

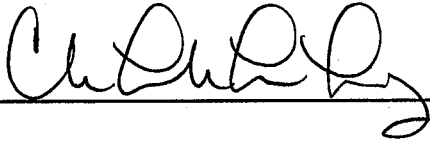
# DOW 1.3.10 Mercury – SPDES Permitting & Multiple Discharge Variance

New York State Department of Environmental Conservation

## DEC Program Policy

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### Purpose

This document provides technical guidance for the development of a Multiple Discharge Variance (MDV) for State Pollutant Discharge Elimination System (SPDES) permits that regulate effluent<sup>1</sup> containing mercury.

Mercury is widespread in New York State (NYS) waters at levels above the most stringent dissolved mercury water quality standard (WQS) of 0.7 ng/L. SPDES permittees cannot comply with a Water Quality-Based Effluent Limitation (WQBEL) for mercury. Therefore, an MDV is appropriate, in accordance with 6 NYCRR 702.17(h), "to address widespread standard or guidance value attainment issues including the presence of a ubiquitous pollutant or naturally high levels of a pollutant in a watershed." The first MDV was issued in October 2010 and subsequently revised and reissued in 2015 and 2020. Each iteration of the MDV builds off the previous version supporting the State's effort to reduce mercury pollution and make reasonable progress toward achieving the WQBEL for mercury. This guidance refines the content and application of the MDV for mercury.

<sup>1</sup> For the purposes of this document, effluent means treated wastewater from wastewater treatment facilities (WWTfs) and Combined Sewer Overflow (CSO) collection systems.

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## **Abbreviations**

CAIR – Clean Air Interstate Rule

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

CSO – Combined Sewer Overflow

CSS – Combined Sewer System

CWA – U.S. Clean Water Act

DEC – New York State Department of Environmental Conservation

DOH – New York State Department of Health

DOW – DEC Division of Water

EBPS – Environmental Benefit Permit Strategy

ECL – Environmental Conservation Law

EEQ – Existing effluent quality

ELAP – DOH Environmental Laboratory Approval Program

EPA – United States Environmental Protection Agency

GLCA – General level currently achievable

IDV – Individual Discharge Variance

ILCA – Individual level currently achievable

MACP – Mercury-added consumer products

MATS – Mercury and Air Toxics Standards

MDL – Method Detection Limit

MDN – Mercury Deposition Network

MDV – Multiple Discharge Variance

MGD – Million gallons per day

ML – Minimum level

MMP – Mercury Minimization Program

NADP – National Atmospheric Deposition Program

ng/L – Nanograms per liter

NYCRR – New York State Codes, Rules and Regulations

NYS – New York State

ppb – Parts per billion

PCI – Private, commercial, and institutional

POTW – Publicly Owned Treatment Works

RFI – Request for Information

RIBS – Rotating Integrated Basin Studies

RGGI – Regional Greenhouse Gas Initiative

SPDES – State Pollutant Discharge Elimination System

SSO – Sanitary Sewer Overflow

SUL – Sewer use law

TMDL – Total Maximum Daily Load

TOGS – Technical and Operational Guidance Series

WQBEL – Water Quality-Based Effluent Limitation

WQS – Water quality standard

WWTF – Wastewater treatment facility

## **Part I. Introduction**

This MDV does not change the WQS of 0.7 ng/L; it establishes a variance of the WQBEL which is based on the WQS. SPDES permits which include this variance comply with 40 Code of Federal Regulations (CFR) 122.44.

DEC first issued the *Mercury - SPDES Permitting & Multiple Discharge Variance, and Water Quality Monitoring Policy* in October 2010 to provide technical guidance to permit writers and ensure the consistent development of individual SPDES permits for WWTFs that discharge mercury at levels greater than the most stringent dissolved mercury WQS of 0.7 ng/L ([Table 1](#)).

DEC developed a general level currently achievable (GLCA) in the 2015 MDV, considering the existing background concentration of mercury in ambient waters and precipitation, the current performance of WWTFs, and available technology. DEC then modified individual SPDES permits to include the GLCA as an effluent limitation.

In the 2020 MDV, DEC introduced 4 types of Mercury Minimization Programs (MMPs) and reduced the GLCA from 200 ng/L to 50 ng/L, based upon available water quality data. DEC modified individual SPDES permits to include the updated GLCA as an effluent limitation, as well as to add the applicable MMPs.

In this 2025 MDV, DEC separated the GLCA by WWTF category for: 1) sanitary waste streams, including municipally owned treatment plants and private, commercial, and institutional (PCI) WWTFs (Class 09, 07, and 05); and 2) industrial waste streams (Class 01 and 03). DEC also updated the GLCA to 25 ng/L and 35 ng/L, for sanitary waste streams and industrial waste streams, respectively, reflecting the current performance of those WWTF categories. The MMP types in this 2025 MDV are unchanged from the 2020 MDV.

This 2025 MDV justifies the continuation of an MDV for 2025–2030. Although maximum mercury concentrations in NYS have generally decreased since the 2010 implementation, mercury remains above the WQS of 0.7 ng/L ([Table 2](#)), and atmospheric deposition continues to contribute approximately 12 ng/L through precipitation ([Table 3](#) and [Table 4](#)).

## **Related Regulations**

Article 6 of the New York Codes, Rules and Regulations (NYCRR) 374-4 - *Standards for the Management of Elemental Mercury and Dental Amalgam Wastes at Dental Facilities* ([Appendix A](#)) became effective on May 12, 2006, with no subsequent updates. Under 6 NYCRR 374-4, dental facilities must follow specific requirements regarding the management of their amalgam separators and storage and recycling of dental amalgam waste, as well as recordkeeping and inspection of their amalgam separators. The United States Environmental Protection Agency (EPA) also identified dental facilities as

a major source of mercury for municipal WWTFs.<sup>2</sup> In response, EPA promulgated 40 CFR 441 - Dental Office Point Source Category, which requires dental facilities to achieve pretreatment standards by removal of dental amalgam solids from all amalgam process wastewater by the proper use and operation of amalgam separators or amalgam removal devices and through a series of best management practices.

## **Part II. Current Water Quality**

The WQSs for mercury can be found in 6 NYCRR 703.5 ([Table 1](#)). The most stringent dissolved mercury WQS of 0.7 ng/L protects humans consuming fish. This WQS is exceeded in almost every waterbody in NYS. The following sections describe current concentrations of mercury in NYS surface waters, precipitation, and effluent discharges along with a discussion on mercury treatment technology, Total Maximum Daily Load (TMDL), and fish advisories.

### **A. Ambient Surface Waterbodies**

Through DEC's Rotating Integrated Basin Studies (RIBS) program, the agency routinely samples mercury in 2–4 of the state's 17 major drainage basins each year, over a 5-year cycle. The RIBS ambient mercury data is summarized in [Table 2](#) and, while it shows gradual decreases in maximum concentrations since the 2010 implementation, exceedances of the WQS continue.

Of the RIBS samples collected from 2019 to 2022, 80% of the samples contained levels above the WQS of 0.7 ng/L. DEC determined the statewide average concentration of the samples to be 1.9 ng/L, with a range of data of 0.3 ng/L and 39 ng/L, which continues to demonstrate exceedances of the WQS.

### **B. Atmospheric Deposition From Precipitation**

A mercury study report conducted by EPA suggests that much of the mercury present in ambient waters is a result of atmospheric deposition stemming from industrial activities.<sup>3</sup> The National Atmospheric Deposition Program (NADP) sponsors the Mercury Deposition Network (MDN) to record total mercury concentration and deposition through precipitation in the United States and Canada.

From this network, DEC identified five sampling locations in New York that collected deposition data from 2015 to 2024 ([Table 3](#)).<sup>4</sup> Using data from 2015 to 2018, the average mercury concentration was 7.6 ng/L across the 5 sites, as documented in the 2020 MDV. Using data from 2018 through 2024, the average concentration increased minimally, to 8.0 ng/L ([Table 4](#)).

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<sup>2</sup> Dental Effluent Guidelines. 2017. EPA. <https://www.epa.gov/eg/dental-effluent-guidelines>.

<sup>3</sup> *Mercury Study Report to Congress Volume III: Fate and Transport of Mercury in the Environment*. 1997. EPA, Office of Air Quality Planning and Standards and Office of Research and Development. <https://www.epa.gov/sites/production/files/2015-09/documents/volume3.pdf>.

<sup>4</sup> Precipitation data from the National Atmospheric Deposition Program's Mercury Deposition Network. 2024. NADP Program Office, Illinois State Water Survey, 2204 Griffith Dr., Champaign, IL 61820. <https://nadp.slh.wisc.edu/>.

In addition, based on a delta-lognormal distribution<sup>5,8</sup>, DEC calculated the 95th percentile of the monthly average for each NYS sample location. The average of these values for the NYS locations was 12.57 ng/L using data from 2018 to 2024 and is within the standard deviation of the previous value of 12.38 ng/L, calculated from 2015 to 2018 data. For this reason, 12 ng/L will continue to be used in this MDV as the threshold for mercury concentration found in waterbodies due to atmospheric deposition (Table 4).

Although ambient waters still exceed the most stringent dissolved WQS of 0.7 ng/L, there has been a general decrease in mercury concentrations in precipitation over time. This decrease in mercury deposition may correspond to the implementation of regulations requiring upgrades to industrial operations (see Appendix A. Highlights of NYS Activities to Minimize Mercury) and/or the emergence of energy alternatives.

### **C. Effluent Performance in Support of the GLCA**

To evaluate current effluent conditions, DEC used Discharge Monitoring Reports (DMRs) submitted by 210 municipal<sup>6</sup> and industrial<sup>7</sup> WWTFs from October 2020 to November 2024. To evaluate each WWTF individually, DEC used several different statistical analyses, including mean, median, and maximum calculations (Table 5). Approximately 99% of all WWTFs reported median mercury concentrations at or below the previous GLCA of 50 ng/L. However, approximately 19% of the WWTFs are still reporting maximum mercury concentrations over 50 ng/L.

Using the delta lognormal 95th percentile, DEC calculated site-specific long-term averages and variability factors for each of the 210 mercury-reporting WWTFs.<sup>8</sup> Due to the differing nature of the mercury sources and treatment performances, DEC analyzed municipal and industrial WWTFs independently by taking the product of the mean long-term average and mean variability factor. The calculated GLCA value for sanitary waste streams was 21 ng/L, however, DEC determined 25 ng/L to be more appropriate as 21 ng/L represents an even greater change from the previous GLCA of 50 ng/L and additional data from facilities is needed to confirm the impact of the adjusted value.

