

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

ASBESTOS DISEASE AWARENESS
ORGANIZATION,
1525 Aviation Boulevard, Suite 318,
Redondo Beach, California 90278

Plaintiff,

v.

LEE ZELDIN, ADMINISTRATOR OF
ENVIRONMENTAL PROTECTION
AGENCY and

U.S. ENVIRONMENTAL
PROTECTION AGENCY

1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Defendants.

CIVIL ACTION NO. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTORY STATEMENT

1. Plaintiff Asbestos Disease Awareness Organization ("ADAO") brings this action pursuant to section 20(a)(2) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2619(a)(2), to compel Defendants Lee Zeldin, in his official capacity as Administrator of the U.S.

Environmental Protection Agency, and the U.S. Environmental Protection Agency (collectively, "EPA" or "Defendants"), to perform a non-discretionary statutory duty. Specifically, EPA has failed to propose a risk management rule under TSCA section 6(a), 15 U.S.C. § 2605(a), to address the unreasonable risk to human health presented by legacy asbestos, despite a clear statutory deadline that has passed.

2. "Legacy asbestos" refers to asbestos-containing materials—including insulation, floor tiles, roofing, siding, pipes, boilers, gaskets, and other building products—that were widely distributed in commerce and installed in millions of structures across the United States during a large part of the twentieth century. Although most of these products are no longer manufactured or sold in the U.S., asbestos-containing materials remain in place in numerous schools, factories, public buildings, commercial businesses, apartment buildings, and private residences. There is widespread human exposure to legacy asbestos during maintenance, renovation, repair, and demolition of these structures and through the generation and management of asbestos-containing waste.

3. Asbestos-related diseases cause nearly 40,000 deaths in the United States annually, according to the published study entitled "Global Asbestos Disaster."¹ Firefighters, construction workers, school teachers, and other occupants of older buildings face significantly elevated risks of mesothelioma and other asbestos-related cancers as a result of exposure to legacy asbestos.

4. On December 3, 2024, EPA published its final Part 2 risk evaluation for asbestos, addressing legacy asbestos under section 6(b) of TSCA. In that evaluation, EPA determined that legacy asbestos presents an unreasonable risk of injury to human health. 89 Fed. Reg. 95777 (December 3, 2024). That finding triggered a statutory obligation under TSCA section 6(c)(1)(A),

¹ S. Furuya, O. Chimed-Ochir, K. Takahashi, A. David, and J. Takala, "Global Asbestos Disaster," *International Journal of Environmental Research and Public Health*, vol. 15, no. 5, p. 15, 2018.

15 U.S.C. § 2605(c)(1)(A), EPA to propose a rule under section 6(a) to eliminate the identified unreasonable risk "not later than 1 year after the date on which the final risk evaluation regarding the chemical substance is published."

5. EPA's deadline to propose a risk management rule for legacy asbestos was December 3, 2025. That deadline has passed. EPA has not proposed any rule. This failure constitutes a violation of a non-discretionary duty enforceable through a citizens' suit under TSCA section 20(a)(2).

6. On February 13, 2026, ADAO provided written notice to defendant EPA Administrator Lee Zeldin of its intent to file this action, as required by TSCA section 20(b)(2), 15 U.S.C. § 2619(b)(2). More than sixty days have elapsed since that notice without EPA proposing the required rule. ADAO now brings this action to obtain a declaratory judgment that EPA is in violation of its non-discretionary statutory duty and an injunction ordering EPA to propose the required rule by a date certain.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this action pursuant to TSCA section 20(a)(2), 15 U.S.C. § 2619(a)(2), which authorizes citizens to bring a civil action to compel the EPA Administrator to perform any non-discretionary act or duty under TSCA, and pursuant to 28 U.S.C. §§ 1331 and 1361.

8. Venue is proper in this district pursuant to TSCA section 20(a), 15 U.S.C. § 2619(a), and 28 U.S.C. § 1391(e), because defendant EPA is an agency of the United States headquartered in this district and a substantial part of the events or omissions giving rise to this claim occurred here.

9. Plaintiff provided written notice of EPA's violation to defendant Administrator Lee Zeldin by letter dated February 13, 2026, as required by TSCA section 20(b)(2), 15 U.S.C. § 2619(b)(2). More than sixty days have elapsed since that notice was served, and EPA has not proposed a rule addressing the unreasonable risk of legacy asbestos. This action is ripe for adjudication by the Court.

