

Piper.AlanG[OSC]

From: Meara.BrettJ[OSC]
Sent: Friday, 2 February 2018 14:53
To: Bruce.IanS[OSC]; Clark.MichaelD[OSC]; Everist.ShaneR[OSC]; Huth.AshleyM[OSC]; Manktelow.BevanJ[OSC]; Meara.BrettJ[OSC]; Piper.AlanG[OSC]; Radnidge.Peta[OSC]
Subject: Outcomes Gel Ball Guns

Today Michael and I had a meeting with Adrian Roudenko (Adrian.roudenko@justice.qld.gov.au) and Craig Moffat from the Office of Fair Trading.

The Standard (that we have been using to support our findings of injury) only applies to children's projectile toys. Children's projectile toys must meet the following criteria:

- They are supplied new (i.e. they are imported by a company and then on-sold)
- Designed or clearly intended for use in play by children up to the age of fourteen years
- Capable of launching a projectile

As you would understand, the second point is a difficult thing to prove. Basically if it looks like a toy (i.e. very colourful and designed to attract a child's attention), and it is able to be used by a child (i.e. trigger pulls that a child could use, distance between grip and trigger, etc.), then it will qualify. There may be more points than this, as a matter of interest I have asked if they could send us the criteria they look at.

When they looked at Michael's jobs, they immediately noted that the long arm gel ball gun relating to FR1693290, would qualify as a toy and as such would fall under the requirement of the standards. The other example Michael had was a pistol subject of FR1641547 and barcode 790299537. This would not fall within the standards as it **wouldn't** be considered to be for use in play by children up to fourteen years old. Have a look at the images if you want to see the difference.

They stated that their organisation is reactive only and that their purpose is to take action against the importers of toys which don't meet the standards (i.e. fines, recalls, etc.). As they are reactive, there is nothing stopping someone ordering in a 1000 guns and selling them, or individuals buying them randomly from websites. They will only assess articles they have become aware of through complaints or border protection seizures, and so on. They are currently in the process of putting the onus onto the suppliers to show that the items have been tested against our standards before importation (conservatively this is 18 months away). In the case of a couple of the gel ball guns there was a report provided by Chinese testing authorities. There was a concern that these organisations are not accredited. We were assured by Adrian that they do check out all reports provided by sellers, and even though they may not be NATA accredited, the companies to appear on lists of other accreditation bodies.

What does this mean for us. Not much good news I am afraid.

- Gel ball guns that are not clearly identifiable as being intended for use in play by children up to the age of fourteen years, do not need to be tested by the standard and aren't the responsibility of the Office of Fair Trade. (That's the ones that they become aware of)
- There will be a lot of them because the Office of Fair Trading is reactive only and there is very little to prevent the importation of these items.

On another note, I have asked if they can identify the source of the critical values used in the calculations for projectile energy. This may provide us with more useful information when testing air soft guns etc.

If there are any questions please come and see Michael or myself,

Brett MEARA
Sergeant 11109
Scientific Section (Ballistics Unit)
Forensic Services Group
Operations Support Command
Ph: (07) 3364 6795
meara.brettj@police.qld.gov.au

QPS RTI&P Unit

Piper.AlanG[OSC]

From: Meara.BrettJ[OSC]
Sent: Wednesday, 24 January 2018 16:36
To: Bruce.IanS[OSC]; Clark.MichaelD[OSC]; Everist.ShaneR[OSC]; Huth.AshleyM[OSC]; Manktelow.BevanJ[OSC]; Meara.BrettJ[OSC]; Piper.AlanG[OSC]; Radnidge.Peta[OSC]
Subject: RE: Gel guns
Attachments: CPN.DOC; Explanatory Statement.doc

I have had a read of both of the attached documents, being the CPN and the Explanatory Statement.

