

Congress of the United States
Washington, DC 20515

March 4, 2015

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

Dear Director Jones:

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,



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



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


Additional Member signatures attached.

1 Paul A. Lauer

2 Dan Benshite

3 Ted S. York

4 Rudy K. Weber

5  TN-04

6 Tom Mairino

7 David R. Bee

8  Sam D. M. Te

9 Ken Buck

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12 Joseph R. Pitts

13 Jackie Walorski

14 Bruce R. O'Quinn

15 Mike Bishop

16 Rick Huhon

17  Mark V. Abr W-2

18 Bel Sims

19 Ted Munt NH1

20 John Ratcliffe

21 Richard Ann

22 Doug LaMalfa

23 Candice S. Miller

24 Mike Ryan

25 Will Hunt

26 Thomas Massie

27 ~~Robert~~

28 Chuck F. Lin

29 ~~Bob~~

30 J. H. Morden

31 ~~Jeff~~

32 ~~W. J. M.~~

33 H. B. Love

34 ~~Jeff~~

35 CPY

36 Rodney D.

37 Ben Butler (TX-36)

38 ~~Phil~~

39 ~~Gene~~

40 Ryan

41 Thomas C. B.

42 Blake F. F.

43 Bill F.

44 ~~Mark~~

45 Ben F.

46 ~~Frank~~

47 Bill Johnson

48 Gary S.

49 Ron Kind

50 Doug Colton

51 Jeff Fortson

52 Duke Kelly

53 J. Jahn

54 Hans MD-01

55 ML Boat

56 Randy Flynn

57 Bill Huizenga

58 Renee Ellen

59 Scott Long

60 Pat Tevin

61 Alex & Hove

62 D. French (Hir)

63 Mo Brooks

64 Roger Williams

65 Duane Black

66 J. T. Smith

67 Markwayne Mullin

68 Tim Huelskamp

69 L. Wayne

70 Bob Bob

71 Glenn Thompson

72 Hunt

73 Jan Heck

74 Kevin Yoder

75 Jim Bridenstine

76 Robert Rutledge

77 Ray J. Anderson

78 ~~KE Bragg~~

79 Gregg Harper

80 Jeff Miller

81 Don Brat

82 ~~David Shunk~~

83 D-D Royce

84 Cressen Hardy

85 Larry Brown

86 Mya Pompeo

87 Tom Em

88 Dan W. Ah

89 DKK

90 Devin Nunn

91 Steve Steen

92 David Nelson PL-10

93 Chris Collins

94 Jaime Herrera Beutler

95 Peti Olson

96 J Rody Forbes

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Prof. Loh

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Cannon/HF

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Doug Landon

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K. Yim/Coy

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Lamar Smith

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H. Peace

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Ashi Scott

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Tim Walberg

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M. H. /
Christine

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John Kline

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Tom Graves

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Ken Maunt

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Steph Fink

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Liz Lynn

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Robert J. Wittman

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Du Yang

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Sam Lee

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Dan R. R.

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John Culberson

121 Steve Chast

122 Leonard Lance

123 J. H. Hagan ^{MD}

124 E. Whitfield

125 Colic. Palmer

126 Steve King

127 J. S. ^{IL-15}

128 S. J. Wilson

129 Aubin Smith ^{NE-3}

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131 Bill Shuster

132 Marshall Blackburn

133 Tim Murphy

134 M. C. S.

135 John Carter

136 Lynn A. Westmeland

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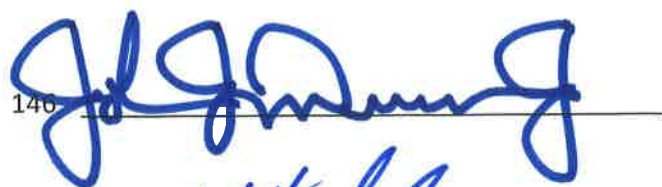
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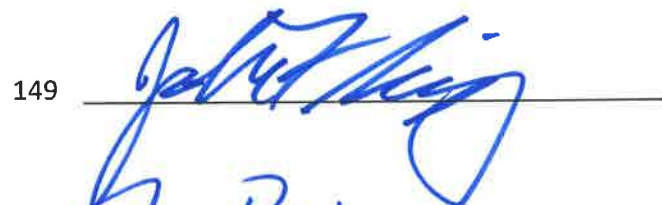
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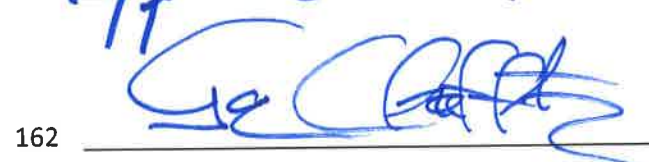
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172 Luke Messer

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174 J. J. J.
175 Pepi Costello

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186 Rod Blum

176 Earl L. 'Buddy' Carter

187 Tom Rice

177 Ann Wagner

188 Barbara Cantr

178 Jahl Mueh

189 C. W. W.

179 Martha Riley

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191 Carol B. Adenace

192 Mimi Rattley

193 Michael McCall

194 Steve Russell

195 Tom Barletta

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197 Martina McElroy

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199 Paul P. Joyce

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201 Keith J. Rothfus

202 C.W. Bausky Jr

203 Trey Gowdy

204 Susan Brooks

205 Bruce Westerman

206 Erik Paulsen

207 [Signature]

208 Ray Stange

209 Jeff Young

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211 Paul Ryan

212 A.O.C.

213 Fred R. Wicks

214 Andy Barr

215 Lam L.

216 D. Beicht

217 Kevin McCarty

218 Mike Munner

219 Fred Doherty

220 Hal Rogers

221 Robert J. Bishop

222 Kent Starks

223 Al Mulder

224 Paul Brown

225 Ben James

226 Keith Hill

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228 Raúl R. Labrador

229 Lynn Jenkins

230 Betty Long

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232 Bob Woodall

233 Liz Brown

234 D. Z. [Signature]

235 Carol Roberts

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1 Paul Gosar
2 Dan Benishek, M.D.
3 Ted Yoho
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6 Tom Marino
7 David "Phil" Roe, M.D.
8 David B. McKinley, P.E.
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103	Blaine Luetkemeyer	146	John Duncan (TN)
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108	Gene Green	151	Henry Cuellar
109	Doug Lamborn	152	Patrick McHenry
110	Ted Poe	153	Walter Jones
111	Lamar Smith	154	Frank LoBiondo
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112	Mike Simpson	156	Randy Hultgren
113	Marlin Stutzman	157	Ed Royce
114	Kristi Noem	158	Sam Johnson
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116	Kenny Marchant	160	Ander Crenshaw
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183 Mark Walker
184 Ann Kirkpatrick
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222 Trent Franks
223 Greg Walden
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225 Kevin Cramer
226 Reid Ribble
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231 Dave Trott
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233 Richard Nugent
234 David Jolly
235 Todd Rokita
236 John Mica
237 Lee Zeldin