

# Veolia North America - Industrial Business

## September, 2022

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**A. Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances; Proposed Rule**

## Agency

Environmental Protection Agency (EPA)

## Dates

Published Date: 9/06/2022

Comments Due: 11/07/2022, preferred prior to 10/06/2022

## Summary

The Environmental Protection Agency (EPA) is proposing to designate perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers, as hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (known as “CERCLA” or “Superfund”).

The proposed designation of PFOA and PFOS would declare that when these substances are released into the environment they may present substantial danger to the public health or welfare or the environment. This designation would facilitate cleanup of sites contaminated with these chemicals and reduce the harm and human exposure to these chemicals.

PFOA and PFOS are two types of per- and polyfluoroalkyl substances (PFAS). This designation is relevant as PFOA and PFOS have been found in or used in making a wide range of consumer products, as well as firefighting at airfields and in a number of industrial processes. PFOA and PFOS are persistent and mobile in the environment, and exposure can lead to adverse human health effects, including high cholesterol, changes in liver enzymes, decreased immune response to vaccination, thyroid disorders, pregnancy-induced hypertension and preeclampsia, and cancer (testicular and kidney for PFOA, liver and thyroid cancer for PFOS).

The proposed rule designates the reportable quantity (RQ) for these substances as 1 pound or more in a 24 hour period. The definition of reportable quantity from [40 CFR 117.1](#) is “quantities that may be harmful as set forth in [§ 117.3](#), the discharge of which is a violation of section 311(b)(3) and requires notice as set forth in [§ 117.21](#).”

In addition, when selling or transferring Federally-owned real property, Federal agencies would be required to meet all of the property transfer requirements in CERCLA section 120(h), including providing notice when any hazardous substance “was stored for one year or more, known to have been released, or disposed of” and providing a covenant warranting that “all remedial action necessary to protect human health and the environment with respect to any [hazardous substances] remaining on the property has been taken before the date of such transfer, and any additional remedial action found to be necessary after the date of such transfer shall be conducted by the United States.”

Additionally, this would require the Department of Transportation (DOT) to list and regulate these substances as a hazardous material under the Hazardous Materials Transportation Act (HMTA).

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As concerns have arisen regarding PFOA and PFOS many states have taken regulatory action. States that have started taking regulatory steps to address PFOA and PFOS include Alabama, Arizona, Idaho, Kentucky, Nebraska, West Virginia, Alaska, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Vermont, Washington, and Wisconsin.

The designation would also have the following indirect, downstream effects:

- EPA and other agencies exercising delegated CERCLA authority could respond to PFOA and PFOS releases and threatened releases without making the imminent and substantial danger finding that is required for responses now.
- EPA and delegated agencies could require potentially responsible parties to address PFOA or PFOS releases that pose an imminent and substantial endangerment to public health or welfare or the environment.
- EPA and delegated agencies could recover PFOA and PFOS cleanup costs from potentially responsible parties, to facilitate having polluters and other potentially responsible parties, rather than taxpayers, pay for these cleanups.
- Private parties that conduct cleanups that are consistent with the National Oil and Hazardous Substances Contingency Plan (NCP) could also recover PFOA and PFOS cleanup costs from potentially responsible parties.

The EPA believes that this proposed rule will have public health benefits. Comments for the proposed rule will be accepted up until November 7th, 2022.

## Reference/Link

The link below will allow you to view/print the proposed rule.

<https://www.govinfo.gov/content/pkg/FR-2022-09-06/pdf/2022-18657.pdf>

## B. Electronic Logging Device Revisions; Advanced Notice of Proposed Rulemaking

### Agency

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

### Dates

Published Date: 09/16/2022

Comments Due: 11/15/2022

### Summary

The Electronic Logging Device final rule (80 FR 78291, Dec. 16, 2015), established minimum performance and design standards for hours of service (HOS) electronic logging devices (ELDs); requirements for the mandatory use of these devices by drivers who were currently required to prepare Hours of Service (HOS) records of duty status (RODS); requirements

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concerning HOS supporting documents; and measures to address concerns about harassment resulting from the mandatory use of ELDs.

FMCSA believes that the lessons learned by Agency staff, State enforcement personnel, ELD providers, and industry over the last few years can be used to streamline and improve the clarity of the regulatory text and ELD technical specifications and resolve questions that have arisen. In addition, technical specifications could be updated to address concerns raised by affected parties and improve the functionality of ELDs.

