

## U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (9th Report) – Status of Lawsuit Seeking Review of Toxicity Assessment of Chloroprene Monomer by EPA –

Denka Performance Elastomer LLC (DPE), a U.S. subsidiary of Denka Company Limited (Denka), filed a lawsuit seeking a fair correction of the toxicity assessment of chloroprene monomer (the “Action for Correction”) against the U.S. Environmental Protection Agency (EPA) on January 11, 2023.

Subsequently, DPE was named in a lawsuit filed by the U.S. Department of Justice (DOJ), acting on behalf of the EPA, on February 28, 2023, seeking “to eliminate the hazards resulting from discharges of chloroprene monomer” (the “Action”), which was followed on March 20, 2023 by a motion for a preliminary injunction in the same matter (the “Motion for Preliminary Injunction”) on March 20, 2023.

In light of the Action and the Motion for Preliminary Injunction by the DOJ, we hereby announce that we have decided to withdraw the Action for Correction on April 11, 2023 (local time) in order to consolidate multiple lawsuits that are disputing the same issues, and to properly respond to the two lawsuits filed by DOJ.

### 1. Summary of the DOJ's Motion for Preliminary Injunction

- (1) Court: United States District Court Eastern District of Louisiana
- (2) Date: March 20, 2023 (local time)
- (3) Petitioner: U.S. Department of Justice (DOJ)
- (4) Respondent: Denka Performance Elastomer LLC (DPE)
- (5) Petition: For DPE to take emission reduction measures that the DOJ deems necessary to significantly reduce chloroprene monomer emissions.

### 2. Reasons for DPE's Withdrawal of Action for Correction

Since the issue of the “legitimacy of the toxicity assessment of chloroprene monomer” sought in the Action for Correction is the same issue as that raised by DOJ in the Action and the Motion for Preliminary Injunction, DPE has decided to withdraw the Action for Correction and continue to focus on the two actions filed by DOJ to seek a fair correction of the toxicity assessment based on the latest science.

### 3. Future Outlook

At the present time, these lawsuits have no particular impact on DPE's operations. Also, the impact of them on Denka's consolidated financial results is currently unknown. Further disclosures will be released promptly if

any matters requiring disclosure should occur in the future.

DPE has consistently operated a business manufacturing chloroprene rubber in compliance with the emission standards in Louisiana state since it took over the business from DuPont on November 1, 2015. In addition, it regularly measures concentrations in the air around the factories and provides information on environmental actions to local residents and other stakeholders via administrative authorities. Further, it has voluntarily invested a total of more than 35 million dollars in the environment and introduced emissions reduction equipment, which has reduced the amount of chloroprene the facility emits by 85 percent compared with 2014. The Louisiana Department of Environmental Quality (LDEQ) and the EPA have approved these initiatives. DPE continues working to reduce environmental impact.

Under the Denka Group ESG Basic Policies, the Denka Group conducts its activities while respecting the human rights of all people, striving to protect the environment, and observing laws and regulations and culture in each region. Denka will continue to support DPE's activities based on the latest available science for reducing environmental impacts.

#### \*Toxicity Assessment of Chloroprene Monomers

Since the EPA's assessment, in 2010, of the toxicity of chloroprene monomers, which was made based on Integrated Risk Information System (IRIS) was extremely high, DPE has been pursuing for a review which incorporates the latest scientific technologies, and has consulted EPA for the application of a model of physiologically based pharmacokinetics (PBPK). As a result, EPA has also accepted it, and DPE has been developing a new PBRK model jointly with EPA, for as long as approximately seven years.

