

Final Rule 2021R-08F
Frequently Asked Questions and SBA Compliance Guide (as of 02/13/2023)

WHAT DOES THE FINAL RULE DO?

1. What is the effect of the Factoring Criteria for Firearms with Attached “Stabilizing Braces” final rule?

- The rule outlines the factors ATF would consider when evaluating firearms equipped with a purported “stabilizing brace” (or other rearward attachment) to determine whether these weapons would be considered a “rifle” or “short-barreled rifle” under the Gun Control Act of 1968, or a “rifle” or “firearm” subject to regulation under the National Firearms Act. The final rule’s amended definition of “rifle” clarifies that the term “designed, redesigned, made or remade, and intended to be fired from the shoulder” includes a weapon that is equipped with an accessory, component, or other rearward attachment (e.g., a “stabilizing brace”) that provides surface area that allows the weapon to be fired from the shoulder, provided other factors, as listed in the definition, indicate the weapon is designed and intended to be fired from the shoulder.

AFFECTED FIREARMS

2. Does ATF have a list of specific “braces” that qualify in making a pistol into a short-barreled rifle (SBR)?

- No. ATF regulates firearms as defined by the Gun Control Act of 1968 and National Firearms Act, and therefore, in general, ATF does not regulate accessories such as “stabilizing braces.” ATF will provide examples of both commercially available firearms sold with “stabilizing braces” and common weapon platforms equipped with “stabilizing braces” that are considered SBRs at www.atf.gov.

3. How do I get a determination if my “brace” device makes a pistol an SBR?

- In addition to ATF’s list of commercially available firearms sold with “stabilizing braces” and common weapon platforms equipped with “stabilizing braces” that qualify as SBR, any other firearms equipped with a “stabilizing brace” or rearward attachment may be submitted to ATF’s Firearms and Ammunition Technology Division for classification.
- Firearms may be submitted to:
 - Chief, FTISB
 - 244 Needy Rd.
 - Suite 1600
 - Martinsburg, WV 25405

- A prepaid return shipping label should be provided when submitting to prevent delay of the return of the sample.

COMPLIANCE OPTIONS

4. What are the compliance options for an individual (non-licensee) in possession of a firearm equipped with a “stabilizing brace,” which is a short-barreled rifle (SBR), after the effective date of the final rule?

- Submit through the eForms system an Application to Make and Register a Firearm, ATF Form 1 (E-Form 1) before May 31, 2023.
- Permanently remove or alter the “stabilizing brace” so that it cannot be reattached and thereby removing it from regulation as a “firearm” under the NFA.
- Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm thus removing it from the provisions of the NFA.
- Turn the firearm into your local ATF office.
- Destroy the firearm. For more information go to [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](#).

5. What are the compliance options for an FFL non-SOT in possession of a firearm equipped with a “stabilizing brace,” which is an SBR, after the effective date of the final rule?

- Submit through eForms system an Application to Make and Register a Firearm, ATF Form 1 (E-Form 1) before May 31, 2023.
- Permanently remove or alter the “stabilizing brace” so that it cannot be reattached thereby removing it from regulation as a “firearm” under the NFA.
- Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm thus removing it from the provisions of the NFA.
- Turn the firearm into your local ATF office.
- Destroy the firearm. For more information go to [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](#).

6. What are the compliance options for an FFL/SOT holder in possession of firearms equipped with a “stabilizing brace,” which is an SBR, after the effective date of the final rule?

- For dealers and pawnbrokers with SBRs equipped with a “stabilizing brace” that are in their possession, complete and submit through the eForms system an Application to Make and Register a Firearm, ATF Form 1 (E-Form 1) before May 31, 2023.
- For importers and manufacturers with SBRs equipped with a “stabilizing brace” that are in their possession, complete and submit through the eForms system a Notice of Firearms Manufactured or Imported, ATF Form 2 before May 31, 2023.
- Permanently remove or alter the “stabilizing brace” so that it cannot be reattached and thereby removing it from regulation as a “firearm” under the NFA.

- Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm thus removing it from the provisions of the NFA.
- Turn the firearm into your local ATF office.
- Destroy the firearm. For more information go to [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](#).

