

Group I & II Polymers and Resins (HON Rule): Denka Performance Elastomer LLC's Neoprene Production Facility in LaPlace, Louisiana

As outside counsel to Denka Performance Elastomer LLC ("DPE"), I am submitting this request on behalf of DPE. DPE respectfully requests a Presidential Exemption under Section 112(i)(4) of the Clean Air Act ("CAA") related to the rule entitled *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*, 89 Fed. Reg. 42932 (May 16, 2024) ("HON Rule" or the "Rule"). Specifically, DPE requests that the President use his authority under Section 112(i)(4) to extend by two years the dates by which DPE must come into compliance with the CAA Section 112 standards and limitations in the HON Rule that apply to DPE's Neoprene Production Facility in LaPlace, Louisiana (the "Facility").^[1]

^[1] In the HON Rule, the Biden EPA singled out DPE by giving the Facility only 90 days to come into compliance. In accordance with the CAA, DPE requested and obtained from the Louisiana Department of Environmental Quality (LDEQ) an extension until July 15, 2026 (the deadline that applies to all other facilities covered by the Rule) by showing that it met the statutory criteria for such an extension. The Biden EPA determined that the LDEQ's extension was "ineffectual" – forcing DPE to seek and obtain a stay from the Fifth Circuit that prohibited EPA from taking any action in contravention of the LDEQ extension. *Denka Performance Elastomer v. EPA*, No. 24-60351, Doc. No. 57 (July 31, 2024). LDEQ participated in that Fifth Circuit action as an intervenor in support of DPE. *Id.* Doc. No. 37 (granting LDEQ's motion to intervene). Currently, DPE must begin complying with the HON Rule by July 15, 2026—the generally applicable compliance deadline for all facilities to comply with the Section 112 requirements under the Rule. DPE requests that this deadline be extended to July 15, 2028.

DPE's Facility is the only Neoprene production plant in the U.S. It produces Neoprene by first synthesizing and then polymerizing a chemical called chloroprene. Under the auspices of "Environmental Justice," the Biden EPA launched a series of investigations and enforcement actions 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

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