Although the GLCA for sanitary waste streams was calculated using municipal data only, the representative PCI data supports the ability for PCI WWTFs to achieve similar performance to municipal WWTFs and the GLCA.

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<sup>5</sup> The delta-lognormal distribution is a generalization of the lognormal distribution and may be used to model data that are a mixture of non-detect measurements with measurements that are lognormally distributed. In delta-lognormal procedures, non-detect values are weighted in proportion to their occurrence in the data.

<sup>6</sup> Municipal facilities (Class 05 and 07) receive wastewater from both domestic and industrial sources. This wastewater contains a variety of pollutants, sometimes including mercury.

<sup>7</sup> Wastewater from industrial facilities (Class 03 and 01) contains pollutants depending on the activities at the facility and could include mercury.

<sup>8</sup> Consistent with EPA's Technical Support Document for Water Quality Based Toxics Control, 1991: <https://www3.epa.gov/npdes/pubs/owm0264.pdf>.

The 2025 GLCA values are:

Sanitary Waste Streams - Municipal (SPDES Class 05 and 07) and PCI (Class 09) WWTFs:	25 ng/L
Industrial WWTFs (SPDES Class 01 and 03):	35 ng/L

#### D. Mercury Treatment Technology

Wastewater treatment technology advancements are needed to reduce the concentrations of mercury discharged from WWTFs. Under contract with EPA, Science Applications International Corporation studied mercury wastewater treatment and published a report in 2005<sup>9</sup> indicating that it was possible to reduce mercury to approximately 12 ng/L using selective sorbents<sup>10</sup>. However, no treatment technology was demonstrated to consistently achieve levels of 12 ng/L or less. Another EPA study, published in 2007, demonstrated continuing difficulties in consistently achieving mercury treatment to levels equal to the minimum level (ML) of 0.5 ng/L for EPA Method 1631.<sup>11</sup>

A 2013 study released by Argonne National Laboratory examined an industrial WWTF in Indiana to assess the achievability of a 1.3 ng/L effluent limitation. The study revealed that this threshold is physically and chemically achievable using current technology for small-scale systems.<sup>12</sup> Using the same technology on a larger scale has not been attempted, so information regarding feasibility and costs of widespread implementation is not available.

More advanced forms of mercury treatment technology capable of decreasing the amount of mercury in effluent are not currently economical. According to the Ohio Environmental Protection Agency (Ohio EPA) Mercury Variance Guidance,<sup>13</sup> “Implementation of the general mercury variance is intended to prevent substantial and widespread social and economic impacts. The average cost to remove mercury below 12 ng/L through end-of-pipe treatment is in excess of ten million dollars per pound of mercury removed.” Consistent with Ohio EPA, DEC is using this MDV to provide a way for WWTFs to combat mercury pollution without installing “costly end-of-pipe treatment.” While review of the above information supports that the 2025 GLCA is achievable, none

<sup>9</sup> *Technological Feasibility of Proposed Water Quality Criteria For New Jersey*. 2005. Prepared for EPA Region 2 by Science Applications International Corporation.

<sup>10</sup> Sorbents refer to insoluble materials or mixtures of materials used to recover substances through the mechanism of absorption, or adsorption, or both.

<sup>11</sup> *Treatment Technologies for Mercury in Soil, Waste, and Water*. 2007. USEPA, Office of Superfund Remediation and Technology Innovation. Washington, DC 20460. [https://www.epa.gov/sites/production/files/2015-08/documents/treat\\_tech\\_mercury\\_542r07003.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/treat_tech_mercury_542r07003.pdf).

<sup>12</sup> “Achieving the Great Lakes Initiative Mercury Limits in Oil Refinery Effluent.” 2013. *Water Environment Research* Vol 85, Issue 1, p. 77–86.

<sup>13</sup> Mercury Variance Guidance. 2000. Ohio EPA. <http://epa.ohio.gov/portals/35/guidance/permit10.pdf>.

of the treatment technologies studied demonstrate compliance with the most stringent dissolved mercury WQS. Therefore, the WQBEL is not currently achievable.

Due to the ability of municipal WWTFs to identify and minimize mercury exposure through source study and minimization efforts (track-down), it is not anticipated that a treatment system upgrade for a municipal WWTF is needed to achieve the 2025 GLCA. However, through the application of an MMP, the municipal WWTF may require more stringent control of industrial users and hauled wastes to sufficiently reduce municipal WWTF effluent concentrations and achieve the 2025 GLCA.

Due to the significant variability between industrial processes and exposure to mercury, wastewater treatment system upgrades may be necessary at some industrial WWTFs that are unable to achieve the 2025 GLCA using other methods.

As implementation of the MDV proceeds, DEC will continue to gather data on the effectiveness of treatment systems and associated costs. This will allow for a better understanding of the capabilities of different mercury treatment technologies and the feasibility of statewide implementation.

As of December 2025, DEC is not aware of significant research that contradicts the conclusions of the articles previously cited in this document.

## **E. Mercury TMDL**

The EPA-approved Northeast Mercury TMDL<sup>14,15</sup> outlines the strategy for achieving the dissolved mercury WQS in the Northeast U.S. The TMDL is a regional plan to reduce mercury entering surface waters in Connecticut, Maine, Massachusetts, New Hampshire, NYS, Rhode Island, and Vermont. The TMDL has not been updated since the original 2007 publication. The TMDL does not assign individual mercury mass loading values to specific SPDES dischargers, as can be often done in TMDLs.

Based on calculations in the TMDL, 98% of the mercury load to surface waters is the result of atmospheric deposition and the remaining 2% is due to effluent discharges. Logically, the TMDL focuses primarily on reductions in anthropogenic, or human-caused, mercury emissions as a means of reducing atmospheric deposition of mercury and improving water quality. According to the TMDL, a 98% reduction in atmospheric deposition of mercury is needed to meet water quality goals.

## **F. Fish Advisories**

Mercury is a bioaccumulative pollutant, which means it can concentrate and build up in the food chain over time. Fish are especially prone to mercury accumulation, putting

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<sup>14</sup> *Northeast Regional Mercury Total Maximum Daily Load*. 2007. USEPA. Website - [https://attains.epa.gov/attains-public/api/documents/actions/MA\\_DEP/33880/107236](https://attains.epa.gov/attains-public/api/documents/actions/MA_DEP/33880/107236).

<sup>15</sup> The 2010 and 2025 MDVs are consistent with DEC's Mercury Work Group Recommendations to Meet the Mercury Challenge, which is incorporated by reference into the approved TMDL. *Mercury Work Group Recommendations to Meet the Mercury Challenge*. 2006. DEC. [http://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/meetmercurychallenge.pdf](http://www.dec.ny.gov/docs/permits_ej_operations_pdf/meetmercurychallenge.pdf).

humans who consume them at risk. The NYS Department of Health (DOH) regularly issues fish advisories for NYS waterbodies to warn consumers of potential hazards. Advisories for specific water basins or fish species can be accessed from the DOH website.<sup>16</sup> As of 2025, there continues to be a statewide advisory to limit fish consumption due to mercury contamination, as well as more restrictive advisories for many specific waterbodies.

### **Part III. Permitting Procedure: MDV for Surface Water Discharges**

#### **A. Summary**

Through previous versions of the MDV, DEC identified mercury monitoring, effluent limitations, and MMPs, all required through SPDES permitting for several WWTFs. The 2025 MDV expands upon those efforts.

Specific elements of NYS's mercury MDV are explained in the sections below:

1. Authorization;
2. Antidegradation;
3. Discharge Classification and Applicability;
4. Criteria for Determining Mercury Sources;
5. Mercury Minimization Programs;
6. Setting Effluent Limitations;
7. Permit Application and Data Review; and
8. MDV Term.

#### **B. Authorization**

6 NYCRR 702.17(h) authorizes the use of MDVs, stating that: “*Where the department determines that a multiple discharge variance is necessary to address widespread standard or guidance value attainment issues including the presence of [an] ubiquitous pollutant or naturally high levels of a pollutant in a watershed, the department, in lieu of the discharger, may conduct the variance demonstration requirements in subdivisions (b) and (c) of [6 NYCRR 702.17]. Any permittee accepting such variance shall be subject to the provisions of subdivision (e) of [6 NYCRR 702.17].*”

Where achievement of a WQBEL is not feasible, 6 NYCRR 702.17(b) specifies the factors for which a variance may be granted. The justification for granting a statewide MDV for mercury is 6 NYCRR 702.17(b)(3), which cites, “*human caused conditions or sources of pollution prevent attainment of the standard ... and cannot be remedied ...*” as a factor.

In accordance with 6 NYCRR 702.17(h), the MDV will result in reasonable progress toward compliance with the mercury WQBEL by including meaningful, yet achievable, requirements in SPDES permits. Until there is less ambient mercury present in

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<sup>16</sup> “New York State Health Advice on Eating Fish You Catch.” New York Department of Health. [http://www.health.ny.gov/environmental/outdoors/fish/health\\_advisories/](http://www.health.ny.gov/environmental/outdoors/fish/health_advisories/).

precipitation and surface waterbodies, and viable treatment technologies are developed, the need for this MDV will continue.

### **C. Antidegradation**

NYS implements the antidegradation portion of the U.S. Clean Water Act (CWA) based upon two documents: (1) Organization and Delegation Memorandum No. 85-40 Water Quality Antidegradation Policy (September 9, 1985); and (2) *TOGS 1.3.9 – Implementation of the NYSDEC Antidegradation Policy – Great Lakes Basin (Supplement to Antidegradation Policy dated September 9, 1985)*. SPDES permit requirements ensure that the existing best usage of the receiving waters will be maintained. Additional guidance is available from EPA.<sup>17</sup>

### **D. Discharge Classification and Applicability**

As of January 2025, the MDV is applicable to approximately 1,200 individual SPDES permits for discharges to surface water. Of those 1,200 individual SPDES permits, approximately 10% are for EPA major industrial WWTFs (Class 03) and 20% are EPA major municipal WWTFs (Class 05). The remainder are NYS significant minor WWTFs, including industrials (Class 01), municipals (Class 07), and PCIs (Class 09).<sup>18</sup> NYS nonsignificant minors, both PCIs (Class 02) and industrials (Class 04), pose a minimal water quality risk consistent with the *Administrative Procedures and Environmental Benefit Permit Strategy for Individual SPDES Permits, TOGS 1.2.2*, and are not included as part of the approximately 1,200 individual SPDES permits.

As stated in *TOGS 1.2.2*, Class 02 and 04 individual SPDES permits do not contain limitations for priority pollutants or other toxic components, including mercury. As such, if a source of mercury is noted, as listed in Part III.E, Class 02 and 04 WWTFs should be reclassified in accordance with *TOGS 1.2.2*, and the MDV may be applied.

