

Northeast States Filing of Clean Water Act §319(g) Petition

Fact Sheet
October 2008



What is the §319(g) Petition?

Clean Water Act § 319(g)(1), 33 U.S.C. § 1329(g)(1) states that:

“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.”

Under §319(g)(1), the Administrator “shall convene a management conference” including all significant source states. The purpose of the conference “shall be to develop an agreement among such States to reduce the level of pollution” and improve the water quality of the New England States and New York State.

Why are the Northeast States filing a §319(g) Petition?

Mercury is a potent neurotoxin that poses risks to human health. Exposure to this toxic metal occurs when humans consume fish that contain mercury’s most toxic form, methylmercury. The majority of mercury in the environment is released into the air; it reaches waterbodies through atmospheric deposition. Mercury’s health effects are primarily neurological, and developing fetuses are at the greatest risk. To protect their populations from the harmful effects of mercury, states issue fish consumption advisories that provide information on the types and quantities of fish that can be safely consumed.

In 2007 U.S. EPA approved the Northeast Regional Mercury TMDL – a plan prepared by the New England States and New York, which is intended to reduce mercury concentrations in fish so that water quality standards can be met. Atmospheric deposition is a nonpoint source of pollution that is the primary reason for water quality impairments due to mercury in the Northeast. A large portion of this atmospheric deposition originates from states outside of the Northeast. The §319(g) petition is a mechanism that is a direct and efficient approach to reducing atmospheric deposition of mercury, in that the end result will be an agreement about pollution reduction. The §319(g) petition is a Clean Water Act tool that can play a critical role in implementation of the TMDL and ultimately reducing fish consumption advisories in the Northeast.

What does the Petition say?

The petition describes the mercury problem in the Northeast and provides background about the Northeast states’ previous mercury reduction efforts including mercury emissions reductions, controls on mercury-containing products, and most recently, the Northeast Regional Mercury TMDL. Relying on atmospheric deposition modeling data, the petition states the percentages of mercury deposition in the region that are from out-of-region sources and lists the states that are the most significant contributors.

The atmospheric modeling data used in the petition was compiled by the Northeast States for Coordinated Air Use Management (NESCAUM) from a modeling effort undertaken by U.S. EPA Headquarters contractor ICF. The Regional Modeling System for Aerosols and Deposition (REMSAD) was used to look at atmospheric deposition of mercury in the continental United States. REMSAD can be used to estimate the contribution of mercury deposition from one location to another location, i.e. from one state to another state or from one state to an entire region.

New England Interstate Water Pollution Control Commission, Boott Mills South, 116 John Street, Lowell, MA 01852
978-323-7929(p); 978-323-7919(f); www.neiwppcc.org

Connecticut · Maine · Massachusetts · New Hampshire · New York · Rhode Island · Vermont

The modeling data show that approximately 70 percent of mercury deposited in the Northeast region originates from sources outside of the U.S. When considering only U.S. sources, approximately 48 percent of the mercury deposited in the Northeast states is due to sources outside of the region. The out-of-region states with the most significant contributions are shown in the table below.

State	Contribution to Mercury Deposited in Northeast Region (from U.S. Sources only)
Pennsylvania	21.7%
New Jersey	5.6%
Ohio	5.5%
West Virginia	3.9%
Maryland	3.7%
Michigan	2.0%
Virginia	1.5%
Indiana	1.3%
Kentucky	1.2%
North Carolina	1.1%
Illinois	0.9%

What is the goal of the §319(g) Petition?

In the petition, the Northeast states ask that U.S. EPA convene a management conference of all relevant states, determine the degree to which the contributing states are contributing significant nonpoint source mercury pollution to the Northeast states' waters, and develop an agreement amongst the states that will assure improvement of the Petitioning States' water quality and compliance with Clean Water Act requirements and each Petitioning State's water quality standards by implementing plant-specific MACT limits for mercury under Section 112(d) of the Clean Air Act to control power plant emissions by 90 percent by cost-effective and available technologies.

What will be the outcome of filing the petition?

It is anticipated that U.S. EPA will convene a management conference with the Petitioning and Non-Petitioning States, as requested by the §319(g) Petition. NEIWPCC will serve as a regional coordinator for organizing the participation of the Petitioning States in this effort.

Further Information

For more information about the §319(g) Petition, contact Beth Card, Director of Water Quality Programs at the New England Interstate Water Pollution Control Commission at (978)323-7929 or bcard@neiwpc.org. The §319(g) Petition as well as the Northeast Regional Mercury TMDL can be found at www.neiwpc.org/mercury.