Basically this is all about setting up a National Standard for Projectile Toys as the various states were doing different things. This came into effect on 1 January 2011. **The CPN is the new standard.** It references the sections from the Toy Standard we have been using for our testing AS NZS ISO 8124, that are believed to be relevant to fulfil this purpose. However, there are some important amendments:

Key points are:

Explanatory Statement

This is basically a cost benefit analysis about whether the industry should self-regulate or the government should take control (the Government won)

On page 8 it discusses responses from different interest groups during the consult phase. This brings up the issue of the projectiles being a choking hazard. What came out of this is that the test for a choking hazard (small parts cylinder test) now **only** relates to projectiles with a suction cap tip. They found that there was no significant evidence of choking occurring with other projectile types and also found that by testing all projectiles it could unnecessarily eliminate some toys from the market (yay for capitalism). This is declared at the end of page 9 and start of page 10.

Consumer Protection Notice (CPN)

As previously stated this is the new standard and provides the amendment to clause 4.18.2(d) which relates to choking hazards (see above).

It also provides a definition for children's projectile toys. This is interesting as it states for the purpose of the standard these toys are products supplied new that are designed or clearly intended for use in play by children up to the age of fourteen years, **and** which are capable of launching a projectile. So if you go to the email below from Craig MOFFAT, the three dot points are not an "or" proposition they are an "and".

My questions:

- In order for us to apply the standard set out in the CPN, do gel ball guns need to fit the definition of a Children's Projectile Toy? Good luck proving that one.
- What about air softs?
- Should we be worried about classifying things as a toy? Seems like a job for the Consumer Product Safety Unit not us.
- Does all this matter? We are applying legislation not a standard. We used the equations from the standard, as logically the threshold indicates the baseline at which something nasty can occur, i.e. it infers injury. It

would be nice to know where the figures come from though, so perhaps we can task Craig and his manager Adrian to find this out?

Apparently there is a meeting with Craig and Adrian next Friday, so should be interesting.

Brett MEARA
Sergeant 11109
Scientific Section (Ballistics Unit)
Forensic Services Group
Operations Support Command
Ph: (07) 3364 6795
meara.brettj@police.qld.gov.au

From: Clark.MichaelD[OSC]
Sent: Wednesday, 24 January 2018 2:29 PM
To: Meara.BrettJ[OSC] <Meara.BrettJ@police.qld.gov.au>
Subject: FW: Gel guns

Regards,

Michael Clark | Sergeant
Ballistics Unit | Scientific Section
Forensic Services Group | Operations Support Command
Queensland Police Service
200 Roma Street, Brisbane 4000 | PO Box 1440
Ph: 07.3364 6779 | Fax: 07 3364.6227
Email: clark.michaeld@police.qld.gov.au

From: Piper.AlanG[OSC]
Sent: Wednesday, 24 January 2018 11:10 AM
To: Clark.MichaelD[OSC] <Clark.MichaelD@police.qld.gov.au>
Subject: FW: Gel guns

Alan Piper, Senior Sgt, QPS Ballistics Unit || FSG || OSC
07 33646770 || Sch4p4(6) || piper_alan@police.qld.gov.au

PLEASE NOTE THAT THE NUMBERS FOR FORENSIC SERVICES SECTIONS HAVE CHANGED. PLEASE EMAIL THE OFFICER YOU NEED TO CONTACT, OR USE THE GENERIC FSG CONTACT 3364 6226.

From: Craig Moffat (OFT) [<mailto:Craig.G.Moffat@justice.qld.gov.au>]
Sent: Wednesday, 24 January 2018 10:59 AM
To: Piper.AlanG[OSC] <Piper.AlanG@police.qld.gov.au>
Subject: RE: Gel guns

Hi Alan

The mandatory standard for projectile toys applies to toys that are:

- supplied new
- designed or clearly intended for use in play by children up to the age of 14 years
- capable of launching a projectile.

Consumer Protection Notice (CPN, see attached) No. 16 of 2010 sets out the mandatory requirements for projectile toys.

The mandatory standard is based on certain sections of the voluntary Australian/New Zealand Standard AS/NZS ISO 8124.1:2002 Safety of toys Part 1 – Safety aspects related to mechanical and physical properties.

Therefore the toy only needs to meet the minimum requirement of the standard as set out in the CPN and not all of the voluntary requirements of the standard, which relates to the items you have highlighted below.

I think it may be better for myself and my manager, Adrian to come down to Police HQ to have a look at the gun and then we can assess and discuss it.

