



ILLINOIS ATTORNEY GENERAL
KWAME RAOUL

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Via Federal Rulemaking Portal (Regulations.gov)

The Honorable Todd Blanche
Acting Attorney General of the United States

Robert Cekada
Director of the Bureau of Alcohol, Tobacco,
Firearms and Explosives

c/o: ATF Rulemaking Comments
Mail Stop 6N-518, Office of Regulatory Affairs
Enforcement Programs and Services
Bureau of Alcohol, Tobacco, Firearms, and Explosives
99 New York Avenue, NE
Washington, DC 20226

ATTN: RIN 1140-AA98

Re: Removing Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 91 Fed. Reg. 24,453 (May 6, 2026), Docket No. ATF–2026–0335; ATF No. 2025R–11P

Dear Acting Attorney General Blanche and Director Cekada:

We, the Attorneys General for the States of Illinois, Arizona, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Virginia, and Washington (“the States”), write to provide comments on the Bureau of Alcohol, Tobacco, Firearms, and Explosives’ (“ATF”) Proposed Rule Removing Factoring Criteria for Firearms With Attached “Stabilizing Braces.”¹ The Proposed Rule seeks to rescind a prior rule, 88 Fed. Reg. 6478, but offers nothing related to stabilizing braces in its place. As the chief legal

¹ Removing Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 91 Fed. Reg. 24,453 (May 6, 2026) (to be codified at 27 CFR Parts 478 and 479).

officers for our respective States, the undersigned Attorneys General oppose the Proposed Rule, which, if finalized, would severely harm the States and their residents, and violate federal law.

The Proposed Rule's rescission without replacement makes it easier for individuals to possess short-barreled rifles (SBRs), either by purchasing pistols with pre-attached braces, or converting pistols by attaching braces after purchase. Short-barreled rifles are much easier to conceal than a standard rifle, while retaining the capacity to deploy high-velocity, rapid-fire rounds with tremendous accuracy from a great distance. They have been used repeatedly in mass shootings. It is beyond dispute that *certain* pistols with attached stabilizing braces can constitute an SBR under federal law.²

Currently, SBRs are regulated by federal law. Those in possession of SBRs must register the weapon and submit to a background check. But a stabilizing brace makes it possible to convert an unregulated pistol into an SBR, entirely outside this system of federal regulation. In the Proposed Rule's "Benefits" section, the ATF admits that rescinding the prior rule regarding classification of such devices "could have a qualitative disbenefit to public safety (*i.e.*, adverse impacts)."³ This is an understatement. The adverse impacts on public safety as a result of the Proposed Rule are unfortunately certain—stabilizing brace-converted SBRs have been used in mass shootings, including in the Covenant School shooting in Nashville, Tennessee, and the 2019 mass shooting in Dayton, Ohio that lasted 30 seconds but killed 9 people and wounded at least 14 others. The States have a substantial interest in reducing gun violence by keeping particularly dangerous firearms off the streets and some States have their own regulations regarding SBRs.⁴ The Proposed Rule that increases the convertibility of pistols to SBRs would harm that interest and violate the Administrative Procedure Act, as described below.

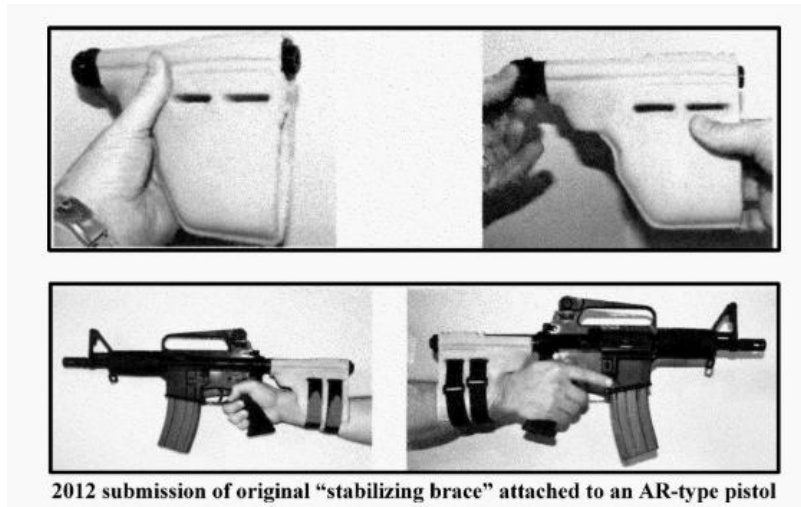
I. Introduction

The Proposed Rule relates to the classification of firearms with attached "stabilizing braces" under federal law. A stabilizing brace is a rearward attachment for a pistol. The device was originally marketed as intended to assist persons with disabilities and others who lack sufficient grip strength to control heavy pistols. A picture of a stabilizing brace used for this purpose is shown below:

² See, e.g., *Watterson v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, No. 4:23-CV-00080, 2024 WL 897595, at *18 (E.D. Tex. Mar. 1, 2024) ("Because a pistol equipped with a stabilizing brace subject to the Final Rule effectively becomes a short-barreled rifle, it too likely becomes a dangerous and unusual weapon not protected by the Second Amendment."); *Getz v. Sturm, Ruger & Co., Inc.*, No. 3:23-CV-1338 (RNC), 2024 WL 1793670, at *3 (D. Conn. Apr. 25, 2024) ("Ruger's AR-556 Pistols with SBA3 braces are 'near-duplicates' of short-barreled rifles that Ruger manufactured for the law enforcement market, the AR-556 MPR.")

