

Congress of the United States
House of Representatives
Washington, DC 20515-4324

February 23, 2015

The Honorable Eric Holder
Attorney General
Department of Justice
950 Pennsylvania Ave., NW Suite 5111
Washington, DC 20530

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

Dear Attorney General Holder and Director Jones:

I am writing to you regarding the proposal recently issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE), providing a framework for addressing the “sporting purposes” exemption from the “armor piercing” ammunition prohibition, as found in the *Law Enforcement Officers Protection Act of 1986* (LEOPA). I am concerned that the framework is broad and open-ended in a way that risks sweeping up many popular forms of ammunition used by law-abiding citizens for legitimate purposes. The revocation of the long-standing exemption for 5.56mm “green tip” ammunition with M855 and SS109 cartridges is indicative of this broader potentiality. With the Second Amendment rights of my constituents in mind, I respectfully request that BATFE’s proposal be reconsidered and that you address the following questions:

1. According to BATFE, one of the reasons for the development of the framework is for the efficient handling of an increase in requests for exemptions for armor piercing ammunition. From 1986 to 2011 there were “few” exemption requests, and since 2011 there have been “approximately 30.” How many exemption requests actually were received from 1986 to 2011?
2. Why are current and previous methods of assessing exemption applications (i.e. those predating the recently proposed framework) not sufficient for processing 30 applications in a more than three year period?
3. Supporting the safety of law enforcement officers, and recognizing that the purpose of LEOPA is to protect them in their selfless and dangerous service, what quantitative data exists to demonstrate that there is an actualized threat to law enforcement posed by 5.56mm in M855/SS109 ammunition today that did not exist during the nearly 30 years that this ammunition was allowed under the “sporting purposes” exemption?

4. While not “armor piercing” for purposes of the LEOPA, lead bullets are known to be harmful to the environment. Has BATFE considered the environmental impact of a new regulatory framework that will restrict many non-lead bullets, thereby pushing consumers in greater numbers toward lead bullets? Furthermore, how will BATFE’s framework interact with environmental regulations to make sure that the class of allowable rifle ammunition does not get squeezed in a manner that eviscerates the Second Amendment with regard to rifles?
5. How many companies manufacture ammunition that would fall under the revocation of exemption for 5.56mm, in M855 and SS109, ammunition? What would the economic impact be, both monetarily and in terms of American jobs, of this revocation?

As the BATFE proposal notes, an increasing number of handguns have been developed that can fire ammunition originally designed for rifles. The proposal further states that the only “armor piercing” ammunition types that will presumably receive the “sporting purposes” exemption are .22 caliber bullets when in a rimfire cartridge and others if within a cartridge that can only be used in a single-shot firearm. This suggests that BATFE’s proposal contemplates the ability to ban a very wide array of ammunition types popularly and lawfully used in rifles on the basis that they now “may be” used in handguns. With both of these in mind, I would appreciate your answers to the following additional questions:

6. Can you describe a limiting principle that would prevent the statutory exemption for “sporting purposes,” as well as the Second Amendment with regard to rifles, from being substantially cut back by BATFE’s framework if it were implemented?
7. Can you describe the full range of ammunition types that have been allowed but, under the proposal, could eventually fall under the “armor piercing” ammunition ban without an exemption?
8. What portion of the market for rifle ammunition would this range cover?
9. If implemented to ban that full range, what would the effect of BATFE’s proposal be on American ammunition manufacturers, prices, and American jobs?

Thank you for your review of this correspondence and I look forward to your reply. Should you have any questions regarding this letter, please feel free to contact me, or my Legislative Assistant, Robert Vega, at 202.225.6605 or robert.vega@mail.house.gov.

Sincerely,



Kenny Marchant
Member of Congress