

# Veolia North America - Industrial Business

## May, 2022

### **ENVIRONMENTAL UPDATES**

- A. [EPA; EPA Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic Acid \(PFOA\) and Perfluorooctane Sulfonic Acid \(PFOS\); Notice of Availability](#)
- B. [EPA; New Enforcement Strategy Advances President Biden's Environmental Justice Agenda; News Release](#)
- C. [EPA; Integrating e-Manifest With Hazardous Waste Exports and Other Manifest Related Reports, PCB Amendments and Technical Corrections; Extension of Comment Period](#)
- D. [EPA; Policy Assessment for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter; Final Policy Assessment](#)
- E. [EPA; Ensuring and Determining Compliance with Land Disposal Restrictions Through RCRA Permits, Waste Analysis Plans and Inspection Sampling Practices; Information Bulletin](#)

### **TRANSPORTATION UPDATES**

- F. [FMCSA; Parts and Accessories Necessary for Safe Operations; Speed Limiting Devices; Advanced Notice of Proposed Rulemaking](#)
- G. [FMCSA; National Hazardous Materials Route Registry; Notice](#)
- H. [PHMSA; Safety Notice for the Disposal/Recycling of Lithium Batteries](#)

### **HEALTH & SAFETY UPDATES**

- I. [OSHA; Improve Tracking of Workplace Injuries and Illnesses; Extension of Comment Period](#)

### **MISCELLANEOUS UPDATES**

*No Miscellaneous Updates for May, 2022*

**A. EPA Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS); Notice of Availability**

**Agency**

Environmental Protection Agency (EPA)

**Dates**

Published Date: 05/03/2022

Comments Due (extended on 5/31/2022): 07/02/2022

**Summary**

As part of the Environmental Protection Agency’s (EPA) PFAS Strategic Roadmap, the EPA has announced the availability of Clean Water Act (CWA) national “Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic acid (PFOA)” and “Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctane Sulfonic Acid (PFOS)” for public comment. The comment period has been extended from the original date of 06/02/2022 to 07/02/2022.

When finalized, these recommended criteria will provide information that states and tribes may consider when adopting water quality standards. EPA’s draft recommended criteria are the maximum concentrations of PFOA and PFOS (individually, not in mixture), with associated frequency and duration specifications, that will support protection of aquatic life from acute and chronic effects in freshwaters. These are presented below in Table 1.

**TABLE 1—DRAFT RECOMMENDED FRESHWATER AQUATIC LIFE WATER QUALITY CRITERIA FOR PFOA AND PFOS**

Criteria component	Acute water column (CMC) <sup>1</sup>	Chronic water column (CCC) <sup>2</sup>	Invertebrate whole-body (mg/kg ww <sup>3</sup> )	Fish whole-body (mg/kg ww)	Fish muscle (mg/kg ww)
PFOA Magnitude	49 mg/L	0.094 mg/L	1.11	6.10	0.125
PFOS Magnitude	3.0 mg/L	0.0084 mg/L	0.937	6.75	2.91
Duration	1-hour average	4-day average	Instantaneous. <sup>4</sup>		
Frequency	Not to be exceeded more than once in three years, on average.	Not to be exceeded more than once in three years, on average.	Not to be exceeded more than once in three years, on average.		

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<sup>1</sup> Criterion Maximum Concentration.

<sup>2</sup> Criterion Continuous Concentration.

<sup>3</sup> Wet Weight.

<sup>4</sup> Tissue data provide instantaneous point measurements that reflect integrative accumulation of PFOA or PFOS over time and space in aquatic life population(s) at a given site.

For more information on aquatic life criteria for PFOA and PFOS and to view the draft recommendation documents, visit the EPA pages: [Aquatic Life Criteria - Perfluorooctanoic Acid \(PFOA\)](#) and [Aquatic Life Criteria - Perfluorooctane Sulfonate \(PFOS\)](#)

## Reference/Link

The link below will allow you to view/print this Notice of Availability.

