

Title 33
ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2315. Exclusions

- A. The following ~~discharges~~activities do not require LPDES permits:
1. – 6. ...
 7. discharges into a privately owned treatment works, except as the state administrative authority may otherwise require under LAC 33:IX.2707.M₂;
 8. the application of pesticides consistent with all relevant requirements in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (i.e., those relevant to protecting water quality), in the following two circumstances:
 - a. the application of pesticides directly to waters of the state in order to control pests. Examples of such applications include applications to control mosquito larvae, aquatic weeds, or other pests that are present in waters of the state;
 - b. the application of pesticides to control pests that are present over waters of the state, including near such waters, where a portion of the pesticides will unavoidably be deposited to waters of the state in order to target the pests effectively, for example, when insecticides are aerially applied to a forest canopy where waters of the state may be present below the canopy or when pesticides are applied over or near water for control of adult mosquitoes or other pests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), repromulgated by the Office of Environmental Assessment, Environmental Planning Division, LR 30:230 (February 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

Chapter 25. Permit Application and Special LPDES Program Requirements

§2501. Application for a Permit

- A. – Q.15. ...
- R. Applications for Facilities with Cooling Water Intake Structures
1. Application requirements for facilities with cooling water intake structures are as follows.
 - a. New Facilities with New or Modified Cooling Water Intake Structures. New facilities (other than offshore oil and gas extraction facilities) with cooling water intake structures, as ~~defined~~described in LAC 33:IX.Chapter 47.Subchapter A, shall submit to the state administrative authority for review the information required under~~in~~ Paragraphs R.2 (except Subparagraph R.2.d), 3, and 4 of this Section and LAC 33:IX.4713. New offshore oil and gas extraction facilities with cooling water intake structures, as described in LAC 33:IX.Chapter

47. Subchapter C, that are fixed facilities must submit to the Office of Environmental Services for review the information required in Paragraphs R.2 (except Subparagraph R.2.d), 3, and 4 of this Section and LAC 33:IX.4773 as part of their application. New offshore oil and gas extraction facilities that are not fixed facilities must submit to the Office of Environmental Services for review only the information required in Subparagraph R.2.d and Paragraph R.3 (except Subparagraph R.3.b) of this Section and LAC 33:IX.4773 as part of their application. Requests for alternative requirements under in accordance with LAC 33:IX.4711 or 4771 shall be submitted with the permit application.

b. ...

2. Source Water Physical Data. These include:

a. ...

b. identification and characterization of the source water body's hydrological and geomorphological features, as well as the methods used to conduct any physical studies to determine the intake's area of influence within the water body and the results of such studies; ~~and~~

c. locational maps; and

d. for new offshore oil and gas facilities that are not fixed facilities, a narrative description and/or locational maps providing information on predicted locations within the water body during the permit term in sufficient detail for the administrative authority to determine the appropriateness of additional impingement requirements in LAC 33:IX.4769.B.5.

3. – 3.e. ...

4. Source Water Baseline Biological Characterization Data. This information is required to characterize the biological community in the vicinity of the cooling water intake structure and to characterize the operation of the cooling water intake structures. The state administrative authority may also use this information in subsequent permit renewal proceedings to determine if the design and construction technology plan, as required in LAC 33:IX.4713.B.4 or 4773.B.3, should be revised. This supporting information must include existing data (if ~~they~~ ~~are~~ available). However, the data may be supplemented using newly conducted field studies, if the owner or operator chooses to do so. The information to be submitted must include:

4.a. – 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2552 (November 2000), LR 26:2756 (December 2000), LR 27:45 (January 2001), LR 28:465 (March 2002), LR 28:1766 (August 2002), LR 29:1462 (August 2003), repromulgated LR 30:229 (February 2004), amended by the Office of Environmental Assessment, LR 30:2028 (September 2004), LR 31:425 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2509 (October 2005), LR 32:819 (May 2006), LR 33:**, **.

Chapter 27. LPDES Permit Conditions

§2707. Establishing Limitations, Standards, and Other Permit Conditions

A.1. – B.2. ...

3. Requirements applicable to cooling water intake structures underin Section 316(b) of the CWA, in accordance with LAC 33:IX.Chapter 47.Subchapters A₂ and B₂ and C.

