



State of New Jersey

OFFICE OF THE ATTORNEY GENERAL
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Attorney General

PATRICK J. CALLAHAN
Colonel



Mr. White,

This is in reference to the submitted request to review the following firearm and determine the legality of sale in the State of New Jersey. The submitted Troy Industries A4 "Other Firearm" has an overall length of 26.5 inches with a stabilizing arm brace by SB Tactical mounted to same. This submitted firearm according to the manufacturer Troy Industries Inc. is designed and manufactured as a "firearm", defined by the Federal Gun Control Act of 1968 (GCA). To determine the legality of this firearm we must examine the applicable New Jersey statutes.

Title 2C The New Jersey Code of Criminal Justice defines the following:

2C:39-1f defines a firearm as:

"f. "Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person."

2C:39-1k defines a handgun as

"k. "Handgun" means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand."

2C:39-1m defines a rifle as

"m. "Rifle" means any firearm designed to be fired from the shoulder and using the energy of the explosive in a fixed metallic cartridge to fire a single projectile through a rifled bore for each single pull of the trigger."

2C:39-1o defines a sawed-off shotgun as

"o. "Sawed-off shotgun" means any shotgun having a barrel or barrels of less than 18 inches in length measured from the breech to the muzzle, or a rifle having a barrel or barrels of less than 16 inches in length measured from the breech to the muzzle, or any firearm made from a rifle or



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a shotgun, whether by alteration, or otherwise, if such firearm as modified has an overall length of less than 26 inches."

Title 13, Law and Public Safety Chapter 54, Firearms and Weapons defines assault weapons further than N.J.S.2C:39-1w by incorporating the Attorney General's Guidelines Regarding the "Substantially Identical" Provision in the State's Assault Firearms Laws dated August 19, 1996;

N.J.A.C. 13:54-1.2 Defines **assault firearms** as:

"1. Any of the following firearms:

Algimec AGM1 type

Any shotgun with a revolving cylinder such as the "Street Sweeper" or "Striker 12"

Armalite AR-180 type

Australian Automatic Arms SAR

Avtomat Kalashnikov type semi-automatic firearms

Beretta AR-70 and BM59 semi-automatic firearms

Bushmaster Assault Rifle

Calico M-900 Assault carbine and M-900

CETME G3

Chartered Industries of Singapore SR-88 type

Colt AR-15 and CAR-15 series

Daewoo K-1, K-2, Max 1 and Max 2, AR 100 types

Demro TAC-1 carbine type

Encom MP-9 and MP-45 carbine types

FAMAS MAS223 types

FN-FAL, FN-LAR, or FN-FNC type semi-automatic firearms

Franchi SPAS 12 and LAW 12 shotguns

G3SA type

Galil type

Heckler and Koch HK91, HK93, HK94, MP5, PSG-1

Intratec TEC 9 and 22 semi-automatic firearms

M1 carbine type

M14S type

MAC 10, MAC 11, MAC 11-9 mm carbine type firearms

PJK M-68 carbine type

Plainfield Machine Company Carbine

Ruger K-Mini-14/5 F and Mini-14/5 RF

SIG AMT, SIG 550SP, SIG 551SP, SIG PE-57 types

SKS with detachable magazine type

Spectre Auto carbine type

Springfield Armory BM59 and SAR-48 type

Sterling MK-6, MK-7 and SAR types

Steyr A.U.G. semi-automatic firearms

USAS 12 semi-automatic type shotgun

Uzi type semi-automatic firearms

Valmet M62, M71S, M76, or M78 type semi-automatic firearms

Weaver Arm Nighthawk;”

“2. Any firearm manufactured under any designation, which is substantially identical to any of the firearms listed in paragraph 1 above. As used in this definition, the term "substantial" means pertaining to the substance, matter, material or essence of a thing and the term "identical" means exactly the same. Hence, a firearm is substantially identical to another only if it is identical in all material, essential respects. A firearm is not substantially identical to a listed assault firearm unless it is identical except for differences that do not alter the essential nature of the firearm. The following are examples of manufacturer changes that do not alter the essential nature of the firearm: the name or designation of the firearm; the color of the firearm; the material used to make the barrel or stock of the firearm; the material used to make a pistol grip; and a modification of a pistol grip. This is not an exclusive list. A semi-automatic firearm should be considered to be "substantially identical," that is, identical in all material respects, to a named assault weapon if it meets the below listed criteria:

i. A semi-automatic rifle that has the ability to accept a detachable magazine and has at least two of the following:

