

Pipeline and Hazardous Materials Safety Administration

DEC 2 2 2016

Jennifer Eberle Manager, Transportation Compliance Industrial Business Veolia North America 1 Eden Lane Flanders, NJ 07836

Reference No. 16-0156

Dear Ms. Eberle:

This letter is in response to your September 1, 2016, letter requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180) applicable to shipping papers. Specifically, you ask whether guidance provided in a letter of interpretation issued February 15, 2011, under Reference No. 10-0262, pertaining to the display of emergency response information in accordance with § 172.604(a)(3)(ii) is still valid.

The answer is yes. It continues to be the opinion of this Office that the placement of the emergency response telephone number and contact information described in Reference No. 10-0262 is consistent with requirements in § 172.604(a)(3)(ii) and (b)(1).

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

Sincerely,

Table linn

T. Glenn Foster Chief, Regulatory Review and Reinvention Branch Standards and Rulemaking Division

1200 New Jersey Avenue, SE Washington, DC 20590

VEOLIA

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September 1, 2016

Standards and Rulemaking Division Pipeline and Hazardous Materials Safety Administration Attn: PHH–10 US Department of Transportation East Building 1200 New Jersey Avenue SE. Washington DC 20590–0001

#### **Request for Validity Statement Concerning Interpretation Letter Ref. No 10-0262**

To Whom It May Concern:

On August 15, 2016, Veolia was issued a violation by an inspector of the Alabama Department of Public Safety, Motor Carrier Safety Unit for improper form and manner of emergency response information on a shipping paper. Specifically, the inspector cited that the manner in which the emergency response information is indicated on the USEPA Uniform Hazardous Waste Manifest is not in conformance with the requirements of 49 CFR §172.604(a)(3)(ii) because it is not prominent, readily identifiable and/or clearly visible, and is of the same font/size as the rest of the shipping paper.

Veolia pursued removal of the violation through the DataQs system and included an interpretation letter (Ref. No 10-0262) indicating that the manner in which Veolia currently displays the emergency response telephone number in Section 3 of the USEPA Uniform Hazardous Waste Manifest is in compliance with the requirements of the Hazardous Materials Regulations. The Alabama Department of Public Safety denied the request and stated the following:

"The attachments are old. The violation is found to be correct and the violation to stand as written. The regulations clearly state in 172.604 (a)(3)(ii) : Entered once on the shipping paper in the manner prescribed in paragraph (b) of this section in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found, such as by highlighting, use of a larger font or a font that is a different color from other text and information, or otherwise setting the information apart to provide for quick and easy recognition. The intent behind the regulations is for a first responder to be able to reasonably and quickly ascertain an Emergency Response Number, your shipping papers do not allow such."

Veolia is submitting this letter as request to verify that PHMSA's guidance provided in interpretation letter (Ref. No. 10-0262) is still valid and that the manner in which Veolia is currently indicating the emergency response contact information on the USEPA Uniform Hazardous Waste Manifest is in compliance with the requirements of the Hazardous Materials Regulations.

Veolia North America 1 Eden Lane Flanders, NJ 07836 tel 973-691-7331 fax 973-691-3978

www.veolianorthamerica.com



Attached for your review is the Driver/Vehicle Examination Report listing the violation identified by the Alabama Department of Public Safety, the associated shipping paper and USDOT Interpretation Letter – Ref. No. 10-0262.

Your written response to this request is greatly appreciated. If you require any further information regarding this request please feel free to contact me at <u>jennifer.eberle@veolia.com</u> / 973-691-7331.

Thank you,

Jennifer Eberle

Jennifer Eberle Manager, Transportation Compliance Industrial Business **VEOLIA NORTH AMERICA** 

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U.S. Department of Transportation

#### Pipeline and Hazardous Materials Safety Administration

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1200 New Jersey Ave, SE Washington, D.C. 20590

Mr. Tom Baker Director, Environment and Transportation Veolia ES Technical Solutions, L.L.C. 1 Eden Lane Flanders, NJ 07836

Ref. No. 10-0262

Dear Mr. Baker:

This responds to your December 14, 2010 letter requesting clarification on emergency response telephone number requirements in § 172.604 of the Hazardous Materials Regulations (HMR; 49 CFR Parts 171-180). You provide examples of manifests where the generator/offeror is "ABC Company, Inc" while the person registered with the emergency response information provider (ERI provider) for these shipments is a different company, "VESTS". "VESTS" is also the unique identifier assigned by the ERI provider. Specifically, you provide scenarios and ask for verification that they comply with §§ 172.604(a)(3)(ii) and 172.604(b)(2) requirements. Your scenarios are restated as follows:

Scenario 1: In the case where the generator/offeror identified on the manifest is also the ERI provider, by entering the emergency response telephone number in Item 3 of the manifest and the generator's/offeror's name in Item 5 of the manifest, you ask if the shipping paper is in compliance with \$ 172.604(a)(3)(ii) and 172.604(b)(1) with respect to the display of the emergency information.

Scenario 2: In the case where the generator/offeror identified on the manifest is not the person registered with the ERI provider, by entering the emergency response phone number in Item 3 of the manifest and a statement in Item 14 of the manifest identifying the person who is registered with the ERI provider, you ask if the shipping paper is in compliance with §§ 172.604(a)(3)(ii) and 172.604(b)(2) with respect to the display of the emergency response information.

As shown in the two examples of manifests you provide, the placement of the emergency response telephone number and contact information is consistent with requirements in §§ 172.604(a)(3)(ii) and 172.604(b)(1) for Scenario 1 and §§ 172.604(a)3)(ii) and 172.604(b)(2) for Scenario 2.

I trust this answers your inquiry. If you need additional assistance, please contact this office at 202-366-8553.