Can you let me what dates/times suits you. Thanks

Regards

Craig Moffat

Principal Product Safety Officer

Consumer Product Safety Unit/Investigations and Enforcement Division, Office of Fair Trading

Department of Justice and Attorney-General

63 George Street

GPO Box 3111, Brisbane Qld 4001

t: +61 7 3836 0565

f: +61 7 3008 5977

e: craig.g.moffat@justice.qld.gov.au

w: www.qld.gov.au/fairtrading

Customer Call Centre 13 QGOV (13 74 68)

www.justice.qld.gov.au

From: Piper.AlanG[OSC] [<mailto:Piper.AlanG@police.qld.gov.au>]

Sent: Tuesday, 23 January 2018 12:46 PM

To: Craig Moffat (OFT) <Craig.G.Moffat@justice.qld.gov.au>

Cc: Lingwood.Marks[OSC] <Lingwood.Marks@police.qld.gov.au>

Subject: Gel guns

Craig

Attached is the standard.

The queries we have are :

1. If a gel gun is tested and its projectiles are found to be over 0.08 Joules in energy, what does this make the item (toy v firearm v grey area?)
2. If the projectile is over 0.08 Joules, then the Standard also talks about putting a resilient material over the tip of the projectile. We assume because these are pellets, then this would not be a viable option?? The standard then talks about 0.16J/square centimetre when the 0.08 J level is passed, and the tips are required. What does it mean when this level is exceeded?
3. In the description of Projectile Toys with Stored Energy, the notation is made at the bottom that projectiles for such items must pass the small cylinder test. From an examination of the small cylinder design, it would

appear that the projectiles for the gel guns would fail this test in both their dehydrated and hydrated forms. From the two certificates that I have seen regarding the gel guns both say N/a, however this appears to be applicable within the Projectile Toy with Stored Energy considerations?

Is it possible that the Standard may need to be addressed or are we not reading the Standard correctly (which is quite possible)?

Cheers and thanks for any assistance
Alan

Alan Piper, Senior Sgt, QPS Ballistics Unit II FSG II OSC
07 33646770 II Sch4p4(6) II piper.alang@police.qld.gov.au

PLEASE NOTE THAT THE NUMBERS FOR FORENSIC SERVICES SECTIONS HAVE CHANGED. PLEASE EMAIL THE OFFICER YOU NEED TO CONTACT, OR USE THE GENERIC FSG CONTACT 3364 6226.

CONFIDENTIALITY: The information contained in this electronic mail message and any electronic files attached to it may be confidential information, and may also be the subject of legal professional privilege and/or public interest immunity. If you are not the intended recipient you are required to delete it. Any use, disclosure or copying of this message and any attachments is unauthorised. If you have received this electronic message in error, please inform the sender or contact securityscanner@police.qld.gov.au. This footnote also confirms that this email message has been checked for the presence of computer viruses.

Please think about the environment before you print this message.

This email and any attachments may contain confidential, private or legally privileged information and may be protected by copyright. You may only use it if you are the person(s) it was intended to be sent to and if you use it in an authorised way. No one is allowed to use, review, alter, transmit, disclose, distribute, print or copy this email without appropriate authority.

If you are not the intended addressee and this message has been sent to you by mistake, please notify the sender immediately, destroy any hard copies of the email and delete it from your computer system network. Any legal privilege or confidentiality is not waived or destroyed by the mistake.

It is your responsibility to ensure that this email does not contain and is not affected by computer viruses, defects or interferences by third parties or replication problems.

Piper.AlanG[OSC]

From: Lingwood.MarkS[OSC]
Sent: Wednesday, 20 December 2017 07:32
To: Ward.AlanJ[OSC]; Saunders.CheryLA[OSC]; Moore.ChristianC[OSC];
Piper.AlanG[OSC]
Cc: Pobar.DarrenJ[OSC]; Brown.AnthonyR[PP]; Guild.AdamP[OSC];
Holmes.ShaneM[OSC]
Subject: FW: Gel Ball Firearms Update - For Official Use Only [SEC=UNCLASSIFIED]

Good morning AI,

Please see the below email from Border force in relation to Gel Balls and recent court decision where they can no longer treat them as a prohibited import.

