



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

February 24, 2022

Jorge Lavastida
Executive Officer and Plant Manager
Denka Performance Elastomer, LLC
560 Highway 44
LaPlace, LA 70068
Jorge-Lavastida@denka-pe.com

Re: Request for Information pursuant to Section 3007 of Resource Conservation and Recovery Act regarding operations of Denka Performance Elastomer ("Denka") La Place, Louisiana.

Dear Mr. Lavastida,

Enclosed is an Information Request ("Request") issued to Denka for its facilities defined and identified in the enclosed Request. This Request is being made pursuant to the authority set forth in Section 3007 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927. Pursuant to this authority, the Environmental Protection Agency, Region 6 ("EPA") may require persons with information relevant to the generation, storage, treatment, transportation, disposal, and/or otherwise handling of hazardous wastes to submit information to EPA to determine compliance with RCRA, 42 U.S.C. §§ 6921 – 6992k at its locations in Region 6.

EPA is conducting an investigation and records review of Denka's management practices for solid and hazardous waste¹ it generates and/or receives from sources including but not limited to wastes generated on site from maintenance and/or other activities. The predicate for this investigation and records review is supported by information EPA has that confirms Denka's processes and solid and hazardous waste generation, storage, and/or disposal have resulted in the release of hazardous air pollutants into the ambient air. Further, EPA has evidence that supports a likelihood that Chloroprene is a hazardous waste and a carcinogen. EPA has community monitoring data confirming the release of chloroprene into the ambient air. While these facts, taken together may or may not represent violation(s) of RCRA solid and hazardous waste management requirements, they provide EPA with sufficient information to issue this Request.

Please respond to this Request within twenty-one (21) calendar days of receipt. EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, we will consider your specific circumstances in determining an appropriate timeline for responding to this request for information, while still ensuring that the Agency receives the information it needs to timely confirm your company's compliance with the Resource Conservation and Recovery Act. Compliance with this Request is mandatory. Failure to respond fully and truthfully to the Request or to adequately

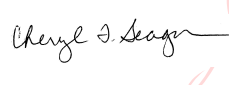
¹ For purposes of this Section 3007 of RCRA, 42 U.S.C. § 6927, Information Request, the terms "hazardous waste" and "solid waste" shall have the meanings set for at Sections 1004(5) and (27) of RCRA, 42 U.S.C. § 6903, respectively.

justify such failure to respond can result in enforcement action by EPA pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.

This Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, *et. seq.* Your response to this Request should be sent to Fred Deppe (6ECDSR) at the above address and/or by email at Deppe.Fred@epa.gov.

Please direct technical questions to Mr. Fred Deppe of the Waste Enforcement Branch at (214) 665-7591, and legal questions to Ms. Marcia Moncrieffe of the Office of Regional Counsel at (214) 665-7343. Thank you for your attention to this matter.

Sincerely,

 Digitally signed by Seager, Cheryl
DN: cn=Seager, Cheryl,
email=Seager.Cheryl@epa.gov
Date: 2022.02.24 16:40:44 -06'00'

Cheryl T. Seager, Director
Enforcement and Compliance
Assurance Division

Enclosures

cc:

CORY-GREEN2@DENKA-PE.COM

ec:

Craig Easley: Craig.easley@la.gov

Phyllis Luke: Phyllis.luke@la.gov

ENCLOSURE A

INFORMATION REQUEST

The Environmental Protection Agency, Region 6 (“EPA”) is investigating Denka Performance Elastomers LLC’s (Denka or Denka’s) compliance with the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6921 – 6992k, at its facility. Pursuant to Section 3007 of RCRA, 42 U.S.C. § 6927, you are hereby required to follow the instructions and provide responses to the information required by the questions in this Information Request (“Request”). You are required to submit the requested information to EPA for the the facility identified in question 4 below, within twenty-one (21) days from the date you receive this Request.

If you anticipate that you will be unable to fully respond to this Request for your facility, you must submit a sworn affidavit or declaration by a responsible corporate official within fourteen (14) calendar days of receipt of this Request specifying what information will be provided within the specified 21 calendar day time period, describing what efforts have been/are being made to obtain other responsive information, and providing a detailed schedule of when such other responsive information can be provided. Upon receipt and based on such affidavit or declaration, EPA may extend the time in which Denka must provide the responsive information. Please note, as well, that EPA retains its right to obtain additional information beyond what is sought in this Request.

