



VEOLIA NORTH AMERICA Environmental Solutions and Services

May 15, 2018

Ms. Tracy Atagi
Office of Land and Emergency Management (5304P)
Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460

Subject: Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations; Proposed Rule
Docket ID No.: EPA-HQ-OLEM-2017-0463

Dear Ms. Atagi:

Veolia North America – Environmental Solutions and Services (Veolia) appreciates the opportunity to provide comments to EPA on this proposed rule. Veolia is the second largest industrial and hazardous waste management and recycling company in the United States, with annual revenues exceeding \$500 million in hazardous waste and recycling facilities coast-to-coast. One of the key service offerings provided by Veolia is the management and disposal of hazardous waste for generators, including aerosol cans.

Veolia is generally supportive of EPA's efforts to revise the hazardous waste regulations by adding aerosol cans to the Universal Waste Regulations. Upon review of this proposed rule, Veolia is offering the following comments to address several noted deficiencies based on its experiences in managing hazardous wastes for its facilities and customers over the last 30+ years.

1. Definition of Aerosol Can

The proposed definition, "*Aerosol can* means any container in which gas under pressure is used to aerate and dispense any material through a valve in the form of a spray or foam", should be expanded to include the phrases "any non-refillable" and "fitted with a self-closing relief device." This would make EPA's definition consistent with the U.S. Department of Transportation Hazardous Materials Regulations (DOT HMR) in 49 CFR 171.8 and provide uniformity for those managing aerosols for disposal or recycling. The definition in 49 CFR 171.8 is: "*Aerosol* means an article consisting of any non-refillable receptacle containing a gas compressed, liquefied or dissolved under pressure, the sole purpose of which is to expel a nonpoisonous (other than a Division 6.1 Packing Group III material) liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas."

The revised definition with this proposed change would read, "*Aerosol can* means any non-refillable container in which gas under pressure is used to aerate and dispense any material in the form of a spray or foam and is fitted with a self-closing relief device."

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2. Packaging and Labeling Requirements for Universal Waste Aerosol Cans

The proposed rule requires a handler of universal waste to manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment by requiring Universal waste aerosol cans to be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, and lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. Veolia has knowledge of incidents where sealed containers storing aerosol cans have become pressurized due to the aerosol propellant escaping the aerosol cans and being confined in a closed drum. In some cases this has led to a forceful and dangerous pressure release (drum lids being blown off) during handling or storage of the drums. Therefore, Veolia recommends this proposal be revised to require that aerosol cans be packaged in a strong outer packaging (not necessarily UN specification packaging) that will not be allowed to build pressure, that the contents of the aerosol cans are compatible, and that protective caps are in place or valve stems are removed to prevent the accidental release of the contents of the aerosol cans during storage and handling. These requirements have been established by US DOT in the HMR for aerosols.

The labeling requirements in the proposed rule require that each aerosol can or container be labeled with the phrase; Universal Waste Aerosol Can(s), Waste Aerosol Can(s) or Used Aerosol Can(s). Veolia believes that the word "Can(s)" should be removed from the labeling requirements because it does not add any value to the proper identification of the universal waste as an aerosol.

3. Inconsistent Regulatory Requirements for Generators, Handlers and TSDFs Puncturing Aerosol Cans

EPA is proposing that Universal Waste handlers be allowed to puncture and drain aerosol cans without the need for a hazardous waste permit. The proposal also allows TSDFs to accept universal waste aerosol cans and process the cans by sorting and/or consolidating, but any recycling consisting of puncturing and draining would require the TSDF to meet the requirements of a universal waste destination facility and obtain a permit for the storage of the hazardous waste aerosol cans prior to recycling. This inconsistent regulatory framework is a double standard where EPA imposes more stringent requirements on permitted TSDFs when in fact the TSDFs are generally better equipped and prepared to safely perform this treatment. Alternatively, Veolia recommends the proposal be revised to apply uniform regulatory conditions and requirements for a handler or destination facility with respect to management of the aerosol cans. All facilities receiving universal waste aerosol cans for recycling should be regulated under the same regulatory requirements and should not be subject to 40 CFR 264 or 265 subparts AA or BB, or 40 CFR 267.

4. Commercial Aerosol Can Puncturing Devices

EPA is proposing that puncturing and draining of aerosol cans must be conducted by a commercial device specifically designed to safely puncture aerosol cans and effectively contain the residual contents and any emissions thereof. EPA notes that it has investigated the performance of at least one aerosol can puncturing and draining device. This review showed that the system was effective in processing at least 187 cans before the breakthrough of volatile chemicals occurred which is significantly less than the 600-750 cans recommended by manufacturers. In addition, the drum collecting the liquid from the aerosol cans was observed to never be more than 25% full before breakthrough occurred. This is also significantly lower than the 70% level recommended by manufacturers to never be exceeded to avoid the breakthrough of volatile organics. Despite this poor performance demonstrated by the commercial aerosol can crushers EPA is proposing that the puncturing and draining of aerosol cans MUST be

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conducted by commercial devices. Veolia is not clear how EPA arrived at this conclusion based on the limited testing performed as well as the poor results from that single tested commercial unit. Veolia recommends that EPA either eliminate the ability for a handler to recycle universal waste aerosols by crushing without a permit or alternatively develop performance based standards that a device needs to meet to protect human health and the environment irrespective as to whether or not it is a commercially available unit.

5. LDR Applicability

Similar to other previous universal waste rules, EPA confirms in the aerosol can proposed rule that it would not change the applicability of land disposal restriction (LDR) requirements. Under the existing regulations, 40 CFR 268.1(f), universal waste handlers and transporters are exempt from the LDR requirements regarding testing, tracking, and recordkeeping in 40 CFR 268.7 and the storage prohibition in 40 CFR 268.50. In this proposed rule EPA states that they intend to add aerosol can universal wastes to 40 CFR 268.1(f) for consistency. It should be noted that the proposed rule would not change the regulatory status of destination facilities meaning they remain subject to the full LDR requirements.

However due to the variation of assigned waste codes and constituents present in the waste aerosol cans, aerosol cans are not all uniform with respect to the LDR standards that must be satisfied. The proposal makes no mention as to the responsibility of the generator (handler) to inform the receiving facility (destination facility) of the applicable LDR requirements, such as the appropriate wastes codes and the potential presence of UHCs. Without such information, compliance with the applicable LDR standards could be problematic. Veolia recommends that the rule specify that the generator and/or universal waste handler of the aerosol cans has an obligation to provide the destination facility with the information regarding the waste codes and constituents that must be treated to demonstrate compliance with the LDR standards.

Veolia appreciates the opportunity to submit comments on the Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations, proposed rule. If there are any questions regarding these comments please contact Kevin McGrath at (402) 991-6666 or by email at kevin.mcgrath@veolia.com or Tom Baker at (973) 691-7330 or by email at tom.baker@veolia.com.

Sincerely,

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