(1) A folding or telescoping stock;

(2) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(3) A bayonet mount;

(4) A flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

(5) A grenade launcher;

ii. A semi-automatic pistol that has an ability to accept a detachable magazine and has at least two of the following:

(1) An ammunition magazine that attaches to the pistol outside of the pistol grip;

(2) A threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

(3) A shroud that is attached to, or partially or completely encircles the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;

(4) Manufactured weight of 50 ounces or more when the pistol is unloaded; and/or

(5) A semi-automatic version of an automatic firearm; and

iii. A semi-automatic shotgun that has at least two of the following:

(1) A folding or telescoping stock;

(2) A pistol grip that protrudes conspicuously beneath the action of the weapon;

(3) A fixed magazine capacity in excess of six rounds; and/or

(4) An ability to accept a detachable magazine;”

In combination with the review of the submitted request we have also reviewed documentation provided by Dark Storm Industries, LLC, a Federal Firearms License holder based out of New York. The documentation dated February 12, 2019 and issued by the BATF Firearms Technology Industry Services Branch, is a review of the DS-15, a similar firearm in

design and function as that described above. The conclusion of their analysis is that it is “a **firearm**” as defined in the GCA, 921(a)(3) and is not a **firearm**” as defined in the NFA, 5845(a), provided it is not concealed on a person, or redesigned to be fired from the shoulder.”

The New Jersey State Police Firearms Unit finds that the submitted Troy Industries A4 “Other Firearm” as well as the Dark Storm Industries DS-15 Non-NFA Firearm Typhoon are considered to be **firearms**” as defined by N.J.S. 2C:39-1f. This determination is based on the following information. The submitted firearms as designed and intended for use are not a **handgun**”, **rifle**”, or **shotgun**” according to State definition since the firearm is designed and intended for use with two hands and not to be shoulder fired. As such the **firearm**” does not fit in the definition of an **assault firearm**”. According to State statute and an opinion rendered by the State’s Attorney General in 1996 regarding “Substantially Identical” an assault weapon must be specifically named on the list of banned firearms or be substantially identical to one named. According to this opinion, a substantially identical firearm must fall within three categories (semiautomatic rifle, handgun or shotgun) to be considered an **assault firearm**”. The reviewed firearms do **not** fall into the category of an **assault firearm**”.

The New Jersey State Police Firearms Unit finds that the submitted Troy Industries A4 “Other Firearm” as well as the Dark Storm Industries DS-15 Non-NFA Firearm Typhoon are **legal** for sale in the State of New Jersey and are **not** considered to be an **assault firearm**”. This opinion is based upon the two firearms reviewed, however if the design or dimensions change from those samples, it may change the classification of the firearm.

Sincerely,



Lt. Stephen Mazzagatti #5297
Unit Head
Firearms Investigation Unit
New Jersey State Police



Troy Industries, Inc.
151 Capital Drive
West Springfield, MA 01089
Phone (Toll-Free): 866-788-6412

Fax: 413-788-4610

Troy Industries A4 "Other Firearm"



SPECIFICATIONS:

SKU: SCAR-NJ4-12BT00

- Total overall length: 26.5 inches w/ adjustable stabilizing SB Tactical Brace.
- Magazine capacity: ten (10) rounds
- Firearm type: Semi-automatic "Other Firearm"
- Operating System: Gas Impingement (carbine length gas tube w/ .750 low profile gas block)
- 7075 forged aluminum upper and lower receiver stamped "Other Firearm" under serial number
- Barrel: 12.5" chrome moly 1/7 twist rate
- Sights: Troy M4 flip-up front and rear low profile sights
- Hand guard: S.O.C.C Battlerail 10.5" M-lok 6061 Aluminum w/ 4 point locking attachment.
- Troy Medieval case hardened flash suppressor
- Mandatory Poly CQB Vertical Front Grip.
- Standard bolt carrier group
- Single lock standard charging handle
- SB Tactical stabilizing brace
- Standard Mil-spec lower receiver parts kit
- Standard Mil-spec rear extension parts kit



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Firearms Technology Industry Services Branch

Martinsburg, WV
www.atf.gov

907010:EEE
3311/309711

FEB 12 2019

Mr. Edward J. Newniam
Dark Storm Industries, LLC
4116 Sunrise Highway
Oakdale, NY 11769

Dear Mr. Newman:

This is in reference to the submitted Dark Storm Industries, model **DS-15**, AR-type firearm, serial number **ST2477**, received by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Firearms Technology Industry Services Branch (FTISB). Your letter requests that FTISB provide a determination as to how the submitted sample firearm is classified under the Gun Control Act of 1968 (GCA) and the National Firearms Act of 1934 (NFA).