³ 91 Fed. Reg. at 24459–60.

⁴ See, for example, Cal. Penal Code §§ 17170; 33215.



2012 submission of original “stabilizing brace” attached to an AR-type pistol ⁵

By 2014, ATF began to see these “braces” being used to fire weapons from the shoulder and new designs included characteristics common to shoulder stocks.⁶ These new designs could also be used to press the firearm up against the shoulder, such that the pistol could be fired like a rifle. Indeed, given the surface area of the back of a stabilizing brace, a stabilizing brace equipped pistol can be used almost identically to a rifle, as shown below:



Pistol with attached “stabilizing brace” (top) compared to rifle (bottom), both marketed by the same company ⁷

Under the National Firearms Act of 1934 (the “NFA”) and the Gun Control Act of 1968 (the “GCA”), where a firearm is “designed or redesigned, made or remade, and intended to be fired from the shoulder,” additional regulation may apply. Specifically, a short-barreled rifle is subject to certain regulatory requirements, including the requirement that the firearm be registered with the federal government and the requirement that the purchaser undergo a background check. The issue of stabilizing braces led to inconsistent enforcement of the requirements of the NFA and GCA

⁵ See 88 Fed. Reg. at 6483.

⁶ *Id.* at 6479.

⁷ *Id.* at 6494.

in classifying braced firearms. The fact that the stabilizing brace can be used for both its original intended use and for firing from the shoulder had created a regulatory gap, sometimes called the “arm-brace loophole.”

The ATF enforces the NFA and GCA and one of its key functions is “to maximize public safety, particularly with respect to the reduction of violent firearm crime.”⁸ Thus the agency has an interest in tracking and classifying dangerous weapons, such as SBRs, that are present in America. The States share this interest, as some have SBR restrictions and regulations of their own.⁹ Accordingly, since stabilizing braces first appeared on the market, ATF has received classification requests from individuals seeking clarity as to the regulatory treatment of such devices. In 2012, the ATF first received a classification request from a stabilizing brace owner, asking whether a firearm equipped with the brace falls under the short-barreled rifle definition within the NFA and the GCA.¹⁰ After a decade of inconsistent classification requests and responses regarding this issue, the ATF issued a final rule in 2023.¹¹ That rule provided a set of factors to apply when classifying brace-equipped firearms.

ATF now seeks to rescind the 2023 Final Rule, citing court cases that held the promulgation of the rule was procedurally improper and noting the vagueness of the classification factors. But rather than try to cure defects from the 2023 Final Rule with a clearer regulation, ATF proposes to rescind it entirely. That would leave firearm dealers and purchasers with *only* the statutory text of the NFA and GCA to determine how to classify their firearms, and thus uncertainty as to whether they must register their firearms or undergo a background check to possess them. In other words, ATF’s Proposed Rule fails to engage with any of the circumstances that prompted ATF to issue that rule in this first instance and instead abandons the critical need for regulatory guidance here.

This proposed “do nothing” approach violates the Administrative Procedure Act (“APA”). Under the APA, an agency must engage in reasoned decision making when proposing a change from a prior regulation. This includes an examination of the relevant data, consideration of important aspects of the problem before the agency, and analysis of possible alternative courses of action. Here, ATF’s reasoning failed to meet these requirements.

First, the agency failed to adequately consider important aspects of the problem created by stabilizing braces, including the public safety effects of unregulated modified rifles on the market and the uncertainty for retailers and firearm owners created by reliance on the statutory text alone. The agency admits the threats to public safety from this rule but does nothing to address that problem, instead simply asserting it has “no data” regarding the extent of such problems. Not only is this incorrect, but claiming no data exists is not sufficient justification for ignoring public safety risks and the accompanying defects in the agency’s proposed approach.

⁸ U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Fiscal Year 2025 Performance Budget CJ/PB Submission at 1 (available at <https://www.atf.gov/media/19231/download>) (last visited July 31, 2026).

⁹ *See, for example*, Cal. Penal Code §§ 17170; 33215.

¹⁰ 91 Fed. Reg. at 24454.

¹¹ *See* Factoring Criteria for Firearms With Attached “Stabilizing Braces,” 88 Fed. Reg. 6,478 (Jan. 31, 2023) (“2023 Final Rule”).