<https://www.govinfo.gov/content/pkg/FR-2022-05-03/pdf/2022-09441.pdf>

## **B. New Enforcement Strategy Advances President Biden's Environmental Justice Agenda; News Release**

### Agency

Environmental Protection Agency (EPA)

### Dates

Published Date: 05/05/2022

### Summary

On May 05, 2022 EPA Administrator Michael S. Regan and Attorney General Merrick B. Garland announced the Department of Justice's comprehensive enforcement strategy to advance environmental justice. This plan includes restoring Supplemental Environmental Projects (SEPs), which EPA's enforcement program has used for over 30 years to provide environmental and/or public health benefits to communities harmed by environmental violations.

SEPs in EPA settlements have been used to support projects that bring significant benefits to communities, including:

- (i) projects to abate lead paint hazards in housing or provide blood lead level analyzers to community health clinics;
- (ii) installation of enhanced air filtration systems at schools in heavily industrialized areas;
- (iii) projects to enhance the emergency response capabilities of local fire departments or hazardous emergency response teams, and
- (iv) installation and operation of a fence line monitoring system.

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To review the enforcement actions taken by the EPA to advance environmental justice please click the following link:

<https://www.epa.gov/enforcement/environmental-justice-enforcement-and-compliance-assurance>

## Reference/Link

The link below will allow you to view/print this News Release.

<https://www.epa.gov/newsreleases/new-enforcement-strategy-advances-president-biden-environmental-justice-agenda>

### **C. Integrating e-Manifest With Hazardous Waste Exports and Other Manifest Related Reports, PCB Amendments and Technical Corrections; Extension of Comment Period**

## Agency

Environmental Protection Agency (EPA)

## Dates

Published Date: 5/24/2022

Comments Due: 08/01/2022

## Summary

The Environmental Protection Agency (EPA) is extending the comment period for the proposed rule entitled “Integrating e-Manifest with Hazardous Waste Exports and Other Manifest Related Reports, PCB Amendments and Technical Corrections.”

EPA published the proposed rule in the Federal Register on April 1, 2022 (87 FR 19290) a full summary can be found in the April Veolia Regulatory Update. The comment period is being extended to August 1, 2022 following at least one request for additional time.

## Reference/Link

The link below will allow you to view/print this Extension of Comment Period.

<https://www.govinfo.gov/content/pkg/FR-2022-05-24/pdf/2022-11081.pdf>

**D. Policy Assessment for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter; Final Policy Assessment**

## Agency

Environmental Protection Agency (EPA)

## Dates

Published Date: 05/23/2022

## Summary

The Environmental Protection Agency (EPA) has published the final policy assessment for the reconsideration of the National Ambient Air Quality Standards for Particulate Matter. The policy assessment (PA) presents the staff analysis of the scientific basis for policy options from the EPA's reconsideration of the review of the national ambient air quality standards for particulate matter completed in 2020.

This evaluation of policy implications is intended to help make the connection between the EPA's scientific assessments, presented in the integrated science assessment (ISA) and risk/exposure assessment (REA), and the judgments required of the EPA Administrator in determining whether it is appropriate to retain or revise the NAAQS.

The document is organized into five chapters:

1. Chapter 1: Introduction
  - a. Includes the purpose, legislative requirements and history of past reviews.
2. Chapter 2: PM Air Quality
  - a. Provides overview of the available information on PM-related emissions, atmospheric chemistry, monitoring and air quality.
3. Chapter 3: RECONSIDERATION OF THE PRIMARY STANDARDS FOR PM<sub>2.5</sub>
  - a. Focuses on policy-relevant aspects of the currently available health effects evidence as presented in the 2019 ISA and ISA Supplement, as well as updated exposure/risk information, and identifies and summarizes the key considerations related to this reconsideration of the primary PM<sub>2.5</sub> standards.
4. Chapter 4: RECONSIDERATION OF THE PRIMARY STANDARD FOR PM<sub>10</sub>
  - a. Identifies and summarizes the key considerations related to this reconsideration of the primary standard PM<sub>10</sub>.
5. Chapter 5: RECONSIDERATION OF THE SECONDARY STANDARDS FOR PM
  - a. Focuses on policy-relevant aspects of the currently available welfare effects evidence as presented in the 2019 ISA and ISA Supplement, as well as updated quantitative analyses for visibility effects, and identifies and summarizes the key considerations related to this reconsideration of the secondary PM standards.