The GCA, 18 U.S.C. § 921(a)(3) defines "**firearm**" as: *"(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 any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.*

Title 27 CFR, Chapter II, § 479.11 defines the term "**pistol**" to mean: *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 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 GCA, 18 U.S.C. § 921(a)(7) defined the term "**rifle**" to means: *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.*

The NFA, 26 U.S.C. § 5845(a) defines "**firearm**", as: *(1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (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; (5) any other weapon, as defined in subsection (e);...*

The NFA, 26 U.S.C. § 5845 (e), defines "**any other weapon**" (AOW) as: "...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 barrel with 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 a 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."

As received, the DS-15 is assembled with a removable muzzle device, a Magpul MVP fore grip, and a cheek rest/saddle.

The following markings appear on the sample DS-15 receiver:

On the right side of the receiver:



(selector markings)

On the left side of the receiver:

DS-15
CAL: MULTI
ST2477 (serial number)

DARK STORM INDUSTRIES
OAKDALE NY USA
(selector markings)

The barrel length was measured in the following manner:

The sample was placed on a flat surface with the bolt closed. The muzzle device was removed and a cylindrical scale inserted into the muzzle of the barrel until it touched the bolt face, the measurement was noted, and the cylindrical scale removed from the barrel. It was determined that the barrel length is approximately 12-5/8 inches.

The overall length (OAL) was measured in the following manner:

The sample was placed on a flat surface and the distance measured between the extreme ends of the firearm and measured along a line parallel to the center line of the bore. The sample has an overall length of approximately 28 inches.

The length of pull (LOP) was measured in the following manner:

The sample was placed on a flat surface the distance from the center of the trigger to the center of the rear butt-plate or recoil pad was measured. In this instance, the farthest point at the center/rear edge of the buffer tube was used. The sample has a length of pull of approximately 12 inches. Most standard factory rifles have pull lengths of from 13-1/2 to 14-1/2 inches.

The cheek rest is similar to the CAA, SST-1 model and is marked "SST-1," on the bottom. However, it differs slightly in configuration, method of operation, and materials used, from the CAA, SST-1 cheek saddle. Your submitted cheek rest has two metal brackets across the bottom, with two hole/slots that give the cheek rest the ability to be expanded rearward approximately 1 inch. We caution that if a cheek saddle were expandable to a length, or resulted in a length of pull, that serves no other purpose other than for use as a shouldering device, it would be subject to review and could change the classification of the cheek rest and its host firearm.

FTISB finds that the DS-15 sample, as submitted, is not a weapon designed to be fired from the shoulder, therefore not a "rifle" as defined.

The forward grip is a Magpul, MVP brand. As a background, ATF has long since held that the addition of a distinct grip, to a pistol or handgun, would change its classification to AOW as defined above. 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 and cannot qualify as a handgun or pistol as defined above in Federal statutes and regulations. Therefore, it is no longer exempt from classification as an "AOW." The DS-15 is not designed for use with one hand and is therefore not a "pistol".

Since the DS-15 is not a "pistol," and it is not concealable on a person (*FTISB has previously determined the threshold for concealability on a person is less than 26 inches in overall length.*) it is not an "any other weapon" as defined in the NFA, § 5845(e).

FTISB finds that the DS-15, as submitted, is classified as a "firearm" as defined in the GCA, § 921(a)(3) and is not a "firearm" as defined in the NFA, § 5845(a), provided it is not concealed on a person, or redesigned to be fired from the shoulder.

In conclusion, correspondence from our Branch is dependent upon the particular facts, designs, characteristics or scenarios presented. Please be aware that although other cases (submissions to our Branch) may appear to present identical issues, this correspondence pertains to a particular issue or item. We caution against applying the guidance in this correspondence to other cases, because complex legal or technical issues may exist that differentiate this scenario or finding from others that only appear to be the same.

