,” such as the shooting incident at the King Soopers in Boulder, Colorado. The purpose of this proposed rule is to amend ATF regulations to clarify when a rifle is “intended to be fired from the shoulder” and to set forth factors that ATF considers when evaluating firearms with an attached purported “stabilizing brace” to determine whether these are “rifles” under the GCA or NFA, and therefore whether they are “firearms” subject to the NFA. Congress placed stricter requirements on the making and possession of short-barreled rifles because it found them to pose a significant crime problem. Providing clarity to the public and industry on how ATF enforces the provisions of the NFA through this proposed rule is intended to significantly enhance public safety and could reduce the criminal use of such firearms, which are easily concealable from the public and first responders. ATF invites comment on how to quantify the expected effect of the proposed rule on public safety risk and how to monetize the benefits of this effect.

9. Analysis of Alternatives Considered

This chapter outlines the alternatives discussed in the creation of this proposed rule.

Table 9.1 provides a summary outline of the alternatives, along with the benefits and drawbacks of each alternative.

Table 9.1 Summary of Cost and Benefits of the Alternatives

Summary	7% Annualized Discounted Costs	Benefits
Preferred Alternative	\$125.7 million	Intended to reduce violent crime and ensures that concealable short-barreled rifles continue to be registered under the NFA.
Alternative 1: No Change	\$0	\$0
Alternative 2: Simple Criteria	Same as Preferred Alternative	Less than Preferred Alternative
Alternative 3: Grandfather all existing firearms with stabilizing arm brace	\$0	No benefits
Alternative 4: Guidance documents	Less than the Preferred Alternative	N/A
Alternative 5: Forgiveness of NFA Tax	\$84.5 million	Open for comment

A discussion of the costs follows in the sections below.

9.1 This Proposed Rule—Factoring Criteria for Firearms with Attached “Stabilizing Braces.”

This proposed alternative would clarify that a rifle includes any weapon with a rifled barrel equipped with an accessory or component purported to assist the shooter to stabilize the weapon while shooting with one hand, commonly referred to as a “stabilizing brace,” that has objective design features and characteristics that facilitate shoulder fire as described in ATF Worksheet 4999.

9.2 Alternative 1—No change alternative.

Individuals request that there be no change made. This alternative has no costs or benefits because it is maintaining the existing status quo. This alternative was considered and not implemented because the NFA requires regulation on certain types of firearms above what is required under the GCA. Currently, persons could be in possession of firearms regulated under the NFA without complying with NFA requirements.

9.3 Alternative 2—Simple Criteria.

This alternative would provide very short and simple parameters in terms of defining a “stabilizing brace” or a stock, such as by length only. This alternative would be easy for the public to read and understand. Where this was feasible, ATF has incorporated these simple and easy to follow parameters. ATF considered and declined this alternative, because while the costs are the same as the proposed rule and it would make it easier for persons to understand and comply with the regulation, it would not cover all the different types of “stabilizing braces” and similar accessories currently available.

9.4 Alternative 3—Grandfather all existing firearms with an attached “stabilizing brace.”

This alternative would grandfather all existing firearms with an attached “stabilizing brace.” This alternative is problematic in that manufacturers could continue to produce firearms with “stabilizing braces” that are actually “rifles” under the statutory definition and subject to the NFA and market them as being grandfathered and therefore, not subject to the same regulation. This could potentially pose an enforcement issue that may not be resolved for years if not decades.

9.5 Alternative 4—Guidance Documents.

This alternative would publish a guidance document instead of a rulemaking. While this alternative minimizes cost because compliance in this scenario would be voluntary, it does not meet the objectives outlined in this proposed rule as guidance documents do not have the same force and effect of a regulation. Guidance documents do not in and of themselves impose binding legal obligations. This would pose an enforcement issue. Moreover, issuing a proposed rule invites comments from the public, creating greater transparency and notice.

9.6 Alternative 5—Forgiveness of the NFA tax.

This alternative would allow individuals and entities that currently have firearms with attached “stabilizing braces” to apply under the NFA without paying the \$200 making tax. In this scenario, the societal costs would be the same except there would be no transfer payment. Similar to the proposed rule, the bulk of this cost would be the forgone future revenue and the loss in property for individuals not applying under the NFA.³³ This scenario was rejected because “stabilizing braces” are not serialized and an individual or entity could merely register all firearms possessed with the intent of later obtaining a “stabilizing brace.” Further, although used on a particular weapon, an individual might register all pistols as SBRs and then attempt to utilize other stocks on these firearms. ATF requests additional comments about the feasibility of providing tax forgiveness. ATF also request information on how this would affect your decision to use this scenario under this proposed rule.

