

BRACEWELL

March 31, 2025

BY E-MAIL
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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20004

Re: Presidential Exemption: *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 (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

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

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.

Mr. Jeffrey R. Holmstead
Partner

Mr. Jeffrey R. Holmstead is a partner in the New York City office of Bracewell & Rutter LLP, where he is a member of the firm's Environmental, Energy, and Infrastructure Law Department. Mr. Holmstead is also a member of the New York City Bar Association and the New York State Bar Association.

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