

# Using the Clean Water Act to Reduce Mercury in the Northeast

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## Why is mercury a concern in the Northeast?

- 💧 Statewide or regional fish consumption advisories in all states
- 💧 Over 10,000 impaired lakes, ponds, and reservoirs
- 💧 Over 46,000 impaired river miles

## Why a regional TMDL?

- Atmospheric deposition of mercury common problem in region
- All states impacted by out-of-region sources
- Less resource-intensive
- Existing framework for regional collaboration

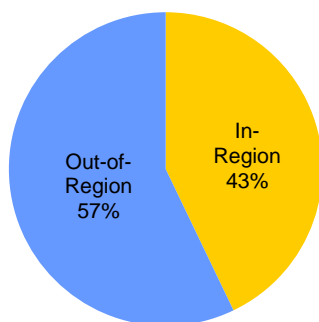
Northeast Regional Mercury Total Maximum Daily Load



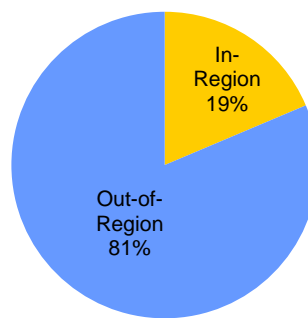
Connecticut Department of Environmental Protection  
 Maine Department of Environmental Protection  
 Massachusetts Department of Environmental Protection  
 New Hampshire Department of Environmental Services  
 New York State Department of Environmental Conservation  
 Rhode Island Department of Environmental Management  
 Vermont Department of Environmental Conservation  
 New England Interstate Water Pollution Control Commission

October 24, 2007

## Contributions of In-Region and Out-of-Region Sources to In-Region Deposition



1998



2002

Source: NESCAUM

## General Approach

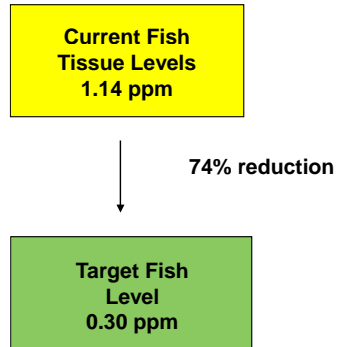
- 💧 Based on MN Statewide Mercury TMDL
- 💧 Assumes proportional relationship between reductions in mercury emissions, deposition, and fish tissue concentrations
- 💧 Accounts for deposition due to natural sources

## TMDL Baseline

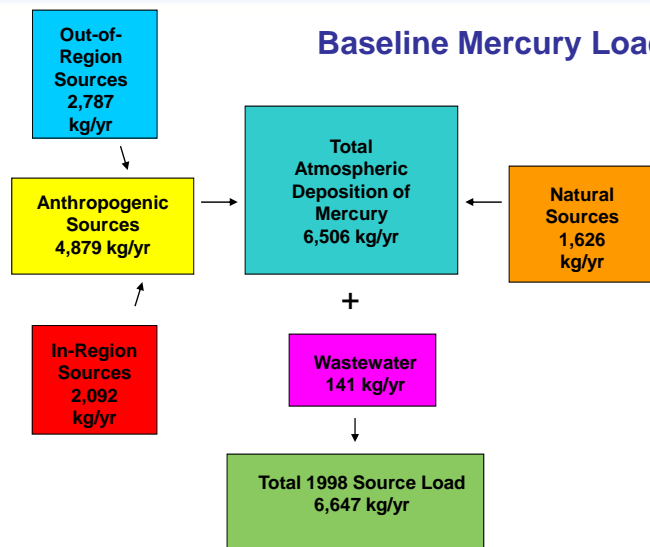
- 💧 Baseline year 1998
- 💧 Baseline fish concentration 1.14 ppm for smallmouth bass
- 💧 Initial target fish concentration 0.3 ppm



