

ADAO HAILS HISTORIC REQUIREMENTS TO REPORT ASBESTOS USE || Results from ADAO Right to Know Lawsuit Win

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ADAO HAILS HISTORIC REQUIREMENTS
TO REPORT ASBESTOS USE

Proposal Results from EPA Settlement
Commitments Following ADAO Right to
Know Lawsuit Win in 2020



The [Asbestos Disease Awareness Organization](#) (ADAO), an independent nonprofit dedicated to preventing asbestos exposure through education, advocacy, and community, today applauded the long-awaited “Asbestos Right To Know” proposal by the Environmental Protection Agency (EPA) which [requires industry to report on asbestos imports, use, and exposure](#) under Section 8 of the Toxic Substances Control Act (TSCA).

The proposal implements a landmark June 7, 2021 settlement agreement between EPA and ADAO that ended a nearly three-year long legal battle waged by ADAO and its partners under Section 21 of TSCA.

“This proposal is the result of our multi-year effort to ensure EPA’s work on asbestos is informed by the best information available from companies that import and use asbestos and asbestos-containing products,” said Linda Reinstein, President and co-founder of ADAO. “The lack of reporting obligations by the asbestos industry has been a gaping hole in EPA’s efforts to protect Americans from exposure to this lethal carcinogen. We’ve always said that we can’t protect Americans from asbestos if EPA and the public don’t know where it is, how it is used, and who is exposed,” she continued.

ADAO and its fellow petitioners sued EPA in 2019 after the Agency denied their 2018 petition to require TSCA reporting to fill serious data-gaps on asbestos. On December 22, 2020, Judge Chen (N.D. California) found that the petition denial “runs contrary to EPA’s obligation to collect reasonably available information to inform and facilitate its regulatory obligations under TSCA.” Judge Chen ordered EPA to require reporting under TSCA to “address [EPA’s] information-

gathering deficiencies.”

Consistent with the settlement agreement and Judge Chen’s decision, the proposal would require the reporting of information on:

- 1) Importation and use of raw asbestos,
- 2) Importation and use of asbestos-containing mixtures and articles,
- 3) Processing of raw asbestos and articles and mixtures, and
- 4) Presence of asbestos contaminants in other substances and mixtures (including talc).

“While EPA’s recently proposed Part 1 risk management rule would ban six conditions of use of chrysotile asbestos, it does not address the other five asbestos fibers and other ongoing uses of chrysotile asbestos,” said Bob Sussman, ADAO counsel. “The reporting rule could obtain vital information that helps to fill these serious gaps and enable EPA to expand the scope of its asbestos Part 2 risk management rule.”

Under a separate settlement agreement between EPA and ADAO, information obtained under the reporting rule would be taken into account during the Part 2 risk evaluation and any follow-up rulemaking.

ADAO will continue to review the proposed reporting rule in detail and plans to recommend a number of strengthening changes in its comments. ADAO will also emphasize in its comments to the agency that, to increase the effectiveness of the rule, EPA must:

- 1) Conduct outreach to sectors and stakeholders that may have reportable information
- 2) Promptly post reports submitted publicly on the Agency’s website so that the public is fully informed of information about asbestos use and exposure
- 3) Verify compliance with reporting requirements by looking for asbestos-containing products on the Internet, in stores, and in import records

Joining ADAO as co-plaintiffs in this case were the American Public Health Association (APHA), Center for Environmental Health (CEH), Environmental Health Strategies Center (EHSC), Environmental Working Group (EWG), and Safer Chemicals, Healthy Families (SCHF).

Public comments will be accepted by the agency on the proposed rule and under the settlement agreement, EPA must finalize the reporting rule by November 18, 2022.

ADAO v EPA Settlement Documents for Case 3:19-cv-00871-EMC Filed 06/07/21

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