



July 5, 2022

James Justice  
Health and Ecological Criteria Division  
Office of Water (Mail Code 4304T)  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

**Re: Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic Acid (PFOA) [Docket ID No. EPA-HQ-OW-2022-0365] and Perfluorooctane Sulfonate (PFOS) [Docket ID No. EPA-HQ-OW-2022-0366]**

Dear Mr. Justice:

Clean Water Action/Clean Water Fund (Clean Water) appreciates this opportunity to provide the Environmental Protection Agency (EPA) with comments on the 2022 Draft Aquatic Life Ambient Water Criteria Recommendations for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS). Many states have been anticipating these criteria in order to use them as a basis for setting their own water quality standards, National Pollutant Discharge Elimination System (NPDES) permit limits, and Total Maximum Daily Loads (TMDLs) for water bodies. We urge EPA to finalize the most protective PFOA/PFOS aquatic life criteria possible and to move quickly to draft aquatic life criteria for other PFAS compounds.

### **EPA Should Strengthen these Criteria**

While we commend EPA for proposing these draft aquatic criteria, especially in light of limited data and aquatic species toxicity information, we are concerned that they are not protective enough.

Several other states including Michigan and Minnesota and some European countries have established freshwater acute protective values for PFOS that are orders of magnitude lower than EPA's draft PFOS acute aquatic criteria.<sup>1</sup> Michigan and several other states have also

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<sup>1</sup> April 2022 EPA Draft Aquatic Life Ambient Criteria for PFOS, Table 1-1 at 5-6.

established PFOA acute aquatic protective values that are more stringent than EPA's draft PFOA acute criteria.<sup>2</sup> Clean Water urges EPA to revise its acute criteria values for PFOA and for PFOS to incorporate these more protective state values.

In addition to strengthening its PFOA and PFOS protective values, EPA should revise its draft aquatic criteria to address precursors to PFOA and PFOS. PFAS precursor compounds are not static and can transform into PFOA and PFOS once discharged into water and should therefore be managed similarly. Colorado already includes certain PFAS precursors (which are also called parent constituents) in its list of PFAS compounds that should be included in state issued wastewater permits that have effluent limits and/or monitoring requirements for PFAS.<sup>3</sup>

Given the toxic and persistent nature of PFAS compounds, Clean Water urges EPA to revise its aquatic criteria to thoroughly consider bio-accumulative impacts on birds and mammals that consume aquatic life contaminated with PFOA and/or PFOS. We are concerned that the draft criteria are not protective enough of higher trophic level birds and mammals.

PFOA and PFOS are just two of thousands of known PFAS compounds. As more data and information becomes available on the toxic effects of additional PFAS compounds on aquatic life, Clean Water encourages EPA to establish aquatic criteria for those PFAS.

### **EPA Should Periodically Review these Criteria**

Research on the toxicological effects PFOA/PFOS can have on aquatic life is ongoing and rapidly evolving and it's possible these draft criteria could be out of date by the time they are used by states to develop their own PFAS water quality standards. Clean Water encourages EPA to review these criteria on a periodic basis to ensure they are still protective of aquatic life based on the latest available science. These criteria should also be revised as needed to better protect aquatic life.

### **Other EPA Actions to Address PFAS in Surface Waters Are Urgently Needed**

The lack of data available for EPA to develop these draft criteria demonstrates the federal government's underinvestment in investigating and controlling sources of PFAS in surface waters. Though the agency has outlined steps it intends to take, EPA has yet to substantively use its Clean Water Act regulatory authority to restrict PFAS releases to our nation's waters.

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<sup>2</sup> April 2022 EPA Draft Aquatic Life Ambient Criteria for PFOA, Table 1-1 at 4.

<sup>3</sup> July 2020 Colorado Water Quality Control Commission Policy 20-1, at 9-12. Available at: [https://drive.google.com/file/d/119FiO4GZVaJtw7YFvFqs9pmlwDhDO\\_eG/view](https://drive.google.com/file/d/119FiO4GZVaJtw7YFvFqs9pmlwDhDO_eG/view)

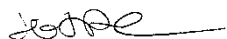
Moreover, as EPA states in its response to scientific peer review comments, “absent continuous PFAS monitoring,” it will be difficult to collect the information necessary to assess average acute and average chronic PFAS concentrations.<sup>4</sup> These challenges point to the urgent need for EPA to do everything it can to prevent PFAS from contaminating surface waters in the first place. Far more resources and research has focused on addressing PFAS in finished drinking water, which places an unfair burden on drinking water systems and their customers. It is an unjust policy failure that drinking water supplies across the country have been allowed to be contaminated with these highly toxic and highly persistent compounds.

EPA needs to expedite actions to control the flow of PFAS to surface waters—especially drinking water sources—by moving swiftly to not only finalize these aquatic life criteria, but to issue human health criteria for PFAS. The agency must also act quickly to revise Effluent Limitation Guidelines (ELGs) for all industrial categories known or suspected of discharging PFAS to surface waters. These revised ELGs should at a minimum prohibit all industrial wastewater discharges of PFAS to drinking water sources. As EPA’s recently revised Health Advisory Levels (HALs) for PFOA and PFOS reveal, there are no “safe” levels of these PFAS compounds in drinking water. Knowing this, the agency must move more quickly to shift the burden of cleaning-up this pollution on to the industries that generate it.

EPA’s proposed aquatic criteria for PFOA and PFOS are an important part of the many actions the agency should take to address PFAS using the Clean Water Act. It is vital that EPA issue final criteria that are protective of aquatic life, including sensitive species and higher trophic levels. To better protect drinking water sources, EPA should also expedite other Clean Water Act PFAS regulatory actions such as human health criteria and revised ELGs.

Thank you for considering our comments.

Sincerely,



Jennifer Peters  
National Water Programs Director  
Clean Water Action/Clean Water Fund  
[jpeters@cleanwater.org](mailto:jpeters@cleanwater.org)

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<sup>4</sup> April 2022 EPA Response to the External Review of U.S. EPA’s “Draft Aquatic Life Ambient Water Quality Criteria for Perfluorooctane Sulfonate (PFOS)” at 79.