## Reference/Link

The link below will allow you to view/print this Final Policy Assessment.

[https://www.epa.gov/system/files/documents/2022-05/Final%20Policy%20Assessment%20for%20the%20Reconsideration%20of%20the%20PM%20NAAQS\\_May2022\\_0.pdf](https://www.epa.gov/system/files/documents/2022-05/Final%20Policy%20Assessment%20for%20the%20Reconsideration%20of%20the%20PM%20NAAQS_May2022_0.pdf)

### **E. Ensuring and Determining Compliance with Land Disposal Restrictions Through RCRA Permits, Waste Analysis Plans and Inspection Sampling Practices; Information Bulletin**

## Agency

Environmental Protection Agency (EPA)

## Dates

Published Date: 04/2022

## Summary

The Environmental Protection Agency (EPA) has published an information bulletin to ensure and determine compliance with Resource Conservation and Recovery Act (RCRA) land disposal restrictions (LDRs). Following the addition of the 1984 Hazardous and Solid Waste Amendments (HSWA) to RCRA, the EPA was required to review all listed and characteristic hazardous waste and determine which should be prohibited from land disposal without treatment. In the creation of LDRs, the EPA specified treatment standards, which are either concentration levels or methods of treatment for hazardous constituents, to meet before land disposal.

The April 2022 Information Bulletin intends to make RCRA permit writers, inspectors, and the regulated community aware of controls, conditions and sampling practices to ensure and determine compliance with RCRA LDRs. The information in the bulletin is based on existing regulatory requirements, longstanding guidance, and formal policy.

In order to ensure compliance with LDRs, Waste Analysis Plans (WAPs) must be developed for RCRA permitted or interim status facilities. A WAP establishes the mandatory requirements for hazardous waste sampling and analysis procedures which will be routinely used to ensure owners and operators of treatment, storage, and disposal facilities (TSDFs) comply with RCRA standards.

Put simply, the WAP provides the basis for monitoring how a facility meets LDRs, including mandatory requirements for sampling by treatment facilities under 40 CFR 268.7(b) and disposal facilities under 40 CFR 268.7(c). Sampling frequency is addressed in the WAP and must take into account the variability of incoming waste and variability of treated waste. The WAP regulations (40 CFR 264/265.13) state that before an owner or operator treats, stores, or disposes of any hazardous wastes, a detailed chemical and physical analysis of a representative sample of the waste must be obtained and, at a minimum, the analysis must contain all of the information which must be known to treat, store or dispose of the waste in compliance with applicable requirements, including LDR requirements.

The information bulletin is the synthesis of the EPA's reviews of 57 hazardous waste treatment facility WAPs and examination of 14 facility LDR inspection sampling results. This review and examination revealed insufficient LDR treatment verification sampling at many facilities and high LDR failure rates in treatment residues. Of the 14 facility inspection sampling data sets from some of the same WAP-reviewed facilities, only four facility inspection sampling events (28%) showed all sampled batches in compliance with LDR treatment standards, whereas 10 inspection sampling events (72%) failed LDR treatment standards. Batch failure rates ranged from 2.6 to 84% at facilities with LDR treatment standard failures.

A well-designed and well-operated treatment process should always produce compliance sample concentrations of less than the LDR treatment standards. The key concepts that were used by the EPA in promulgating the LDR treatment standards can be separated into three areas:

- Permit writers and facilities creating effective treatment process designs and operating controls in RCRA permits.
- WAP conditions that address LDR verification sampling and analysis to ensure the proper treatment of all portions of the waste while considering temporal (time) and spatial variations in the treated waste.
- The inspector's role in determining LDR compliance through independent sampling.

EPA's analysis of inspection sampling results and WAPs shows that facilities that perform more frequent LDR verification sampling are more likely to dispose of wastes that meet LDR treatment standards. The more a facility conducts LDR certification sampling, the more likely the facilities will catch the failed treatment batches. Additionally, while an inspector conducts independent sampling, the treatment facilities' WAPs ensure more robust sampling procedures to ensure all portions of the treated waste meets the LDR treatment standards.