Second, the agency seemingly never considered the possibility that it could *amend* the factors set forth in the 2023 Final Rule or issue some other new regulation for use by industry members to classify stabilizing braces. The only alternatives ATF examined were retaining the 2023 Final Rule unchanged, rescinding it wholesale, or issuing nonbinding guidance; a revised, binding regulation was never analyzed.¹² ATF’s insufficient analysis of a regulatory middle ground ignores the agency’s duties under the APA to consider possible alternative courses of action.

Third, the agency failed to consider the reliance interests created by the 2023 Final Rule.

These failings would result in real harm to public safety for the States and their residents. The 2023 Final Rule was implemented to address a critical need, following inconsistent agency responses, as well as mass shootings around the country. That the rule may need to be amended provides no basis to abandon it wholesale, particularly where ATF has admitted the resulting public safety adverse impacts here.

Because of ATF’s failure to consider these defects in the “do nothing” approach, the agency has not provided a reasoned explanation for this Proposed Rule, and its adoption would be unlawful.

II. The Regulatory Problem of Stabilizing Braces

A. Statutory Background

“Congress passed the NFA to regulate certain weapons that were viewed as especially adaptable to criminal misuse.”¹³ The NFA curtails the criminal misuse of firearms in several ways,¹⁴ including by regulating many particularly dangerous weapons that “could be used readily and efficiently by criminals.”¹⁵ One category of regulated firearms is short-barreled rifles, defined as “a rifle having a barrel or barrels of less than 16 inches in length” or “a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.”¹⁶ The NFA requires the registration of rifles in the National Firearms Registration and Transfer Record.¹⁷ The short-barreled rifle is also subject to making and transfer taxes and Attorney General approval before they are made, manufactured, imported, or transferred.¹⁸ Any person engaged in the business of importing, manufacturing, or dealing in NFA firearms must register with the Attorney General and pay a special occupational tax.¹⁹

¹² See, e.g., 91 Fed. Reg. at 24459–60 (evaluating as alternatives only maintaining the status quo, wholesale rescission, and published guidance).

¹³ *Id.* at 24454.

¹⁴ See, e.g., *Lomont v. O’Neill*, 285 F.3d 9, 11 (D.C. Cir. 2002).

¹⁵ H.R. Rep. No. 83-1337, at A395 (1954).

¹⁶ 26 U.S.C. § 5845(a)(3), (4).

¹⁷ *Id.* § 5841.

¹⁸ *Id.* §§ 5811, 5812, 5821, 5822. Section 70436 of the One Big Beautiful Bill Act amended 26 U.S.C. 5811(a) to require that the transfer tax for all firearms regulated under the NFA, other than machine guns and destructive devices, be reduced to \$0.

¹⁹ *Id.* §§ 5801, 5802.

In 1968, Congress enacted another firearms statute, the GCA, as amended.²⁰ This law imposed specific restrictions on the interstate transport of “short-barreled rifles” to require approval from the Attorney General before their sale.²¹

“Congress specifically found that ‘short-barreled rifles’ are primarily weapons of war and have no appropriate sporting use or use for personal protection.”²² Short-barreled rifles are “often considered dangerous because they are ‘more easily concealable than long-barreled rifles’ and unusual because they ‘have more destructive power than traditional handguns, making them particularly desirable to malefactors and crooks.’”²³ “The NFA regulates rifle barrel length because a short-barreled rifle’s concealability coupled with its ‘heightened capability to cause damage’ make the weapon more appealing to those who intend to wield the firearm for unlawful use.”²⁴

B. Pre-2023 Final Rule Practices for Classification of Stabilizing Braces

Before the 2023 Final Rule, ATF took an inconsistent and ad hoc approach in response to individuals’ classification requests. Classification requests from FFLs to ATF are not mandatory, but many FFLs submit such requests so they can engage in firearm commerce in compliance with the law.²⁵ In 2012, ATF received a classification request regarding a forearm “stabilizing brace,” asking if adding the device to an AR-15-type pistol would change the classification of the firearm to a short-barreled rifle.²⁶ According to the requester, the device was designed to assist people with disabilities or limited strength or mobility with firing heavy pistols safely and comfortably.²⁷ ATF concluded at that time that the device was not designed to fire a weapon from the shoulder and thus did not warrant a change in classification.²⁸

After this initial classification, ATF continued to receive classification requests for firearms with stabilizing braces. ATF recognized that some stabilizing braces were being widely marketed by manufacturers and used by individuals to fire weapons from the shoulder.²⁹ In 2014, ATF classified multiple weapons with brace devices as short-barreled rifles subject to the NFA.³⁰

ATF applied this inconsistent approach to stabilizing brace classification for many years after 2014. Some early classification letters suggested that whether a stabilizing brace modified a pistol into a short-barreled rifle depended on the individual’s actual, intended, or incidental use of

²⁰ 18 U.S.C. §§ 921–931.

²¹ *Id.* § 922(a)(4), (b)(4).

