

SUPPORTING STATEMENT - PART A

Safety Standard for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries (OMB Control Number 3041-0195)

1. Need for the Information Collection

Based on the requirements in Reese's Law, 15 U.S.C. 2056e(a) and (b), and section 27(e) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2076(e), the rule prescribes performance requirements for child-resistant battery compartments on children's and non-children's consumer products that contain or are designed to use button cell or coin batteries, and warning requirements for button cell and coin battery packaging, consumer product packaging, consumer products, accompanying written materials such as instructions, manuals, and inserts or hangtags. These performance and labeling requirements are intended to reduce or eliminate injuries and deaths associated with children 6 years old and younger ingesting button cell or coin batteries. This collection of information is solely for non-children's consumer products, meaning (1) products that contain or are designed to use button cell or coin batteries and *are not* designed or intended primarily for children 12 years old or younger, and (2) labeling of packages of button cell or coin batteries. 15 U.S.C. 2052(a)(2); 16 CFR part 1200.

In addition to the testing and labeling requirements in the final rule, section 14(a) of the CPSA requires that manufacturers (including importers) of non-children's products subject to a rule issue a general certificate of conformity. GCCs certify the products as being compliant with applicable regulations and must be based on a test of each product or a reasonable testing program. Unlike children's products, products that have GCCs are not required to undergo third party testing. Section 14(g) and 16 CFR part 1110 state the requirements for GCCs. Among other requirements, each certificate must identify the manufacturer issuing the certificate, any laboratory conducting testing on which the certificate depends, the date and place of manufacture, the date and place where the product was tested, each party's name, full mailing address, and telephone number, and contact information for the individual responsible for maintaining records of test results. The certificates must be in English. The certificates must be furnished to each distributor or retailer of the product and to the CPSC, if requested.

2. Use of the Information

The information collected will be used to eliminate or adequately reduce the risk of injury from ingestion of button cell or coin batteries by children 6 years old and younger.

As required by Reese's Law, the rule establishes performance and labeling requirements for child-resistant button cell or coin battery compartments on consumer products that contain, or are designed to contain, such batteries. Reese's Law requires warning labels for

the: (1) packaging of button cell or coin batteries; (2) packaging of consumer products containing such button cell or coin batteries; (3) where practicable, battery compartments on consumer products that use button cell or coin batteries (regardless of whether they are replaceable); and (4) any literature, such as a user manual, that accompanies a consumer product containing button cell or coin batteries. 15 U.S.C. 2056e(a), (b).

Respondents include manufacturers and importers of non-children's products that contain or are designed to use button cell or coin batteries, and manufacturers and importers of packages of button cell or coin batteries. Manufacturers and importers must comply with the information collection requirements when non-children's products that contain or use button cell or coin batteries, and packages of button cell or coin batteries, are manufactured or imported after the effective date of the rule.

3. Use of Information Technology

To address the hazard of button cell or coin batteries, the final rule requires warnings and labeling. Required warnings on packaging are not electronic, however CPSC staff utilizes appropriate forms of information technology, such as electronic communication, when appropriate to reduce unnecessary burden.

4. Non-duplication

The information obtained through this collection is unique and is not already available for use or adaptation from another cleared source.

5. Burden on Small Businesses

Under U.S. Small Business Administration (SBA) guidelines, a manufacturer, importer, and retailer of button cell or coin battery-powered consumer products is categorized as "small," based on the associated NAICS code. Manufacturers are categorized as small by the number of employees and importers/retailers by annual revenues. Based on 2017 data from the U.S. Census Bureau, and a sample of retailers' estimated revenues, CPSC staff have estimated the number of firms classified as small by NAICS code that meet the SBA size standard.

To reduce the impact of the final rule on small firms, CPSC proposes not to require labeling of zinc-air batteries, which do not pose the same type of ingestion hazard as other button cell or coin batteries.

In addition, CPSC provides a variety of resources to help both new and experienced small businesses learn about safety requirements that apply to consumer products, including the CPSC Regulatory Robot, small business education videos, and the Small Business Ombudsman. Many of these resources can be accessed online at:

<https://www.cpsc.gov/Business--Manufacturing/Small-Business-Resources>. Small firms can reach the Small Business Ombudsman by calling (888) 531-9070.

6. Less Frequent Collection

Reese's Law mandates the testing and labeling requirements in the final rule, and section 14(a) of the Consumer Product Safety Act (CPSA) requires testing and certification of children's products. Additionally, if information is not provided with the consumer product, the consumer will not have the opportunity to see the appropriate safety-related information. The consumer may not have the following safety-related information:

- Death or serious injury can occur if ingested.
- A swallowed button cell or coin battery can cause internal chemical burns in as little as 2 hours.
- Keep new and used batteries out of reach of children.
- Seek immediate medical attention if a battery is suspected to be swallowed or inserted inside of any part of the body.

7. Paperwork Reduction Act Guidelines

This collection of information is necessary for the proper performance of agency functions; avoids unnecessary duplication; reduces burden on small entities; uses plain, coherent, and unambiguous language that is understandable to respondents; will be implemented in a manner that is consistent and compatible with current reporting and recordkeeping practices; indicates the retention periods for recordkeeping requirements; and informs respondents about the information needed.

