PETITION BEFORE THE ADMINISTRATOR
IN THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

OLIN CORPORATION, *Petitioner*, *Filed with*: LEE ZELDIN, in his capacity as EPA Administrator 1200 Pennsylvania Avenue, NW Washington, DC 20460	)	PETITION FOR EXEMPTION DOCKET NO: _____

PETITION UNDER SECTION 6(g) OF THE TOXIC SUBSTANCES CONTROL ACT (TSCA) FOR A TIME-LIMITED EXEMPTION FROM THE COMPLIANCE DEADLINE IN THE 2024 ASBESTOS PART 1 RULE FOR CHRYSOTILE ASBESTOS

Olin Corporation (Olin) respectfully submits this petition for a time-limited critical use exemption under section 6(g) of TSCA from the compliance deadline of May 28, 2029, under the EPA's final rule *Asbestos Part 1; Chrysotile Asbestos; Regulation of Certain Conditions of Use Under the Toxic Substances Control Act (TSCA)*, 89 Fed. Reg. 21,970 (Mar. 28, 2024) ("Final Rule"). Olin requests an additional two years to convert its facilities from using asbestos diaphragm cells to using non-asbestos diaphragms. A time-limited critical use exemption is appropriate because (1) Olin's temporary use (for an additional two years) of chrysotile asbestos in diaphragm cells used in the chlor-alkali industry is a critical and essential use for which no technically and economically feasible safer alternative is available, taking into account hazard and exposure; (2) compliance with EPA's ban would significantly disrupt the national economy, national security, or critical infrastructure; and (3) Olin's use, as compared to reasonably available

alternatives (including alternative technologies that contain PFAS), provides a substantial benefit to health, the environment, and public safety.

In EPA's risk management rule for asbestos under TSCA Section 6(a), the agency banned the manufacture, import, processing, distribution, and use of chrysotile asbestos in the chlor-alkali industry. The ban on processing, distribution and use of chrysotile asbestos takes effect five years from the effective date of the Final Rule (May 28, 2029). 89 Fed. Reg. at 22,006-7. The five-year phase out period applies to companies who are converting from asbestos-containing diaphragms to non-asbestos containing diaphragms, such as Olin.

The Final Rule allows for longer, staggered phase-out periods of eight years (with a compliance deadline of May 25, 2032) and 12 years (with a compliance deadline of May 26, 2036) for companies who are converting from asbestos-containing diaphragms to non-asbestos membrane technology "provided certain conditions are met and progress toward initiating phase-out has been demonstrated." *Id*.

Olin is the largest global and U.S. producer of chlor-alkali and the owner of the largest global and U.S. asbestos-based diaphragm chlor-alkali facility. Olin submitted a comment during the public comment period suggesting that EPA ban the installation of new or replacement asbestos-based diaphragms in two years in combination with an additional five years to operate any existing asbestos-based diaphragm production cells.[1] This would allow chlor-alkali companies a total of seven years (rather than five years) to convert to non-asbestos diaphragms. Olin explained that during the five-year window, it would use an in-situ process to maintain the diaphragms that

[1] Letter from Scott Sutton, Olin Corporation to Michael Regan, Administrator, U.S. EPA (Apr. 4, 2023), EPA-HQ-OPPT-2021-0057-0475.

would not cause any worker exposure because workers would not be removing asbestos diaphragms or constructing new diaphragms.[2] EPA declined to adopt Olin's approach.

EPA concluded that Olin's comments did not "provide EPA with adequate information to establish that seven years is as soon as practicable for the company to convert its two facilities to non-asbestos diaphragms or otherwise end the use of asbestos, or that [the Final Rule's] five-year prohibition for non-membrane conversions does not provide the company with a reasonable transition period." 89 Fed. Reg. at 21,981. In the Final Rule, however, EPA invited Olin to submit additional information substantiating its need for an additional two years to phase out chrysotile asbestos and request a time-limited exemption from the Final Rule under TSCA section 6(g). *Id.* Olin filed a petition for review of the Final Rule, and EPA repeated this invitation for Olin to seek a TSCA section 6(g) exemption in its brief defending the Final Rule in litigation.[3] In response to that invitation, Olin submits this petition for a time-limited exemption under TSCA section 6(g) seeking an additional two years (for a total of seven years) to convert its facilities to non-asbestos diaphragms. Thus, the new compliance deadline for Olin would be May 28, 2031.