²² *See United States v. Gonzalez*, No. 2:10-cr-00967, 2011 WL 5288727, at *5 (D. Utah Nov. 2, 2011) (quoting S. Rep. No. 90-1501, at 28 (1968)).

²³ *United States v. Rush*, 130 F.4th 633, 640 (7th Cir. 2025) (quoting *Bianchi v. Brown*, 111 F.4th 438, 451 (4th Cir. 2024)).

²⁴ *Id.* at 643 (citing *United States v. Cox*, 906 F.3d 1170, 1185 (10th Cir. 2018); *United States v. Thompson/Ctr. Arms Co.*, 504 U.S. 505, 517 (1992) (plurality opinion)).

²⁵ 88 Fed. Reg. at 6,482

²⁶ *Id.*

²⁷ *Id.*

²⁸ 88 Fed. Reg. at 6,483.

²⁹ *See, e.g., id.* at 6,479, 6,503 & n.87, 6,505, 6,527, 6,546–47

³⁰ *Id.* at 6,484.

the stabilizing brace.³¹ Sometimes ATF asked whether the brace device itself had been classified as a shoulder stock.³² Other times, ATF asked whether the brace could be used for single-handed fire.³³ ATF also explained at times that classification depended on “physical design characteristics.”³⁴

This ad hoc approach had downstream effects within the firearms market. ATF observed in 2021 that it had “received criticism” for not publishing the criteria for classifying stabilizing braces.³⁵ The agency recognized the need to provide more clarity regarding guidance to “allow industry members to plan, develop, and distribute products in compliance with the law, thereby reducing their risk of incurring criminal or civil penalties, or the potential for costly corrective actions, including a possible recall by the manufacturer.”³⁶

C. Stabilizing Braces’ Significant Adaptability for the Same Criminal Misuse that Congress Passed the NFA to Prevent.

ATF also recognized in 2021 that the lack of clarity regarding stabilizing braces had created a public safety problem; ATF observed that “[b]ecause short-barreled rifles are among the firearms considered unusual and dangerous, subjecting them to regulation under the NFA, it is especially important that such weapons be properly classified.”³⁷ ATF observed that, tragically, mass shooters in Dayton and Colorado used firearms equipped with stabilizing braces to commit mass murder.³⁸ This criminal use of stabilizing brace continued in 2023, when a shooter armed with a pistol equipped with a stabilizing brace killed three children and three adults at a school in Nashville, Tennessee.³⁹

³¹ See, e.g., *id.* at 6,484, 6,487–88.

³² *id.* at 6,484 n.26.

³³ *id.* at 6,501.

³⁴ *id.* at 6,502 n.81.

³⁵ 86 Fed. Reg. 30828.

³⁶ *Id.* at 30827.

³⁷ *Id.* at 30828.

³⁸ *Id.* citing Cameron Knight, *Dayton shooter used a modified gun that may have exploited a legal loophole* USA Today (published Aug. 5, 2019, updated Aug. 6, 2019) <https://www.usatoday.com/story/news/nation/2019/08/05/dayton-shooter-used-gun-may-have-exploited-legal-loophole/1927566001/> (the firearm used in a shooting killing 9 people and wounding 14 had a “pistol brace” used to “skirt[]” regulation of short-barrel rifles); Melissa Macaya *et al.*, *10 killed in Colorado grocery store shooting*, CNN (updated Mar. 23, 2021), https://www.cnn.com/us/live-news/boulder-colorado-shooting-3-23-21/h_0c662370eefaff05eac3ef8d5f29e94 (reporting that the firearm used in a shooting that killed 10 was an AR-15 pistol with an “arm brace”).

³⁹ [Metro Nashville PD on X: "Hale fired a number of rounds inside the Covenant Church/School building. She was armed with these 3 guns and significant ammunition. https://t.co/3LYOU2r0sh"](https://t.co/3LYOU2r0sh) / X; Emily Shapiro and Ivan Pereira, *'Nightmare': 6 killed in 'calculated' mass shooting at Nashville school*, ABC News (March 27, 2023) available at <https://abcnews.com/US/multiple-patients-reported-amid-active-aggressor-nashville-school/story?id=98152651>. See also *Second Amend. Found., Inc. v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 702 F. Supp. 3d 513, 537 (N.D. Tex. 2023) (“[B]race-equipped pistols that effectively operated as SBRs have been used by criminal gunmen to successfully execute mass shootings

D. The 2023 Final Rule Regarding Stabilizing Braces

In an attempt to clear up this regulatory uncertainty and to address the dangerous use of stabilizing braces, ATF announced a final rule on January 13, 2023, to clarify that the statutory phrase “designed, redesigned, made or remade, and intended to be fired from the shoulder” includes any weapon that is equipped with an accessory, component, or other rearward attachment (e.g., a “stabilizing brace”) that provides surface area allowing the weapon to be fired from the shoulder, provided that other factors indicate that the weapon is designed, made, and intended to be fired from the shoulder.⁴⁰ ATF provided a list of those other factors to consider.⁴¹ ATF’s classification of stabilizing braces, guided by these factors, would determine whether stabilizing brace purchasers would need to adhere to the regulatory requirements of the NFA when possessing such items.

