



ADVISORY

DRAFT A/C PIPE ADVISORY

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FEBRUARY 28, 1992

PLAINTIFF'S EXHIBIT

CT-1480

EPA ACCEPTS REVERSAL OF ITS BAN ON ASBESTOS CEMENT PIPE DOES NOT SEEK SUPREME COURT REVIEW

The Environmental Protection Agency has decided not to seek Supreme Court review of the U.S. Court of Appeals for the Fifth Circuit's decision of October 18, 1991 overturning the Agency's 1989 regulation which would have banned the manufacture of asbestos cement pipe in 1996. The deadline for filing a request for review passed yesterday.

Earlier, EPA had filed a motion for a rehearing with the Fifth Circuit Court; however, the Agency did not ask that the Court amend its final result but rather that the Court determine a different justification for that result. This motion for rehearing was denied by the Court on November 27, 1991.

With the above occurrences, the cloud of a prospective ban on the manufacture of a/c pipe has been removed completely. EPA has no further legal recourse; the Agency's ban regulation dated July 12, 1989 no longer exists; it has been wiped off the books.

The Court's basis for reversing the EPA ban on asbestos cement pipe is summed up below:

1. The minimal exposures to asbestos during manufacture and installation present no risk that justifies its ban.
2. Alternative pipe materials - polyvinyl chloride and ductile iron - pose their own risks, which may be larger than any risks posed by a/c pipe.
3. Failure to consider less burdensome controls versus a ban.

The a/c pipe industry is gratified that the continued use of its product has been fully vindicated as a result of this long rulemaking and legal process. The tarnish of the EPA Ban has been removed and the reputation of a/c pipe as "the value engineered pipe" has been restored.

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FEB 26 1992

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