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May 15, 2014

To whom it may concern,

This letter addresses ATF's finding that the "precursor receivers" at issue are "firearms." That finding is at odds with the plain meaning of the applicable statute, federal case law, and the ATF's own prior determinations. The precursor receivers, also known as "receiver blanks," are "only a potential component of a firearm," a *potential* receiver. They do not fit the legal definition of "firearm."

I. REGULATORY / LEGAL FRAMEWORK

A. Legal Definition of "Firearm" Under Federal Law

Under federal law, a "firearm" is as follows:

- "(A) 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;*
- (C) any firearm muffler or firearm silencer; or
- (D) any destructive device."

18 U.S.C. § 921(a)(3) (emphasis added).²

² The Code of Federal Regulations gives an identical definition for firearm. 27 C.F.R. § 478.11

Subdivisions (B) is the only provision of Section 921(a)(3) under which a precursor receiver could conceivably be considered a “frame or receiver” and thus a “firearm” under federal law.

A “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.” 27 C.F.R. § 478.11.

B. Legal Definition of “Manufacturing” a “Firearm” Under Federal Law

Under federal law, a firearms “manufacturer” is “any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution” 18 U.S.C. § 921(a)(10). So if the precursor receivers were “firearms” at any time *during* the manufacturing process, then the creator of the precursor would be considered a firearm “manufacturer” and would need a federal manufacturing license (07 FFL). *See* 18 U.S.C. § 922(a)(1)(A).

Manufacturers are required to mark their firearms, keep records, and follow specific guidelines to transfer the “firearms” to anyone without an FFL. 18 U.S.C. §§ 923(i), (g)(1)(A); 922(t). 27 CFR 478.92

C. ATF’s Previous and Existing Policies and Practices Relating to Precursor Receivers

In the past the ATF has found that precursor receivers do not qualify as a “frame” or “receiver” under current statutes and regulations because they do not and cannot provide a housing for firing mechanisms, and therefor are not “firearms.” ATF has issued opinions on that point regarding precursor receivers to at least four manufacturers (no doubt there are many more) confirming that receiver blanks without certain machining operations *are not* firearms. *See, e.g.,*

ATF letter to Bradley Reece (“an AR-10 type receiver blank which has no machining of any kind performed in the area of the trigger/hammer (fire-control) recess might not be classified as a firearm. [and] The sample is completely solid and un-machined in the fire-control recess area and, accordingly, is not a ‘firearm’ as defined in the GCA.”) (emphasis in original), attached as **Exhibit 2**; ATF letter to Quentin Laser, LLC (“an AR-15 type receiver which has no machining of any kind performed in the area of the trigger/hammer recess might not be classified as a firearm.”) (emphasis in original), attached as **Exhibit 3**; *see also* ATF letter to 80 Percent Arms and ATF letter to Kenney Enterprises, Inc., attached as **Exhibits 4 and 5**.

These findings are in line with the regulations.

With respect to precursor receivers then, the ATF’s own rulings confirm that products that require milling out of the fire-control cavity, drilling of the selector-level hole, cutting of the trigger slot, drilling of the trigger pin hole, and drilling of the hammer pin hole are not “firearms.” The EP precursor receivers require *all* of these actions and so cannot be considered “firearms” under law.

II. TECHNICAL BACKGROUND ON CREATING AND COMPLETING PRECURSOR RECEIVERS

EP precursor lower receivers can be used to complete AR-15 style firearms. As sold, the precursor receivers cannot function as receivers on a firearm platform. They require significant additional work in order to actually function as such.

A review of the manufacturing process helps illustrate that point.

A. Manufacturing Process for the Seized Precursor Receivers

The creation of the EP precursor receiver is a two part process. First, using the picture below as reference, the lighter colored portion is formed. This material is identical to the material

