



March 31, 2025

Via electronic mail to airaction@epa.gov

U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460

Re: *Powering the Great American Comeback Fact Sheet, Request for two-year compliance exemption pursuant to Clean Air Act Section 112(i)(4) for New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) and Group I & II Polymers and Resins Industry.*

To Whom It May Concern:

We are writing on behalf of the American Chemistry Council (ACC)¹ and the American Fuel & Petrochemical Manufacturers (AFPM)² to request a two-year exemption from the compliance obligations of the New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards (NSPS) for Hazardous Air Pollutants (NESHAP) for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) and Group I & II Polymers and Resins Industry (collectively referred to as the HON Rule) for sources in the categories covered by the rule.³ Together, ACC and AFPM submit this request on behalf of our member companies that own or operate affected stationary sources and facilities as a supplement to additional materials sent directly from those companies in response to EPA's request for information.

Our members are deeply committed to responsibly operating their manufacturing sites for key stakeholders: the communities in which they operate, and their employees, customers, and shareholders. That responsibility includes working to ensure that the regulation of our industry is based on sound science and that those regulations reflect a reasonable assessment of the risks and benefits involved. Unfortunately, the HON Rule undermines those important objectives and advances improper and significantly costly requirements on an unworkable timeline. As we have

¹ ACC represents the leading companies engaged in the business of chemistry. ACC members apply the science of chemistry to make innovative products and services that make people's lives better, healthier, and safer. ACC is committed to improved environmental, health and safety performance through Responsible Care®, common sense advocacy designed to address major public policy issues, and health and environmental research and product testing.

² AFPM is a national trade association representing nearly all U.S. refining and petrochemical capacity, as well as midstream industries. In addition to actively pursuing emissions reductions from their operations, our members are committed to sustainably manufacturing and delivering affordable and reliable fuels powering our transportation needs and chemical building blocks integral to millions of products that make modern life possible.

³ National Emissions Standards for Hazardous Air Pollutants (NESHAP), Powering the Great American Comeback https://www.epa.gov/system/files/documents/2025-03/neshap_powering-the-great-american-comeback_fact-sheet_2.pdf 89 Fed. Reg. 42932 (May 16, 2024).

previously detailed, the cost for the rule's risk-related requirements alone could exceed \$50 billion, significantly more than the \$1.8 billion for the full rule that EPA estimated at final publication.⁴ We note separately that your Administration has recognized these concerns in granting reconsideration and indicating an intent to review these requirements.

For the reasons highlighted in this letter, we believe it is necessary and appropriate for the President to grant an exemption under Clean Air Act (CAA) Section 112(i)(4) for all affected stationary sources and facilities regulated by the final rule. According to the relevant statutory language, Section 112(i)(4) authorizes the President to

"exempt any stationary source from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so."⁵

We urge the Administration to swiftly consider and issue such an action based on an understanding that:

- "Availability" for the purposes of this section refers not only to the lack of technology capable of achieving compliance with the rule, but also encompasses the practical challenges with the timeframes necessary to plan, procure, and install required technologies – such activity cannot occur within the current compliance timeframe. "Availability" may also encompass consideration of cost and impact on selection of controls, as high costs may render controls functionally unavailable and unreasonable timelines may force a facility to select suboptimal often more costly control options.
- National security encompasses not only military defense applications and infrastructure, but also economic security, a perspective that has been acknowledged by the President in Executive Orders and key security agencies like the Department of Defense. Indeed, as the White House has stated regarding domestic priorities, "economic security is national security."⁶

As detailed in our comments on the proposed HON Rule, which can be found [here](#), our attached Petition for Reconsideration, and several compliance extension requests submitted by member companies (which we ask be incorporated into the Agency's consideration), facilities are unable to meet the unrealistic compliance deadlines for many of the HON Rule's requirements, including the July 15, 2026 deadline for the rule's risk related requirements.⁷ As such, we believe that a two-year Presidential exemption from compliance obligations pursuant to the Clean Air Act (CAA) Section 112(i)(4) is critical to allow EPA and regulated entities sufficient time to and address

⁴ Regulatory Impact Analysis for the Final New Source Performance Standards for the Synthetic Organic Chemical Manufacturing Industry and National Emission Standards for Hazardous Air Pollutants for the Synthetic Organic Chemical Manufacturing Industry and Group I & II Polymers and Resins Industry. Docket ID: EPA-HQ-OAR-2022-0730. March 2024.