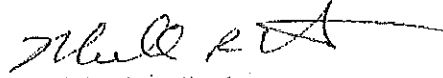
This determination is based on the sample as submitted. If the design, dimensions, configuration, method of operation, or materials used were changed, this classification would be subject to review.

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request. Your sample will be returned with the UPS shipping label you have provided.

Mr. Edward J. Newman

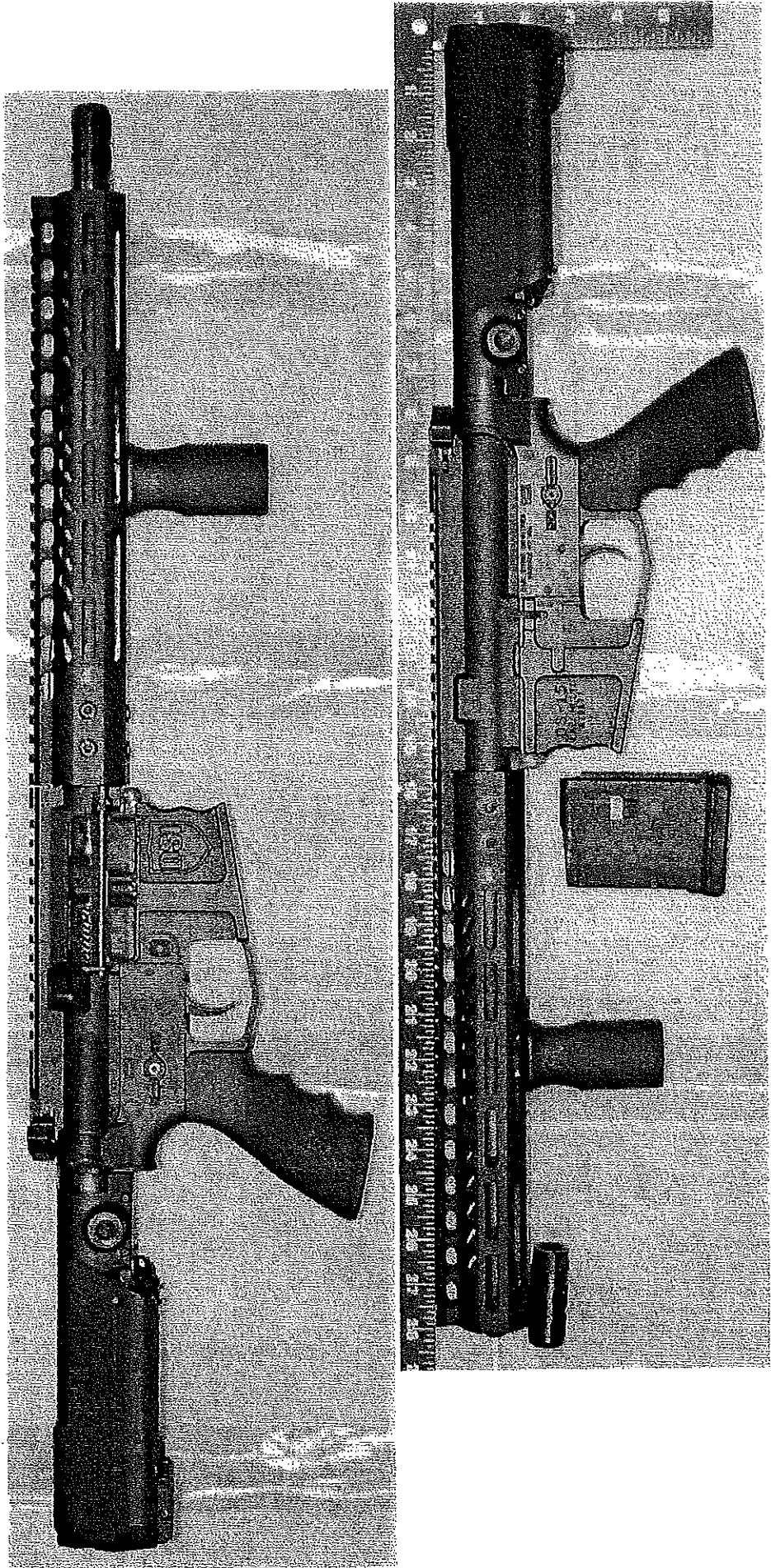
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Sincerely yours,
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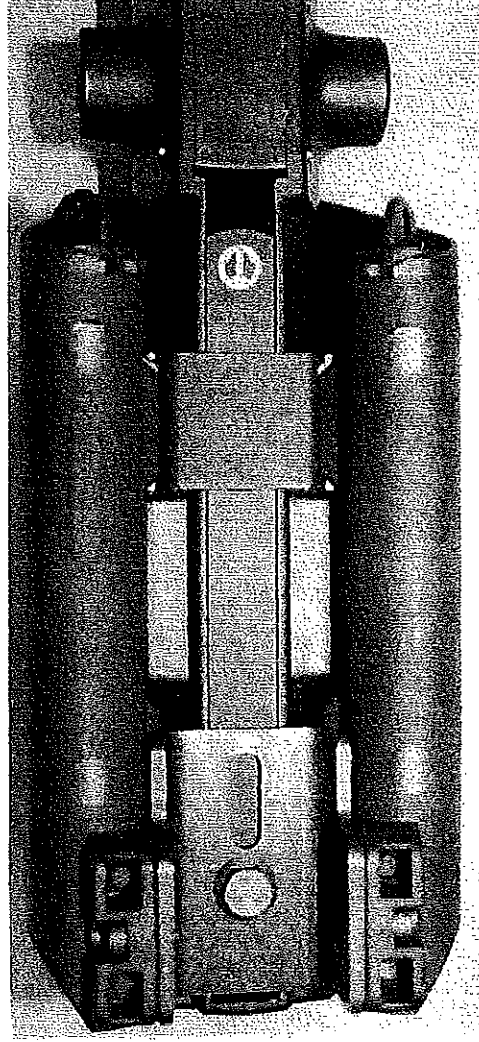
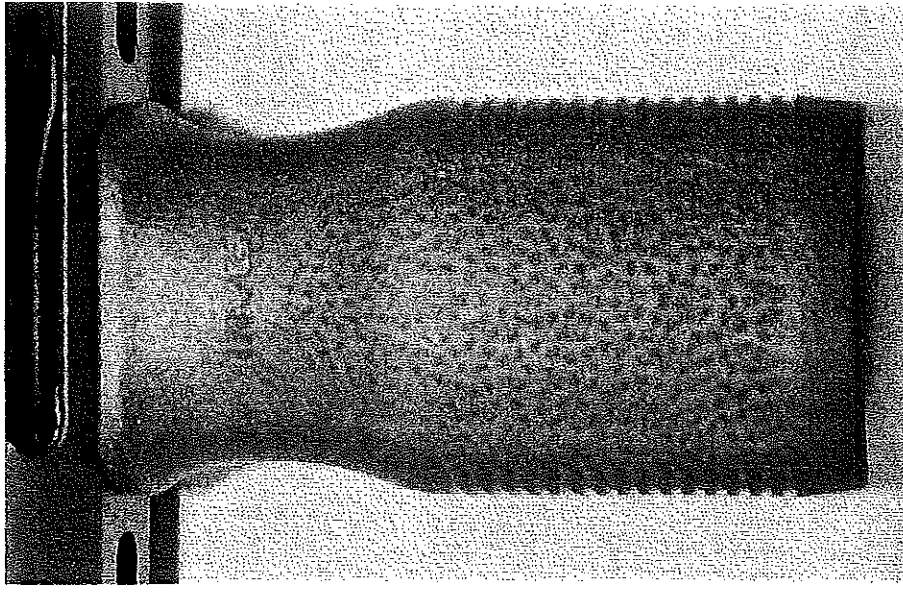
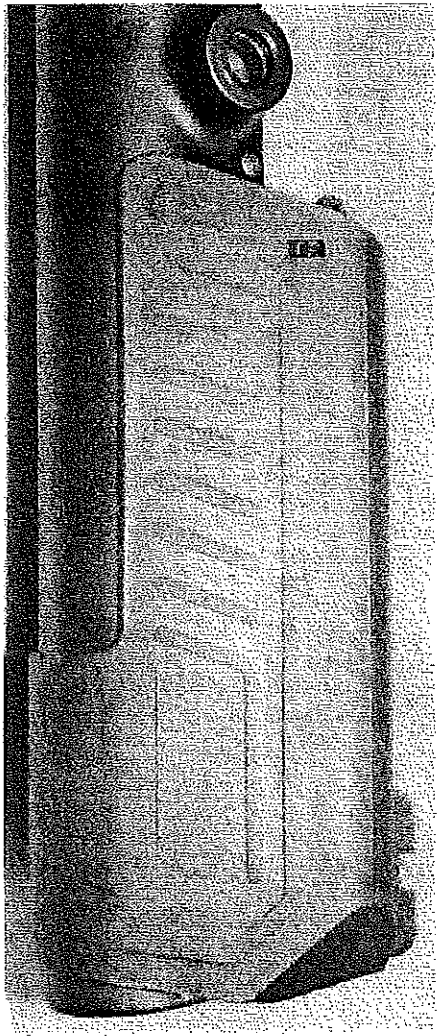