### Request for Comments

The Agency seeks comments and data from the public in response to this ANPRM. FMCSA requests that commenters specifically address the issues listed below, and number their comments to correspond to each issue.

1. Applicability to Pre-2000 Engines
  - a. Many vehicles with pre-2000 engines and most vehicles with rebuilt pre-2000 engines have engine control modules (ECMs) installed that could accommodate an ELD. Should FMCSA re-evaluate or modify the applicability of the current ELD regulation for re-built or re-manufactured CMV engines or glider kits?
  - b. Please provide data regarding the size of the glider kit population utilizing pre-2000 engines.

2. Addressing ELD Malfunctions

Currently, §395.34(a) requires a driver documenting his or her RODS to switch to paper logs when an ELD malfunctions. §395.34(c) requires a driver to follow the motor carrier and ELD provider recommendations when a data diagnostic event is logged. Whenever an ELD fails to record a driver's hours, enforcement personnel must be able to review the driver's paper logs. By contrast, when an ELD malfunctions but continues to record the driver's hours accurately, the driver should not switch to paper logs.

Should FMCSA amend carrier and driver responsibilities in §395.34 to clarify when a driver must switch to paper logs?

3. Removal Process

- a. If an ELD provider goes out of business and fails to self-revoke, should FMCSA be able to immediately remove the device from the registered ELD list?
- b. The ELD rule requires ELD providers to keep their information current. However, the rule does not include a time restriction. Should FMCSA require ELD providers to update their listing within 30 calendar days of any change to their registration information found in section 5.1.1? Additionally, should ELD providers be required to confirm their information on an annual basis? Should an ELD provider's ELD be removed from the FMCSA list if it fails to confirm or update its listing on an annual basis?
- c. Under Section 5.4 Removal of Listed Certification, providers must respond to the Agency's written notice of required corrective action within 30 days to remain on the list. Additionally, the provider is given 60 days after the Agency provides a written modification to the notice of proposed removal or notice to affirm the proposed removal under Section 5.4.4. Should FMCSA

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consider decreasing the 60-day period to 30 days, in order to more timely remove an ELD listing found with non-compliance issues that could adversely impact highway safety?

- d. Should FMCSA consider any other factors related to a carrier's continued use of a device that has been removed from the FMCSA list due to a provider's status (out of business or failure to file an annual registration update)?

#### 4. Technical Specifications

- a. Would ELD providers be able to include, in the output file and registration, the version numbers of the individual components of the ELD (e.g., the software version number running on the graphical user interface/tablet, the firmware running on the gateway/black box, and the software version number of the back-office software), if any of these components were required to comply with the ELD regulations?
- b. FMCSA requests information on the impact of including the following data elements to every event. FMCSA believes recording this information would allow the technical specifications to be modified to eliminate the requirements of providing power up and shut down events from vehicles a driver has previously operated that are not associated with the requested driver's data/RODS:
  - i. Actual odometer
  - ii. Actual engine hours
  - iii. Location description
  - iv. Geo-location
  - v. VIN
  - vi. Power unit
  - vii. Shipping document number
  - viii. Trailer number
  - ix. Driver
  - x. Co-driver if there was one
  - xi. Which driver was driving at the time, if there was a co-driver
- c. To more efficiently monitor a vehicle over the course of its operation, should more frequent intermediate recordings (including the same data elements listed in 4b.) be required on the quarter hour, half hour, three-quarter hour, and hour? If not, what would be a reasonable frequency to require intermediate recordings?
- d. FMCSA granted a temporary exception (82 FR 48883, Oct. 20, 2017) that allowed all motor carriers to configure an ELD with a yard-move mode that does not require a driver to re-input yard-move status every time the tractor is powered off. Additionally, the ELD would switch to a "driving" duty status under §395.24 if (1) the driver inputs "driving," (2) the vehicle exceeds 20 mph, or (3) the vehicle exits the geo-fenced yard. Should FMCSA consider adding this temporary exception to the regulation? Are there other factors related to this temporary exception that should be considered?
- e. In the preamble to the 2015 final rule, FMCSA stated that the driver was expected to enter a new duty status before powering off the ELD and turning the vehicle off. However, drivers often fail to enter a new duty status prior to powering off the ELD, resulting in the driver remaining in driving status. To eliminate the issue, should the ELD automatically record an on-duty not-driving event following the recording of an engine shutdown? Are there other options that should be considered?