Sincerely,

2 Sulle Ben Supko

Acting Chief, Standards Development Standards and Rulemaking Division



December 14, 2010

U.S. DOT PHMSA Office of Hazardous Materials Standards Attn: PHH–10 East Building 1200 New Jersey Avenue S.E. Washington DC 20590–0001

RE: Request for Interpretation Regarding Indicating the ERI Provider on EPA's Uniform Hazardous Waste Manifest

To Whom It May Concern:

Veolia is requesting guidance from PHMSA regarding the completion of the uniform hazardous waste manifest with respect to compliance with 49 CFR 172.604, the requirements for including the emergency response phone number on shipping papers. Generators of hazardous waste are required to use the uniform hazardous waste manifest, EPA Form 8700-22, when shipping hazardous wastes. USEPA has provided specific instructions for completion of the uniform manifest, including the entering of the emergency response phone number in Item 3 of the form. The instructions for completion of Item 3 of the manifest as referenced in 40 CFR Part 262, Appendix, are as follows:

Item 3. Emergency Response Phone Number

Enter a phone number for which emergency response information can be obtained in the event of an incident during transportation. The emergency response phone number must:

1. Be the number of the generator or the number of an agency or organization who is capable of and accepts responsibility for providing detailed information about the shipment;

2. Reach a phone that is monitored 24 hours a day at all times the waste is in transportation (including transportation related storage); and

3. Reach someone who is either knowledgeable of the hazardous waste being shipped and has comprehensive emergency response and spill cleanup/incident mitigation information for the material being shipped or has immediate access to a person who has that knowledge and information about the shipment.



Note: Emergency Response phone number information should only be entered in Item 3 when there is one phone number that applies to all the waste materials described in Item 9b. If a situation (*e.g.*, consolidated shipments) arises where more than one Emergency Response phone number applies to the various wastes listed on the manifest, the phone numbers associated with each specific material should be entered after its description in Item 9b.

Below are several questions related to the emergency response phone information when entered on the manifest in accordance with USEPA's instructions and how those entries comply with the PHMSA regulations in 49 CFR 172.604. Please respond in writing as to whether PHMSA is in agreement with the answers provided by Veolia to these questions.

Q1) In the case where the generator/offeror identified on the manifest is also the emergency response information provider (ERI provider), by entering the emergency response phone number in Item 3 of the manifest and the generator's/offeror's name in Item 5 of the manifest, is the shipping paper in compliance with 172.604(a)(3)(ii) and 172.604(b)(1) with respect to the display of the emergency information?

A1) Veolia believes that the manifest completed in this manner complies with 172.604(a)(3)(ii) and 172.604(b)(1).

That is, by entering the ER telephone number in the space identified on the manifest form as the "Emergency Response Phone" the shipping paper complies with 172.604(a)(3)(ii), in that the ER telephone number is "entered once on the shipping paper in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found, such as by ... setting the information apart to provide for quick and easy recognition".

In addition, section 172.604(b)(1) requires the name of the person identified with the emergency response telephone number to be identified in one of several ways. One such option is "entered elsewhere on the shipping paper in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found." By entering the generator's name in Item 5 of the manifest this requirement is also satisfied.

Q2) In the case where the generator/offer identified on the manifest is not the person registered with the ERI provider, by entering the emergency response phone number in Item 3 of the manifest and a statement in Item 14 of the manifest identifying the person who is registered with the ERI provider, is the shipping paper in compliance with 172.604(a)(3)(ii) and 172.604(b)(2) with respect to the display of the emergency response information?

Attached are examples of 2 completed manifests to better illustrate this question. In "Example 1" and "Example 2" the generator/offeror of the waste shipment is "ABC Company, Inc" while the person registered with the ERI provider for these shipments is a different company, "VESTS". In these examples, "VESTS" is also the unique identifier assigned by the ERI provider. The two examples differ only in the wording of the statements appearing in Item 14 of the manifests.

Veolia ES Technical Solutions, L.L.C. 1 Eden Lane, Flanders, NJ 07836 tom.baker@veoliaes.com (973) 691-7330



A2) Veolia believes that both manifests, Example 1 and Example 2, completed in this manner comply with 172.604(a)(3)(ii) and 172.604(b)(2).

That is, by entering the ER telephone number in the space identified on the manifest form as the "Emergency Response Phone" the shipping paper complies with 172.604(a)(3)(ii), in that the ER telephone number is "entered once on the shipping paper in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found, such as by ... setting the information apart to provide for quick and easy recognition".

Furthermore, according to 172.604(b)(2), "The person who is registered with the ERI provider must be identified by name, or contract number or other unique identifier assigned by the ERI provider, on the shipping paper immediately before, after, above, or below the emergency response telephone number in a prominent, readily identifiable, and clearly visible manner that allows the information to be easily and quickly found, unless the name of the identifier is entered elsewhere in a prominent manner as provided in paragraph (b)(1) of this section." Reference to paragraph (b)(1) allows the name to be "entered elsewhere on the shipping paper in a prominent readily visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and clearly visible manner that allows the information to be easily and quickly found."

In these examples since "VESTS" is the person who is registered with the ERI provider, the statement "ER Service Contracted by VESTS" (Example 1) or "ER Identifier – VESTS" (Example 2) has been entered into Item 14 of the manifest as a means to comply with 172.604(b)(2). The ER information entered in this manner complies with the PHMSA requirements in that the information is readily identifiable and can be easily and quickly found.

Your written response to this question is greatly appreciated. If you require any further information regarding this request please feel free to contact me at <u>tom.baker@veoliaes.com</u> or 973-691-7330.

Thank you,

Tom Baker Director, Environment and Transportation

## EXAMPLE 1

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## EXAMPLE 2

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