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Legal

Health groups sue to make EPA evaluate 'legacy' asbestos risk

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An empty podium at EPA headquarters in Washington, U.S., July 11, 2018. REUTERS/Ting Shen

Health and environmental groups have sued the Environmental Protection Agency, seeking a court order compelling it to evaluate the risks posed by so-called "legacy" asbestos used in old products and buildings.

In a **complaint** filed Tuesday in federal court in San Francisco, groups including the nonprofit Asbestos Disease Awareness Organization and American Public Health Association, along with several public health experts, said the agency had failed to evaluate legacy asbestos risks as required by the federal Toxic Substances Control Act (TSCA).

"Legacy asbestos is everywhere, and our country has been remiss in evaluating the magnitude of this risk and protecting Americans from harm," ADAO co-founder and president Linda Reinstein said in a statement. "EPA's lack of action on legacy asbestos leaves us with no choice but to file suit to protect public health."

Robert Sussman of Sussman & Associates, a lawyer for the plaintiffs, said in a statement that President Joe Biden's administration had "inherited the incomplete asbestos evaluation" from his predecessor Donald Trump's administration. He said the plaintiffs were "hopeful" the new administration would work with them.

"Because this is pending litigation, EPA has no additional information to share," an EPA spokesman said in an email.

The lawsuit concerns an evaluation of asbestos safety begun by the EPA under new amendments to the TSCA that required the agency to select ten chemicals and evaluate their risks. The EPA chose asbestos as one of the chemicals, but said it would not consider legacy asbestos as part of its evaluation.

Legacy asbestos is widespread, as asbestos was commonly used throughout much of the 20th century in building insulation, floor tile, brake pads and other products. Exposure to asbestos can cause mesothelioma, a fatal lung disease.

In 2019, in a different lawsuit by environmental groups challenging the EPA's framework for its evaluations, the 9th U.S. Circuit Court of Appeals ruled that the agency could not exclude legacy products.

The plaintiffs in Tuesday's lawsuit say that the agency failed to comply with that decision, instead issuing a report on asbestos that did not address legacy asbestos last year.

While the agency said it planned a "part 2" of the evaluation to look at legacy asbestos, it did not say when it would do so, according the lawsuit. Furthermore, the plaintiffs said, the EPA was required to produce the full evaluation by a June 2020 deadline.

They are asking the court to set a deadline for the agency to comply.

The case is Asbestos Disease Awareness Organization et al v. Regan et al, U.S. District Court, Northern District of California, No. 21-cv-03716.

For plaintiffs: Richard Drury of Lozeau Drury and Robert Sussman of Sussman & Associates

For EPA: Not immediately available

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