



Protecting the environment and working for a healthy community.

May 21, 2007

Richard Draper
Bureau of Water Assessment and Management
NYSDEC
625 Broadway
Albany NY 12233-3505

RE: Draft Northeast Regional Mercury TMDL

Dear Mr. Draper:

Citizens Campaign for the Environment (CCE) is an 80,000 member, not-for-profit, non-partisan advocacy organization working to protect public health and the natural environment throughout New York State and Connecticut. CCE operates from six regional offices across New York State and Connecticut, and interacts with New York and Connecticut residents to advance sound environmental policies throughout the region.

New York State studies indicate that virtually all of the state's more than 4,000 reservoirs and lakes—including the 21 in the New York City water system—are contaminated with mercury and that larger fish in those waters have unhealthy levels in their bodies. In the mid-1990s, the NYS Department of Environmental Conservation (DEC) caught and tested fish in three major reservoirs in the New York City system, including the Neversink, Ashokan and Roundout. The DEC found that all had fish with relatively high levels of mercury. In 2001, NYS tested six species of fish in 80 major lakes and reservoirs throughout New York, and all fish tested positive for mercury.

The US Environmental Protection Agency (EPA) has found mercury to be a bioaccumulative persistent toxic heavy metal, which causes developmental disabilities and cardiovascular disease in humans. ***Consuming mercury-tainted fish is the primary route of human exposure.*** Women of childbearing age and children are especially vulnerable to the devastating consequences of mercury contamination, which can lead to brain, reproductive and developmental damage. The US EPA estimates that more than 300,000 newborns in the US are born with unsafe levels of mercury in their system annually.

The New England Interstate Water Pollution Control Commission (NEIWPCC), along with seven states- New York, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont- have collaborated to create the draft Northeast Regional Mercury Total Maximum Daily Load (TMDL). The plan is intended as a starting place for initiatives to control atmospheric deposition of mercury to a point where fish consumption advisories are no longer necessary.

CCE applauds the New York State, as well as the other participating states and the NEIWPCC for drafting a plan to reduce mercury in the waters of New York State and New England to eliminate fish consumption advisories caused by mercury air deposition. However, **CCE believes that a more stringent target should be set for mercury fish tissue concentrations.**

In New York, the plan is not expected to increase regulatory or economic burdens on municipalities. Rather, the mercury TMDL will serve as an important tool to address the link between mercury emissions and mercury pollution in our waters. Additionally, the plan recognizes that a comprehensive, nationwide plan to reduce mercury pollution is also needed to protect our waters.

Specific Comments

- 1) **The Northeast Regional Mercury TMDL should use a more stringent mercury fish tissue target of .1ppm.** Using baseline data from 1998, whereby the 80th and 90th percentile mercury fish tissue concentrations for standard length smallmouth bass was .86 and 1.14 respectively, the plan calls for a target fish tissue mercury concentration of .3 ppm. The .3ppm target corresponds with the EPA fish tissue criterion for methylmercury. However, two states use a more stringent standard. Connecticut and Maine use a mercury tissue standard of .1 ppm and .2 ppm respectively.

CCE believes that when working to reduce harmful mercury in our waters, the most stringent and protective standards should be utilized. Consuming fish and seafood is a nutritious and often inexpensive protein source. However, the NYS Department of Health has a general advisory that no more than one meal (1/2 pound) of fish per week from any of the state's freshwaters should be consumed by anyone. ***CCE recommends that the more protective standard of .1 ppm, which is already being utilized in Connecticut, be used in New York and the other northeast states.***

- 2) **CCE supports the plan's assertion that more stringent, comprehensive national and international mercury control programs are necessary to make fish safe to eat in our region.** Using the 1998 baseline data, 43% of anthropogenic mercury pollution sources are from the northeast region, while 57% are from other national and international sources.

CCE applauds New York for rejecting US EPA's ill-conceived Clean Air Mercury Rule (CAMR), which allows trading poison from one community to another for profit, and allows excessive time for overall mercury reductions to be achieved. Mercury is classified as a Hazardous Air Pollutant under the Federal Clean Air Act, and should be regulated as a Maximum Achievable Control Technology (MACT) standard. ***In order to make fish safer to eat in New York, the US EPA should develop a more protective mercury pollution reduction program.***

In closing, CCE strongly supports New York, as well as the other northeast states, in developing a TMDL for mercury, pursuant to section 303(d) of the Federal Clean Water Act. **However, CCE urges New York, and the other northeast states, to adopt the more stringent and protective mercury fish tissue concentration target of .1 ppm.**

Thank you for your thoughtful consideration of our comments.

Respectfully submitted,

Brian Smith
Program Coordinator
Citizens Campaign for the Environment

cc: Adrienne Esposito, CCE Executive Director