Michael R. Curtis
Chief, Firearms Technology Industry Services Branch

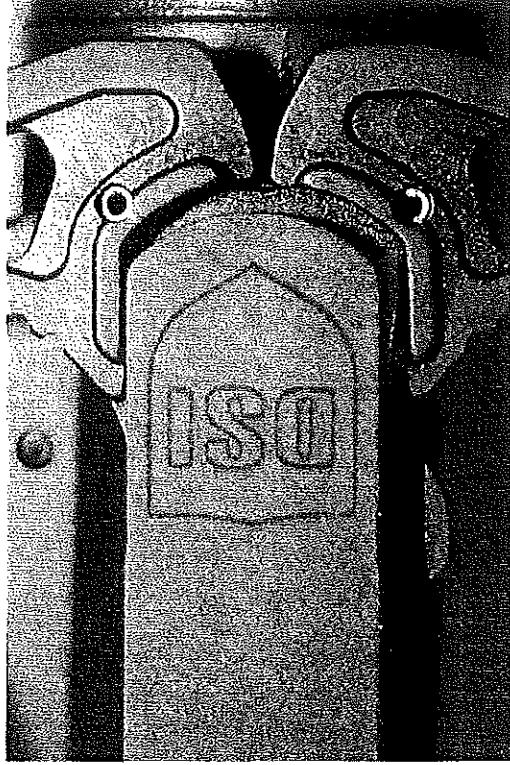
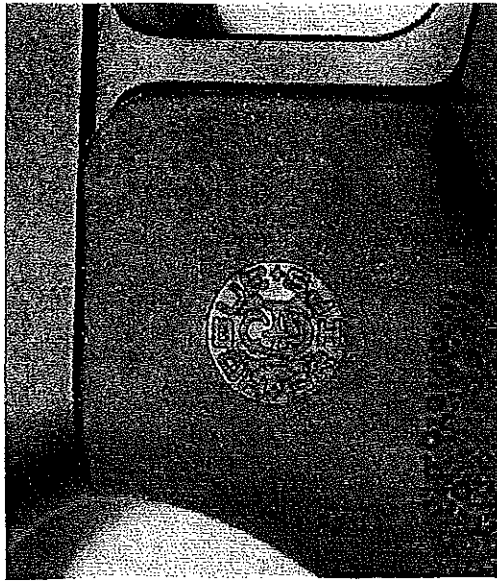
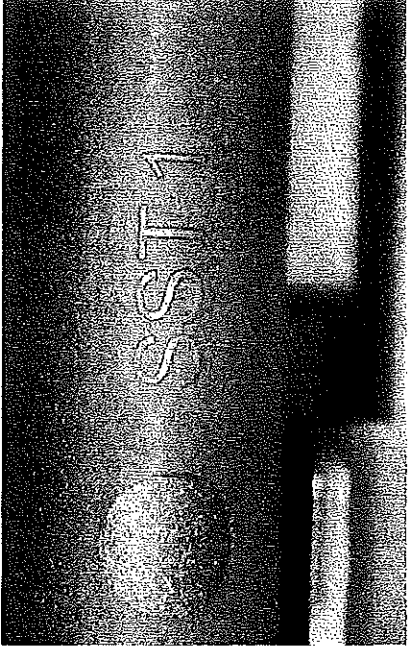
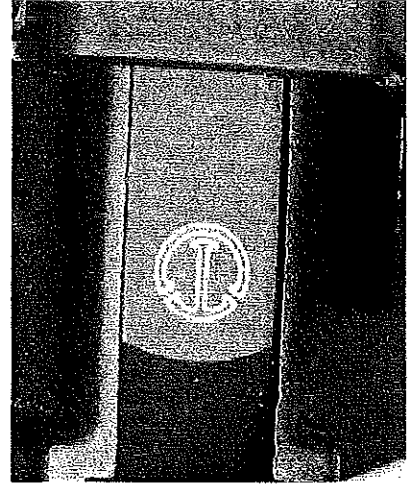
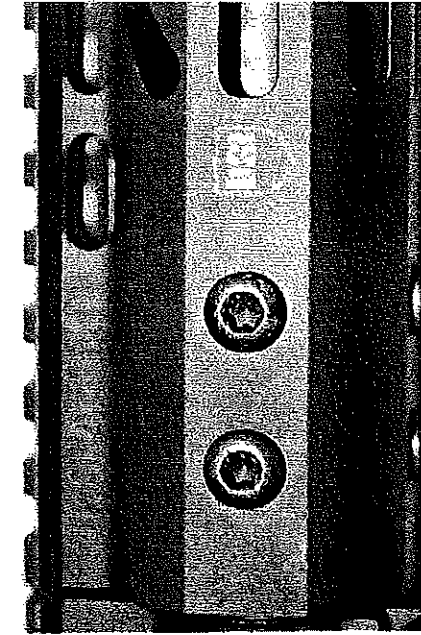
309711 - Industry Eval. - Dark Storm Industries, LLC - model DS-15: Right and left sides.



