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EPA proposes the following conditions for reporting and recordkeeping by generators: The rule requires generators wanting to demonstrate compliance with the headworks rule through direct monitoring to submit a one-time copy of their sampling plan to the EPA Regional Administrator (or the state Director in an authorized state) and to maintain all records concerning such direct monitoring for a minimum of three years. The sampling plan requirements for the direct monitoring will be site specific. As with all other exemptions and exclusions from the definition of hazardous waste, a facility is required under 40 CFR 268.7(a)(7) 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 estimates that the total annual respondent burden for the new paperwork requirements in the rule is approximately 16,564 hours per year and the annual respondent cost for the new paperwork requirements in the rule is approximately \$15 million. However, in addition to the new paperwork requirements in the rule, EPA also estimated the burden and cost that generators could expect as a result of complying with the existing RCRA hazardous waste information collection requirements for the excluded materials. Because the addition of benzene and 2-ethoxyethanol would increase the number of facilities that participate in the existing headworks exemptions (and the greater possibility of using directly monitoring), EPA expects there would be both a reduction in some paperwork requirements (*i.e.*, preparation of hazardous waste manifests and Biennial Reports) and an increase in other paperwork requirements (*i.e.*, demonstrating compliance by using mass balance and submitting a one-time LDR notification under 40 CFR 268.7(a)(7)). Taking both proposed and existing RCRA requirements into

account, EPA expects the proposed expansions would result in a bottom line total annual aggregate burden of approximately 19,315 hours and \$15.1 million. This cost is expected to be offset by costs savings from reduced waste management costs (*see* section IV.B) with a net cost savings of \$11.4–48.6 million. The net cost to EPA of administering the rule was estimated at approximately 942 hours and \$39,250 per year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

#### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business that has fewer than 1000 or 100 employees per firm depending upon the SIC code the firm primarily is classified; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is

independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I hereby certify that this proposal will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities" (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on small entities subject to the rule. For more information regarding the economic impact of this proposed rule, please refer to the economic background document to this proposal.

We have therefore concluded that today's proposed rule will relieve regulatory burden for small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA must prepare a written analysis, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the