As explained below, the time-limited exemption should be granted because:

(1) Olin's use of chrysotile asbestos in diaphragm cells for an additional two years is a critical and essential use for which no technically and economically feasible safer alternative is available, taking into consideration hazard and exposure;

(2) Olin's compliance with EPA's current compliance deadline and not being able to finish development a non-asbestos diaphragm alternative would significantly disrupt the national economy, national security, or critical infrastructure; and

[2] *Id.*

[3] Resp'ts' Br. (Redacted) at 116, *Texas Chemistry Council et al. v. EPA*, No. 24-60193 (5th Cir. Feb. 7, 2025), ECF No. 169.

(3) Olin's use of chrysotile asbestos in diaphragm cells for an additional two years provides a substantial benefit to health, the environment, or public safety, including reducing the use of per- and polyfluoroalkyl substances (PFAS).

I. Background

A. The Final Rule

EPA promulgated the Final Rule on March 28, 2024, with an effective date of May 28, 2024. 89 Fed. Reg. 21,970. As of the effective date, the Final Rule bans the manufacture (including import) of chrysotile asbestos diaphragms in the chlor-alkali industry. *Id.* at 22,006–07. The Final Rule then sets timelines for a ban on the processing, distribution, and use of chrysotile asbestos for diaphragms in the chlor-alkali industry that are based on whether a facility is converting to non-asbestos diaphragms or non-asbestos membrane technology. *Id.* This means that while new asbestos diaphragms cannot be made, already produced or installed diaphragms may continue to be used until the end of a phase-out period. To mitigate existing risk, the Final Rule also requires implementation of workplace controls that achieve compliance with the Existing Chemical Exposure Limit (ECEL) of 0.005 fibers per cubic centimeter (f/cc) (as an eight-hour time-weighted average) on an interim basis before the ban on use of asbestos diaphragms takes effect. *Id.* at 22,008.

Under the Final Rule, the permitted phase-out period is based on the technology to which facilities are converting—non-asbestos diaphragms or non-asbestos membranes. Facilities converting to non-asbestos diaphragms have five years from the effective date to complete the transition. *Id.* There are five such facilities—two owned by Olin Corporation, two owned by OxyChem, and one owned by Westlake. *Id.* Facilities converting to non-asbestos membrane technology (three facilities owned by OxyChem) get more time. *Id.* For those facilities, the first

conversion must be completed in five years, the second in eight years, and the third in 12 years. *Id.* EPA explained that it was providing more time for conversions to non-asbestos membrane technology because those conversions are more complicated than conversions to non-asbestos diaphragms and have to take place one facility at a time. *Id.* at 21,980.

EPA based its deadline for conversion to non-asbestos diaphragms on an incorrect interpretation of when risk management is required under TSCA. EPA is requiring the phaseout of asbestos to happen *as soon as possible*. However, TSCA only requires EPA to regulate a substance only "to the extent necessary" to ensure a chemical substance no longer presents unreasonable risk, 15 U.S.C. § 2605(a), and to set the rule's effective date "as soon as practicable" while "provid[ing] for a reasonable transition period." *Id.* § 2605(d). Instead of following this statutory directive, EPA set a five-year compliance deadline because conversions to non-asbestos diaphragms "can be achieved in five years," 89 Fed. Reg. at 21,980, not because doing so was either necessary to ensure chrysotile asbestos containing diaphragms no longer present an unreasonable risk or practicable given the cost of such conversion. The five-year deadline was not necessary to eliminate unreasonable risk given that EPA was already imposing interim workplace controls that would eliminate unreasonable risk, 89 Fed. Reg. at 22,008.