⁵ 42 U.S.C. §7412(i)(4).

⁶ <https://www.whitehouse.gov/presidential-actions/2025/02/america-first-investment-policy/>

⁷ The HON Rule represents changes to six separate rulemakings that significantly impact several groups of chemical manufacturing entities that may force numerous facilities offline and create potential supply chain disruptions for critical products.

technology availability issues as discussed in this letter and our Petition for Reconsideration.

While EPA requests that "sources" provide recommendations as to why a two-year Presidential exemption is warranted under the Clean Air Act (CAA) Section 112(i)(4), we write as broader associations on behalf of our member companies because the rule's current compliance deadlines are generally unachievable.⁸ We believe that information provided in this letter, our previous Petition for Reconsideration on the rulemaking, and several member company requests for extension to the compliance deadlines all provide sufficient information to justify EPA's grant of an exemption under this section on a source category-wide basis. If, however, the President determines that it is necessary to make determinations on a source-by-source basis, he should do so for all affected sources and facilities identified by the Agency, considering both the national security and general feasibility concerns presented in this letter as well as information submitted by member companies.

I. A Presidential Exemption Granting a 2-Year Compliance Extension is Necessary

ACC and AFPM request Presidential exemption(s) for regulated facilities because either there is no existing technology to implement the requirements of the Rule, or technology is not available in time to meet the Rule's compliance deadlines. As previously explained to EPA, for some facilities and requirements this may be a literal lack of availability (no technology may exist that will allow them to meet the standards), while for others a central challenge may be a lack of availability due to the practicalities of designing, procuring, permitting and installing the controls within the deadlines contained in the rule. Absent a Presidential exemption, sources will be required to make irrevocable investment decisions now and into the coming months to minimize the amount of time facilities may need to be taken offline. If implemented as written and in accordance with the current compliance schedule, domestic manufacturing production will be negatively impacted, threatening critical supply chains of chemicals that are vital to our nation's security.

Any new regulatory requirement requires facilities to review the provisions, develop a plan to comply with the new requirements, determine if process changes or additional controls are needed, determine if an air permit application is needed, prepare and submit the permit application, obtain the air permit approval from the agency, engineer and implement any process changes or additional controls, determine if new monitoring equipment is needed to meet new ethylene oxide (EO) control device and pressure relief device (PRD) monitoring requirements, install the new monitoring equipment, revise regulatory compliance plans and procedures, update recordkeeping and reporting procedures, and roll out new requirements to facility staff.

While the above process could represent a time-consuming and extensive commitment under just one rule's requirements, the HON rule is a collection of six distinct regulatory actions rolled into one which adds complexity and time needed to comply with the full range of these requirements. A centerpiece of the HON Rule is to regulate EO emissions SOCM sources. As detailed in our comments, two years is not enough time to conduct the activities that are required to comply with these new requirements. To navigate this process, companies must complete sampling and analysis on an array of process vents and wastewater streams and review available information for equipment, heat exchange systems, and storage tanks to determine whether sources must comply with certain requirements. Once sources are identified, time is required to review the performance of existing control devices to determine whether existing controls can meet

⁸ See EPA's List of Facilities Subject to the HON, Group I and Group II Polymers and Resins NESHAPs, and NSPS subparts VV, VVa, III, NNN, and RRR, March 2023 attached at Appendix _.

the emissions standards. As acknowledged in EPA's impact analyses, facilities will be required to install new closed vent systems, control devices, monitoring equipment, and develop new standard operating procedures, recordkeeping templates, and reporting methodologies. As we outlined in comments and our Petition for Reconsideration, the myriad steps in the compliance process for a facility can take 36 months or more from initial applicability determinations to equipment operation, which presumes no major hurdles or delays associated with procurement or technology availability.

