



*National Electrical Manufacturers Association*

**1300 North 17<sup>th</sup> Street, Suite 900**

**Rosslyn, VA 22209**

703-841-3200

Fax: 703-841-3300

September 30, 2019

Australian Competition & Consumer Commission  
Director, Button Battery Taskforce  
Consumer Product Safety Branch  
GPO Box 3131  
CANBERRA ACT 2601  
nationalprojects@accc.gov.au

**RE: NEMA Comments Regarding ACCC Button Battery Safety Issues Document**

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The Dry Battery Section of the National Electrical Manufacturers Association (NEMA) welcomes the opportunity to provide its views on the Button Battery Safety Issues Paper released for comment by the Australian Competition & Consumer Commission (ACCC). Member companies of the Dry Battery Section include widely recognized, US-based manufacturers of consumer batteries such as Energizer, Duracell, and Panasonic.

Our comments on the ACCC document are as follows.

**General Comments**

NEMA appreciates ACCC's focus on the potential hazards associated with the use of miniature batteries in consumer products and supports the Commission's ongoing awareness campaign. Our Member companies have assisted in developing relevant standards and safe practice guidelines aimed at ensuring that injuries stemming from battery ingestion continue to be extremely rare occurrences.

NEMA respectfully contends that "button" should not be used to describe every type of miniature battery, which is best categorized as falling within two distinct design "platforms." The first is described in the International Electrotechnical Commission (IEC) as a small round battery with a diameter that exceeds the height and which does not contain lithium. The second platform consists of "coin cell" batteries where diameter also exceeds the height but **do** contain lithium. The former are 1.5 volts while "lithium coin" batteries are 3.0 volts. This is a crucial distinction because the incidence of serious injury is primarily associated with lithium.

NEMA supports the development of - or reliance on existing - international product standards that address miniature battery hazards and encourages addressing such hazards in Australian standards that cover a wide range of consumer audio/video and information technology (IT) products. Our Members consider the ideal approach to be a horizontal, international standard covering all consumer products that contain batteries.

It is important to note, however, that the ACCC Paper reveals that **half** of the mandatory injury reports for the period 2015 to 2019 relate to batteries in toys and mandatory, international and domestic safety standards covering the accessibility of small parts already exist for toys. This suggests there is still much to achieve with education and that mandating standards without effective enforcement will not produce the desired outcomes.

NEMA also supports the adoption of IEC 60086-4:2019 (Safety of Lithium Batteries) by battery manufacturers as lithium coin cell batteries with a diameter of 16 mm or greater have been shown by global studies to be most frequently associated with deaths from ingestion by young children. We also look forward to the IEC's publication of a safety standard that covers all non-lithium miniature type batteries.

### **Response to Questions**

#### **1. What data or information can you provide on the size and value of the Australian market, or for a segment of the market, for button batteries or for products that contain button batteries?**

NEMA represents US-based manufacturers of batteries and thus cannot provide meaningful information on products in Australia that contain button batteries.

#### **2. What data or information can you provide on the prevalence of and costings of injuries and fatalities caused by button batteries?**

NEMA recommends that ACCC obtain the 2019 Biennial Report from the National Capital Poison Center, which provides statistics and analyses of battery ingestion incidents reported during the period July 1, 2016 through June 30, 2018. The full report can be obtained directly from the NCPC at [www.Poison.org](http://www.Poison.org) while a summary of relevant statistics and trends is presented on the Center's web site here: <https://www.poison.org/battery/stats>

#### **3. What information can you provide on the range of products that you supply that contain button batteries?**

NEMA Member companies supply batteries of all types that are used to power a wide range of electronic products.

#### **4. Do you think the recommended safety actions in the *Industry Code for Consumer Goods that Contain Button Batteries (Code)* for products that contain button batteries are adequate to reduce the risk of children accessing button batteries? Please provide the reasons for your response.**

NEMA would characterize the recommended safety actions as "partly adequate." While the Code presents some best practices from a global perspective, it was written with virtually no input from the battery industry. Manufacturers were consulted during the process, but their comments were disregarded if they conflicted with those drafting the Code language. NEMA views the Code as too broad and not focused sufficiently on the core issue of lithium coin ingestion. Many of the other products addressed in the Code do not contribute to the problem and thus should be excluded from all or most of the Code requirements.

**5. Do you think the recommended safety actions in the Code should be made mandatory? What impact would mandating these requirements have on Australian suppliers?**

NEMA opposes declaring the recommended safety actions to be mandatory requirements.

A mandatory regulation will be no more effective at resolving safety problems than a voluntary industry code. The data in Figure 14 of the ACCC paper show that half of the injury reports relate to button batteries in toys, yet this area is already governed by mandatory standards for accessibility of small parts. If the largest share of injuries stem from products already subject to a mandate, then clearly mandates are unnecessary, and a voluntary industry code can work just as well.

NEMA supports enforcement activities aimed at removing unsafe products from the market before they become a hazard to young children. We note that the Australian Consumer Law (ACL) requires products to be of acceptable quality, defined as safe, fit for purpose and free from defects as a reasonable consumer can expect given their knowledge of the goods.

The prevalence of voluntary recalls mentioned in section 8 indicates that proactive market surveillance is effective, and as recalls increase more suppliers will be aware of and comply with the voluntary code. It is unlikely that a mandatory code would change the situation and lead to better outcomes.

