

ORAL ARGUMENT HELD ON JUNE 1, 2026

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

TEXAS CHEMISTRY
COUNCIL, *et al.*

Petitioners,

v.

U.S. ENVIRONMENTAL
PROTECTION AGENCY, *et al.*

Respondents.

Nos. 24-60193, 24-60281, 24-
60333 (consolidated)

**MOTION OF PETITIONER ASBESTOS DISEASE AWARENESS
ORGANIZATION FOR LEAVE TO FILE ADDITIONAL DECLARATIONS IN
SUPPORT OF ITS STANDING**

Asbestos Disease Awareness Organization (ADAO), petitioner in No. 24-60193, and its co-petitioners in No. 24-60281 hereby move under Federal Rule of Appellate Procedure and Local Rule 27.1 for leave to file the four declarations attached hereto. These declarations are in support of ADAO's associational standing to seek review of the chrysotile asbestos Part 1 rule at issue in this case, which was issued by respondent Environmental Protection Agency (EPA) in March 2024 under the Toxic Substances Control Act (TSCA). The Court heard oral argument in these consolidated cases on June 1, 2026.

Counsel for labor petitioner United Steel Workers (USW) and industry petitioners

American Chemistry Council (ACC) and allied state associations have informed ADAO counsel that they do not oppose this motion. Counsel for EPA has indicated that the Agency opposes the motion and reserves its right to file a response.

In support of their motion, the ADAO petitioners state as follows:

1. The ADAO petitioners addressed standing in their September 30, 2024 opening Brief (Docket No. 272) at pp. 40-47. In support of that Brief, petitioners also submitted three standing declarations (Document No. 108-1 to 108-4). These declarations were on behalf of petitioners ADAO, International Association of Fire Fighters (IAFF) Local F-253, (IAFF Local F-253) and American Public Health Association (APHA).

2. In a letter to counsel on May 27, 2026, the oral argument panel asked all petitioners to be prepared to address whether they have “satisfied their burden of establishing standing.” Document No. 326.

3. At the argument, in response to the panel’s queries, counsel for the ADAO petitioners indicated that their brief and declarations established that ADAO, Local F-253 and APHA each had associational standing and that, if the Court agreed, further consideration of organizational standing was unnecessary.

4. In response to the panel’s invitation, the ADAO petitioners filed a letter on June 1, 2026 with the Court after the argument further explaining why their brief and accompanying declarations were sufficient to demonstrate associational standing. Document No.331.

5. On June 2, 2026, the panel issued a further letter to counsel requesting that, on or

before June 10, the parties file simultaneous 8-page letter briefs on “issues relevant to the petitioners’ standing.” Document No. 333. The Court directed that these briefs address “how standing must be shown, whether it has been shown here, and if not, whether each petition for review must be dismissed.”

6. The ADAO petitioners plan to file a letter brief on June 10 as requested by the panel. The brief will discuss relevant caselaw detailing the criteria governing associational standing and explain how ADAO and its co-petitioners meet these criteria. The brief will show that ADAO’s President and specific members of its support network are and will be at risk of increased asbestos exposure and harm to their health if the gaps and deficiencies in the Part 1 rule are not redressed by this Court.

7. To reinforce and amplify the three declarations previously filed by the ADAO petitioners, they now seek the Court’s leave to file the four additional declarations attached hereto. These declarations are from ADAO’s President Linda Reinstein and three active ADAO supporters: Brent Kynoch, a leading expert on asbestos abatement; Roy Taylor, an architect who works with older asbestos-contaminated buildings; and Dawn Fanning, a California resident who is now exposed to asbestos debris at the site of her fire-damaged home, which she plans to rebuild.

8. There is good cause for the Court to take these additional declarations into account when considering the forthcoming letter briefs. On September 30, 2024, the ADAO petitioners diligently complied with decisions of this Court and other circuits requiring an

up-front demonstration of standing for challenges to agency rules by addressing standing in their opening brief and submitting back-up documentation. However, the legal landscape is changing, with the Supreme Court's decision in *FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024) and this Court's *en banc* decision in *US v Texas*, 173 F. 4th 659 (5th Cir. 2026) constraining the organizational standing of non-profit organizations and increasing the importance of associational standing. Since all the petitioners are now claiming associational standing, the Court's deliberations should have the benefit of the best available evidence.