ATF explained at the time that the reasons for the 2023 Final Rule were the need to “provide clarity to the firearm industry and public,”⁴² and to “enhance public safety by reducing the criminal use of NFA firearms, which are easily concealable from the public and first responders.”⁴³ In announcing the Rule, the ATF Director at the time explained, “This rule enhances public safety and prevents people from circumventing the laws Congress passed almost a century ago. In the days of Al Capone, Congress said back then that short-barreled rifles and sawed-off shotguns should be subjected to greater legal requirements than most other guns. But certain so-called stabilizing braces are designed to just attach to pistols, essentially converting them into short-barreled rifles to be fired from the shoulder. Therefore, they must be treated in the same way under the statute.”⁴⁴

The 2023 Final Rule was subject to litigation and eventually vacated. The bases for such injunctions included failure to provide the public with a meaningful opportunity to comment on the proposed rule,⁴⁵ and failure to engage in reasoned decision-making given the difficulties in applying the factors.⁴⁶ Notably, no court concluded ATF could not regulate in this space. Instead, for instance, the Fifth Circuit observed that ATF’s final rule was not a logical outgrowth of its proposed rule, thus the “Final Rule therefore must be set aside as unlawful or otherwise remanded for appropriate remediation.”⁴⁷ And the Fifth Circuit acknowledged the legitimate uncertainty that

of innocent people lends additional support to the conclusion that brace-equipped firearms deemed SBRs under the Final Rule are ‘dangerous and unusual.’”)

⁴⁰ 88 Fed. Reg. at 6,569.

⁴¹ *Id.* at 6,569–70.

⁴² *Id.* at 6494.

⁴³ *Id.* at 6572.

⁴⁴ Department of Justice, “Justice Department Announces New Rule to Address Stabilizing Braces, Accessories Used to Convert Pistols into Short-Barreled Rifles” (Jan. 13, 2023), <https://www.justice.gov/archives/opa/pr/justice-department-announces-new-rule-address-stabilizing-braces-accessories-used-convert> (last visited July 31, 2026).

⁴⁵ *Mock v. Garland*, 75 F.4th 563 (5th Cir. 2023); *Colon v. ATF*, No. 8:23-CV-223-MSS-UAM, 2024 WL 309975, at *10–21 (M.D. Fla. Jan. 26, 2024).

⁴⁶ *Firearms Regul. Accountability Coal. v. Garland*, 112 F.4th 507, 526 (8th Cir. 2024).

⁴⁷ *Mock v. Garland*, 75 F.4th 563, 586 (5th Cir. 2023).

gave rise to the 2023 Final Rule, observing that ATF’s pre-Rule “determinations proceeded on somewhat of an *ad hoc* basis, and the unifying logic was not always discernable.”⁴⁸

As a result of that vacatur, the States would expect ATF to return to the proverbial drawing board to thoughtfully craft a new regulation to serve the now unmet need that occasioned the 2023 Final Rule. ATF cites no case or legal principle foreclosing an agency from proposing a new rule to replace a vacated rule where the underlying problem persists. Indeed, ATF’s “do nothing” approach indicates that it has strayed from its previously stated position that it is not “reasonable to wait for an NFA firearm to be used in a significant criminal incident before crafting procedures reasonably calculated to carry out its regulatory mandate to prevent prohibited persons from obtaining NFA firearms,” because firearms equipped with stabilizing braces have already been used in multiple “significant criminal incident[s]”, (i.e., mass shootings).

III. The Proposed Rule Fails to Adequately Consider or Address the Problem of Stabilizing Braces

In the Proposed Rule, which simply rescinds the 2023 Final Rule, ATF has failed to conduct reasoned decision-making necessary to address the unique issues related to stabilizing braces under the NFA. ATF proposes removing the provisions added by the 2023 Final Rule that further define stabilizing braces, such that no ATF regulation will make any reference to the stabilizing brace. ATF says that the removal of the 2023 revisions is necessary “[d]ue to the confusion generated by the 2023 final rule” and the “benefits of a case-by-case classification based on the unique designs of each firearm.” With a plan to provide no guidance or regulation regarding stabilizing braces, the agency will instead “rely on the statutory language without further elaboration.”

This proposed “do nothing” approach is arbitrary and capricious under the APA, 5 U.S.C. § 706(2)(A), for three reasons. First, when an agency is regulating to address a problem, the agency’s action is arbitrary and capricious where the agency has ““entirely failed to consider” an “important aspect of the problem.”⁴⁹ Here, there are important aspects of the problem of stabilizing braces—namely the ambiguity they create, the attendant costs of that ambiguity, and the public safety hazard of an unregulated market—that ATF did not sufficiently analyze. Indeed, ATF downplays the risk and harm stabilizing braces.