In order to develop the LDR treatment standards, EPA reviewed both pre- and post-treatment concentrations, and process descriptions of facilities that treated wastes. If a facility's process was well-designed and operated, and total or leachable constituent concentrations were reduced by the treatment, EPA considered that process a potential Best Demonstrated Available Technology (BDAT). The treatment standards were created from statistical comparison of the different potential BDATs. The design of the treatment process should be aimed toward the mean BDAT concentrations and not the actual LDR treatment standard concentrations.

The information bulletin describes and explains two sampling approaches to LDR compliance. The two sampling approaches are proving the negative and proving the positive. One sampling approach is for inspectors seeking to determine LDR compliance, and the other approach is for permit writers and facilities intending to ensure LDR compliance utilizing permit and WAP conditions.

Simply stated, an inspector's grab sample with a concentration greater than the LDR standard positively proves the batch has failed. This only requires a single measurement above the regulatory level to draw the conclusion that the waste, at least in part, exceeds the not-to-exceed regulatory standard. Sampling strategies for this purpose would not require sampling for all aspects of the waste to prove the waste has failed the regulatory threshold. In contrast, the LDR sampling and analysis objectives of a treatment facility's WAP may focus on "proving the negative."

Proving the negative is described as attempting to "prove that a waste does not contain a given analyte at a specific concentration. . ." (55 FR 4441). Sampling strategies for proving the negative "should be thorough enough to ensure that one does not conclude waste [meets the regulatory standard] when, in fact, it [does not]. For example, one needs to take enough samples so that one does not miss areas of high concentration in an otherwise clean material" (55 FR 4441).

The information bulletin compares grab sampling and composite sampling. A grab sample is one aliquot of waste collected at one location and at one point in time. Alternatively, a representative composite sample generally consists of proportionally mixing multiple grab samples taken from more than one point over an area or time period. All current LDR treatment standards for non-wastewaters are based on grab sampling data, and therefore grab sampling is the most appropriate sampling method for determining LDR compliance.

The bulletin identifies the following permit conditions as items that ensure a high degree of design and operation:

- Segregating generator waste streams
- Pre-treatment analysis
- Small treatment batch sizes
- Prescribed treatment processes
- Minimum mixing times

The bulletin also discusses several example elements of well-designed and well-operated treatment processes. Some of the notable examples include:

- To ensure proper treatment, the wastes should be characterized to ensure the waste treatment "recipes" are appropriate. The amount and type of stabilizing agent and additives should be carefully selected based on the chemical and physical characteristics of the waste to be stabilized, often supported with treatability studies.
- To ensure a homogenous waste for treatment, use size reduction methods (e.g., hammer mill and shredding) and waste pre-mixing. Industry best practices recommend homogenizing variable wastes to optimize treatment (Conner, J.R., 1990).
- Address how failed treatment batches will be handled, retreated, and resampled; and how the wastestream will be treated to prevent such failures in the future.



- To ensure proper treatment, use effective stabilization technology practices:
  - Stabilization temperature and humidity – higher temperatures and low humidity increase the rate of curing.
  - Form of metal compound – the metal should ideally be in its least soluble form to reduce leaching/migration.
  - Permit writers and inspectors should confirm the facility is employing the technology and equipment described in the permit application, as there have been instances where cheaper and chemically insufficient reagents and techniques were substituted without notice.
  - Permit writers and inspectors should also confirm that sufficient moisture is available during hazardous waste stabilization as most stabilization reactions occur only under aqueous conditions. Dry mixing of waste and reagents does not change the chemical form of the waste constituents as no reaction has taken place.

The bulletin also discusses several example elements of WAP LDR Verification Sampling, example elements for Inspectors' LDR Sampling and examples of improving LDR Elements of Permit Conditions and WAPs. Please reference the bulletin for these examples. The examples begin on page 11 of the bulletin and continue through page 18.

## Reference/Link

The link below will allow you to view/print this Information Bulletin.

