

"The opinion doesn't bestos," said Linda Fisher, administrator. She said the siding whether to appeal beef up its analysis to satisfy cited by the appeals court or regulation.

But the ruling, providing news for the asbestos industry manufacturers' hopes that it can be avoided in favor of tougher and installation restrictions to keep the products on the market.

A portion of the asbestos ban effect, but the ruling can temporarily stave off a 1994 asbestos friction products, including new cars, and most industrial the last batch of products banned by 1996, with distribution by 1997, and includes replacement asbestos-cement pipe used in water and sewer lines, coatings, and shingles.

The court also bolstered its stance that the costs of banning asbestos products are excessive compared to health benefits. It singled out banning asbestos pipe as the most costly, at a cost of \$227 million, or about \$70 million for each life saved.

"EPA, in its zeal to ban asbestos products, basically ignores the economic effects" of the Toxic Substances Act, which specifically requires a balance of costs and benefits, the court said.

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Court Voids EPA Ban On Asbestos

Agency Criticized For Ignoring Costs

By Michael Weisskopf
Washington Post Staff Writer

A federal appeals court yesterday struck down the Environmental Protection Agency's ban on products containing asbestos, criticizing the agency for failing to take into account the health risks posed by substitutes and the high costs of prohibiting the ubiquitous but deadly mineral.

The ruling by the 5th U.S. Circuit Court of Appeals has far-reaching implications for regulation of toxic substances, according to industry and environmentalist lawyers. It took 10 years of study and political wrangling to put the ban into effect and involved a substance for which more compelling evidence of human dangers has been compiled than for any other.

"The ruling calls into question our ability to regulate chemical-by-chemical in an efficient way," said assistant EPA administrator Linda Fisher. "We thought we made a strong case with asbestos because of the documented health risks and the substitutes that are available. The court is saying it's not strong enough."

Fisher stressed that while the opinion criticizes the EPA's regulatory methods, it "does not exonerate asbestos." She said no decision on appeal has been made.

When the EPA imposed the ban in 1989, it concluded that asbestos posed an "unreasonable risk" to health and the environment. The agency estimated that 202 lives could be saved over a 13-year period by eliminating the fireproof fibers in such products as auto brake linings, fireproof clothing, cement, building materials and insulators.

Asbestos dust was identified as a pulmonary irritant in the 1930s, and by the 1960s, was widely accepted to be a leading cause of lung scarring and lung cancer in workers closely and regularly exposed to it.

The EPA made asbestos the primary target of its Toxic Substances Control Act (TSCA), passed in 1976 to limit the environmental risk of commercial products. The agency is called on to "protect adequately" against "unreasonable risk" to health or the environment. But its authority is limited by the economic consideration to achieve the mandate by "using the least burdensome requirement."

Ruling in an appeal by the asbestos industry, the court said that in seeking the least burdensome requirement, the EPA failed to balance the estimated costs of the regulation against the presumed benefits. The court cited estimates that a ban would cost \$800 million in lost business and consumer costs of replacements.

The court pointed out, as an example, that the proposed ban of asbestos pipe could spare three lives over the next 13 years at costs to society as high as \$227 million, or \$76 million per life. Prohibiting asbestos shingles would cost up to \$106 million for each life saved.

"While we do not sit as a regulatory agency that must make the difficult decision as to what an appropriate expenditure is to prevent someone from incurring the risk of asbestos-related death, we do note that the EPA, in its zeal to ban any and all asbestos products, basically ignored the cost side of the TSCA equation," said the judges.

Contending that "such high costs are rarely, if ever, used to support a safety regulation," the court said, "if we were to allow such cavalier treatment of the EPA's duty to consider the economic effects of its decisions, we would have to excise entire sections and phrases from the language" of the law.

On the issue of substitutes, the EPA was faulted for failing to evaluate the health effects of asbestos replacements, even though some of the probable substances are themselves cancer-causing.

"Considering substance will asbestos effects, to assure the least but cannot regulations safety," the Edward the trade union Association.

However for a special victims, the EPA can effect if it failed to

"If you are going to be substances [a question]

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