³³ However, the real cost to the individual or FFL would be minimal since filling out the form would not necessarily incur an out-of-pocket cost nor would the tax be incurred either.

10. Initial Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (“RFA”), ATF prepared an Initial Regulatory Flexibility Analysis (“IRFA”) that examines the impacts of the proposed rule on small entities (5 U.S.C. 601 *et seq.*). The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of fewer than 50,000 people.

10.1 Summary of Findings

ATF performed an IRFA of the impacts on small businesses and other entities from the Factoring Criteria of Firearms with Attached “Stabilizing Braces” proposed rule [2021R-08]. We performed this assessment using the cost information discussed in Chapters 3 through 7.

Based on the information from this analysis, we found:

- ATF estimates that this proposed rule would potentially affect at least 8 manufacturers of “stabilizing braces.” Based on SME commentary, it is anticipated that 3 of them would go out of business;
- ATF also anticipates that this proposed rule would affect 17,091 FFLs, many of whom would be considered small businesses;
- However, the highest anticipated cost would be if a Type 1 FFL had 24 “stabilizing braces” (the high estimate that a Type 1 FFL may have) and opted to file under the NFA. Should they own 24 arm braces and opt to apply under the NFA, ATF anticipates these FFLs would need to make \$111,855 in revenue or less in order to incur an impact of 10 percent or more.
- There are no relevant government entities.

10.2 Preliminary Initial Regulatory Flexibility Analysis

The RFA establishes that agencies must try to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies must solicit and consider flexible regulatory proposals and explain the rationale for their actions to assure that such proposals are given serious consideration.³⁴

Under the RFA, we are required to consider what, if any, impact this proposed rule would have on small entities. Agencies must perform a review to determine whether a rule will have such an impact. Because the agency has determined that it will have a significant impact on a substantial number of small entities, the agency has prepared an initial regulatory flexibility analysis as described in the RFA.

Under section 603(b) of the RFA, the regulatory flexibility analysis must provide or address:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and legal basis for, the proposed rule;
- A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule; and

³⁴ Regulatory Flexibility Act, Pub. L. 96-354, sec. 2(b), 94 Stat. 1164 (1980).

- Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

10.3 A description of the reasons why action by the agency is being considered

One of the reasons ATF is considering this proposed rule is the failure of the market to compensate for negative externalities caused by commercial activity. A negative externality can be the by-product of a transaction between two parties that is not accounted for in the transaction. A negative externality addressed by this proposed rule is that individuals and affected entities may try to use purported “stabilizing braces” and affix them to firearms to circumvent the requirements of the NFA, which requires registration and taxes be paid on the making and transfer of NFA weapons. Further, Congress chose to regulate these items more stringently, finding them to be especially dangerous to the community if not regulated since they are used for violence and criminal activity. *See United States v. Gonzalez*, No. 2:10-cr-00967, 2011 WL 5288727, at *5 (D. Utah Nov. 2, 2011) (“Congress specifically found that ‘short-barreled rifles are primarily weapons of war and have no appropriate sporting use or use for personal protection.’” (quoting S. Rep. No. 90-1501, at 28 (1968))). Therefore, if persons can circumvent the NFA by effectively making unregistered short-barreled rifles by using an accessory such as a “stabilizing brace,” these weapons can continue to proliferate and could pose an increased public safety problem given that they are easily concealable.

10.4 A succinct statement of the objectives of, and legal basis for, the proposed rule

The Attorney General is responsible for enforcing the GCA, as amended, and the NFA, as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A),

7805(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF, subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1); 28 CFR 0.130(a)(1)–(2). Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA. *See* 27 CFR parts 478, 479.

This proposed rule would prevent persons from circumventing the NFA by using “stabilizing braces” as stocks on short-barreled rifles. If persons can circumvent the NFA by effectively making unregistered short-barreled rifles by using an accessory such as a “stabilizing brace,” these weapons can continue to proliferate and could pose an increased public safety problem given that they are easily concealable.

10.5 A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply

This rule would affect primarily three manufacturers of certain “stabilizing braces” that have been primarily used as an alternative to a stock when attached to a firearm. It is anticipated they would lose their business of manufacturing “stabilizing braces.”

This proposed rule would also affect FFLs that sell these affected “stabilizing braces,” and other small retailers of firearm accessories that have invested in the arm brace industry. ATF anticipates that this proposed rule would affect 17,091 FFLs, many of whom would be considered small businesses.