WHEREFOR, the Court should grant this motion and allow the ADAO petitioners to file the attached declarations.

Dated: June 9, 2026

Respectfully submitted,

/s/Robert M. Sussman
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Attorneys for petitioners Asbestos Disease Awareness Organization. American Public Health Association, Collegium Ramazzini, Local F-116 (Vandenberg Professional Firefighters), International Association of Fire Fighters; Local F-253 (Fort Myer Professional Firefighters), International Association of Fire Fighters The FealGood Foundation. Henry A. Anderson, MD; Brad Black, MD; Barry Castleman, ScD; Raja Flores, MD; Arthur Frank, MD, PhD; Phil Landrigan, MD, MSc; Richard Lemen, PhD, MSPH; Steven Markowitz, MD, DrPH; Jacqueline Moline, MD, MSc; Celeste Monforton,

*DrPH, MPH; Christine Oliver, MD, MPH, MSc; and
Andrea Wolf, MD, MPH;*

CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because it contains 715 words.

This motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface in 14-point Times New Roman font using Microsoft Word.

Dated: June 9, 2026

/s/Robert M.Sussman
Robert M. Sussman

Attorneys for ADAO et al

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 24-60193
(consolidated with No. 24-60281)

TEXAS CHEMISTRY COUNCIL, et al.,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al.,

Respondents.

**SUPPLEMENTAL DECLARATION OF LINDA REINSTEIN IN SUPPORT OF
PETITIONERS' STANDING**

I, Linda Reinstein, declare as follows:

1. I provide this supplemental declaration based on my personal knowledge and experience. I am over the age of 18 and competent to make this declaration, and if called as a witness, I could and would testify competently to the matters stated here. I am the President, Chief Executive Officer, and Co-Founder of the Asbestos Disease Awareness Organization (ADAO) and the widow of the late Alan Reinstein, who died from mesothelioma caused by asbestos exposure. I submit this supplemental declaration to describe my personal ongoing exposure to asbestos and the ongoing risk of exposure I face as a result of the gaps in the EPA TSCA Part 1 chrysotile asbestos rule at issue in this case.
2. As ADAO's President and CEO, my work is not limited to organizational management and advocacy. I conduct personal field research in asbestos-affected communities and at asbestos-using facilities and hold educational meetings with workers, survivors, and their families. These activities regularly bring me in person to contaminated sites, fence line

communities, and operating asbestos-using facilities. The facility visits and community visits described in this declaration occurred in the course of that work.

3. ADAO has a network of more than 50,000 supporters, partners, scientists, medical and public health professionals, industrial hygienists, asbestos abatement experts, firefighters, emergency responders, industrial workers, fence-line community residents, and families affected by asbestos disease. In ADAO's early years, my husband Alan and I personally funded the organization. Soon, other families affected by asbestos-related diseases donated their time and money to support our shared mission and vision. Today, ADAO's supporters contribute financially to ADAO, participate in its campaigns, conferences, and advocacy, and rely on ADAO to represent their interests before Congress, federal agencies, and the courts.
4. My personal commitment to this work is rooted in the loss of my husband, Alan Reinstein, who was exposed to asbestos and died from mesothelioma. His asbestos-caused cancer and death led me to co-found ADAO in 2004 and to travel to asbestos-affected communities, waste sites, and facilities.
5. On June 4 and 5, 2015, I traveled to Ambler, Pennsylvania, following my presentation at the National Occupational Safety and Health annual conference in Maryland. On June 5, I toured the community, walking through the borough, around the Ambler Asbestos Piles Superfund site, along the Wissahickon Creek, and along the perimeter of the BoRit Asbestos Superfund site, accompanied by a United States Environmental Protection Agency representative. During this visit, I personally collected suspicious fibrous debris found between the Ambler Asbestos Piles Superfund site and the BAST parcel. That debris was submitted to Apex Research, Inc., a Michigan laboratory accredited to

ISO/IEC 17025:2005, which reported that the material contained 60 percent chrysotile asbestos. This visit and its findings became the basis for an ADAO community gathering in Ambler on August 17, 2015. My visit to Ambler, including the personal collection and laboratory confirmation of chrysotile asbestos in debris, illustrates the nature of the field research I conduct as a core part of my work on behalf of ADAO's network.