PARTIES

10. Plaintiff Asbestos Disease Awareness Organization (ADAO) is a non-profit organization whose mission is to prevent asbestos-caused diseases, including lung cancer, malignant mesothelioma, ovarian cancer, cancer of the larynx in humans, and asbestosis. ADAO works on many fronts to reduce and eliminate asbestos exposure. The tools it employs include public education, collaboration with grassroots communities, and scientific analysis and research. ADAO also advocates for federal, state and local laws and regulations that protect against asbestos exposure and disease. ADAO has spent over a decade working to prevent asbestos-caused diseases. ADAO has standing to bring this action on behalf of itself and its members. ADAO is based in Redondo Beach, California.

11. Defendant Lee Zeldin is the Administrator of the U.S. United States Environmental Protection Agency and is sued in his official capacity. As Administrator, he is responsible for ensuring that EPA performs its non-discretionary duties under TSCA, including the duty to propose a risk management rule following a final risk evaluation that finds unreasonable risk. His principal office is located at 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

12. Defendant United States Environmental Protection Agency is an agency of the United States government established under the Reorganization Plan No. 3 of 1970. EPA is responsible for implementing and enforcing TSCA, including the conduct of risk evaluations and

the promulgation of risk management rules under TSCA section 6. EPA's headquarters are located at 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

STATUTORY AND REGULATORY BACKGROUND

A. The Toxic Substances Control Act and the 2016 Amendments

13. TSCA, 15 U.S.C. §§ 2601–2697, is the principal federal law for managing the risks of chemical substances in commerce. TSCA was comprehensively amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, Pub. L. No. 114-182, 130 Stat. 448 (2016) (the "2016 Amendments"), which overhauled the process for evaluating and managing chemical risks.

14. Under the 2016 Amendments, TSCA section 6(b)(4)(A), 15 U.S.C. § 2605(b)(4)(A), directs the Administrator to "conduct risk evaluations . . . to determine whether a chemical substance presents an unreasonable risk of injury to health or the environment . . . under the conditions of use." TSCA section 6(b)(2)(A) required EPA to select ten chemicals to undergo risk evaluations within 180 days of enactment and to initiate those evaluations promptly.

15. If a risk evaluation finds that a chemical substance "presents an unreasonable risk of injury to health," TSCA section 6(a), 15 U.S.C. § 2605(a), directs that the Agency "shall by rule" apply one or more specified restrictions to the substance "to the extent necessary so that the chemical substance . . . no longer presents such risk."

16. The timeline for risk management rulemaking is prescribed by TSCA section 6(c)(1)(A), 15 U.S.C. § 2605(c)(1)(A), which directs that EPA "shall propose in the Federal Register a rule under subsection (a) for the chemical substance not later than 1 year after the date on which the final risk evaluation regarding the chemical substance is published." This is a mandatory, non-discretionary duty.

B. The Citizens' Suit Provision

17. TSCA section 20(a)(2), 15 U.S.C. § 2619(a)(2), authorizes any person to commence a civil action "against the Administrator to compel the Administrator to perform any act or duty under this chapter which is not discretionary with the Administrator."

18. TSCA section 20(b)(2), 15 U.S.C. § 2619(b)(2), requires that no civil action to compel a non-discretionary duty may be commenced before the expiration of sixty days after the plaintiff has given notice of the alleged violation to the Administrator.

FACTUAL ALLEGATIONS

A. Asbestos Is Selected for Risk Evaluation: EPA Excludes Legacy Asbestos

19. In December 2016, EPA announced the ten chemicals selected for initial risk evaluations under the 2016 Amendments. Asbestos was among them. 81 Fed. Reg. 91927 (December 19, 2016).

20. Asbestos is a mineral fiber that causes lung cancer, malignant mesothelioma, ovarian cancer, cancer of the larynx, and asbestosis. Asbestos was widely used throughout the twentieth century in construction and industrial products. Hundreds of thousands of Americans have died from asbestos-related diseases.

21. When EPA began its risk evaluation, it initially took the position that "legacy" asbestos—asbestos-containing materials already installed in buildings and other structures—was beyond its authority under TSCA. In its May 2018 problem formulation for asbestos, EPA stated that it would not address "pre-existing materials currently in place within buildings (e.g., insulation materials, flooring, etc.) and also within pre-existing non-building equipment" because "[t]hese materials were installed in the past, and there is no evidence to suggest that manufacturing, processing, or distribution for such activities is intended, known, or reasonably foreseen."

22. EPA codified this approach in its July 2017 "framework" rule, which established the methodology EPA would follow for conducting risk evaluations. 82 Fed. Reg. 33726 (July 20, 2017). The preamble to the rule stated that EPA did not consider "legacy activities"—comprising "legacy uses," "associated disposals," and "legacy disposals"—to be TSCA "conditions of use." Id. at 33729–30.

