

3. § 401.35 is amended by: removing the word “and” after the semicolon in paragraph (a); removing the period after paragraph (b) and replacing it with a semicolon; and adding two new paragraphs (c) and (d) to read as follows:

**§ 401.35 Navigation underway.**

\* \* \* \* \*

(c) Man the wheelhouse of the vessel at all times by either the master or certified deck officer and by another qualified crewmember; and

(d) Have sufficient well rested crewmembers available for mooring operations and other essential duties.

Issued at Washington, DC on June 16, 2003.

**Albert S. Jacquez,**

*Administrator, Saint Lawrence Seaway Development Corporation.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 125**

[FRL-7514-9]

**RIN 2040-AD85**

**National Pollutant Discharge Elimination System—Amendment of Final Regulations Addressing Cooling Water Intake Structures for New Facilities**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Today’s final rule makes minor changes to EPA’s final rule published December 18, 2001, implementing section 316(b) of the Clean Water Act (CWA) for new facilities that use water withdrawn from rivers, streams, lakes, reservoirs, estuaries, oceans or other waters of the United States for cooling. The December 2001 rule instituted national technology-based performance requirements applicable to the location, design, construction, and capacity of cooling water intake structures at new facilities. These national requirements establish the best technology available for minimizing adverse environmental impact associated with the use of these structures. EPA is making several minor changes to the December 2001 rule because, in several instances, the final rule text does not reflect the Agency’s intent.

**DATES:** This final rule is effective on July 21, 2003. For judicial review purposes, this final rule is promulgated as of 1 p.m. Eastern Standard Time (EST) on July 3, 2003, as provided in 40 CFR 23.2 and 23.7.

**FOR FURTHER INFORMATION CONTACT:** Martha Segall, USEPA Office of Water by phone at (202) 566-1041 or by e-mail at [rule.316b@epa.gov](mailto:rule.316b@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Regulated Entities*

This final rule applies to new greenfield and stand-alone facilities that use cooling water intake structures to

withdraw water from waters of the U.S. and that have or require a National Pollutant Discharge Elimination System (NPDES) permit issued under section 402 of the CWA. New facilities subject to this regulation include those that have a design intake flow of greater than two (2) million gallons per day (MGD) and that use at least twenty-five (25) percent of water withdrawn for cooling purposes. Today’s rule does not apply to existing facilities, major modifications to existing facilities that would be “new sources” under 40 CFR 129.29(b) as that term is used in the effluent guidelines and standards program, or facilities that employ cooling water intake structures in the offshore oil and gas extraction point source category as defined under 40 CFR 435.10 and 40 CFR 435.40.

The following table is not intended to be exhaustive; rather, it provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria at 40 CFR 125.81. If you have questions about the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

| Category                             | Examples of regulated entities   | Standard industrial classification codes | North American Industry Codes (NAIC)   |
|--------------------------------------|--|--|--|
| Federal, State and Local Government. | Operators of steam electric generating point source dischargers that employ cooling water intake structures. | 4911 and 493 .....                       | 221111, 221112, 221113, 221119, 221121, 221122, 221111, 221112, 221113, 221119, 221121, 221122 |
| Industry .....                       | Operators of industrial point source dischargers that employ cooling water intake structures.                | See below .....                          | See below  |
|                                      | Steam electric generating .....  | 4911 and 493 .....                       | 221111, 221112, 221113, 221119, 221121, 221122, 221111, 221112, 221113, 221119, 221121, 221122 |
|                                      | Agricultural production .....  | 0133 .....                               | 111991, 11193  |
|                                      | Metal mining .....   | 1011 .....                               | 21221  |
|                                      | Oil and gas extraction (Excluding offshore and coastal subcategories).                                       | 1311, 1321 .....                         | 211111, 211112   |
|                                      | Mining and quarrying of nonmetallic minerals .....   | 1474 .....                               | 212391   |
|                                      | Food and kindred products .....  | 2046, 2061, 2062, 2063, 2075, 2085.      | 311221, 311311, 311312, 311313, 311222, 311225, 31214  |
|                                      | Tobacco products .....   | 2141 .....                               | 312229, 31221  |
|                                      | Textile mill products .....  | 2211 .....                               | 31321  |