

# Veolia North America - Industrial Business

## March, 2023

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## A. PFAS National Primary Drinking Water Regulation Rulemaking; Proposed Rule

### Agency

Environmental Protection Agency (EPA)

### Dates

Published Date: 3/29/2023

Comments Due: 5/30/2023

### Summary

The Environmental Protection Agency (EPA) has issued a preliminary regulatory determination to regulate perfluorohexane sulfonic acid (PFHxS), hexafluoropropylene oxide dimer acid (HFPO–DA) and its ammonium salt (also known as a GenX chemicals), perfluorononanoic acid (PFNA), and perfluorobutane sulfonic acid (PFBS), and mixtures of these PFAS as contaminants under Safe Drinking Water Act (SDWA). This action is also proposing a National Primary Drinking Water Regulation (NPDWR) and health-based Maximum Contaminant Level Goals (MCLG) for these four per- and polyfluoroalkyl substances (PFAS) and their mixtures as well as for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS).

The EPA is proposing the following regulatory limits:

- EPA is proposing to set the health-based value, the MCLG, for PFOA and PFOS at zero.
- EPA is proposing individual MCLs of 4.0 nanograms per liter (ng/L) or parts per trillion (ppt) for PFOA and PFOS.
- EPA is proposing an Hazard Index (HI) of 1.0 as the MCLGs for these four PFAS and any mixture containing one or more of them because it represents a level at which no known or anticipated adverse effects on the health of persons is expected to occur and which allows for an adequate margin of safety. The EPA is also considering setting the MCLs for these four PFAS and for a mixture containing one or more of PFHxS, HFPO–DA and its ammonium salt, PFNA, PFBS as an HI of unitless 1.0.

The EPA is requesting comments for this action. Comments must be received on or before May 30, 2023.

### Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-03-29/pdf/2023-05471.pdf>

## B. Data Quality Issues with Hazardous Waste Manifests Submitted to EPA's e-Manifest System; Compliance Advisory

### Agency

Environmental Protection Agency (EPA)

### Dates

Published Date: 03/14/2023

### Summary

The Environmental Protection Agency (EPA) published a compliance advisory to assist hazardous waste handlers reduce data quality issues with the e-Manifest system. Currently all federal hazardous waste, TSCA regulated PCB waste, state-regulated hazardous waste, and imported waste must be submitted on a manifest to the e-Manifest system.

The compliance advisory begins by identifying that inaccurate or missing ID numbers are a data quality issue that occurs today. Without an accurate EPA ID entered into the system, users are not able to use the e-Manifest system to meet the three-year recordkeeping requirements and are not able to use the e-Manifest post submission corrections process to modify manifests with data errors. The compliance advisory suggests that users search for existing site ID numbers in RCRAInfo using the site name, address, state and/or zip code. Additionally, the compliance advisory suggests that hazardous waste handlers verify client's EPA ID numbers and check if EPA ID numbers need to be updated.

The second issue that is identified in the compliance advisory is having a mismatched Manifest Tracking Number (MTN) and invalid paper manifest usage. The MTN serves as a reference for communication and tracking between generators, transporters, states and EPA users. If a company uses a non-approved printing company for their manifests they could have invalid MTNs that were not approved and registered by the EPA. Hazardous waste handlers must only use approved and registered printing companies. The EPA has a list of approved and registered printers at the following link:

<https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry>

The third issue pertains to the digitization of paper manifests. These errors are commonly due to typographical errors or illegible information on the paper manifest. The compliance advisory suggests going fully electronic instead of using paper submissions. Alternatively, handlers that use paper manifests should use the post-submission corrections process in RCRAInfo to resolve digitization errors.

### Reference/Link

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

<https://www.epa.gov/system/files/documents/2023-03/e-manifest-advisory.pdf>

**C. Toxic Chemical Releases in 2021 Remained Below Pre-Pandemic Levels According to New Toxics Release Inventory Data; News Release**

## Agency

Environmental Protection Agency (EPA)

## Dates

Published Date: 03/16/2023

## Summary

The Environmental Protection Agency (EPA) released its 2021 Toxic Release Inventory (TRI) National Analysis on March 16, 2023. The TRI National Analysis showed that environmental releases of TRI chemicals from facilities remained below pre-pandemic levels and releases in 2021 were 10% lower than 2021, even with an 8% increase from 2020 to 2021.