As just one example on this point, one member, Indorama Ventures Oxides, LLC ("Indorama"), began discussions with vendors and consultants on potential control technology in July 2023. At the time of the HON rule's July 2024 publication, Indorama was proceeding with preliminary engineering design and evaluating controls that could meet the Rule's requirements for multiple emission control projects. By the first quarter of 2025, Indorama engaged an engineering firm to begin the next phase of engineering design for the required controls. Despite this early engagement, the company has been informed that controls are unlikely to be installed and operational before 2029 due to permitting and supply chain limitations. In addition to the concerns about the availability of controls related to capital expenditure projects, we also understand that other Rule requirements pose practical or literal availability concerns. As EPA previously heard, some companies are not able to determine if they can install a suite of controls that will allow them to comply with the Rule. In addition to these concerns, the following list highlights some specific requirements that speak to these concerns:

- **Fenceline Monitoring**--As currently written, the HON Rule requires sources to implement fenceline monitoring requirements for six chemicals (benzene, 1,3-butadiene, ethylene dichloride, vinyl chloride, EtO, and chloroprene) by July 15, 2026. As detailed above, the simple process to prepare for compliance and initiate new monitoring programs will take longer than the current time permitted. With a new fenceline monitoring program, facilities must select contractors and laboratories after a competitive bid process and then acquire an adequate supply of canisters, flow controllers, timers, and tubes in time for compliance. In fact, one member was unable to locate a laboratory to perform the Rule's required test method because it will take significant time for laboratories to increase their capacity to meet the fenceline monitoring requirements. Many facilities will also be required to make physical improvements such as roads to make their fencelines readily accessible for sampler placement and retrieval. Most contractors assisting our members with implementing the fenceline monitoring requirements stated that a pilot study is necessary to guide the development of a fenceline monitoring program specific to each facility. This pilot program will take no less than six months to complete. Sources expect they will be required to hire and train additional staff and/or contractors to implement the sampling program and perform the associated data analysis and RCA/CA. It is technically infeasible to implement all steps by the current July 15, 2026 compliance deadline.
- **Pressure Relief Devices (PRDs)**--There are also technical limitations to consider that would prevent the possibility of all PRDs being controlled. Processes are designed with these PRDs to ensure the safety of personnel and equipment, and they will need to be retained. Modifications will occur on existing air oxidation reactors, distillation operations, and reactor processes such that they will be required to comply with the new NSPS subparts. Absent plans to completely rebuild the affected source and associated infrastructure, legacy PRDs will often be retained. If there are safety concerns with routing these to control, it will be impossible for the facility to avoid releases from these PRDs directly to the atmosphere. To the extent a facility is considering trying to control PRDs either through an existing control device or building an entirely new control device, the non-

routine, infrequent, and episodic nature of these PRD releases make it infeasible to install a control system capable of accommodating all the possible release scenarios. Accordingly, for at least some PRDs with atmospheric releases, there may literally be no available technology to prevent potential releases, and thus violations under the rule.

- **Real-time Sampling**--The HON Rule also requires real-time sampling techniques if the root cause of an action level exceedance has not been determined within 30 days of determining the action level has been exceeded.⁹ As discussed in our comments, our members use external contracts to employ real-time monitoring and appropriate staff and equipment are not always available within 30 days. Facilities cannot control the availability of outside resources (either contractor staff or equipment). For example, one member has indicated that even with sampling staff on-site daily, if contract laboratories are required for sample analysis, it is likely that it will take longer than 30 days to receive results from the labs due to significant increases in demand for summa canister analysis created by the requirements of this program.
- **Flow Meters**--Flow meter technology remains a hurdle. Flares are designed to control a range of events with a wide range of materials and volumes. When designing a control system capable of accommodating all the possible flare volume scenarios that could occur, accuracy becomes impractical at low flow events when also accommodating precision at high flow events. It is unclear that an accurate control system can be designed and implemented as required by the rule's final requirements, particularly within the current timeframe.