Second, when an agency is modifying an existing policy, it must consider “alternatives that are within the ambit of the existing policy.”⁵⁰ An agency must meet all of these requirements for reasoned decision making, even when it is rescinding an existing policy. *Id.* Here, ATF failed to consider the possibility it could regulate stabilizing braces *differently* than the 2023 final rule, rather than offer no regulation at all.

⁴⁸ *Id.*

⁴⁹ *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43. (1983).

⁵⁰ *Dep’t of Homeland Security v. Regents of Univ. of Cal.*, 591 U.S. 1, 30 (2020) (cleaned up).

Third, an agency that changes course must take into account any “serious reliance interests” engendered by its prior policy.⁵¹ As discussed below, ATF failed to consider the substantial reliance interests engendered by the 2023 Final Rule.

A. ATF failed to adequately consider the uncertainty costs and public safety impact created by its proposed “do nothing” approach.

ATF’s proposed “do nothing” approach would “rely on the statutory language without further elaboration.” This leaves the firearm market in a regulatory environment in which agency staff, industry members, and consumers are at the mercy of *ad hoc* classifications to categorize braced firearms. Since that has not been sufficient to this point, there is no reason to believe it suddenly would be sufficient now. ATF first concluded in 2020 that there was a need to provide clarity to the firearm industry and the public on how ATF evaluates firearms equipped with a stabilizing brace.⁵² ATF confirmed such a need in promulgating the 2023 Final Rule.⁵³ No court disagreed with this conclusion, yet ATF never explains why it is now deviating from that conclusion. On the contrary, it has failed to adequately consider the consequences of choosing this path, particularly the impacts of ongoing uncertainty, including significant costs, and public safety harms for all involved.

ATF does not explain why this same old *ad hoc*, case-by-case approach now would provide any more clarity than it did before the 2023 Final Rule that it seeks to rescind. Such clarity cannot be found in the regulatory text that results from ATF’s proposed rescission of the 2023 Final Rule. As ATF explains, the definition of rifle that would result from the rescission tracks the language of the NFA and GCA would read, in § 478.11:

A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

And in § 479.11, it would read:

A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

⁵¹ *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) (quoting *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)); see also *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30–33 (2020).

⁵² See 88 Fed. Reg. at 6,494.

⁵³ *Id.*

ATF does not explain how to determine if a braced firearm is “redesigned” and “intended” to be fired from the shoulder, nor does it provide any indicia of how it or anyone else would or should reason through analyzing those questions.

This continued uncertainty would impose substantial costs. First, ATF would bear additional costs from the regulatory uncertainty of the “do nothing” approach. ATF says that it would review classifications on a “case-by-case” classifications based on the “unique designs” of each firearm. But the agency does not make any effort to determine how many such classifications requests it might receive nor the time it would take to process such requests. ATF could examine data regarding the current market conditions for stabilizing braces and expected future sales to estimate the number of different “unique designs” available on the market. From that estimate, it could have projected the staffing and processing costs of its chosen case-by-case approach. Instead, ATF failed entirely to examine such data and assess the anticipated cost associated with the Proposed Rule.

Next, ATF acknowledges its proposal “increases the uncertainty for purchasers and manufacturers as to whether a given firearm configuration would fall under the NFA or not.” But it simply concludes it has “no data” from which to quantify such disbenefits. The agency cannot simply ignore the fact that its proposed approach will create a marketplace governed by uncertainty, based on the lack of data before it regarding this problem. This uncertainty also imposes tremendous costs on States, many of which separately regulate SBRs. Massachusetts’s experience illustrates these costs. Massachusetts strictly regulates the weapons at issue: state law defines a “rifle” as a weapon with a barrel of at least 16 inches, and it separately restricts “assault-style firearms,” a category that includes enumerated AR-15-type weapons and certain semiautomatic pistols.⁵⁴ But States cannot secure those judgments through state law alone. Of the 3,487 crime guns recovered and traced in Massachusetts in 2023, ATF’s own data identified a source state for 2,316—and 1,511 of those, roughly two-thirds, were first sold outside the Commonwealth.⁵⁵ States therefore depend on the NFA’s federal registration and classification backstop to keep unregistered short-barreled rifles from flowing across their borders, and under the Proposed Rule state licensing officials, prosecutors, and courts would be left to resolve, at their own expense, the classification questions ATF declines to answer. ATF nonetheless certified—without analysis and without consulting the States—that the Proposed Rule “will not have substantial direct effects on the states.”⁵⁶

ATF’s Regulatory Flexibility Act certification suffers from the same defect: it reasons that the rescission merely “removes previously added requirements,” while ignoring ATF’s own prior finding that classification uncertainty exposes licensees—including small manufacturers and dealers—to the risk of criminal or civil penalties and costly corrective actions, including recalls.⁵⁷

⁵⁴ See Mass. Gen. Laws ch. 140, § 121, as amended by St. 2024, c. 135.