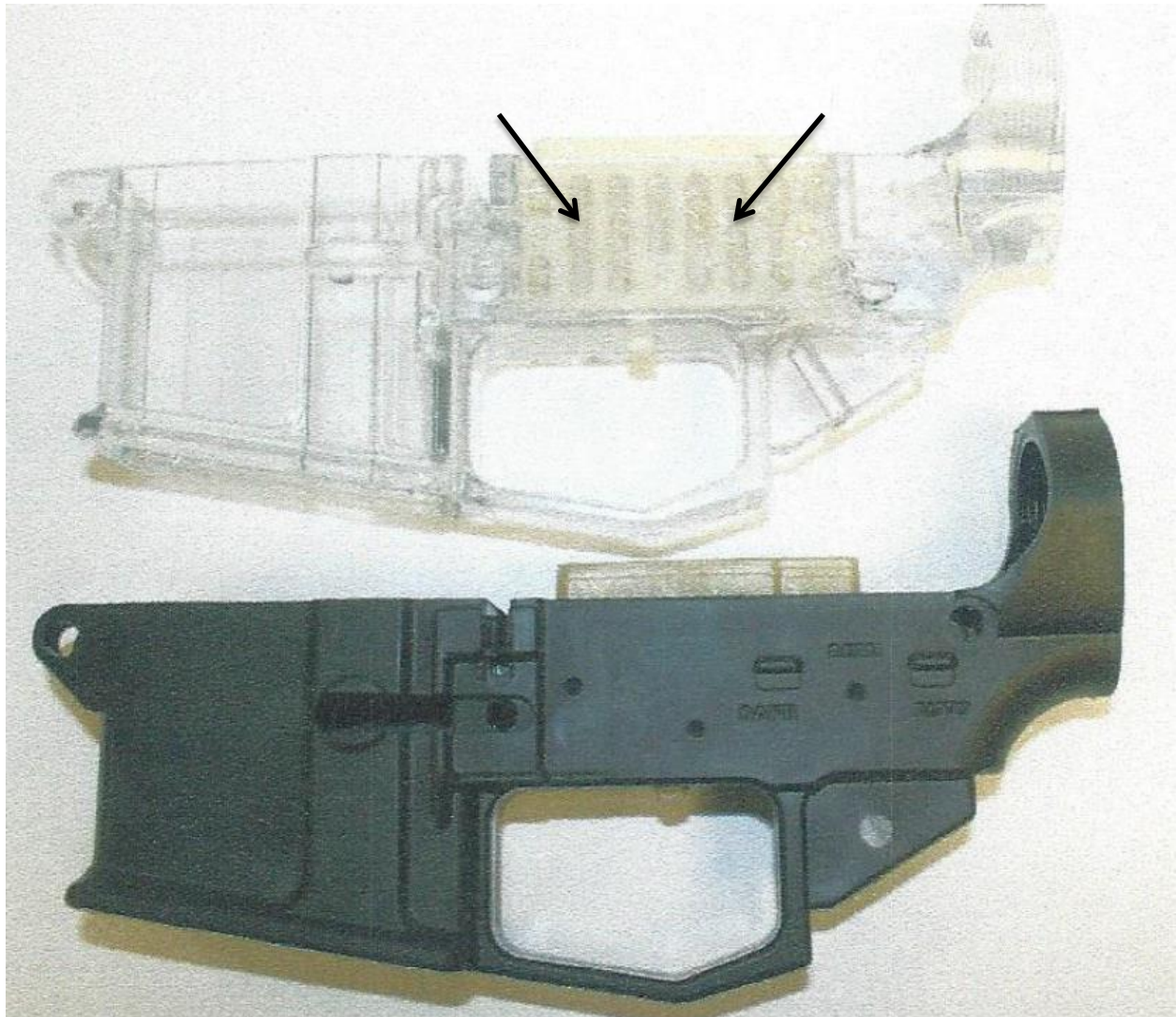
used to make the full precursor receiver, except its color. This is referred to as the core-piece, or “biscuit.” The core-piece is indicated by the arrow.



After the core-piece is cured for two days, it is hung in a mold and the additional darker colored material is then poured into the mold around and through the core-piece. The darker colored material surrounding the core-piece is bonded *after* the core-piece is formed and cured.

The core-piece has holes in it. When the additional material is poured it flows into and through the core-piece. As the material dries it bonds to the core-piece. The precursor receiver is then created in that mold *as one complete part*.

The holes within the core piece can be viewed in the below picture provided by ATF’s Undated Letter, attached as **Exhibit 6**. The picture depicts two precursor receivers. The first precursor receiver was made using a transparent material and allows you to see the core-piece inside of the precursor receiver. As depicted and indicated by arrows, there are a number of oval shaped holes in the core-piece through which the material for the second pouring flows.



The core-piece holes are shown in more contrast below. The pictures below depict a white core-piece as it is drilled and removed from the precursor.



These black “bars” (made from the second pouring) extend through the precursor receiver from one wall to the other. At no time during the creation of the precursor receiver or during the completion of the receiver is the fire-control cavity *not* filled with the core-piece or bars. Only by removing the core-piece and bars in their entirety is there a fire-control “cavity.”

A complete functional receiver never exists during the manufacturing process. The core-piece is made of the same material as the rest of the precursor and is locked into place by virtue of the “bars” that run through it. The core-piece cannot be removed without destroying the core-piece and bars or by destroying the entire precursor. If one were able to remove the core-piece

without damaging the rest of the precursor, the bars running between the walls of the precursor would remain, i.e., the precursor would still not constitute a functional “receiver”.

The sequence of this process is critical, for legal reasons described below.

B. Finishing Process for Completion of Precursor Receiver to Functional Receiver

The core-piece must be removed from the precursor receiver using tools, e.g., a drill press. Several other modifications must be made before the precursor receiver can actually function as a receiver. The only way to remove the core-piece is to destroy it by drilling/milling it out.







