



November 14, 2024

Submitted via Electronic Filing

Alberta E. Mills
Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Re: Safety Standard for Toys: Requirements for Toys Containing Button Cell or Coin Cell Batteries; 89 Fed. Register 65791 (August 13, 2024); Docket No. CPSC-2024-0023

Dear Secretary Mills:

The Retail Industry Leaders Association (RILA) appreciates the opportunity to submit written comments on the U.S. Consumer Product Safety Commission's (CPSC or Commission) proposed rule addressing the risks associated with button cell or coin cell batteries contained in toys (hereinafter "Proposed Rule"). RILA and its members support the Commission's critical consumer safety mission and appreciate the CPSC's leadership on product safety matters, including its efforts to make children's toys safer by the addition of performance and labeling requirements for battery-operated toys containing button cell or coin cell batteries.

By way of background, RILA is a trade association of the world's largest, most innovative, and recognizable retail companies and brands. We convene decision-makers, advocate for the retail industry, and promote operational excellence and innovation. Our aim is to elevate a dynamic retail industry by transforming the environment in which retailers operate. RILA members include more than two hundred retailers, product manufacturers, and service suppliers, who together employ over 42 million Americans and account for \$2.7 trillion in annual sales and hundreds of thousands of stores, manufacturing facilities, and distribution centers domestically and abroad.

Several of RILA's members sell children's toys containing button cell or coin cell batteries. RILA members take very seriously the compliance and safety of all products they sell – especially with regard to the safety of their most vulnerable customers. RILA and its members have a long history of collaborating with the CPSC to address consumer product safety issues, including regularly cooperating to implement product recalls, actively participating in the Commission's partnership programs, and promoting CPSC's consumer awareness initiatives.

RILA previously commented in March 2023 on the Commission's then proposed safety standard under Reese's Law pertaining to button and coin cell batteries and (non-toy) consumer products

containing such batteries (now codified at 16 CFR Part 1263).¹ RILA supplemented that input in June 2023 in comments on the costs and burdens associated with the testing and labeling of non-children's products that contain button cell or coin cell batteries.² RILA appreciates the Commission's ongoing efforts to hear from retailers and other stakeholders to improve upon the safety of battery-operated products.

As the Commission moves forward with its proposed rulemaking to add performance and labeling requirements for toys containing button or coin cell batteries, RILA takes this opportunity to provide feedback on the proposed requirements, costs, and implementation timeline of the Proposed Rule.

The Commission should:

- Not create additional requirements for children's toys that contain button cell or coin cell batteries, beyond what is currently codified in Reese's Law and/or ASTM F963-23;
- Not require a separate drop test for large and bulky toys;
- Not require any additional warning formats for toys containing button cell or coin cell batteries;
- Implement a minimum of a one-year effective date, to allow industry the time needed for related product and packaging redesign, testing and other requirements necessary to comply; and
- Account for increased costs associated with third party testing, additional certifications, redesign of products and production of new compliant packaging.

Comments

1. The Proposed Rule Creates Additional Requirements Without Substantiating the Added Safety Benefits

RILA members are supportive of the Commission's endeavor to ensure the safety of toys containing button or coin cell batteries. However, RILA is concerned that the Proposed Rule creates additional requirements for the subject toy products beyond what is currently codified in the relatively recently adopted Reese's Law standard (16 CFR Part 1263) or ASTM F963-23 (the Toy Standard) and would not advance toy safety. Instead, the addition of new requirements to toys containing button or coin cell batteries would only cause confusion and unnecessary

¹ See [RILA Comments re: Safety Standard and Notification Requirements for Button Cell or Coin Cell Batteries and Consumer Products Containing Such Batteries \(Feb. 9, 2023\)](#); Docket ID: CPSC-2023-0004.

² See [RILA Comments re: Agency Information Collection Activities; Proposed Collection; Comment Request; Testing and Labeling of Non-Children's Products Containing or Designed to Use Button Cell or Coin Batteries and Labeling of Button Cell or Coin Battery Packaging Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries \(April 11, 2023\)](#); Docket ID: CPSC-2023-004 and [RILA Joint Comments with The Association of Home Appliance Manufacturers and The Power Tool Institute re: Consumer Product Safety Commission Direct Final Rule; Safety Standards: Button Cell or Coin Batteries and Consumer Products Containing Such Batteries \(Sept. 21, 2023\)](#); Docket No. CPSC-2023-0004.



complexity for the regulated community, as it would bypass the established industry safety standard for toys and spread the requirements across the three standards – ASTM F963, ANSI/UL 4200A and 16 CFR 1250.³

In the Proposed Rule, the Commission outlines and acknowledges the updated ASTM F963-23⁴ (Toy Standard) requirements and test methods for children's toys, which were unanimously approved by the Commission in January 2024. This ASTM revision incorporated changes to address battery accessibility requirements, as well as update definitions and labeling requirements for toys. Despite the Commission's very recent approval and acceptance of these updates as a mandatory standard, the Commission now seemingly finds that ASTM F963-23 does not adequately address performance requirements for battery-operated toys and is seeking to align the standard with ANSI/UL 4200A.⁵