Additionally, facilities managed 89% of TRI chemical waste through the preferred practices of recycling, energy recovery and treatment, while reporting that they released 11% of their TRI chemical waste into the environment.

EPA has also demographic information in the “Where You Live” mapping tool and in the Chemical Profiles section. Users are able to view facility locations with overlaid demographic data to identify potential exposure to TRI chemical releases in disadvantaged communities.

2021 was the second year that the TRI National Analysis included per- and polyfluoroalkyl substances (PFAS). For Reporting Year 2021, 176 PFAS were reportable to TRI. Throughout 2021, facilities reported managing 1.3 million pounds of PFAS chemicals as waste, which is an increase from the 800,000 pounds in 2020.

To view the 2021 TRI National Analysis and data visualizations please click the following link:  
<https://www.epa.gov/trinationalanalysis>

## Reference/Link

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

<https://www.epa.gov/newsreleases/toxic-chemical-releases-2021-remained-below-pre-pandemic-levels-according-new-toxics#:~:text=WASHINGTON%20%E2%80%94%20Today%2C%20the%20U.S.%20Environmental,10%25%20lower%20than%202012%20releases%2C>

**D. EPA Method 23—Determination of Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources; Final Rule**

## Agency

Environmental Protection Agency (EPA)

## Dates

Published Date: 03/20/2023

Effective Date: 03/20/2023

## Summary

The Environmental Protection Agency (EPA) has published a final rule that finalizes editorial and technical revisions to EPA's Method 23. Method 23 is used in the determination of the amount of Polychlorinated Dibenzo-p-Dioxins, Polychlorinated Dibenzofurans, and Polycyclic Aromatic Hydrocarbons emitted from Stationary Sources.

The EPA believes that the final revisions allow facilities flexibility when sampling and measuring polychlorinated dibenzo-p dioxins and polychlorinated dibenzofurans (PCDD/PCDF), polycyclic aromatic hydrocarbons (PAH), and polychlorinated biphenyls (PCB) from stationary sources with a comprehensive isotope dilution method while ensuring that the stack testing community can consistently implement the method across emissions sources and facilities.

The final revisions include the following:

1. Incorporating true, comprehensive, and stable isotope dilution for quantifying target compounds using corresponding carbon-13 labeled compounds for each target compound including most of the polycyclic aromatic hydrocarbons (PAH)
2. Changing the method quality control from the current prescriptive format to a more flexible performance based approach with specified performance criteria
3. Expanding the list of target compounds of Method 23 to include PAH and polychlorinated biphenyls (PCB)

The final revisions include the following editorial changes, this list is not exhaustive:

1. Changing section 1 from "Applicability and Principle" to "Scope and Application"
2. Renaming Section 2.0 from "Apparatus" to "Summary of Method"
3. Including definitions of key terms and variables used in Method 23
4. Adding a section to discuss conditions that can potentially interfere with measurements
5. Adding a section to provide safety procedures
6. Renumbering and renaming the "Apparatus" section to "Equipment and Supplies"
7. Renumbering and renaming the "Reagents" section to "Reagents, Media, and Standards"
8. Renumbering and renaming the "Procedure" section to "Sample Collection, Preservation, and Storage"
9. Renumbering the "Quality Control" section to section 9 and making technical changes

10. Renumbering and renaming the “Calibration” section to “Calibration and Standardization”
11. Renumbering and renaming the “Analysis” section to “Analysis Procedure”
12. Renumbering and renaming the “Calculations” section to “Data Analysis and Calculations”
13. Adding a section titled “Method Performance” that includes Method Performance Specifications for Section 13
14. Adding a section titled “Pollution Prevention”
15. Adding a section titled “Waste Management”
16. Renumbering the “Bibliography” section to Section 16
17. Adding a section titled “Tables, Diagrams, Flow Charts, and Validation Data”

The EPA is incorporating by reference American Society for Testing and Materials (ASTM) D6911–15 and ASTM D4840–99(2018)e1 in Method 23. These standards may be obtained from [www.astm.org](http://www.astm.org) or from the American Society for Testing and Materials 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959.