NOTE: Even if someone were able to remove just the core-piece from the precursor receiver, the end product would not create a true fire-control cavity. The sides of the completed receiver would be too thick to accommodate the hammer and trigger group. Approximately 1/16 of an inch needs to be removed from the walls on each side of the precursor receiver before it is considered completed.

In addition to drilling out the core-piece, holes for the hammer and trigger pins, along with the safety selector hole, must be drilled into the precursor receivers before the precursor can actually function as a “receiver” for a firearm.



Last, the trigger slot has to be drilled out to accommodate the trigger.



III. THE EP PRECURSOR RECEIVER IS NOT AN ACTUAL RECEIVER OR A “FIREARM?”

While not entirely clear which definition of “firearm: in § 921 (a)(3) ATF was using, ATF attempted (on more than one occasion) to classify the precursor receivers in question as a “firearm” under either section (A) (“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”) or section (B) (“*the frame or receiver of any such weapon[.]*”) of the definition of a “firearm.” *See* 18 U.S.C. § 921(a)(3) (emphasis added).

As discussed below, ATF’s multiple classifications are inconsistent with each other, with past ATF opinions, and with federal law. Also, the ATF opinion fails to understand how the precursor receivers are made and the material the core-piece is made from.

These ATF opinions appear to be based solely on unknown or non-existent precedent. They are unfounded conclusory, arbitrary, and capricious.

IV. ATF/ FTB’S LETTERS CONCERNING THE PRECURSOR RECEIVERS AND ANALYSIS OF THOSE LETTERS

July 20, 2013 Letter from EP Armory to ATF

On July 20, 2013, EP Armory’s former attorney, Jason Davis, requested the ATF’s Firearm Technology Branch (FTB) determine whether the “incomplete AR-type lower” was a “firearm or a casting.” EP’s letter discusses why the EP Precursor should not be considered a “firearm.” *See* EP letter dated July 20, 2013, attached as **Exhibit 7**.

February 7, 2014 Letter From ATF to EP Armory

On February 7, 2014, ATF/FTB responded to EP's inquiry in a letter to Mr. Davis ("February 7 letter"), stating that the "incomplete AR-type lower" was a "firearm" under federal law, attached as **Exhibit 8**. The FTB indicates two potential reasons the EP precursor is a "firearm."

First, the EP precursor has "excess material [that] extends past the exterior walls of the casting, indicating the approximate locations of the holes to be drilled for the selector, hammer, and trigger pins." Aside from this brief mention, the "excess material" and its relevance or significance is not further discussed by ATF in its February 7 letter. (This issue is addressed in a later letter by ATF, after the precursors were seized, and in detail below.)

The second basis for the ATF opinion was ATF's incorrect assumption that EP's precursor was manufactured with a hollow fire-control cavity that was later filled in with polymer/plastic. "We further noted that the fire-control cavity has been formed and then, *at a later time, filled in with plastic material.*" February 7 letter (emphasis added).¹

The ATF's opinion relies heavily on this second basis (in fact this reasoning takes up most the letter) and, as explained above, completely misunderstands and misrepresents the manufacturing process. Specifically, the ATF got the manufacturing process backwards. ATF believed a receiver *with* a fire-control cavity was made first, and then a second material was poured into the fire-control cavity, filling the cavity and forming the core-piece. Instead, as

¹ Notably, the recent ATF letter to Mr. Reece concerned a polymer/plastic receiver blank for an AR-10, which the ATF found was not a firearm as defined in the GCA. So, evidently the composition of the receiver blank is not an issue.

discussed in Part II, the core-piece is created first. It is then allowed to dry and harden over two days, and *then* the rest of the precursor is poured around and through the core-piece.

Consequently there is never a fire-control “cavity” during the process.

In short, in February 7 letter classifying the precursor as a “firearm” was based on a misunderstanding of the manufacturing process.

March 4, 2014 Letter from EP Armory to ATF

On March 4, 2014, EP Armory attempted to clarify the process to ATF. The second letter explained the manufacturing process above, and provided two core-pieces for ATF to inspect.

The letter requested further clarification of ATF’s position. *See* March 4 Letter, attached as

Exhibit 9.

Undated Letter from ATF to EP Armory

Approximately a month later EP received a reply to the March 4 Letter. The letter brushed aside concerns relating to the confusion involving the manufacturing process.

Nevertheless, ATF confirmed its conclusion that the precursor was still a “firearm”—even if for reasons entirely different from those stated before. *See* Undated Letter, attached as **Exhibit 6.**

In its Undated Letter, ATF initially relies upon a series of so-called “long held” opinions relating to the manufacturing of firearms and firearm parts. ATF classifies the manufacturing process discussed above as “a change from the processes by which AR-type firearms have historically been produced,” further claiming that: “ATF has long held that items such as receiver blanks – ‘castings’ or ‘machined bodies’ in which the fire-control cavity area is completely solid and un-machined – have not yet reached a ‘stage of manufacture’ to be classified as a ‘firearm receiver.’”