B. The Ninth Circuit Rejects EPA's Exclusion of Legacy Asbestos

23. The framework rule was challenged judicially by ADAO and other petitioners. On November 14, 2019, the Ninth Circuit Court of Appeals held that "EPA's exclusion of legacy uses and associated disposals contradicts TSCA's plain language." *Safer Chemicals, Healthy Families v. USEPA*, 943 F.3d 397, 421 (9th Cir. 2019). The Court held that TSCA's "conditions of use" definition "plainly addresses conditions of use of chemical substances that will be used or disposed of in the future, regardless of whether the substances are still manufactured for the particular use." Id. at 424. The Court expressly noted that asbestos in existing insulation and similar materials falls within this definition. Id. at 421, 424.

24. As a result of the Ninth Circuit's decision, EPA was required to include legacy asbestos within its asbestos risk evaluation.

C. EPA Issues Part 1 Risk Evaluation Without Addressing Legacy Asbestos Despite Ninth Circuit Decision

25. On January 4, 2021, EPA issued a final Part 1 risk evaluation for Asbestos (Chrysotile Asbestos). 86 Fed. Reg. 89 (January 4, 2021). The Part 1 evaluation did not address legacy asbestos use and disposal.

26. EPA announced that it would conduct a separate Part 2 risk evaluation to address legacy asbestos, but did not establish a schedule for completing it. On January 26, 2021, ADAO and several co-parties served a sixty-day notice on EPA under TSCA section 20(b)(2), notifying

EPA of its intent to bring a citizens' suit to enforce EPA's non-discretionary obligation to complete a risk evaluation addressing legacy asbestos.

27. ADAO and its co-parties filed suit against EPA in the United States District Court for the Northern District of California on May 18, 2021. *Asbestos Disease Awareness Organization v. Michael S. Regan*, No. 4:21-CV-03716 (N.D. Cal.). The case was resolved by a Consent Decree entered by the court on October 13, 2021, which ordered EPA to issue its final Part 2 risk evaluation by December 1, 2024.

28. On March 28, 2024, EPA issued its Part 1 risk management rule for Chrysotile Asbestos, banning six conditions of use. 89 Fed. Reg. 21970 (March 28, 2024). That rule did not address legacy asbestos.

29. EPA announced the availability of the draft Part 2 risk evaluation for public comment on April 16, 2024. 89 Fed. Reg. 26878.

D. EPA's Part 2 Risk Evaluation Finds Unreasonable Risk from Legacy Asbestos

30. On December 3, 2024, EPA published its final Part 2 risk evaluation for legacy asbestos under TSCA section 6(b). 89 Fed. Reg. 95777 (December 3, 2024). In that evaluation, EPA determined, based on the best available science and the weight of scientific evidence, that "asbestos poses unreasonable risk to human health." *Id.* at 95777–78.

31. EPA specifically identified four categories of unreasonable risk from legacy asbestos: (1) cancer and non-cancer effects in workers, including other occupational non-users ("ONUs") and firefighters, from inhalation exposures; (2) cancer and non-cancer effects in handlers and bystanders from inhalation exposures associated with handling of garments taken home from occupational exposure; (3) cancer and non-cancer effects in consumers and bystanders

from inhalation exposures; and (4) cancer and non-cancer effects in the general population from inhalation exposures. 89 Fed. Reg. at 95778.

32. EPA acknowledged in its notice that it "must initiate risk management action as required pursuant to 15 U.S.C. 2605(a) to address the unreasonable risk." Id.

E. EPA Fails to Propose a Risk Management Rule by the Statutory Deadline

33. The publication of EPA's final Part 2 risk evaluation on December 3, 2024, triggered EPA's non-discretionary obligation under TSCA section 6(c)(1)(A) to propose a risk management rule for legacy asbestos. Under that provision, EPA "shall propose in the Federal Register a rule under subsection (a) for the chemical substance not later than 1 year after the date on which the final risk evaluation regarding the chemical substance is published." 15 U.S.C. § 2605(c)(1)(A) (emphasis added).

34. Accordingly, EPA was required to propose a risk management rule for legacy asbestos no later than December 3, 2025.

35. EPA did not propose a risk management rule for legacy asbestos by December 3, 2025, and has not proposed any such rule to date. EPA is therefore in default of its non-discretionary statutory duty under TSCA sections 6(a) and 6(c)(1)(A).