This MDV is not needed for flow-through systems that do not include any addition, or concentration, of mercury in their processes and do not require mercury effluent limitations or MMPs as long as they discharge in the same location as the source water (e.g., fish hatcheries, noncontact cooling water, etc.).

In accordance with 40 CFR Part 132, this MDV is not applicable to new and recommencing discharges within the Great Lakes basin, unless the specified conditions of 6 NYCRR 702.17(a)(2) are met. For new and recommencing discharges within the Great Lakes basin, individual SPDES permits should include a monthly average effluent limitation of 0.7 ng/L and routine monitoring using EPA Method 1631.

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<sup>17</sup> *Guidance for Implementing the January 2001 Methylmercury Water Quality Criterion (sections 7.2.3, 7.5.1.2.2)*. EPA-823-R-10-001, April 2010. <https://www.epa.gov/sites/default/files/2019-02/documents/guidance-implement-methylmercury-2001.pdf>

<sup>18</sup> These permits classes are included because they could potentially receive mercury permit limitations. Wastewater discharge categories and permit classifications can be found in *DEC TOGS 1.2.2*.

## E. Criteria for Determining Mercury Sources

WWTFs with mercury sources include those that use mercury in their processes; accept wastewater believed to contain mercury; discharge stormwater runoff, which is a vector for site-related mercury contamination; or otherwise generate concentrations of mercury unrelated to atmospheric deposition or water intakes. DEC uses the following criteria (Appendix C. Mercury Conditional Exclusion Certification) to determine if a WWTF has a mercury source:

- The WWTF is, or receives, flow from a Combined Sewer System (CSS) or sanitary sewer system with Type II Sanitary Sewer Overflows (SSOs)<sup>19</sup>;
- One or more effluent samples exceed 12 ng/L, including samples taken as a result of the SPDES application process;<sup>20</sup>
- Internal or tributary waste stream samples exceed the 2025 GLCA, and the final effluent samples are less than the 2025 GLCA due primarily to dilution by uncontaminated or less-contaminated waste streams. Both components of this criterion may include samples taken as a result of the SPDES application process;
- A SPDES permit application, or other information, indicates that mercury is handled on-site and could be discharged through outfalls;
- Existence of outfalls that contain legacy mercury contamination;
- The WWTF's collection system receives discharges from a dental and/or Categorical Industrial User (CIU)<sup>21</sup> that may discharge mercury;
- The WWTF accepts hauled wastes; or,
- The WWTF is defined as a categorical industry that may discharge mercury. This may also include dentists, universities, hospitals, or laboratories, which have their own individual SPDES permit.

## F. Mercury Minimization Programs (MMPs)

MMPs are designed to reduce mercury effluent levels and make progress toward achieving the WQBEL of 0.7 ng/L. DEC developed MMP permit conditions consistent with 40 CFR Part 132. MMP Type I, II, III, and IV permit conditions are included in Appendix B of this document.

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<sup>19</sup> These are overflow retention facilities (ORFs).

<sup>20</sup> For new facilities or facilities that cannot sample their effluent, an estimated effluent mercury concentration may be used, with rationale. After startup, or as soon as available, the permittee will be required to perform confirmatory sampling.

<sup>21</sup> CIUs include those listed under Federal Regulation 40 CFR Part 405–471.

## 1. MMP and Effluent Limitation Determination

There are many factors that influence the appropriate MMP type, monitoring requirements, and effluent limitations for a WWTF. The decision trees in [Figure 1](#) and [Figure 2](#) are helpful tools to determine the appropriate MMP type for each WWTF. [Appendix B](#) contains MMP content for each type.

In general, MMPs Type I, II, and III are appropriate for WWTFs that have larger flows or contain potential sources of mercury in the system/on-site and have a greater potential to discharge mercury. MMP Type IV is appropriate for WWTFs that are able to confirm, through completion of the Conditional Exclusion Certification Form ([Appendix C](#)), that their influent is not believed to contain a mercury source and they do not require effluent limitations. However, if a WWTF was previously given effluent limitations, anti-backsliding and antidegradation regulations apply.<sup>22</sup>

In cases where individual outfalls have significant differences in mercury exposure and discharge potential, the SPDES permit may utilize multiple MMP types applied at different outfalls.

## G. Setting Effluent Limitations

Anti-backsliding requirements, consistent with CWA §402(o) and 6 NYCRR 750-1.10(c), prohibit revised permit effluent limitation(s) from being less stringent than the WWTF's existing effluent limitation(s), unless certain conditions are met. For WWTFs where application of the MDV results in a less stringent effluent limitation for mercury, DEC may only allow a less stringent mercury effluent limitation if justified in accordance with 6 NYCRR 750-1.10(c).

The permitting approach outlined in Part III.G.1. and Part III.G.2. is to be used when setting effluent limitations for SPDES permitted facilities. [Table 7](#) is a summary of the possible combinations of effluent limitations, and their associated monitoring frequencies, as outlined in this section (see also [Figure 1](#) and [Figure 2](#)):

1. Special Scenarios:
  - a. Individually Permitted Publicly Owned Sewer Systems (POSSs): POSSs with an individual SPDES permit do not require a mercury effluent limitation but should implement the same MMP type as the WWTF to which they are tributary.
  - b. Mercury Effluent Limitation at Internal Outfalls: DEC may establish a daily maximum and 12-month rolling average (12-MRA) effluent limitation for industrial and PCI WWTFs at internal locations as recommended in the *Industrial Permit Writing, TOGS 1.2.1.*, and the process outlined in Part III.G.2. The effluent limitation at the internal location is a technology-based effluent limitation. This includes cases where an internal outfall exceeds

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<sup>22</sup> See anti-backsliding requirements specified in the CWA sections 402(o) and 303(d)(4), ECL 17-0809, and regulations at 40 CFR 122.44(l) and 6 NYCRR 750-1.10(c) and (d).

the 2025 GLCA but the final outfall does not, due to dilution with less contaminated wastewater.

2. Applicable<sup>23</sup> SPDES Permitted WWTFs:

- a. Include a Daily Maximum Effluent Limitation (Table 7): The individual SPDES permit contains a final WQBEL of 0.7 ng/L. However, the individual SPDES permit does not require compliance with that final WQBEL during the permit term. The individual SPDES permit includes a compliance level set as a daily maximum concentration limitation equal to the 2025 GLCA<sup>24</sup> for the respective WWTF category (sanitary or industrial).

In accordance with 6 NYCRR 750-1.14, if a WWTF is incapable of meeting the 2025 GLCA, the individual SPDES permit should include a compliance schedule, no greater than 5 years, to achieve final compliance with the 2025 GLCA. An interim effluent limitation(s) in the individual SPDES permit should be set at the individual level currently achievable (ILCA), but not greater than 200 ng/L, as established in the previous versions of DOW 1.3.10.

- b. Assign 12-MRA Effluent Limitation (Table 7): In addition to the daily maximum limitation, once a WWTF has 10 or more representative data points, DEC will evaluate the existing effluent quality<sup>25</sup> (EEQ). If the EEQ is less than the 2025 GLCA, DEC will propose a modification, in accordance with *TOGS 1.2.2*, to the individual SPDES permit to include a 12-MRA equal to the EEQ.

The monitoring frequency is dependent on the EEQ and should be the same for the daily maximum limitation as the 12-MRA effluent limitation (e.g., if the WWTF has an EEQ that necessitates quarterly monitoring, the daily maximum should be monitored quarterly as well).

EEQ < 2025 GLCA: 12-MRA = EEQ

EEQ > 2025 GLCA: No 12-MRA, Daily Max is Limiting

- c. Reduced Monitoring Requirements (Table 7): WWTFs with an EEQ at or below 12 ng/L<sup>26</sup> are eligible for reduced individual SPDES permit conditions and monitoring. Eligible WWTFs can request this through a

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<sup>23</sup> See Part III.D for SPDES facility applicability of this MDV.

<sup>24</sup> See Part II.C Effluent Discharges and General Level Currently Achievable.

<sup>25</sup> Consistent with EPA's *Technical Support Document for Water Quality-Based Toxics Control*, 1991, the EEQ is calculated using the lognormal or delta lognormal 95th percentile. <https://www.epa.gov/system/files/documents/2024-07/technical-support-document-for-water-quality-based-toxics-control.pdf>.

<sup>26</sup> For the purposes of this MDV, the threshold for mercury concentration found in waterbodies due to atmospheric deposition has been determined to be 12 ng/L (Part II. Atmospheric Deposition). If the WWTF is discharging below 12 ng/L, it is below the expected contribution due to natural atmospheric deposition. The GLCA limitations do not take this contribution into account.

permittee-initiated permit modification:

- i. MMP Type I:
  - a) In lieu of monitoring within the collection system, conduct influent monitoring (e.g., at key locations and potential mercury sources); and
  - b) Reduce effluent compliance sampling frequency to quarterly.
- ii. MMP Type II and III:
  - a) In lieu of monitoring within the collection system, conduct influent monitoring (e.g., at key locations and potential mercury sources); and
  - b) Reduce effluent compliance sampling frequency to semiannually.

If a WWTF with reduced requirements reports discharges above 12 ng/L for 2 of 4 consecutive effluent samples, DEC may initiate a permit modification to remove the reduced sampling requirements and return to the full MMP requirements and sampling frequency specified in [Table 7](#).

## **H. Permit Application and Data Review**

The permittee should use analytical methods and sampling techniques in [Table 8](#) when sampling for mercury as part of a SPDES permit application, Environmental Benefit Permit Strategy (EBPS) Request for Information (RFI), or in response to other DEC requests.

In accordance with 6 NYCRR 750-2.5, all mercury outfall monitoring must be: 1) manually collected as grab samples; 2) collected in a manner that ensures the quantification of mercury in the sample is representative of the compliance points being monitored and does not contribute to the loss of mercury in the sample (use of EPA Method 1669, commonly referred to as “clean hands/dirty hands,” for sample collection is recommended); and 3) analyzed using the method approved under 40 CFR Part 136 by a DOH Environmental Laboratory Approval Program (ELAP) accredited laboratory as listed in

[Table 8](#). Otherwise, the application is incomplete, and the permittee (or applicant) must repeat the sampling using the correct methods (see 6 NYCRR 750-1.7).

Consistent with 40 CFR 122.45(c), sampling should be done as total mercury. However, consistent with EPA Document 823-B-926-007, the translator to convert from total to dissolved mercury is 1.0, making the dissolved and total form equivalent.