All information submitted in response to this Request must be certified as true, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of Denka. A Statement of Certification making such representations is provided as Enclosure B. A knowing submittal of false information in response to this Request may be actionable under 18 U.S.C. § 1001, and 42 U.S.C. § 6928(d). Furthermore, failure to fully comply with this Request may subject Denka to an enforcement action under Section 3008 of RCRA, 42 U.S.C. § 6928.

In accordance with Section 3007(b) of RCRA, 42 U.S.C. § 6927(b), the records, reports, and information requested in this Request must be submitted, whether or not you regard part or all of it as a trade secret or confidential. You may, if you desire, assert a business confidentiality claim for all or part of the information submitted in accordance with 40 C.F.R. Part 2. The information qualifying as business confidential will be disclosed by EPA only to the extent and by the procedures set forth in 40 C.F.R. Part 2, Subpart B. Unless you make a claim at the time that you submit the information, it may be made available to the public by EPA without further notice to you. If you do assert a business confidentiality claim, you must follow the procedures set forth in Section I - Instructions.

All information responsive to this Request should be sent to the following:

Mr. Fred Deppe
Waste Enforcement Branch (6ECDSR)
Enforcement and Compliance Assurance Division
U.S. EPA - Region 6
1201 Elm St, Suite 500
Dallas, TX 75270
Email: Deppe.Fred@epa.gov
Phone: 214-665-7591

I. INSTRUCTIONS

1. The enclosed Statement of Certification (Enclosure B) must be filled out and signed by a responsible corporate official and submitted along with your responses to this Request.
2. If information or documents not known or not available to you as of the date of submission of a response to this Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find, at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response. There are significant penalties for submitting false information, including the possibility of fine or imprisonment.
3. For each document produced in response to this Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds. Please submit all information for each question in one logically sequenced electronic format (i.e., electronic copy) and one logically sequenced bound format (i.e., paper copy). The terms "document" and "documents" shall mean any object that presents information, both electronic and tangible.
4. All terms used in the Request will have their ordinary meaning unless such terms are defined in RCRA, 40 C.F.R. Parts 260 - 280, and the federally-authorized States hazardous waste program. The term "Facility" or "Facilities" shall mean Denka locations owned and/or operated by Denka in La Place, Louisiana that generate, treat, store, or dispose of hazardous waste.
5. If you wish to assert a claim of business confidentiality, you must clearly mark each page of each document included in your claim with a legend such as "trade secret," "proprietary," or "company confidential." If you claim information submitted in response to this Request as confidential, you must also provide a redacted version of the information with all confidential business information deleted. For any document in which you assert a claim of business confidentiality, please answer the questions below.
 - a. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
 - b. For what period of time do you request the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you've specified.
 - c. What measure(s) have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If yes, why is the information still considered confidential?

- d. Is the information contained in any publicly accessible forums or materials such as the Internet, databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
- e. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
- f. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
- g. Is there any other explanation you deem relevant to EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

You must furnish answers to the above questions concurrent with your response to this Request if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. EPA will construe your failure to furnish timely answers as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1).

II. INFORMATION REQUESTED

1. Providing a process diagram as support, please identify and list all **Denka's points of solid waste generation**. For this question, please include a description of Denka's management of all unused and/or outdated ingredients/products that would have been used in Denka's process(es) and the manner of destruction and disposal.²
2. For question number one above, please provide copies of all hazardous waste determinations (including documentation to support the conclusion) whether by testing or by knowledge of process, which were made contemporaneous to the time of waste generation and before any dilution, mixing, or other alteration of the waste.
3. Please identify all **actual and potential points of generation** for the Waste Coagulate, and the Waste Polymer (commonly referred to as "popcorn"). Also, include any closed vent piping or header systems that accumulate Waste Coagulate and Waste Polymer.

² As a note, the response to question one should include a response for all the units that are specifically identified in this information request, but not limited to the specified units and/or areas of concern listed herein. Further, please ensure that all hazardous waste reported on the Facility's RCRA permit, waste analysis plan, and the RCRA 8700-12 notification are cross-referenced to their respective point of waste generation and can be identified easily on Piping and Instrumentation Diagram(s) ("PNID") or other similar form(s) of engineered process flow diagrams that Denka submits.