Please click the following link to view a FAQ for Method 23 published by the EPA on March 2023: [https://www.epa.gov/sites/default/files/2016-08/documents/method23\\_faq.pdf](https://www.epa.gov/sites/default/files/2016-08/documents/method23_faq.pdf)

## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-03-20/pdf/2023-04958.pdf>

## E. **EPA; Alert Regarding Disposal of Hazardous Waste Material from East Palestine, Ohio, Train Derailment Site; Memorandum**

### Agency

Environmental Protection Agency (EPA)

### Dates

Published Date: 03/17/2023

### Summary

The Environmental Protection Agency (EPA) has released a memorandum following the train derailment incident in East Palestine, Ohio. The purpose of the letter was to communicate to state environmental agencies the need for “continued cooperation in addressing local and national concerns for cleanup and waste management.”

The EPA states that some states may be seeking to block acceptance of out-of-state hazardous waste material from the East Palestine, Ohio, Train Derailment site. The EPA explains that this is impermissible, as states cannot ban interstate transport of waste in these circumstances. The Commerce Clause limits the power of states to discriminate against interstate commerce, including by curtailing the movement of articles in commerce such as the interstate movement of hazardous waste.

## Reference/Link

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

<https://www.epa.gov/system/files/documents/2023-03/East%20Palestine%20EPA%20-%20State%20Letter%20-%20March%2017.pdf>

## F. Hazardous Materials: Adoption of Miscellaneous Petitions and Updating Regulatory Requirements

### Agency

US Department of Transportation (USDOT)  
Pipeline and Hazardous Materials Safety Administration (PHMSA)

### Dates

Published Date: 03/03/2023  
Comments Due: 05/02/2023

### Summary

On March 3, 2023, PHMSA published a notice of proposed rulemaking (NPRM) entitled, "Hazardous Materials: Adoption of Miscellaneous Petitions and Updating Regulatory Requirements". In this rulemaking, PHMSA proposes amendments to the Hazardous Materials Regulations (HMR) to update, clarify, improve the safety of, or streamline various regulatory requirements. Specifically, the rulemaking responds to 18 petitions for rulemaking submitted by the regulated community between May 2018 and October 2020 that requests PHMSA address a variety of provisions, including but not limited to those addressing packaging, hazard communication, and the incorporation by reference of certain documents. The proposed revisions maintain or enhance the existing high level of safety under the HMR while providing clarity and appropriate regulatory flexibility in the transport of hazardous materials. Comments are due on May 2, 2023.

The majority of the proposed amendments are related to incorporation by reference documents, pamphlets and instructions and do not have a direct impact on Veolia.

Two proposals that could have a direct impact on Veolia operations include:

1. Clarification of the Marking Requirements for Button Cell Lithium Batteries Contained in Equipment and
2. Authorizing Smaller Combustible Placard on IBCs which are summarized below.

*The information contained herein is provided by Veolia North America for general informational purposes only. This information should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you should have any questions, please contact Kevin McGrath, Director, Environment at [kevin.mcgrath@veolia.com](mailto:kevin.mcgrath@veolia.com) or Nick Fiori, EHS Manager at [Nicholas.fiori@veolia.com](mailto:Nicholas.fiori@veolia.com).*

### **Clarification of the Marking Requirements for Button Cell Lithium Batteries Contained in Equipment**

In its petition (P-1726),<sup>15</sup> COSTHA requests that PHMSA amend 49 CFR 173.185(c)(3) to clarify that lithium button cell batteries installed in equipment are excepted from the marking requirement and not subject to the quantity per package or per consignment limitation. Currently, §173.185(c)(3) states that “Each package must display the lithium battery mark except when a package contains button cell batteries installed in equipment (including circuit boards), or no more than four lithium cells or two lithium batteries contained in equipment, where there are not more than two packages in the consignment.” In its petition, COSTHA asserts that the language and grammar used to convey the exception from display of the lithium battery mark has led some in the industry to interpret the exception for button cell batteries to be dependent on the number of cells in a package or the number of packages in the consignment.

Consistent with the petition, PHMSA proposes revisions that clarify the exception in §173.185(c)(3) applies when a package contains only button cell batteries installed in equipment; or when there is a consignment consisting of two packages or less, and each package contains no more than four lithium cells or two batteries installed in equipment. Additionally, PHMSA proposes to revise the introductory language in 49 CFR 173.185(c)(3) to clarify that lithium button cell batteries installed in equipment are not subject to any quantity per package or consignment limitations when applying the exception.