If permit application data for effluent mercury consists of a single sample result, which is greater than 80% of the 2025 GLCA value (i.e., > 20 ng/L for WWTFs with sanitary waste streams or >28 ng/L for industrial WWTFs), and there is no other low level effluent mercury data available, then the permittee (or applicant) should further

characterize the discharge by collecting a minimum of 2 additional samples (for a total of 3), once per week for 2 weeks, representative of routine facility operations. This additional information is necessary for DEC to consider the application complete (see 6 NYCRR 750-1.6(e)).

#### **I. MDV Term**

This MDV is in effect for five years from the effective date specified on page 1 of this document. Individual SPDES permits may not be renewed or modified after the expiration date of the MDV unless the permit incorporates conditions of either a new MDV, an Individual Discharge Variance (IDV) (6 NYCRR 702.17), or includes an effluent limitation equal to the WQBEL of 0.7 ng/L. It is likely that the WQS will not be achieved for many years and that it will be necessary to pursue one or more subsequent MDVs in the future.

#### **Part IV. SPDES Permit Equivalents and Short-Term Discharges**

SPDES permit equivalents (6 NYCRR 750-1.5(a)(2)) are developed for remedial discharges from contaminated sites using the same technical procedures as those used for SPDES permits. The MDV is not applicable if the site cleanup is for mercury-containing pollutants; thus, the effluent limitation for a SPDES permit equivalent will be 0.7 ng/L. The MDV is applicable if sites encounter mercury levels above the most stringent (dissolved) mercury WQS, but mercury is not a site-specific contaminant, and cleanup of mercury is not part of the remedial action.

Short-term discharges (i.e., discharges less than 2 years in duration), such as uncontaminated dewatering projects, are often above the most stringent (dissolved) mercury WQS, and these types of projects have minimal opportunity to treat for mercury. The MDV is applicable in these situations.

An MMP is not necessary for most SPDES permit equivalents and short-term discharges since there will be insufficient time for the MMP to achieve a meaningful reduction in mercury.

#### **Part V. Responsibility**

Staff of DEC's Bureau of Water Permits will maintain and interpret this policy and provide updates as needed.

#### **Part VI. Related References**

6 NYCRR Part 374 - Standards for the Management of Elemental Mercury and Dental Amalgam Wastes at Dental Facilities.

6 NYCRR Parts 700-706 - Water Quality Regulations.

6 NYCRR Part 750 - SPDES Permit Regulations.

40 CFR Part 132 - Water Quality Guidance for the Great Lakes System.

40 CFR Part 136 - Guidelines Establishing Test Procedures for the Analysis of Pollutants.

40 CFR Part 441 - Dental Office Point Source Category.

Amendments to the NPDES Memorandum of Agreement Between the NYSDEC and the USEPA, Region II Relating to Implementation of the Requirements of the Great Lakes Water Quality Guidance in the Great Lakes Basin, March 16, 1998, and September 27, 2000.

Northeast Regional Mercury Total Maximum Daily Load, October 24, 2007.

NYSDEC Mercury Work Group Recommendations to Meet the Mercury Challenge, December 2006.

NYSDEC Organization and Delegation Memorandum No. 85-40, Water Quality Antidegradation Policy, September 9, 1985.

*NYSDEC TOGS 1.1.1 - Ambient Water Quality Standards and Guidance Values and Groundwater Effluent Limitations.*

*NYSDEC TOGS 1.2.1 - Industrial Permit Writing.*

*NYSDEC TOGS 1.2.2 - Administrative Procedures and the Environmental Benefit Permit Strategy for Individual SPDES Permits.*

*NYSDEC TOGS 1.3.1 - Total Maximum Daily Loads and Water Quality-Based Effluent Limits.*

*NYSDEC TOGS 1.3.3 - SPDES Permit Development for POTWs.*

*NYSDEC TOGS 1.3.9 - Implementation of the NYSDEC Antidegradation Policy - Great Lakes Basin (Supplement to Antidegradation Policy dated September 9, 1985).*

## Tables

Table 1. Ambient Water Quality Standards for Mercury

Ambient Water Quality Standards for Mercury			
Water Quality Standard (ng/L)	Form of Mercury	Basis	Regulation
1,400	Dissolved	A(A) Aquatic Life - Acute	6 NYCRR 703.5
770	Dissolved	A(C) Aquatic Life - Chronic	6 NYCRR 703.5
700	Total	H(W) Human Health - Water Supply	6 NYCRR 703.5
2.6	Dissolved	Wildlife	6 NYCRR 703.5
1.3	Total	Wildlife (Great Lakes Basin only)	40 CFR 132.6(e)
0.7	Dissolved	H(FC) Human Health - Fish Consumption	6 NYCRR 703.5

**Table 2. Ambient Surface Water Monitoring Data**

Average and maximum mercury concentrations from ambient surface water monitoring data. The samples were analyzed using EPA Method 1631. Values were rounded to two significant figures (see [Part II.A.](#) "Ambient Surface Waterbodies" section).

<b>Ambient Surface Water Monitoring Data</b>			
<b>Mercury Concentration Results (ng/L)</b>			
Average/Maximum (number of samples)			
<b>Drainage Basin (basin number)</b>	<b>2012–2014 (1,089)</b>	<b>2015–2018 (577)</b>	<b>2019–2022 (610)</b>
Lake Erie - Niagara River Basin (01)	2.5/6.5 (17)	1.9/14 (67)	2.7/7.1 (27)
Allegheny River Basin (02)	1.7/23 (116)	2.9/15 (19)	2.1/4.8 (28)
Lake Ontario and Minor Tributaries (03)	1.0/3.5 (65)	2.0/9.5 (52)	2.7/11 (34)
Genesee River Basin (04)	2.8/10 (14)	3.3/39 (77)	1.8/6.3 (57)
Chemung River Basin (05)	2.0/15 (79)	3.2/24 (13)	2.8/39 (26)
Susquehanna River Basin (06)	2.6/76 (118)	2.0/5.9 (24)	1.5/3.2 (22)
Seneca-Oneida-Oswego River Basin (07)	1.1/6.4 (171)	1.9/16 (27)	1.6/9.7 (58)
Black River Basin (08)	3.0/17 (64)	3.0/8.8 (18)	2.5/6.9 (29)
St. Lawrence River Basin (09)	0.2/0.69 (18)	2.3/8.5 (106)	2.1/5.8 (40)
Lake Champlain Basin (10)	1.1/3.4 (56)	1.3/2.8 (23)	1.6/4.4 (38)
Upper Hudson River Basin (11)	1.5/17 (142)	2.1/7.2 (25)	1.7/8.2 (35)
Mohawk River Basin (12)	5.4/95 (40)	2.6/9.3 (22)	1.6/5.2 (40)
Lower Hudson River Basin (13)	3.2/26 (148)	2.8/15 (23)	1.7/14 (120)
Delaware River Basin (14)	-	1.5/6.9 (71)	1.5/7.5 (32)
Passaic - Newark (Basin 15)	-	-	-
Housatonic River Basin (16)	-	-	-
Atlantic Ocean - Long Island Sound Basin (17)	1.7/5.7 (41)	2.3/6.4 (10)	1.2/4.1(24)

**Table 3. Atmospheric Deposition - Mercury Concentration Data by Sample Location**

Average mercury concentration data from seven sample sites across NYS and along the New York–Pennsylvania border (see Part II.B. Atmospheric Deposition section). Each monitoring station recorded 40–50 samples. Values were rounded to two significant figures.

Atmospheric Deposition Average Mercury Concentration (ng/L) by Sample Location							
Year	NY03/06 <sup>a</sup> Bronx	NY20 Essex	NY43 Monroe	NY68 Ulster	NY96 Suffolk	PA30 <sup>b</sup> Erie	PA90 <sup>b</sup> Tioga
2015	8.9	5.1	8.8	6.6	5.6	12	8.1
2016	8.5	8.3	11	8.9	8.8	11	12
2017	9.0	4.7	7.2	9.1	7.1	9.9	7.5
2018	8.3	4.9	7.8	5.3	8.1	7.3	6.1
2019	7.4	5.7	7.2	5.3	5.7	-	-
2020	8.5	5.4	9.7	5.1	5.8	-	-
2021	9.0	6.0	11	6.2	8.9	-	-
2022	8.2	6.0	9.0	6.2	6.3	-	-
2023	16	7.8	9.3	8.4	13	-	-
2024	9.7	12	10	8.5	6.8	-	-

<sup>a</sup> The Bronx location identification number changed between reporting periods, but the location has stayed the same.

<sup>b</sup> The Pennsylvania locations, PA30 Erie and PA90 Tioga, did not contain data beyond 2019.

**Table 4. Atmospheric Deposition - Mercury Concentration Yearly Comparison**

A comparison of the average mercury concentrations between data collected in 2013–2014, 2015–2018, and 2018–2024 at sites in NYS and Pennsylvania (see Part II.B. Atmospheric Deposition section).

Atmospheric Deposition Average Mercury Concentration (ng/L) by Sample Location									
Time Frame	NY03 /06 <sup>a</sup> Bronx	NY20 Essex	NY43 Monroe	NY68 Ulster	NY96 Suffolk	PA30 Erie	PA90 Tioga	Average <sup>b</sup>	Average of 95th Percentiles <sup>c</sup>
201–2014	10	6.2	10.3	7.1	-	15	10	9.8	-
2015–2018	8.7	5.8	8.6	7.5	-	9.9	8.5	7.6	12.4
2018–2024	9.7	6.7	9.3	6.5	7.9	-	-	8.0	12.6

<sup>a</sup> The Bronx location identification number changed between reporting periods, but the location has stayed the same.

<sup>b</sup> The average values were calculated using the five NYS locations only.

<sup>c</sup> Values were calculated using the 95th lognormal percentile consistent with EPA’s *Technical Support Document for Water Quality-Based Toxics Control*, 1991 (<https://www.epa.gov/system/files/documents/2024-07/technical-support-document-for-water-quality-based-toxics-control.pdf>).

**Table 5. Number of SPDES WWTFs and Range of Mercury Concentrations**

A total of 210 WWTFs were used in this analysis. WWTFs at or under the 2025 GLCA are indicated in grey (see [Part II.C. Effluent Discharges and General Level Currently Achievable](#) section).