⁵⁵ ATF, *Firearms Trace Data: Massachusetts – 2023*, <https://www.atf.gov/resource-center/firearms-trace-data-massachusetts-2023> (last visited July 29, 2026).

⁵⁶ 91 Fed. Reg. at 24460.

⁵⁷ 91 Fed. Reg. at 24461 (certification); cf. 86 Fed. Reg. at 30827 (finding that published classification criteria would allow industry members to reduce “their risk of incurring criminal or civil penalties, or the potential for costly corrective actions, including a possible recall by the manufacturer”).

The agency, again, could have conducted a reasoned analysis of such costs by collecting data regarding the number of braces on the market, the number of braces that are marketed specifically for their use to convert firearms, or data from the state and local level where stabilizing braces are more clearly regulated by applicable state law. ATF cannot acknowledge a harm but simply forego any attempt to calculate the nature of that harm.

Furthermore, already in late 2020, ATF reached factual conclusions regarding the marketplace uncertainty and other harms associated with the lack of classification regulation regarding stabilizing braces, observing in promulgating the 2023 Final Rule that:

(1) previous ATF classification determinations had led to confusion and there was a need to provide clarity to the firearm industry and public on how ATF evaluates firearms equipped with a “stabilizing brace”; (2) manufacturers were adding to the confusion by labeling “stabilizing braces” that ATF had not evaluated as “ATF compliant”; and (3) [...] these “braces” were being used with firearms extensively to create short-barreled rifles without following NFA requirements.⁵⁸

These conclusions warrant adequate consideration of whether a replacement regulation should be proposed in place of the 2023 Final Rule.

When an agency changes course, “a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy.”⁵⁹ None was provided here. Instead, ATF disregarded the facts and circumstances that led to the 2023 Final Rule including the lack of clarity in the marketplace and the public safety effects of proliferation of unregulated SBRs. ATF provided no reason for doing so. The question of whether the device can be labeled as “ATF compliant” is unaddressed by the agency’s proposed path forward, and ATF conducts no analysis of *how many* pistols may be converted into unregulated SBRs as a result of its proposed course of action.

Finally, ATF acknowledges, but fails to analyze, the public safety effects of an unregulated stabilizing brace market, whereby criminals could use the devices to modify firearms without regulation by ATF. The agency acknowledges that its approach “would pose an increased public safety problem,” but again simply states there is “no data” available regarding this problem. This is not true. ATF could review crime statistics, gun trace data, and publicly available data regarding prosecutions to determine the risks posed by short-barreled rifles, and the problems that would flow from making it easier to possess an unregulated rifle through the use of a stabilizing brace. ATF’s own data shows that since SBR manufacturing increased by more than 24,000% between 2000 and 2020.⁶⁰ The agency cannot simply discount the nature of this problem by claiming it

⁵⁸ 88 Fed. Reg. at 6,494.

⁵⁹ *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 516 (2009).

⁶⁰ ATF, National Firearms Commerce and Trafficking Assessment: NFCTA Updates, New Analysis, and Policy Recommendations, Vol. IV, Introduction at 1, <https://www.atf.gov/firearms/docs/report/nfcta-volume-iv-introduction/download> (last visited July 31, 2026)).

lacks data, without making any efforts taken to obtain such data or analyze existing data. Furthermore, multiple courts have recognized the dangerousness of SBRs.⁶¹

B. ATF did not adequately consider proposing a new regulation.

ATF also entirely fails to consider the possibility that it could have amended the 2023 classification factors or propose new classification factors to address the problem of regulatory ambiguity and public safety created by stabilizing braces. This is an obvious alternative that the agency simply ignores. Instead, ATF criticizes the 2023 Final Rule for failing to provide the “clarity the agency hoped to provide” and moves straight to its choice to do nothing about stabilizing braces. ATF never devotes any analysis to the possibility of revised criteria to issue for categorizing stabilizing braces or alternative procedures for adjudicating the classification of such items, short of the case-by-case approach it has selected. Such analysis is required when an agency rescinds a policy.⁶²

ATF’s decision not to regulate stabilizing braces is particularly concerning in light of ATF’s other proposed rules deregulating items covered by the NFA. The segmentation of ATF’s NFA rules obscures the real regulatory choice before ATF, the public, the States, and any reviewing court. The question is not whether each individual proposed rule can be described as modest when viewed in isolation. The question is what happens to NFA weapon trafficking detection, state enforcement of laws that prohibit NFA weapons, and state and local investigations, when all of these changes take effect together. ATF has not answered that question. Instead, it has divided the administrative record in a way that makes the whole package harder to see and harder to evaluate.