A. Existence of the Fire-Control Cavity

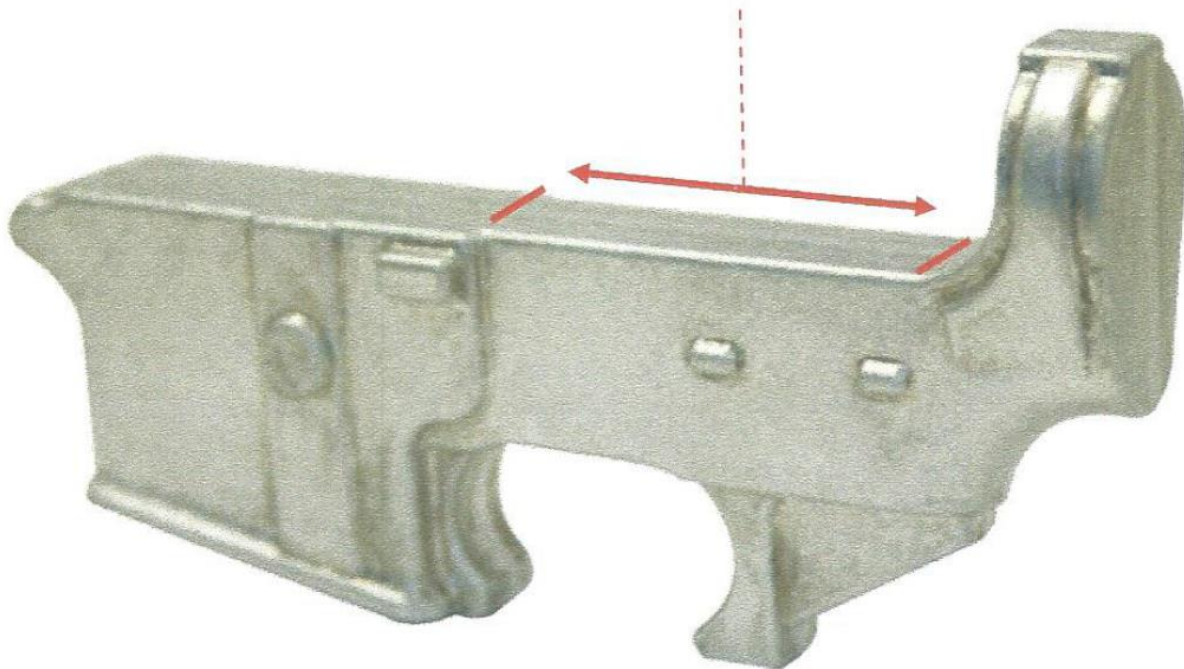
ATF attempts to distinguish the EP precursor (which ATF claims is a “firearm”) from other AR-type precursors (which ATF has held are not a “firearm”) by claiming that those other precursors have “the same material as the receiver itself” in the fire-control cavity, and that the “material filling the fire-control cavity is integral to the item; therefore the fire-control ‘cavity’ has not been created.” Attached as **Exhibit 6**.

ATF’s distinctions between the EP precursor and other AR-type precursors are nonsensical. The material within the fire-control cavity *is* “the same material as the receiver itself.” No different material is used to make the core-piece than is used to make the rest of the precursor. Second, as discussed above, the core-piece *is integral* to the precursor. The precursor is formed around and through the core-piece. When material is poured around the core-piece it also passes through the core-piece. When dried, the material becomes one part and the core-piece cannot be removed without destroying the core-piece and “bars,” or the precursor entirely. No fire-control cavity is created.

ATF attempts to illustrate its point by distinguishing an incomplete AR receiver (see below) with the EP precursor.²

² It should also be noted that this picture lacks refinements that, based on ATF’s own opinions, can still be completed before the part is considered “firearm” by ATF. Notably and most obvious the: (1) magazine well; (2) buffer tube hole; and (3) magazine catch holes.

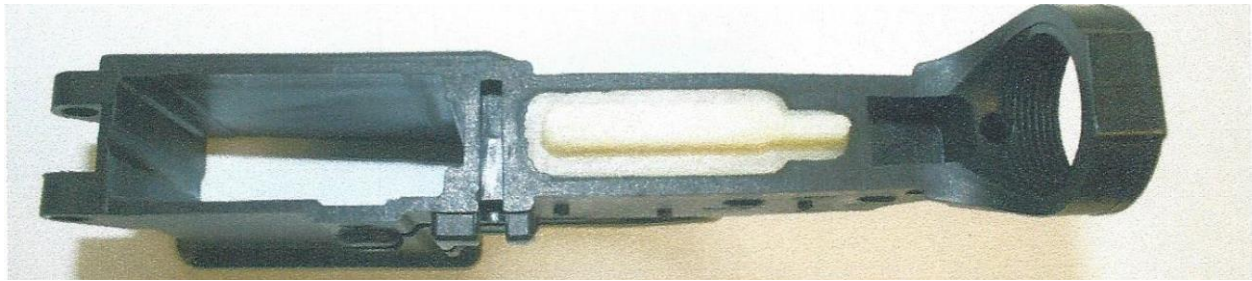
Location of the Fire Control Cavity



A complete AR-receiver:



And the EP precursor:



Consistent with previous ATF opinions, the fire-control cavity of the EP precursor is filled, and a cavity can only be created by removing the core-piece.

