

2 years. The President shall report to Congress with respect to each exemption (or extension thereof) made under this paragraph.⁴

As an initial matter, VI supports the request for a Presidential exemption from this rule filed jointly by the American Chemistry Council (ACC) and the American Fuel & Petrochemical Manufacturers (AFPM). VI agrees with ACC and AFPM that the widespread deficiencies in the HON Rule justify granting an exemption on a source category-wide basis. We write separately to supplement the individual requests filed by several of our member companies, and to highlight our industry's concerns with (1) the HON Rule's new emission limits for dioxins/furans (D/F); and (2) its failure to consider and incorporate the practical difficulties in repairing leaking pressure vessels.

I. Technology to Comply with the D/F Limit and Pressure Vessel Requirements is not Available

The VI respectfully submits that a demonstration that technology to comply with the applicable MACT standard is unavailable may include practical considerations such as costs as well as technical infeasibility.⁵ At least one administration has gone further to indicate that availability contemplates "shortages of labor, parts, control technology supply, supply-chain disruption, or other factors out of the facility's control."⁶

Accordingly, VI agrees with the information provided by ACC and AFPM, as well as the more specific information submitted by VI members that a Presidential exemption granting a 2-year compliance exemption is necessary. For our part, we wish to focus on basic principles of fairness and common sense that also are important considerations in the availability of control technology and support granting an exemption.

As set out in our comments on the proposed HON Rule,⁷ our Petition for Reconsideration, and our most recent letter to the Agency, which is attached for your convenience, the D/F limits were calculated in error and contrary to the plain language of Section 112(d)(3)(A).⁸ The VI and its members appreciate that the Environmental Protection Agency (EPA or Agency) has granted

⁴ 42 U.S.C. § 7412(i)(4).

⁵ See *NRDC v. EPA*, 824 F.2d 1146 at fn. 4 (D.C. Cir. 1987) (Provision necessary if EPA considered cost and technological feasibility in setting MACT standard and then set the limit below what could be achieved by the best available control technology).

⁶ See *Presidential Memorandum of January 16, 2025, Orderly Implementation of the Air Toxics Standards for Ethylene Oxide Commercial Sterilizers*, 90 Fed. Reg. 6,773 (Jan. 17, 2025).

⁷ *Comments of the Vinyl Institute HON Working Group*, Docket Document No. EPA-HQ-OAR-2022-0730-0170, available at <https://www.regulations.gov/comment/EPA-HQ-OAR-2022-0730-0170>.

⁸ 42 U.S.C. § 7412(i)(3)(A).