

combusted in, for example, a thermal oxidizer, to form these HAP.”¹⁶ As such, the Agency narrowed its dataset to a subset of facilities and CMPUs that “manufacture chlorinated SOCM chemicals” that include, but are not limited to, chloroform, chloroprene, ethylene dichloride, methyl chloride, trichloroethylene, and vinyl chloride monomer.

As an initial matter, the Agency’s rationale for identifying the six chemicals identified above as the “most prevalent” chlorinated SOCM chemicals is not clear. Based on EPA’s baseline crosswalk modeling input file,¹⁷ there are approximately 45 chlorinated organic chemicals emitted by HON and Polymers and Resins Industry sources that, if combusted in a control device, would likely generate D/F emissions under EPA’s stated criterion of combustion of chlorine/chlorinated compounds. The Agency did not explain why it distinguished the subset of six chlorinated SOCM chemicals out of the broader category of chlorinated organics, nor did the Agency rationalize why relying on this subset of facilities that manufacture only these 6 chlorinated chemicals was proper.¹⁸

In addition, EPA’s focus on “facilities that manufacture chlorinated SOCM chemicals” suggests that the D/F limit is applied based on the primary product of the HON facility, however, the language of § 63.113(a)(5) implicates a broader scope of facilities. To review briefly, the HON rule applies to CMPUs that either (i) manufacture as a primary product one or more of certain listed SOCM chemicals, or (ii) manufacture as a product or use as a reactant one or more listed organic hazardous air pollutants.¹⁹ For entities that meet either of these criteria, they must then determine whether they have a Group 1 process vent, looking at both the process vent characteristics at §§ 63.107(b) through (h) or 63.107(i) and the criteria for a Group 1 process vent set out at § 63.101. Based on our review, these criteria would be readily met by either a VCM or EDC HON unit. As producers of chlorinated substances, their Group 1 process vent is nearly guaranteed to “contain[] chlorine, hydrogen chloride, or [another] chlorinated compound.”²⁰

Certain producers of non-chlorinated products also have chlorinated compounds in their gas stream. Indeed, there are no qualifiers or exceptions based on the nature of the material generated (e.g., byproduct, impurity) or its concentration. Instead, the language of § 63.113(a)(5) is broad, encompassing any chlorinated compounds that are *contained* in the qualifying Group 1 process vent. For example, a CMU that manufactures a non-chlorinated organic substance as its primary product and owns or operates a Group 1 process vent may be

¹⁶ *Dioxins and Furans MACT Floor in the SOCM Source Category for Processes Subject to HON and Processes Subject to Group I and Group II Polymers and Resins NESHAPs*, Docket ID No. EPA-HQ-OAR-2022-0730-0084 at p. 8.

¹⁷ *Residual Risk Assessment for the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Source Category in Support of the 2023 Risk and Technology Review Proposed Rule* (March 2023), Docket ID No. EPA-HQ-OAR-2022-0730-0085

¹⁸ Except that these appeared in the dataset for which the Agency had information.

¹⁹ 40 C.F.R. § 63.100(b). Note that “product” is defined to mean “a compound or chemical which is manufactured as the intended product of the chemical manufacturing process unit. Byproducts, isolated intermediates, impurities, wastes, and trace contaminants are not considered products.” 40 C.F.R. § 63.101.

²⁰ 40 C.F.R. § 64.113(a)(5).