Number of SPDES WWTFs within Range of Mercury Concentration						
Mercury Concentration (ng/L)	Average		Median		Maximum	
	Municipal <sup>b</sup>	Industrial <sup>c</sup>	Municipal <sup>b</sup>	Industrial <sup>c</sup>	Municipal <sup>b</sup>	Industrial <sup>c</sup>
0–12 <sup>a</sup>	146	34	159	39	89	17
12–25	14	-	6	-	30	-
12–35	-	8	-	4	-	7
25–50	2	-	1	-	22	-
35–50	-	0	-	0	-	5
50–200	4	1	0	0	18	11
200-plus	1	0	1	0	8	3
Total	167	43	167	43	167	43

<sup>a</sup> For the purposes of this MDV, 12 ng/L is considered the threshold for mercury found in waterbodies due to atmospheric deposition ([Part II.B. Atmospheric Deposition](#)).

<sup>b</sup> Municipal WWTFs include USEPA Major Class 05 and NYS significant minor Class 07.

<sup>c</sup> Industrial WWTFs include USEPA Major Class 03 and NYS significant minor Class 01.

**Table 6: Types of Limitations for Each Phase of MDV Implementation**

Where the permittee accepts the MDV, the effluent limitations specified in this table ([Part III.G](#)) apply. SPDES permit implementation of the MDV is further clarified in [Table 7](#).

	Phase of MDV Implementation		
	Initial	Interim	Final
	ILCA	GLCA	0.7 ng/L
<b>Type of Limitation</b>	GLCA	GLCA	0.7 ng/L
	ILCA or GLCA	EEQ and GLCA <sup>a</sup>	0.7 ng/L

<sup>a</sup> Both EEQ and GLCA are included here because the EEQ is a 12-MRA permit limitation and the GLCA is a daily maximum permit limitation ([Table 7](#)).

**Table 7: Types of Limitations and Monitoring Frequencies**

See [Part III.G Setting Effluent Limitations](#) for more information.

Types of Limitations and Monitoring Frequencies			
Type of Limitation	Limitation Value, ng/L	Expressed as, in permit	Monitoring Frequency
Individual Level Currently Achievable (ILCA)	Sanitary: 25–200 <sup>a</sup> Industrial: 35–200 <sup>a</sup>	Daily Max	Weekly
General Level Currently Achievable (GLCA)	Sanitary: 25 Industrial: 35	Daily Max	Monthly <sup>b</sup>
After 10 or More Data Points Daily Max Continues and New 12 Month Rolling Average			
Existing Effluent Quality (EEQ) <sup>c,d</sup>	EEQ	12-MRA	EEQ > 12: Bimonthly <sup>e</sup>
			EEQ ≤ 12
			MMP Reduced Requirements  Type I: Quarterly  Type II and III: Semiannually
Final Mercury Limit			
Final	0.7	Monthly Average <sup>f</sup>	TBD <sup>g</sup>

<sup>a</sup> If a permittee cannot reliably meet the GLCA, a compliance schedule to achieve compliance with the GLCA will be included with interim effluent limitations set at the ILCA.

<sup>b</sup> The sampling frequency for the daily maximum limitation should be updated to match the 12-MRA at the time the 12-MRA is established.

<sup>c</sup> Once a permittee has 10 or more effluent mercury data points, the EEQ is calculated using the 95th lognormal percentile, consistent with the EPA's *Technical Support Document for Water Quality-Based Toxics Control*, 1991 (<https://www.epa.gov/system/files/documents/2024-07/technical-support-document-for-water-quality-based-toxics-control.pdf>).

<sup>d</sup> If a WWTF receives a 12-MRA (EEQ) permit limitation, it also must receive a daily maximum limitation equal to the GLCA. The EEQ monitoring frequency shown in Table 7 is used for the EEQ and GLCA limitations.

<sup>e</sup> For WWTFs with an EEQ > 2025 GLCA, sampling frequency would remain at monthly.

<sup>f</sup> Consistent with *Total Maximum Daily Loads and Water Quality-based Effluent Limits, TOGS 1.3.1, WQS* for the protection of human health should be stipulated as a monthly average.

<sup>g</sup> The monitoring frequency for the final effluent limit of 0.7 ng/L will be determined in consideration of the variability of the effluent flows and pollutant levels per 6 NYCRR 750-1.13(c)

**Table 8: Approved Methods for Mercury Water/Wastewater Analysis and Sampling**

The table captures approved methods as of issuance of this document. Permittees are required to follow EPA 40 CFR Part 136— “Guidelines Establishing Test Procedures for the Analysis of Pollutants” for the appropriate collection method and the most sensitive approved analytical methods. (See Part III.H. Permit Application and Data Review section).

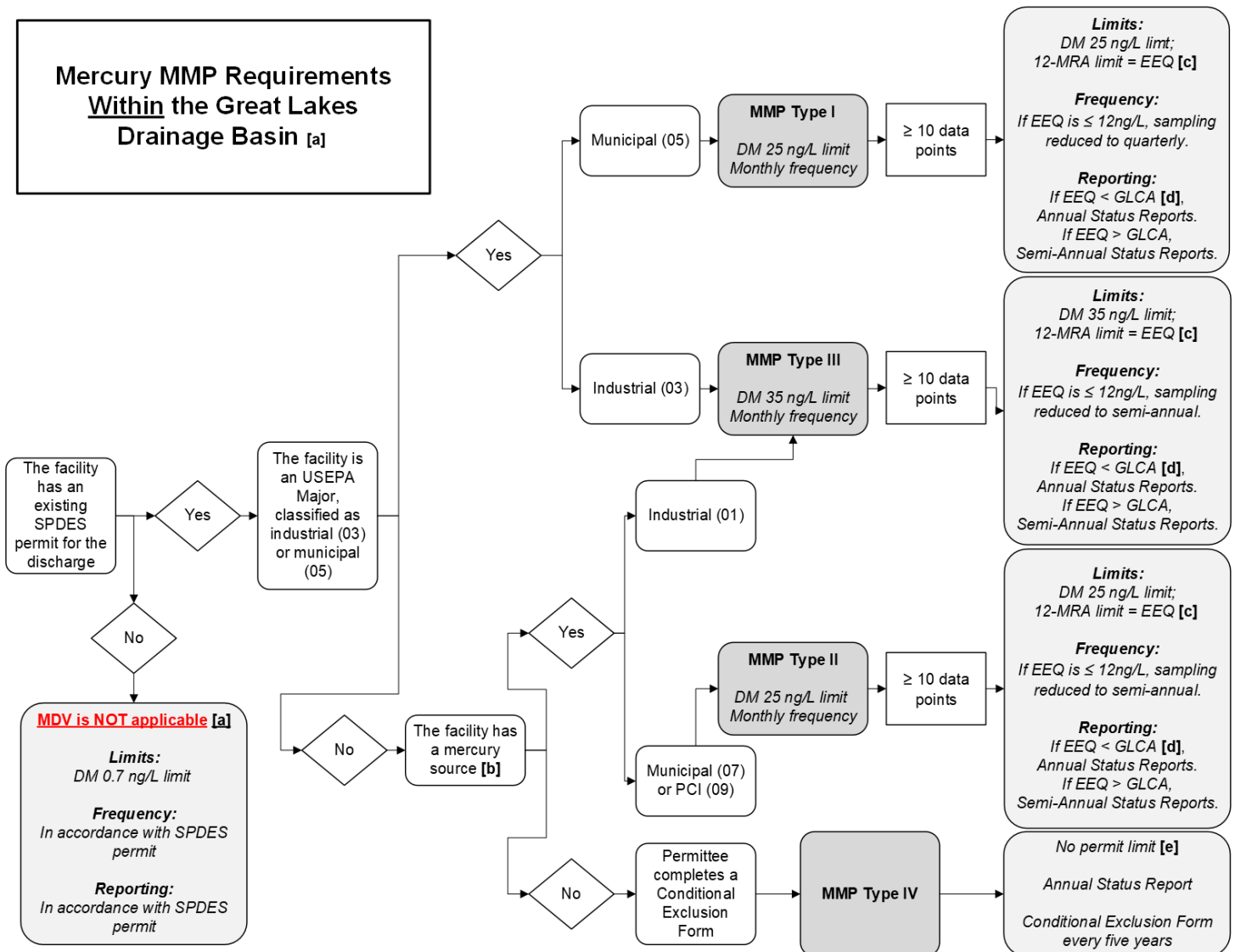
If the permittee elects to monitor raw materials, equipment, treatment residuals, or other non-wastewater/non-stormwater substances, other EPA-approved methods shall be used as appropriate. The permittee must coordinate monitoring so that the results can be effectively compared between monitoring locations.

Approved Methods for Mercury Water/Wastewater Analysis and Sampling				
EPA Method	MDL/ML <sup>a</sup> (ng/L)	Method Suitability		
		Ambient Surface Water	Discharges to Surface Water - Permits and Permit Applications	MMP Internal Monitoring
245.7 <sup>b</sup>	2.0/5.0	No	No	Yes
1631 <sup>b</sup>	0.20/0.50	Yes	Yes	Yes

<sup>a</sup> The Method Detection Limit (MDL), as defined in 40 CFR Part 136, Attachment B, is the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than 0 and is determined from analysis of a sample in a given matrix containing the analyte. The ML is the most sensitive analytical method as given in 40 CFR Part 136 or otherwise accepted by DEC.

<sup>b</sup> All mercury outfall monitoring must be: 1) collected as grab samples; 2) collected in a manner that ensures the quantification of mercury in the sample is representative of the compliance points being monitored and does not contribute to the loss of mercury in the sample (using EPA Method 1669 for sample collection is recommended); and 3) analyzed using the most sensitive method approved under 40 CFR Part 136 by a DOH ELAP accredited laboratory.

## Figures



**Figure 1. MMP Requirements Within the Great Lakes Drainage Basin**

See [Part III.D](#) for a discussion on applicable SPDES permit classifications.