The current alternative to asbestos-containing diaphragms available to industry, other than membrane technology, is non-asbestos diaphragms (NADs). NADs operate in a similar way to asbestos diaphragms. 89 Fed. Reg. at 21980. In a diaphragm cell, a diaphragm is placed between the anode and cathode of an electrolysis cell to separate the chlorine, hydrogen, and caustic soda products. *Id.* The diaphragm ensures that the chlorine and hydrogen do not spontaneously ignite, and the chlorine and caustic soda do not form undesirable reactant products. *Id.* As EPA has acknowledged, current NADs have a greater concentration of per and polyfluoroalkyl substances

or "PFAS" material than asbestos-containing diaphragms. 89 Fed. Reg. at 21,997. Because of the potential worker exposure to PFAS, EPA recommended that facilities "transition to safer alternatives" "when possible." *Id.*

B. Olin's plans to convert from asbestos diaphragms to non-asbestos, non-PFAS diaphragm technology

In the U.S., Olin currently operates three chlor-alkali plants using asbestos diaphragms—a Chlorine-3 diaphragm unit and a Chlorine-5 diaphragm unit, both in Freeport, Texas and a chlorine diaphragm unit in Plaquemine, Louisiana. Partly in response to the Final Rule, Olin plans to permanently shut down the Chlorine-3 diaphragm unit in Freeport, Texas in the first half of 2026, leaving two operational facilities that will be subject to the Final Rule's requirements.[4]

Since the Final Rule was promulgated, Olin has made significant progress in planning for compliance by working to develop a new replacement diaphragm material that eliminates asbestos and would also enable a viable separator technology free of PFAS chemicals for diaphragm chlor-alkali electrolysis. Olin recently filed a patent for this new material, which is called Olin Sustainable Diaphragm ("OSD") technology. This new material will operate for a minimum of 10 years. There are multiple steps that will be required to complete the process of replacing asbestos diaphragms with non-PFAS diaphragms. First, over the next two years, Olin will need to scale up production of the fiber required for the new diaphragms. Olin will need to optimize OSD full scale depositing of material by the end of 2026. Second, Olin will need to finish the construction of the full scale diaphragm cell pilot plant and demonstrate OSD performance at full scale, which is expected by the end of 2027. Finally, Olin would begin implementation of OSD in 2028 and expects four years to complete transition by May 2031. The four-year timeline is based on cell

[4] Previously Olin operated Chlorine-4 diaphragm unit, which was permanently shut down on June 19, 2021.

manufacturing capacity of four series of cells per year. A four year timeline will allow 16 series of cells to be converted to OSD once the OSD technology is finalized in 2028.

Among other reasons, Olin is requesting a two-year extension because this time is necessary and as soon as practicable for Olin to finish developing this new NAD replacement technology and would avoid installing current NADs which contain PFAS. If the extension is granted, Olin plans to convert the Chlorine-5 diaphragm unit to NADs using 100% non-PFAS materials by May 2031. The Plaquemine, Louisiana facility will be converted to 75% non-PFAS, NAD technology by May 2031.

This plan will not increase potential exposures to asbestos for workers. Three typical activities can create potential asbestos exposure to employees: (1) depositing of new cells, (2) life extension of existing cells, and (3) asbestos removal and disposal from end-of-life cells. Olin does not plan on depositing any asbestos cells, but life extension treatment for existing cells will continue through the transition period as well as the asbestos removal from the end of life cells. But these tasks would need to be completed at some time regardless of when Olin converts to NADs, so the extension will not result in any increased exposure that would not occur in any event. Further, exposures to already installed asbestos-containing diaphragms are minimal and are in compliance with the interim existing chemical exposure limit (ECEL) in the Final Rule because the asbestos is in a sealed process as installed in the production equipment.

If EPA denies the time-limited exemption and Olin is required to meet the five-year deadline for conversion in the Final Rule, Olin would need to convert to PFAS-containing diaphragms. Those PFAS diaphragms would then be in place for 15 to 20 years. Olin would have to convert all of the Plaquemine plant to NADs that contain PFAS, even though Olin is actively working towards

developing a more sustainable, non-PFAS alternative and could accomplish this goal if EPA grants an extension of two years.