Based on data gleaned from persons who turned in bump stocks, an FFL could have as many as 24 “stabilizing braces” affected by this proposed rule. The majority are likely to own only one. The cost for an FFL could range from \$236 to permanently remove or alter one “stabilizing brace” to \$11,185 to submit 24 applications under the NFA. ATF anticipates the

majority of FFLs to experience a one-time cost of \$236 for the permanent removal or alteration of one “stabilizing brace.” However, the highest anticipated cost would be if the FFL had 24 “stabilizing braces” and opt to file under the NFA. Should these FFLs own 24 “stabilizing braces” and opt to apply under the NFA, ATF anticipates these FFLs would need to make \$111,855 in revenue or less in order to incur an impact of 10 percent or more.

10.6 An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule

This proposed rule does not duplicate or conflict with other Federal rules.

10.7 Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities

Please see Chapter 9 on the discussion of alternatives. ATF did not create any alternatives specific to small businesses but notes that the majority of the affected businesses would be considered small.

11. Collection of Information

This proposed rule would call for collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–20). As defined in 5 CFR 1320.3(c), “collection of information” comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Under the provisions of this proposed rule, there is a one-time increase in paperwork burdens of NFA applications. This requirement would be added to an existing approved collection covered by OMB control number 1140-0011 and 1140-0012.

TITLE: Application to Make and Register a Firearm

OMB Control Number: OMB 1140-0011

PROPOSED USE OF INFORMATION: The ATF Form 1 (5320.1) is required to register an NFA firearm by any person, other than a qualified manufacturer, who wishes to make and register an NFA firearm. The implementing regulations are in 27 CFR 479.61–479.71. Under the provisions of 26 U.S.C. 5822, no person can make an NFA firearm until he or she has applied for and received approval from the Attorney General (delegated to ATF). Subject to certain exceptions, the making of an NFA firearm is subject to a tax of \$200 (26 U.S.C. 5821). The proposed rule of this information is to ensure that applicants are in compliance with relevant laws.

DESCRIPTION AND NUMBER OF RESPONDENTS: Currently, there is a total of 25,716 respondents to this information collection. Of these 25,716 respondents, 477 of them are FFLs,

21,879 of them are trusts and legal entities, and 3,360 of them are individuals. For the purposes of this proposed rule, ATF estimates 1,679 FFLs and 375,000 individuals would submit a response due to this proposed rule. For the purposes of this proposed rule, the number of trusts and legal entities were not calculated.

FREQUENCY OF RESPONSE: One time.

BURDEN OF RESPONSE: Currently, one time. For this proposed rule, 2 to 3 times, depending on the number of firearms.

ESTIMATE OF TOTAL ANNUAL BURDEN: The existing hourly burden is 102,808 hours, with an additional 3,020,148 hours due to this proposed rule.

TITLE: Notice of Firearms Manufactured or Imported

OMB Control Number: OMB 1140-0012

PROPOSED USE OF INFORMATION: The Notice of Firearms Manufactured or Imported—ATF Form 2 (5320.2) is required of (1) a person who is qualified to manufacture NFA firearms, or (2) a person who is qualified to import NFA firearms to register manufactured or imported NFA firearm(s). In general, under the provisions of 26 U.S.C. 5822, no person can make an NFA firearm until he or she has applied for and received approval from the Attorney General of the United States (delegated to ATF). Subject to certain exceptions, the making of an NFA firearm is subject to a tax of \$200. Section 5841(b) provides that each manufacturer and importer shall register each firearm manufactured or imported. Section 5841(c) provides that each manufacturer shall notify the Attorney General about the manufacture of a firearm, as provided by the regulations. These provisions further stipulate that each importer must obtain authorization as required by regulations, prior to importing a firearm. Section 5852(c) exempts a qualified manufacturer from payment of the making tax for manufactured firearms. The

proposed use of this information is to ensure that applicants are in compliance with relevant laws.

DESCRIPTION AND NUMBER OF RESPONDENTS: Currently, there are 14,384 FFLs with SOT.

FREQUENCY OF RESPONSE: One time.

BURDEN OF RESPONSE: Currently, respondents will respond one time. This proposed rule may require a second response to incorporate a change in inventory.

ESTIMATE OF TOTAL ANNUAL BURDEN: Currently, the burden hours is 7,192. This rule would add an additional burden hour of 1,323 hours.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this proposed rule to OMB for its review of the collections of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish a notice in the Federal Register of OMB's decision to approve, modify, or disapprove the proposed collection.