

interested in comments on the criteria used to determine eligibility for the streamlined technology option presented above, the availability of data needed to make technology determinations in general, as well as in receiving actual data that may support such determinations.

VIII. Cost Tests

Under the proposed rule, a facility may choose a site-specific alternative to demonstrate use of best technology available for minimizing adverse environmental impact at its site. If a facility chooses this alternative, the facility must demonstrate to the Director that the costs of compliance with the applicable performance standards would be "significantly greater" than the costs considered by the Administrator when establishing the performance standards, or that costs would be "significantly greater" than the benefits of complying with the applicable performance standards at its site. As discussed in the proposed rule, EPA's new facility rule required costs to be "wholly out of proportion" to the costs EPA considered when establishing the requirement at issue rather than "significantly greater" as proposed for existing facilities (see 67 FR 17146). This difference in standards for new and existing facilities is based on (1) the greater flexibility available to new facilities for selecting the location of their intakes and installing technologies at lower costs relative to the costs associated with retrofitting existing facilities and (2) the desire to avoid economically impracticable impacts on energy prices, production costs, and energy production that could occur if large numbers of Phase II existing facilities incurred costs that were more than "significantly greater" than but not "wholly out of proportion" to the costs in EPA's record. At proposal, EPA invited comment on whether a "significantly greater" cost test was appropriate for evaluating requests for alternative requirements by Phase II existing facilities but did not specify what degree of difference in cost or cost as compared to benefit is "significant". Many commenters requested that "significantly" be explicitly defined for the purposes of this rulemaking.

At this time, EPA requests comment on whether the Agency should adopt a quantitative definition of "significantly greater," and if so, what specific ratio would be appropriate.

IX. Biology—Supporting Information

A. Entrainment Survival

Following publication of the proposed rule, EPA reviewed an additional 23 facility reports that evaluated entrainment survival. To date, EPA has reviewed a total of 36 entrainment survival studies. The additional facility studies examined by EPA after publication of the proposed rule include studies from the following facilities: Anclote Power Plant, Bergum Power Station, Bowline Point Generating Station, Connecticut Yankee Atomic Power Company, Contra Costa Power Plant, Danskammer Point Generating Station, Fort Calhoun Nuclear Station, Ginna Generating Station, Indian Point Generating Station, Muskingum River Plant, Northport Generating Station, Pittsburg Power Plant, and Roseton Generating Station.

Based on its review, EPA believes that the entrainment survival studies support the use of a default assumption of zero percent survival in the benefits assessment. The studies reviewed are characterized by significant uncertainty and variability which complicates efforts to synthesize the various results in a manner that would provide useful generalizations of the results or application to other particular facilities. The primary issue with regard to these studies is whether the results can support a defensible estimate of survival substantially different from the value of zero percent survival assumed by EPA. The review of the studies has shown that while some individual organisms may be alive in the discharge samples, the proportion of the organisms that are alive in the samples is highly variable and unpredictable. The current state of knowledge would not support reliable predictions of entrainment survival for the range of species, life stages, regions, and facilities involved in EPA's national benefits estimates. Therefore, EPA believes that the reported results do not provide a clear indication as to the extent of entrainment survival above zero percent to be used as a defensible assumption to calculate national benefits for this rule. EPA requests comment on this issue.

The revised version of Chapter A7: Entrainment Survival from the Case Study Analysis for the Section 316(b) Phase II Existing Facilities Rule provides more detailed information on the scientific basis for this position and has been added to the docket. EPA plans to conduct a formal, external peer review of this document prior to the final rule, and results from the peer review will be added to the docket when complete.

As at proposal, EPA notes that the proposed rule language does not preclude the use of estimates of entrainment mortality and survival when presenting a fair estimation of the monetary benefits achieved through the installation of the best technology available, instead of assuming 100 percent entrainment mortality. In EPA's view, estimates of entrainment mortality and survival used for this purpose should be based on sound scientific studies. EPA believes such studies should address times of both full facility capacity and peak abundance of entrained organisms. EPA requests comment on whether it is appropriate to allow consideration of entrainment mortality and survival in benefit estimates, and if so, should EPA set minimum data quality objectives and standards for a study of entrainment mortality and survival used to support a site-specific determination of best technology available for minimizing adverse environmental impact. EPA also requests comment on how an applicant can design and implement an entrainment mortality and survival study to properly account for those organisms which may disintegrate upon passage through a facility. EPA may decide to specify data quality objectives and standards either in the final rule language or through guidance.

B. Restoration

Restoration projects, when successful, can recreate otherwise lost natural resources. The Agency proposed in § 125.94(d) (67 FR 17221) that a facility may implement restoration measures in lieu of or in combination with reductions in impingement mortality and entrainment upon demonstration to the Director that such efforts will maintain fish and shellfish in the waterbody, including the community structure and function, at a level comparable to that which would be achieved through compliance with standards proposed in §§ 125.94(b) and (c) (67 FR 17221).

The Agency believes restoration projects have the potential to mitigate harm to fish and shellfish from cooling water intake structures. However, careful execution of these projects is vital to their successful use (see "Note to Docket on Restoration Information Sources.") Use of good practices drawn from historical experiences with restoration increases the probability of restoration project success, and therefore, reduces environmental and compliance costs associated with project failure. Therefore, EPA is considering requiring the following