Converting to NADs on the five-year timeline would also require Olin to incur significant costs and losses in production. Olin would have to permanently shut down the Freeport Chlorine-5 facility because it does not have capacity to generate the necessary diaphragm cells and convert the corresponding plants. This shut down would result in a loss of about 920 million lbs/year of chlorine production and about 1012 million lbs/ year of caustic soda production. Olin's reduction in capacity will have a significant impact on the supply of chlorine and the economy more broadly. Olin is the largest U.S. producer of chlor-alkali products with about 35% of the U.S. chlor-alkali capacity. Olin's volume is approximately 1 million tons with a market size of approximately 2.7 million tons. And over 40% of Olin's U.S. production (approximately 400,000 tons) is made using asbestos diaphragms. Thus, almost 14% of all U.S. chlor-alkali capacity comes from Olin's use of asbestos diaphragms.

II. Discussion

TSCA provides that EPA "may, as part of a rule promulgated under subsection (a), or in a separate rule, grant an exemption from a requirement of a subsection (a) rule for a specific condition of use of a chemical substance or mixture, if the Administrator" makes one of three findings. 15 U.S.C. § 2605(g)(1). First, the Administrator may grant an exemption if he finds that "the specific condition of use is a critical or essential use for which no technically and economically feasible safer alternative is available, taking into consideration hazard and exposure." *Id.* § 2605(g)(1)(A). Second, the Administrator may grant an exemption if he finds that "compliance with the requirement, as applied with respect to the specific condition of use, would significantly disrupt the national economy, national security, or critical infrastructure." *Id.*

§ 2605(g)(1)(B). Finally, the Administrator can approve an exemption if "the specific condition of use of the chemical substance or mixture, as compared to reasonably available alternatives, provides a substantial benefit to health, the environment, or public safety." *Id.* § 2605(g)(1)(C). In this case, each of these factors support granting the exemption.

A. Olin's use of chrysotile asbestos diaphragms for an additional two years is a critical and essential use for which no technically and economically feasible safer alternatives are available, taking into account hazard and exposure.

Olin's asbestos-containing diaphragms for the production of chlor-alkali are a critical and essential use for which no technically and economically feasible safer alternatives are available. First, asbestos diaphragms are a critical and essential use because diaphragm technology is particularly suited to producing dilute caustic soda, producing dilute caustic soda at 8% by weight compared to membrane caustic soda at 32% by weight or commercial caustic soda at 50% by weight. This is because Olin's process occurs without typical evaporation, used directly in epichlorohydrin and propylene oxide manufacturing.[5] It is also processed for use in a broad range of other critical industries such as alumina and pulp and paper.

Second, there are no technically and economically feasible alternatives available for Olin's facilities. In the Final Rule, EPA identified only two alternatives available to industry to asbestos-containing diaphragms – membrane technology and NADs. These alternatives are not technically and economically feasible within the five-year time scale for the following reasons.

1. Membranes

Olin estimates that converting all of its facilities to membrane technology would cost over $3 billion. Cost alone makes membrane technology not economically feasible. Converting to

[5] Chlorine production is the result of brine electrolysis that creates three products simultaneously: chlorine, caustic soda, and hydrogen. All three are created together. Therefore, chlorine production will also produce caustic soda and the quality of caustic soda depends on the electrolysis technology, i.e. diaphragm electrolysis technology or membrane electrolysis technology.

membrane technology is complicated by the need for precious metals (Pt, Pd, Ir, Ru) and semi-precious metals (Ti, Ni) as part of the process. There is a limited supply of these specific precious metals and the aggressive conversion timeline required by the Final Rule will significantly increase demand and associated costs. Also, the number of suppliers of membrane technology is extremely limited with only three suppliers, all of which are non-U.S. companies. The limited number of suppliers will not allow all of the existing diaphragm capacity to convert to membrane technology in just five years.

While electrical and steam consumption savings are expected with membrane technology, these savings alone will not be enough to justify the investment because of the Olin facilities' unique process. The integrated sites that Olin operates are uniquely integrated to downstream processes utilizing the diaphragm cell effluents that would not benefit from conversion to membrane technology and would have to be diluted with salt water to achieve the diaphragm caustic required for downstream processes. In other words, any electrical and steam consumption savings would be virtually eliminated by the need to dilute the caustic later on with salt water in order to achieve the product required for Olin's downstream processes.

