



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

May 29, 2024

Mr. Marc Gordnier  
Director, Maritime Operations & Logistics  
ProteQ  
2325 Dulles Corner Blvd, Suite 725  
Herndon, VA 20171

Reference No. 24-0019

Dear Mr. Gordnier:

This letter is in response to your March 19, 2024, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to lithium battery testing requirements. You seek clarification on the requirements in § 173.185 for lithium batteries to be of a type proven to meet the criteria in Part III, subsection 38.3 of the United Nations (UN) Manual of Tests and Criteria. You state that your company offers battery assemblies for transportation: 1) with a watt-hour (Wh) rating of less than 6,200 Wh; 2) that are assembled from individual lithium ion batteries that are electrically connected in-series; and 3) have individually passed the tests required in Part III, subsection 38.3 of the UN Manual of Test and Criteria. Specifically, you ask whether the lithium ion battery assemblies described in your letter require additional testing in accordance with subsection 38.3.3.1(f) of the UN Manual of Test and Criteria.

The answer is yes. Subsection 38.3.3.1(f) of the UN Manual of Test and Criteria requires lithium ion battery assemblies with a Wh rating of not more than 6,200 Wh to be assembled from individual batteries that have passed all applicable tests *and* to be subjected to additional testing (i.e., T.3, T.4, and T.5, and—in addition—T.7 in the case of a rechargeable battery). Therefore, although the individual lithium ion batteries described in your letter have passed all the applicable tests in section 38.3 of the UN Manual of Test and Criteria, subsection 38.3.3.1(f) requires one battery assembly (in a fully charged state) with a Wh rating of less than 6,200 Wh to pass additional testing (i.e., T.3, T.4, and T.5, and—in addition—T.7 in the case of a rechargeable battery).

I hope this information helpful. Please contact us if we can be of further assistance.

Sincerely,

Steven Andrews  
Acting Chief, Regulatory Review and Reinvention Branch  
Standards and Rulemaking Division

**Jones, Jessie Jane CTR (PHMSA)**

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**From:** INFOCNTR (PHMSA)  
**Sent:** Wednesday, March 20, 2024 4:05 PM  
**To:** Hazmat Interps  
**Subject:** FW: Letter of Interpretation request to the 49 CFR Subpart C – Hazardous Materials Regulations | ProteQ  
**Attachments:** HAZMAT Info Center\_DA\_18MAR24.pdf  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Please see attached request for letter of interpretation.

Thanks,  
Jonathon

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**From:** Marc Gordnier <mgordnier@proteq.com>  
**Sent:** Tuesday, March 19, 2024 2:13 PM  
**To:** INFOCNTR (PHMSA) <INFOCNTR.INFOCNTR@dot.gov>  
**Cc:** Ben Smith <bsmith@proteq.com>  
**Subject:** Letter of Interpretation request to the 49 CFR Subpart C – Hazardous Materials Regulations | ProteQ

**CAUTION:** This email originated from outside of the Department of Transportation (DOT). Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear PHMSA InfoCenter—  
Please find subject Letter of Interpretation request attached.  
Many thanks for your assist.  
mg

**Marc Gordnier**

Director, Maritime Operations & Logistics • ProteQ

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HAZMAT Info Center  
U.S. DOT/ PHMSA  
1200 New Jersey Avenue, SE East Building, 2<sup>nd</sup> Floor  
Washington, DC 20590

**Subject: Letter of Interpretation of HMR for Lithium Batteries in commercial transport**

To Whom It May Concern:

To gain a better understanding of the requirements of the HMR and the offering of Lithium chemistry batteries into commercial transportation, Kentco dba ProteQ LLC (ProteQ) is submitting a request for a letter of interpretation of the HMR to ensure that we are meeting the compliance requirements of the HMR when batteries that have passed the UN38.3 tests requirement are electrically – configured in series – connected to provide power to propel unmanned electrically operated vehicles (UUVs & USV) through and under the water.

Question:

Do persons/ shippers who offer battery assemblies into transportation that have been electrically connected and assembled from other UN38.3 tested batteries have to further test these newly assembled battery packs (*e.g., battery assemblies, battery power pack, battery power supplies, etc.*) in accordance with the additional testing requirements of UN38.3.3(f), when the newly assembled batteries in question meet the requirements of the UN standard, e.g., when a Lithium ion battery pack assembled from batteries that have passed all applicable tests has a Watt hour rating of less than 6,200 Watt hours?

Our Point of Contact for additional information is:

Mr. Ben Smith, Senior Multimodal Dangerous Goods Specialist  
[bsmith@proteq.com](mailto:bsmith@proteq.com)  
Tel: (571) 449-0741

Sincerely,

*Marc Gordnier*  
D. Marc Gordnier  
Director, Maritime Operations & Logistics