



U.S. Department of Justice

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

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Dear (b) (6)

This refers to your letter to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB), in which you ask numerous questions regarding the assembly of particular AR and AK-type pistols, the addition of a SIG SB-15 Stabilizing Brace, AR style buffer tubes, folding stock mechanisms, and vertical forward grips.

As background to your inquiry, we should point out that the amended Gun Control Act (GCA), 18 U.S.C. Section 921(a)(3) defines the term **“firearm”** 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; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. Such term does not include an antique firearm.*

Also, the GCA, 18 U.S.C. Section 921(a)(7) defines the term **“rifle”** as *...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 an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.*

Additionally, 27 CFR § 478.11, a regulation implementing the GCA, defines **“pistol”** as *...a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s)...*

The National Firearms Act (NFA), 26 U.S.C. Section 5845(a) (3) (a) (4), defines **“firearm”**, in part, as *...a rifle having a barrel or barrels of less than 16 inches in length; 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...*

Further, the NFA, 26 U.S.C. § 5845(a)(5), defines the term **“firearm”** to mean, in part, “any other weapon, as defined in subsection (e)...” And defines **“any other weapon [or AOW]”** as follows: *...any weapon or device capable of being concealed on the person from which a shot*

*can be discharged through the energy of an explosive, a pistol or revolver having a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.*

Your question is paraphrased below, followed by FTISB's response:

*Question- #1: If an AR style buffer tube were added to an AK-type pistol would the additional length of the buffer tube contribute to the overall length of the firearm?*

Answer- #1: The buffer tube on an AR-type pistol serves a legitimate, vital function in the operation of the weapon system, and is not considered to be a shoulder stock. In contrast, a buffer tube or receiver extension is not designed or intended to be attached to an AK-type pistol; instead, it is designed and intended to facilitate installation of a shoulder stock.

Use of a buffer tube on an AK-type firearm that has no use for such item may be evidence that the weapon is intended to be fired from the shoulder. Therefore, adding a buffer tube to an AK-type pistol, where the barrel is less than 16 inches in length, would result in the manufacture of a "firearm" as defined in § 5845(a)(3). However, if an AK-type pistol were to utilize an AR-type buffer tube to facilitate the attachment of a SB-15 stabilizing brace accessory, a "firearm" as defined in 5845(a) (3) would not be made and consequently lawful to possess.

*Q- #2: If an AR-type buffer tube were added to an AK-type pistol how would the overall length be measured?*

A- #2: The overall length of a firearm is the distance between the muzzle of the barrel and the rearmost portion of the weapon measured on a line parallel to the axis of the bore and does not include attached removable muzzle attachments. These items must be removed prior to measuring the overall length of a weapon.

*Q- #3: Could I legally add a forward grip to an AK-type pistol that has an overall length of 26 inches?*

A- #3: If an individual attaches a forward grip to a pistol, the pistol is no longer designed to be held and fired by the use of a single hand; thus, it cannot qualify as a "handgun" or "pistol" as defined above in Federal statutes and regulations. Additionally, because it is no longer a pistol, it is not exempt from classification as an "AOW" pursuant to the NFA, Section 5845(e).

However, a firearm of this type would not be subject to the NFA/AOW classification provided its overall length is at least 26 inches and it is not actually concealed on the person. It would then be properly classified as a "firearm" as defined in GCA, 18 U.S.C. Section 921(a)(3).

*Q- #4: If an AK-type pistol, with a buffer tube attached, and an overall length of 26 inches, had a forward grip attached, would it be subject to the NFA?*



A- #4: Please refer back to answer #3.

*Q- #5: If an AK-type pistol has a length of 26 inches or more, and a forward grip would it be considered an AOW or just a "Firearm"?*

A- #5: Please refer to answer #3.

*Q- #6: Does adding a folding stock mechanism, between the receiver and buffer tube change the classification of an AK-type pistol?*

A- #6: See answers #1 and #2 above regarding the addition of a buffer tube to certain weapon types.

*Q- #7: Can a longer buffer tube be used, on an AR-type pistol, to achieve a 26 inch overall length?*

A- #7: Yes. Please refer to answers #1 and #2 above for clarification.

