

Florida's Actions to Reexamine its Existing Human Health Criteria

In accordance with CWA Section 303(c)(1) and 40 CFR 131.20, Florida is required to review all of its applicable WQS, including its existing HHC, at least once every three years and, if appropriate, revise those WQS or adopt new WQS. This includes evaluating whether its existing HHC should be updated to account for more recent data on FCRs, and whether additional priority toxic pollutants are now present in or discharged to Florida's waters such that new HHC for those pollutants are warranted.²⁴

In 2016, Florida conducted a review of its criteria using updated science including updated FCRs based on State- and region-specific data.²⁵ In pertinent part, Florida found in 2016 that "more recent fish consumption survey information indicates that consumption patterns have changed over time, necessitating a re-evaluation of the criteria."²⁶ As an example, Florida cited a 1994 FCR study of Florida residents that "suggested that Floridians eat significantly more fish than [EPA's 1992 national default FCR of 6.5 g/day]."²⁷ In addition, in response to public comments, in 2016 Florida evaluated the majority of the priority toxic pollutants for which EPA has national recommendations, and documented the uses of each chemical, data on concentrations of each of the pollutants in Florida's waters and fish, and information on environmental releases of those pollutants in Florida and neighboring states.²⁸ As a result of this review, Florida determined that new HHC for 36 priority toxic pollutants were warranted (in addition to revising its existing HHC for 40 priority toxic pollutants, based on updated science).²⁹

Florida determined that new HHC were not justified for five priority pollutants³⁰ that are banned pesticides with no active, ongoing environmental releases to Florida's waters.³¹ Florida also determined that HHC were not justified for eight priority toxic pollutants³² that were likely present or discharged to Florida's waters, because the State concluded that its existing aquatic life-based or organoleptic criteria for these pollutants are "fully protective of all uses, including human health[.]"³³ Florida determined that HHC were not needed for two priority toxic pollutants for which Florida concluded the current toxicological data did not support development of new HHC at that time (arsenic and thallium).³⁴

²⁴ See 40 CFR 131.20 ("State review and revision of water quality standards"); 40 CFR 131.11(a)(2) ("States must review water quality data and information on discharges to identify specific water bodies where toxic pollutants may be adversely affecting water quality or the attainment of the designated water use or where the levels of toxic pollutants are at a level to warrant concern and must adopt criteria for such toxic pollutants applicable to the water body sufficient to protect the designated use.")

²⁵ Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement*. https://floridadep.gov/sites/default/files/HH_TSD.pdf. Note that Florida's 2016 Technical Support Document refers to 43 revised HHC and 39 new HHC, however a small subset of the HHC in each of those groups were for non-priority toxic pollutants.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 5-7.

²⁹ *Id.*

³⁰ These five priority toxic pollutants are: alpha-hexachlorocyclohexane (HCH), endrin aldehyde, hexachlorobenzene, p,p'-dichlorodiphenyldichloroethane (DDD), and p,p'-dichlorodiphenyldichloroethylene (DDE).

³¹ Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement*. https://floridadep.gov/sites/default/files/HH_TSD.pdf

³² These eight priority toxic pollutants are: alpha-endosulfan, beta-endosulfan, gamma-HCH, selenium, toxaphene, cyanide, endosulfan sulfate, and endrin.

³³ Florida Department of Environmental Protection. (2016). *Technical Support Document: Derivation of Human Health-Based Criteria and Risk Impact Statement*. https://floridadep.gov/sites/default/files/HH_TSD.pdf

³⁴ *Id.* EPA did not update its national 304(a) HHC recommendations in 2015 for these priority toxic pollutants, citing outstanding technical issues. See U.S. EPA. (June 29, 2015). *Final Updated Ambient Water Quality Criteria for the Protection of Human Health*, 80 FR 36986.