

Environmental Protection Agency

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terms of the facility's Technology Operation and Installation Plan and/or Restoration Plan.

§ 125.99 What are approved design and construction technologies?

(a) The following technologies constitute approved design and construction technologies for purposes of § 125.94(a)(4):

(1) Submerged cylindrical wedge-wire screen technology, if you meet the following conditions:

(i) Your cooling water intake structure is located in a freshwater river or stream;

(ii) Your cooling water intake structure is situated such that sufficient ambient counter currents exist to promote cleaning of the screen face;

(iii) Your maximum through-screen design intake velocity is 0.5 ft/s or less;

(iv) The slot size is appropriate for the size of eggs, larvae, and juveniles of all fish and shellfish to be protected at the site; and

(v) Your entire main condenser cooling water flow is directed through the technology. Small flows totaling less than 2 MGD for auxiliary plant cooling uses are excluded from this provision.

(2) A technology that has been approved in accordance with the process described in paragraph (b) of this section.

(b) You or any other interested person may submit a request to the Director that a technology be approved in accordance with the compliance alternative in § 125.94(a)(4) after providing the public with notice and an opportunity to comment on the request for approval of the technology. If the Director approves the technology, it may be used by all facilities with similar site conditions under the Director's jurisdiction. Requests for approval of a technology must be submitted to the Director and include the following information:

(1) A detailed description of the technology;

(2) A list of design criteria for the technology and site characteristics and conditions that each facility must have in order to ensure that the technology can consistently meet the appropriate impingement mortality and entrain-

ment performance standards in § 125.94(b); and

(3) Information and data sufficient to demonstrate that facilities under the jurisdiction of the Director can meet the applicable impingement mortality and entrainment performance standards in § 125.94(b) if the applicable design criteria and site characteristics and conditions are present at the facility.

Subpart K [Reserved]

Subpart L—Criteria and Standards for Imposing Conditions for the Disposal of Sewage Sludge Under Section 405 of the Act [Reserved]

Subpart M—Ocean Discharge Criteria

SOURCE: 45 FR 65953, Oct. 3, 1980, unless otherwise noted.

§ 125.120 Scope and purpose.

This subpart establishes guidelines for issuance of National Pollutant Discharge Elimination System (NPDES) permits for the discharge of pollutants from a point source into the territorial seas, the contiguous zone, and the oceans.

§ 125.121 Definitions.

(a) *Irreparable harm* means significant undesirable effects occurring after the date of permit issuance which will not be reversed after cessation or modification of the discharge.

(b) *Marine environment* means that territorial seas, the contiguous zone and the oceans.

(c) *Mixing zone* means the zone extending from the sea's surface to seabed and extending laterally to a distance of 100 meters in all directions from the discharge point(s) or to the boundary of the zone of initial dilution as calculated by a plume model approved by the director, whichever is greater, unless the director determines that the more restrictive mixing zone or another definition of the mixing zone is more appropriate for a specific discharge.

(d) *No reasonable alternatives* means:

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(1) No land-based disposal sites, discharge point(s) within internal waters, or approved ocean dumping sites within a reasonable distance of the site of the proposed discharge the use of which would not cause unwarranted economic impacts on the discharger, or, notwithstanding the availability of such sites,

(2) On-site disposal is environmentally preferable to other alternative means of disposal after consideration of:

(i) The relative environmental harm of disposal on-site, in disposal sites located on land, from discharge point(s) within internal waters, or in approved ocean dumping sites, and

(ii) The risk to the environment and human safety posed by the transportation of the pollutants.

(e) *Unreasonable degradation of the marine environment* means: (1) Significant adverse changes in ecosystem diversity, productivity and stability of the biological community within the area of discharge and surrounding biological communities,

(2) Threat to human health through direct exposure to pollutants or through consumption of exposed aquatic organisms, or

(3) Loss of esthetic, recreational, scientific or economic values which is unreasonable in relation to the benefit derived from the discharge.

§ 125.122 Determination of unreasonable degradation of the marine environment.

(a) The director shall determine whether a discharge will cause unreasonable degradation of the marine environment based on consideration of:

(1) The quantities, composition and potential for bioaccumulation or persistence of the pollutants to be discharged;

(2) The potential transport of such pollutants by biological, physical or chemical processes;

(3) The composition and vulnerability of the biological communities which may be exposed to such pollutants, including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the Endangered Species Act, or the presence of those species critical to the structure or

function of the ecosystem, such as those important for the food chain;

(4) The importance of the receiving water area to the surrounding biological community, including the presence of spawning sites, nursery/forage areas, migratory pathways, or areas necessary for other functions or critical stages in the life cycle of an organism.

(5) The existence of special aquatic sites including, but not limited to marine sanctuaries and refuges, parks, national and historic monuments, national seashores, wilderness areas and coral reefs;

(6) The potential impacts on human health through direct and indirect pathways;

(7) Existing or potential recreational and commercial fishing, including finfishing and shellfishing;

(8) Any applicable requirements of an approved Coastal Zone Management plan;

(9) Such other factors relating to the effects of the discharge as may be appropriate;

(10) Marine water quality criteria developed pursuant to section 304(a)(1).

(b) Discharges in compliance with section 301(g), 301(h), or 316(a) variance requirements or State water quality standards shall be presumed not to cause unreasonable degradation of the marine environment, for any specific pollutants or conditions specified in the variance or the standard.

§ 125.123 Permit requirements.

(a) If the director on the basis of available information including that supplied by the applicant pursuant to §125.124 determines prior to permit issuance that the discharge will not cause unreasonable degradation of the marine environment after application of any necessary conditions specified in §125.123(d), he may issue an NPDES permit containing such conditions.

(b) If the director, on the basis of available information including that supplied by the applicant pursuant to §125.124 determines prior to permit issuance that the discharge will cause unreasonable degradation of the marine environment after application of all possible permit conditions specified in §125.123(d), he may not issue an