

9. Clean Water Act § 304(a), 33 U.S.C. § 1314(a), directs the Environmental Protection Agency to periodically develop and publish recommended water quality criteria “accurately reflecting the latest scientific knowledge” on the effects of pollutants on human health and welfare and effects on aquatic life, as well as information on those pollutants, including their concentration and dispersal and how pollutants affect receiving waters. Those recommendations are available to states for use in developing their own water quality criteria. When states establish criteria, 40 C.F.R. § 131.11(b)(1) specifies that they should establish numeric criteria based on: (1) EPA’s national recommended criteria, (2) modified national recommended criteria that reflect site-specific conditions, or (3) other scientifically defensible methods.

10. Clean Water Act § 303(c)(2)(B), 33 U.S.C. § 1313(c)(2)(B) (added by the Water Quality Act Amendments of 1987, Pub. L. 100-4, 101 Stat. 7), requires states to adopt numeric criteria, where available, for all toxic pollutants listed pursuant to Clean Water Act § 307(a)(1), 33 U.S.C. § 1317(a)(1), (i.e., “priority toxic pollutants” listed at 40 C.F.R. Part 423, Appendix A) for which the Environmental Protection Agency has published national recommended criteria, the discharge or presence of