The serious risks and burdens associated with the rule's requirements are equally pressing for facilities that do not emit EO. For example, one member facility is a major U.S. producer of purified terephthalic acid (PTA) at an integrated site that also produces para-xylene (PX) as a feedstock to the PTA production units. PTA is a backbone chemistry for supply chains that are essential to the everyday lives of American consumers, including plastic bottles, polyester clothing, and films. Although the site does not have emissions of EO, they nonetheless face severe compliance risks and substantial adverse operational impacts associated with compliance with the final HON rule. Specifically, due to the site-specific nature of the process design, any control technology must be a standalone grassroots design tailored to the unique needs of the site, increasing the required time and overall costs of any compliance process. This fact, when combined with the exponential costs associated with compliance,¹⁰ results in a full burden of compliance obligations that will likely result in a shutdown of the site's PTA units and its feedstock PX unit. This shutdown would result in the loss of over 2 billion pounds per year of domestic PTA production loss, negatively impacting the associated supply chains and overall U.S. economic production.

The outgoing Administration's approach in the HON rulemaking jeopardizes the ability of domestic manufacturing facilities to continue to support these critical supply chains (both EO and non-EO related), while the Agency simultaneously ignores the sweeping impacts of these decisions, thus impacting the national security interests of the United States. As discussed in

⁹ 40 CFR § 63.184(e)(1)(ii)(B).

¹⁰ For one example, this member site estimates that it will need to invest over \$30 million to comply just with EPA's requirement to remove the total resource effectiveness calculation for Group 1 process vents, which will impact at least 11 process vents at the site. These costs come in addition to the significant separate costs associated with developing and implementing a benzene fence line monitoring program, PRD compliance, and additional monitoring required for the PX flare.

Section II, ensuring the continued production of EO is vital to our nation's energy, economic, and food security.

II. Granting a Presidential Exemption Serves the National Security Interests of the United States

ACC, AFPM, and our members previously articulated to EPA and state agencies the risks of taking facilities off-line for extended periods to complete the process and equipment changes required by the Rule's final requirements, which will likely result in billions of pounds of lost EO production. These shutdowns will impact not only EO producers, but several supply chains given EO's varied derivatives and end products using EO-based materials throughout our economy. As just one example, because EO is an essential building block for dozens of products, production losses from the Indorama facilities will have a ripple effect to reduce production of products for the home and personal care, crop protection, energy and resources and coatings and construction markets. At one HON facility, a potential shutdown associated with the HON requirements would result in the loss of domestic production of up to 1,475 billion pounds per year of EO, with billions more lost at other sites. A shutdown would also certainly impact and seriously jeopardize the production of dozens of other products derived from EO manufactured at the site and used in home and personal care, crop protection, energy and resources and coatings and construction markets.

As stated in the President's Executive Order "Unleashing American Energy," domestic energy production is a critical component of U.S. national security as production "will restore American prosperity...[and] will also rebuild our Nation's economic and military security, which will deliver peace through strength." Further, as the Executive Order explains, any regulatory activity that impedes the development of this production "weak[ens] our national security."¹¹ The SOCMIs sources subject to the HON Rule produce ethylene oxide (EO), which is a critical building block chemical used in dozens of domestic manufacturing. The following examples help demonstrate EO's critical role in our nation's supply chains:

- Department of Defense (DoD) Critical Sectors: in a February 2025 briefing, DoD personnel identified several "critical sectors" to national security that depend on key chemicals and their materials to support DoD infrastructure, equipment, and weapons systems.¹² In the briefing, DoD specifically cited both energy storage and batteries and microelectronics (semiconductors) as "essential" to DoD's administration of national security interests. EO manufacturing plays a key role in both sectors as detailed here:
 - For batteries, EO is used to produce ethylene carbonate, which is used in lithium-ion batteries to allow the electricity generated to travel more easily through the battery. DoD's briefing referenced that lithium batteries "are becoming increasingly critical for a wide range of operational capabilities, including unmanned systems, missiles, and munitions, directed energy, silent mobility, and platform electrification. DoD acknowledged that supply chains issues would impact the ability of the military to continue to produce and maintain these essential national security components.

¹¹ Presidential Executive Order "Unleashing American Energy," January 20, 2025.

<https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>.

¹² "Substances Critical to National Security." Department of Defense Briefing for the Committee on Armed Services of the U.S. House of Representatives. Pursuant to House Report 118-529, accompanying H.R. 8070, National Defense Authorization Act for Fiscal Year 2025. February 2025.

