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2024 Final Recommended Aquatic Life Criteria Benchmarks for Select PFAS: U.S. Environmental Protection Agency Rulemaking

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The United States Environmental Protection Agency (“EPA”) published a final national recommended aquatic life criteria for PFOA in freshwater.

PFOA belongs to the per-and polyfluorinated substances (“PFAS”) chemicals consisting of seven-carbon backbone and a carboxylate functional group.

EPA states that these criteria:

- Reflect the latest scientific knowledge regarding the effects of PFOA on freshwater organisms.
- Contain acute and chronic criteria for freshwaters.
- Contain chronic criteria expressed as tissue-based concentrations to protect aquatic life from PFOA bioaccumulation.

Section 303 of the Clean Water Act requires that each state develop water quality standards (“WQS”) for jurisdictional Waters of the United States within their borders.

WQS consist of three parts:

1. Designated use of the waterbody;
2. The water quality criteria (“WQC”) that are necessary to protect existing uses and to attain the beneficial uses designated by the states; and,
3. An antidegradation statement or policy to protect uses in high-quality water.

WQC are ambient water quality conditions deemed protective for the use established for a waterbody. They must specify maximum concentrations of pollutants that may be present in the water without impairing its suitability for certain uses.

The WQC represents a judgment as to what levels, concentrations, or conditions can support a desired use for a waterbody. States can develop their own WQC if justified by technical data. EPA is mandated pursuant to Section 304(d) of the Clean Water Act to develop WQC. As a result, EPA WQC are often used by states establishing or revising their WQS.

EPA states that these aquatic life criteria for PFOA establish maximum concentrations (i.e., magnitude component), averaged over a given time period (i.e., duration component), that if not exceeded more

than the allowable number of times during this specified time period (i.e., frequency component), are expected to protect aquatic ecosystems as a whole.

A link to the pre-publication final rule can be found [here](#).