In addition to the potential for significant confusion and unnecessary complexity, the Commission fails to properly substantiate the grounds for finding ASTM F963-23 as insufficient. While the Commission asserts that the Toy Standard does not adequately address the problem of children being able to access toy battery compartments, it does not provide adequate evidentiary support for this view.⁶ For example, the Commission provides recall and injury data that predates the most recent update to ASTM F963-23.⁷

Due to the lack of data to substantiate this departure from the Toy Standard, RILA strongly recommends that the Commission not create additional mandatory requirements beyond the Toy Standard or what is currently codified in Reese's Law for non-toy products containing these batteries. Instead, the Commission should work with the ASTM F963 Committee to address any changes that are needed to the most recent revision to ensure the safety of children's toys that contain button cell or coin cell batteries. At a minimum, if the Commission proceeds with the direction outlined in the Proposed Rule, it should make available any and all data it relied on to determine ASTM F963-23 is insufficient.

2. Performance & Warning Label Requirements Should Adhere to Existing Standards

With respect to the Commission's requests for comment regarding proposed performance and warning label requirements, RILA again recommends that the Commission look to Reese's Law and the Toy Standard. New additional requirements not captured in those very recently adopted standards are unnecessary and would create additional burdens without added safety benefits,

³ See 16 CFR Part 1250 – [Safety Standard Mandating ASTM F693 for Toys](#).

⁴ See ASTM F963-23 – [Standard Consumer Safety Specification for Toy Safety](#).

⁵ See ANSI/UL 4200A - Standard for Safety for Products Incorporating Button Batteries or Coin Cell Batteries.

⁶ See Safety Standard for Toys: Requirements for Toys Containing Button Cell or Coin Cell Batteries; 89 Fed. Reg. 65791, Docket No. CPSC-2024-0023, Section IV at 65798 (Aug. 13, 2024).

⁷ Id. at Section III.F Table 1, 65798.



including drop testing for large and bulky toys and additional and new warning formats addressed below.

A. A Separate Drop Test for Large and Bulky Toys is Not Necessary

The Commission seeks feedback in the Proposed Rule regarding whether large and bulky toys weighing over 10lbs and up to 39.7lbs would necessitate a separate drop test than toys that weighed less than 10lbs.⁸ RILA members do not find that there is a compelling reason to include a separate drop test for large and bulky toys as there is no relevant distinction that would warrant toys requiring a separate test from general use products pursuant to Reese's Law.⁹ If the Commission finds that there is an identifiable gap supported by injury data, which suggests that large or bulky toy products containing button cell or coin cell batteries necessitate a separate drop test, then RILA recommends that those updates would be more appropriately made to ANSI/UL 4200A.

B. No Additional Warning Formats Are Needed

With regards to warning label requirements, RILA does not believe that different warnings or other formats are needed beyond existing standards. To avoid any unnecessary complexities, the same requirements under Reese's Law for general use products that contain button cell or coin cell batteries, could be applied to children's toys, on toy product packaging, and/or on instructional literature accompanying toys. Having the same requirements that the industry has already gained familiarity with will assist with implementation and alleviate unnecessary confusion or complexities.

3. CPSC's Proposed Effective Date Does Not Align with Implementation Realities

To allow sufficient time for industry to familiarize itself with any forthcoming final rule requirements and subsequently transition applicable products, RILA recommends the final rule include a minimum of one-year effective date following publication in the *Federal Register*. Similar to RILA's March 2023 comments on the Commission's proposed timeline for complying with Reese's Law requirements,¹⁰ a longer implementation timeline for the proposed Safety Standard for Toys is needed to allow industry stakeholders to properly comply. Requirements outlined in the Proposed Rule would necessitate redesigning toy products containing button or coin batteries, as well as producing new compliant packaging. Furthermore, the toys would require updated testing and certifications completed by CPSC-approved labs ahead of the effective date. Providing a minimum of a one-year implementation timeline would allow industry adequate time to comply with a final rule.

⁸ Id. at Section XIII.A.3, 65811.

⁹ See 16 CFR Part 1263.

¹⁰ See *supra*, footnote 1, RILA March 2023 Comments at Section 1.



4. Increased Costs Associated with Performance and Labeling Requirements

In the Notice of Proposed Rulemaking, the CPSC requested feedback from industry stakeholders on whether third-party testing costs for battery-operated toys will increase, as a result of the requirements laid out in the Proposed Rule.¹¹ RILA appreciates the opportunity to provide information to the Commission on cost estimates. From a request to members for cost information, RILA learned that third party testing costs are likely to increase by \$15 – \$50 per testing cycle, as well as per additional certification. In addition to the costs associated with third party testing, industry stakeholders will also encounter increased costs associated with redesigning battery-operated toys, and with the creation and production of new compliant packaging.¹²

Closing

In closing, RILA and its members strongly support the CPSC's consumer safety mission and appreciates the work of the Commission to improve the safety of children's toys that contain button cell or coin cell batteries.

If you have any questions or need any additional information, please contact Luisa Lobo at luisa.lobo@rila.org / (202) 866-6811 and Susan Kirsch at susan.kirsch@rila.org / (202) 866-7477.

Sincerely,



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¹¹ See supra, footnote 6, at 65811.

¹² See supra, footnote 2, RILA June 2023 Comments.