7. What are the compliance options for Government entities in possession of firearms equipped with a “stabilizing brace,” which is an SBR, after the effective date of the final rule?

- Submit through eForms system an Application to Make and Register a Firearm, ATF Form 1 (E-Form 1) before May 31, 2023.
- A government entity may submit through the eForms system an Application for Registration of Firearms acquired by Certain Governmental Entities, Form 10 before May 31, 2023.
- Permanently remove or alter the “stabilizing brace” so that is cannot be reattached and thereby removing it from regulation as a “firearm” under the NFA.
- Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm thus removing it from the provisions of the NFA.
- Turn the firearm into your local ATF office.
- Destroy the firearm. For more information go to [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](#).

REGISTRATION AND OTHER COMPLIANCE OPTIONS

8. As an FFL, a pistol with a stabilizing brace arrived at my licensed premises after January 31st when the final rule took effect. What options do I now have to comply with the final rule?

- If at all possible, refuse delivery of the firearm or arrange return of the unopened delivery (via the delivering contract carrier), whereupon the original transferor must comply with the final rule.

If the firearm was received and taken into inventory, the following options are provided:

- Turn the firearm into your local ATF office.
- Destroy the firearm. For more information go to [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](#).

9. I am a pawnbroker and I have in pawned inventory a customer’s pistol with a stabilizing brace. What do I do?

- As of January 31, 2023, current possessors of affected firearms will have five options to comply, which must be accomplished by May 31, 2023. The five options for compliance are:
 - Register the weapon,
 - Permanently remove and dispose of, or alter, the “stabilizing brace” such that it cannot be reattached,

- Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm,
- Turn the firearm into your local ATF office, or
- Destroy the firearm.

There may be State laws which impact one or more of the provided options to comply with final rule 2021R-08F. Contact your State Attorney General’s Office (www.naag.org) for information on any such State restrictions. Once the final rule is effective, firearms that are now considered SBRs **CANNOT** be transferred (returned) in their current configuration unless they are properly registered.

10. As a deployed member of the military, what options do I have to comply with this final rule?

- Submit through the eForms system an Application to Make and Register a Firearm, ATF Form 1 (E-Form 1) before May 31, 2023.*
- Permanently remove or alter the “stabilizing brace” so that it cannot be reattached, thereby removing it from regulation as a “firearm” under the NFA.
- Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm, thereby removing it from the provisions of the NFA.
- Turn the firearm into your local ATF office.
- Destroy the firearm. For more information go to [How to Properly Destroy Firearms | Bureau of Alcohol, Tobacco, Firearms and Explosives \(atf.gov\)](https://www.atf.gov/how-to-properly-destroy-firearms).

****NOTE:** As long as you have all firearm information required to submit an ATF Form 1, then you do not need to be in immediate physical possession of the firearm. However, if you do NOT have all of the firearm information to submit an ATF Form 1 before May 31, 2023, upon your return from deployment you must immediately exercise one of the non-registry options. After exercising either the brace removal or barrel replacement options, should you still wish to make a SBR, you will need to file an ATF Form 1, submit the standard \$200 tax, and await approval prior to making your firearm.*

11. I possess a pistol, which was imported and then subsequently equipped with a stabilizing brace. Does 18 U.S.C. § 922(r) apply to my firearm?

No. Section 922(r), in relevant part, makes it unlawful to *assemble* from imported parts a semiautomatic rifle that is otherwise not importable. The implementing regulations of the GCA at 27 CFR 478.39 provides that a person may not assemble a semiautomatic rifle using more than 10 of the imported parts listed in the relevant paragraphs of the regulation. As discussed in section IV.B.8.e of the final rule, the criminal violation under section 922(r) is for the “assembly” of the semiautomatic rifle; therefore, no modification of such firearm would cure the 922(r) violation because the “assembly” has already occurred. Accordingly, a person with an imported pistol that was subsequently equipped with a “stabilizing brace” will

have the same options as anyone else under the final rule. Should that person choose to register the firearm, no further modification of the firearm with domestic parts is required.

