

than the selected BPT technology basis that also pass the BCT cost test. EPA evaluated the addition of ultrafiltration technology to the BPT technology basis as a means to obtain further O&G reductions. However, this technology option failed the BCT cost test. For a more detailed description of the BCT cost test and details on EPA's analysis, see Chapter 4 of the EEBA.

### 3. Best Available Technology Economically Achievable (BAT)

EPA proposed to control toxic and non-conventional pollutants by establishing BAT limitations based on Option 6 technology. EPA has now decided not to establish BAT toxic and non-conventional limitations based on the Option 6 technology. As described in section VI.F.1, the BPT technology basis is readily available, and the limitations are cost reasonable. However the additional costs associated with compliance with Option 6-generated BAT limitations are not warranted. EPA has determined that these costs—primarily monitoring costs—are not warranted in view of the small quantity of additional effluent reduction (if any) the BAT limitations would produce. As explained above, EPA has determined that, the BPT limitation on O&G (measured as HEM) will effectively control toxic and non-conventional discharges in OWS process wastewaters. EPA has not identified any more stringent economically-achievable treatment technology option beyond BPT technology (Option 6) which it considered to represent BAT level of control applicable to Oily Wastes subcategory facilities.

For the reasons explained above, EPA has concluded that it should not establish BAT limitations for specific pollutant parameters for Oily Waste operations. EPA notes that permit writers retain the authority to establish, on a case-by-case basis under section 301(b)(1)(C) of the CWA, toxic effluent limitations that are necessary to meet State water quality standards.

### 4. New Source Performance Standards (NSPS)

EPA is promulgating NSPS that would control pH and the same conventional pollutants controlled at the BPT and BCT levels. The selected technology basis for NSPS for this subcategory for today's final rule is Option 6. This is unchanged from the proposal. EPA projects no barrier to entry for new source direct dischargers associated with Option 6 as: (1) Option 6 technology is currently used at existing direct dischargers (*i.e.*, Option 6 technology is technically available); and

(2) there is no barrier to entry for new sources.

EPA evaluated the economic impacts for existing direct dischargers associated with compliance with limitations based on Option 6 and found Option 6 to be economically achievable (no closures projected). EPA expects compliance costs to be lower for new sources as new sources can use Option 6 technology without incurring retrofitting costs (as is required for some existing sources). Additionally, EPA projects no barrier to entry for OWS NSPS based on the Option 6 technology as approximately 97% of OWS direct dischargers have after-tax compliance costs less than 1% of revenue and 3% have after-tax compliance costs between 1 to 3% of revenue.

Consequently, EPA selected Option 6 technology as the basis for NSPS in the OWS. See section 11 of the TDD for a description of how these new source compliance costs were developed and Chapter 9 of the EEBA for a description of the framework EPA used for the barrier to entry analysis and general discussion of the results.

In addition, EPA also evaluated and rejected more stringent technology options for OWS NSPS (*i.e.*, Options 8 and 10). EPA reviewed its database for the Option 8 and 10 technologies and found that the database for Option 8 and 10 technologies is insufficient (*i.e.*, no available data) or the costs are not commensurate with the pollutant removals (*see* 66 FR 457). Since EPA's database did not contain Option 10 treatability data from oily subcategory facilities, EPA considered transferring limitations for Option 10 from the Shipbuilding Dry Docks or Railroad Line Maintenance subcategories. EPA ultimately rejected this approach, however, because influent wastewaters in the Shipbuilding Dry Docks or Railroad Line Maintenance subcategories are generally less concentrated and contain less pollutants than wastewaters discharged by OWS facilities.

### 5. Pretreatment Standards for Existing Sources (PSES)

EPA proposed to establish PSES for existing indirect dischargers in the Oily Wastes subcategory based on the Option 6 technology (*i.e.*, the same technology basis that is being promulgated for BPT/BCT/NSPS for this subcategory) with a "low-flow" exclusion of 2 MGY to reduce economic impacts on small businesses and administrative burden for control authorities. Based on the revisions and corrections to the EPA Cost & Loadings Model discussed in the NODA and in section IV.B.1 of today's

final rule, and previously discussed, EPA determined that the toxic pollutant reductions are very expensive in dollars per toxic pounds removed. The cost-effectiveness value (in 1981\$) for Option 6 for indirect dischargers in the Oily Wastes subcategory is in excess of \$3,500/PE removed. This suggests that the technology is not truly "available." EPA has determined that Option 6 technology with a 2 MGY low-flow cutoff is not the best available technology economically achievable for existing indirect dischargers in the OWS. Therefore, EPA is not establishing PSES for this subcategory based on Option 6 technology with a 2 MGY low-flow cutoff.

As discussed in the June 2002 NODA (*see* 67 FR 38804), EPA also considered alternative options for which economic impacts could be less costly than Option 6 technology with a 2 MGY low-flow cutoff. These options potentially have compliance costs more closely align with toxic pollutant reductions. EPA considered the following alternative options for today's final rule:

*Option A:* No regulation;

*Option B:* Option 6 with a higher low-flow exclusion;

As discussed in section IV.B.1 of today's final rule, based on comments, EPA has revised its methodology for estimating compliance costs and pollutant loadings for Option 6, and higher low-flow exclusions (Option B) previously described. Using information from this revised analysis, EPA concludes that none of the alternative low-flow exclusions (even as high as 6.25 MGY) represented "available technology" because the costs associated with these alternatives were not commensurate with the projected toxic pollutants reductions. Therefore, EPA is not establishing PSES for existing indirect dischargers in the Oily Wastes subcategory (Option A). Since EPA did not identify another technology basis that was more cost-effective, EPA is not promulgating PSES for existing indirect dischargers in the Oily Wastes subcategory. These facilities remain subject to the General Pretreatment regulations (40 CFR part 403) and local limits, as applicable.

### 6. Pretreatment Standards for New Sources (PSNS)

EPA proposed to establish PSNS for indirect dischargers in the Oily Wastes subcategory based on the Option 6 technology (*i.e.*, the same technology basis that is being promulgated for NSPS for this subcategory) with a "low-flow" exclusion of 2MGY to reduce economic impacts on small businesses