C. ATF failed to consider the serious reliance interests engendered by the 2023 Final Rule.

Rescission of the 2023 Final Rule also implicates serious reliance interests that ATF never acknowledges. ATF has stated that, as of June 1, 2023, it had received 255,162 applications for tax-free registration of braced firearms under the 2023 Final Rule’s compliance process,⁶³ and as

⁶¹ See *Bianchi v. Brown*, 111 F.4th 438, 451 (4th Cir. 2024) (short-barreled rifles “are more easily concealable than long-barreled rifles but have more destructive power than traditional handguns,” giving them the “ability to inflict damage on a scale or in a manner disproportionate to the end of personal protection” and “making them particularly desirable to” criminals) (citation omitted); *United States v. Royce*, 2023 WL 2163677, at *3 (D.N.D. Feb. 22, 2023) (“Short-barrel rifles ... are dangerous and unusual weapons that are easily concealable”) (cleaned up)); *United States v. Conner*, 2025 WL 2858030, at *4–5 (W.D. Tex. Sept. 19, 2025) (“[S]hort-barreled rifles ... are subject to the historical tradition of prohibiting the carrying of dangerous and unusual weapons.” (cleaned up)); cf. *United States v. Eggebrecht*, 486 F.2d 136, 137 (8th Cir. 1973) (finding unpersuasive “the assertion that a sawed-off rifle ‘become[s] just another handgun’”).

⁶² *State Farm*, 463 U.S. at 51.

⁶³ *ATF Says a Quarter Million Guns Registered Under Pistol-Brace Rule*, The Reload (June 2023), <https://thereload.com/atf-says-a-quarter-million-guns-registered-under-pistol-brace-rule/> (quoting ATF Public Affairs Division statement that, “[a]s of June 1, 2023, ATF received 255,162 applications for tax-free registration”) (last visited July 31, 2026).

of late 2025 the agency was still processing pending applications submitted under that process.⁶⁴ Yet the Proposed Rule contains no discussion of reliance interests at all, and it never addresses what will become of the hundreds of thousands of National Firearms Registration and Transfer Record entries that the 2023 Final Rule induced—registrations that state and local law enforcement rely upon to identify and trace these weapons. If those records are purged or allowed to lapse, their investigative value cannot be recreated, and no later rulemaking or judicial decision could undo the loss. At a minimum, ATF must analyze these reliance interests, and any final rule must provide for the preservation of the registration records created in reliance on the 2023 Final Rule.

Nor may ATF assess this rescission in isolation. ATF has announced a self-described “landmark package of proposed and final rules” relaxing federal firearms regulation,⁶⁵ and the public-safety consequences of an unregulated stabilizing-brace market will be felt in combination with those contemporaneous deregulatory actions, not apart from them. That cumulative effect is an “important aspect of the problem” that ATF was required to consider,⁶⁶ and the Proposed Rule nowhere does so.

IV. Conclusion

In light of the foregoing, the undersigned Attorneys General on behalf of the States urge ATF to withdraw the Notice.

Sincerely,



Kwame Raoul
Illinois Attorney General



Kristin K. Mayes
Arizona Attorney General



Rob Bonta
California Attorney General



Philip J. Weiser
Colorado Attorney General

⁶⁴ ATF, *Information Regarding Pending NFA Forbearance Applicants Submitted Pursuant to the Vacated Final Rule 2021R-08F Pertaining to Stabilizing Braces*, <https://www.atf.gov/rules-and-regulations/information-regarding-pending-nfa-forbearance-applicants-submitted-pursuant> (last visited July 29, 2026) (stating that ATF would begin processing still-pending registration applications on November 11, 2025).

⁶⁵ ATF, *ATF’s New Era of Reform*, <https://www.atf.gov/rules-and-regulations/atf-launches-new-era-reform> (last visited July 29, 2026) (describing a “landmark package of proposed and final rules”).

⁶⁶ *State Farm*, 463 U.S. at 43.



William Tong
Connecticut Attorney General



Kathleen Jennings
Delaware Attorney General



Brian L. Schwalb
District of Columbia Attorney General



Anne E. Lopez
Hawai'i Attorney General



Aaron M. Frey
Maine Attorney General



Anthony G. Brown
Maryland Attorney General



Andrea Campbell
Massachusetts Attorney General



Dana Nessel
Michigan Attorney General



Keith Ellison
Minnesota Attorney General



Aaron D. Ford
Nevada Attorney General



Jennifer Davenport
New Jersey Attorney General



Raúl Torrez
New Mexico Attorney General



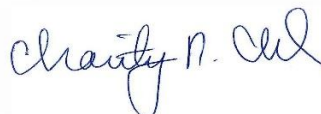
Letitia A. James
New York Attorney General



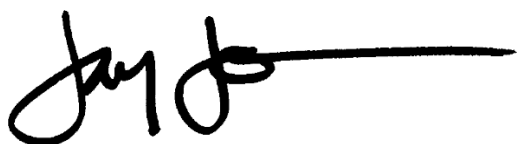
Dan Rayfield
Oregon Attorney General



Peter F. Neronha
Rhode Island Attorney General



Charity R. Clark
Vermont Attorney General



Jay Jones
Virginia Attorney General



Nick Brown
Washington Attorney General