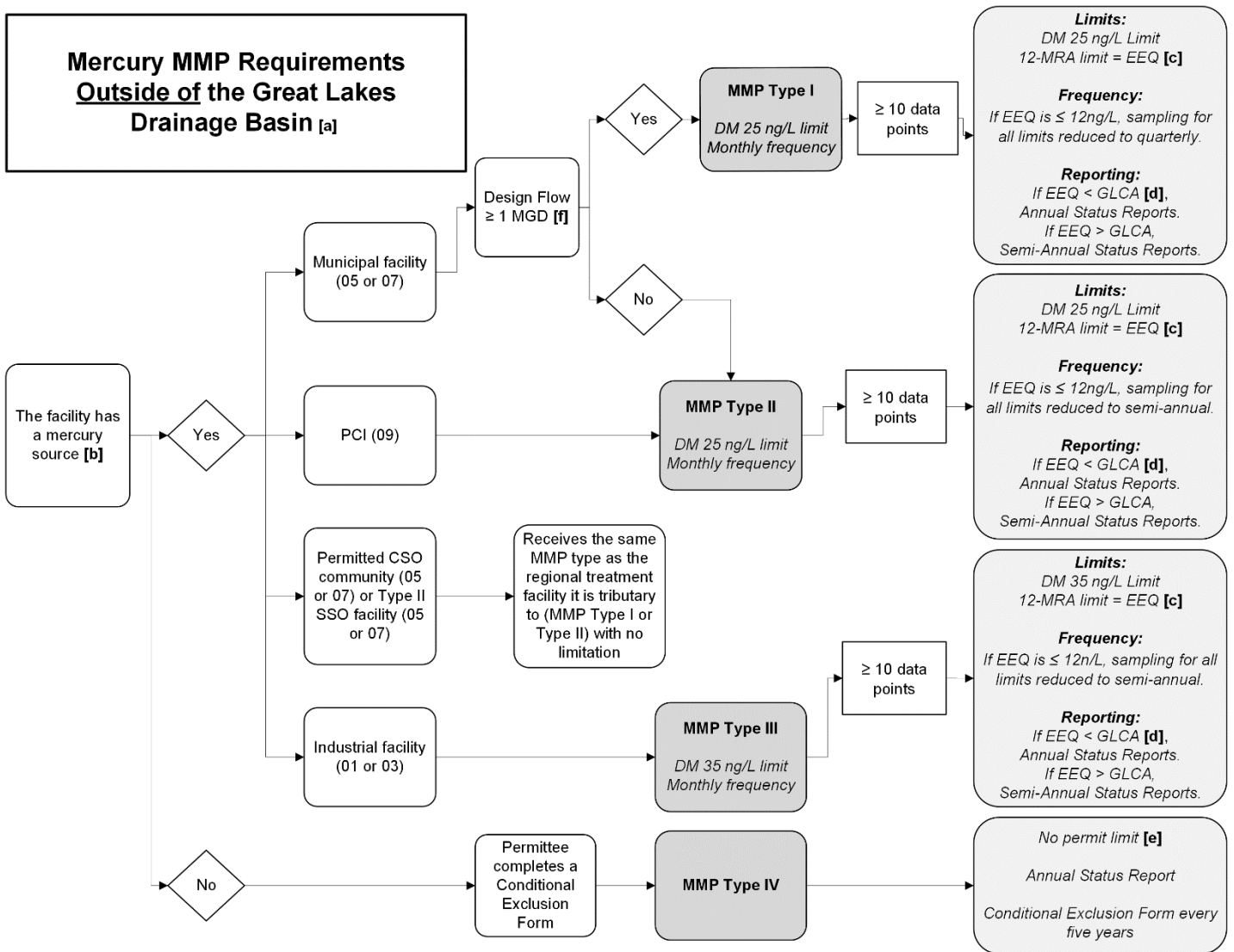
<sup>[a]</sup> The Great Lakes drainage basin WWTFs have been prioritized by the USEPA and state regulations ([Part III.D](#)). Within the Great Lakes drainage basin, the MDV is not applicable to new SPDES discharges, and WWTFs classified as USEPA majors are not eligible for MMP Type IV.

<sup>[b]</sup> The criteria to determine if a WWTF has a mercury source can be found in [Part III.E](#) and in [Appendix C](#).

<sup>[c]</sup> Consistent with the EPA's *Technical Support Document for Water Quality-Based Toxics Control*, March 1991, the EEQ is calculated as the 95th percentile of a lognormal distribution of available sampling data.

<sup>[d]</sup> The GLCA for municipal (SPDES Class 05, 07) and PCI (09) WWTFs is 25 ng/L and the GLCA for industrial WWTFs (01, 03) is 35 ng/L. See [Part II.C](#) Effluent Discharges and General Level Currently Achievable.

<sup>[e]</sup> If a limit exists prior to MMP Type IV designation, the limit will continue to be required, in accordance with 6 NYCRR 750-1.10(c), with consideration given for reduced frequency (see [Part III.G](#)).



**Figure 2. MMP Requirements Outside of the Great Lakes Drainage Basin**

See [Part III.D](#) for a discussion on applicable SPDES permit classifications.

[a] The Great Lakes drainage basin WWTFs have been prioritized by EPA and NYS regulations ([Part III.D](#)).

[b] The criteria to determine if a WWTF has a mercury source can be found in [Part III.E](#) and [Appendix C](#).

[c] Consistent with the EPA's *Technical Support Document for Water Quality-Based Toxics Control*, March 1991, the EEQ is calculated as the 95th percentile of a lognormal distribution of available sampling data.

[d] The GLCA for municipal (SPDES Class 05, 07) and PCI (09) WWTFs is 25 ng/L and the GLCA for industrial WWTFs (01, 03) is 35 ng/L. See [Part II.C](#) Effluent Discharges and General Level Currently Achievable.

[e] If a limit exists prior to MMP Type IV designation, the limit will continue to be required, in accordance with 6 NYCRR 750-1.10(c), with consideration given for reduced frequency (see [Part III.G](#)).

[f] The 1 million gallons per day (MGD) flow value is equivalent to the flow threshold employed by EPA when determining an EPA major discharger designation.

## **Appendix A. Highlights of NYS Activities to Minimize Mercury<sup>27</sup>**

### **1998**

New ambient WQS promulgated;

### **2002**

Lowered waste incineration limits;

### **2003**

Use of non-encapsulated elemental mercury banned in dental offices; dentists required to recycle any mercury or dental amalgam waste generated in their offices (NYS Environmental Conservation Law [ECL] 27-0926);

### **2004**

Mercury-Added Consumer Products (MACP) Law passed, ECL Article 27, Title 21;

School (K-12) use/purchase of elemental mercury banned (MACP);

### **2005**

Elemental mercury sales or distribution restricted to medical, dental, manufacturing, and research purposes (MACP);

Sale/distribution of mercury-added novelty consumer products and mercury fever thermometers and mercury body thermometers (without prescription) prohibited (MACP);

Labeling of most mercury-added consumer products required (MACP);

Disposal of mercury-added consumer products restricted (MACP);

Law restricting mercury use in vaccines;

### **2006**

Sale/distribution of mercury-added barometers, flowmeters, hydrometers, pyrometers, psychrometers, esophageal dilators, bougie tubes, and gastrointestinal tubes prohibited (MACP);

6 NYCRR Part 374-4 goes into effect: proper management of dental mercury required; dentists must install amalgam separators;

Mercury management restrictions at vehicle dismantlers;

Mercury-free schools outreach project begins;

### **2007**

Coal Fired Power Plant mercury regulations issued, phase 2 implementation harmonized with Clean Air Interstate Rule (CAIR) and Regional Greenhouse Gas

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<sup>27</sup> Additional information on mercury management in NYS can be found on DEC's website at <https://dec.ny.gov/environmental-protection/mercury>.

Initiative (RGGI);

Sale/distribution of mercury hydrometers and mercury manometers prohibited (MACP);

Northeast Regional TMDL is approved by EPA;

### **2008**

Dental amalgam separator installation deadline for existing dentists;

Sale/distribution of mercury switches and mercury relays, either individually or as a product component, is prohibited (MACP);

Sale/distribution of mercury sphygmomanometers, mercury wetted reed relays, mercury flame sensors, mercury thermometers, and mercury thermostats prohibited (MACP);

### **2010**

Coal Fired Power Plant Regulations Phase I, 50% mercury reduction required, mercury cap, no trading allowed;

Phaseout of mercury-added motor vehicle components (MACP);

Mercury SPDES permitting strategy and MDV finalized;

### **2011**

EPA announces Mercury and Air Toxics Standards (MATS) for power plants;

### **2013**

Mercury Thermostat Collection Act required mandatory collection and environmentally sound management of out-of-service mercury thermostats by manufacturers;

### **2015**

Coal Fired Power Plant Regs Phase II, 90% mercury reduction required;

### **2019**

Regulations finalized to phase out coal fired power plants in NYS by end of 2020;

Legislation passed in 2019 prohibits public and nonpublic elementary or secondary schools from installing a mercury-containing floor beginning Jan. 1, 2021 (amends MACP);

Legislation passed in 2019 requires producers of certain mercury-added lamps to meet mercury content restrictions adopted by DEC, effective Jan. 1, 2021 (amends MACP); and

### **2022**

Amendments were made to ECL 37-0117 to prohibit the sale of cosmetic and personal care products that contain mercury above “trace amounts” with DEC to determine allowable “trace amounts” in subsequent regulation.

## Appendix B. Mercury Minimization Program Permit Conditions

See Part III.F.1 and Figure 1 and Figure 2 for determining the appropriate MMP type for individual SPDES permits.

### Mercury Minimization Program (MMP) Type I

To reduce mercury effluent levels with the goal of achieving the water quality standard of 0.7 ng/L, the permittee must develop, implement, and maintain a written MMP plan, which includes:

1. **Relevant Documents** – incorporate by reference documents already prepared, if any, for the wastewater treatment facility (WWTF).
2. **Drawings or Maps** – for the WWTF and collection system identifying key locations and other areas identified in the MMP Plan.
3. **Monitoring Plan** – According to the methods specified in Table 8 of DOW 1.3.10, conduct all mercury monitoring for the following locations and frequencies:
  - A. Influent/Effluent – sampled in accordance with the SPDES permit limitations table for each outfall; and,
  - B. Key Locations<sup>28</sup> – sampled semiannually, chosen to identify potential mercury sources. Sampling of discharges from dental facilities that are in compliance with 6 NYCRR 374.4 is not required.
4. **Hauled Wastes Procedures** – establish procedures for the acceptance of hauled waste to ensure it is not a potential mercury source. The permittee must notify the New York State Department of Environmental Conservation (DEC) prior to acceptance of loads which may exceed 500 ng/L<sup>29</sup>.
5. **Control Strategy** – develop and implement with the following minimum elements:
  - A. Pretreatment/Sewer Use Law (SUL) – develop, include, and enforce pretreatment and SUL conditions which will support efforts to achieve the water quality standard of 0.7 ng/L.
  - B. Inventory – develop and maintain an inventory of known and potential mercury sources, including a subset list of dental facilities.
  - C. Dental Facilities Requirements – once every five years, conduct and document either:

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<sup>28</sup> Reduced Requirements: For permittees with an EEQ at or below 12 ng/L, influent monitoring will be required in lieu of monitoring at key locations within the collection system. If a facility reports discharges above 12 ng/L for 2 of 4 consecutive effluent samples, DEC may undertake a Department-Initiated Permit Modification to remove the allowance of reduced requirements.

