



U.S. Department
of Transportation

**Pipeline and Hazardous
Materials Safety
Administration**

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

JUL 15 2014

Ms. Jennifer Eberle
Manager, Transportation Compliance
Veolia ES Technical Solutions, L.L.C.
1 Eden Lane
Flanders, NJ 07836

Ref. No: 14-0006

Dear Ms. Eberle:

This is in response to your January 9, 2014 letter to the Pipeline and Hazardous Materials Administration (PHMSA) requesting clarification of the Hazardous Materials Regulations (HMR; 49 CFR 171-180) applicable to the transportation of wetted fireworks being shipped for disposal. The fireworks you describe in your letter are confiscated illegal consumer fireworks that have been placed in United Nations (UN) specification plastic or metal 55-85 gallon drums, and are wetted with water or other wetting agents by enforcement officials. You indicate that this process makes it impossible for your company to research and determine the original EX numbers assigned to the fireworks. However, you state that these fireworks are no longer capable of being ignited or functioning as an explosive because they have been completely saturated. Your questions are paraphrased and answered below:

- Q1: May illegal consumer fireworks that have been desensitized through dilution be reclassified as a Division 4.1 flammable solid per § 173.124(a)(1)?
- A1: The answer to your question is no. Only desensitized explosives specifically listed by name in the § 172.101 Hazardous Materials Table (HMT) (e.g., UN2852, Dipicryl sulfide, wetted with not less than 10 percent water, by mass), can be reclassified without further testing or Approval. Illegal fireworks that are confiscated, and then soaked in water or other wetting agents in order to suppress explosive properties cannot be shipped unless classified in accordance with § 173.56. In addition, the original classification and EX number of the illegal fireworks is no longer valid due to the wetting of the fireworks. Therefore, the desensitized illegal fireworks should be reclassified using the same classification process for a new explosive (i.e., EX number approval). In order to show that the material does not meet the definition for Class 1 (explosive) under Subpart C of Part 173, you may apply for a new EX number to verify the wetted fireworks no longer meet the definition of a Class 1 hazardous material. This application must include either an examination report from an approved test lab as specified in § 173.56(b) or a competent authority approval as specified in § 173.56(f) of the HMR.

Q2: If PHMSA believes the waste fireworks should remain a Division 1.3G or 1.4G material, would Veolia be required to apply for and obtain an EX number for each individual drum containing wetted consumer fireworks?

A2: In accordance with § 173.22, it is the shipper's responsibility to ensure that the material is properly classed and described in accordance with the HMR. The procedures for classification and approval of Class 1 explosives are provided in § 173.56. Whether one EX number could be applied to all drums of wetted consumer fireworks, or if each drum would require its own EX number, would be dependent on the recommendation of the test laboratory or competent authority as described under A1.

I trust this information is helpful. Please contact us if you require further assistance.

Sincerely,

A handwritten signature in cursive script, reading "T. Glenn Foster". The signature is written in black ink and includes a long horizontal flourish extending to the right.

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



Andrews
\$ 172.101
\$ 173.62
Explosives
14-0006

January 9, 2014

Office of Hazardous Materials Standards
Pipeline and Hazardous Materials Safety Administration
Attn: PHH-10
U.S. Department of Transportation
East Building
1200 New Jersey Avenue S.E.
Washington DC 20590-0001

RE: Request for Interpretation Regarding the Shipment of Wetted Fireworks for Disposal

To Whom It May Concern:

Please accept this letter as a request for a formal interpretation from your office. Veolia wishes to receive clarification related to the shipment of wetted fireworks being shipped for disposal.

Veolia is an environmental services company that manages shipments of various types of hazardous waste materials being shipped for disposal. Veolia's customers include nationwide local enforcement agencies that confiscate illegal consumer fireworks from the general public. The confiscated fireworks are typically placed into UN specification plastic or metal 55-85 gallon drums and are thoroughly wetted with water or other wetting agent. Since the fireworks are already loaded into the waste drums and thoroughly wetted by the enforcement officials, it is impossible for Veolia to research the EX numbers assigned to the devices. As a result of over 20 years of experience in managing hazardous materials shipments, Veolia believes as a result of the fireworks being completely saturated, they are no longer capable of being ignited or functioning as an explosive, therefore no longer meeting the definition classifying these devices as hazard class 1.3G or 1.4G fireworks. Veolia believes a more appropriate classification assignment for wetted fireworks would be as a Hazardous Waste Solid, n.o.s., 9, NA3077, PG III.

Veolia is requesting written interpretation to clarify the following:

- 1) Does PHMSA agree with Veolia's classification of thoroughly wetted fireworks as a hazard class 4.1 flammable solid material?
- 2) If PHMSA believes the waste fireworks should remain classified as Class 1.3G or 1.4G materials requiring an EX number, would Veolia be required to apply for

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and obtain an EX number for each individual drum containing the saturated fireworks? Veolia believes this is a lengthy process and imposes an unnecessary cost burden to Veolia and its customers to perform the required explosives testing by an authorized testing laboratory. In addition, due to extreme saturation of the explosive chemicals contained in the devices, Veolia believes these testing results will conclude these materials would no longer be classified as explosives.

- 3) If PHMSA requires Veolia to obtain an EX number for these types of shipments, can Veolia apply for a single letter that would issuing an EX number to be used for all shipments of confiscated, wetted consumer fireworks being shipped for disposal?

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 jennifer.eberle@veolia.com / 973-691-7331 or Tom Baker at tom.baker@veolia.com / 973-691-7330.

Thank you,

Jennifer Eberle
Manager, Transportation Compliance
Veolia ES Technical Solutions, L.L.C.

Drakeford, Carolyn (PHMSA)

From: INFOCNTR (PHMSA)
Sent: Thursday, January 09, 2014 3:04 PM
To: Drakeford, Carolyn (PHMSA)
Subject: FW: Request for written interpretation regarding the shipment of wetted fireworks for disposal
Attachments: Wetted Fireworks - Interp Request (VES).docx

Hi Carolyn,

This caller requested we submit this e-mail as a formal letter of interpretation.

Thanks,
Victoria

From: Eberle, Jennifer [<mailto:jennifer.eberle@veolia.com>]
Sent: Thursday, January 09, 2014 2:05 PM
To: INFOCNTR (PHMSA)
Subject: Request for written interpretation regarding the shipment of wetted fireworks for disposal

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Service First. Safety Always

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