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FINAL RULE 2021R-08F

Factoring Criteria for Firearms with Attached “Stabilizing Braces”



U.S. Department of Justice

Bureau of Alcohol, Tobacco, Firearms and Explosives

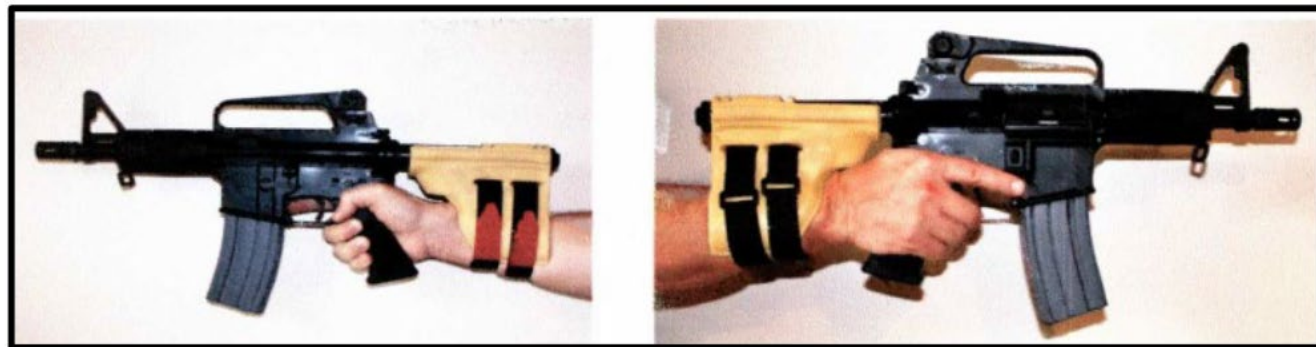


Regulatory Definition of Rifle - Background

- On November 8, 2012, an FFL submitted the first forearm “stabilizing brace” to ATF asking if the addition of their prototype device to a heavy pistol, such as an AR15-type pistol, would change that type of pistol’s classification under Federal firearms laws.
- The submitter described the “brace” device as designed to assist people with disabilities or limited strength or mobility with firing heavy pistols safely and comfortably, as these weapons can be “difficult to control with the one-handed precision stance.”
 - ❖ Based on the information provided, ATF inspected the “brace” device and found that particular sample, when attached to a firearm, did not result in a firearm that was designed or intended to be fired from the shoulder.
- Subsequently, numerous weapons equipped with stabilizing braces were manufactured and distributed that were different from the 2012 prototype, many of which did intend the weapon to be fired from the shoulder.
- *For more information: See section II.B of the preamble of the Final Rule.



2012 submission of the original “stabilizing brace” attached to an AR-type pistol.



Summary of Change

- The final rule’s definition of “rifle” states clearly 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 described in the rule) indicate the weapon is designed, made, and intended to be fired from the shoulder.



Effective Date of Final Rule

- The final rule was signed by the Attorney General on January 13, 2023 and was subsequently published in the Federal Register on January 31, 2023.
- The Final Rule is effective on **January 31, 2023.**
- The compliance date is 120 days from the date of publication, which is **May 31, 2023.**



Implications on Classifications

- Previous ATF classifications involving “stabilizing brace” attachments for firearms are superseded and considered null and void as of **January 31, 2023**.
- Firearms with such attachments **MAY** be submitted to ATF for re-classification.
 - ❖ Also refer to accompanying ATF guidance on existing firearms with “stabilizing brace” impacted by this rule.



Amended Regulatory Definition of “Rifle”

27 CFR § 478.11 and 27 CFR § 479.11 both define the term “**rifle**” as:

(1) For purposes of this definition, the term “designed or redesigned, made or remade, and intended to be fired from the shoulder” shall include 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 described in paragraph (2), indicate that the weapon is designed, made, and intended to be fired from the shoulder.



Amended Regulatory Definition of “Rifle”

(2) When a weapon provides surface area that allows the weapon to be fired from the shoulder, the following factors shall also be considered in determining whether the weapon is designed, made, and intended to be fired from the shoulder:

(i) whether the weapon has a weight or length consistent with the weight or length of similarly designed rifles;

(ii) whether the weapon has a length of pull measured from the center of the trigger to the center of the shoulder stock or other rearward accessory, component or attachment (including an adjustable or telescoping attachment with the ability to lock into various positions along a buffer tube, receiver extension, or other attachment method) that is consistent with similarly designed rifles;



Amended Regulatory Definition of “Rifle”

(iii) whether the weapon is equipped with sights or a scope with eye relief that require the weapon to be fired from the shoulder in order to be used as designed;

(iv) whether the surface area that allows the weapon to be fired from the shoulder is created by a buffer tube, receiver extension, or any other accessory, component, or other rearward attachment that is necessary for the cycle of operations;

(v) the manufacturer’s direct and indirect marketing and promotional materials indicating the intended use of the weapon; and

(vi) information demonstrating the likely use of the weapon in the general community.