2 Non-asbestos Diaphragms (NADs).

Conversion to NADs is approximately 10-15% of the cost to convert the same capacity to membrane technology. However, for the reasons explained above, converting to NADs is also not technical or economically feasible. Olin will not have the facilities available to generate the necessary diaphragm cells and convert the corresponding plants at the same time. As a result, absent an additional two-year extension, Olin will have to shut down the Freeport Chorine-5 diaphragm plant, causing a reduction in chlorine production and therefore supply to external customers by 920 million lbs/year. Thus, it is not feasible for Olin to complete the conversion to NADs within five years without significantly disrupting (reducing by about 50%) the amount of

chlorine it supplies to its customers, and even with the seven-year timeline Olin is requesting here, it will still have to shutdown some of its capacity (about 25%). Regarding Olin's customers, Olin will be forced to restrict production in the case where the diaphragm cells cannot be converted within five years. This will result in Olin needing to reduce total ECU production, thereby restricting customers access to our products. At a minimum, this will increase prices dramatically due to the shortfall of chlor-alkali products.

3. **Hazard and Exposure Considerations**.

Further, converting to NADs within five years is not a safer alternative than allowing Olin an additional two years to continue using asbestos diaphragms until it completes its new PFAS-free NAD technology when taking into account hazard and exposure. Allowing Olin two additional years to convert its facilities will not result in increased exposure. Potential exposure from asbestos diaphragms occurs only when the diaphragms are being made or when they are removed and disposed. Olin has already created the asbestos diaphragms that it would use until it converts to a non-asbestos alternative. And Olin will have to remove and dispose of the diaphragms at some point—whether that is in five years or seven years. The additional two years will not change the amount of exposure, just the timing of the potential exposure. For this reason, and the fact that Olin would comply with the ECEL in the Final Rule, EPA should consider the hazard and exposure concerns with a two-year extension to be equivalent to the baseline.

B. Failure to grant Olin's use of chrysotile asbestos diaphragms for an additional two years would significantly disrupt the national economy, national security, and critical infrastructure by jeopardizing the nation's chlorine supply.

Around half of U.S. chlorine capacity is produced by diaphragm technology, with a third of that total utilizing an asbestos diaphragm in order to separate the chlorine and caustic soda using

the electrolysis process.[6] Chlorine is essential to pharmaceuticals, medical plastics, disposable medical goods, crop protection, treatment of public drinking water systems, and many other products.[7] Indeed, EPA acknowledged in the Final Rule that "the provision of chlor-alkali chemicals for water treatment has potential implications for [the national economy, national security, and critical infrastructure]." 89 Fed. Reg. at 21,981.

Olin's reduction in capacity will have a significant impact on the supply of chlorine and the economy more broadly. Olin is the largest U.S. producer of chlor-alkali products with about 35% of the total U.S. chlor-alkali capacity. Over 40% of Olin's U.S. production (approximately 400,000 tons) is made using asbestos diaphragms. Thus, almost 14% of all U.S. chlor-alkali capacity comes from Olin's use of asbestos diaphragms.

Olin's volume into external supply is approximately 1 million tons with a market size of approximately 2.7 million tons or 37% of the supply.

There are a number of challenges associated with ending asbestos diaphragm use in five years. One of the biggest challenges is that Olin has only one facility to produce cells for conversion to NADs. As a result, the current five-year timeline would result in a reduction of about 460,000 electrochemical unit (ECU)/year,[8] which represents 50% of Olin's existing diaphragm capacity. For a total conversion to NADs without any reduction in production capacity, Olin would require 10 years to convert all of its cells. The total of seven years that Olin is requesting to phase

[6] U.S. Chamber of Commerce, *Chlorine: The Essential Chemistry*, EPA-HQ-OPPT-2021-0057-0261, attachs. 2 & 3.
[7] *Id.*
[8] As discussed, brine electrolysis creates three separate products simultaneously: chlorine, caustic soda and hydrogen. These products combined constitute an ECU. The mass ratio of these products are fixed and by convention the mass of chlorine is typically used when referring to an ECU, that is 1 ECU is equal to 1 ton of chlorine, 1.1 tons of caustic soda and 0.028 tons of hydrogen.

out asbestos diaphragms would still require Olin to reduce its capacity by about 460,000 ECU/year, which is a 25% reduction in capacity.

