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 fenceline monitoring system and ensure that fenceline 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 (DC Circuit).

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 comply with the Rule—and the time that will be needed to do so. He estimates that this will take 30-36 months. Decl. Chris Meyers in Support of Extension Request (Jul. 26, 2024) ("2024 Declaration") (attached) at p. 8; *see also* Supplemental Declaration of Chris Meyers (Feb. 13, 2025) (attached). Importantly, it was not prudent for DPE to begin this process until EPA agreed to dismiss its "emergency" lawsuit against DPE that was filed in February 2023 under Section 303 demanding an immediate shutdown of the Facility. This Section 303 action was not dismissed until March 10, 2025. Order, *United States v. Denka Performance Elastomer*, 2:23-cv-735, Doc. No. 207 (Mar. 10, 2025) (dismissing case). Thus, the technology to implement these requirements will not be available by the current compliance deadline.