

not respond to comments addressing this standard.

One of the main implementation issues in utilizing the direct monitoring method of compliance is understanding the point in the process at which a facility determines whether it meets the limits in § 261.3(a)(2)(iv)(A) or (B). In response to this issue, the Agency is setting an informal definition of "headworks" so facilities and implementing agencies can understand how the monitoring point is described. The guidance the Agency is providing is intended to mirror the language in the 1981 preamble; namely, that the headworks is the location at which final combination of raw process wastewater streams typically takes place (46 FR 56582, November 17, 1981).

The Agency is not proposing to set a regulatory definition of the term headworks. Instead, the Agency prefers to describe the term for both maximum flexibility and understanding. For the purposes of this rule, headworks can include a central catch basin for industrial wastewaters, a pump station outfall, equalization tank, or some other main wastewater collection area that exists in which transport of process wastewaters stops and chemical or biological treatment begins.

The Agency seeks comment as to whether the description for headworks given above is adequate, or if a more detailed description is needed. Commenters may wish to provide examples to illustrate working definitions of headworks or where confusion about a headworks definition might exist.

The Agency proposes that facilities that want to take advantage of using direct monitoring develop a site-specific sampling and analysis plan that demonstrates compliance with the weekly average standards set for the appropriate solvent(s). The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of appropriate constituents to be monitored. In addition, facilities would be required to file a copy of the sampling and analysis plan with the Regional Administrator or State Director, as the context requires, or an authorized representative (*i.e.*, the "Director," as defined in 40 CFR 270.2), and would need to confirm that such sampling and analysis plan had been received prior to the commencement of direct monitoring at the facility. Examples of confirmation include certified mail return receipt, or written confirmation of delivery from a commercial delivery service. Upon confirmation that the sampling and

analysis plan has been delivered successfully to the overseeing agency, the facility would be allowed to commence direct monitoring to demonstrate compliance. The filing of the sampling plan would suffice for initial notification. EPA does not propose to require any other formal notification to the regulator, unless a change in the facility's operations mandates a change in monitoring. Confirmation that the overseeing agency has received the sampling and analysis plan would not imply, however, that the package has been reviewed or approved. EPA does not propose to require that the overseeing agency issue a formal approval of the sampling and analysis plan. However, the Director may reject the sampling and analysis plan if he/she finds that (1) the sampling and analysis plan fails to include the above information, or (2) the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the sampling and analysis plan is rejected or if the Director finds that the facility is not following the sampling and analysis plan, the facility must no longer use the direct monitoring option until such time as the bases for rejection are corrected.

The Agency seeks comments from the public as to the benefits of the changes and if they are sufficiently protective of the environment. The Agency would like comments as to whether the best approach is (1) to leave the current system "as is," or (2) to give facilities a choice of mass balance or direct monitoring techniques. The Agency also seeks comment as to whether the overseeing agency should either approve a sampling and analysis plan, or require facilities to wait a certain period of time (if the state or EPA has not responded) before embarking on a direct monitoring program, and how a facility suspected of violating the exemption limits may be made to demonstrate compliance with the weekly standard.

Under the existing headworks exemption rule (46 FR 56585, November 17, 1981), facilities must be prepared to demonstrate (for the purposes of an inspection or audit) that they meet the mass balance criteria of the rule. Facilities opting to use direct monitoring could comply with this requirement by keeping monitoring records on site to show an inspector that the new criteria are being met. Under 40 CFR 268.7(a)(7), a facility is required to place a one-time notice concerning waste generation, subsequent exclusion from the definition of hazardous waste or solid waste or exemption from RCRA

Subtitle C regulation, and the disposition of the waste, in the facility's on-site files. Generally, such notification, as well as certifications, waste analysis data, and other documentation must be kept for a period of three years unless an enforcement action by the Agency extends the record retention period (§ 268.7(a)(8)). EPA has estimated the burden associated with the proposed reporting requirements when a facility chooses the direct monitoring option. Those estimates are presented in section IV.D of today's proposal.

The Agency is soliciting comment on how to minimize overlapping reporting requirements. Under EPA's Water program, (*e.g.* 40 CFR 122.48 and 403.12), facilities may be required under their permits to monitor these same constituents at the point of discharge (*i.e.*, effluent monitoring). The Agency recognizes that current requirements under the Clean Water Act do not require monitoring of the wastewater treatment system influent (or headworks). However, EPA notes some facilities may collect and may report such information. EPA seeks comment on whether or not facilities are currently performing influent monitoring for other media programs. If so, the Agency solicits comments on the frequency of the influent monitoring and reporting and if this information can be used to determine compliance with the headworks rule.

The Agency also seeks comment on the proposed use of other environmental regulatory program requirements to integrate the information needed for this exemption. Specifically, the Agency is interested in how much of the information is contained in air or water permit monitoring/reporting requirements, how easy modifying another regulatory program's requirements to contain these data would be, and what steps facilities are taking to conduct this kind of monitoring already.

### *C. Exempting Scrubber Water Derived From Solvent Combustion*

The issue of whether to exempt incinerator scrubber water first was raised by commenters to the 1999 HWIR proposal. Under the current headworks rule, the exemptions under 40 CFR 261.3(a)(2)(iv)(A) and (B) are from "normal losses" from manufacturing operations and not from wastes that are already separated from the wastewaters or that had been removed from the process previously. Many spent solvents are sent to hazardous waste combustors. The combustors have scrubbers, used for air pollution control, and these