

CPSC PUBLISHES MANDATORY SAFETY RULE FOR CONSUMER PRODUCTS THAT USE BUTTON CELL, COIN BATTERIES

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The U.S. Consumer Product Safety Commission (CPSC) has published a [final rule](#) adopting a mandatory safety standard for consumer products that utilize button cell or coin batteries. CPSC enacted the rule as required by Reese's Law, [15 U.S.C. § 2056e](#), to reduce hazards associated with persons 6 years or younger ingesting button cell or coin batteries, which are used in many types of consumer products. The CPSC actions pertained both to mandatory safety standards for the batteries in consumer products and warnings on packaging and in instructions and manuals for consumer products containing button cell or coin batteries.

According to the CPSC, button cell and coin batteries, if swallowed, or inserted into the nose and then swallowed, can burn through a child's esophagus in as little as two hours. The CPSC states that between 2011 and March of this year there have been 32 reported deaths and an estimated 54,300 injuries treated in emergency rooms attributable to ingestion of button cell or coin batteries.

MANDATORY SAFETY STANDARDS

The mandatory safety standard adopted by CPSC, ANSI/UL 4200A-2023, requires either (i) the use of a tool such as a screwdriver or coin or (ii) the application of at least two independent and simultaneous hand movements to open a product's battery compartment. It also performance tests simulating reasonably foreseeable use or misuse. Toys that are in compliance with the battery accessibility and labeling requirements in the [Toy Standard](#), 16 CFR part 1250, are exempt.

The mandatory safety standard has the following effective dates:

- The rule is effective **October 23, 2023**, and consumer products containing button cell or coin batteries that are manufactured or imported after that date must comply. Because of the manner by which the CPSC conducted its rule making, it still has the option of withdrawing and reconsidering the rule if it receives comments by October 5, 2023 that indicate the rule is an inappropriate rule making.

- Third-party testing and certification of children’s products subject to the rule (other than toys that meet the Toy Standard) are not required until on or after **December 20, 2023**.
- However, in recognition of limited testing availability and for the avoidance of hardship, the Commission is granting a 180-day transitional period of enforcement discretion through **March 19, 2024**.

ON-PACKAGE AND INSTRUCTION WARNINGS

In a separate [final rule](#) also published last week, the CPSC is requiring warnings on the packaging of button cell and coin batteries, as well as consumer products that separately include such batteries. The rule also requires similar warnings in instructions and manuals accompanying such products.

The new rule, codified at 16 C.F.R. § 1263.1, *et seq.*, requires the packaging of these products to feature a pictograph and warnings that the batteries pose the risk of an ingestion hazard and internal chemical burns, an advisory statement to keep out of the reach of children and seek immediate medical attention if the batteries are swallowed, and the telephone number of the National Battery Ingestion Hotline.

Although a proposed version of the rule had included “point-of-sale warning requirements” for online sales of button cell or coin batteries or products that separately include them, those requirements have been omitted from the final rule.

The on-package warning requirements take effect one year from the date of publication, on **September 21, 2024**.

SAFETY PACKAGING OF BATTERIES

Reese’s Law also requires any button cell or coin battery offered for sale, manufactured, imported into the U.S., or included separately with a consumer product to meet the child-resistant packaging requirements in the [Poison Prevention Packaging Standards](#) after February 12, 2023.

For questions or more information, contact any of the authors listed.

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