

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

DENKA PERFORMANCE)
ELASTOMER LLC,)
))
Petitioner,)
))
v.)

UNITED STATES ENVIRONMENTAL)
PROTECTION AGENCY and)
MICHAEL REGAN, Administrator,)
United States Environmental Protection)
Agency,)
))
Respondents.)

No. 24-1135

PETITION FOR REVIEW

Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), 5 U.S.C. § 702, and Rule 15(a) of the Federal Rules of Appellate Procedure, Denka Performance Elastomer LLC (“DPE”) hereby petitions this Court to review the final rule of the respondent United States Environmental Protection Agency (“EPA”) 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 Industry,*” published in the Federal Register at 89 Fed. Reg. 42932 (May 16, 2024) (“Rule”). A copy of the Rule is attached hereto as Attachment A.

DPE will show that the Rule is arbitrary, capricious, an abuse of discretion, and not in accordance with law. DPE thus asks this Court to declare unlawful and vacate the Rule provisions applicable to chloroprene emissions. This Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331, because this case challenges a rulemaking under the CAA, 42 U.S.C. § 7412. Venue is appropriate in this Court pursuant to 42 U.S.C. § 7607(b)(1). This petition for review is timely filed, as it is within sixty days of the Rule's publication in the Federal Register. *See* 42 U.S.C. § 7607(b)(1).

Date: May 16, 2024

Respectfully submitted,

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***Counsel for Petitioner Denka
Performance Elastomer LLC***

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RULE 26.1 DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Circuit Rule 26.1, petitioner Denka Performance Elastomer LLC (“DPE”) files the following statement:

DPE is a privately owned limited liability company formed under the laws of the State of Delaware, headquartered in LaPlace, Louisiana, and authorized to do business in the State of Louisiana. DPE owns and operates a manufacturing facility in LaPlace, Louisiana that produces Neoprene by utilizing chloroprene, a chemical regulated under the EPA final rule at issue in this appeal. DPE’s membership interests are held by Denka USA LLC (whose ultimate parent is Denka Company Limited) and Diana Elastomers, Inc. (whose ultimate parent is Mitsui & Co.,

Ltd). Denka Company Limited and Mitsui & Co. Ltd. are each Japanese companies listed on the Tokyo Stock Exchange.

Date: May 16, 2024

Respectfully submitted,

/s/ David A. Super

David A. Super

Counsel for Petitioner

Denka Performance Elastomer LLC

CERTIFICATE OF SERVICE

Pursuant to Federal Rules of Appellate Procedure 15(c) and 25, D.C. Circuit Rule 15(a) and 25, and 40 C.F.R. § 23.12(a), I hereby certify that on this date, I have caused a true and correct copy of the foregoing PETITION FOR REVIEW and RULE 26.1 STATEMENT to be electronically filed with the Clerk of the Court using the CM/ECF System, and served by personal delivery on the following:

Correspondence Control Unit
Office of General Counsel (2311)
U.S. ENVIRONMENTAL PROTECTION AGENCY
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Date: May 16, 2024

Respectfully submitted,

/s/ David A. Super

David A. Super

Counsel for Petitioner

Denka Performance Elastomer LLC