C. – S. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:724 (June 1997), LR 23:1523 (November 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2282 (October 2000), LR 26:2764 (December 2000), LR 28:469 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:230 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

Chapter 31. General LPDES Program Requirements

§3113. Public Notice of Permit Actions and Public Comment Period

A. – D.1.g. ...

h. requirements applicable to cooling water intake structures underin Section 316(b) of the CWA, in accordance with LAC 33:IX.Chapter 47.Subchapters A₂ and B₂ and C; and

D.1.i. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Water Pollution Control Division, LR 23:725 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2554 (November 2000), LR 28:473 (March 2002), LR 28:1767 (August 2002), repromulgated LR 30:231 (February 2004), amended by the Office of Environmental Assessment, LR 31:426 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

Chapter 47. Criteria Applicable to Cooling Water Intake Structures under Section 316(b) of the Clean Water Act

[NOTE: This Chapter is written in a special format to make it easier to understand the regulatory requirements. Like other department and USEPA regulations, this establishes enforceable legal requirements. For this Chapter, *I* and *you* refer to the owner/operator.]

Subchapter B. Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities under Section 316(b) of the Clean Water Act

§4730. Suspension of Portions of LAC 33:Part IX

A. LAC 33:IX.2501.R.1.b and R.5 are hereby suspended.

B. LAC 33:IX.Chapter 47.Subchapter B, with the exception of LAC 33:IX.4731.B, is hereby suspended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and

in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4735. What special definitions apply to this Subchapter?

A. In addition to the definitions provided in LAC 33:IX.2313, the following special definitions apply to this Subchapter.

* * *

Existing Facility—any facility that commenced construction as described in 40 CFR 122.29(b)(4) on or before January 17, 2002 (or July 17, 2006, for an offshore oil and gas extraction facility), and any modification of, or any addition of, a unit at such a facility that does not meet the definition of a *new facility* in ~~40 CFR 125.83~~LAC 33:IX.4707.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:428 (February 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:**.

Subchapter C. Requirements Applicable to Cooling Water Intake Structures for New Offshore Oil and Gas Extraction Facilities Under Section 316(b) of the Clean Water Act

§4761. What are the purpose and scope of this Subchapter?

A. This Subchapter establishes requirements that apply to the location, design, construction, and capacity of cooling water intake structures at new offshore oil and gas extraction facilities. The purpose of these requirements is to establish the best technology available for minimizing adverse environmental impact associated with the use of cooling water intake structures at these facilities. These requirements are implemented through the Louisiana Pollutant Discharge Elimination System (LPDES) permits issued under Section 402 of the Clean Water Act (CWA).

B. This Subchapter 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 Section 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 LAC 33:IX.4763.A must meet requirements determined by the administrative authority on a case-by-case, best professional judgement (BPJ) basis.

D. Nothing in this Subchapter 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality,

Office of the Secretary, Legal Affairs Division, LR 33:**.

§4763. Who is subject to this Subchapter?

A. This Subchapter 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 Subsection C of this Section.

3. It has a design intake flow greater than 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 supplier (or multiple suppliers) of cooling water if the supplier or suppliers withdraw 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 Subchapter nor Subchapter A of this Chapter applies to seafood processing vessels or offshore liquefied natural gas import terminals that are *new facilities* as defined in LAC 33:IX.4707. Seafood processing vessels and offshore liquefied natural gas import terminals must meet requirements established by the administrative authority on a case-by-case, best professional judgment (BPJ) basis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4765. When must I comply with this Subchapter?

A. You must comply with this Subchapter when an LPDES permit containing requirements consistent with this Subchapter is issued to you.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4767. What special definitions apply to this Subchapter?

A. In addition to the definitions set forth in LAC 33:IX.4707, the following special definitions apply to this Subchapter.

Cooling Water—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 the percentage of a new offshore oil and gas extraction facility's intake flow that is used for cooling purposes in accordance with LAC 33:IX.4763.C.

Existing Facility—any facility that commenced construction as described in 40 CFR 122.29(b)(4) on or before January 17, 2002 (or July 17, 2006, for an offshore oil and gas extraction facility), and any modification of, or any addition of, a unit at such a facility that does not meet the definition of a *new facility* in LAC 33:IX.4707.