12. Once the firearm is registered as a short-barreled rifle (SBR) can I remove/change the “stabilizing brace” or attach an item marketed as a stock? If so, am I required to notify ATF in advance?

- Yes, the firearm is registered as an SBR, and you can change out the “brace” device or stock for a different brace or stock. You do not need to contact ATF/NFA because changing the brace/stock does not change the configuration of the SBR. However, if the length of the firearm has changed you will need to notify the NFA Division. Final Note: The SBR is not “registered” until an approved Form 1 is received from NFA. The brace cannot be substituted/replaced until that time.

13. If I no longer want an SBR and I remove the “brace,” do I need to contact the NFA to un-register my SBR with an attached “stabilizing brace”?

- It is not a requirement to remove your SBR from the NFRTR; however, ATF highly recommends you notify the Government Services Branch (GSB) of the National Firearms Act Division to remove the firearm from the NFRTR registry. All NFRTR updates should be emailed to nfafax@atf.gov.

14. Can I register my firearm with a “stabilizing brace” to my trust?

- Yes, however, the firearm would have needed to be owned by the trust prior January 31, 2023. Evidence that the firearms was in trust should be provided with the registration document.

15. Is there a limit of how many firearms with a “stabilizing brace” that I can register as SBRs for free during the tax forbearance period?

- The tax forbearance only pertains to the firearms with an attached “stabilizing brace” in your possession at the time the final rule is published. There is no limit on how many you may register, but owners in possession of these types of SBRs must register by May 31, 2023.

16. If my SBR is made after the date of publication of the final rule, can I still register it as an SBR for free during the tax forbearance period?

- No. The registration options available to a possessor of such firearm applies to those possessed as of January 31, 2023.

17. If I attached my “stabilizing brace” on a rifle with a 16” barrel, will the firearm fall within the purview of the NFA?

- Generally, no. A rifle with a barrel (rifled) of at least 16 inches would not be an SBR under the NFA regardless of whether it incorporates a “stabilizing brace” or traditional shoulder

stock. Note, the firearm would need to retain an overall length of at least 26 inches and not fall into other NFA categories. Firearms with an attached “brace” device may be submitted to FATD for a determination.

“STABILIZING BRACE” DEVICES

18. Can I legally sell my “stabilizing brace” to someone who may be interested in making a short-barreled rifle (SBR)? Even after the tax forbearance period terminates?

- ATF does not regulate the sale of firearm accessories.

19. Is the “stabilizing brace,” by itself, an item that requires registration under NFA?

- No, a “stabilizing brace” is an accessory and ATF does not regulate accessories. However, a firearm equipped with a “stabilizing brace” may be subject to registration if it is an SBR because it is “designed, redesigned, made or remade, and intended to be fired from the shoulder,” as described by the amended definition of “rifle” in the Code of Federal Regulations and has a barrel(s) of less than 16 inches or an overall length of less than 26 inches.

20. Can I remove the “stabilizing brace” and attach it to another firearm?

- A “stabilizing brace” may be removed and attached to another firearm, but all NFA requirements apply if attaching such “stabilizing brace” configures the weapon as an NFA firearm.

21. If I have a disability and need a “stabilizing brace” to operate the firearm (as it was originally designed and intended), do I need to register it?

- Yes, if the firearm with the “stabilizing brace” is an SBR, it needs to be registered by May 31, 2023.

TRANSFER OR SALES

22. After publication of the final rule, can a Federal firearms licensee sell a firearm and a “stabilizing brace” in one transaction?

- If the attachment of the “stabilizing brace” to the firearm would make it a short-barreled rifle (SBR), the firearm must be registered in the National Firearms Registration and Transfer Record (NFRTR) prior to transfer. Thus, the FFL must first register the SBR through an E-Form1 and then further transfer on an ATF Form 4.

23. What are my options if I want to sell my “registered” firearm as an SBR with or without the brace?

- If you are selling the firearm as an SBR, which is “registered” in the NFRTR, an ATF Form 4, Tax Paid Transfer would be required to complete the transfer.

RECORDKEEPING & REPORTING

24. After exercising one of the corrective options of this final rule, how does an FFL make proper record in their acquisition and disposition record?