### **Authorizing Smaller Combustible Placard on IBCs**

In its petition (P-1734), Evonik proposes that PHMSA revise 49 CFR 172.514(c) by adding an option for smaller placards for intermediate bulk containers (IBCs) carrying combustible liquids by adopting the provisions in DOT-SP 16295 into the HMR. This would allow shippers to transport IBCs containing combustible liquids (NA1993) bearing a combustible placard sized to be consistent with the label size specifications in 49 CFR 172.407(c). Section 172.407(c) requires diamond shaped labels to be at least 100 mm (3.9 inches) on each side. The HMR requires placards to be at least 250 mm (9.84 inches) on each side. Section 172.514(c) prescribes the exceptions for placarding bulk packages. Specifically, paragraph (c)(4) authorizes IBCs to be labeled in accordance with part 172, subpart E. However, IBCs transporting combustible liquids do not qualify for that exception because there is no authorized label for combustible liquids.

PHMSA concluded that this amendment does not change the safety requirements for the transportation of an IBC, but will provide greater flexibility by making more space available for other necessary information on the IBC. Therefore, PHMSA proposes to revise 49 CFR 172.514(c)(4) to allow IBCs containing combustible liquids to be placarded with a combustible placard that meets the label size specifications in §172.407(c). PHMSA notes that this petition was focused on allowing a smaller placard size for IBCs. Yet, §172.514(c) authorizes labels— essentially a smaller-sized placard— instead of placards for other types of bulk packagings (e.g., a portable tank having a capacity of less than 3,785 L (1000 gallons). PHMSA solicits comments on whether this rulemaking should also authorize smaller placards for other bulk packagings containing combustible liquids authorized to use a label instead of a placard, and the associated cost savings of such authorization.



## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-03-03/pdf/2023-03366.pdf>

### G. Revised Carrier Safety Management System; Notice

#### Agency

US Department of Transportation (USDOT)  
Federal Motor Carrier Safety Administration (FMCSA)

#### Dates

Published Date: 02/15/2023

Comments Due: 05/16/2023

#### Summary

On February 15, 2023, FMCSA published a notice and request for comments announcing proposed changes to the Safety Management System (aka CSA). Veolia will submit comments in favor of the proposed changes as they will help improve Veolia's motor carrier safety record in the system as monitored by the USDOT, Veolia customers, insurance carriers, etc.

The proposed changes include:

- Reorganized and updated safety categories

CSA BASIC categories will be called "*safety categories*"

If adopted, the new safety categories will be:

1. Unsafe Driving (*Will now also include controlled substances/alcohol violations*)
2. Crash Indicator
3. Hours of Service Compliance
4. Vehicle Maintenance
5. Vehicle Maintenance: Driver Observed (*NEW! Will include vehicle defects that should have been identified by a driver during a pre- or post-trip inspection or while operating the vehicle*)
6. HM Compliance
7. Driver Fitness

- Segmentation in the Driver Fitness and HM Compliance safety categories

SMS accounts for differences in carrier operations in the Unsafe Driving and Crash Indicator BASICS by segmenting carriers according to whether they primarily operate Combination vehicles (i.e., more than 70 percent of their total PUs) or Straight vehicles. Carriers that are not considered Combination carriers are considered Straight carriers. This segmentation ensures that carriers are compared to other carriers with fundamentally similar exposure to crash risk when operating their vehicles. FMCSA proposes to segment the Driver Fitness and HM Compliance safety categories to more effectively pinpoint safety issues relating to each operation type. The Driver Fitness safety category will be segmented into two segments: Straight and Combination. The HM Compliance safety category will be segmented into two segments: Cargo Tank and non-Cargo Tank carrier. A carrier is categorized as a Cargo Tank carrier if more than 50% of its inspections indicated the vehicles were Cargo Tanks.

- Consolidated Violations

Similar violation provisions would be consolidated to mitigate differences that result from inspectors citing different violation codes. Grouping similar violations together would allow motor carriers and enforcement officials to identify and address specific safety issues more easily.

- Simplified Violation Severity Weights

SMS currently assigns a severity rate on a scale from 1-10 for each violation. FMCSA is proposing to simplify the severity weight assignment to only two severity weights: "2" for OOS violations and violations in the Unsafe Driving safety category that are disqualifying offenses under 49 CFR 383.51. All other violations will be assigned with a severity weight of "1".