Surface Area



Various Designs with Sufficient Surface Area That Allow Shoulder Firing

(2) When a weapon provides surface area that allows the weapon to be fired from the shoulder, the following factors shall also be considered in determining whether the weapon is designed, made, and intended to be fired from the shoulder

Weight or Length

(i) whether the weapon has a weight or length consistent with the weight or length of similarly designed rifles;

- If the weight or length of the firearm is consistent with the weight or length of similarly designed rifles, then this would be an indicator that shoulder-firing the weapon provides stabilization and is beneficial in firing the weapon, and thus that the firearm is designed and intended to be used this way.



Weight or Length: Similar Items to be Treated Similarly



Firearm with “Stabilizing Brace” (top)
Firearm with Known Commercial Stock (below)

Weight or Length: Similar Items to be Treated Similarly



Firearms with “Stabilizing Brace” (top pictures)
Firearms with Known Commercial Stocks (bottom pictures)

Length of Pull

(ii) whether the weapon has a **length of pull** measured from the center of the trigger to the center of the shoulder stock or other rearward accessory, component or attachment (including an adjustable or telescoping attachment with the ability to lock into various positions along a buffer tube, receiver extension, or other attachment method) that is consistent with similarly designed rifles;

- Length of pull is a common measurement of firearms that describes the distance between the trigger and the center of the shoulder stock.
- A shoulder-fired weapon generally will have a length of pull that allows the placement of the firearm's shouldering device against the shooter's shoulder while also ergonomically allowing the shooter to engage the firearm's trigger.
- Adjustable or Telescoping attachments that lock into place provide horizontal support for firing from the shoulder.



Length of Pull

Length of pull is measured between the **center of the trigger** and the **center of the shoulder stock**.



Sights or Scope

(iii) whether the weapon is equipped with **sights or a scope with eye relief that require the weapon to be fired from the shoulder** in order to be used as designed;

- Sights or scopes that cannot be used without shouldering the weapon indicates that the firearm is designed and intended to be fired from the shoulder.



Regulatory Definition of “Rifle”

(iii) sights or a scope with limited eye relief



Sights or Scope



Rearward Attachment

(iv) whether the surface area that allows the weapon to be fired from the shoulder is created by a buffer tube, receiver extension, or any other accessory, component, or other **rearward attachment that is necessary for the cycle of operations;**

An AR-type pistol with a standard 6 to 6-1/2 inch buffer tube may not be designed and intended to be fired from the shoulder even if the buffer tube provides surface area that allows the firearm to be shoulder fired because it is **required for the cycle of operations of the weapon.**



Rearward Attachment



Rearward Attachment



Marketing and Intended Use

(v) the manufacturer's direct and indirect marketing and promotional materials indicating the intended use of the weapon; and

- The manufacturer's marketing and promotional materials for a weapon are relevant in considering the likely use of the firearm in the general community.



Use of the Weapon

(vi) information demonstrating the likely use of the weapon in the general community.



Final Rule Options for Categories of Affected Parties

- Unlicensed Possessors
- Federal Firearms Licensees (FFLs) that are NOT Qualified under the NFA as a Class 1 Importer or Class 2 Manufacturer Special (Occupational) Tax (SOT) holder (includes FFLs who are qualified under the NFA as a Class 3 Dealer)
- FFL Importers or Manufacturers under the GCA that ARE Qualified under the NFA as a Class 1 Importer or Class 2 Manufacturer SOT holder
- Certain Governmental Entities



Tax Forbearance

- The Department is forbearing the NFA taxes on persons in current possession of firearms equipped with “stabilizing brace” as described:
 - Individuals, FFLs, and FFL/SOT Dealers will not be subject to the \$200 making tax for SBR’s in their possession as of **January 31, 2023**, so long as they timely submit an E-Form 1 by **May 31, 2023**.
 - FFLs that are Class 1 Importer or Class 2 Manufacturer SOT holders in possession of unregistered firearms equipped with a “stabilizing brace” that are subject to the provisions of the NFA as of **January 31, 2023** must timely register their affected firearms on an E-Form 2 by **May 31, 2023**.
 - Because the E-Form 2 does not require an accompanying tax payment, ATF will not collect any taxes for registration of these weapons.
 - Once registered on E-Form 2, FFLs-SOT holders are liable for the applicable transfer taxes when the firearm is subsequently transferred.