However, the EPA rejected this Request for Correction. Its letter published on October 18, 2022<sup>1</sup> states that the reason for the denial was that they were not obligated to bring newer science into the assessment because the toxicity assessment of chloroprene monomers conducted based on Integrated Risk Information System (IRIS) in 2010 was systematized through peer review by a strict third party at that time using the best science of the time which complied with the EPA Information Quality Guidelines. Notwithstanding the above, The result of the toxicity assessment using the new PBPK model was posted in the science magazine Inhalation Toxicology, and according to the toxicity assessment model, the EPA recommendation value which is a 70-year average exposure concentration of 0.2 µg/m<sup>3</sup> or below on the basis of its 2010 IRIS toxicity evaluation could overstate higher than it should be. In addition, toxicity assessments by EPA do not have any causal relationships to the latest objective scientific research and statistical data, such as the results of the epidemiological research that followed approximately 7,000 employees who worked in the facilities handling chloroprene monomers for nearly 70 years in the U.S., which was updated by researchers at University of Pittsburgh, and the statistical data regarding the cancer rate in Louisiana summarized by the Louisiana Tumor Registry.

DPE intends to seek, through litigation, a fair correction of the toxicity assessment based on the latest science by the EPA and DOJ, which is acting on its behalf.

## Outline of DPE, a subsidiary of Denka

- (1) Company name: Denka Performance Elastomer LLC \*Note: Denka has a 70% stake in the company.
- (2) Location: State of Louisiana, USA
- (3) Representative: Kazuya Tokumoto, President & CEO
- (4) Content of business: Manufacture and sale of synthetic rubber (Neoprene)
- (5) Capital: 121 million USD

Regarding DPE's environmental initiatives, please refer to the following information posted on Denka's official website. <https://www.denka.co.jp/eng/>

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (8th Report)" March 6, 2023

[https://www.denka.co.jp/eng/storage/news/pdf/442/20230306\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/442/20230306_denka_dpe_en.pdf)

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (7th Report)" January 13, 2023

[https://www.denka.co.jp/eng/storage/news/pdf/439/20230113\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/439/20230113_denka_dpe_en.pdf)

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (6th Report)" October 28, 2022

[https://www.denka.co.jp/eng/storage/news/pdf/429/20221028\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/429/20221028_denka_dpe_en.pdf)

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (5th Report)" June 18, 2022

[https://www.denka.co.jp/eng/storage/news/pdf/407/20220617\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/407/20220617_denka_dpe_en.pdf)

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (4th Report)" April 28, 2022

[https://www.denka.co.jp/eng/storage/news/pdf/406/20220428\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/406/20220428_denka_dpe_en.pdf)

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers (Updated)" March 2, 2021

[https://www.denka.co.jp/eng/storage/news/pdf/332/20210302\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/332/20210302_denka_dpe_en.pdf)

"Latest epidemiological study of chloroprene monomer workers in the US" December 17, 2020

[https://www.denka.co.jp/eng/storage/news/pdf/317/20201217\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/317/20201217_denka_dpe_en.pdf)

"Transition to Review Process in Toxicity Assessments Reconsideration of Chloroprene Monomer by the United States Environmental Protection Agency" August 7, 2020

[https://www.denka.co.jp/eng/storage/news/pdf/311/20200807\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/311/20200807_denka_dpe_en.pdf)

"LDEQ confirms 85% emissions reduction achieved, DPE's completion of voluntary program" June 8, 2020

[https://www.denka.co.jp/eng/storage/news/pdf/314/20200608\\_denka\\_dpe\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/314/20200608_denka_dpe_en.pdf)

"Notice Regarding Litigation Against US Subsidiary" February 14, 2020

[https://www.denka.co.jp/eng/storage/news/pdf/265/20200214\\_denka\\_dpe\\_litigation\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/265/20200214_denka_dpe_litigation_en.pdf)

"U.S. EPA's Review of the Toxicity Assessment of Chloroprene Monomers" February 14, 2020

[https://www.denka.co.jp/eng/storage/news/pdf/266/20200214\\_denka\\_statement\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/266/20200214_denka_statement_en.pdf)

"Notice Regarding Initiatives to Reduce Environmental Burden Being Undertaken by Denka's Subsidiary in the United States" June 19, 2019

[https://www.denka.co.jp/eng/storage/news/pdf/238/20190619\\_statement\\_en.pdf](https://www.denka.co.jp/eng/storage/news/pdf/238/20190619_statement_en.pdf)

[For Inquiries from Media]

Corporate Communications Dept. Tel: +81-3-5290-5511