STONE BRAVO
OUTPOST LLC
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Stone Bravo Outpost LLC
Killeen, Texas

August 1, 2026

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 Ave. NE
Washington, DC 20226
ATTN: RIN 1140-AA98

Via electronic submission to the Federal eRulemaking Portal, https://www.regulations.gov

Re: Notice of Proposed Rulemaking
Removing Factoring Criteria for Firearms With Attached "Stabilizing Braces"
Docket No. ATF-2026-0335 (ATF 2025R-11P)
RIN 1140-AA98
Federal Register Document No. 2026-08930
Comment period closes August 4, 2026

Greetings:

Stone Bravo Outpost LLC, a Texas limited liability company, submits these comments on the above-captioned Notice of Proposed Rulemaking (the "Proposed Rule"). The company has an interest in the regulatory category addressed by the Proposed Rule, specifically the classification of firearms eligible for private-party transfer between two non-licensees under Title I of the Gun Control Act of 1968.

I. Position

Stone Bravo Outpost LLC supports the Proposed Rule's removal of the factoring criteria adopted in *Factoring Criteria for Firearms With Attached "Stabilizing Braces,"* 88 Fed. Reg. 6,478 (Jan. 31, 2023) (the "2023 final rule").

The classification of a firearm equipped with a stabilizing brace as a Title I firearm or a Title II firearm under 26 U.S.C. § 5845(a) determines whether the firearm may be transferred between two non-licensees as an ordinary Title I private-party transfer, in which any documentation or recordkeeping arises from State law or from the parties themselves rather than from federal recordkeeping duties, which attach to licensees alone, 18 U.S.C. § 923(g)(1)(A), or whether the transfer is subject to the registration and transfer requirements of the National Firearms Act, 26 U.S.C. §§ 5811–5872. The consequence of the 2023 final rule was therefore not confined to classification. A firearm brought within the definition of "short-barreled rifle" by operation of the factoring criteria was a firearm its possessor was required to register in the

National Firearms Registration and Transfer Record; receipt or possession of such a firearm without that registration is an offense under 26 U.S.C. § 5861(d). Section 5871 provides that a person who violates the chapter "shall, upon conviction, be fined not more than $10,000, or be imprisoned not more than ten years, or both"; because the offense is a felony and § 5871 does not by specific reference displace the general fine provision, the fine actually authorized on conviction is not more than $250,000. 18 U.S.C. § 3571(b)(3), (e). The 2023 final rule exposed owners of lawfully acquired firearms to felony liability under the National Firearms Act for property they already possessed.

Removal of the factoring criteria — by removing paragraphs (1) and (2) from the definition of "rifle" in 27 C.F.R. § 478.11 and in 27 C.F.R. § 479.11 — returns those regulatory definitions to the statutory definitions of "rifle" at 18 U.S.C. § 921(a)(7) under the Gun Control Act and at 26 U.S.C. § 5845(c) under the National Firearms Act, so that classification proceeds from the statutory text and the design of the individual firearm.

II. The 2023 final rule was held unlawful and was vacated

The 2023 final rule was not a lawfully adopted rule that ATF now reconsiders as a matter of policy. It was set aside by a reviewing court as contrary to the Administrative Procedure Act, 5 U.S.C. § 706(2), and the company asks that the final rule say so.

On August 1, 2023, the United States Court of Appeals for the Fifth Circuit reversed the denial of a preliminary injunction and held that the plaintiffs challenging the 2023 final rule were likely to prevail on their Administrative Procedure Act claim, concluding that "it is relatively straightforward that the Final Rule was not a logical outgrowth of the Proposed Rule." *Mock v. Garland*, 75 F.4th 563, 586 (5th Cir. 2023).

On June 13, 2024, on remand, the United States District Court for the Northern District of Texas granted the plaintiffs summary judgment "on the grounds that the Final Rule violated the APA's procedural requirements because it was arbitrary and capricious and was not a logical outgrowth of the Proposed Rule," and vacated the 2023 final rule. *Mock v. Garland*, No. 4:23-cv-00095-O (N.D. Tex. June 13, 2024) (ECF No. 110), at 12. The court vacated rather than remanded, reasoning that "[a]n illegitimate agency action is void ab initio and therefore cannot be remanded as there is nothing for the agency to justify." *Id.* It declined to confine that relief to the plaintiffs because "applying the vacatur of the Final Rule to only Plaintiffs is more akin to an injunction that would prohibit Defendants from enforcing its unlawful Final Rule against only certain individuals," and because vacatur "does nothing but re-establish the status quo . . . absent the unlawful agency action." *Id.*

A second court of appeals reached the merits to the same effect, holding that plaintiffs challenging the 2023 final rule were likely to succeed. *Firearms Regulatory Accountability Coalition, Inc. v. Garland*, 112 F.4th 507, 519 (8th Cir. 2024).

