



Memorandum

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To: FWEA Utility Council

From: Chad E. Revis

Re: EPA Determination that New Water Quality Standards are Required in Florida

On December 1, 2022, EPA notified the Florida Department of Environmental Protection that its Water Quality Standards (WQS) need to be updated with new “human health criteria” (HHC). The federal Clean Water Act and accompanying EPA regulations require waters to be “fishable,” which means that the fish or shellfish could be safely eaten by people when caught. State WQS are the rules that define the desired condition of a water body with two sets of factors to consider: human health criteria and aquatic life criteria. The EPA is requiring Florida to update its HHC with new science and data.

Florida currently uses one of the EPA’s options for compliance which sets out “chemical-specific numeric water quality criteria” for toxic pollutants the EPA recommends under CWA Section 304(a) and others Florida determines can be reasonably expected to interfere with a water body’s designated use. After that option was selected Florida adopted HHC for 43 priority toxic pollutants in 1992. States are required to review its WQS and HHC every three years, so in 2016 Florida conducted its review and allowed public comments which led to new HHC for 36 priority toxic pollutants and revised its HHC for the preexisting 40 pollutants. But the revised and new HHC were not finalized or submitted to the EPA, largely due to objections from the Seminole Tribe of Indians and some environmental advocates that the proposed criteria failed protect subsistence fishermen. This process began again in 2018 but stopped and never resumed.

In its letter, EPA notes that the State of Florida itself recognizes the existing HHC need to be updated to reflect current national recommendations. One of the primary criticisms by EPA for Florida’s existing HHCs is that it is relying on too low of a fish consumption rate (FCR), meaning that Floridians are eating more fish than they did in 1992. As a result, the EPA thinks Florida’s WQS and HHC are not protecting Floridians. The EPA also states there is reason to believe from available information that Florida needs new HHC for 36 more priority pollutants. It also says that it has determined itself that Florida must have HHC for methylmercury. In total, the EPA found that new HHC are needed for 37 priority toxic pollutants and revised HHC are needed for 40.



The EPA does not forbid Florida from carrying on its own rulemaking efforts, but the determination does require Florida to publish proposed regulations setting forth WQS compliant with this determination before the EPA promulgates federal WQS itself. The determination states that 12 months (from December 1, 2022) is a reasonable timeframe for federal regulations to be promulgated and that Florida’s feedback and the comments of stakeholders would be welcome.

Below is a chart of the priority toxic pollutants requiring new HHCs. As you will see the constituents identified include several plasticizers, disinfection byproducts, and other chemicals of potential interest to Florida’s domestic wastewater treatment community:



Priority Toxic Pollutants Requiring New Human Health Criteria

Chemical Name	CAS Number
1,1,1-Trichloroethane	71556
1,1,2-Trichloroethane	79005
1,2,4-Trichlorobenzene	120821
1,2-Dichlorobenzene	95501
1,2-Dichloroethane	107062
1,2-Dichloropropane	78875
1,2-Diphenylhydrazine	122667
1,3-Dichlorobenzene	541731
1,3-Dichloropropene	542756
1,4-Dichlorobenzene	106467
2,4-Dimethylphenol	105679
2-Chloronaphthalene	91587
2-Methyl-4,6-Dinitrophenol	534521
3-Methyl-4-Chlorophenol	59507
Acrolein	107028
Benzene	71432
Benzidine	92875
Bis(2-Chloro-1-Methylethyl) Ether	108601
Bis(2-Chloroethyl) Ether	111444
Bis(2-Ethylhexyl) Phthalate	117817
Butylbenzyl Phthalate	85687
Chlorobenzene	108907
Diethyl Phthalate	84662
Dimethyl Phthalate	131113
Di-n-Butyl Phthalate	84742
Ethylbenzene	100414
Heptachlor Epoxide	1024573
Hexachlorocyclopentadiene	77474
Hexachloroethane	67721
Isophorone	78591
Methyl Bromide	74839
Methylmercury	22967926
Nitrobenzene	98953
Toluene	108883
Trans-1,2-Dichloroethylene (DCE)	156605
Vinyl Chloride	75014
Phenol	108952