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."

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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?

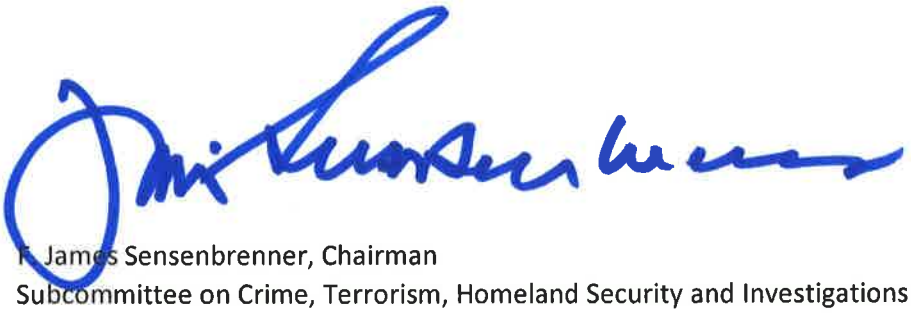
2) Why did the ATF not publish the proposed "Framework" in the Federal Register as required by the APA?

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. Gosar

2 Dan Benishek

3 Ted S. Yoho

4 Randy K. Weber

5 [illegible] TN-04

6 Tom Marino

7 David P. Roe

8 Daniel B. McKee

9 Ken Buck

10 [illegible]

11 Scott Rigell

12 Joseph R Pitts

13 Jackie Walorski

14 Bruce Poliquin

15 Mike Bishop

16 Richard Hudson

17 Mark V. Amodei NV-2

18 Bob Gibbs

19 Frank Guinta NH1

20 John Ratcliffe

21 Richard Hanna

22 Doug LaMalfa

23 Candice S. Miller

24 Mike Ryan

25 Will Hurd

26 Thomas Massie

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28 Chuck Fleischmann

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35 CPG

36 Rodney Davis

37 Bill Flores (TX-36)

38

39

40

41 Thomas Rice

42 Blake Farenthold

43 Bill Posey

44

45

46

47 Bill Johnson

48 Gary Palmer

49 Ron Kind

50 Doug Collins

51 Jeff Fortenberry

52 Mike Kelly

53 Jim Jordan

54 Andy Harris MD-01

55 Mike Bost

56 Randy Weber

57 Bill Huizenga

58 Renee Ellmers

59 Scott Perry

60 Pat Tiberi

61 Alex X Mooney

62 French Hill

63 Mo Brooks

64 Roger Williams

65 Duncan Black

66 Ann Wagner

67 Markwayne Mullin

68 Tim Huelskamp

69 Virginia Foxx

70 Robert Pittenger

71 Glenn Thompson

72 [illegible]

73 Jan Heck

74 Kevin Yoder

75 Jim Bridenstine

76 Robert Pittenger

77 Barry Loudermilk

78 Kevin Brady

79 Gregg Harper

80 Jeff Miller

81 Don Bacon

82 David Schweikert

83 Doug Royce

84 Cresent Hardy

85 Larry Bucshon

86 Mike Pompeo

87 Tom Emmer

88 Rick W. Allen

89 Rick Crawford

90 Devin Nunes

91 Steve Stivers

92 Daniel Webster FL-10

93 Chris Collins

94 Jaime Herrera Beutler

95 Pete Olson

96 J Randy Forbes

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101 Tim Walberg

102 John Kline

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109 Doug Lamborn

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111 Lamar Smith

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115 Tom Graves

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120 John Culberson

121 Steve Chabot

122 Leonard Lance

123 [illegible]

124 Ed Whitfield

125 Collin C. Peterson

126 Steve King

127 [illegible] 12-15

128 Joe Wilson

129 Adrian Smith NE-3

130 [illegible]

131 Bill Shuster

132 Marsha Blackburn

133 Tim Murphy

134 [illegible]

135 John R. Carter

136 Lynn A. Westmoreland

137 Mac Thornberry

138 C.W. Bill Young

139 Joe Heck

140 Pete Sessions

141 Van Taylor

142 Mark Sanford

143 P. Roskam

144 Renee Ellmers

145 Vicky Hartzler

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148 Virginia Foxx

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150 Joe Baton

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152 Patrick T. McHenry

153 Walter B. Jones

154 Frank A. LoBiondo

155 Tom Reed, NY 23

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157 Ed Royce

158 Sam Johnson

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161 Ken Calvert

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164 Steve Scalise

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166 Brett Guthrie

167 Mike Coffman

168 Adam Schiff

169 Glenn Graham

170 Evan H Jenkins

171 [illegible]

172 Luke Messer

173 David Young

174 [illegible]

175 Ryan Costello

176 Earl L. "Buddy" Carter

177 Ann Wagner

178 Patrick Meehan

179 Martha Roby

180 [illegible]

181 [illegible]

182 Chris Stewart

183 Mark Walker

184 [illegible]

185 Cathy McMorris Rodgers

186 Rod Blum

187 Tom Rice

188 Barbara Comstock

189 [illegible]

190 [illegible]

191 Robert B. Aderholt

192 Mimi Walters

193 Michael McCaul

194 Steve Russell

195 Lou Barletta

196 [illegible]

197 Martha McSally

198 [illegible] AR03

199 Oscar P. Joyce

200 [illegible]

201 Keith J Rothfus

202 C.W. Bausman Jr

203 Trey Gowdy

204 Susan W. Brooks

205 Bruce Westerman

206 Erik Paulsen

207 [illegible]

208 Kay Granger

209 J Young

210 [illegible]

211 [illegible]

212 [illegible]

213 Brad R. Wenstrup

214 Andy Barr

215 [illegible]

216 D. Reicht

217 Kevin McCarthy

218 Mick Mulvaney

219 Fred Duncan

220 Hal Rogers

221 Sanford D. Bishop Jr

222 Trent Franks

223 S Wilson

224 Fred Upton

225 Kevin Cramer

226 Reid J Ribble

227 Jody Hice

228 Raul R. Labrador

229 Lynn Jenkins

230 Sally Long

231 [illegible]

232 Rob Woodall

233 [illegible]

234 D T Ally

235 Todd Rokita

236 [illegible]

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227 Jody Hice
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230 Billy Long
231 Dave Trott
232 Robert Woodall
233 Richard Nugent
234 David Jolly
235 Todd Rokita
236 John Mica