<sup>29</sup>A level of 0.2 mg/L (200,000 ng/L) or more is considered hazardous per 40 CFR 261.11. The 500 ng/L amount is used here to alert the permittee that there is an unusual concentration of mercury and that it will need to be managed appropriately.

- i. Inspections at each dental facility to verify compliance with the wastewater treatment operation, maintenance, and notification elements of 6 NYCRR 374.4; OR,
  - ii. An outreach program<sup>30</sup>, which informs new and existing users of their responsibilities, and collection of the “Amalgam Waste Compliance Report for Dental Dischargers”<sup>31</sup> form. Ensure the “Amalgam Waste Compliance Report for Dental Dischargers” is submitted by new users. The permittee should conduct site inspections to support the outreach program.
- D. Other Potential Mercury Sources – once every five years, conduct and document either:
- i. Inspections at each identified location with potential mercury source(s), other than dental facilities; OR,
  - ii. An outreach program which informs users of their responsibilities as identified locations with potential mercury source(s). The permittee should conduct site inspections to support the outreach program.
- E. Equipment and Materials – evaluate equipment and materials (e.g., thermometers, thermostats) used by the permittee for potential mercury contribution to the discharge. As equipment and materials containing mercury are updated/replaced, the permittee must use mercury-free alternatives, if possible.
- F. Bulk Chemical Evaluation – for chemicals used at a rate which exceeds 1,000 gallons/year or 10,000 pounds/year, the permittee must obtain:
- i. A manufacturer’s certificate of analysis;
  - ii. A chemical analysis performed by a certified laboratory; OR,
  - iii. A notarized affidavit that describes the substance’s mercury concentration and the detection limit achieved.

Where practicable, the permittee must only use bulk chemicals in the wastewater treatment process which contain <10 parts per billion (ppb) of mercury.

- G. Systems with CSO and Type II SSO Outfalls – prioritize locations, with potential mercury sources upstream of CSOs and Type II SSOs, for mercury reduction activities and/or controlled-release discharge.

6. **Status Report** – the permittee must develop an annual or semiannual<sup>32</sup> status report summarizing:

- A. All MMP monitoring results since the previous report;

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<sup>30</sup> For example, the outreach program could include education about sources of mercury and what to do if a mercury source is found.

<sup>31</sup> The form, “Amalgam Waste Compliance Report for Dental Dischargers,” can be found here: [https://www.dec.ny.gov/docs/water\\_pdf/dentalform.pdf](https://www.dec.ny.gov/docs/water_pdf/dentalform.pdf).

<sup>32</sup> Status reports shall be submitted annually unless the permit contains a schedule of compliance to achieve the GLCA effluent limitation. If a schedule of compliance is included, status reports shall be submitted semiannually.

- B. A list of known mercury sources and potential mercury sources;
- C. All actions undertaken by the permittee, pursuant to the control strategy, since the previous report;
- D. Actions planned by the permittee, pursuant to the control strategy, for the upcoming reporting period; and,
- E. Progress toward achieving a dissolved mercury concentration of 0.7 ng/L in the effluent (e.g., summarizing reductions in effluent concentrations as a result of the control strategy implementation or installation/modification of a treatment system).

The first status report is due in accordance with the Schedule of Additional Submittals. The permittee must maintain a file on-site with all MMP documentation.

7. **MMP Modification** – the permittee must submit a permittee-initiated modification request to DEC whenever:

- A. The permittee meets the criteria for another MMP type;
- B. Changes at the WWTF, or within the collection system, increase the potential for mercury discharges; OR,
- C. Effluent discharges exceed the current permit limitation(s).

The permittee may use information in the status reports, as applicable in accordance with item 6 of this MMP, as a basis for the permittee-initiated modification.

**Definitions:**

Key location – a location within the collection/wastewater system (e.g., including but not limited to a specific manhole/access point, tributary sewer/wastewater connection, or user discharge point) identified by the permittee as a potential mercury source. The permittee may adjust key locations based upon sampling and/or best professional judgement.

Potential mercury source – a source identified by the permittee that may reasonably be expected to have total mercury contained in the discharge. Some potential mercury sources include switches, fluorescent lightbulbs, cleaners, degreasers, thermometers, batteries, hauled wastes, universities, hospitals, laboratories, landfills, Brownfield sites, or raw material storage.

## Mercury Minimization Program (MMP) Type II

To reduce mercury effluent levels with the goal of achieving the water quality standard of 0.7 ng/L, the permittee must develop, implement, and maintain a written MMP plan, which includes:

1. **Relevant Documents** – incorporate by reference documents already prepared, if any, for the Wastewater Treatment Facility (WWTF).
2. **Drawings or Maps** – for the WWTF and collection system identifying key locations and other areas identified in the MMP Plan.
3. **Monitoring Plan** – According to the methods specified in Table 8 of DOW 1.3.10, conduct all mercury monitoring for the following locations and frequencies:
  - A. Influent/Effluent – sampled in accordance with the SPDES permit limitations table for each outfall; and,
  - B. Key Locations<sup>33</sup> – sampled annually, chosen to identify potential mercury sources. Sampling of discharges from dental facilities that are in compliance with 6 NYCRR 374.4 is not required.
4. **Hauled Wastes Procedures** – establish procedures for the acceptance of hauled waste to ensure it is not a potential mercury source. The permittee must notify the New York State Department of Environmental Conservation (DEC) prior to acceptance of loads which may exceed 500 ng/L<sup>34</sup>.
5. **Control Strategy** – develop and implement with the following minimum elements:
  - A. Pretreatment/Sewer Use Law (SUL) – develop, include, and enforce pretreatment and SUL conditions that will support efforts to achieve the water quality standard of 0.7 ng/L.
  - B. Inventory – develop and maintain an inventory of known and potential mercury sources, including a subset list of dental facilities.
  - C. Dental Facilities Requirements – once every five years, conduct and document either:
    - i. Inspections at each dental facility to verify compliance with the wastewater treatment operation, maintenance, and notification elements of 6 NYCRR 374.4; OR,
    - ii. An outreach program<sup>35</sup> that informs new and existing users of their

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<sup>33</sup> Reduced Requirements: For permittees with an EEQ at or below 12 ng/L, influent monitoring will be required in lieu of monitoring at key locations within the collection system. If a WWTF reports discharges above 12 ng/L for 2 of 4 consecutive effluent samples, DEC may undertake a Department-Initiated Permit Modification to remove the allowance of reduced requirements.

<sup>34</sup> A level of 0.2 mg/L (200,000 ng/L) or more is considered hazardous per 40 CFR 261.11. The 500 ng/L amount is used here to alert the permittee that there is an unusual concentration of mercury and that it will need to be managed appropriately.

<sup>35</sup> For example, the outreach program could include education about sources of mercury and what to do if a mercury source is found.

responsibilities, and collection of the “Amalgam Waste Compliance Report for Dental Dischargers”<sup>36</sup> form. Ensure the “Amalgam Waste Compliance Report for Dental Dischargers” is submitted by new users. The permittee should conduct site inspections to support the outreach program.

- D. Other Potential Mercury Sources – once every five years, conduct and document either:
- i. Inspections at each identified location with potential mercury source(s), other than dental facilities; OR,
  - ii. An outreach program which informs users of their responsibilities as identified locations with potential mercury source(s). The permittee should conduct site inspections to support the outreach program.
- E. Equipment and Materials – evaluate equipment and materials (e.g., thermometers, thermostats) used by the permittee for potential mercury contribution to the discharge. As equipment and materials containing mercury are updated/replaced, the permittee must use mercury-free alternatives, if possible.
- F. Bulk Chemical Evaluation – for chemicals used at a rate which exceeds 1,000 gallons/year or 10,000 pounds/year, the permittee must obtain:
- i. A manufacturer’s certificate of analysis;
  - ii. A chemical analysis performed by a certified laboratory; OR,
  - iii. A notarized affidavit that describes the substances’ mercury concentration and the detection limit achieved.

Where practicable, the permittee must only use bulk chemicals in the wastewater treatment process which contain <10 parts per billion (ppb) of mercury.

- G. Systems with CSO and Type II SSO Outfalls – prioritize locations, with potential mercury sources upstream of CSOs and Type II SSOs, for mercury reduction activities and/or controlled-release discharge.

6. **Status Report** – the permittee must develop an annual or semiannual<sup>37</sup> status report summarizing:
- A. All MMP monitoring results since the previous report;
  - B. A list of known mercury sources and potential mercury sources;
  - C. All actions undertaken by the permittee, pursuant to the control strategy, since the previous report;
  - D. Actions planned by the permittee, pursuant to the control strategy, for the upcoming reporting period; and,

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<sup>36</sup> The form, “Amalgam Waste Compliance Report for Dental Dischargers,” can be found here: [https://www.dec.ny.gov/docs/water\\_pdf/dentalform.pdf](https://www.dec.ny.gov/docs/water_pdf/dentalform.pdf).

<sup>37</sup> Status reports shall be submitted annually unless the permit contains a schedule of compliance to achieve the GLCA effluent limitation. If a schedule of compliance is included, status reports shall be submitted semiannually.

- E. Progress toward achieving a dissolved mercury concentration of 0.7 ng/L in the effluent (e.g., summarizing reductions in effluent concentrations as a result of the control strategy implementation or installation/modification of a treatment system).

The first status report is due in accordance with the Schedule of Additional Submittals. The permittee must maintain a file on-site with all MMP documentation.

- 7. **MMP Modification** – the permittee must submit a permittee-initiated modification request to DEC whenever:

- A. The permittee meets the criteria for another MMP type;
- B. Changes at the WWTF, or within the collection system, increase the potential for mercury discharges; OR,
- C. Effluent discharges exceed the current permit limitation(s).

The permittee may use information in the status reports, as applicable in accordance with item 6 of this MMP, as a basis for the permittee-initiated modification.

**Definitions:**

Key location – a location within the collection/wastewater system (e.g., including but not limited to a specific manhole/access point, tributary sewer/wastewater connection, or user discharge point) identified by the permittee as a potential mercury source. The permittee may adjust key locations based upon sampling and/or best professional judgement.

Potential mercury source – a source identified by the permittee that may reasonably be expected to have total mercury contained in the discharge. Some potential mercury sources include switches, fluorescent lightbulbs, cleaners, degreasers, thermometers, batteries, hauled wastes, universities, hospitals, laboratories, landfills, Brownfield sites, or raw material storage.

