



March 23, 2015

Dockets Management System  
U.S. Department of Transportation  
Dockets Operations, M-30  
Ground Floor, Room W12-140  
1200 New Jersey Avenue SE  
Washington D.C. 20590-0001

**Re: Comments to Docket Number PHMSA-2013-0225 (HM-218H)**

To Whom It May Concern:

Veolia ES Technical Solutions, L.L.C. (Veolia), a leading provider of hazardous waste management services nationwide, is pleased to present comments to USDOT on the proposed rulemaking entitled "Hazardous Materials: Miscellaneous Amendments (RRR)".

Veolia's field services include assisting hazardous waste generators with offeror functions, including waste classification, packaging, shipping paper preparation, marking, and labeling. Veolia also operates as a private and contract carrier providing waste transportation services. Wastes are transported to both Veolia-owned and third-party disposal facilities.

**Expanded Prohibition from Loading Certain Materials in the Same Transport Vehicle**

In this NPRM, PHMSA is proposing to expand the restriction in §173.21(e) relating to the transportation of incompatible materials. Specifically, the proposal will prohibit the transportation or offering by rail or highway any materials in same transport vehicle with other materials which are likely to cause a dangerous evolution of heat, flammable or poisonous gases or vapor, or produce corrosive materials upon mixing. Veolia is strongly opposed to this modification of §173.21(e). This blanket prohibition restricting any incompatible materials from being loaded together within the same transport vehicle, irrespective of how they may be packaged or safely segregated, is overly restrictive and will create a tremendous cost burden and increased operational difficulties to shippers and carriers without providing a substantial increase in public safety.

Veolia and others in the hazardous waste services industry, routinely offer a wide variety of chemical wastes for transportation to a disposal facility. Veolia assures these shipments are safe for transportation by utilizing the proper prescribed packaging as required by 40 CFR Part 173, and that all segregation requirements in §177.848 (in the case of highway transport) are met. Many of the Veolia's customers generate waste materials that would be deemed to be incompatible for shipment together if this new restriction is adopted. This will result in the need to ship the wastes off-site for disposal using more than one transport vehicle to accommodate these new restrictions. For example, waste generators such as research facilities and laboratories, commonly generate a very diverse type of waste chemicals in generally small quantities (e.g. less than 5 gallons per package). These laboratory chemicals

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are typically prepared as lab packs when shipped for disposal according to the regulations in §173.12(b). For example, for waste lab packs, the regulations in §173.12 specify a safe segregation distance between the packaged incompatible materials to prevent intermingling as well as requirements that the packagings are loaded on pallets within the motor vehicle. The explicit purpose of the packaging requirements specified in the HMR is to provide a packaging standard that meets the highest level of safety so as to decrease the likelihood of hazmat incidents during transportation due to leaking containers and minimize the hazard risks to the environment and the general public.

Even in PHMSA's own response to the letter of interpretation (No. 13-0111) that is referenced in this rulemaking states, "We recognize the concerns that you have regarding the transport of Chlorite and Hypochlorite Solutions with Hydrochloric Acid in the same transport vehicle. However, we believe that the packaging requirements for these materials mitigates the potential for comingling and subsequent dangerous evolution of gas." Veolia agrees that incompatible materials should be restricted from being packed together in the same overpack or within the same packaging due to the potential risk of the incompatible materials mixing together in the event of an accident or incident, resulting in a dangerous situation. However, the transportation of incompatible materials within the same transport vehicle, specifically a motor vehicle, should continue to be authorized provided the additional safety measures that are currently provided in the HMR are followed.

Veolia's experience transporting hazardous materials in transport vehicles when following the segregation provisions of §177.848 (and §173.12 as applicable to waste lab packs) has proven to be safe and has not resulted in any adverse incidents where as the result of the mixing of incompatible materials there was a dangerous evolution of heat, flammable, poisonous or corrosive gases or vapors. As a result Veolia requests that the modifications to §173.12 as proposed are not adopted.

#### **Packaging Requirements for Nitric Acid**

Veolia strongly supports the UPS petition to require an intermediate package for shipments of <90% nitric acid. It is Veolia's company policy to require either: 1) the inner 2.5 L glass bottle be placed in a poly pail intermediate packaging, or 2) the outer container must include a leak-proof poly liner. Veolia implemented use of the additional intermediate packages, regardless of which approved outer packaging is used (i.e. – fiberboard, metal or wood) as an additional precautionary safety measure to contain leaking nitric acid, should the inner glass bottle fail. After implementing these packaging procedures, Veolia has not had any incidents of leaking nitric acid initiate a fire, fumes or leaking material breach the outer packaging.

#### **Expanded Limited Quantity Authorization**

Veolia supports PHMSA's proposal to allow hazardous materials assigned with the Corrosive liquids, flammable, n.o.s., PG II and Oxidizing solid, corrosive, n.o.s., PG II shipping descriptions to be packaged in accordance with the limited quantity exceptions provided in §173.154 and §173.152.

#### **New Provisions for the Transportation of Damaged Wet Electric Storage Batteries**



Veolia supports PHMSA's proposal to adopt a new packaging requirement for the transportation by highway or rail, of damaged wet electric storage batteries packed in non-bulk packaging. Veolia also requests that PHMSA add cargo vessel as an authorized mode of transportation for these shipments.

**Shipment of Air Bag Inflators, Air Bag Modules and Seat-Belt Pretensioners Corrected to Include Cargo Vessel**

Veolia supports PHMSA's proposal to adopt the provisions contained in DOT special permit 12332 into the HMR under §173.166(e)(6). Veolia routinely utilizes this special permit to ship air bag inflators, air bag modules and seat-belt pretensioners for disposal via cargo vessel and has not experienced any incidents involving these shipments. Adopting the special permit into the regulations will remove the administration burden from PHMSA as well as the party holders necessary for maintaining the special permit.

**Clarification to Aerosols Shipped for Recycling or Disposal**

Veolia supports PHMSA's proposal to amend §173.306(k) to clarify that aerosols shipped for recycling or disposal by motor vehicle, containing a limited quantity are afforded the applicable exceptions provided for ORM-D materials granted under §173.306(i) and §173.156(b). Veolia also supports PHMSA's proposal to clarify that packagings containing aerosols meeting the limited quantity requirements of §173.306(k) must be marked with the statement "INSIDE CONTAINERS COMPLY WITH PRESCRIBED REGULATIONS". Veolia also supports PHMSA's proposal to clarify that these packagings must be marked with the limited quantity marking. However, Veolia believes the applicable marking section referenced in the discussion in the preamble to the rule was in error and should be §172.315(a) – for modes other than air transport, not subparagraph (b). Veolia does note the proposed revised text included by PHMSA in 173.306(k)(3) is correct by referencing 172.315(a).

Should there be a need for further clarification of our comments, or additional questions, please contact either Tom Baker (tom.baker@veolia.com / 973-691-7330) or me (jennifer.eberle@veolia.com / 973-691-7331).

Sincerely,

Jennifer Eberle  
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