

## CLIENT ALERT

### Are You Ready for the U.S. DOT's January 1, 2022 Deadline for Lithium Battery Test Summaries?

October 26, 2021

Lithium cell and battery manufacturers long have been required by the U.S. Department of Transportation (U.S. DOT) and international hazardous materials/dangerous goods transportation regulations to prove that lithium cells and batteries meet UN testing, specifically Sub-section 38.3 of the UN Manual of Tests and Criteria. Last year, the U.S. DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a rule that will help each entity along the distribution chain easily know that the lithium cell or battery meets UN testing. (85 Fed. Reg. 27810 (May 11, 2020)).

**Starting January 1, 2022**, each manufacturer **and each subsequent distributor** of lithium cells or batteries manufactured on or after January 1, 2008 must make a **"test summary"** available. The test summary demonstrates that the cell or battery meets UN testing. This requirement also applies to lithium cells and batteries that are packed with or contained in equipment.

The test summary must include the following elements:

- Name of cell, battery, or product manufacturer, as applicable;
- Cell, battery, or product manufacturer's contact information, including address, telephone number, email address, and website for more information;
- Name of the test laboratory, and its address, telephone number, email address, and website for more information;
- A unique test report identification number;
- Date of test report;
- Description of cell or battery to include at a minimum:
  - Whether a lithium ion or lithium metal cell or battery;
  - Mass of cell or battery;
  - Watt-hour rating, or lithium content;
  - Physical description of the cell/battery; and,
  - Cell or battery model number or, alternatively, if the test summary is established for a product containing a cell or battery, the product model number.
- List of tests conducted and results (i.e., pass/fail);
- Reference to assembled battery testing requirements (if applicable);
- Reference to the revised edition of the UN Manual of Tests and Criteria used and to amendments thereto if any; and,
- Signature with name and title of signatory as an indication of the validity of information provided.

This requirement applies to shipments by all modes of transportation – ground, vessel, rail, and air. The international air transportation regulations – the ICAO Technical Instructions and IATA Dangerous Goods Regulations - have required a test summary for lithium cells or batteries shipped by air since January 1, 2020.

PHMSA does not specify how manufacturers and distributors must make the test summary available and has emphasized that this can be done in a variety of ways, such as by providing a hard copy of the document with a shipment, emailing a copy, or making it available on a website. Manufacturers and distributors of lithium cells and batteries and products containing lithium cells or batteries should be gathering test summaries now in order to meet the January 1<sup>st</sup> deadline.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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