ATF attempts to say that a “cavity” is formed when something is made solid, incorrectly claiming as follows:

“[T]he biscuit creates the internal dimensions of the fire-control cavity... The photos illustrate that the EP Arms manufacturing process creates a fire-control cavity through the use of a ‘biscuit.’... Accordingly, based upon your description of the EP Arms manufacturing process, the EP Arms submission is distinguishable from other ‘castings’ or ‘blanks’ that are not classified as firearms.’ Unlike ‘castings’ or ‘blanks’ which are formed as a single piece so that a fire-control cavity has not been made, EP Arms uses the biscuit specifically to create a fire-control cavity during the injection molding process.”

ATF then concludes that the EP precursor is a “firearm” as defined in 18 U.S.C. 921(a)(3)

“because the fire-control area is created during the manufacturing process through the use of the biscuit.”

But again ATF’s logic is nonsensical. A “cavity” is a “hole or space inside something.” (Merriam-Webster 2014). Claiming that EP’s manufacturing process creates a “fire-control cavity” is akin, in dentistry terms, to saying a cavity is made when the tooth is formed. No. The cavity is formed by bacteria, plaque, and tartar eating away the enamel of the completed tooth and ultimately the dentist has to drill out the decay. In order to complete the fire-control *cavity*

the precursor owner must drill away the core-piece and “bars” to create a *cavity*. Before the drilling, a “cavity” never exists.

B. Indexing

ATF then raises a new issue at page five of its letter: “Indexing.” The ATF asserts that:

“As described in your letter, it appears that the sole purpose of the ‘biscuit’ is to differentiate the fire-control area from the rest of the receiver and thus facilitate the process of making the receiver into a functional firearm. ATF has long held that ‘indexing’ of the fire-control area is sufficient to require classification as a firearm receiver. Based upon the EP Arms manufacturing process, it is clear that the ‘biscuit’ serves to index the entire fire-control cavity. In fact, the biscuit is meant to differentiate the fire-control cavity from the rest of the firearm so that it may be easily identified and removed to create a functional firearm.”

Evidently, the ATF is attempting to buttress its “creation” of the fire-control cavity issue (discussed above) with a new and previously unstated concern over “indexing.” In any event, the ATF now claims that EP’s “manufacturing process results in:

‘excess material extending past the exterior walls of the casting, indicating the approximate locations of the holes to be drilled for the selector, hammer, and trigger pins’... to remove any doubt about the correctness of our classification decision [that the precursor is a “firearm”], we are including that analysis here.”

ATF reiterates its opinion that an “AR-15 receiver blank” is *not* classified by ATF as a firearm, but attempts to distinguish the receiver blank from EP’s precursor receiver, stating:

“The point in the manufacturing process at which an AR-15 blank is classified as a firearm is when it has been indexed for or machined in the fire-control recess area. Such a receiver may also have had other machining performed, such as drilled pivot-pin and takedown-pin hole(s). However, based upon your explanation of the manufacturing process, this excess material indexing the location for the holes to be drilled is, by itself, sufficient to classify the sample as a firearm receiver. See photo 6, below.”