If Olin is required to meet the current 5-year compliance deadline for all its facilities, it will have to reduce its supply to the market by 50% or about 460,000 tons, which represents about 17% of the total supply of chlor-alkali supply in the U.S. market. And in terms of bleach specifically, if Olin loses about 50% of its U.S. market supply, that would mean a loss of 180,000 ECUs to the bleach industry, which equates to approximately 22% of bleach demand. The supply that would be lost by Olin's reduction in capacity could not be easily replaced by imports or chlorine from other facilities because bleach degrades during transportation, which means that production and shipping locations need to be located near end users. That means that chlorine and bleach will become more expensive. This will have significant impacts on the local, state, and national supply of safe drinking water and the treatment of wastewater.

Requiring Olin to comply with the five-year compliance deadline will also have a significant effect on the economy by exacerbating price and supply chain pressures that have already impacted the industry. Such reduction in supply will have ripple effects throughout the economy, affecting the supply of safe drinking water, pharmaceuticals, medical equipment, crop protection products, plastics, and many others. Many of these industries, including the water treatment industry, are already experiencing price increase and supply chain shortages. For example, the American Water Works Association found that the average cost for each ton of chlorine delivered to water utilities increased 238% from January 2019 to January 2023.[9] As water utilities explained in their comments on the Final Rule, additional loss of chlor-alkali production

[9] Comments from American Water Works Association (AWWA), Apr. 17, 2023, https://www.regulations.gov/comment/EPA-HQ-OPPT-2021-0057-0496.

caused by the Final Rule combined with existing supply shortages and cost pressures will impact the affordability of safe drinking water and wastewater services.[10] EPA has recognized this as well, explaining that "[i]f drinking water systems cannot obtain a sufficient and reliable supply of . . . chlorine . . . they will be unable to continue to provide safe drinking water to their communities."[11] And "[a] loss of drinking water or wastewater services, even for short durations, would have cascading impacts on hospitals, manufacturing, government facilities, private offices and restaurants—essentially all of the critical services necessary to sustain a community."[12]

If the chlorine supply chain is disrupted, several critical industries would face significant challenges:

- Titanium Dioxide production: Chlorine is essential for producing titanium tetrachloride, a key intermediate in the chloride process for manufacturing titanium dioxide (TiO_2), widely used in paints, coatings, and plastics. A shortage would disrupt production lines and supply chains.
- Water treatment: Chlorine is the primary disinfectant for municipal drinking water and wastewater treatment. A supply gap would compromise public health, potentially leading to waterborne disease outbreaks.
- Agriculture: Chlorine-based chemicals, such as crop protection tools and herbicides, are vital for modern farming. A shortage could reduce crop yields and impact food security.

[10] Comments from American Water Works Association (AWWA), Association of Metropolitan Water Agencies (AMWA), and National Rural Water Association (NWRA), July 13, 2022, https://www.regulations.gov/comment/EPA-HQ-OPPT-2021-0057-0355.
[11] Letter from Michael Regan, Administrator, U.S. EPA, to chemical sector (June 30, 2021), https://dec.vermont.gov/sites/dec/files/dwgwp/DW/OW-21-000-4574.pdf.
[12] *Id.*

- Mining and Metallurgy: Chlorine compounds are used in metal extraction and refining, including rare earth elements and precious metals. Supply issues would hinder mining operations and affect downstream industries like electronics and energy.
- Fuel and lubricants production would be affected, as chlorine and chlorinated compounds are used in manufacturing certain lubricant additives and fuel treatment chemicals. These additives enhance performance, prevent corrosion, and improve fuel stability.