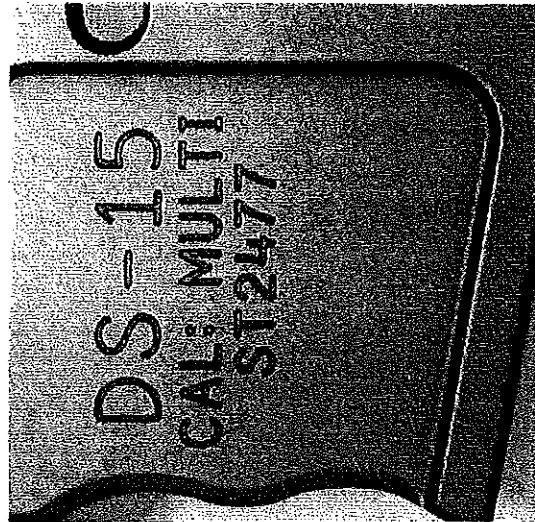
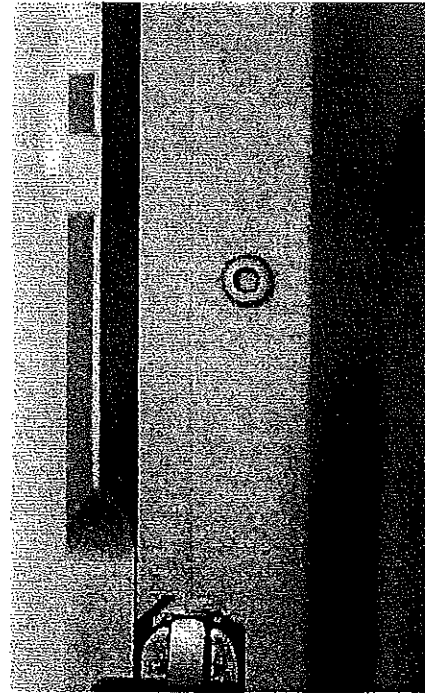
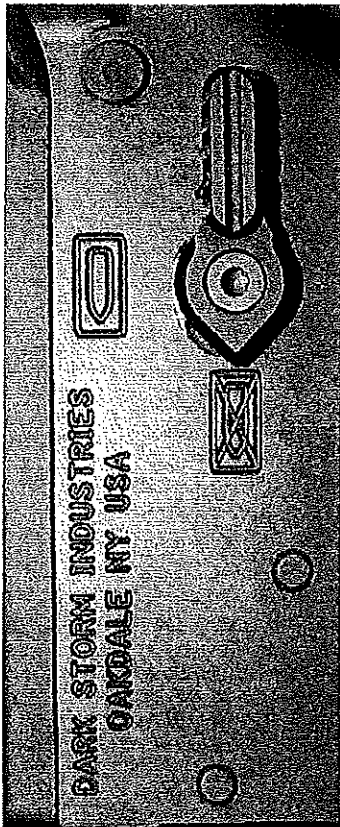
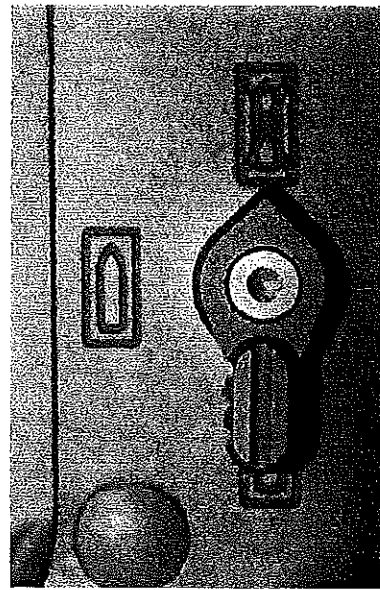
309711 - Industry Eval. – Dark Storm Industries, LLC – model DS-15: Assembled with MVG forward grip, and SST-1 cheek rest.