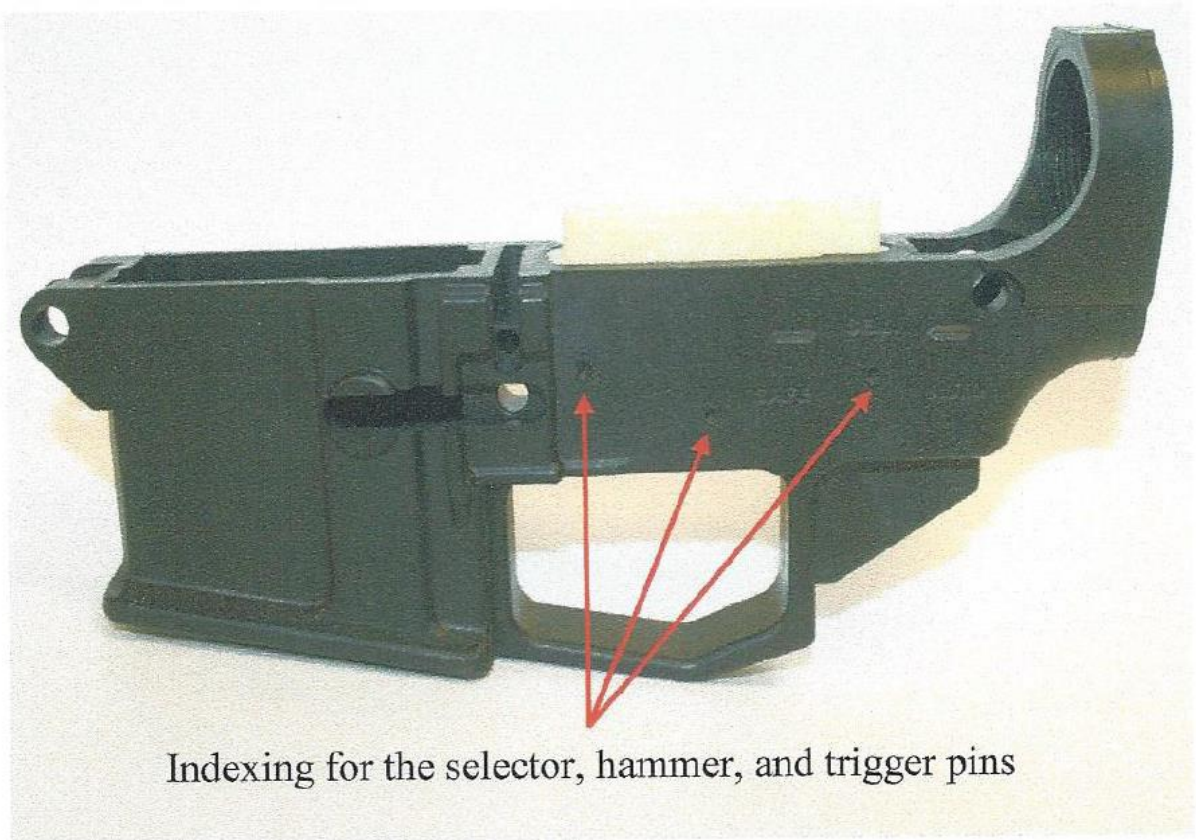


Photo 6

ATF's analysis ends with that conclusion. But ATF doesn't explain why. It makes no attempt to justify its conclusion with any citation to authority. There is no statute, regulation, or published ruling that supports ATF's position.

Moreover, as outlined below, standard statutory interpretation, ATF's past letters, case law, and common sense contradict ATF's finding.

V. ATF'S FINDINGS CONFLICT WITH ITS PAST LETTERS, CASE LAW, AND RULES OF STATUTORY CONSTRUCTION

ATF is bound to the definition of "firearm" provided in the United States Code and the Federal Regulations. ATF's position ignores standard rules of statutory construction. ATF appears to argue that the EP precursor receiver is a "frame or receiver" of a "weapon" under 18

U.S.C. § 921. As mentioned above, a “firearm frame or receiver” is “[the] 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.” 27 C.F.R. § 478.11. Under relevant federal law, a “firearm” is:

- “(A) 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”

The ATF conflates the two definitions of “firearm” in Section 921(a)(3) to argue that precursor receivers or blanks that can be “readily converted” to functional receivers are “firearms.” Further, ATF claims that because EP’s precursor receivers have excess material marking the areas to be drilled for completion, making it easier to convert to a receiver without a jig, they are “readily converted.” Therefore, they are “firearms.” *See* February 7 Letter, attached as **Exhibit 8**. But that, of course, improperly imputes the italicized language of subpart (A) to subpart (B)—where there is no such language.

In short, ATF’s analysis fails to read the plain language of the statute as written. “In a statutory construction case, the beginning point must be the language of the statute, and when a statute speaks with clarity to an issue judicial inquiry into the statute's meaning, in all but the most extraordinary circumstance, is finished.” *Estate of Cowart v. Nicklos Drilling Co.* 505 U.S. 469, 475 (1992)(citation omitted)

In addition, under the canons of statutory construction, punctuation is a permissible indicator of meaning. ANTONIN SCALIA & BRYAN A. GARNER, *READING LAW* (Thomson/West,

1st ed. 2012). In other words, the meaning of a statute will typically heed the commands of its punctuation.

In Section 921(a)(3), the subparts—indicated by separate capital letters—are separated by semi-colons. The semi-colon cancels the modifier “readily be converted” because there is a firm separator between the two clauses. The separation is compounded by the presence of the capital letters indicating each subpart is an independent definition of “firearm.”

The Seventh Circuit Court confirms this interpretation of the statute in *U.S. v. McMurty*, 24 Fed.Appx. 594 (2001). The court in *McMurty* upheld a jury instruction that read, “[A] firearm means: any weapon which will expel a projectile by the action of an explosive; or any weapon which is designed to expel a projectile by the action of an explosive; or any weapon which may be readily converted to expel a projectile by the action of an explosive; *or* the frame or receiver of such weapon.” *U.S. v. McMurty* 24 Fed. Appx. 594, 596 (7th Cir. 2001)(emphasis added).