[https://www.epa.gov/system/files/documents/2022-05/LDR\\_InformationBulletin\\_4-29-22.pdf](https://www.epa.gov/system/files/documents/2022-05/LDR_InformationBulletin_4-29-22.pdf)

## F. **Parts and Accessories Necessary for Safe Operations; Speed Limiting Devices; Advanced Notice of Proposed Rulemaking**

### Agency

Federal Motor Carrier Safety Administration (FMCSA)

### Dates

Published Date: 05/04/2022

Comments Due: 06/18/2022

### Summary

FMCSA announces its intent to proceed with a speed limiter rulemaking by preparing a supplemental notice of proposed rulemaking (SNPRM) to follow up on the National Highway Traffic Safety Administration's (NHTSA) and FMCSA's jointly issued September 7, 2016 notice of proposed rulemaking (NPRM) on this subject. The SNPRM will propose that motor carriers operating commercial motor vehicles (CMVs) in interstate commerce with a gross vehicle weight rating (GVWR) or gross vehicle weight (GVW) of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, that are equipped with an electronic engine control

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unit (ECU) capable of governing the maximum speed be required to limit the CMV to a speed to be determined by the rulemaking and to maintain that ECU setting for the service life of the vehicle. With this notice of intent, FMCSA requests public comments and data regarding the adjustment or reprogramming of ECUs.

## **Background**

NHTSA and FMCSA jointly published in the Federal Register on September 7, 2016, at (81 FR 61942) proposed regulations that would require vehicles with a GVWR of more than 11,793.4 kilograms (26,000 pounds) to be equipped with a speed limiting device set to a maximum speed to be specified in a final rule and would require motor carriers operating such vehicles in interstate commerce to maintain functional devices set to that speed for the service life of the vehicle (81 FR 61942).

Specifically, NHTSA proposed to establish a new Federal Motor Vehicle Safety Standard (FMVSS) requiring each vehicle with a GVWR of more than 11,793.4 kilograms (26,000 pounds), as manufactured and sold, to have its device set to a speed not greater than a specified speed and to be equipped with means of reading the vehicle's current speed setting and the two previous speed settings (including the time and date the settings were changed) through its on-board diagnostic connection.

FMCSA proposed a complementary Federal Motor Carrier Safety Regulation (FMCSR) requiring each multipurpose passenger vehicle, truck, and bus and school bus with a GVWR of more than 11,793.4 kilograms (26,000 pounds) to be equipped with a speed limiting device meeting the requirements of the proposed FMVSS applicable to the vehicle at the time of manufacture, including the requirement that the device be set to a speed not greater than a specified speed. Motor carriers operating such vehicles in interstate commerce would be required to maintain the speed limiting devices for the service life of the vehicle. At the time the 2016 NPRM was published, NHTSA and FMCSA stated that all vehicles with electronic engine control units (ECUs) are generally electronically speed governed to prevent engine or other damage to the vehicle. This is because the ECU monitors an engine's RPM (from which vehicle speed can be calculated) and also controls the supply of fuel to the engine. The NPRM stated that the information NHTSA analyzed indicated that ECUs have been installed in most heavy trucks since 1999, although the Agency was aware that some manufacturers were still installing mechanical controls through 2003 (81 FR 61947). Based on this background, it is likely the required means of achieving compliance with a speed limiter requirement would be to use the ECU to govern the speed of the vehicle rather than installing a mechanical means of doing so.

The Fall 2021 Unified Agenda of Regulatory and Deregulatory Actions, published December 10, 2021, lists both speed limiter rules, from NHTSA (Regulation Identification Number 2127-AK92) and FMCSA (Regulation Identification Number 2126-AB63), as long-term actions. This notice informs the public that FMCSA intends to move forward with a separate motor carrier-based speed limiter rulemaking. FMCSA believes that placing the requirement on motor carriers will ensure compliance with the rule, and potentially avoid confusion on who is responsible. FMCSA believes the requirements can be met by the motor carriers but asks questions in the federal register publication to validate that approach. FMCSA will continue to consult with NHTSA during the development of this rule. If necessary, NHTSA will evaluate the need for additional regulatory actions concerning CMV manufacturer requirements to address issues raised during implementation that are beyond the scope of FMCSA's authority.

