

available for minimizing adverse environmental impact associated with the use of cooling water intake structures at these facilities. These requirements are implemented through National Pollutant Discharge Elimination System (NPDES) permits issued under section 402 of the Clean Water Act (CWA).

(b) This subpart implements section 316(b) of the CWA for new offshore oil and gas extraction facilities. Section 316(b) of the CWA provides that any standard established pursuant to sections 301 or 306 of the CWA and applicable to a point source shall require that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impact.

(c) New offshore oil and gas extraction facilities that do not meet the threshold requirements regarding amount of water withdrawn or percentage of water withdrawn for cooling water purposes in § 125.131(a) must meet requirements determined by the Director on a case-by-case, best professional judgement (BPJ) basis.

(d) Nothing in this subpart shall be construed to preclude or deny the right of any State or political subdivision of a State or any interstate agency under section 510 of the CWA to adopt or enforce any requirement with respect to control or abatement of pollution that is more stringent than those required by Federal law.

§ 125.131 Who is subject to this subpart?

(a) This subpart applies to a new offshore oil and gas extraction facility if it meets all of the following criteria:

(1) It is a point source that uses or proposes to use a cooling water intake structure;

(2) It has at least one cooling water intake structure that uses at least 25 percent of the water it withdraws for cooling purposes as specified in paragraph (c) of this section; and

(3) It has a design intake flow greater than two (2) million gallons per day (MGD).

(b) Use of a cooling water intake structure includes obtaining cooling water by any sort of contract or arrangement with an independent sup-

plier (or multiple suppliers) of cooling water if the supplier or suppliers withdraw(s) water from waters of the United States. Use of cooling water does not include obtaining cooling water from a public water system or the use of treated effluent that otherwise would be discharged to a water of the U.S.

(c) The threshold requirement that at least 25 percent of water withdrawn be used for cooling purposes must be measured on an average monthly basis. A new offshore oil and gas extraction facility meets the 25 percent cooling water threshold if, based on the new facility's design, any monthly average over a year for the percentage of cooling water withdrawn is expected to equal or exceed 25 percent of the total water withdrawn.

(d) Neither this subpart nor Subpart I of this part applies to seafood processing vessels or offshore liquefied natural gas import terminals that are new facilities as defined in 40 CFR 125.83. Seafood processing vessels and offshore liquefied natural gas import terminals must meet requirements established by the Director on a case-by-case, best professional judgment (BPJ) basis.

§ 125.132 When must I comply with this subpart?

You must comply with this subpart when an NPDES permit containing requirements consistent with this subpart is issued to you.

§ 125.133 What special definitions apply to this subpart?

In addition to the definitions set forth at 40 CFR 125.83, the following special definitions apply to this subpart:

Cooling water means water used for contact or noncontact cooling, including water used for equipment cooling, evaporative cooling tower makeup, and dilution of effluent heat content. The intended use of the cooling water is to absorb waste heat rejected from the process or processes used, or from auxiliary operations on the facility's premises. Cooling water that is used in another industrial process either before or after it is used for cooling is considered process water rather than cooling water for the purposes of calculating