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TRANSMITTED VIA EMAIL

Tim Corder (tim.corder@ul.org)  
TC 4200 Chair  
Doreen Stocker (Doreen.stocker@ul.org)  
TC 4200 Project Manager  
UL Standards & Engagement  
12 Laboratory Drive  
Durham, NC 27709-3995

Dear Mr. Corder and Ms. Stocker,

U.S. Consumer Product Safety Commission (CPSC) staff<sup>1</sup> thank you for your consideration of the Commission's notice of proposed rulemaking (NPR) and related correspondence addressing performance and labeling requirements in accordance with Reese's Law. Your swift response to consider revisions to UL 4200A based on the NPR shows your commitment to safety, and your leadership in task group meetings has been much appreciated.

Staff particularly appreciate the discussion in the ballot of the NPR and CPSC's rationale for proposing the requirements. Staff, however, have identified a few items in the ballot which are not consistent with Reese's Law or the CPSC NPR and which we believe warrant additional discussion and consideration.

### **Topic 3. Proposed Revision of 5.6 to provide clarification to captive screws exemptions**

The ballot proposes two new exceptions to replace the existing exception for captive screws:

- Exception No. 1: If access to the coin/button cell battery is only through the removal of the equipment's enclosure or side panels which are a required\* enclosure part and which both are needed to be replaced for normal and safe operation of the equipment (such as desk top computer enclosures), the enclosure/panel screws shall not be discarded and replaced according to the manufacturer's instructions (e.g. Instruction book, safety sheet, etc.) and do not need to be captive.

\*Needed to comply with the requirements to reduce risk of fire, electric shock or injury to persons or

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<sup>1</sup> The views expressed in this letter are those of CPSC staff, and they have not been reviewed or approved by, and may not necessarily reflect the views, of the Commission.

- reduce risk of mechanical damage to internal parts.
- Exception No. 2: Products that are only to be opened by a professional service center (where children are not present) are not required to have secured screws.

The new Exception No. 1, in principle, excludes from the captive screw requirement any battery enclosures that are required to reduce the risk of other hazards, such as fire, electric shock, injury to persons, or mechanical damage to internal parts. Staff are concerned that in practice, most or all battery enclosures are intended for these purposes; therefore, manufacturers may broadly conclude that their battery compartments are not required to have captive screws, defeating the purpose of the requirement for captive screws.

As discussed during UL task group meetings, the original exception for large panel doors and the new Exception No. 1 are primarily intended for products like desktop computers, and the button cell or coin batteries in these products generally (1) last a long time (on the order of 10-15 years), and (2) outlast the life of the product. Captive screws address the foreseeable hazard of screws being misused or misplaced for battery compartments where the battery is going to be replaced by the consumer; however, a battery that outlasts the product is not going to be replaced by the consumer, thus eliminating the need for captive screws. Similarly, Exception No. 2 targets products with batteries that are to be replaced by professionals in a child-free environment, rather than by the consumer, thus reducing the potential hazard of screws being misused or misplaced.

Because both exceptions rely on the fact that consumers will not be replacing button batteries, staff recommends revising the exceptions to apply to button cell or coin batteries that are not intended to be replaced by the consumer. Such products should have instructions and warnings that clearly state the battery is not to be replaced by the consumer.

#### **Topic 5. Proposed addition of definitions for Hand-Held Products and Portable Devices and proposed revision to Drop Test**

The ballot proposes new definitions for “hand-held products” and “portable devices”:

- 4.3A HAND-HELD PRODUCT – A product that is intended to be used while being held in one or both hands.
- 4.4 PORTABLE DEVICE – A device that is intended to be routinely carried but not operated during transit. Examples include notebook computers, CD players and portable accessories, including their external power supplies.