4. For question number three above, please provide copies of hazardous waste determinations (including documentation to support the conclusion) whether by testing or by knowledge of process, which were made contemporaneous to the time of waste generation and before any dilution, mixing, or other alteration of the waste.
5. For the **Poly-Building**, please respond to the following questions:
 - i. Provide a process flow diagram of all processes that take place in the Poly-Building. Identify inputs, outputs, and points of waste generation.
 - ii. How often does Denka perform a clean-out of the five (5) or more Poly Kettles in the Poly-Building?
 - iii. Since Denka reported achieving at least a 50% reduction in emissions from the Poly Building Wall Fans, have there been any operational or equipment changes that impacted the Poly Building Wall Fans' emissions?
 - iv. Please provide a copy of the document that supports the 50% reduction in emissions.
 - v. What is the amount of solid and/or hazardous waste generated by weight (in kilogram/pounds) from each clean-out event, to include both the vapor and liquid amounts?
 - vi. List any cleaning agents used in the clean-out of the Poly Kettles, i.e., solvents.
 - vii. Describe where the waste generated is taken to be stored, managed, treated, and ultimately disposed.
 - viii. If the waste generated from the clean out is stored, managed, treated, and/or disposed on site, state how long the waste was stored, where on site it was stored, the treatment method, and/or ultimate disposal site? If stored, managed, treated, and/or disposed off-site, provide the name, identification number, and the location of the Treatment, Storage, and Disposal ("TSD") facility.
6. For the **Open Brine Pit**, please respond to the following questions:
 - i. List the number and origination of all waste streams that feed into and/or placed into the Open Brine Pit.
 - ii. What is the amount of solid and/or hazardous waste by weight (in kilogram/pound) removed from the Open Brine Pit on a monthly basis and/or by cleaning event?
 - iii. Has there been any overflow of the Open Brine Pit? If yes, when and how was the overflow managed by Denka?
 - iv. Where is the solid and/or hazardous waste in the Open Brine Pit taken to be stored, managed, treated, and/or ultimately disposed?
 - v. If stored, managed, treated, and/or disposed on site, state how long the waste was stored, where on site it was stored, the treatment method, and the ultimate disposal site. If stored, managed, treated, and/or disposed off-site, provide the name, identification number, and the location of the TSD facility.
 - vi. Is the Open Brine Pit a Tank or a Surface Impoundment in accordance with RCRA requirements? Provide construction drawing and details such as a PNID, or other engineering documents, that demonstrate the open brine pit is a tank or surface impoundment. Also, include in your answer information on freeboard

space, if any, and photographs of the Open Brine Pit that show all visible perspectives.

7. For your **Underground Injection Wells**, please answer the following questions:
 - i. Provide in one spreadsheet the dates, failures of any kind (like gasket breaks) that contributed to emission releases, the types and duration of emissions, and the time each failure took to repair.
 - ii. What is the origination, generation of waste streams, and/or sources of the waste streams that are placed in Denka's UIC Wells?
 - iii. Please provide a description of all waste streams generated from the storage, clarification, neutralization and filtration of waste streams sent to the Aqueous Waste Area, prior to underground injection, as well as maintenance activities and how this waste, including filters, is ultimately managed and disposed of.
 - iv. Provide copies of waste determinations (including documentation to support the conclusion) for each separate waste stream that is placed in the UIC Wells, whether by testing or by knowledge of process, which were made contemporaneous to the time of waste generation and before any dilution, mixing, or other alteration of the waste.
8. Please provide information regarding all emergency and non-emergency response events associated with RCRA releases at or from the Denka Facility over the last three years.
 - i. Provide all waste determinations (including documentation to support the conclusion) made in response to clean up of all releases.
 - ii. Provide a brief narrative of each event and identify the type of release, clean up and/or remediation method(s), related unit(s) and/or process(es).
9. How many **Roll-off Boxes and other Containers** are managed at the Facility? Please answer the following questions as they relate to Denka's Roll-Off Box(es) and other containers:
 - i. Provide photographs of each Roll-off Box and other containers.
 - ii. What waste is stored and/or managed in the Roll-off Box(es) and other containers. Also, state the origination and final disposition of each waste stream that is managed in these units.
 - iii. How are emissions from Roll-off Box(es) and other containers controlled?
 - vii. What is the ultimate disposal site of the waste in these Roll-Off Boxes and other containers? If on-site, describe the location. If off-site, please provide the name, identification number, and the location of the TSD facility.
10. For all management, storage, and/or treatment units including but not limited to, containers, tanks for treatment and/or storage, that are not listed in questions five through nine above, please list and answer the following questions:
 - i. What emission control devices are on each unit?
 - ii. What type of emission could potentially leak and/or escape for each unit?
 - iii. What is the inspection maintenance protocol for each unit?
 - iv. Provide a copy of the Standard Operating Procedure that addresses emission controls, maintenance, repairs, and delays in repairs for all units (included the units listed in questions five through nine) at the Facility.

