



# RETAIL INDUSTRY LEADERS ASSOCIATION

99 M Street, SE  
Suite 700  
Washington, DC 20003

[www.rila.org](http://www.rila.org)

June 12, 2023

*Via Electronic Filing*

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

**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; 88 Fed. Register 21652 (April 11, 2023); Docket No. CPSC–2023–0004**

Dear Secretary Mills:

The Retail Industry Leaders Association (RILA or the Association) appreciates the opportunity to submit written comments on the above-referenced notice (Notice)<sup>1</sup> requesting comments on testing and labeling costs and burdens associated with U.S. Consumer Product Safety Commission's (CPSC or Commission) proposed rule on Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries (Proposed Standard).<sup>2</sup> RILA and its members support the Commission's critical consumer safety mission and appreciate the CPSC's leadership on product safety matters, including consumer education campaigns, and stakeholder outreach. RILA supports Reese's Law and appreciates the Commission's leadership in addressing its implementation to protect children.

By way of background, RILA is the U.S. trade association for leading retailers. We convene decision-makers, advocate for the industry, and promote operational excellence and innovation. RILA members include more than 200 retailers, product manufacturers, and service suppliers, which together account for more than

---

<sup>1</sup> 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; 88 Fed. Register 21652 (April 11, 2023); Docket No. CPSC–2023–0004.

<sup>2</sup> Notice of Proposed Rulemaking, Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries (Feb. 9, 2023), 88 Fed. Reg. 8692; Docket ID: CPSC-2023-0004.

\$1.5 trillion in annual sales, millions of American jobs, and more than 100,000 stores, manufacturing facilities, and distribution centers domestically and abroad. Several of RILA's members sell batteries and/or consumer products containing batteries that are within the scope of the Proposed Standard.

RILA members take very seriously the compliance and safety of all products they sell, especially with regard to safety for their most vulnerable customers, and support. RILA members typically do not manufacture products and instead work with trusted suppliers to ensure all products they sell meet or exceed applicable safety requirements. RILA and its members also 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 industry partnership programs, and promoting CPSC's consumer awareness initiatives.

RILA previously submitted comments<sup>3</sup> on March 13, 2023, on the Proposed Standard, and now takes this opportunity to provide brief comments on the costs and burdens associated with the testing and labeling of non-children's products based on background received from our members.

## Comments

### 1. **Clarity is Needed on How CPSC Determined the Average Number of Impacted Product Models for Each Importer and/or Manufacturer**

In the CPSC's April 11 Notice, the Commission outlines estimated labor costs for meeting testing, labeling and recordkeeping requirements for batteries contained in nonchildren's products. The Notice states that, "[s]taff assumes that, on average, each manufacturer or importer has *two product models* that must be tested, labeled, and certified, annually."<sup>4</sup> This average, when accounting for retailers that will have obligations as both importers and manufacturers, appears to be grossly underestimated. For example, one RILA member indicated they will have 768 individual private label products that would need to be updated to meet new testing, labeling and certification requirements. This number does not even include the number of imported products that are not the retailer's owned brands but for which they may have obligations as the importer.

If the labor costs per manufacturer and importer are derived based on just two products on average, then the total labor costs associated with testing, labeling and recordkeeping are significantly underestimated. RILA recommends the Commission provide more clarity in the Final Standard on how staff derived the average of two products per manufacturer or importer, as well as more background on what information the staff considered in determining the total number of impacted nonchildren's products containing button or coin cell batteries.

---

<sup>3</sup> See [RILA Comments re: Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries \(March 13, 2023\)](#); Docket ID: CPSC-2023-0004-0058.

<sup>4</sup> *Supra* footnote 1 at 21654 (emphasis added).



## 2. Costs Estimates May Not Reflect Implementing Warnings on E-Commerce Listings

It is unclear from the Notice how and whether staff incorporated the costs associated with implementing warnings on e-commerce listings. RILA wishes to reemphasize our earlier points included in our March 13 comments. Updating online product listings with requisite warning language for potentially tens of thousands of stock keeping units (SKUs) for products listed online will require significant time for retailers to implement and ensure compliance with its technical aspects. Additionally, it is unclear how much additive value the online warnings will provide from a cost-benefit standpoint when warnings will be included on the actual packages and products the consumer receives.

RILA recommends the Commission incorporate the following measures in its Final Standard to mitigate the costs and time required to implement these updates to online products listings:

- i) Remove the requirement for online warning labels or at a minimum extend the timeline for compliance; and
- ii) Designate manufacturers as the primary responsible party to provide retailers written notice of the warning label on their product.

Without the above burden reduction measures, CPSC staff estimates of costs and burdens associated with the full complement of label requirements in the Proposed Standard are likely significantly underestimated and should be updated to more accurately account for time associated with updating hundreds of thousands of online product listings.

## 3. Increased Costs Associated with New Testing Requirements for Non-Children's Products

The CPSC's Notice does not specifically set forth costs assessed by third-party labs for testing to the new requirements in the Proposed Standard. However, RILA wishes to take this opportunity to provide information received from one of its members – a large national retailer – on estimates it received from recognized lab partners on the average increase in cost to meet new testing protocols outlined in the Proposed Standard. Based on this one RILA member's information from three different lab partners, the average cost increase per battery-containing nonchildren's product, was \$428.33.<sup>5</sup> In terms of percentage increase, meeting the new battery testing protocol will increase battery testing cost per product by 50% to 300% depending on testing lab.

The chart below further demonstrates how the percentage increases were derived, based on cost estimate information the RILA member received from three well-recognized labs.

---

<sup>5</sup>  $(\$180 + \$345 + \$870) / 3 = \$428.33$



	Initial battery protocol cost	Testing cost increase based on Proposed Standard	New battery protocol cost	% increase for battery powered product protocol
Lab A	\$360	\$180	\$540	50%
Lab B	\$350	\$345	\$695	99%
Lab C	\$290	\$870	\$1160	300%

Using the earlier 768 private label product example (Section 1. above), with an average increased cost of \$428.33 per item, just this one US retailer will see an overall increase in estimated testing costs of \$328,960 to meet the testing protocols in the Proposed Standard.

### **Closing**

In closing, RILA and its members strongly support the CPSC's consumer safety mission and share the Commission's commitment to protecting consumers and ensuring that all products sold to U.S. consumers are in stringent compliance with all applicable safety standards and legal requirements. We appreciate CPSC's leadership and meaningful engagement with stakeholders.

If you have any questions or need any additional information, please contact me at [susan.kirsch@rila.org](mailto:susan.kirsch@rila.org) or (202) 866-7477.

Sincerely,



Susan Kirsch  
Vice President, Regulatory Affairs

