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U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Office of the Director

Washington, DC 20226

18 U.S.C. 921(A)(3): DEFINITIONS (FIREARM) 27 CFR 478.11: DEFINITIONS (FIREARM FRAME OR RECEIVER)

Air gun (i.e., a gun that expels a projectile using compressed air, carbon dioxide, propane, or similar gas) replicas of AR/M-16 variant firearms that provide housing for a hammer and firing mechanism with substantially the same design as AR/M-16 variant firearm receivers, and mounting points for attaching an upper assembly containing a barrel and bolt, are "firearm frames or receivers," and are, therefore, "firearms," as that term is defined by 18 U.S.C. 921(a)(3)(B), and its implementing regulation, 27 CFR 478.11.

ATF Rul. 2010-4

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received requests for evaluation and classification of air gun replicas of AR/M-16 variant firearms. Specifically, ATF was asked whether these air guns are considered "firearms" under Federal law.

The M-16 is a military style combat machinegun. The AR style firearm is a semi-automatic version of the M-16, and both are produced using a variety of model designations. ATF evaluated two air gun replicas of AR/M-16 variant firearms. These particular air guns are manufactured with non-ferrous metal and duplicate the appearance of various types of AR and M-16 rifles. They are designed to expel projectiles using compressed air, carbon dioxide, propane, or similar gas.

The first sample ATF examined was an air gun replica of an M-16 rifle that has the physical features of an M-16 firearm. It has all M-16 fire-control assembly pin holes formed or indexed for fire-control components (i.e., hammer, trigger, disconnecter, selector lever, and machinegun sear). It utilizes fire-control components that differ only slightly in design from M-16 fire-control components. The receiver of this air gun is identical to an M-16 receiver, except for two features. The slot for the bolt-stop has been altered to make room for a proprietary bolt-stop by reducing the height of the wall separating the fire control cavity from the magazine well. Also, the ledge has been removed from the fire-control cavity upon which an M-16 machinegun sear would normally sit.

In conducting the evaluation of sample #1, the upper assembly was removed, the existing bolt-stop was removed to allow movement of the hammer, and an M-16 upper assembly was installed. A test fire was then performed with the original automatic fire sear, and the test demonstrated that the sample was capable of firing a conventional .223 caliber cartridge semi-automatically, expelling a projectile by the action of an explosive. The original automatic fire sear was then replaced with an M-16 machinegun sear. A second test firing was performed, and the test demonstrated that the sample was capable of firing semi-automatically, expelling a projectile by the action of an explosive. Sample #1 did not expel more than one projectile by a single function of the trigger and is not a “machinegun” as defined in 26 U.S.C. 5845(b).

The second sample **ATF** examined was an air gun replica of an M-16 rifle that has the physical features of an M-16 firearm. It has all M-16 fire-control assembly pin holes formed or indexed, and utilizes a proprietary drop-in fire-control mechanism that did not include an automatic-fire sear. The receiver of this air gun is identical to an M-16 receiver, except for two dimensions. The length between the takedown pins is approximately 1/8 longer than on an M-16 receiver, and the width of the fire-control cavity is approximately 0.31 greater than an M-16 receiver.

ATF conducted a test of this air gun. In conducting the evaluation of this sample, the upper assembly was removed, the proprietary drop-in fire-control mechanism was removed, the proprietary bolt-stop was removed, the indexed pin holes were drilled to allow installation of M-16 fire-control components, and an M-16 upper assembly was installed. A test fire was then performed, and the test demonstrated that the sample was capable of firing semi-automatically, expelling a projectile by the action of an explosive.

The Gun Control Act of 1968, 18 U.S.C. 921(a)(3), and its implementing regulation, 27 CFR 478.11, define the term “firearm,” in part, as “any weapon...including a starter gun...which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon...” Under 27 CFR 478.11, the term “firearm frame or receiver” is defined as “[t]hat part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.”

The air gun replicas of AR/M-16 variant firearms examined have the appearance, dimensions, and substantially the same design as AR/M-16 variant firearm receivers and completed weapons. The air gun replicas provide housing for a hammer and firing mechanism, and mounting points for attaching an upper assembly containing a barrel and bolt. Because the air gun replicas provide housing with substantially the same design as AR/M-16 variant firearm receivers, they incorporate firearm receivers. Moreover, though not necessary for classification, once the upper assemblies (and, in the second sample, fire-control components) were installed and test fired, they both expelled projectiles by the action of an explosive. Because the air gun replicas of the AR/M-16 variant firearms incorporate firearm receivers, they are “firearms,” as defined by the Gun Control Act of 1968, 18 U.S.C. 921(a)(3), and its implementing regulation, 27 CFR 478.11.

Held, air gun (i.e., a gun that expels a projectile using compressed air, carbon dioxide, propane, or similar gas) replicas of AR/M-16 variant firearms that provide housing

for a hammer and firing mechanism with substantially the same design as AR/M-16 variant firearm receivers, and mounting points for attaching an upper assembly containing a barrel and bolt, are “firearm frames or receivers,” and are, therefore, “firearms,” as that term is defined by 18 U.S.C. 921(a)(3)(B), and its implementing regulation, 27 CFR 478.11.

To the extent this ruling is inconsistent with any prior classifications, they are hereby superseded.

Date approved: November 5, 2010

A handwritten signature in dark ink, appearing to read 'Ken Melson', with a stylized, cursive script.

Kenneth E. Melson
Deputy Director