



Proposed Regulations to Establish Requirements for Cooling Water Intake Structures at Existing Facilities

WHAT DOES SECTION 316(b) MEAN? Industrial facilities use cooling water from various water bodies to maintain their equipment at safe and efficient temperatures. Section 316(b) of the Clean Water Act regulates the design of cooling water intake structures at these facilities. Compliance with § 316(b) is a requirement for obtaining an NPDES permit (or KPDES permit). Currently, the permit establishes requirements for compliance with § 316(b) on a case-by-case basis.

WHAT'S THE STATUS OF EPA'S 316(b) RULES? On April 20, 2011, EPA published a revision to their 316(b) rule and proposed new requirements for existing cooling water intake structures that withdraw at least 2 million gallons of water per day from waters of the U.S. and use at least 25% of the withdrawn water exclusively for cooling purposes.

In the proposed rule, EPA intends to require technology standards to deal with fish trapped against intake structures or drawn into cooling water systems. Specifically, the rule calls for facilities to obtain an NPDES permit reflecting best available technology in the design, location and construction of cooling water intake structures to minimize impingement (trapping of fish against intake screens) and entrainment (drawing of fish into a cooling water system).

The proposed rule has been questioned and criticized by both environmental groups and industry. The rule has not been adopted yet, but pursuant to a settlement agreement with the environmental group Riverkeeper and other organizations, EPA is required to issue the revised rule by July 27, 2012.

Most recently, EPA submitted a draft notice of data availability on January 25, 2012 that could lead to amendments of the proposed rule. EPA has acknowledged the proposed rule may be amended prior to adoption this summer. In addition, EPA staff in Region 1 have sent detailed information requests to facilities in Maine concerning any cooling water intake structure at those facilities, indicating that EPA is searching for new information on the issue. Given the status of the 316(b) rulemaking, why EPA is requesting such information at this time is unclear. Nevertheless, this rulemaking process bears close scrutiny.

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