Fixed Facility—a bottom-founded offshore oil and gas extraction facility permanently attached to the seabed or subsoil of the outer continental shelf (e.g., platforms, guyed towers, articulated gravity platforms) or a buoyant facility securely and substantially moored so that it cannot be moved without a special effort (e.g., tension leg platforms, permanently moored semi-submersibles) and which is not intended to be moved during the production life of the well. This definition does not include mobile offshore drilling units (MODUs) (e.g., drill ships, temporarily moored semi-submersibles, jack-ups, submersibles, tender-assisted rigs, and drill barges).

Minimum Ambient Source Water Surface Elevation—the mean low tidal water level for estuaries or oceans. The mean low tidal water level is the average height of the low water over at least 19 years.

New Offshore Oil and Gas Extraction Facility—any building, structure, facility, or installation that meets the definition of a *new facility* in LAC 33:IX.4707 and is regulated by the Offshore or Coastal Subcategories of the Oil and Gas Extraction Point Source Category Effluent Guidelines incorporated by reference in LAC 33:IX.4903, but only if it commences construction after July 17, 2006.

Offshore Liquefied Natural Gas (LNG) Import Terminal—any facility located in waters defined in the federal regulations incorporated by reference in LAC 33:IX.4903 that liquefies, re-gasifies, transfers, or stores liquefied natural gas.

Sea Chest—the underwater compartment or cavity within the facility or vessel hull or pontoon through which sea water is drawn in (for cooling and other purposes) or discharged.

Seafood Processing Vessel—any offshore or nearshore, floating, mobile facility engaged in the processing of fresh, frozen, canned, smoked, salted, or pickled seafood or seafood paste, mince, or meal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4769. As an owner or operator of a new offshore oil and gas extraction facility, what must I do to comply with this Subchapter?

A. Applicability

1. The owner or operator of a new offshore oil and gas extraction facility must comply with:

a. the Track I requirements in Subsection B or the Track II requirements in Subsection C of this Section, if it is a fixed facility; or

b. the Track I requirements in Subsection B of this Section, if it is not

a fixed facility.

2. In addition to meeting the requirements in Subsection B or C of this Section, the owner or operator of a new offshore oil and gas extraction facility may be required to comply with Subsection D of this Section.

B. Track I Requirements for New Offshore Oil and Gas Extraction Facilities

1. New offshore oil and gas extraction facilities that are fixed facilities shall:
a. comply with all of the requirements in Paragraphs B.3-9 of this Section if they do not employ sea chests as cooling water intake structures; or
b. comply with the requirements in Paragraphs B.3, 4, 5, 7, 8, and 9 of this Section if they employ sea chests.

2. New offshore oil and gas extraction facilities that are not fixed facilities must comply with the requirements in Paragraphs B.3, 5, 7, 8, and 9 of this Section.

3. You must design and construct each cooling water intake structure at your facility to a maximum through-screen design intake velocity of 0.5 ft/s.

4. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

5. You must select and implement design and construction technologies or operational measures for minimizing impingement mortality of fish and shellfish if the administrative authority determines that:

a. there are threatened or endangered or otherwise protected federal, state, or tribal species, or critical habitat for these species, within the hydraulic zone of influence of the cooling water intake structure; or

b. based on information submitted by any fishery management agency or other relevant information, there are migratory and/or sport or commercial species of impingement concern to the administrative authority that pass through the hydraulic zone of influence of the cooling water intake structure; or

c. based on information submitted by any fishery management agency or other relevant information, the proposed facility, after meeting the technology-based performance requirements in Paragraphs B.3 and 6 of this Section, would still contribute unacceptable stress to the protected species, or critical habitat of those species, or species of concern.

6. You must select and implement design and construction technologies or operational measures for minimizing entrainment of entrainable life stages of fish and shellfish.

7. You must submit the applicable application information required in LAC 33:IX.2501.R and 4773.B. If you are a fixed facility, you must submit the information required in LAC 33:IX.2501.R.2 (except 2.d), 3, and 4 and 4773.B as part of your application. If you are a not a fixed facility, you must only submit the information required in LAC 33:IX.2501.R.2.d and 3 (except 3.b) and 4773.B as part of your application.