Can you please advise:

- how you see this impacting on the QPS?
- if Ballistics have classified the Gel Ball type guns from the Sunshine Coast Halloween incident?
- If the Weapons Regulation amendment commencing in March 18 will capture Gel Ball Style guns?

ABF will now direct persons wishing to import Gel Ball Style Guns to QPS to apply for a B709A importation permit. Initial thoughts are that Weapons will request importation applications to provide a sample/s of the Gel Ball style Guns to QPS Ballistics for testing to classify if they are a firearm or toy prior to considering issuing an importation permit.

I anticipate this will provide a significant increase in workload for Weapon's Licencing and Ballistics particularly as ABF will be implementing a post importation scheme.

I will be contacting ABF with the possibility of discussing this further either tomorrow or Friday morning; can you please advise if you wish to attend and your availability.

Kind Regards



Mark Lingwood
Acting Inspector
Weapons Licencing
Specialist Services Group
Operations Support Command (OSC)
Queensland Police Service

Phone: +61 7 30157716

Mobile: Sch4p4(6)

Email: Lingwood.MarkS@police.qld.gov.au

Address: Brisbane City Police Station, Level 6, 46 Charlotte Street, Brisbane,
Queensland 4000 Australia

WEAPONS APPLICATIONS ONLINE

Save time. Apply Online.
You can now apply and pay for a
Weapons Licence and Permit to
Acquire online
Click on the link above.

OUR PEOPLE MATTER



From: Sch4p4(6) @ABF.GOV.AU]
Sent: Tuesday, 19 December 2017 6:15 PM
To: Lingwood.MarkS[OSC] <Lingwood.MarkS@police.qld.gov.au>
Cc: Sch4p4(6) @ABF.GOV.AU>
Subject: Gel Ball Firearms Update - For Official Use Only [SEC=UNCLASSIFIED]

Mark

I write to advise you of a recent court outcome that will likely have implications for your team's workload. This outcome requires a change from the advice we have previously provided you in early November on aspects of this topic.

His Honour Magistrate Shearer found in the matter of Comptroller-General of Customs v Clark CFP Pty Ltd (unreported Queensland Magistrates decision) that the items seized did not fall within the meaning of "firearm" as defined in Regulation 4F of the *Customs (Prohibited Imports) Regulations 1956* (PI Regulations). The primary basis for the decision was that the items did not discharge a shot, bullet or other projectile. The decision focused on the meaning of "other projectile". In this regard the Court found that:

- a. "regulation 4F is directed to the prohibition of firearms that fire bullets, shot or similar types of physically dangerous ammunition, and that the regulation is not directed to the prohibition of toys despite their appearance";
- b. "Parliament intended by the use of the words "other projectiles" to capture metal or other hard ammunition capable of causing injury or death";
- c. The general words [other projectiles] were not "intended to capture objects that are ultimately harmless or relatively harmless when impacting with a person";

We are working through the practical impacts of the decision. It is likely that we will be revoking seizures notices for a large number of consignments and that we will be both issuing detention notices for these consignments of imitation firearms and inviting importers to apply the post importation permission scheme to see if they meet the police certification test and can obtain a permit. New consignments will likely be classified as imitation firearms and importers advised that they are required to comply with the police certification test

I acknowledge the implications for your team and would be pleased to discuss this matter with you.

Kind regards

S

Sch4p4(6)

Border Force Inspector

Aviation Goods Area Command

Regional Command Qld | Strategic Border Command

Operations Group

P: Sch4p4(6) | M: Sch4p4(6) | E: Sch4p4(6)@abf.gov.au

Important Notice: The content of this email is intended only for use by the individual or entity to whom it is addressed. If you have received this email by mistake, please advise the sender and delete the message and attachments immediately. This email, including attachments, may contain confidential, sensitive, legally privileged and/or copyright information.

Any review, retransmission, dissemination or other use of this information by persons or entities other than the intended recipient is prohibited. DIBP respects your privacy and has obligations under the Privacy Act 1988.

Unsolicited commercial emails MUST NOT be sent to the originator of this email.

QPS RTI & Privacy Unit