



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

ACTING CHAIRMAN ANN MARIE BUERKLE

September 5, 2019

The Honorable Robert Menendez
United States Senate
528 Hart Senate Office Building
Washington, DC 20510

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, DC 20510

Dear Senators Menendez, Markey and Blumenthal:

Thank you for your letter of June 10, 2019, regarding the regulation of the class of products commonly referred to as "toy guns." The CPSC vigorously enforces its statutory and regulatory authorities for products within our jurisdiction, particularly those that endanger children.

In 2008, the Consumer Product Safety Improvement Act made compliance with the "toy standard," formally known as ASTM – F963 (F963), mandatory by treating it as a product safety standard issued under the CPSC's rulemaking authority. Section 4.30, "Toy Gun Marking," of F963 requires the covered products to be marked or manufactured with a permanent marking that is a "blaze orange plug" or a "brighter orange colored plug," affixed to the muzzle end of the barrel as an integral part of the toy. Alternatively, the entire exterior surface of the toy can be colored white or a "bright" shade of red, orange, yellow, green, blue, pink, or purple. These marking requirements are the same as those in 15 C.F.R. part 272, the U.S. Department of Commerce's (DOC's) regulation for the marking of toy, look-alike and imitation firearms. The DOC's regulation implements a statutory requirement set forth at 15 U.S.C. § 5001.

As your letter notes, F963 explicitly exempts several types of products, such as BB guns, pellet guns, futuristic toy guns and non-firing collector replica antique firearms. These exceptions to F963 correspond with the statutory exceptions set forth at 15 U.S.C. 5001, which the DOC is responsible for enforcing.

Acting within those jurisdictional limits, the CPSC is working with ASTM's F15.06 subcommittee for ASTM F589-17, *Standard Consumer Safety Specification for Non-Powder Guns*. This standard covers BB guns, air guns and pellet guns. Section 10.3 of the standard currently requires markings that are similar to those required by toy guns under ASTM F963 and the DOC regulation. However, staff's review of ASTM's F15.06 subcommittee meeting, held on January 24th, 2019, showed a proposal to change Section 10.3 of the standard, as follows:

10.3.1 Each non-powder gun shall be permanently and conspicuously marked in one of the following methods:

10.3.1.1 A Safety green (Pantone 388C) or green color brighter than that specified by the Pantone standard color number, solid plug permanently affixed to the muzzle of the barrel as integrated to the entire device and recessed no more than 6 millimeters from the muzzle end of the barrel.

10.3.1.2 A Safety green (Pantone 388C) or green color brighter than that specified by the Federal Pantone standard color number, marking permanently affixed to the exterior surface of the barrel, covering the circumference of the barrel from the muzzle end for a depth of at least 6 millimeters.

Because the ballot on this revision received more than 50 percent negative responses, the proposal failed. Recognizing the need to protect consumers and the general public

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from hazards associated with these products, CPSC assigned technical staff to work with ASTM to address the issues cited in your letter. In addition, CPSC contacted ASTM to re-open discussions to address these issues.

Thank you again for your letter and your interest in addressing this safety hazard. Should you or your staff have any questions, please do not hesitate to contact me at: (301) 504-7978, or Chris Hudgins, Director of Legislative Affairs, at: chudgins@cpsc.gov, or (301) 504-7853.

Sincerely yours,



Ann Marie Buerkle
Acting Chairman