



United States Department of State

*Bureau of Political-Military Affairs
Directorate of Defense Trade Controls
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Applicability of the ITAR Registration Requirement to Firearms Manufacturers and Gunsmiths

Summary:

The Directorate of Defense Trade Controls (DDTC) has reviewed and consolidated policy guidance about whether various activities related to firearms constitute manufacturing for International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130) purposes and require registration with DDTC and payment of a registration fee. DDTC has found that many – but not all - traditional gunsmithing activities do not constitute manufacturing for ITAR purposes and, therefore, do not require registration with DDTC. The following guidance is confined to DDTC’s ITAR implementation. You must also comply with all other relevant laws.

Background:

The Arms Export Control Act (AECA) (22 U.S.C. § 2751 *et seq.*) and the Gun Control Act (GCA) (18 U.S.C. § 921 *et seq.*) are two distinct U.S. laws that concern manufacturing of firearms. The GCA requires firearm manufacturers to obtain licenses as manufacturers (known as Federal Firearms Licenses (FFLs)) from the Department of Justice’s Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The AECA, in relevant part, requires manufacturers of defense articles, including certain firearms, to register with the Department of State, Directorate of Defense Trade Controls. Because the GCA is intended to cover a broader scope of domestic activity than the AECA, the ATF regulations define the term “firearm” more broadly than the ITAR. As a result, not every firearm controlled by the ATF regulations is also controlled by the ITAR.

The AECA’s statutory requirement for firearms manufacturers to register with DDTC is implemented in Part 122 of the ITAR:

§122.1 Registration requirements.

- (a) *Any person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles, or furnishing defense services, is required to register with the Directorate of Defense Trade Controls under §122.2. For the purpose of this subchapter, engaging in such a business requires only one occasion of manufacturing or exporting or temporarily importing a defense article or furnishing a defense service. A manufacturer who does not engage in exporting must nevertheless register.*

ITAR registration is required of persons who engage in the business of manufacturing defense articles. Persons who **do not actually manufacture** ITAR-controlled firearms (including by engaging in the activities described below, which DDTC has found in specific cases to constitute manufacturing) need not register with DDTC – even if they have an FFL from ATF. As indicated above, the requirements for obtaining FFLs under the GCA are separate and distinct from the requirement under the AECA and ITAR to register with DDTC.

The term “manufacturing” is not defined in the ITAR. In order to determine whether a firearms-related activity constitutes manufacturing for ITAR purposes, DDTC applies the ordinary, contemporary, common meaning of the term. Likewise, DDTC applies the ordinary, contemporary, common meaning for “gunsmithing,” which traditionally has broadly included designing, making, or repairing guns. Not all firearms (as defined by ATF regulation) are “defense articles” under the ITAR, however, and not all activities involving assembly of and repairs to firearms qualify as manufacturing for ITAR purposes. DDTC has found that many traditional gunsmithing activities do not constitute manufacturing for ITAR purposes and, therefore, do not require registration under the ITAR, particularly where such activities do not require cutting, drilling, or machining and do not improve the accuracy, caliber, or operation of the ITAR-controlled firearm beyond its original capabilities.

Policy Guidance:

The guidance below is limited to domestic (U.S.) activities involving firearms (as defined in Category I(j)(1) of the United States Munitions List (USML) (22 CFR § 121.1)) and related ammunition that are .50 caliber (12.7 mm) or smaller - i.e., firearms in Category I, paragraphs (a) and (b), related items in paragraphs (e)-(h), and ammunition in Category III(a) for those firearms. Activities involving items elsewhere on the USML, including Category I, paragraphs (c) and (d), are not included in the scope of this guidance.

1. **Registration not Required – Not Manufacturing:** In response to questions from persons engaged in the business of gunsmithing, DDTC has found in specific cases that ITAR registration is **not required** because the following activities do not meet the ordinary, contemporary, common meaning of “manufacturing” that DDTC employs in implementing the ITAR and, therefore, do not constitute “manufacturing” for ITAR purposes:
 - a) Occasional assembly of firearm parts and kits that do not require cutting, drilling, or machining;
 - b) Firearm repairs involving one-for-one drop-in replacement parts that do not require any cutting, drilling, or machining for installation;
 - c) Repairs involving replacement parts that do not improve the accuracy, caliber, or other aspects of firearm operation;
 - d) Hydrographic paint or Cerakote application or bluing treatments for a firearm;

- e) Attachment of accessories to a completed firearm without drilling, cutting, or machining—such as attaching a scope, sling, or light to existing mounts or hooks, or attaching a flash suppressor, sound suppressor, muzzle brake, or similar item to a pre-threaded muzzle;
- f) Cosmetic additions and alterations (including engraving) that do not improve the accuracy, caliber, or other aspects of firearm operation beyond its original capabilities;
- g) Machining new dovetails or drilling and tapping new holes for the installation of sights which do not improve the accuracy or operation of the firearm beyond its original capabilities; and
- h) Manual loading or reloading of ammunition of .50 caliber or smaller.

Activities limited to the domestic sale or resale of firearms, the occasional assembly of firearms without drilling, cutting, or machining, and/or specific gunsmithing activities that do not improve the accuracy, caliber, or operations of the firearm beyond its original capabilities (as described above) are not manufacturing within the context of the ITAR. If you are not manufacturing, exporting, temporarily importing or brokering defense articles or services, you are not required to register with DDTC.

2. **Registration Required – Manufacturing:** In response to questions from persons engaged in the business of gunsmithing, DDTC has found in specific cases that ITAR registration is **required** because the following activities meet the ordinary, contemporary, common meaning of “manufacturing” and, therefore, constitute “manufacturing” for ITAR purposes:

- a) Use of any special tooling or equipment upgrading in order to improve the capability of assembled or repaired firearms;
- b) Modifications to a firearm that change round capacity;
- c) The production of firearm parts (including, but not limited to, barrels, stocks, cylinders, breech mechanisms, triggers, silencers, or suppressors);
- d) The systemized production of ammunition, including the automated loading or reloading of ammunition;
- e) The machining or cutting of firearms, e.g., threading of muzzles or muzzle brake installation requiring machining, that results in an enhanced capability;
- f) Rechambering firearms through machining, cutting, or drilling;
- g) Chambering, cutting, or threading barrel blanks; and
- h) Blueprinting firearms by machining the barrel.

3. Registration Required – Other than Manufacturing:

- a) Assisting foreign persons in the design, development, and repair of firearms may constitute the export of a defense service (*see* 22 CFR § 120.9) and require ITAR registration with and authorization from DDTC; and
- b) Exporting a firearm or any other item on the USML requires ITAR registration with and authorization from DDTC.

If, after careful review of this guidance, you are unsure as to whether you are required to register with DDTC, you may submit an advisory opinion request (*see* 22 CFR § 126.9) detailing exactly what you do or intend to do with regard to firearms and ammunition. This request should be sent in hard copy (services like UPS or FedEx recommended for faster delivery) as indicated on our website: http://pmdrtc.state.gov/about/contact_information.html.

If you have any general follow-on questions, please feel free to contact the Response Team at (202) 663-1282 or DDTCResponseTeam@state.gov.