### Mercury Minimization Program (MMP) Type III

To reduce mercury effluent levels with the goal of achieving the water quality standard of 0.7 ng/L, the permittee must develop, implement, and maintain a written MMP plan, which includes:

1. **Relevant Documents** – incorporate by reference documents already prepared, if any, for the Wastewater Treatment Facility (WWTF).
2. **Drawings or Maps** – for the WWTF and collection system identifying key locations and other areas identified in the MMP Plan.
3. **Monitoring Plan** – according to the methods specified in Table 8 of DOW 1.3.10, conduct all mercury monitoring for the following locations and frequencies:
  - A. Influent/Effluent – sampled in accordance with the SPDES permit limitations table for each outfall; and,
  - B. Key Locations<sup>38</sup> – sampled annually, chosen to identify potential mercury sources.
4. **Control Strategy** – develop and implement with the following minimum elements:
  - A. Inventory – develop and maintain an inventory of known and potential mercury sources.
  - B. Equipment and Materials – evaluate equipment and materials (e.g., thermometers, thermostats) used by the permittee for potential mercury contribution to the discharge. As equipment and materials containing mercury are updated/replaced, the permittee must use mercury-free alternatives, if possible.
  - C. Bulk Chemical Evaluation – for chemicals used at a rate which exceeds 1,000 gallons/year or 10,000 pounds/year, the permittee must obtain:
    - i. A manufacturer's certificate of analysis;
    - ii. A chemical analysis performed by a certified laboratory; OR,
    - iii. A notarized affidavit that describes the substances' mercury concentration and the detection limit achieved.

Where practicable, the permittee must only use bulk chemicals in the wastewater treatment process which contain <10 parts per billion (ppb) of mercury.

- D. Inspections – once every five years, conduct and document with the MMP Plan an inspection at each identified location with potential mercury source(s).
- E. Treatment Considerations – document considerations for installation of treatment technology to reduce mercury contributions in the discharge.

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<sup>38</sup> Reduced Requirements: For permittees with an EEQ at or below 12 ng/L, influent monitoring will be required in lieu of monitoring at key locations within the collection system. If a facility reports discharges above 12 ng/L for two of four consecutive effluent samples, DEC may undertake a Department-Initiated Permit Modification to remove the allowance of reduced requirements.

5. **Status Report** – the permittee must develop an annual or semiannual<sup>39</sup> status report summarizing:
  - A. All MMP monitoring results since the previous report;
  - B. A list of known mercury sources and potential mercury sources;
  - C. All actions undertaken by the permittee, pursuant to the control strategy, since the previous report;
  - D. Actions planned by the permittee, pursuant to the control strategy, for the upcoming reporting period; and,
  - E. Progress toward achieving a dissolved mercury concentration of 0.7 ng/L in the effluent (e.g., summarizing reductions in effluent concentrations as a result of the control strategy implementation or installation/modification of a treatment system).

The first status report is due in accordance with the Schedule of Additional Submittals. The permittee must maintain a file on-site with all MMP documentation.

6. **MMP Modification** – the permittee must submit a permittee-initiated modification request to DEC whenever:
  - A. The permittee meets the criteria for another MMP type;
  - B. Changes at the WWTF increase the potential for mercury discharges; OR,
  - C. Effluent discharges exceed the current permit limitation(s).

The permittee may use information in the status reports, as applicable in accordance with [item 5](#) of this MMP, as a basis for the permittee-initiated modification.

#### **Definitions:**

**Key location** – a location within the collection/wastewater system (e.g., including but not limited to a specific manhole/access point, tributary sewer/wastewater connection, or user discharge point) identified by the permittee as a potential mercury source. The permittee may adjust key locations based upon sampling and/or best professional judgment.

**Potential mercury source** – a source identified by the permittee that may reasonably be expected to have total mercury contained in the discharge. Some potential mercury sources include switches, fluorescent lightbulbs, cleaners, degreasers, thermometers, batteries, hauled wastes, universities, hospitals, laboratories, landfills, Brownfield sites, or raw material storage.

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<sup>39</sup> Status reports shall be submitted annually unless the permit contains a schedule of compliance to achieve the GLCA effluent limitation. If a schedule of compliance is included, status reports shall be submitted semiannually.

## Mercury Minimization Program (MMP) Type IV

To reduce mercury effluent levels with the goal of achieving the water quality standard of 0.7 ng/L, the permittee must develop, implement, and maintain a written MMP plan, which includes:

1. **Conditional Exclusion Certification** – A certification (Appendix C of DOW 1.3.10), signed in accordance with 6 NYCRR 750-1.8, must be submitted once every 5 years to the Regional Water Engineer and to the Bureau of Water Permits, certifying that the Wastewater Treatment Facility (WWTF) is neither a mercury source nor receives flows from a mercury source. Criteria to determine if a WWTF has a mercury source are as follows:
  - WWTF is, or receives flow from, a Combined Sewer System (CSS) or sanitary sewer system with Type II Sanitary Sewer Overflows (SSO<sup>40</sup>);
  - One or more effluent samples exceed 12 ng/L, including samples taken as a result of the SPDES application process;
  - Internal or tributary waste stream samples exceed the GLCA effluent limitation and the final effluent samples are less than the GLCA due primarily to dilution by uncontaminated or less contaminated waste streams. Both components of this criterion may include samples taken as a result of the SPDES application process;
  - A SPDES permit application, or other information, indicates that mercury is handled on-site and could be discharged through outfalls;
  - Existence of outfalls that contain legacy mercury contamination;
  - The WWTF's collection system receives discharges from a dental and/or Categorical Industrial User (CIU<sup>41</sup>) that may discharge mercury;
  - The WWTF accepts hauled wastes; OR,
  - The WWTF is defined as a categorical industry that may discharge mercury. This may also include dentists, universities, hospitals, or laboratories, which have their own individual SPDES permit.
2. **Control Strategy** – develop and implement with the following minimum elements:
  - A. **Equipment and Materials** – evaluate equipment and materials (e.g., thermometers, thermostats) used by the permittee for potential mercury contribution to the discharge. As equipment and materials containing mercury are updated/replaced, the permittee must use mercury-free alternatives, if possible.
  - B. **Bulk Chemical Evaluation** – for chemicals used at a rate which exceeds 1,000 gallons/year or 10,000 pounds/year, the permittee must obtain:

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<sup>40</sup> These are ORFs.

<sup>41</sup> CIUs include those listed under Federal Regulation in 40 CFR Parts 405–471.

- i. A manufacturer's certificate of analysis;
- ii. A chemical analysis performed by a certified laboratory; OR,
- iii. A notarized affidavit that describes the substances' mercury concentration and the detection limit achieved.

Where practicable, the permittee must only use bulk chemicals in the wastewater treatment process which contain <10 parts per billion (ppb) of mercury.

3. **Status Report** – An annual status report must be developed summarizing:
  - A. Review of criteria to determine if the WWTF has a potential mercury source;
  - B. All actions undertaken, pursuant to the control strategy, during the previous year; and
  - C. Actions planned, pursuant to the control strategy, for the upcoming year.

The first status report is due in accordance with the Schedule of Additional Submittals. The permittee must maintain a file on-site with all MMP documentation.


4. **MMP Modification** – the permittee must submit a permittee-initiated modification request to DEC whenever:
  - A. Changes at the WWTF, or within the collection system, increase the potential for mercury discharges; OR,
  - B. A letter from DEC identifies inadequacies in the MMP.

The permittee may use information in the status reports, as applicable in accordance with item 3 of this MMP, as a basis for the permittee-initiated modification.

#### **DEFINITIONS:**

Potential mercury source – a source identified by the permittee that may reasonably be expected to have total mercury contained in the discharge. Some potential mercury sources include switches, fluorescent lightbulbs, cleaners, degreasers, thermometers, batteries, hauled wastes, universities, hospitals, laboratories, landfills, Brownfield sites, or raw material storage.

# Appendix C. Mercury Conditional Exclusion Certification

	<h2 style="margin: 0;">Department of Environmental Conservation</h2>	<h3 style="margin: 0;">CONDITIONAL EXCLUSION CERTIFICATION for Exclusion from Mercury Permit Limitations</h3> <p style="margin: 0;"><u>Instructions:</u> Complete this Conditional Exclusion Certification. Submit completed form to the Regional Water Engineer and <a href="mailto:SPDESApp@dec.ny.gov">SPDESApp@dec.ny.gov</a>.</p>
<b>I. Permittee/Facility Information</b>		
Permittee Name:		
Mailing Address:	City/State/Zip:	
Contact Name:	Phone No.:	
Facility Name:		
Street Address:	City/State/Zip:	
County:	Latitude:	Longitude:      SIC Code:
Is there a Conditional Exclusion Certification currently on file with the Department? <input type="checkbox"/> Yes <input type="checkbox"/> No		Enter SPDES ID #:   NY _ _ _ _ _
<b>II. Exclusion Checklist</b>		
Does the facility have any of the following mercury sources? Please check either "Yes" or "No" in the appropriate box. If you answer "Yes" to any of these questions (1) through (8), you are not eligible for the conditional exclusion.		YES      NO
1	The WWTF is, or receives flow from, a Combined Sewer System (CSS) or a Type II Sanitary Sewer Overflow (SSO) facilities	
2	One or more effluent samples exceed 12 ng/L, including samples taken as a result of the SPDES application process	
3	Internal or tributary waste stream samples exceed the 2025 GLCA <sup>1</sup> , and the final effluent samples are less than the 2025 GLCA due primarily to dilution by uncontaminated or less-contaminated waste streams. Both components of this criterion may include samples taken as a result of the SPDES application process	
4	A SPDES permit application, or other information, indicates that mercury is handled on-site and could be discharged through outfalls	
5	Existence of outfalls that contain legacy mercury contamination	
6	The WWTF's collection system receives discharges from a dental and/or Categorical Industrial User (CIU) that may discharge mercury	
7	The WWTF accepts hauled wastes	
8	The WWTF is defined as a categorical industry that may discharge mercury. This may also include dentists, universities, hospitals, or laboratories, which have their own SPDES permit	
<b>III. Certification</b>		
I certify under penalty of law that I have read and understand the eligibility requirements for claiming a condition of "exclusion" and obtaining an exclusion from mercury permit limitations. I certify under penalty of law that there are no mercury sources at and/or discharging to the facility. I understand that I am obligated to submit a conditional exclusion certification form once every five years to the SPDES permitting authority. I understand that I must allow the SPDES permitting authority to perform inspections to confirm the condition of exclusion and to make such inspection reports publicly available upon request.		
Printed Name:		Title/Position:
Signature:		Date:

<sup>1</sup> 2025 GLCA is 25 ng/L and 35 ng/L for sanitary waste streams (Class 05, 07, and 09) and industrial facilities (Class 03 and 01), respectively.