8. You must implement the monitoring requirements specified in LAC 33:IX.4775.

9. You must implement the recordkeeping requirements specified in LAC 33:IX.4777.

C. Track II Requirements for New Offshore Oil and Gas Extraction Facilities. The owner or operator of a new offshore oil and gas extraction facility that is a fixed facility and

chooses to comply under Track II must comply with the following requirements.

1. You must demonstrate to the administrative authority that the technologies employed will reduce the level of adverse environmental impact from your cooling water intake structures to a comparable level to that which you would achieve were you to implement the applicable requirements of Paragraph B.3 of this Section and, if your facility is a fixed facility without a sea chest, also Paragraph B.6 of this Section. This demonstration must include a showing that the impacts to fish and shellfish, including important forage and predator species, will be comparable to those which would result if you were to implement the requirements of Paragraph B.3 of this Section and, if your facility is a fixed facility without a sea chest, also Paragraph B.6 of this Section. In identifying such species, the administrative authority may consider information provided by any fishery management agency along with data and information from other sources.

2. For cooling water intake structures located in an estuary or tidal river, the total design intake flow over one tidal cycle of ebb and flow must be no greater than 1 percent of the volume of the water column within the area centered about the opening of the intake with a diameter defined by the distance of one tidal excursion at the mean low water level.

3. You must submit the applicable information required in LAC 33:IX.2501.R.2 (except 2.d), 3, and 4 and 4773.C.

4. You must implement the monitoring requirements specified in LAC 33:IX.4775.

5. You must implement the recordkeeping requirements specified in LAC 33:IX.4777.

D. You must comply with any more stringent requirements relating to the location, design, construction, and capacity of a cooling water intake structure or monitoring requirements at a new offshore oil and gas extraction facility that the administrative authority deems are reasonably necessary to comply with any provision of federal or state law, including compliance with applicable state water quality standards (including designated uses, criteria, and antidegradation requirements).

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4771. May alternative requirements be authorized?

A. Any interested person may request that alternative requirements less stringent than those specified in LAC 33:IX.4769 be imposed in the permit. The administrative authority may establish alternative requirements less stringent than the requirements in LAC 33:IX.4769 only if:

1. there is an applicable requirement in LAC 33:IX.4769;
2. the administrative authority determines that data specific to the facility indicate that compliance with the requirement at issue would result in compliance costs wholly out of proportion to the costs EPA considered in establishing the requirement at issue or would result in significant adverse impacts on local water resources other than impingement or entrainment or significant adverse impacts on energy markets;

3. the alternative requirement requested is no less stringent than justified by the wholly-out-of-proportion cost or the significant adverse impacts on local water resources

other than impingement or entrainment, or significant adverse impacts on energy markets; and
4. the alternative requirement will ensure compliance with other applicable provisions of the Clean Water Act and any applicable requirement of federal or state law.

B. The burden is on the person requesting the alternative requirement to demonstrate that the alternative requirement should be authorized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4773. As an owner or operator of a new offshore oil and gas extraction facility, what must I collect and submit when I apply for my new or reissued LPDES permit?

A. General Application Requirements

1. As an owner or operator of a new offshore oil and gas extraction facility, you must submit to the administrative authority a statement that you intend to comply with either:

a. the Track I requirements for new offshore oil and gas extraction facilities in LAC 33:IX.4769.B; or

b. if you are a fixed facility, the Track II requirements in LAC 33:IX.4769.C.

2. You must also submit the application information required by LAC 33:IX.2501.R and the information required in either Subsection B of this Section for Track I or, if you are a fixed facility that chooses to comply under Track II, Subsection C of this Section when you apply for a new or reissued LPDES permit in accordance with LAC 33:IX.2501.

B. Track I Application Requirements. To demonstrate compliance with Track I requirements in LAC 33:IX.4769.B, you must collect and submit to the administrative authority the information in Paragraphs B.1-3 of this Section.

1. Velocity Information. You must submit the following information to the administrative authority to demonstrate that you are complying with the requirement to meet a maximum through-screen design intake velocity of no more than 0.5 ft/s at each cooling water intake structure as required in LAC 33:IX.4769.B.3:

a. a narrative description of the design, structure, equipment, and operation used to meet the velocity requirement; and

b. design calculations showing that the velocity requirement will be met at minimum ambient source water surface elevations (based on best professional judgment using available hydrological data) and maximum head loss across the screens or other device.