- Brace removal – no change to the A&D record.
- Replace short barrel with a barrel greater than 16-inch in length:
 - a. Record disposition of the pistol in the A&D as logged out to your licensed business (reflective of the date of modification)
 - b. Create an acquisition entry (reflective of date of modification) for the newly manufactured rifle, reenter the firearm’s marks of identification, and indicate that it was received from your licensed business.
- Submit ATF Form 1 to register the firearm as an SBR:
 - a. Record disposition of the pistol in the A&D as logged out to your licensed business (reflective of the date of approved registration)
 - b. Create an acquisition entry (reflective of date of approved registration) for the newly registered SBR, reenter the firearm’s marks of identification, and indicate that it was received from your licensed business.

****NOTE:** Any subsequent transfer of this firearm, after registration, will require further submission on an [ATF Form 4](#) – Application for Tax Paid Transfer and Registration and approval prior to the transfer. (Also see [FAQ #20](#))*

- Destroy the firearm - Record disposition of the pistol in the A&D, indicating “destroyed” (reflective of the date of destruction)

****NOTE:** Retention of firearm remnants or photographic proof of destruction is highly recommended for auditing purposes.*

- Turn the firearm into your local ATF office - Record disposition of the braced pistol in the A&D, identifying the ATF office (name & address) that took possession of the firearm (reflective of the date the firearm was turned into ATF).

25. Who completes the Annual Firearm Manufacture Export Report (AFMER) when a firearm is changed from a pistol to an SBR per the Final Rule?

- The AFMER is for 07/10 FFL Manufacturers to submit annually, for identification of firearms manufactured and distributed into U.S. commerce or exported out of the U.S.

If an FFL Manufacturer has transferred a pistol equipped with a stabilizing brace to another FFL Manufacturer, and that second Manufacturer now registers it on an ATF Form 2 (as an SBR, per the Final Rule), the second Manufacturer distributing the registered SBR into commerce must complete the AFMER for that weapon.

If an FFL (dealer/pawnbroker/importer) has within their inventory a pistol equipped with a stabilizing brace and opts to submit application to register the SBR (on an eForm 1), they are not required to submit an AFMER because the firearms already existed in commerce.

POSSESSION OF SBRs WITH AN ATTACHED “STABILIZING BRACE” AFTER TAX FORBEARANCE PERIOD ENDS

26. After the 120-day tax forbearance expires, will all unregistered firearms with an attached “stabilizing brace” that are short-barreled rifles (SBRs) be considered contraband?

- Yes.

27. Can I possess a pistol and unattached “stabilizing brace”?

- An NFA firearm need not be assembled to be regulated as such. Whether a person may be in constructive possession of an NFA firearm depends on the facts of a particular case.

28. What are the consequences if I choose not to register my firearm with a “stabilizing brace,” which is an SBR, and keep it?

- Unlawful possession of an unregistered SBR is punishable by up to 10 years’ imprisonment or \$10,000 in fines, or both. (26 U.S.C. 5861(d), 5871).

29. Prior to and after the expiration of the 120-day tax forbearance, can I continue to possess my SBR equipped with a “stabilizing brace” if I have timely submitted my application to register my firearm?

- Yes, but registrants should maintain proof of submission as evidence of continued lawful possession.

MARKINGS

30. Once the firearm is registered, am I required to mark the firearm since I manufactured a short-barreled rifle (SBR)?

- If the SBR equipped with a “stabilizing brace” is registered by May 31, 2023, the possessor is allowed to adopt the markings on the firearm. The maker’s marking exception is only applicable to firearms that are registered pursuant to the final rule. If the firearm is a personally made firearm, the possessor must mark in accordance with 27 CFR 478.92 & 479.102 prior to submitting the E-Form 1.

STATE LAW

31. If the State I reside in prohibits the ownership/possession of a short-barreled rifle (SBR), can I still register my firearm as an SBR?

- ATF will not approve an application of an SBR that violates State laws.

MISCELLANEOUS

32. Can a short-barreled shotgun be registered during the 120-day tax forbearance period?

- No.