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# U.S. EPA's Proposed Rule: Water Quality Standards to Protect Human Health in Florida

Public Hearing #1

Tuesday, January 23, 2024, 9 – 11 am ET

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U.S. Environmental Protection Agency  
Office of Water, Water Quality Standards Program



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# Proposed Rule

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- On December 8, 2023, the EPA published a proposed rule to establish new and revised human health water quality criteria for certain pollutants in the state of Florida.
- The rule proposes to establish human health criteria that reflect the latest science to protect the health of Floridians by improving the quality of the surface waters they fish from and use as drinking water sources.



# Background

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- Clean Water Act (CWA) section 101(a)(2) establishes a national goal of “water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water,” wherever attainable.
- To protect people from cancer and non-cancer effects from pollutants in drinking water and fish and shellfish, states must establish human health criteria for their surface waters.
- EPA periodically publishes criteria recommendations under CWA section 304(a) for states to consider using to meet these CWA section 101(a)(2) goals.



# Background

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- CWA section 303(c)(2)(B) requires states to adopt numeric water quality criteria for all priority toxic pollutants for which EPA has published CWA section 304(a) criteria recommendations.
- In 1992, Florida adopted human health criteria for 43 priority toxic pollutants that it determined may be present in State waters, utilizing EPA recommendations available at that time.
- In 1992, EPA's recommendations for human health criteria were based on a national default fish consumption rate (FCR) of 6.5 grams per day. Florida adopted criteria using this national default FCR and has not subsequently revised those criteria.



# EPA Administrator's Determination

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- On December 1, 2022, the EPA Administrator determined that new and revised human health criteria are necessary to protect Florida's designated uses. In particular:
  - The EPA determined that the FCR used to derive Florida's existing human health criteria (6.5 g/day) needs to be updated to consider more recent information. The EPA's current national default FCR is 22 g/day.
  - The EPA determined that new human health criteria are needed for additional priority toxic pollutants to protect Florida's designated uses.
- EPA's Determination was responsive to an external petition requesting that EPA exercise its discretionary authority to update Florida's human health criteria.



# EPA's National Recommended Criteria

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- EPA periodically publishes national recommended criteria under CWA section 304(a) that reflect the latest scientific knowledge.
- In 2015, EPA published updated 304(a) human health criteria for 94 chemicals.
  - Followed EPA's 2000 *Methodology for Deriving Water Quality Criteria for Protecting Human Health (2000 HHC Methodology)*
- When developing the proposed human health criteria for Florida, EPA considered its current CWA section 304(a) recommendations.



# Tribal Reserved Rights

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- When developing the proposed human health criteria for Florida under the CWA, EPA additionally considered applicable federal statutes through which Florida tribes reserved certain natural resource rights.
- The Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida have off-reservation rights reserved under federal law to fish for subsistence in areas in and around Everglades National Park and Big Cypress National Preserve.





# Proposed Rule – Scope of Pollutants

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- Based on the scope of the EPA's Administrator Determination, the EPA is proposing the following:
  - Revised human health criteria for 36 priority toxic pollutants;
  - New human health criteria for 37 priority toxic pollutants.



# How EPA Derived the Proposed Criteria

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- The EPA derives human health criteria for carcinogenic effects using the following inputs: cancer slope factor, cancer risk level, body weight, drinking water intake rate, fish consumption rate (FCR), and a bioaccumulation factor (or factors).
- For pollutants with non-cancer effects, the EPA uses a reference dose in place of a cancer slope factor and cancer risk level, as well as a relative source contribution, which is intended to ensure that an individual's total exposure from all sources does not exceed the criteria.



# How EPA Derived the Proposed Criteria

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- To derive Florida-specific criteria, the EPA is proposing to use the same cancer slope factors, body weight (80 kg), drinking water intake rate (2.4 liters per day), bioaccumulation factors, reference doses and relative source contribution factors that the Agency uses in its current 304(a) recommended human health criteria.
- For carcinogens, the EPA is proposing to use Florida's longstanding cancer risk level of 1 in 1 million ( $10^{-6}$ ) excess risk.