2. Source Water Body Flow Information. If you are a fixed facility and your cooling water intake structure is located in an estuary or tidal river, you must provide the mean low water tidal excursion distance and any supporting documentation and engineering calculations to show that your cooling water intake structure facility meets the flow requirements in LAC 33:IX.4769.B.4.

3. Design and Construction Technology Plan. To comply with LAC 33:IX.4769.B.5 and/or 6, if applicable, you must submit to the administrative authority the following information in a design and construction technology plan:

a. if the administrative authority determines that additional impingement requirements should be included in your permit:

LAC 33:IX.4769.B.5;

i. information to demonstrate whether you meet the criteria in
delineation of the hydraulic zone of influence for your
cooling water intake structure; and

b. if required to install design and construction technologies and/or
operational measures in accordance with LAC 33:IX.4769.B.5 or 6, a plan explaining the
technologies and measures you have selected. (Examples of appropriate technologies include,
but are not limited to, increased opening to cooling water intake structure to decrease design
intake velocity, wedgewire screens, fixed screens, velocity caps, location of cooling water intake
opening in water body, etc. Examples of appropriate operational measures include, but are not
limited to, seasonal shutdowns or reductions in flow, continuous operations of screens, etc.) The
plan must contain the following information, if applicable:

i. a narrative description of the design and operation of the
design and construction technologies, including fish-handling and return systems, that you will
use to maximize the survival of those species expected to be most susceptible to impingement.
Provide species-specific information that demonstrates the efficacy of the technology;

ii. to demonstrate compliance with LAC 33:IX.4769.B.6, if
applicable, a narrative description of the design and operation of the design and construction
technologies that you will use to minimize entrainment of those species expected to be the most
susceptible to entrainment. Provide species-specific information that demonstrates the efficacy of
the technology; and

iii. design calculations, drawings, and estimates to support the
descriptions provided in Clauses B.3.b.i and ii of this Section.

C. Track II Application Requirements. If you are a fixed facility and have chosen to
comply with the requirements of Track II in LAC 33:IX.4769.C, you must collect and submit to
the administrative authority the following information.

1. Source Water Body Flow Information. If your cooling water intake
structure is located in an estuary or tidal river, you must provide the mean low water tidal
excursion distance and any supporting documentation and engineering calculations to show that
your cooling water intake structure facility meets the flow requirements in LAC 33:IX.4769.C.2.

2. Track II Comprehensive Demonstration Study. You must perform and
submit the results of a comprehensive demonstration study (study). This information is required
to characterize the source water baseline in the vicinity of the cooling water intake structure(s),
characterize operation of the cooling water intake(s), and confirm that the technology(ies)
proposed and/or implemented at your cooling water intake structure reduces the impacts to fish
and shellfish to levels comparable to those you would achieve were you to implement the
applicable requirements in LAC 33:IX.4769.B.

a. To meet the comparable-level requirement, you must demonstrate
that:

i. you have reduced impingement mortality of all life stages
of fish and shellfish to 90 percent or greater of the reduction that would be achieved through the
applicable requirements in LAC 33:IX.4769.B.3; and

ii. if you are a facility without sea chests, you have minimized
entrainment of entrainable life stages of fish and shellfish to 90 percent or greater of the
reduction that would have been achieved through the applicable requirements in LAC
33:IX.4769.B.6.

b. You must develop and submit a plan to the administrative authority containing a proposal for how information will be collected to support the study. The plan must include:

i. a description of the proposed and/or implemented technology(ies) to be evaluated in the study;

ii. a list and description of any historical studies characterizing the physical and biological conditions in the vicinity of the proposed or actual intakes and their relevancy to the proposed study. If you propose to rely on existing source water body data, the data must be no more than 5 years old, you must demonstrate that the existing data are sufficient to develop a scientifically valid estimate of potential impingement mortality and (if applicable) entrainment impacts, and you must provide documentation showing that the data were collected using appropriate quality assurance/quality control procedures;

iii. any public participation or consultation with federal or state agencies undertaken in developing the plan; and

iv. a sampling plan for data that will be collected using actual field studies in the source water body. The sampling plan must document all methods and quality assurance procedures for sampling and data analysis. The sampling and data analysis methods you propose must be appropriate for a quantitative survey and based on consideration of methods used in other studies performed in the source water body. The sampling plan must include a description of the study area (including the area of influence of the cooling water intake structure and at least 100 meters beyond), taxonomic identification of the sampled or evaluated biological assemblages (including all life stages of fish and shellfish), and sampling and data analysis methods.