6. From August 22 to 24, 2022, I traveled to Louisiana with documentary photographer Earl Dotter to conduct research at chlor-alkali facilities that still use chrysotile asbestos diaphragms. During that trip, we visited four operating facilities: Occidental Chemical in Hahnville, Occidental Chemical in Convent, Westlake Chemical in Plaquemine, and Olin Corporation in Plaquemine. We also attended a community educational meeting in New Orleans for workers and families employed by these chlor-alkali plants. During the visit, we traveled both by car and on foot, walking along the Mississippi River and through the fenceline communities adjacent to these operating facilities.
7. As a result of my visit to the Ambler Superfund site and my field research and facility tours at the Louisiana chlor-alkali plants near New Orleans, I was present in the immediate vicinity of multiple operating asbestos-using facilities and contaminated sites, where I could be exposed to asbestos fiber releases. I intend to continue visiting these and other facilities, as well as nearby fenceline communities, as part of my ongoing field research and community educational workshops.
8. In June 2023, I traveled to Libby, Montana, for a two-day field research and community visit from June 6 to 7, 2023, accompanied by documentary photographer Earl Dotter. Libby is contaminated with Libby amphibole asbestos fibers, including tremolite, actinolite, winchite, and richterite, released during decades of W.R. Grace vermiculite

mining and still present in the soil and environment throughout the community, including along the river and rail corridor. During the visit, I met with staff and patients at the Center for Asbestos Related Disease (CARD) and with asbestos survivors and their families; participated in a photo tour of contaminated sites in and around the town; walked on foot along the Kootenai River corridor where the railroad runs through Libby, a route historically associated with the dispersal of vermiculite and amphibole asbestos throughout the community; attended an EPA public meeting on the ongoing public health emergency and mitigation efforts at the Libby Superfund site; attended a community gathering at the asbestos memorial pavilion at Riverfront Park; and visited the Libby cemetery. A press release issued on June 6, 2023, documented the visit and its purposes. During my visit, I was present on foot at multiple locations in and around Libby, *where I was at risk of exposure to these non-chrysotile asbestos fibers*. The EPA Part 1 rule at issue in this case does not address non-chrysotile asbestos fiber types, including the amphibole fibers present throughout Libby. It also only addresses six chrysotile conditions of use and fails to restrict other current or reasonably foreseen conditions of use of chrysotile and the other five fibers. These serious gaps in the rule open the door to substantially increased uncontrolled exposure to asbestos at industrial facilities, waste sites, residences, and other buildings and communities, with accompanying increased risks of asbestos-related death and disease. Unless the Part 1 rule is strengthened, my personal exposure to asbestos during my field research will increase, along with risks to my health.

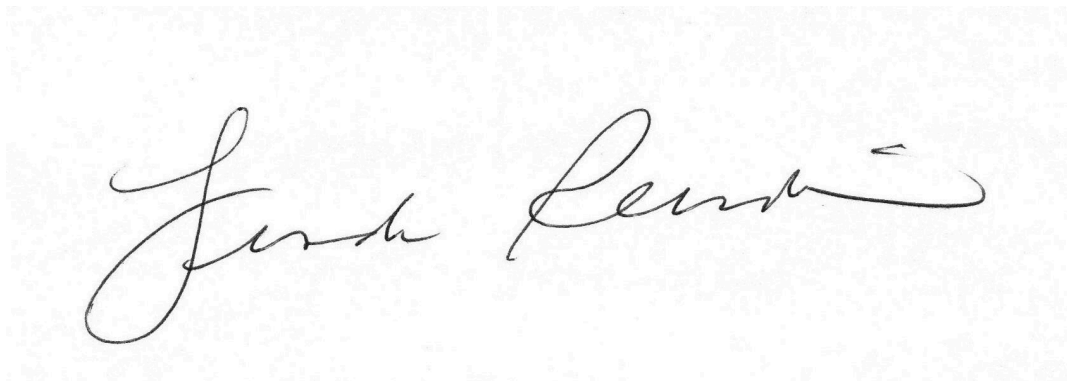
9. As part of my ongoing work, on April 1, 2026, I directed and signed a letter on behalf of ADAO to the Consumer Product Safety Commission and the Environmental Protection