- Improved Intervention Thresholds

FMCSA is proposing to increase the intervention threshold in certain categories as depicted below:

Category	Current intervention thresholds		Proposed intervention thresholds	
	HM	General	HM	General
Vehicle Maintenance	75	80	75	80
Vehicle Maintenance: Driver Observed	N/A	N/A	75	80
HM Compliance	80	80	90	90
Driver Fitness	75	80	85	90

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- Greater Focus on Recent Violations

FMCSA is proposing to focus on carriers with more recent violations by assigning percentiles only to carriers that have at least one violation in the safety category in the past 12 months. This means that if a carrier's violations in a particular safety category are 12 months or older, the carrier will not be assigned a percentile in that category. Example: *This change would help the Veolia ES Technical Solutions BU to lower the percentile in the HM Compliance category to 0% if no violations are received in the last 12 months.*

- Updated Utilization Factor

The Utilization Factor in SMS helps to account for a carrier's exposure in the Unsafe Driving and Crash Indicator BASICS. Carriers with higher-than-average exposure to safety events, as measured by VMT per PUs, receive an adjustment in those BASICS. The Utilization Factor currently covers carriers that drive up to 200,000 VMT per PU per year. FMCSA's analysis found that more carriers are reporting higher VMT now than when the Utilization Factor was developed in 2009, and the 314 carriers with 200,000 to 250,000 VMT per PU were involved in about three times as many inspections per PU than the national average. This result indicates that these carriers exhibit much higher exposure to inspections than most carriers. FMCSA proposes to extend the Utilization Factor to carriers that drive up to 250,000 VMT per PU in the Unsafe Driving and Crash Indicator safety categories to more accurately account for carriers with increased exposure.

## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-02-15/pdf/2023-02947.pdf>

## H. Schedules of Controlled Substances: Placement of Brorphine in Schedule I; Final Order

### Agency

Drug Enforcement Administration (DEA)

### Dates

Published Date: 03/06/2023

Effective Date: 04/05/2023

### Summary

The Drug Enforcement Administration (DEA) is permanently placing 1-(1-(1-(4-bromophenyl)ethyl)piperidin-4-yl)-1,3-dihydro-2H-benzo[d]imidazol-2-one (commonly known as brorphine), including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, in schedule I of the Controlled Substances Act.

*The information contained herein is provided by Veolia North America for general informational purposes only. This information should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you should have any questions, please contact Kevin McGrath, Director, Environment at [kevin.mcgrath@veolia.com](mailto:kevin.mcgrath@veolia.com) or Nick Fiori, EHS Manager at [Nicholas.fiori@veolia.com](mailto:Nicholas.fiori@veolia.com).*

The DEA placed bupropion in schedule I of the Controlled Substances Act (CSA) under a temporary scheduling order on March 1, 2021. The final order published March 6, 2023 places bupropion permanently in schedule I of the CSA.

This action continues to impose the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, import, export, engage in research or conduct instructional activities with, or possess), or propose to handle bupropion.

## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-03-06/pdf/2023-04364.pdf>

### I. **Possession, Use, and Transfer of Select Agents and Toxins—Addition of SARS-CoV/SARS-CoV-2 Chimeric Viruses Resulting From Any Deliberate Manipulation of SARS-CoV-2 To Incorporate Nucleic Acids Coding for SARS-CoV Virulence Factors to the HHS List of Select Agents and Toxins; Final Rule**

## Agency

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

## Dates

Published Date: 03/03/2023

Effective Date: 03/03/2023

## Summary

The Centers for Disease Control and Prevention (CDC) has amended the select agents and toxins regulations to add SARS-CoV/SARS-CoV-2 chimeric viruses resulting from any deliberate manipulation of SARS-CoV-2 to incorporate nucleic acids coding for SARS-CoV virulence factors to the list of HHS select agents and toxins. Regulated entities must obtain prior approval from the CDC to conduct deliberate manipulation of SARS-CoV-2.

The agents and toxins placed on the HHS/CDC select list have the potential to pose severe threats to public health and safety.

## Reference/Link

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

<https://www.govinfo.gov/content/pkg/FR-2023-03-03/pdf/2023-04323.pdf>