- For semiconductors, microelectronic technology is a central component to defense capabilities. In its briefing, DoD emphasized this notion, stating that microelectronics like semiconductors “are essential for all sectors of industry, including defense.”¹³ EO plays a major role in the production of a wide variety of solvents, amines, and surfactants that are essential in semiconductor chip manufacturing processes like wafer cutting, chemical mechanical planarization, photoresist, and photoresist residue cleaner. These products support the semiconductor industry’s specific needs and are crucial to technologies including aerospace, automotive, cloud computing, medical devices, and telecommunications. Through this production, EO facilities play a direct role in supporting national supply chain security and competitiveness priorities.
- Medical sterilization: EO is used to produce about 20 billion medical devices each year, helping to prevent disease and infection for our nation’s citizens. EO is also used in the manufacture of numerous other medical supplies and devices. Medical sterilization is independently threatened by a separate rule promulgated by the outgoing administration relying on the same flawed legal theories and science,¹⁴ and, according to the attached information provided by the Ethylene Oxide Sterilizers Association (EOSA) who raised significant compliance concerns with that separate rulemaking. Sterile medical devices are crucial for maintaining the health and readiness of our citizens and military personnel in deployed areas.
- Energy Production: EO derivatives contribute to securing our nation’s energy security through applications in the production of natural gas, which was reiterated and reinforced in the current Administration’s January 20, 2025 Executive Order “Unleashing American Energy.”¹⁵ The derivatives of EO are leveraged in several key contexts, including natural gas purification to reduce corrosion and scale in oil and gas processing, oil well remediation, enhanced oil recovery aids, gas dehydration, and carbon capture in gas processing, among others. The use of EO-based compounds allows for faster drilling and completion of oil and gas wells, which helps to lower the overall cost of petroleum products and reduce the frequency of replacing equipment and pipelines. These uses contribute to the strength of our domestic energy production, boosting both our nation’s energy independence and overall security.
- Automotive: EO and its derivatives are also critical for the current automotive industry and are used in applications for automotive seating, hydraulic and brake fluids, anti-icing additives, and antifreeze.
- Food Processing: EO is used to sterilize dried foods, spices, nuts, fruits, vegetables, herbs, and other food products to prevent foodborne illnesses without damaging the spices or food products. It is used to eliminate pathogens like Salmonella and E. coli as

¹³ Id.

¹⁴ National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Emissions Standards for Sterilization Facilities Residual Risk and Technology Review, 89 Fed. Reg. 24,090 (April 5, 2024); see also *The Ethylene Oxide Sterilization Association (EOSA) v. EPA*, No. 24-1180, Brief of Petitioner EOSA (D.C. Cir.).

well as fungi, yeasts, and spore formers. It is also used as a fumigant to control insects in the storage and transport of grain, seeds, and nuts.

- Agriculture: EO derivatives are used in agricultural products to help protect crops and boost crop production. It is used to produce active ingredients in insecticides, pesticides, and herbicides. It is also used to produce surfactants (wetting agents) and dispersants which reduce the amount of pesticides, insecticides, and herbicides required in agriculture and enhances the effectiveness of the application of those products.

The HON Rule and its technically infeasible requirements will result in facility shutdowns, imperiling jobs, and threatening supply chains for a vital chemical building block critical to our national security. The substantial risk of multiple shutdowns combined across HON facilities could result in a massive strain on domestic supply of chemicals that are critical to national security and central to the U.S.'s strategic position in the global economy in key markets.

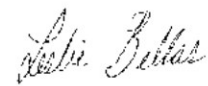
Without immediate intervention, such as a Presidential exemption under CAA Section 112(i)(4) to extend the compliance deadline for two years or, in the alternative, a compliance extension under CAA Section 112(i)(3), and an interim final rule rescinding those regulatory requirements not based on the best reading of CAA section 112(f), companies will evaluate whether to shut down units or offshore their operations to prevent the application of an imprudent and unlawful rule.

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ACC and AFPM appreciate this opportunity to request a two-year compliance extension for all sources subject to the HON Rule. If you have questions or need more information, please do not hesitate to contact Leslie Bellas at lbellas@afpm.org or Brendan Mascarenhas at Brendan.Mascarenhas@americanchemistry.com.

Sincerely,

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