**6. If you are a supplier, do you supply products that comply with the Code? If no, please explain why. If yes, what actions do you have in place to reflect the Code?**

The voluntary Code applies to devices powered by miniature batteries. Member companies of the NEMA Dry Battery Section mostly produce batteries but the limited number of electronic devices they ship for sale to the Australian market are compliant to the Code.

**7. What other research and development activities are you aware of that are directed toward:**

**(a) improving button battery safety**

The IEC standard 60086-4:2019 (Safety of Lithium Batteries) has been published with a 2-year implementation date. This standard requires child resistant packaging that complies with AS 5808-2009. It also stipulates marking on the packaging of lithium batteries with a diameter of 16 mm or greater and the addition of a 6 mm icon on the positive side of Lithium batteries 20 mm or greater.

IEC will look next at publishing a standard encompassing all miniature type batteries rather than just lithium chemistry. This standard will require child resistant packaging and is planned for 2020 publication with a 2-year implementation date.

Companies have evaluated other battery solutions but nothing yet has been demonstrated to work.

**(b) improving the safety of consumer goods containing button batteries**

**Numerous global standards for battery containing products now contain language about containment of lithium coin batteries to keep these batteries out of reach of children.**

**(c) improving the medical approach to button battery ingestion or injury?**

No information available

**8. Would a mandated safety standard for the security of battery compartments of products containing button batteries be likely to reduce the number of injuries and fatalities caused by button batteries in Australia? Please provide the reasons for your response.**

A requirement for lithium coin products certainly would have an impact. It would *not* impact the 1.5-volt button types other than for toys, for which compartment security is already required. The incidence of serious injuries attributable to 1.5-volt button batteries is extraordinarily low – in the range of several cases per trillion units sold, using global data as a basis. No safety standard can prevent injuries that occur so rarely. Regardless, any mandate should be established through global standards rather than the actions of a specific country.

**9. Would a mandated safety standard and/or an information standard for child resistant packaging and labelling be likely to reduce the number of injuries and fatalities caused by button batteries in Australia? Should any such standard require provision of Australian Poisons Information Centre details? Please provide the reasons for your response.**

Lithium cell battery manufacturers have made progress in this area through voluntary compliance with IEC 60086-4:2019. Global studies of battery ingestion clearly indicate most ingestion injuries - and all deaths - involved lithium chemistry batteries with a diameter greater than 16 mm.

If ingestion occurs, caregivers should seek immediate medical attention, take the product/packaging with them, and instruct the medical professional to call the poison centre. Any mandates should be based on an international standard.

**10. If it is your view that child resistant packaging and labelling requirements should be mandated, do you think this should apply to all button batteries regardless of size or chemistry? Please provide the reasons for your response.**

Leading battery manufacturers are coming into compliance with IEC 60086-4:2019, which incorporates child resistant packaging and labelling for lithium coin batteries. NEMA supports a mandate for conformance with this standard. IEC will shortly publish a standard that applies to all miniature types of coin cells. NEMA recommends waiting for the introduction of this new IEC standard before including button batteries that fall outside the scope of IEC 60086-4:2019. But as noted, any mandate should reflect the IEC standards.

**11. In your view, should any consumer products containing button batteries be banned from supply in Australia? If yes, please provide details and reasons.**

Products incorporating miniature batteries should comply with the essential requirements of the IEC standards. Products that don't comply with the standards and pose a hazard to young children should be removed from the market and banned from sale.

**12. If any of these requirements were mandated in Australia, what additional cost would be imposed on Australian suppliers or a relevant supplier segment?**

Products that contain miniature batteries are imported into Australia from global manufacturers. NEMA is concerned that setting national standards for Australia would preclude many products from the Australian market. Products that conform to the essential requirements of the IEC standards should be permissible in Australia.

**13. If you are a supplier, what information can you provide on the actual or likely cost of implementing the safety standard and information standard outlined in section 19.2 for button batteries and for products that you sell?**

NEMA is unable to estimate with confidence the likely cost of implementing the safety standard and information standard outlined in section 19.2. Companies will need contemplate redesigning non-compliant battery compartments, which in some cases may affect the specifications of the entire product. There are simply too many uncertainties involved to project the costs that may result.

**14. Are there any button battery products that you think should be exempted from any mandatory safety or information standards? Please provide reasons why.**

The Code excludes professionally prescribed button battery devices and fitted medical devices such as hearing aids. This should remain the case. In addition, button batteries used in commercial/industrial products that are found in environments where children are not present should also be exempt.

**15. Please provide any other information you consider may be relevant to the ACCC's consideration of these issues.**

a) NEMA respectfully requests that the Code be revisited with input solicited from battery manufactures and given due consideration.

b) Rather than revealing a trend, the increasing prevalence of button battery incidents claimed to be on record may in fact indicate broader public awareness due to advertising, mandatory reporting, and better data capture. Figure 13 in the ACCC paper seems to show a decreasing rate of mandatory injury reports from 2016 to the present, although 2019 is clearly not complete. NEMA suggests this may be due to the publication of the voluntary industry Code

**Contact Information:**

Mark A. Kohorst  
Director - Environment, Health & Safety  
National Electrical Manufacturers Association  
Suite 900  
1300 N. 17th Street  
Rosslyn, Va. 22209  
Ph: 703-841-3249  
Cell: 202-412-3326  
[mar\\_kohorst@nema.org](mailto:mar_kohorst@nema.org)