

BRACEWELL

March 31, 2025

Page 2

against DPE, even while the Agency was developing the rule at issue here. These actions have imposed enormous costs on DPE and threatened the future viability of the business.

The HON Rule's standards and limitations for chloroprene apply only to DPE's Facility and were a part of the Biden EPA's misguided and politically motivated campaign against DPE. The Rule imposes a variety of costly new regulatory requirements on the Facility under Sections 112(f)(2) and 112(d)(6) of the CAA (the "Section 112 standards and limitations"). In addition to requiring that low-concentration emission streams from many different pieces of equipment and operations be captured and routed to a costly new control device, the Rule requires DPE to (1) meet a one-ton-per-year cap on emissions from maintenance activities and (2) install and operate a comprehensive fence-line monitoring system and ensure that fence-line concentrations of chloroprene in the ambient air meet a specified "action level." Neither EPA nor DPE has been able to identify control technologies or other emission reduction measures that could be employed to meet these standards. DPE believes that these requirements are unlawful and has challenged them in the U.S. Court of Appeals for the District of Columbia Circuit. See *Denka Performance Elastomer LLC, et al. v. EPA*, No 24-1135.

As discussed below, the technology necessary for DPE to meet the Section 112 standards and limitations by the current deadlines is not available, and extending the deadline is in the national security interests of the United States. To provide DPE sufficient time to (i) evaluate the worker safety concerns associated with meeting the Section 112 standards and limitations, (ii) design and install the necessary enclosures and thermal oxidizer, (iii) to investigate technologies that might allow DPE to comply with the Rule's cap on maintenance emissions and meet the Rule's action level for chloroprene—and then integrate all these things into a very complex chemical manufacturing plant—DPE will need at least two additional years to comply with the Section 112 standards and limitations.

Technology to Implement the Standards Is Not Available

The HON Rule requires DPE to capture emissions from process vents, storage vessels, and wastewater "in chloroprene service" and route them through a closed vent system to a non-flare control device with a destruction removal efficiency of at least 98 percent. EPA has acknowledged that "the only viable way to meet [these requirements] is to enclose all of the polymer batch reactors, emulsion storage vessels, strainers, and wash belt dryers and route the vapors to a thermal oxidizer. 88 Fed. Reg. at 25117. However, because these sources have air flows that are more than 4.3 times higher than the Facility's existing regenerative thermal oxidizer (RTO), DPE will also be required to design, purchase, and install a new thermal oxidizer to control the flow from all these sources, as EPA has acknowledged. 89 Fed. Reg. at 42986 (EPA "anticipate[s] that the facility will still need to install an additional thermal oxidizer in order to comply with the final performance standard for process vents and storage vessels in chloroprene service.").

In the attached declarations prepared for DPE's challenge to the HON Rule, DPE's Environmental Affairs Manager describes the challenges (including the worker safety challenges) associated with designing and installing the permanent total enclosures, new duct work, and thermal oxidizer that are needed to

AUSTIN DALLAS DUBAI DULLES GASTON LONDON NEW YORK PARIS SAN ANTONIO SEATTLE WASHINGTON, DC

ED_018388_00000137-00002

Sierra Club FOIA -
2025-EPA-04883

SC_EVERSPLIT0005833