These definitions are used to determine whether products are dropped 10 times (hand-held), 3 times (portable), or not at all during the drop test. The proposed definitions for hand-held products and portable devices focus on intended use rather than foreseeable use (or misuse), and do not contain specific and measurable criteria to help delineate the requirements for these products. Reese’s Law requires a performance standard that would eliminate or adequately reduce the risk of injury from battery ingestion by children that are 6 years of age or younger during reasonably foreseeable use or misuse conditions. Because the balloted

language focuses on intended use, rather than foreseeable use, the proposed drop test does not appear to meet the requirements of Reese's Law. Furthermore, staff believes it is foreseeable that notebook computers, CD players, and other lightweight portable products will be used while being held in one or both hands, regardless of whether this use is intended or not. Real-world use examples of this behavior occur with these products, such as a commuter supporting a laptop with one hand while using it with the other, or a CD player being held by a person who is walking or jogging. Based on foreseeable use and misuse conditions, the laptop and CD player should be dropped 10 times, rather than 3 times per these definitions. If UL's goal is to meet the requirements in Reese's Law, staff recommend that these definitions focus on foreseeable consumer use and misuse, instead of the manufacturer's intended use, to ensure the drop test addresses foreseeable use and misuse conditions in accordance with Reese's Law.

Additionally, both ASTM F963 and UL 62368-1 use product weight or mass to define the test criteria, as does the existing language in UL 4200A. Weights are not subjective and offer specific and measurable criteria by which to determine the appropriate test. Staff recommend combining product weight or mass with foreseeable use or misuse for establishing the drop test criteria.

#### **Topic 6. Proposed addition of Compression Test for little surface areas**

The ballot proposes to add a compression test like the test proposed in the NPR:

- 6.3.4A.1 If any surface of the battery compartment enclosure is accessible to a child and inaccessible to a flat surface contact during the Drop test in 6.3.2, apply the Compression Test from the Standard Consumer Safety Specification for Toy Safety, ASTM F963, to that surface, using a force of at least 136 N (30.6 lbf) or an equivalent test.

Staff appreciate the addition of this test but note that the language which would allow "an equivalent test" has limited applicability in a regulatory testing environment; manufacturers would need to prove equivalency before CPSC would accept an alternate test method. Staff recommend removing this language or balloting specific equivalent tests.

#### **Topic 11. Proposed new requirements for 7B Packaging Markings**

The ballot proposes to add requirements for the marking of product packaging that are similar to the requirements proposed in the NPR, but the "Keep Out of Reach of Children" icon is replaced by the "Presence of a Button Cell or Coin Battery" icon.

Staff appreciate that the "Keep Out of Reach of Children" icon could be misinterpreted in the context of a product packaging warning label to mean that the product should be kept out of reach of children. However, for some products, this may be a message that manufacturers wish to convey. Rather than require the "Presence of a Button Cell or Coin Battery" icon in place of the "Keep Out of Reach of Children" icon, staff ask that the technical committee

consider allowing the manufacturer to choose which of the two icons is most appropriate for the product, and whether there are criteria which will help manufacturers determine which icon to use.

### **Topics 10 through 14. Proposed Marking and Labeling Requirements**

The ballot borrows the terms “principal display panel,” “secondary display panel,” and “product display panel” from the NPR to describe the panels on the packaging and the area of the product that must be labeled. However, unlike the NPR, these terms are undefined in the standard or the ballot – therefore, it remains unclear what area of the packaging or product must be labeled. Reese’s Law requires that warning labels on consumer products, as practicable, must be “visible to the consumer upon installation or replacement of the button cell or coin battery,” or “visible upon access to the battery compartment;” and that warning labels must “clearly identify the hazard of ingestion.” The lack of a clear requirement for the placement of the warning labels in the ballot could result in warning labels being placed in a manner that do not meet Reese’s Law. To address the issue, staff recommend defining the terms “principal display panel,” “secondary display panel,” and “product display panel” in a manner consistent with the NPR.

Staff look forward to reviewing the ballot comments with the rest of the technical committee. Staff are reviewing and assessing NPR public comments, including those by UL Standards & Engagement and UL Solutions, and expect to submit a Final Rule briefing package to the Commission for its consideration in the next few months. If you have any questions, you can contact me at: [dtaxier@cpsc.gov](mailto:dtaxier@cpsc.gov) or (301) 987-2211.

Sincerely,

Daniel Taxier  
Children’s Program Manager  
Directorate for Engineering Sciences

cc: Jacqueline Campbell, CPSC Voluntary Standards Coordinator