8. Public Comments

The rule establishing a Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries, to be codified at 16 CFR part 1263, contains information collection requirements that are subject to public comment and review by OMB under the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501–3521). The NPR proposed to expand the collection of information for Testing and Certification of Children's Products (OMB Control No. 3041-0159) to include testing and labeling of children's products containing button cell or coin batteries (88 FR at 8717-19), but did not include burden estimates for the collection of information for non-children's products. The estimated burden associated with the testing and labeling of non-children's products is estimated for OMB Control No. 3041-0195, and for labeling of button cell and coin battery packaging.

In a 60-Day Notice (88FR21652), CPSC requested that interested parties submit comments regarding this proposed information collection. Pursuant to 44 U.S.C. 3506(c)(2)(A), the Commission specifically invited comments on:

- whether the proposed collection of information is necessary for the proper performance of CPSC's functions, including whether the information will have practical utility;

- the accuracy of CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information the Commission proposes to collect;
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques when appropriate, and other forms of information technology;
- the estimated burden hours associated with labels and hang tags, including any alternative estimates; and
- the estimated respondent cost other than burden hour cost.

9. Gifts or Payment

No payments or gifts are being offered to respondents as an incentive to participate in the collection.

10. Confidentiality

A Privacy Act Statement is not required for this collection because we are not requesting individuals to furnish personal information for a system of records.

A System of Record Notice (SORN) is not required for this collection because records are not retrievable by PII.

A Privacy Impact Assessment (PIA) is not required for this collection because PII is not being collected electronically.

11. Sensitive Questions

No questions considered sensitive are being asked in this collection.

12. Respondent Burden and Labor Costs

The hourly reporting burden imposed on firms that manufacture or import non-children's products that contain button cell or coin batteries, and firms that manufacture or import button cell or coin batteries, includes the time and cost to create and maintain records related to testing of consumer products (including issuing a GCC); product labeling, including required warning labels on, as applicable: consumer product battery compartments, product packaging, and accompanying written materials (*i.e.*, instructions, manuals, inserts, or hangtags).

Table 1: Estimated Annual Respondent Burden

Burden Type	Respondents	Frequency of Response	Hours per Response	Annual Burden (hours)	Estimated Annual Burden (costs)
Labeling	15,363	3	1.25	57,611.25	\$2,513,003
Testing	15,363	3	3.5	161,311.5	\$7,036,407
Recordkeeping	15,363	3	1.25	57,611.25	\$2,513,003
Total Burden				276,534	\$12,062,413

CPSC estimates that there are 15,363 entities that will respond to the collection annually and that, on average, each entity will respond three times per year. We estimate the hours per response for labeling, testing, and recordkeeping, as shown in Table 1. Note that for button cell or battery packaging that requires only labeling pursuant to the NPR, and not product testing, this is an over-estimate.¹ Accordingly, as shown in Table 1, the total annual burden is 276,534 hours.

Using the total compensation for all private industry workers in goods-producing industries of \$43.62 per hour,² the total estimated annual cost of the collection of information is approximately \$12 million annually (276,534 hours x \$43.62 = \$12,062,413.08).

13. Respondent Costs Other Than Burden Hour Costs

No operating, maintenance, or capital costs are associated with the collection.

14. Cost to the Federal Government

The estimated annual cost of the information collection requirements to the Federal Government is approximately \$4,448, which includes 60 staff hours to examine and evaluate the information, as needed, for CPSC's compliance activities. This is based on a GS-12, step 5 level salaried employee. The average hourly wage rate for a mid-level salaried GS-12 employee in the Washington, DC metropolitan area (effective as of January 2023) is \$51.15 (GS-12, step 5). This represents 69.0 percent of total compensation (U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," September 2022, Table 2., percentage of wages and salaries for all civilian management, professional, and related employees: https://www.bls.gov/news.release/archives/ecec_12152022.pdf). Adding an additional 31.0 percent for benefits brings average annual compensation for a mid-level salaried GS-12 employee to \$74.13 per hour. Assuming that approximately 60 hours will be required annually, this results in an annual cost of \$4,448 (\$74.13 per hour x 60 hours = \$ 4,447.8).

¹ Testing of button cell or coin battery packaging is not required by the rule, but is required by section 3 of Reese's Law. Notes to 15 U.S.C. 2056e. This burden estimate is an over-estimate likely large enough to also encompass testing of battery packaging, but such testing is a statutory requirement not included in the rulemaking.

² U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation," total compensation for private industry workers in goods producing industries, March 2023: https://www.bls.gov/news.release/archives/ecec_06162023.pdf.

15. Reasons for Change in Burden

This is a new collection with a new associated burden.

16. Publication of Results

The results of this information collection will not be published.

17. Non-Display of OMB Expiration Date

We are not seeking approval to omit the display of the expiration date of the OMB approval on the collection instrument.

18. Exceptions to “Certification for Paperwork Reduction Submissions”

We are not requesting any exemptions to the provisions stated in 5 CFR 1320.9.