Agency urging federal regulators to test children's toys and craft materials containing sand or mineral fillers sold in the United States for asbestos contamination, after similar products sold in Australia and the United Kingdom had been recalled due to confirmed asbestos contamination. ADAO's letter also requested that the agencies evaluate whether current safety standards adequately address the risk of asbestos contamination in products containing natural mineral materials. On May 21, 2026, the CPSC announced a recall of more than 121,000 Orb Funkee sand-filled squeeze toys (CPSC Recall No. 26-499), sold at Walmart and Ollie's Bargain Outlet stores nationwide, after testing identified fibrous tremolite asbestos in the sand filling inside the products. Tremolite is a non-chrysotile asbestos fiber type. The EPA TSCA Part 1 rule at issue in this case does not regulate tremolite or other non-chrysotile asbestos fiber types. ADAO's April 1 warning and the CPSC's May 21 recall together confirm that the rule's failure to regulate all asbestos fiber types creates real, documented pathways of exposure, including for children, that the current rule leaves unaddressed.

10. If the Court grants the relief that ADAO and the other petitioners seek, including shortening the chlor-alkali phase-out period, requiring controls on asbestos releases near these facilities, and requiring EPA to address all asbestos fiber types and uses, the asbestos exposure and risk I face during my ongoing field research and community visits would be significantly reduced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 8, 2026 in Manhattan Beach, CA.

A handwritten signature in black ink on a light gray background. The signature is written in a cursive style and appears to read "Linda Reinstein".

Linda Reinstein

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 24-60193
(consolidated with No. 24-60281)

TEXAS CHEMISTRY COUNCIL, et al.,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al.,

Respondents.

DECLARATION OF BRENT KYNOCH IN SUPPORT OF PETITIONERS' STANDING

I, J. Brent Kynoch, declare as follows:

1. I provide this declaration based on my experience and personal knowledge. I am over the age of 18 and competent to make this declaration, and if called as a witness I could and would testify competently to the matters stated here. I serve as Executive Director of the Environmental Information Association (EIA), and I have served as an industrial hygienist in the field of asbestos detection, management and abatement for over 40 years. In this capacity, I routinely inspect buildings for the presence of asbestos-containing materials.

2. I am a supporter and member of the network of the Asbestos Disease Awareness Organization (ADAO). I serve ADAO as the Prevention Advisory Board Chair and I routinely provide financial support and in-kind services to the organization. I have been involved and affiliated with ADAO for more than 20 years. I understand that ADAO advocates on my behalf, and on behalf of others in its network, to reduce asbestos

exposure and to strengthen federal limits on asbestos, including in this case. ADAO represents my interests in this proceeding.

3. I work as an industrial hygienist and an association executive and, through my role at EIA, work alongside and represent abatement contractors, industrial hygienists, and environmental health professionals whose work regularly brings them to renovation and demolition sites and older buildings where asbestos may be present. In my own work as an industrial hygienist, I conduct personal air monitoring by wearing sampling devices in my breathing zone during active asbestos work, collect area air samples while asbestos-containing materials are being disturbed, physically handle asbestos-containing bulk samples for laboratory analysis, and perform clearance testing after abatement is complete. Each of these activities places me in direct proximity to asbestos fibers that may be released. While I take precautions to limit my exposure, releases of asbestos fibers often occur, which may pose risks to me and my colleagues, construction workers, residents, bystanders, and building maintenance and repair personnel.
4. Right now, our ability to manage asbestos safely depends on our knowledge of the asbestos-containing products and materials that were historically installed in building structures and equipment. From experience, we have learned where these products are found, the conditions under which they release asbestos, the fiber types released, the asbestos concentrations measured from these releases, and how to handle the asbestos safely.
5. I understand that, while the EPA TSCA Part 1 asbestos rule prohibits a small number of chrysotile-containing products that are currently in use, it does not prevent the import and use of products containing other asbestos fibers, or of other chrysotile-containing

products that are not now in use but could be imported and used in large quantities in the future.