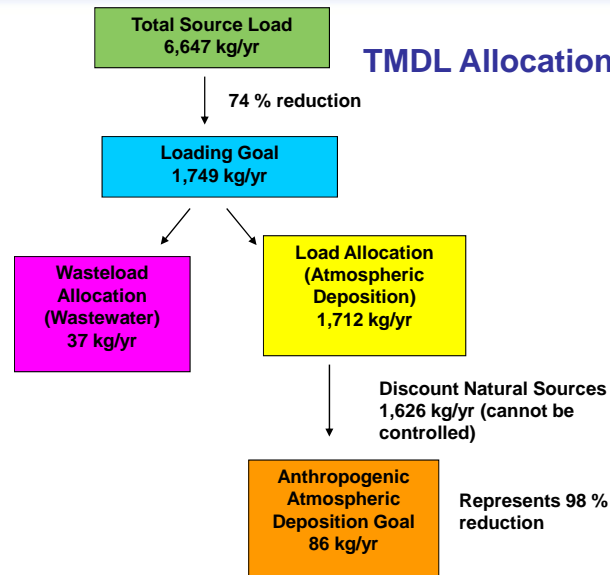
### TMDL Framework



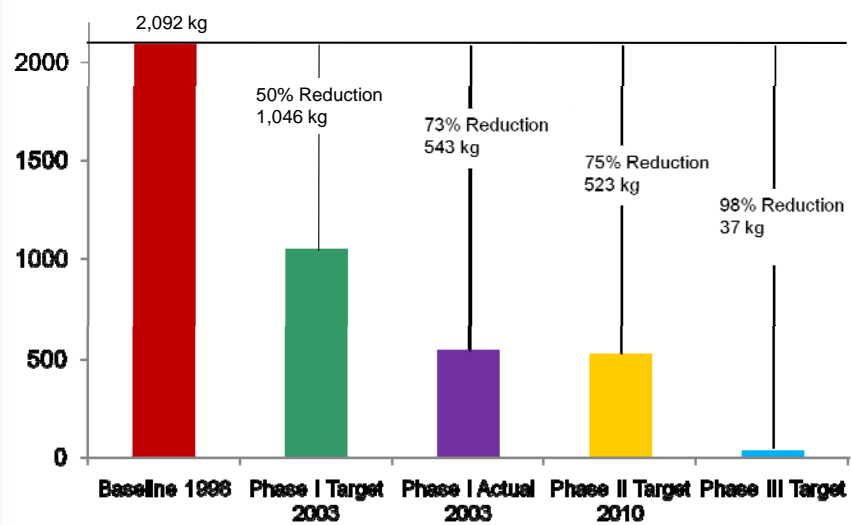
### Baseline Mercury Load



## TMDL Allocations

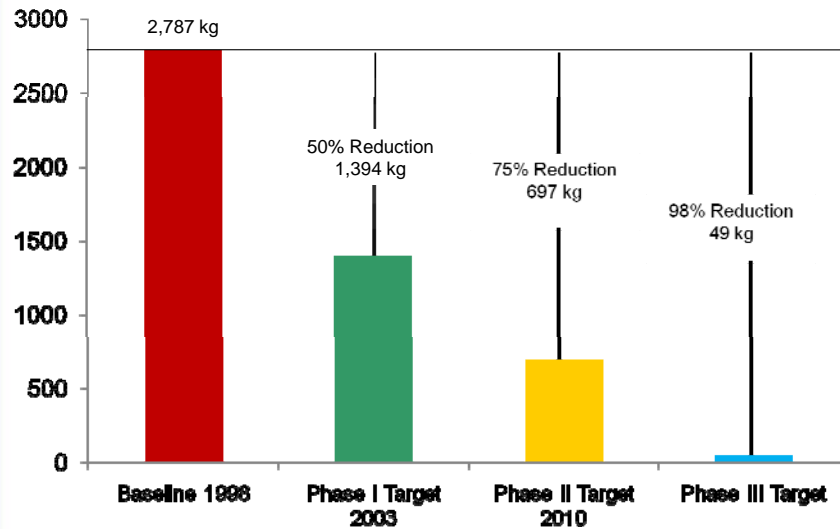


## Necessary In-Region Mercury Reductions





### Necessary Out-of-Region Mercury Reductions



### Adaptive Implementation

- 💧 All Northeast states will continue with mercury reduction initiatives in place
- 💧 Re-evaluate fish tissue, emissions, and deposition data in 2010
- 💧 Reconsider end goal and timeline



## TMDL - Next Steps

- 💧 Implementation!
- 💧 Further investigation of contributions of out-of-region sources (*What will we do with that information when we have it???*)

## CWA § 319(g)(1) 33 U.S.C. § 1329(g)(1)

“If any portion of the navigable waters in any State which is implementing a management program approved under this section is not meeting applicable water quality standards or the goals and requirements of this chapter as a result, in whole or in part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute significant pollution resulting from nonpoint sources to such portion.”

## So...how does it work?

Step 1 - State or States with approved nonpoint source management plans determine that waters are being impaired in-part due to nonpoint source pollution from another state.

Step 2 – State(s) file a petition with the EPA Administrator.



Step 3 – EPA Administrator shall convene a management conference, the purpose of which is to develop an agreement for reductions to be made by those states contributing pollution.

## NESCAUM Source Apportionment Study

- 💧 Based on atmospheric deposition modeling undertaken by EPA HQ Contractor
- 💧 Estimated the amount of mercury deposited in Northeast states from each of the lower 48 states
- 💧 Allowed us to determine the states that are the most significant contributors to mercury deposition in the Northeast states



## Use the Petition to Build a Strong Case

- 💧 State NPS Programs Approved
- 💧 Reviewed Approved TMDL – Documentation of Impairments
- 💧 Identified Contributing States

## What Do We Want?

- 💧 90% MACT
- 💧 New Mercury Rule
- 💧 Other States to Get Involved
- 💧 Implement the TMDL
- 💧 Fish That Are Safe to Eat!!!!

## So Far So Good...

- 💧 DC Circuit Court of Appeals
- 💧 Briefings and Follow-Up With EPA
- 💧 Letter to Administrator Jackson



## Next Steps

- 💧 Re-convene Hg TMDL Workgroup
- 💧 Continued Discussions with EPA and States on 319(g) Conference
- 💧 Implementing In-state Mercury Controls



## Special Thanks to...

- 💧 Traci Iott and Paul Stacey, CT DEP
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- 💧 NEIWPCC Executive Committee
- 💧 EPA HQ
- 💧 EPA Regions 1 and 2
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