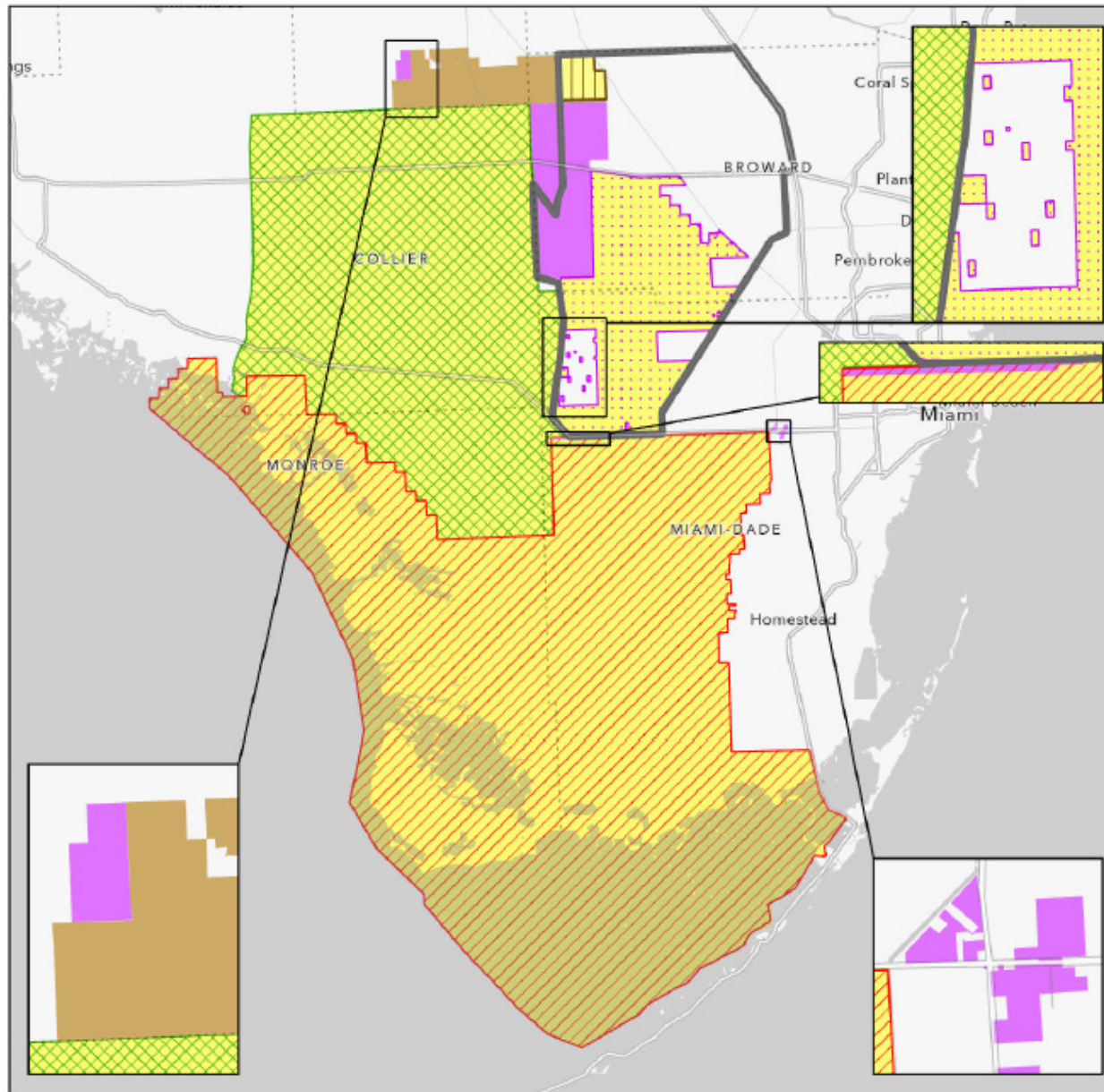
# How EPA Derived the Proposed Criteria

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- The EPA is proposing to use two different FCRs depending on where the human health criteria apply:
  - For most of the State, the EPA is proposing to use the national default recommended general population FCR of 22 grams per day.
  - In those areas where Tribes have off-reservation reserved rights to fish for subsistence, the EPA is proposing to use a FCR of 142 grams per day (the national default “subsistence” value in EPA’s *2000 HHC Methodology*).

# Tribal Reserved Rights in South Florida

as of July 19, 2023.\*



0 5 10 20 30 Miles

## Legend

- BIG CYPRESS NATIONAL PRESERVE
- EVERGLADES NATIONAL PARK
- WCA 3A
- Seminole Reservation and Trust Lands
- Seminole Tribe Reserved Rights in WCA 3a
- Miccosukee Leased Lands in WCA 3A
- Miccosukee Reservation and Trust Lands
- Reserved Rights Area



# Next Steps

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- For more information on the proposal, please visit the EPA's website: <https://www.epa.gov/wqs-tech/water-quality-standards-protect-human-health-florida>
- The EPA will hold a second public hearing on Wednesday, January 24, from 4-6 pm ET.
- The public comment period closes on **Tuesday, February 6, 2024.**



# To Make a Written Comment

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You may send comments, identified by Docket ID No. EPA-HQ-OW-2023-0378, by any of the following methods:

- **Online:** [www.regulations.gov](http://www.regulations.gov) (our preferred method). Follow the online instructions for submitting comments.
- **Mail:** U.S. Environmental Protection Agency, EPA Docket Center, Standards and Health Protection Division Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460
- **Hand Delivery:** EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004, Attention Docket ID No. EPA-HQ-OW-2023-0378.
  - Hand deliveries and couriers may be received by scheduled appointment only.

All submissions received must include the Docket ID No. EPA-HQ-OW-2023-0378 for this rulemaking. Comments received may be posted without change to [www.regulations.gov](http://www.regulations.gov), including any personal information provided. Once submitted, comments cannot be edited or removed from the docket.