As EPA recognized, there are national security implications as well. 89 Fed. Reg. at 21,981. One implication is that the country may become more dependent on foreign imports to make up for the reduction in the domestic supply of chlorine. In recent years, some drinking water providers have been forced to rely on imports due to shortages in domestic chlorine production. For example, in the Pacific Northwest in summer 2021, water utilities worked with state agencies and the Department of Homeland Security to bring chlorine across the border from Canada when experienced a severe chlorine production shortage caused when the only chlorine supplier in the region blew a transformer.[13] Forcing water utilities and other critical industries that need a reliable supply of chlorine to turn to foreign imports is directly contrary to this Administration's focus on strengthening domestic manufacturing and imposing tariffs on imports. A further challenge is that bleach degrades during transport, making it very difficult to transport it over long distances. Thus, while it is possible to make up for some domestic supply through imports (as seen in the Pacific Northwest example), that may be impossible in many areas of the country.

[13] Comments from Oregon Water Utilities Council, July 13, 2022, https://www.regulations.gov/comment/EPA-HQ-OPPT-2021-0057-0380.

If EPA grants a short two-year exemption, however, Olin will be able to continue to supplying needed chlorine to U.S. industries, which would mitigate the worst of these effects.

C. Olin's use of asbestos-containing diaphragms for an additional two years provides a substantial benefit to health, the environment, and public safety as compared to having to convert to PFAS NAD alternatives

Granting a two-year extension to allow Olin to transition away from asbestos containing diaphragms provides substantial benefits to health, the environment, and public safety because then Olin would be able to develop its non-PFAS alternative technology. EPA has described PFAS as "an urgent threat to public health and the environment."[14] EPA Administrator Lee Zeldin also recently announced a number of forthcoming actions to address exposures of PFAS from water, air, waste, land, and products.[15] Under the current Final Rule Olin plans to use the PFAS diaphragm technology that EPA has identified. Allowing Olin extra time to transition to PFAS-free diaphragm materials will greatly benefit public health by reducing the amount of PFAS in use in the chlor-alkali industry. The two extra years that Olin is requesting will allow it to develop a non-PFAS diaphragm alternative that is less expensive than asbestos containing diaphragms and poses less potential environmental risk than the use of PFAS material. It would also allow Olin to

[14] EPA's PFAS Strategic Roadmap: Three Years of Progress (Nov. 2024), https://www.epa.gov/system/files/documents/2024-11/epas-pfas-strategic-roadmap-2024_508.pdf.

[15] "I have long been concerned about PFAS and the efforts to help states and communities dealing with legacy contamination in their backyards. With today's announcement, we are tackling PFAS from all of EPA's program offices, advancing research and testing, stopping PFAS from getting into drinking water systems, holding polluters accountable, and providing certainty for passive receivers. This is just a start of the work we will do on PFAS to ensure Americans have the cleanest air, land, and water." Administrator Zeldin Announces Major EPA Actions to Combat PFAS Contamination" U.S. EPA (April 28, 2025): https://www.epa.gov/newsreleases/administrator-zeldin-announces-major-epa-actions-combat-pfas-contamination.

potentially avoid having to replace the diaphragms again in the future if EPA continues to phase out uses of PFAS.

EPA has taken a similar approach with respect to replacing asbestos-containing gaskets. In the Final Rule, EPA explained that "the ongoing use of installed gaskets does not present unreasonable risk: rather the risk is present during asbestos gasket removal." 89 Fed. Reg. at 21,983. Accordingly, the Final Rule provided that "any chrysotile asbestos-containing sheet gaskets for chemical production which are already installed and in use prior to the compliance date for the prohibitions are not subject to the distribution in commerce and commercial use prohibition." *Id.* The same logic applies here. Since there is no additional exposure from providing an additional two years for Olin to replace its diaphragms over what would otherwise occur if Olin were required to replace them sooner, EPA should grant the time-limited exemption especially since doing so benefits public health and the environment by significantly reducing the use of and exposure to PFAS.

III. Conclusion

For the foregoing reasons, EPA should grant the time-limited exemption and allow Olin two additional years, for a total of seven years, to convert its chlor-alkali facilities to non-asbestos diaphragms.