c. You must submit documentation of the results of the study to the administrative authority. Documentation of the results of the study must include the following information.

i. Source Water Biological Study. The source water biological study must include:

(a). a taxonomic identification and characterization of aquatic biological resources including a summary of historical and contemporary aquatic biological resources, a determination and description of the target populations of concern (those species of fish and shellfish and all life stages that are most susceptible to impingement and entrainment), and a description of the abundance and temporal/spatial characterization of the target populations based on the collection of multiple years of data to capture the seasonal and daily activities (e.g., spawning, feeding, and water column migration) of all life stages of fish and shellfish found in the vicinity of the cooling water intake structure;

(b). an identification of all threatened or endangered species that might be susceptible to impingement and entrainment by the proposed cooling water intake structure(s); and

(c). a description of additional chemical, water quality, and other anthropogenic stresses on the source water body.

ii. Evaluation of Potential Cooling Water Intake Structure Effects. This evaluation must include:

(a). calculations of the reduction in impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish that would need to be achieved by the technologies you have selected to implement to meet requirements under

Track II. To do this, you must determine the reduction in impingement mortality and entrainment that would be achieved by implementing the requirements in LAC 33:IX.4769.B.3 and, for facilities without sea chests, LAC 33:IX.4769.B.6 of Track I at your site;

(b). an engineering estimate of efficacy for the proposed and/or implemented technologies used to minimize impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish and maximize survival of impinged life stages of fish and shellfish. You must demonstrate that the technologies reduce impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish to a comparable level to that which you would achieve were you to implement the requirements in LAC 33:IX.4769.B.3 and, for facilities without sea chests, LAC 33:IX.4769.B.6 of Track I. The efficacy projection must include a site-specific evaluation of technology(ies) suitability for reducing impingement mortality and (if applicable) entrainment based on the results of the source water biological study conducted in accordance with Clause C.2.c.i of this Section. Efficacy estimates may be determined based on case studies that have been conducted in the vicinity of the cooling water intake structure and/or site-specific technology prototype studies.

iii. Verification Monitoring Plan. You must include in the study a plan to conduct, at a minimum, two years of monitoring to verify the full-scale performance of the proposed or implemented technologies and/or operational measures. The verification study must begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the facility is reducing the level of impingement mortality and (if applicable) entrainment to the level documented in Clause C.2.c.i of this Section. The plan must describe the frequency of monitoring and the parameters to be monitored. The administrative authority will use the verification monitoring to confirm that you are meeting the level of impingement mortality and entrainment reduction required in LAC 33:IX.4769.C and that the operation of the technology has been optimized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4775. As an owner or operator of a new offshore oil and gas extraction facility, must I perform monitoring?

A. As an owner or operator of a new offshore oil and gas extraction facility, you will be required to perform monitoring to demonstrate your compliance with the requirements specified in LAC 33:IX.4769 or alternative requirements in LAC 33:IX.4771.

B. Biological Monitoring

1. Facility Requirements

a. Fixed facilities without sea chests that choose to comply with the Track I requirements in LAC 33:IX.4769.B.1 must monitor for entrainment. These facilities are not required to monitor for impingement, unless the administrative authority determines that the information would be necessary to evaluate the need for, or compliance with, additional requirements in accordance with LAC 33:IX.4769.B.5 or more stringent requirements in accordance with LAC 33:IX.4769.D.

b. Fixed facilities with sea chests that choose to comply with the Track I requirements in LAC 33:IX.4769.B.1 are not required to perform biological monitoring unless the administrative authority determines that the information would be necessary to

evaluate the need for, or compliance with, additional requirements in accordance with LAC 33:IX.4769.B.5 or more stringent requirements in accordance with LAC 33:IX.4769.D.

c. Facilities that are not fixed facilities are not required to perform biological monitoring unless the administrative authority determines that the information would be necessary to evaluate the need for, or compliance with, additional requirements in accordance with LAC 33:IX.4769.B.5 or more stringent requirements in accordance with LAC 33:IX.4769.D.

d. Fixed facilities with sea chests that choose to comply with the Track II requirements in LAC 33:IX.4769.C must monitor for impingement only. Fixed facilities without sea chests that choose to comply with Track II requirements must monitor for both impingement and entrainment.

