

in the RRLM subcategory at this time is unwarranted.

2. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT, EPA considers whether there are technologies that achieve greater removals of conventional pollutants than adopted for BPT, and whether those technologies are cost-reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the "BCT cost test." For a more detailed description of the BCT cost test and details of EPA's analysis, see Chapter 4 of the EEBA.

For the reasons discussed above, EPA is not establishing BCT limitations for the RRLM subcategory.

3. Best Available Technology Economically Achievable (BAT)

As proposed, EPA is not establishing BAT regulations for the RRLM subcategory. EPA did not propose BAT regulations because the Agency concluded that facilities in this subcategory discharge very few pounds of toxic pollutants. EPA estimates that six facilities discharge 34 PE per year to surface waters, or about 6 PE per year per facility. The Agency based the loadings calculations on EPA sampling data, which found very few priority toxic pollutants at treatable levels in raw wastewater. EPA has received no data or information during the rulemaking that contradicts these conclusions. Therefore, nationally-applicable regulations for toxic and nonconventional pollutants are unnecessary at this time and direct dischargers will remain subject to permit limitations for toxic and nonconventional pollutants established on a case-by-case basis using BPJ.

4. New Source Performance Standards (NSPS)

EPA proposed setting NSPS based on Option 10 technology for this subcategory. For today's final rule EPA considered setting RRLM NSPS based on Option 10 technology and assessed the financial burden of RRLM NSPS based on Option 10 technology on new RRLM direct dischargers. Specifically, EPA's "barrier to entry" analysis identified whether RRLM NSPS based on Option 10 technology would pose sufficient financial burden as to constitute a material barrier to entry into the MP&M point source category.

EPA projects no barrier to entry for RRLM NSPS based on Option 10 technology as: (1) Option 10 technology is currently used at existing RRLM

direct dischargers (*i.e.*, Option 10 technology is technically available); and (2) all RRLM direct dischargers have new source compliance costs that are less than 1% of revenue. However, EPA is not promulgating RRLM NSPS based on the Option 10 technology as EPA concludes that it is more appropriate to address limitations for this industry on a case-by-case basis and that national regulation of direct discharges in the RRLM subcategory at this time is unwarranted. *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.

5. Pretreatment Standards for Existing and New Sources (PSES/PSNS)

EPA proposed not to establish pretreatment standards for existing and new indirect dischargers in the RRLM subcategory based on the small quantity of toxic pollutants discharged to the environment (after POTW treatment) by facilities in this subcategory (*i.e.*, approximately 2 PE removed annually per facility (*see* 66 FR 470–471)). For the same reasons set out in the 2001 proposal, EPA is not promulgating pretreatment standards for existing or new indirect dischargers in this subcategory. These facilities remain subject to the General Pretreatment regulations (40 CFR part 403) and local limits.

H. Shipbuilding Dry Dock Subcategory

EPA is not establishing limitations or standards for any facilities that would have been subject to this subcategory. Permit writers and control authorities will establish controls using BPJ to regulate wastewater discharges from these facilities.

1. BPT/BCT/BAT/NSPS

At the time of the 2001 proposal, EPA identified 6 direct discharging shipbuilding dry dock facilities with multiple discharges. Based on the information in the database at that time, discharges from these facilities contained minimal concentrations of toxic organic and metals pollutants (<9 PE/facility), but substantial quantities of conventional pollutants, particularly oil and grease. Consequently, EPA proposed to establish BPT limitations and NSPS for only two pollutants, TSS and O&G (as HEM), for direct dischargers in the SDD subcategory based on Option 10 technology. This technology includes the following: (1) in-process flow control and pollution prevention; and (2) oil-water separation

by chemical emulsion breaking and oil-water separation by dissolved air flotation (*see* section 9 of the TDD for today's final rule for additional details on the Option 10 technology). EPA proposed this technology basis because some existing SDD facilities use this technology and it projected significant reductions in conventional pollutants and determined these reductions were cost reasonable.

Following proposal, EPA received comments and supporting data indicating that its estimates of current pollutant discharges from this subcategory were overestimated. In particular, commentors claimed that current discharges of oil and grease were minimal and that national regulation was not warranted for this subcategory.

For today's final rule, EPA incorporated the additional information provided by commentors into its analysis. EPA continues to conclude that there are six direct discharging shipbuilding dry dock facilities. However, EPA now concludes that direct discharges from these facilities generally contain minimal levels of all pollutants. In particular, EPA's database indicates that regulation of oil and grease in direct discharges from shipbuilding dry docks is unwarranted because current oil and grease discharges from these facilities are not detectable (<5 mg/L) or nearly not detectable. EPA has similarly determined that it should not establish nationally applicable limitations and standards for TSS because TSS discharges are, on average, minimal. The data show that TSS discharges may increase episodically, particularly when the dry dock is performing abrasive blasting operations cleaning. However, EPA has concluded that these episodic discharges from six facilities do not warrant national regulation.

Therefore, nationally-applicable regulations for new and existing SDD direct dischargers are unnecessary at this time and these facilities will remain subject to permit limitations established on a case-by-case basis using BPJ.

2. Pretreatment Standards for Existing and New Sources (PSES/PSNS)

EPA proposed not to establish pretreatment standards for existing and new indirect dischargers in the SDD subcategory based on the small number of facilities in this subcategory and on the small quantity of toxic pollutants removed by the technology options evaluated by EPA at proposal (*i.e.*, less than 26 PE removed annually per facility (*see* 66 FR 471)). For the same reasons set out in the 2001 proposal,