

401 KAR 5:052. Requirements applicable to cooling water intake structures for facilities regulated by Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

RELATES TO: KRS 224.10-100, 224.16-050, 224.70-100, 224.70-110, 40 C.F.R. 122, 33 U.S.C. 1251-1387

STATUTORY AUTHORITY: KRS 224.10-100, 224.16-050, 224.70-100, 224.70-110, 40 C.F.R. 125, 33 U.S.C. 1251-1387

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100 authorizes the cabinet to issue, continue in effect, revoke, modify, suspend, or deny under such conditions as the cabinet may prescribe, permits to discharge into waters of the Commonwealth. KRS 224.16-050 authorizes the cabinet to issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Clean Water Act, 33 U.S.C. Section 1251-1387, subject to the conditions imposed in 33 U.S.C. Section 1342(b) and (d). This administrative regulation establishes the requirements applicable to cooling water intakes structures for new and existing facilities under Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b).

Section 1.

(1) Except as established in Sections 2 and 3 of this administrative regulation, requirements for new facilities pursuant to Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), shall be as established in 40 C.F.R. 125.80 through 125.89.

(2) Except as established in Sections 2 and 3 of this administrative regulation, requirements for existing facilities pursuant to Section 316(b) of the Clean Water Act, 33 U.S.C. 1326(b), shall be as established in 40 C.F.R. 125.90 through 125.98.

Section 2. Political subdivisions and interstate agencies may adopt or enforce requirements that are more stringent than this administrative regulation.

Section 3. Substitutions. The following terms shall be substituted in the federal regulations cited in this administrative regulation:

(1) "Waters of the Commonwealth" shall replace "waters of the United States"; and

(2) "Cabinet" shall replace "Director".

(401 KAR 005:052. 35 Ky.R. 471; 797; eff. 10-8-2008; 44 Ky.R. 2616; 45 Ky.R. 1009; eff. 11-1-2018; Crt eff. 10-28-2025.)