Options Available to all Possessors

1. Remove the short barrel and attach a 16-inch or longer rifled barrel to the firearm.
2. Permanently remove and dispose of, or alter, the “stabilizing brace” such that it cannot be reattached.
3. Turn the firearm into your local ATF office.
4. Destroy the firearm.
5. Register the weapon as set forth below depending on your category of possessor



Registration Options – non-licensee Possessors

- Submit through the eForms system an Application to Make and Register a Firearm, ATF Form 1 (“e-Form 1”) by **May 31, 2023**.
 - Must have had possession of affected firearm before **January 31, 2023**.
 - Not required to pay the \$200 making tax upon registration
 - May adopt markings on the firearm for purposes of the e-Form 1 if the firearm is marked in accordance with 27 CFR 478.92 and 479.102. If the firearm is not so marked, then the individual must mark the firearm as required by federal law.



Registration Options – FFLs

FFLs that are NOT a Class 1 Importer or Class 2 Manufacturer SOT holder (includes FFL/SOT dealers)

- Submit through the eForms system an Application to Make and Register a Firearm, ATF Form 1 (“e-Form 1”) by **May 31, 2023**.
 - Must have had possession of affected firearm before **January 31, 2023**.
 - Not required to pay the \$200 making tax upon registration
 - May adopt markings on the firearm for purposes of the e-Form 1 if the firearm is marked in accordance with 27 CFR 478.92 and 479.102. If the firearm is not so marked, then the individual must mark the firearm as required.



Registration Options – FFLs

FFLs that are NOT a Class 1 Importer or Class 2 Manufacturer SOT holder (includes FFL/SOT dealers)

- If the FFL wishes to continue to engage in the business of dealing SBRs equipped with a “brace” device, the FFL will need to become a Class 3 SOT in accordance with the NFA.
- If the FFL wishes to continue to engage in business of manufacturing SBRs equipped with a “brace” device, the FFL will need to become a Class 2 SOT in accordance with the NFA.



Registration Options – FFL/Class 1 OR 2 SOT

FFLs that are Class 1 Importer or Class 2 Manufacturer SOT under NFA

- Register all affected firearms currently in inventory tax free on e-Form 2
- Have until **May 31, 2023** to register current inventory
- To transfer affected firearms after **January 31, 2023**, the SBRs must be registered in the NFRTR and a Form 4 or Form 3, as the case may be, submitted to ATF.



Registration Options – Government Entities

Certain Governmental Entities

- Register on e-Form 10, meaning future transfers are limited to other government entities.
- Register on e-Form 1, meaning the SBR may later be transferred to non-government entities.
- Have until **May 31, 2023** to register SBRs with “stabilizing brace” that are in their possession as of **January 31, 2023**.
- Not required to pay \$200 making tax.



Transfers and New Acquisitions

- To transfer after **January 31, 2023**, the SBR must first be registered in the NFRTR, and then a Form 4 must be submitted and approved.
- Any SBR with a “stabilizing brace” that is newly made or acquired after **January 31, 2023** will be subject to the regular NFA Form 1 (or Form 2 for qualified SOT holders) application process and making tax.



ATF Resources

- ATF Website: Factoring Criteria for Firearms with Attached “Stabilizing Braces”
<https://www.atf.gov/rules-and-regulations/factoring-criteria-firearms-attached-stabilizing-braces>
- ATF eRegulations: <https://regulations.atf.gov/>
- ATF eForms: Applications – eForms
<https://www.atf.gov/firearms/applications-eforms>
- Application for SOT: Special Tax Registration and Return - National Firearms Act (ATF Form 5630.7)
<https://www.atf.gov/firearms/docs/form/special-tax-registration-and-return-national-firearms-act-atf-form-56307>



Contact Us

- For questions regarding the application of the final rule, contact the Firearms Industry Programs Branch at Firearms Industry Programs Branch: FIPB@atf.gov.
- For technical questions regarding firearms, contact the Firearms and Ammunition Technology Division at: Fire_Tech@atf.gov.
- For questions regarding the rulemaking process, contact the Office of Regulatory Affairs at ORA@atf.gov.
- For questions about the eForm process, utilize the “Ask the Experts” tab within the eForms application.



