
40 C.F.R. § 125.94

As an owner or operator of an existing facility, what must I do to comply with this subpart?

(a) *Applicable Best Technology Available for Minimizing Adverse Environmental Impact (BTA) standards.* (1) On or after October 14, 2014, the owner or operator of an existing facility with a cumulative design intake flow (DIF) greater than 2 mgd is subject to the BTA (best technology available) standards for impingement mortality under paragraph (c) of this section, and entrainment under paragraph (d) of this section including any measures to protect Federally-listed threatened and endangered species and designated critical habitat established under paragraph (g) of this section.

(2) Prior to October 14, 2014, the owner or operator of an existing facility with a cumulative design intake flow (DIF) greater than 2 mgd is subject to site-specific impingement mortality and entrainment requirements as determined by the Director on a case-by-case Best Professional Judgment basis. The Director's BTA determination may be based on consideration of some or all of the factors at § 125.98(f)(2) and (3) and the requirements of § 125.94(c). If the Director requires additional information to make the decision on what BTA requirements to include in the applicant's permit for impingement mortality and entrainment, the Director should consider whether to require any of the information at 40 CFR 122.21(r).

(3) The owner or operator of a new unit is subject to the impingement mortality and entrainment standards under paragraph (e) of this section for all cooling water intake flows used by the new unit. The remainder of the existing facility is subject to the impingement mortality standard under paragraph (c) of this section, and the entrainment standard under paragraph (d) of this section. The entire existing facility including any new units is subject to any measures to protect Federally-listed threatened and endangered species and designated critical habitat established under paragraph (g) of this section.

(b) *Compliance with BTA standards.* (1) *Aligning compliance deadlines for impingement mortality and entrainment requirements.* After issuance of a final permit that establishes the entrainment requirements under § 125.94(d), the owner or operator of an existing facility must comply with the impingement mortality standard in § 125.94(c) as soon as practicable. The Director may establish interim compliance milestones in the permit.

(2) After issuance of a final permit establishing the entrainment requirements under § 125.94(d), the owner or operator of an existing facility must comply with the entrainment standard as soon as practicable, based on a schedule of requirements established by the Director. The Director may establish interim compliance milestones in the permit.

(3) The owner or operator of a new unit at an existing facility must comply with the BTA standards at § 125.94(e) with respect to the new unit upon commencement of the new unit's operation.

(c) *BTA Standards for Impingement Mortality.* The owner or operator of an existing facility must comply with one of the alternatives in paragraphs (c)(1) through (7) of this section, except as provided in paragraphs (c)

(11) or (12) of this section, when approved by the Director. In addition, a facility may also be subject to the requirements of paragraphs (c)(8), (c)(9), or (g) of this section if the Director requires such additional measures.

(1) *Closed-cycle recirculating system.* A facility must operate a closed-cycle recirculating system as defined at § 125.92(c). In addition, you must monitor the actual intake flows at a minimum frequency of daily. The monitoring must be representative of normal operating conditions, and must include measuring cooling water withdrawals, make-up water, and blow down volume. In lieu of daily intake flow monitoring, you may monitor your cycles of concentration at a minimum frequency of daily; or

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