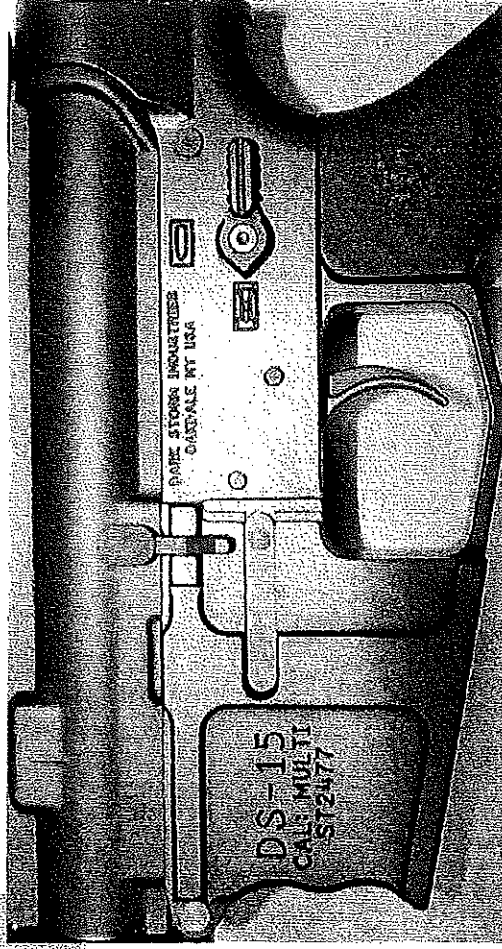
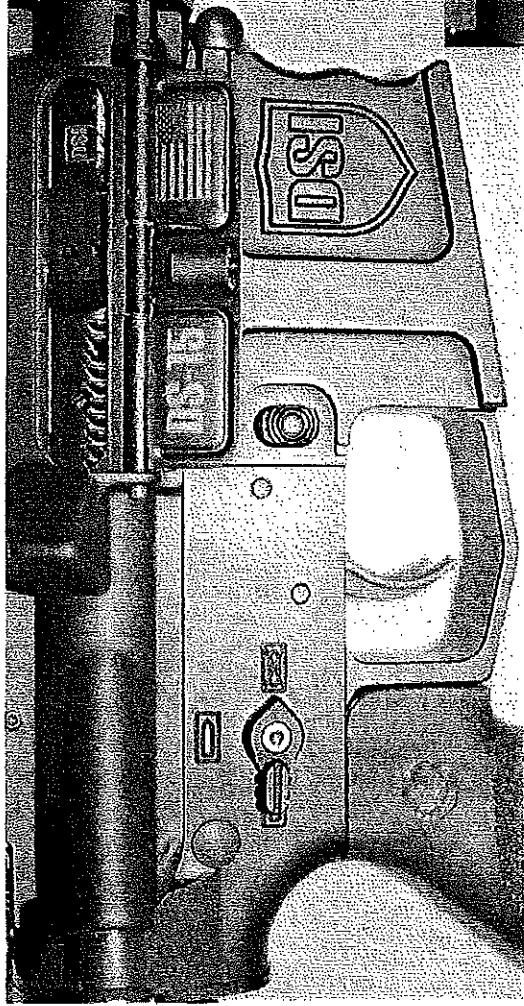
309711 - Industry Eval. - Dark Storm Industries, LLC - model DS-15: Markings.



309711 - Industry Eval. - Dark Storm Industries, LLC - model DS-15: Markings.



309711 - Industry Eval. - Dark Storm Industries, LLC - model DS-15: Receiver portion.



309711 - Industry Eval. - Dark Storm Industries, LLC - model DS-15:
Measurements, OAL=28", BBL = 12-5/8", LOP=12"