The Proposed Rule states the point in its own summary: "Courts have found that ATF's revisions in the 2023 final rule on the same topic violated the Administrative Procedure Act." 91 Fed. Reg. 24,453 (May 6, 2026). ATF says twice more that the proposed rule "is necessary to conform ATF's regulatory provisions in parts 478 and 479 to the court decision vacating the rule." *Id.* at 24,456, 24,457. The company asks that the final rule retain those statements and add the one thing they do not say: that the removal of paragraphs (1) and (2) follows a judgment holding those paragraphs unlawfully adopted, and is not a discretionary change of position on the same record. The distinction is not academic. A regulation withdrawn as a matter of preference may be readopted on the same record; a regulation vacated for want of lawful adoption may not.

III. Requested clarification

The company requests that ATF confirm in the preamble to the final rule that, upon removal of paragraphs (1) and (2) from the definition of "rifle" in 27 C.F.R. § 478.11 and in 27 C.F.R. § 479.11, the classification of a firearm equipped with a stabilizing brace is governed by the statutory definitions — "rifle" at 18 U.S.C. § 921(a)(7) under the Gun Control Act and at 26 U.S.C. § 5845(c) under the National Firearms Act, together with the Title II definitions at 26 U.S.C. § 5845(a) — without reference to the withdrawn factors.

The company asks that the preamble identify the statutory text as the governing standard, and state that a classification issued by the Firearms and Ammunition Technology Division applies that standard rather than supplies it. The reason is that the risk of error falls on the possessor. A person who makes or possesses a firearm equipped with a stabilizing brace bears the risk of criminal liability under 26 U.S.C. § 5861 for that firearm's status, and must be able to determine that status from the statutory definitions and the design of the firearm in hand. A regime in which status is ascertainable only upon an agency determination places the possessor's liability beyond the possessor's own knowledge, which is the defect the reviewing courts identified in the 2023 final rule and which the Proposed Rule recognizes when it observes that "it would have been challenging for individuals who make or possess braced weapons to determine whether their firearms qualified as a 'rifle' based on the existence of a stabilizing brace or would fall within the purview of the NFA or GCA."

The company does not ask ATF to adopt a pre-determined or categorical classification of braced firearms; the statutory definitions do not authorize ATF to supply one. Nor does the company ask ATF to commit to any particular outcome for any particular design. The request is confined to identifying the source of the governing standard. ATF has stated that "a pre-determined factored approach that may or may not be relevant to the classification at issue is not the best method to begin such classification of a firearm." The company's request is compatible with that statement but does not rest on it: the factoring criteria must go because a court vacated them as unlawful, and what governs in their absence is the definition Congress enacted.

IV. Owners who complied with the 2023 final rule

The Proposed Rule records what the 2023 final rule required of those in possession of a braced firearm it treated as a short-barreled rifle. Such persons "had until May 31, 2023, to register the firearm tax free." Those who did not wish to register were given four options: "(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 the local ATF office; or (4) destroy the firearm."

Persons who took any of those steps acted in compliance with a rule that has since been vacated. Vacatur restores the position going forward. It does not, of itself, address a registration that remains on the National Firearms Registration and Transfer Record, a brace that was destroyed, a barrel that was replaced, or a firearm that was surrendered or destroyed.

The Proposed Rule does not address the position of those persons. The company requests that the final rule do so, and specifically that it state:

1. whether a registration entered in the National Firearms Registration and Transfer Record on an application to make and register a firearm (ATF Form 1) submitted in compliance with the 2023 final rule may be withdrawn or rescinded at the registrant's election, and if so, by what procedure;

2. the status of a firearm so registered where the registrant does not seek withdrawal, and whether that firearm remains subject to the National Firearms Act notwithstanding the vacatur;
3. the disposition of information submitted in connection with such an application, including fingerprints and photographs, and the basis on which it is retained; and
4. what recourse, if any, is available to a person who altered, surrendered, or destroyed property in compliance with the 2023 final rule.

This rulemaking is the proceeding in which the 2023 final rule is removed from the Code of Federal Regulations. It is the appropriate proceeding in which to resolve what compliance with that rule left behind.

V. Conclusion

Stone Bravo Outpost LLC supports finalization of the Proposed Rule, and requests that the final rule (i) state that the 2023 final rule was vacated as unlawfully adopted, as set out in Part II; (ii) identify the statutory definitions as the governing standard, as set out in Part III; and (iii) address the position of owners who complied with the 2023 final rule, as set out in Part IV.

Respectfully submitted,

/s/ Warren Stone

Warren Stone
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