- f. The industry has reported that the current 5 second requirement is not enough time for an ELD to obtain the information it has requested from the ECM, as required by section 4.6.1.2 in the Appendix to subpart B of part 395. What would be a reasonable amount of time? Is this an issue only at power up?
  - g. Should FMCSA consider allowing a driver, rather than the motor carrier, to change his or her ELD configuration to an exempt status to help reduce the administrative burden noted by the industry? Should FMCSA consider expanding the list of special driving categories in §395.28(a) to include driving performed under an exemption? If so, what data should be recorded to specifically identify who made the change, why the change was made, and where the change took place, to achieve an equivalent level of safety to prevent falsification?
  - h. Would the technical specification changes discussed in this section necessitate a change in ELD hardware? Or could these changes be pushed to existing ELD devices via a software update? If such updates are feasible, what would the cost implications be?
  - i. Should other technical specifications, not addressed in this list, be considered for revision to improve ELD data recording, data transfer, cross-border commerce or information security and compliance? Please provide data to support your suggestion.
  - j. What action(s) do you recommend FMCSA take to ensure that ELD specifications remain current with advances in technology?
5. ELD Certification
- a. Should FMCSA establish a certification process for ELDs? If so, what should a certification process consist of?
  - b. Based on your answer to the above questions, what would be the costs and benefits of that approach?
  - c. If a certification process is established, how should existing devices be treated?

## Reference/Link

The link below will allow you to view/print this advance notice of proposed rulemaking; request for comments.

<https://www.govinfo.gov/content/pkg/FR-2022-09-16/pdf/2022-20095.pdf>

## C. **Process Safety Management (PSM), Stakeholder Meeting; Notice of stakeholder meeting; updated date after postponement**

### Agency

Occupational Safety and Health Administration (OSHA)

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## Dates

Published Date: 09/20/2022

Updated Meeting Date: 10/12/2022 from 10am to 4 pm ET

Comments Due: 11/14/2022

## Summary

The Occupational Safety and Health Administration (OSHA) was set to have an informal stakeholder meeting regarding the Process Safety Management (PSM) regulations on September 28, 2022. OSHA is postponing the meeting until October 12, 2022 from 10am to 4pm ET.

This meeting will be held virtually and OSHA is inviting participants to provide public comments related to potential changes to the PSM standard that OSHA is considering. Written comments must be submitted by November 14, 2022.

The stakeholder meeting will be held virtually on Webex. If you wish to attend the meeting or provide public comment, please register online as soon as possible at <https://www.osha.gov/process-safetymanagement/background/2022stakeholdermtg>.

## Reference/Link

The link below will allow you to view/print this Notice of stakeholder meeting; updated date after postponement.

<https://www.govinfo.gov/content/pkg/FR-2022-09-20/pdf/2022-20261.pdf>

### **D. Schedules of Controlled Substances: Placement of Daridorexant in Schedule IV; Final Rule**

## Agency

Drug Enforcement Administration (DEA)

## Dates

Published Date: 09/30/2022

Effective Date: 10/31/2022

## Summary

This final rule adopts without change an interim final rule with request for comments published in the Federal Register on April 7, 2022, placing daridorexant ([[(S)-2-(5-chloro-4-methyl-1H-benzo[d]imidazol-2-yl)-2-methylpyrrolidin-1-yl](5-methoxy-2-(2H-1,2,3-triazol-2-yl)phenyl)methanone), including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of such isomers is possible, in schedule IV of the Controlled Substances Act (CSA).

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With the issuance of this final rule, the Drug Enforcement Administration maintains daridorexant in schedule IV of the CSA. This rule will be effective October 31, 2022.

## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-09-30/pdf/2022-21253.pdf>

### E. **Select Agent: Determination That Vaccine Strain, TC–83(A3G) of Venezuelan Equine Encephalitis Virus (VEEV) Is a Regulated Strain of VEEV**

## Agency

Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

## Dates

Published Date: 09/01/2022

Effective Date: 09/01/2022

## Summary

The Centers for Disease Control and Prevention (CDC) has determined that a modification to the attenuated, excluded strain Venezuelan Equine Encephalitis Virus (VEEV) TC–83 has been shown to increase its virulence, or severity. The modified VEEV strain TC–83(A3G) demonstrated increased pathogenicity and lethality.

Therefore, the modified VEEV strain TC–83(A3G) is not an excluded strain but is a select agent and is subject to regulation. This is effective as of September 1, 2022.

## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2022-09-01/pdf/2022-18973.pdf>