6. If these products were to be imported from other countries that now mine and use asbestos, they could be widely used in ongoing and future building construction, in repairs and renovations of existing buildings, and in articles used for a variety of consumer and industrial applications.
7. This would create new sources of asbestos exposure at building sites and at commercial and residential structures that are now asbestos-free, and would create additional pathways of exposure and risk for myself and the professionals I work with and represent.
8. Asbestos professionals like myself and my colleagues would therefore face new challenges and new pathways of exposure that could increase the risks to our health. As industrial hygienists and abatement specialists encounter new asbestos fiber types and new product sources in the field, our existing knowledge base and protective protocols may not be sufficient to manage these novel risks safely.
9. My ability as an industrial hygienist to protect myself and others depends on being able to identify and measure the asbestos fibers I encounter in the field. Our current analytical methods, reference standards, and protective protocols are calibrated to the asbestos-containing products and fiber types that are known to exist in the built environment. If products containing other asbestos fiber types or new asbestos-containing product matrices were to enter the market as a result of the gaps in the current rule, I and my colleagues could encounter asbestos that we cannot reliably identify or measure with

existing instruments and methods, creating hidden exposure risks that current protocols are not designed to prevent.

10. If the Court grants the relief that ADAO and the other petitioners seek and requires EPA to restrict the importation and use of all asbestos fibers and of chrysotile-containing products not now in use, these new sources and pathways of exposure would be prevented, and the risks that I and my colleagues would otherwise face in our work would be reduced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 6, at Chevy Chase, MD



J. Brent Kynoch

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 24-60193
(consolidated with No. 24-60281)

TEXAS CHEMISTRY COUNCIL, et al.,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al.,

Respondents.

DECLARATION OF DAWN FANNING IN SUPPORT OF PETITIONERS' STANDING

I, Dawn Fanning, declare as follows:

1. I provide this declaration based on my personal knowledge and experience. I am over the age of 18 and competent to make this declaration, and if called as a witness I could and would testify competently to the matters stated here. I have been displaced from my home since January 2025 due to the Eaton Fire and am currently residing in South Pasadena, CA.

2. I am a supporter and member of the network of the Asbestos Disease Awareness Organization (ADAO). I've known Linda Reinstein, ADAO President, for almost a year, when we met at a non-profit conference. Since that time, I have maintained an ongoing professional relationship with the organization, tracking its advocacy work and sharing updates on environmental testing and community health efforts in Altadena following the Eaton Fire. I am a subscriber to ADAO's communications and have corresponded directly with ADAO leadership regarding our parallel efforts to address asbestos exposure risks. I understand that ADAO advocates on issues that directly affect me and others in my community, and I support its mission to reduce asbestos exposure and strengthen federal protections. ADAO represents my interests in this proceeding.

3. In January 2025, the Altadena wildfires destroyed or severely damaged homes and structures throughout my community, including my own home. I was forced to leave my home in January 2025 and have been unable to return. As of the date of this declaration, I have been displaced from my home for more than seventeen months.
4. Asbestos abatement is actively occurring throughout my community. Asbestos was widely used in the construction of many homes and is now present in the extensive waste and debris that remained after these homes were destroyed by fire. Because this debris was deposited in and around my home during the fires, abatement is required to remove asbestos contamination before I can return to my home. Older structures destroyed or damaged in the fires contained legacy asbestos-containing materials, and the abatement process involves the disturbance and removal of those materials in my home and in properties throughout my neighborhood. Although abatement has not yet commenced at my home, it will be necessary: an industrial hygienist conducted testing at my property following the Eaton Fire and confirmed the presence of chrysotile asbestos. The abatement process has been delayed pending resolution of my insurance claim. Once my claim is settled, abatement will proceed.
5. Repair and reconstruction of fire-damaged structures is now underway in my community less than ½ mile from my home. New building materials are being brought into the neighborhood and used in the reconstruction of homes and other structures. I do not know the source of all materials being used in this reconstruction, and I have no assurance that they are free of asbestos.
6. I understand that the EPA TSCA Part 1 asbestos rule does not prevent the importation and use of products containing asbestos fiber types other than chrysotile, and does not prevent the importation and use of chrysotile-containing products not currently in use that

could be imported in large quantities in the future and incorporated into building materials. If such products were imported and used in the reconstruction of fire-damaged structures in my community, they would introduce new sources of asbestos exposure into a neighborhood that is already undergoing intensive construction activity and is where I will return to live.