2. Monitoring must characterize the impingement rates and (if applicable) entrainment rates of commercial, recreational, and forage base fish and shellfish species identified in the source water baseline biological characterization data required by LAC 33:IX.2501.R.4, identified in the comprehensive demonstration study required by LAC 33:IX.4773.C.2, or as specified by the administrative authority.

3. The monitoring methods used must be consistent with those used for the source water baseline biological characterization data required in LAC 33:IX.2501.R.4, those used by the comprehensive demonstration study required by LAC 33:IX.4773.C.2, or as specified by the administrative authority. You must follow the monitoring frequencies in Paragraphs B.4 and 5 of this Section for at least two years after the initial permit issuance. After that time, the administrative authority may approve a request for less frequent sampling in the remaining years of the permit term and when the permit is reissued, if supporting data show that less frequent monitoring would still allow for the detection of any seasonal variations in the species and numbers of individuals of those species that are impinged or entrained.

4. Impingement Sampling. You must collect samples to monitor impingement rates (simple enumeration) for each species over a 24-hour period and no less than once per month when the cooling water intake structure is in operation.

5. Entrainment Sampling. If your facility is subject to the requirements of LAC 33:IX.4769.B.1.a, or if your facility is subject to LAC 33:IX.4769.C and is a fixed facility without a sea chest, you must collect samples to monitor entrainment rates (simple enumeration) for each species over a 24-hour period and no less than biweekly during the primary period of reproduction, larval recruitment, and peak abundance identified during the source water baseline biological characterization required by LAC 33:IX.2501.R.4 or the comprehensive demonstration study required in LAC 33:IX.4773.C.2. You must collect samples only when the cooling water intake structure is in operation.

C. Velocity Monitoring. If your facility uses a surface intake screen system, you must monitor head loss across the screens and correlate the measured value with the design intake velocity. The head loss across the intake screen must be measured at the minimum ambient source water surface elevation (best professional judgment based on available hydrological data). The maximum head loss across the screen for each cooling water intake structure must be used to determine compliance with the velocity requirement in LAC 33:IX.4769.B.3. If your facility uses devices other than surface intake screens, you must monitor velocity at the point of entry through the device. You must monitor head loss or velocity during initial facility startup and, thereafter, at the frequency specified in your LPDES permit, but no less than once per quarter.

D. Visual or Remote Inspections. You must either conduct visual inspections or employ remote monitoring devices during the period the cooling water intake structure is in operation. You must conduct visual inspections at least weekly to ensure that any design and construction technologies required in LAC 33:IX.4769.B.5, B.6, C, and/or D are maintained and operated to ensure that they will continue to function as designed. Alternatively, you must inspect via remote monitoring devices to ensure that the impingement and entrainment technologies are functioning as designed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4777. As an owner or operator of a new offshore oil and gas extraction facility, must I keep records and report?

A. As an owner or operator of a new offshore oil and gas extraction facility you are required to keep records and report information and data to the administrative authority as follows.

1. You must keep records of all the data used to complete the permit application and show compliance with the requirements, any supplemental information developed under LAC 33:IX.4773, and any compliance monitoring data submitted under LAC 33:IX.4775, for a period of at least three years from the date of permit issuance. The administrative authority may require that these records be kept for a longer period.

2. You must provide the following to the administrative authority in a yearly status report:

a. for fixed facilities, biological monitoring records for each cooling water intake structure as required by LAC 33:IX.4775.B;

b. velocity and head loss monitoring records for each cooling water intake structure as required by LAC 33:IX.4775.C; and

c. records of visual or remote inspections as required in LAC 33:IX.4775.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.

§4779. What must the administrative authority do to comply with the requirements of this Subchapter?