The jury instruction in *McMurty* illustrates that the phrase “readily converted” modifies only the term “weapon,” because the court deliberately separated the “readily converted” verbiage from the rest of the information in the statute. Additionally, the conjunction “or” prior to “the frame or receiver” indicates that “readily converted” does not modify “frame or receiver.”

Firearm Law Expert and Historian Stephen P. Halbrook drives home this interpretation of the statute in his *Firearms Law Deskbook* as follows:

As noted, the term “firearm” means a “weapon . . . which will or is designed to or may readily be converted to expel a projectile,” and also “the frame or receiver of any such weapon.” Both the “designed” definition and the “may readily be converted” definition apply to a weapon that expels a projectile, not to a frame or receiver. A frame or receiver is not a “weapon,” will not and is not designed to expel a projectile, and may not readily be

converted to expel a projectile.

[STEPHEN P. HALBROOK, FIREARMS LAW DESKBOOK 113-114 (2012-2013).]

Halbrook's analysis is consistent with canonical analysis and the limited analysis that federal courts have given this statute. The phrase "readily converted" simply does not apply to the "frame or receiver" part of the "firearm" definition. This interpretation properly tracks the structure and courts' analysis in the *McMurty* case of the Section 921(a)(3).

The phrase "readily converted" should not be read to modify the phrase "frame or receiver." In order for an item to meet the definition of a "firearm," it must be a fully functional receiver, capable of receiving fire-control parts. An item that is "readily converted" into a receiver is no receiver at all, and does not meet the definition of "firearm."

Moreover, the ATF's implied "readily converted" test has no standards for manufacturers (or ATF personnel) to follow. The court in *Tripoli Rocketry Ass'n., Inc. V. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 437 F.3d 75 (D.C. Cir. 2006) (hereinafter *Tripoli*) provides guidance on this point.

In *Tripoli*, the ATF found that a certain rocket propellant was an "explosive" subject to regulations under federal law. *Tripoli*, 437 F.3d at 76-77. The ATF based their finding on unsupported facts that the rocket propellant functioned by "deflagration." The ATF determines whether a material is an explosive by the characterizing the speed at which something burns. Materials that burn fast "detonate," while materials that burn slow "burn." Deflagration is in between the two. The ATF regulates materials that deflagrate and detonate. *Tripoli*, 437 F.3d at 76-77. But ATF never articulated standards for what constitutes "deflagration" as opposed to "burning." The court found the ATF's regulation was arbitrary because they could not give a

rational connection between the facts found and the decision to regulate the rocket propellant as an “explosive.”

This case is similar to *Tripoli*. The ATF decided to regulate the precursor receivers based on a finding that they are “firearms.” The ATF articulates standards for what constitutes a “receiver” and a “firearm.” *See* 18 U.S.C. § 921(a)(3); 27 C.F.R. § 478.11. These standards are clear. But the ATF failed to provide a rational connection between the facts found—that the precursor receiver had excess material indicating where to machine the piece—and the decision that it was a receiver and thus considered a firearm under the law. The facts found simply do not fit ATF’s finding, rendering its decision arbitrary, capricious, and invalid.³

ATF’s problem is compounded by its previous inconsistent opinion letters, as well as its current position with respect to similar items currently approved for sale by ATF.

1. Similar Products Approved for Sale

ATF maintains that certain parts of a precursor receiver can be machined, including the pivot-pin, takedown-pin hole(s), and clearance for the takedown-pin lug and still not be considered a “firearm.” But there can be no machining of any kind performed in the area of the fire-control cavity. (See attached ATF opinion letters). The EP precursor receiver has machining

³ Federal agency action must be supported by “reasoned decision making.” *Allentown Mack Sales & Serv., Inc. v. NLRB*, (1998) 522 U.S. 359, 374. The process by which an agency reaches a decision must be logical and rational. *Id.* The process must not be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.” 5 U.S.C. § 706(2)(A). A court will set aside an agency regulation that is not supported by the reasons the agency gives. *Allentown Mack*, 522 U.S. at 374.

in the locations that ATF has approved historically, and no additional machining in the fire-control area.

As depicted above, the excess material acts only as a guide to show the person completing the precursor where to drill. The precursor purchaser must still complete the necessary activities to complete the firearms *themselves* (i.e. they must drill the necessary holes, hollow out the fire-control cavity, and make room to accommodate the trigger). No machining is done to the fire-control area by EP.

Precursor receivers and jigs have been on the market with ATF's blessing for years. These precursor receivers are not different from the EP precursors. They require the fire-control cavity to be created and holes for the trigger, hammer, and selector to be drilled. Manufacturers create jigs to show the purchaser of precursor receivers where to drill. Over the years, jigs have evolved and in some cases become integral to the precursor receiver. They attach to the precursor allowing the consumer to complete the receiver more easily. (See included pictures of precursor receivers and jigs.)