7. When I return to my home, I will be living in a community where reconstruction activity is ongoing and where new building materials of uncertain origin are being incorporated into structures around me. The EPA rule's failure to restrict all asbestos imports and uses means that I and my neighbors could be exposed to new asbestos through these reconstruction materials, in addition to the asbestos already present in the community from the fires.
8. If the Court grants the relief that ADAO and the other petitioners seek and requires EPA to restrict the importation and use of all asbestos fibers and of asbestos-containing products not now in use, the risk that new asbestos-containing materials will enter the reconstruction supply chain in my community would be reduced, and the ongoing risk of asbestos exposure I face as a displaced resident returning to a community under reconstruction would be reduced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 6, 2026 in South Pasadena, CA.



Dawn Fanning

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 24-60193
(consolidated with No. 24-60281)

TEXAS CHEMISTRY COUNCIL, et al.,

Petitioners,

v.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al.,

Respondents.

**DECLARATION OF ROY H. TAYLOR III IN SUPPORT OF PETITIONERS'
STANDING**

I, Roy H. Taylor III, declare as follows:

1. I provide this declaration based on my personal knowledge. I am over the age of 18 and competent to make this declaration, and if called as a witness I could and would testify competently to the matters stated here. I am a licensed architect and the Principal of RT3 Architects in Canton, Georgia. I have practiced architecture for nearly fifty years; I am a LEED Accredited Professional. A focus of my practice is sustainable design and healthy, low-maintenance building
2. My wife Sue Ann and I are long-time supporters of the Asbestos Disease Awareness Organization (ADAO). Since 2007, our family has contributed a substantial amount of time and effort to assisting ADAO in carrying out its objectives. For example, Sue Ann has often supported ADAO by ADAO by assisting in recording conferences and helping to create educational films. Reducing environmental and building-related health hazards has been a sustained commitment of my professional and civic life, including my work as a LEED Accredited Professional and my work on environmental issues spans my

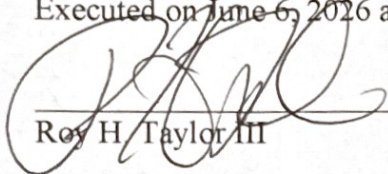
professional, civic, faith community and my personal life. I understand that ADAO advocates on my behalf, and on behalf of others in its network, to reduce asbestos exposure and to strengthen federal limits on asbestos, including in this case. ADAO represents my interests in this proceeding.

3. My practice includes working with historic and old buildings that are known or suspected of containing asbestos and other harmful materials and I am requested to evaluate such situations from time to time. A significant part of my practice involves working with contaminated structures, including existing and older buildings that are known or suspected to contain asbestos and other hazardous materials. Many historic and older buildings are known to contain asbestos and other harmful materials.
4. In the course of this work, asbestos-containing materials may be present and can be disturbed during assessment, renovation, and demolition. As a result, I am exposed and remain at risk of exposure, to asbestos in my work.
5. I understand that, while the EPA TSCA Part 1 asbestos rule prohibits a small number of chrysotile-containing products that are currently in use, it does not prevent the import and use of products containing other asbestos fibers, or of other chrysotile-containing products that are either now in use or could be imported and used in large quantities in the future.
6. If such products were imported from countries that still mine and use asbestos, they could re-enter the building-materials supply chain and be incorporated into new construction and into the repair and renovation of existing buildings, including buildings I design, specify materials for, and visit in the course of my work.

7. This would create new sources of asbestos exposure at building sites and in structures that are now asbestos-free, and would expose me to new pathways of asbestos exposure in my work as an architect that could increase the risks to my health.
8. If the Court grants the relief that ADAO and the other petitioners seek and requires EPA to restrict the importation and use of all asbestos fibers and of chrysotile-containing products not now in use, these new sources and pathways of exposure would be prevented, and the risk I would otherwise face in my work would be reduced.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 6, 2026 at Winchester, VA



Roy H. Taylor III