*Q- #8: Does the use of a buffer tube, designed for the SB-15 brace change the classification of the weapon?*

A- #8: Please refer to answers #1 and #2 above regarding the addition of a buffer tube to certain weapon types. If a SIG SB-15 brace is used as a shoulder stock on a pistol, the subject firearm would be classified a firearm as defined in 5845(a)(3).

*Q- #9: Would the use of a standard buffer tube as opposed to the buffer tube designed for use with a SB-15 brace change the classification of a weapon, if no stock is used?*

A- #9: Please refer to answers #1, #2 and #8 above regarding the addition of a buffer tube to certain weapon types.

*Q- #10: If a longer buffer tube was used, on an AR-type pistol, to achieve a 26 inch overall length, and a forward grip was added, would such weapon be subject to the NFA?*

A- #10: Please refer to answers #1, #2, and #3.

*Q- #11: If a Franklin Armory Model SE-SSP were used with a forward vertical grip, and an overall length of 26 inches or more, would it be subject to the NFA controls?*

A- #11: If an individual attaches a forward grip to a pistol, it is no longer designed to be held and fired by the use of a single hand; thus, it cannot qualify as a "handgun" or "pistol" as defined above in Federal statutes and regulations. Because it is no longer a pistol, it is not necessarily exempt from classification as an "AOW" pursuant to § 5845(e). A firearm of this type is classified an AOW if its overall length is less than 26 inches, or if it is actually concealed on the person. The addition of a vertical forward grip to the Franklin Armory Model SE-SSP, which

that company specifically indicates has an overall length of 26.3 inches, and a barrel length of 10.5 inches, would result in the firearm no longer qualifying as a "handgun" or "pistol". However, it would not be subject to the NFA/AOW classification provided its overall length is at least 26 inches and it is not actually concealed on the person.

*Q- #12: Could an AR or AK-type pistol, with an overall length of 26 inches, have a forward grip added without coming under the purview of the NFA?*

A- #12: Please refer to answers #3, and #4.

In the manufacture of an AR or AK-type pistol, it is lawful to utilize a receiver that has never been assembled as a rifle. Your first step should be to obtain certification from the manufacturer of the receiver verifying that it has never been assembled into a rifle configuration.

We caution that manufacturing a pistol from a receiver previously assembled in rifle configuration would constitute manufacturing an item classified as a "weapon made from a rifle" under the NFA, and the firearm would be subject to NFA controls.

Individuals desiring to manufacture a firearm subject to NFA provisions (machineguns excepted) may do so, but must first submit and secure approval of an ATF Form 1, *Application to Make and Register a Firearm*, and pay the applicable \$200 making tax. We have included a copy of ATF Ruling 2011-4 and a copy of the ATF Open Letter on the redesigning of "stabilizing braces" for your convenience.

We thank you for your inquiry and trust the foregoing has been responsive.

(b) (6) Sincerely,

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Acting Chief, Firearms Technology Industry Services Branch