The inclusion of *excess* material showing a person where to drill is no different from ATF's current position relating to precursor receivers and jigs. And the ATF does not attempt to explain the distinction.







Regardless of whether or not a jig is used the process remains the same: the three holes need to be drilled on each side of the precursor receiver, the fire-control cavity must be hollowed out, and the hole for the trigger must be completed. The EP precursor- *like all of the other precursor receivers ATF deemed “non-firearms”* - still requires this work to be completed. The fact that the EP precursor shows the purchaser where to drill does not create a “firearm.” The identical work to the EP precursor must be done to the other precursors. This same type of situation was examined in-depth in *U.S. v. Prince*.

In *Prince*, the ATF investigated the unlawful manufacture and sale of firearms. The “firearms” in question were determined to be “AK-47 flats.” “Flats,” like precursor receivers, are

incomplete firearm receivers which typically require additional work to complete. The flats in question had “laser perforations and holes, which could allegedly be folded to become part of a firearm.” Pertinent to this analysis is the district court’s conclusion relating to the “flats.” The District Court determined that the “flat” was not a firearm.

Although making the paper airplane might be the intended use, it is not an airplane until it is properly folded. Until that time, it is a patterned piece of paper. Simply put, this court has no evidentiary or legal basis for holding that a flat piece of metal with laser perforations and some holes constitutes, ultimately, a “firearm.” It may become part of a firearm at some point, but not until further work has been accomplished to allow it to secure the stock, chamber, barrel and other parts. Until that time, it is not even a true component of a firearm, only a potential component of a firearm. The statute, as written, does not extend that far. Because this court finds that the flats are not “firearms,” selling flats is not illegal conduct.

U.S. v. Prince (D. Kan., June 26, 2009, 09-10008-JTM) 2009 WL 1875709 rev'd on other grounds, (10th Cir. 2010) 593 F.3d 1178, 1183 (emphasis added).

The Court of Appeals, while overturning the District Court’s opinion on other grounds, did not call into doubt the lower court’s opinion that the “flat” was not a firearm and repeatedly referred to ATF’s position as a “mistake of law.” Similarly, in this case, the EP precursor receiver is “only a potential component of a firearms,” not a firearm, and selling it is not illegal conduct. *See id.*

VI. The Precursor Receivers Require Too Much Work to Be a “Firearm”

Even if “readily converted” could be *implied to* modify “frame or receiver” in Section 921, the precursor receiver is not readily converted. Again, regular canons of construction provide guidance to determine the definition of “readily converted” in Section 921(a). The ordinary, everyday meaning of words governs in statutory interpretation. *See Smith v. U.S.* 508

U.S. 223, 244 (1993). The ordinary meaning of “readily” is without delay or difficulty. And, the ordinary meaning of “converted” is change in character or function. So, the ordinary meaning of “readily converted” is changed in function without delay or difficulty.

Several courts interpreted the phrase “may readily be converted” in the context of 18 U.S.C. § 921. *See U.S. v. 16,179 Molso Italian .22 Caliber Winless Derringer Convertible Starter Guns*, 443 F. 2d 463 (2nd Cir. 1971) (hereinafter “*Molso*”); *U.S. v. Mullins* 446 F. 3d 750 (2006). In *Molso* the court determined that a starter pistol was “readily converted” to expel a projectile because several agents could manipulate the starter pistols, with or without tools, to shoot a live ammunition round in four to twelve minutes. *Id.* at 466. The court concluded, “Reasonable men would surely agree that guns which can be so quickly transformed into dangerous weapons are ‘readily convertible,’ whatever else that term may mean.” *Id.*

In a similar case, the 8th Circuit found that a starter pistol was “readily converted” to expel a projectile because it took less than one hour to modify the pistol to shoot live ammunition. *Mullins*, 446 F. 3d at 755-756. Courts have found any time span from 12 minutes to an hour for conversion to a functioning firearm to be considered “readily converted.”

The EP precursor receivers do not fit the description of readily converted to expel a projectile by the action of an explosive. While a non-firing starter pistol modified to shoot a live round in under an hour is “readily converted,” the precursor receivers are distinguishable because even after an hour of modification, the product is still not capable of expelling a projectile with the action of an explosive. The product produced after machining is merely a receiver, which is in need of much more work to operate as a fully functioning “firearm.”

If the EP precursor receiver is “readily converted” into a receiver making it a firearm, then *all* precursor receivers, including the ones made of metal, are “firearms” because after machining it is a functional receiver. But this is simply not the case. Precursor receivers are consistently found *not* to be firearms by the ATF. [Quentin Letter] [Kinney Letter] [80% Arms Letter].

The precursor receivers do not fit the definition of a “firearm” under federal law. The ATF’s review of other products similar to the polymer precursor receiver shows that subject matter of this investigation is not a “firearm” because none of the machining processes identified as necessary for a complete receiver were performed.