A. Permit Application. The administrative authority must review materials submitted by the applicant in accordance with LAC 33:IX.2501.R, 4771, and 4773 at the time of the initial permit application and before each permit renewal or reissuance.

1. After receiving the initial permit application from the owner or operator of a new offshore oil and gas extraction facility, the administrative authority must determine applicable standards in LAC 33:IX.4769 or 4771 to apply to the new offshore oil and gas extraction facility. In addition, the administrative authority must review materials to determine compliance with the applicable standards.

2. For each subsequent permit renewal, the administrative authority must

review the application materials and monitoring data to determine whether requirements, or additional requirements, for design and construction technologies or operational measures should be included in the permit.

3. For Track II facilities, the administrative authority must review the information collection proposal plan required by LAC 33:IX.4773.C.2.b. The facility may initiate sampling and data collection activities prior to receiving comment from the administrative authority.

B. Permitting Requirements. Section 316(b) requirements of the CWA are implemented for a facility through an LPDES permit. The administrative authority must determine, based on the information submitted by the new offshore oil and gas extraction facility in its permit application, the appropriate requirements and conditions to include in the permit based on the track (Track I or Track II), or alternative requirements in accordance with LAC 33:IX.4771, the new offshore oil and gas extraction facility has chosen to comply with. The following requirements must be included in each permit.

1. Cooling Water Intake Structure Requirements. At a minimum, the permit conditions must include the performance standards that implement the applicable requirements of LAC 33:IX.4769.B.3-6 and C.1 and 2 or LAC 33:IX.4771.

a. For a facility that chooses Track I, the administrative authority must review the design and construction technology plan required in LAC 33:IX.4773.B.3 to evaluate the suitability and feasibility of the technology proposed to minimize impingement mortality and (if applicable) entrainment of all life stages of fish and shellfish. In the first permit issued, the administrative authority must include a condition requiring the facility to reduce impingement mortality and/or entrainment commensurate with the implementation of the technologies in the permit. Under subsequent permits, the administrative authority must review the performance of the technologies implemented and require additional or different design and construction technologies, if needed, to minimize impingement mortality and/or entrainment of all life stages of fish and shellfish. In addition, the administrative authority must consider whether more stringent conditions are reasonably necessary in accordance with LAC 33:IX.4769.D.

b. For a fixed facility that chooses Track II, the administrative authority must review the information submitted with the comprehensive demonstration study required in LAC 33:IX.4773.C.2 and evaluate the suitability of the proposed design and construction technology and/or operational measures to determine whether they will reduce both impingement mortality and entrainment of all life stages of fish and shellfish to 90 percent or greater of the reduction that could be achieved through Track I. In addition, the administrative authority must review the verification monitoring plan required in LAC 33:IX.4773.C.2.c.iii and require that the proposed monitoring begin at the start of operations of the cooling water intake structure and continue for a sufficient period of time to demonstrate that the technologies and operational measures meet the requirements in LAC 33:IX.4769.C.1. Under subsequent permits, the administrative authority must review the performance of the additional and/or different technologies or measures used and determine that they reduce the level of adverse environmental impact from the cooling water intake structures to a comparable level that the facility would achieve were it to implement the requirements of LAC 33:IX.4769.B.3 and, if applicable, LAC 33:IX.4769.B.6.

c. If a facility requests alternative requirements in accordance with LAC 33:IX.4771, the administrative authority must determine if data specific to the facility meet

the requirements in LAC 33:IX.4771.A and include requirements in the permit that are no less stringent than justified by the wholly-out-of-proportion cost or the significant adverse impacts on local water resources other than impingement or entrainment, or significant adverse impacts on energy markets.

2. Monitoring Conditions. At a minimum, the permit must require the permittee to perform the monitoring required in LAC 33:IX.4775. The administrative authority may modify the monitoring program when the permit is reissued and during the term of the permit based on changes in physical or biological conditions in the vicinity of the cooling water intake structure. The administrative authority may require continued monitoring based on the results of monitoring done pursuant to the verification monitoring plan required in LAC 33:IX.4773.C.2.c.iii.

3. Recordkeeping and Reporting. At a minimum, the permit must require the permittee to report and keep records as required by LAC 33:IX.4777.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 33:**.