F. Plaintiff's Sixty-Day Notice

36. On February 13, 2026, ADAO, through its counsel Robert M. Sussman of Sussman & Associates, served a written notice of intent to sue on EPA Administrator Lee Zeldin pursuant to TSCA section 20(b)(2), 15 U.S.C. § 2619(b)(2), and 40 C.F.R. § 702.62(b). The notice detailed the specific TSCA provisions at issue, the factual and legal basis for alleging that EPA is in violation of its non-discretionary duty, and the identity of the citizen giving notice.

37. More than sixty days have elapsed since ADAO's February 13, 2026 notice. EPA has not proposed a risk management rule for legacy asbestos during this period. The statutory precondition for commencing this action has been satisfied

CLAIM FOR RELIEF

Violation of TSCA Sections 6(a) and 6(c)(1)(A):

Failure to Perform a Non-Discretionary Duty to Propose a Risk Management Rule

38. Plaintiff incorporates by reference paragraphs 1 through 37 as if fully set forth herein.

39. TSCA section 6(c)(1)(A), 15 U.S.C. § 2605(c)(1)(A), imposes a mandatory, non-discretionary duty on the EPA Administrator to propose a rule under section 6(a) to address the unreasonable risk of a chemical substance within one year of the publication of a final risk evaluation determining that the substance presents an unreasonable risk of injury to health.

40. EPA's final Part 2 risk evaluation for legacy asbestos was published on December 3, 2024 and affirmatively determined that legacy asbestos presents an unreasonable risk of injury to human health. This determination triggered EPA's non-discretionary obligation to propose a section 6(a) risk management rule by December 3, 2025.

41. EPA failed to propose a risk management rule for legacy asbestos by the December 3, 2025 statutory deadline and has failed to do so to date. This failure constitutes a violation of EPA's non-discretionary duty under TSCA sections 6(a) and 6(c)(1)(A).

42. TSCA section 20(a)(2), 15 U.S.C. § 2619(a)(2), authorizes ADAO to maintain this citizens' suit to compel the Administrator to perform this non-discretionary duty. All statutory prerequisites for bringing this action have been satisfied.

43. EPA's failure to propose a risk management rule for legacy asbestos causes ongoing and irreparable harm to ADAO's supporters and to the public, who continue to be exposed to legacy asbestos without the protections that a risk management rule would provide. Absent judicial relief, EPA has provided no indication that it will comply with its statutory duty.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Asbestos Disease Awareness Organization respectfully requests that this Court:

A. Declare that defendants are in violation of their non-discretionary duty under TSCA sections 6(a) and 6(c)(1)(A), 15 U.S.C. §§ 2605(a) and 2605(c)(1)(A), by failing to propose a risk management rule for legacy asbestos within one year of publication of the final Part 2 risk evaluation on December 3, 2024;

B. Issue an injunction ordering defendants to propose a risk management rule for legacy asbestos under TSCA section 6(a) by a date certain established by the Court;

C. Retain jurisdiction over this action to ensure compliance with the Court's Order;

D. Award Plaintiff its reasonable attorneys' fees and costs pursuant to TSCA section 20(c), 15 U.S.C. § 2619(c); and

E. Grant such other and further relief as the Court deems just and proper.

Dated: April 21, 2026

Respectfully submitted,

/s/Robert M. Sussman

Robert M. Sussman

DC BAR NO. 226746

SUSSMAN & ASSOCIATES

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*Attorney for Plaintiff Asbestos Disease
Awareness Organization*

<input type="radio"/> G. Habeas Corpus/ 2255 530 Habeas Corpus – General 510 Motion/Vacate Sentence 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act 895 Freedom of Information Act 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) 710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Labor Railway Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) 441 Voting (if not Voting Rights Act) 443 Housing/Accommodations 440 Other Civil Rights 445 Americans w/Disabilities – Employment 446 Americans w/Disabilities – Other 448 Education	<input type="radio"/> M. Contract 110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 153 Recovery of Overpayment of Veteran’s Benefits 160 Stockholder’s Suits 190 Other Contracts 195 Contract Product Liability 196 Franchise	<input type="radio"/> N. Three-Judge Court 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi-district Litigation
 7 Appeal to District Judge from Mag. Judge
 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: <input type="checkbox"/> YES <input type="checkbox"/> NO
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: _____	SIGNATURE OF ATTORNEY OF RECORD _____
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the DISTRICT OF COLUMBIA

IA _____ District of _____

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)	
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_____)	
<i>Plaintiff(s)</i>)	
v.)	Civil Action No.
)	
)	
)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

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I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: