

**\*American Academy of Pediatrics \* Consumer Federation of America \*  
Consumer Reports \* Kids In Danger \* Public Citizen \* U.S. Public Interest Research  
Group \***

March 13, 2023

Office of the Secretary  
Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

**Joint Comments to the Consumer Product Safety Commission on the  
Safety Standard and Notification Requirements for  
Button Cell or Coin Batteries and  
Consumer Products Containing Such Batteries  
Docket No. CPSC-2023-0004**

Our coalition of medical and consumer organizations welcomes the opportunity to submit the following comments to the Consumer Product Safety Commission (CPSC) regarding the agency's notice of proposed rulemaking to establish a safety standard and notification requirements for button cell or coin batteries and consumer products containing such batteries pursuant to Reese's Law.<sup>1</sup> We commend the CPSC's work on the proposed safety standard and submit to the agency the following comments.

Button batteries are ubiquitous and useful; powering toys, tools, and consumer products that we all use on a daily basis. While these batteries have important uses, they also come with serious risks that require specific protections for children. Children face potentially deadly ingestion hazards from button cell or coin batteries taken out of common household products, such as small remote controls, garage door openers, bathroom scales, cell phones, flameless candles, watches, cameras, and digital thermometers.

If swallowed, these batteries can come in contact with a child's airway or esophagus, increasing the risk of possible choking as well as a greater likelihood of the battery immediately discharging electricity. This can lead to life-threatening burns, perforations, and necrosis of the child's soft tissue surrounding these batteries. Symptoms of ingestion in children are often overlooked or mimic other common conditions, such as croup, colds, or upset stomachs. In addition, given their ubiquity, these batteries are often ingested without an adult being aware a loose battery was within reach. Because symptoms can resemble common conditions and parents are often unaware of the battery ingestion, they may only be able to provide the physician with a partial health history and the child's condition can end up diagnosed as another common condition. This results in a preventable hazard harming thousands of children every year who suffer serious, life-threatening burns to their throats and other soft tissue and can go undetected.

---

<sup>1</sup> Consumer Product Safety Commission, "Notice of Proposed Rulemaking: Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries" (Feb. 2023) (online at: <https://www.regulations.gov/document/CPSC-2023-0004-0001>).

This is why our coalition was proud to support *Reese's Law*, which Congress passed to protect children against hazardous button and coin cell battery ingestion in 2022.<sup>2</sup> This bipartisan law requires the CPSC to promulgate a safety standard for button cell or coin batteries and consumer products containing button cell or coin batteries. This standard would require consumer products to secure these batteries in a manner that prevents children from accessing them. The law also improves warning label requirements to communicate the hazard of ingestion and requires button cell or coin batteries to be sold using child-resistant packaging. These measures will help prevent children from accessing button batteries in the first place, which will save lives.

## **Performance Requirements**

The CPSC's proposed rule addresses the serious ingestion hazard associated with button cell and coin batteries found in consumer products. However, the coalition abstains from making a recommendation on whether zinc-air batteries should meet the proposed performance requirements since the safety hazard to children is not the same as button cell and coin batteries. Moreover, we are not aware of other widely used consumer products using zinc-air batteries beyond hearing aids and medical devices. However, zinc-air batteries should meet the packaging requirements as outlined in Section 3 of *Reese's Law*. We also urge CPSC to continue monitoring marketplace developments and potential child health hazards associated with zinc-air batteries. If and as these products become more widely used for additional products, or new hazards emerge from their presence in homes with children, CPSC should reserve the ability to take further action to ensure child safety.

The accessibility of these batteries should be addressed at every stage of product use from purchase, installation, use in a product, and disposal. The CPSC's data makes clear that the vast majority of incidents, fatal and nonfatal, involve batteries obtained from a battery compartment in a consumer product.<sup>3</sup> In some cases, the compartment falls open easily and releases loose batteries that children can access, or easy for a small child to open on their own. Caregivers unaware of the presence of loose batteries cannot protect their child from it. These proposed performance requirements for consumer products with compartments for button cell and coin batteries are necessary to limit a child's access to these batteries and reduce the risk of serious injury or death from ingestion.

While current voluntary standards alone are inadequate to protect children from accessible button cell and coin batteries, we support including the tests from the Toy Standard that will increase the reliability of the compartments retaining batteries. With the adoption of a recent balloted item that addresses captive screws used for the closure of battery compartments, ASTM F963, the Toy Standard, comes closer to meeting the requirements of *Reese's Law*. In addition to this update, the Toy Standard subcommittee should incorporate other requirements outlined in *Reese's Law* such as improving testing for fastener retention and threading to avoid stripped screw holes and other possible scenarios that might lend access to the batteries.

---

<sup>2</sup> *Reese's Law*, 15 U.S.C. 2056e (Aug. 16, 2022).

<sup>3</sup> Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries, 88 Fed. Reg. 8692, 8699 (Feb. 9, 2023).

Ideally, the CPSC should either require a tool to open consumer product battery requirements or rigorous tests for the double-action mechanisms to ensure that the contained button cell or coin batteries can't be overcome by a child. If the CPSC's rule allows for battery compartments to be secured using double-action locking mechanisms, they should be tested to prove effectiveness. For instance, Apple's Air Tag, a small disc-shaped product, requires a "push and turn" double action that can be mimicked by a child putting their hand on the product on the floor and then turning. This action may work to keep children out of pill bottles, but may not stop children from, intentionally or unintentionally, opening flat-shaped consumer products with a short turning motion. Requiring battery compartments to open only with a tool or finalizing strong performance requirements will help to prevent children from accessing battery compartments and potentially ingesting a button cell or coin battery.

## **Warning Labels**

A 2021 report from the CPSC showed an alarming 93% increase in emergency room treated injuries related to button batteries among children ages five to nine years from March through September 2020.<sup>4</sup> Education alone cannot protect children from button battery ingestion; federal action is necessary. Our coalition supports the CPSC's proposed mandatory safety standard that would require manufacturers to securely enclose all button cell batteries and sell such batteries in child-resistant packaging.

Every button cell or coin battery should come with warning labels that send clear, conspicuous, and consistent messages to consumers. While we support the commission's plan to exempt these products from the performance standards, it is still appropriate to include a warning on their packaging about ingestion risk. It is important to have the warning visible on the display panel to ensure clarity about the risk even after discarding the battery packaging.

## **Conclusion**

In summary, the undersigned organizations support the CPSC's proposed safety standard, which will help to protect children from the risk of serious injury or death from ingestion of button cell or coin batteries. The coalition calls on manufacturers to continue their efforts to apply design changes that would make these batteries less accessible to children and help prevent serious injury or death from button cell or coin battery ingestion.

The CPSC should finalize the proposed rule expeditiously and apply an effective date that is as early as possible and not more than 180 days after the publication of the final rule. The CPSC should note that button cell battery manufacturers have been aware of the requirements in Reese's Law since its introduction in 2021 and did not oppose the bill. Even without knowing the specifics of the Final Rule, these manufacturers have been provided with sufficient

---

<sup>4</sup> CPSC, "Effect of Novel Coronavirus Pandemic on Preliminary NEISS Estimates," (Mar. 4, 2021) (online at: <https://www.cpsc.gov/Newsroom/News-Releases/2021/Hospital-Emergency-Room-Treatment-for-Some-Product-Related-Injuries-Rose-During-the-Pandemic-Even-as-Overall-ER-Visits-Dropped>), *see also* CPSC, "Fact Sheet: Consumer Product Injuries during the COVID-19 Pandemic" (online at: <https://www.cpsc.gov/s3fs-public/ConsumerProductInjuriesCOVID19pandemic.pdf>).

information to be put on notice of the overall requirements and they must reasonably be expected to have engaged in efforts to meet the requirements.

Thank you for your consideration of our comments. We look forward to continuing to work with the CPSC and all stakeholders to ensure that children are protected from button cell or coin battery ingestion.

Respectfully submitted,

American Academy of Pediatrics

Consumer Federation of America

Consumer Reports

Kids In Danger

Public Citizen

U.S. Public Interest Research Group