Enclosures



**U.S. Department of Justice**

Bureau of Alcohol, Tobacco,  
Firearms and Explosives

*Office of the Director*

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*Washington, DC 20226*

**26 U.S.C. 5845(a)(3): DEFINITIONS (FIREARM )**

**26 U.S.C. 5845(a)(4): DEFINITIONS (FIREARM)**

**26 U.S.C. 5845(c): DEFINITIONS (RIFLE)**

**27 CFR 479.11: DEFINITIONS (RIFLE)**

**27 CFR 479.11: DEFINITIONS (PISTOL)**

*A firearm, as defined by the National Firearms Act (NFA), 26 U.S.C. 5845(a)(3), is made when unassembled parts are placed in close proximity in such a way that they: (a) serve no useful purpose other than to make a rifle having a barrel or barrels of less than 16 inches in length; or (b) convert a complete weapon into such an NFA firearm. A firearm, as defined by 26 U.S.C. 5845(a)(3) and (a)(4), is not made when parts within a kit that were originally designed to be configured as both a pistol and a rifle are assembled or re-assembled in a configuration not regulated under the NFA (e.g., as a pistol, or a rifle with a barrel or barrels of 16 inches or more in length). A firearm, as defined by 26 U.S.C. 5845(a)(3) and (a)(4), is not made when a pistol is attached to a part or parts designed to convert the pistol into a rifle with a barrel or barrels of 16 inches or more in length, and the parts are later unassembled in a configuration not regulated under the NFA (e.g., as a pistol). A firearm, as defined by 26 U.S.C. 5845(a)(4), is made when a handgun or other weapon with an overall length of less than 26 inches, or a barrel or barrels of less than 16 inches in length, is assembled or produced from a weapon originally assembled or produced only as a rifle.*

**ATF Rul. 2011-4**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has received requests from individuals to classify pistols that are reconfigured into rifles, for personal use, through the addition of barrels, stocks, and other parts and then returned to a pistol configuration by removal of those components. Specifically, ATF has been asked to determine whether such a pistol, once returned to a pistol configuration from a rifle, becomes a "weapon made from a rifle" as defined under the National Firearms Act (NFA).

Some manufacturers produce firearm receivers and attachable component parts that are designed to be assembled into both rifles and pistols. The same receiver can accept an interchangeable shoulder stock or pistol grip, and a long (16 or more inches in length) or short (less than 16 inches) barrel. These components are sold individually, or as unassembled kits. Generally, the kits include a receiver, a pistol grip, a pistol barrel less than 16 inches in length, a shoulder stock, and a rifle barrel 16 inches or more in length.



Certain parts or parts sets are also designed to allow an individual to convert a pistol into a rifle without removing a barrel or attaching a shoulder stock to the pistol. These parts consist of an outer shell with a shoulder stock into which the pistol may be inserted. When inserted, the pistol fires a projectile through a rifled extension barrel that is 16 inches or more in length, and with an overall length of 26 inches or more. Other parts sets require that certain parts of the pistol, such as the pistol barrel and the slide assembly, be removed from the pistol frame prior to attaching the parts sets. Typically, a separate barrel is sold with the parts set, which is 16 inches or greater in length. The barrel is installed along with an accompanying shoulder stock. The resulting firearm has a barrel of 16 inches or more in length, and an overall length of 26 inches or more.

The NFA, Title 26, United States Code (U.S.C.), Chapter 53, requires that persons manufacturing, importing, transferring, or possessing firearms as defined in the NFA comply with the Act's licensing, registration, and taxation requirements. The NFA defines the term "firearm" at 26 U.S.C. 5845(a) to include "(3) a rifle having a barrel or barrels of less than 16 inches in length;" ("short-barreled rifle") and "(4) 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" ("weapon made from a rifle"). The term "rifle" is defined by 26 U.S.C. 5845(c) and 27 CFR 479.11 as "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." Although not defined in the NFA, the term "pistol" is defined by the Act's implementing regulations, 27 CFR 479.11, as "a weapon *originally* designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s)" (emphasis added).

### **Unassembled Parts Kits**

In *United States v. Thompson/Center Arms Company*, 504 U.S. 505 (1992), the United States Supreme Court examined whether a short-barreled rifle was "made" under the NFA when a carbine-conversion kit consisting of a single-shot "Contender" pistol was designed so that its handle and barrel could be removed from its receiver, and was packaged with a 21-inch barrel, a rifle stock, and a wooden fore-end. The Court held that, where aggregated parts could convert a pistol into either a regulated short-barreled rifle, or an unregulated rifle with a barrel of 16 inches or more in length, the NFA was ambiguous and applied the "rule of lenity" (*i.e.*, ambiguities in criminal statutes should be resolved in favor of the defendant) so that the pistol and carbine kit, when packaged together, were not considered a "short-barreled rifle" for purposes of the NFA.

However, the Court also explained that an NFA firearm is made if aggregated parts are in close proximity such that they: (a) serve no useful purpose other than to make an NFA firearm (*e.g.*, a receiver, an attachable shoulder stock, and a short barrel); or (b) convert a

complete weapon into an NFA firearm (e.g., a pistol and attachable shoulder stock, or a long-barreled rifle and attachable short barrel). *Id.* at 511-13.