11. Provide a description of specific waste streams that could contain Chloroprene, that are sent to the wastewater treatment plant, and identify if any of the streams are hazardous.
12. Provide a description of the sludge removal and handling procedures from the WWTP, whether the sludge is sampled to determine if it is hazardous and where and how it is disposed.
13. Have there been any runoffs of any kind into the Mississippi River or any Bayous? If yes, describe and state how often, the amount, and contaminants.
14. What knowledge does Denka have of operational drinking water wells at or near its Facility?
15. Please provide copies of reported exceedances from all your monitoring wells, to include types of exceedances, dates, and amounts.
16. From Denka's knowledge, which of its solid waste and/or hazardous units have the propensity for the largest amount of Air emissions, Water discharges, and/or RCRA disposals? Please describe events (if any), dates, types of emissions, and amounts.
17. Provide a log showing inspection compliance for the last three years of all waste management units covered under 40 CFR 264 Subparts I, J, and K as they pertain to air emission standards and other RCRA management requirements.
18. Please submit all records for the last three years for all Hazardous Waste Management units and associated piping works demonstrating compliance with RCRA subparts AA, BB, and CC. For this response, submit detailed drawings and identify all inspection points.
19. For each unit at the Facility which potentially or actually produces air emissions, please explain if the unit is covered by either Title V of the CAA or RCRA subparts AA, BB, and/or CC and the rationale for Denka's decisions as to which subpart is applicable to the respective unit. If Denka elected to operate any of these units under an applicable CAA permit, please cite to the permit and provide a certification of compliance with the CAA permit prepared contemporaneously at the time the election was made for the unit(s) to operate under the CAA permit instead of RCRA.
20. For all waste (solid or hazardous waste) that Denka generates, please prepare a chart listing the final disposal site, whether on-site or off-site, by generation unit, contaminant, and associated levels in mg/L. And please provide the required Land Disposal Restrictions notice that was prepared contemporaneously and with the respective dates accordingly.
21. What connection(s) if any is there from the Denka Facility and to any municipal drinking water supply, well water, recreational water, or waters that have fish or birds, including migratory birds?
22. For purposes of the LPDES 2017 Permit, please respond to the following:
 - i. As listed in Denka's 2017 LPDES permit, are Denka's external and internal outfalls currently as stated in the 2017 version of Denka's LPDES Permit?
 - ii. In addition to the Mississippi River, are there other bodies of water that these outfalls (internal and external) discharge to? If yes, please list and correlate with the respective outfall(s).
 - iii. Please provide PNID or engineered diagrams that identify the tanks, surface impoundments, and other related features of the units covered by the LPDES permit.
23. How much water does Denka draw from the Mississippi River annually? In what process(es), is this water used? Does Denka return, discharge, and/or dispose of any

solid, liquid, and or semi-solids into the Mississippi River, Bayous, and/or other waterways?

24. Describe the systems in place for the washing and cleaning of equipment and vessels and the ultimate collection and disposal of these wash waters.

- i. Please provide PNID or engineered process flow diagrams which show points of waste generation and travel/distance between units to terminal storage and disposal location(s).

25. Are there stormwater run-offs from the Facility that are contaminated with Chloroprene? How does Denka determine whether there are stormwater run-offs? How does Denka manage and contain its stormwater run-offs from its Facility?

ENCLOSURE B

STATEMENT OF CERTIFICATION

Denka Performance Elastomers LLC

I certify that I am authorized to respond to this information request on behalf of Denka and I certify under penalty of perjury that the foregoing is true and correct. Executed on _____, 2022.

(Signature)

(Name)

(Title)