

VI further notes that the expansion of the source category using the principles above has the potential to bring facilities under the rule that are dissimilar to those that EPA originally evaluated. Depending on the nature of these dissimilarities, subcategorization may be appropriate to ensure that the unique features of a subset of sources are considered in setting the appropriate limit.

II. EPA Failed to Provide Stakeholders with Meaningful Opportunity to Comment on Fenceline Monitoring Action Levels and Erred in Assumptions

In the final HON rule, EPA added requirements for fenceline monitoring at 40 C.F.R. § 63.184. As indicated in the preamble to the proposed rule and supporting documentation, these requirements are based on modeling using the post-control HEM4 modeling file inputs and polar grid and census block receptors to estimate fenceline concentrations.²⁴ Based on the modeled data, EPA set the action levels for the six subject HAP (including vinyl chloride and ethylene dichloride) “based largely on the modeling of emission inventories expected to result from compliance with the final emissions standards and work practices under the rules.”²⁵ More specifically, after modeling fenceline emissions at each facility,²⁶ EPA selected the maximum annual average for each HAP and set it as the action level.²⁷ According to the Agency, this approach should permit all facilities to meet the fenceline concentration action level.²⁸

VI’s HON Working Group raised a number of issues with this approach in its comments and Petition for Review. Most importantly, multiple facilities that were part of the HON source category, including the facility with the highest emissions of VC and EDC, were left out of EPA’s analysis of the maximum annual average used to set action levels for each HAP. The Agency failed to explain in the record its rationale for excluding multiple facilities from the analysis used to set the action level, stating only that:

²⁴ *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*, 88 Fed. Reg. 25,080, 25,145 (Apr. 25, 2023);

²⁵ *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*, 89 Fed. Reg. 42,932, 43,000 (May 16, 2024).

²⁶ Ten facilities were modeled for both ethylene dichloride and vinyl chloride – presumptively the “top 10” facilities.” Docket Document No. EPA-HQ-OAR-2022-0730-0091 at p. 30-31.

²⁷ *Clean Air Act Section 112(d)(6) Technology Review for Fenceline Monitoring located in the SOCMi Source Category that are Associated with Processes Subject to the HON and for Fenceline Monitoring that are Associated with Processes Subject to Group 1 Polymers and Resins NESHAP* (March 2023), Docket Document No. EPA-HQ-OAR-2022-0730-0091 at p. 23.

²⁸ *Clean Air Act Section 112(d)(6) Technology Review for Fenceline Monitoring located in the SOCMi Source Category that are Associated with Processes Subject to the HON and for Fenceline Monitoring that are Associated with Processes Subject to Group 1 Polymers and Resins NESHAP* (March 2023), Docket Document No. EPA-HQ-OAR-2022-0730-0091 at p. 23.