

Bureau of Alcohol, Tobacco, Firearms and
Explosives

Office of Regulatory Affairs, Enforcement
Programs and Services

[99 New York Avenue NE](#)

[Washington, DC 20226](#)

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ATF-[2026-0335](#) accepts direct comments)

Re: Docket No. ATF-[2026-0335](#); RIN 1140-AA98
â€” Removing Factoring Criteria for Firearms
With Attached "Stabilizing Braces"

[Regulations.gov](#) reference: ATF-[2026-0335](#)

(participating agency, comment form available)

Comment deadline: [August 4, 2026](#)

To the Bureau:

I write in opposition to the proposed rule
published at 91 Fed. Reg., FR Doc. [2026-08930](#),

which would strip from 27 CFR 478.11 and 479.11 the two paragraphs the Department added in the January 13, 2023 final rule, Factoring Criteria for Firearms with Attached "Stabilizing Braces," and would return the regulatory definition of "rifle" to the bare statutory language of 26 U.S.C. Â§ 5845(c) and 18 U.S.C. Â§ 921(a)(7) without any implementing elaboration. The agency is correct that the 2023 rule suffered fatal procedural defects: the Fifth Circuit held in *Mock v. Garland*, 75 F.4th 563 (5th Cir. 2023), that the plaintiffs were likely to succeed on their APA challenge, the Northern District of Texas thereafter vacated the rule in its entirety in *Mock v. Garland*, No. [4:23-CV-00095-O](#), 2024 WL [2982056](#) (N.D. Tex. June 13, 2024), and the Eighth Circuit in *Firearms Regulatory Accountability Coalition v. Garland*, 112 F.4th 507 (8th Cir. 2024), separately concluded that

several of the six factors, including the undefined "surface area" test and the marketing and community-use factors, were impermissibly vague. Procedural invalidity, however, is a reason to draft a lawful replacement, not a license to delete the classification criteria altogether and leave the field statutorily inert.

The Administrative Procedure Act requires an agency that changes course to supply a reasoned explanation for the change, and that obligation is heightened where the new policy rests upon factual findings that contradict those which underlay the prior policy, as the Supreme Court held in *Motor Vehicle Manufacturers Association v. State Farm Mutual Automobile Insurance Co.*, 463 U.S. 29 (1983), in vacating the rescission of the passive-restraint requirement for want of a reasoned basis. Here

the Bureau in the 2023 rulemaking found that shoulder-fired configurations of pistol-format firearms enhance accuracy and lethality at range sufficiently to justify treating them as short-barreled rifles under the National Firearms Act, and it expressly stated that classifying brace-equipped pistols as rifles would enhance public safety by reducing the proliferation and criminal use of these firearms. The present proposal never revisits or disclaims that factual finding. It instead offers only that a case-by-case, submission-specific classification process administered through the Firearms and Ammunition Technology Division is preferable to a pre-determined factored test, and that continuing to litigate the vacated rule would waste agency resources. Neither rationale grapples with the safety finding the agency itself made three years ago, and 5 U.S.C. Â§ 553(c) demands that the Bureau explain why

that finding no longer warrants any regulatory elaboration at all, not merely why the particular six-factor test the courts rejected was unworkable.

The statutory scheme the Bureau is retreating to still turns on the shoulder-fired distinction for a reason grounded in ballistics and control, not administrative convenience. Congress defined "short-barreled rifle" in 26 U.S.C. Â§ 5845(a)(3) and "rifle" in 26 U.S.C. Â§ 5845(c) to draw a line between one-handed pistols and shoulder-stocked long guns precisely because a rifled barrel fired from the shoulder allows a shooter to stabilize a weapon for sustained, aimed fire at distances and rates of accurate follow-up shots that a pistol grip cannot support, which is the same design logic the Fifth Circuit itself recognized in *Mock*, 75 F.4th at 570, when it observed that the defining difference between a

handgun and a rifle is the shoulder stock and the recoil management and aiming stability it provides. A stabilizing brace that supplies that same shouldering surface area converts a concealable pistol into the functional equivalent of the very weapon Congress subjected to registration, taxation, and background scrutiny under the National Firearms Act because of its heightened accuracy and lethality, a point the Bureau made explicitly in the 2023 rule when it found that firearms equipped with such braces possess objective design features that make them rifles as Congress defined that term. Removing the regulatory elaboration of that statutory line without any substitute standard does not restore neutrality; it removes the only administrable mechanism by which the Bureau or the regulated public can distinguish a genuinely one-handed pistol from a shoulder-fired rifle in brace-equipped configurations,

inviting exactly the case-by-case unpredictability the agency claims to prefer while leaving millions of already-registered short-barreled rifles in an uncertain regulatory position.

The public-safety stakes of this distinction are not abstract. The gunman who killed ten people at a King Soopers grocery store in Boulder, Colorado, on March 22, 2021, used a Ruger [AR-556](#) pistol with a [10.5](#)-inch barrel that a law enforcement source confirmed had been fitted with an arm brace, a configuration that industry sources describe as functionally equivalent to a rifle but more portable and concealable. That the Bureau's own 2023 rulemaking, adopted in direct response to the proliferation of brace-equipped pistols in the years following that attack, is now being unwound without any factual reassessment of the risk it was

designed to address is precisely the kind of unexplained reversal of an underlying factual predicate that State Farm forbids. An agency is free to change its mind, but it is not free to simply announce that the classification criteria it once deemed necessary to public safety are now unnecessary without saying why the safety concern evaporated.

I do not ask the Bureau to reinstate the vacated 2023 rule's specific six-factor test, which two courts found vague and unadministrable. I ask that the Bureau either propose a narrower, judicially defensible standard for when a stabilizing brace converts a pistol into a shoulder-fired rifle under 26 U.S.C. Â§ 5845(c), consistent with the objective design and ballistic concerns Congress and the Bureau have both identified, or explain on the record, as Â§ 553(c) requires, why no such standard is any

longer warranted in light of the safety rationale the agency itself advanced in 2023. Simply deleting the criteria and reverting to unelaborated statutory text, while the underlying safety finding sits unaddressed, is arbitrary and capricious agency action dressed as a housekeeping conformance rule.

For these reasons, I respectfully urge the Bureau to withdraw or substantially revise this proposal before finalization, and to supply the reasoned explanation for abandoning its 2023 safety findings that the Administrative Procedure Act requires.

Respectfully submitted,
Concerned Citizen