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## FMCSA Intention

FMCSA intends to issue an SNPRM that would, if adopted, impose speed limitations on certain CMVs subject to the FMCSRs. The rulemaking would propose that motor carriers operating certain commercial motor vehicles, as defined in 49 CFR 390.5, in interstate commerce that are equipped with an ECU capable of setting speed limits to be required to limit the CMV to a speed to be determined by the rulemaking and to maintain that limit for the service life of the vehicle. The agency is considering making the rule only applicable to CMVs manufactured after a certain date, such as 2003, because this is the population of vehicles for which ECUs were routinely installed and may potentially be used to govern the speed of the vehicles. FMCSA seeks data listed in the federal register notice to determine if that approach should be revised in the forthcoming SNPRM. The agency is considering whether a retrofit requirement would be necessary and requests information related to retrofit in the federal register.

FMCSA is not yet proposing regulatory language to amend the FMCSRs in this notice.

On May 27, the FMCSA extended the comment period to July 18, 2022.

## Reference/Link

The link below will allow you to view/print this Advanced Notice of Proposed Rulemaking.

<https://www.govinfo.gov/content/pkg/FR-2022-05-04/pdf/2022-09443.pdf>

## G. National Hazardous Materials Route Registry; Notice

### Agency

Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT)

### Dates

Published Date: 5/11/2022

Effective Date: 5/11/2022

### Summary

This notice is issued by the FMCSA to provide revisions to the National Hazardous Materials Route Registry (NHMRR) reported to FMCSA from April 1, 2021 through March 31, 2022. The NHMRR is a listing, as reported by States and Tribal governments, of all designated and restricted roads and preferred highway routes for transportation of highway route controlled quantities of Class 7 radioactive materials (HRCQ/RAM) and non-radioactive hazardous materials (NRHM).

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In this notice, FMCSA is merely updating and publishing the NHMRR based on input from its State and Tribal partners under 49 U.S.C. 5112(c)(1). Accordingly, this notice serves only to provide the most recent revisions to the NHMRR; it does not establish any new public information and reporting requirements. Please refer to the Federal Register Notice for complete details regarding the revisions to the NHMRR.

## Reference/Link

The link below will allow you to view/print this Notice.

<https://www.govinfo.gov/content/pkg/FR-2022-05-11/pdf/2022-10038.pdf>

## H. PHMSA; Safety Notice for the Disposal/Recycling of Lithium Batteries; Safety Advisory

### Agency

Pipeline and Hazardous Materials Safety Administration (PHMSA)

### Dates

Published Date: 05/17/2022

### Summary

On Tuesday, May 17, 2022, PHMSA issued a safety advisory notice for the disposal and recycling of lithium batteries in commercial transportation. The notice was issued to increase the public's awareness about the dangers related to shipping lithium batteries for recycling or disposal including the increased hazards associated with damaged, defective or recalled batteries.

The notice provides the following:

1. Summarizes the regulatory information needed for shipping lithium batteries in commercial transportation for recycling and disposal.
2. Discusses the general dangers of shipping lithium batteries and the steps shippers and carriers need to take when disposing and recycling lithium batteries and equipment/products containing lithium batteries.
3. Directs readers to a variety of additional resources for further information on preparing lithium batteries for shipment; and
4. Identification of damaged, defective or recalled lithium batteries.

## Reference/Link

The link below will allow you to view/print this safety advisory.

<https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2022-05/Final-05-16-Lithium-Battery-Recycling-Safety-Advisory.pdf>

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## I. Improve Tracking of Workplace Injuries and Illnesses; Extension of Comment Period

### Agency

Occupational Safety and Health Administration (OSHA)

### Dates

Published Date: 5/25/2022

Comments Due: 6/30/2022

### Summary

The Occupational Safety and Health Administration (OSHA) is extending the comment period on the proposed rule on Improve Tracking of Workplace Injuries and Illnesses for an additional 30 days, to June 30, 2022. This proposed rule would amend the regulations on injury and illness recordkeeping.

This proposed rule was originally published on March 30, 2022 and a full summary can be found in the March Veolia Regulatory Update.

### Reference/Link

The link below will allow you to view/print this Extension of Comment Period.

<https://www.govinfo.gov/content/pkg/FR-2022-05-25/pdf/2022-11213.pdf>