

utilizing EPA-recommended procedures and science available at that time.¹⁸ Additionally, as noted above, EPA promulgated HHC for Florida for the priority toxic pollutant dioxin in its 1992 National Toxics Rule (40 CFR 131.36).

Florida's existing HHC apply to five classifications of waterbodies in the State with potable water supply and fish consumption uses (Chapter 62-302, Florida Administrative Code):

Class I	Potable Water Supplies
Class I-Treated	Treated Potable Water Supplies
Class II	Shellfish Propagation or Harvesting
Class III	Fish Consumption; Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife
Class III-Limited	Fish Consumption; Recreation or Limited Recreation; and/or Propagation and Limited Maintenance of a Limited Population of Fish and Wildlife

In 1992, EPA recommended a national default FCR of 6.5 g/day, based on the average per-capita consumption rate of fish from inland and nearshore waters for the U.S. population, for states to consider inputting into their calculation of HHC. Florida used this national default 6.5 g/day FCR, which was not based on any Florida-specific data, to derive its HHC in 1992 and has not revised those HHC since.

Changes in EPA's National Default Fish Consumption Rate

In 2000, EPA published its *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health* (2000 Methodology).¹⁹ The 2000 Methodology encourages the use of an upper percentile of fish consumption data for the target general population rather than an average.²⁰ Accordingly, in 2000 EPA updated its national default FCR to 17.5 g/day, based on the 90th percentile of national survey data from 1994-1996.²¹ EPA updated its national default FCR once again in 2014 to 22 g/day, which represents the 90th percentile consumption rate of fish and shellfish from inland and nearshore waters for the U.S. adult population 21 years of age and older. EPA based the 2014 revised national default FCR on National Health and Nutrition Examination Survey (NHANES) data from 2003 to 2010.²² In addition, EPA's national default FCR is based on the total rate of consumption of fish and shellfish from inland and nearshore waters (including fish and shellfish from local, commercial, aquaculture, interstate, and international sources). This is consistent with a principle that each state does its share to protect people who consume fish and shellfish that originate from multiple jurisdictions.²³

¹⁸ U.S. EPA. (1991). *Amendments to the Water Quality Standards Regulation to Establish the Numeric Criteria for Priority Toxic Pollutants Necessary to Bring All States Into Compliance With Section 303(c)(2)(B)*, 56 FR 58420. <https://www.epa.gov/sites/production/files/2015-06/documents/ntr-proposal-1991.pdf>; see also U.S. EPA. (Dec. 22, 1992). *Establishment of Numeric Criteria for Priority Toxic Pollutants*, 57 FR 60848, 60853.

¹⁹ U.S. EPA. (2000). *Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health*. U.S. Environmental Protection Agency, EPA-822-B-00-004. <https://www.epa.gov/sites/default/files/2018-10/documents/methodology-wqc-protection-hh-2000.pdf>

²⁰ *Id.* at 4-24.

²¹ *Id.* ("EPA recommends a default fish intake rate of 17.5 grams/day to adequately protect the general population of fish consumers[.]").

²² U.S. EPA. (2014). *Estimated Fish Consumption Rates for the U.S. Population and Selected Subpopulations* (NHANES 2003-2010), EPA 820-R-14-002. <https://www.epa.gov/sites/default/files/2015-01/documents/fish-consumption-rates-2014.pdf>

²³ U.S. EPA. (January 2013). *Human Health Ambient Water Quality Criteria and Fish Consumption Rates: Frequently Asked Questions*. <https://www.epa.gov/sites/default/files/2015-12/documents/hh-fish-consumption-faqs.pdf>