### **Assembly of Weapons from Parts Kits**

The *Thompson/Center* Court viewed the parts within the conversion kit not only as a Contender pistol, but also as an unassembled “rifle” as defined by 26 U.S.C. 5845(c). The inclusion of the rifle stock in the package brought the Contender pistol and carbine kit within the “intended to be fired from the shoulder” language in the definition of rifle at 26 U.S.C. 5845(c). *Id.* at 513 n.6. *Thompson/Center* did not address the subsequent assembly of the parts. *United States v. Ardoin*, 19 F.3d 177, 181 (5th Cir. 1994). Based on the definition of “firearm” in 26 U.S.C. 5845(a)(3), if parts are assembled into a rifle having a barrel or barrels of less than 16 inches in length, a regulated short-barreled rifle has been made. See, e.g., *United States v. Owens*, 103 F.3d 953 (11th Cir. 1997); *United States v. One (1) Colt Ar-15*, 394 F. Supp. 2d 1064 (W.D.Tenn. 2004). Conversely, if the parts are assembled into a rifle having a barrel or barrels 16 inches in length or more, a rifle not subject to the NFA has been made.

Therefore, so long as a parts kit or collection of parts is not used to make a firearm regulated under the NFA (e.g., a short-barreled rifle or “any other weapon” as defined by 26 U.S.C. 5845(e)), no NFA firearm is made when the same parts are assembled or re-assembled in a configuration not regulated under the NFA (e.g., a pistol, or a rifle with a barrel of 16 inches or more in length). Merely assembling and disassembling such a rifle does not result in the making of a new weapon; rather, it is the same rifle in a knockdown condition (i.e., complete as to all component parts). Likewise, because it is the same weapon when reconfigured as a pistol, no “weapon made from a rifle” subject to the NFA has been made.

Nonetheless, if a handgun or other weapon with an overall length of less than 26 inches, or a barrel or barrels of less than 16 inches in length is assembled or otherwise produced from a weapon originally assembled or produced only as a rifle, such a weapon is a “weapon made from a rifle” as defined by 26 U.S.C. 5845(a)(4). Such a weapon would not be a “pistol” because the weapon was not *originally* designed, made, and intended to fire a projectile by one hand.

*Held*, a firearm, as defined by the National Firearms Act (NFA), 26 U.S.C. 5845(a)(3), is made when unassembled parts are placed in close proximity in such a way that they:

- (a) Serve no useful purpose other than to make a rifle having a barrel or barrels of less than 16 inches in length (e.g., a receiver, an attachable shoulder stock, and barrel of less than 16 inches in length); or
- (b) Convert a complete weapon into such an NFA firearm, including –
  - (1) A pistol and attachable shoulder stock; and

- (2) A rifle with a barrel of 16 inches or more in length, and an attachable barrel of less than 16 inches in length.

Such weapons must be registered and are subject to all requirements of the NFA.

*Held further*, a firearm, as defined by 26 U.S.C. 5845(a)(3) and (a)(4), is not made when parts in a kit that were originally designed to be configured as both a pistol and a rifle are assembled or re-assembled in a configuration not regulated under the NFA (*e.g.*, as a pistol, or a rifle with a barrel of 16 inches or more in length).

*Held further*, a firearm, as defined by 26 U.S.C. 5845(a)(3) and (a)(4), is not made when a pistol is attached to a part or parts designed to convert the pistol into a rifle with a barrel of 16 inches or more in length, and the parts are later unassembled in a configuration not regulated under the NFA (*e.g.*, as a pistol).

*Held further*, a firearm, as defined by 26 U.S.C. 5845(a)(4), is made when a handgun or other weapon with an overall length of less than 26 inches, or a barrel or barrels of less than 16 inches in length, is assembled or produced from a weapon originally assembled or produced only as a rifle. Such weapons must be registered and are subject to all requirements of the NFA.

To the extent this ruling may be inconsistent with any prior letter rulings, they are hereby superseded.

Date approved: July 25, 2011

Kenneth E. Melson  
Acting Director