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BEFORE THE
ENVIRONMENTAL PROTECTION AGENCY

ASBESTOS; PROPOSED MINING AND IMPORT
RESTRICTIONS AND PROPOSED MANUFACTURING,
IMPORTATION, AND PROCESSING PROHIBITIONS.

40 CFR Part 763

Docket Control No. OPTS-62036

TESTIMONY OF PEL-PRO INCORPORATED,
MCCORD GASKET CORPORATION, SUBSIDIARY OF
EX-CELL-O CORPORATION and VICTOR PRODUCTS
DIVISION, DANA CORPORATION

July 22, 1986



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Mr. Chairman and Panel Members:

My name is Ken Lehman, and I am President and Chief Sales and Marketing Officer of Fel-Pro, Incorporated, located in Skokie, Illinois. Accompanying me today are Eugene R. Field, President of McCord Gasket Corporation, subsidiary of Ex-Cell-O Corporation, located in Detroit; Richard B. Forde, Vice President and General Manager of Victor Products Division, Dana Corporation, located in Lisle, Illinois; Don McDowell, Fel-Pro's Technical Director; Richard Russell, Vice President-Engineering of McCord; and Marc Fleischaker, our attorney. These gentlemen will help answer any questions which the panel has following my prepared remarks.

Fel-Pro Incorporated, McCord Gasket Corporation, subsidiary of Ex-Cell-O Corporation, and Victor Products Division, Dana Corporation are major manufacturers of gaskets used in exhaust systems and turbochargers, cylinder heads, intake manifolds, and engine and gear cases. We have brought along some examples of these products for the Panel's review. Historically, the qualities requisite to a satisfactory gasket product -- heat resistance, chemical inertness, and service life longevity -- have been best achieved by the use of materials containing asbestos.

Gaskets, while clearly addressed by the proposed rule, have received little attention either in public comments submitted on the proposal, or in these hearings.

Nevertheless, the proposal would have a significant impact on each of our companies, and we believe that it will be useful for the EPA to have our perspective on the proposed regulation.

We support the EPA's desire to eliminate asbestos from the marketplace. In our testimony today we will discuss why we have reached this conclusion, and provide alternate suggestions as to how this goal can be met for gaskets.

It might be useful initially for us to provide some background information about why we are testifying as a group. Some two years ago, it became evident during informal conversations at various industry meetings that each of our companies was concerned about the use of asbestos in our products. While we have no evidence whatsoever that the use of asbestos in automotive gaskets has ever caused health problems either in our own workplaces or among persons who work with motor vehicles, our companies independently had reached the conclusion that the use of asbestos should be eliminated. There were two reasons for this conclusion. First, asbestos had obviously become a societal concern, and we therefore felt a social responsibility to deal with its use. Second, we recognized that the failure to deal with this issue could, in the longer run, lead to worker dissatisfaction and increasing litigation for which liability insurance will be prohibitively expensive or unavailable.

Because of these mutual beliefs, our three companies have met several times during the past two years -- with legal counsel present -- to discuss issues connected with the phasing out of asbestos. In addition to monitoring governmental activity, we have exchanged information about the reactions of some of our major customers to the elimination of asbestos, the incentives which may be available from insurance companies to eliminate asbestos, and the availability of substitutes for particular applications. We believe that our discussions have been fruitful, and they are continuing.

During the intervening two years, our companies' desire to deal progressively with the asbestos situation has not waivered.

Our companies have independently committed themselves to removing asbestos in gaskets, and have made substantial progress in doing so. Fel-Pro, McCord and Dana are all converting from asbestos to substitute products, as early as such a conversion is feasible. This conversion is very expensive in retooling and other costs. While the conversion is not and will not be at the same time for all three companies for each product, it will be based upon the ready availability of substitutes which are fully functional in the applications in which they are used, and the ability to offer the substitutes at competitive prices. Needless to say, it

does no good to switch to asbestos substitutes if our customers won't buy them either because of cost or their inability to function properly.

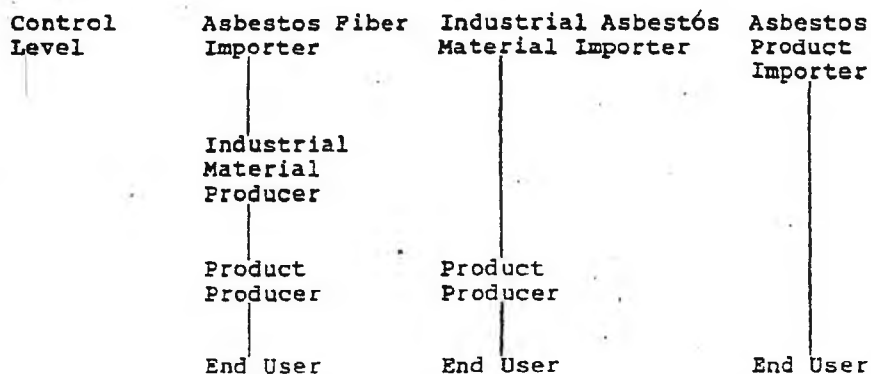
The phasing out of asbestos should not be a competitive issue. Presumably it should be done as a matter of public health. We are concerned, however, that the proposed regulation would make the decision whether or not to continue to use asbestos a competitive one, and would even have the effect in some cases of encouraging its use. This situation, of course, should not be tolerated.

Specifically, we are concerned that under a permit system as proposed, companies such as ours would suffer a severe competitive disadvantage in the market (because of the higher cost of substitutes), while manufacturers and importers not yet committed to conversion would enjoy a distinct marketing advantage; these firms could sell their asbestos product at far lower prices than we could sell our substitute products. Moreover, they would have access to significant amounts of asbestos from a variety of sources. They can apply for their allocated amounts; or they can import cheaper asbestos products; they can negotiate for additional amounts under the proposed permit transfer provision; and, finally, they can stockpile still more under the proposed banking provision. Under the permit system, a company could even increase its use of asbestos for

short-term competitive reasons. This would serve neither the interests of the regulation, nor the interests of the more responsible companies which are reducing asbestos use.

The permit system as presently proposed will not reduce asbestos use in gaskets as anticipated. We are concerned that the availability of permits which are marketable and freely transferable will actually slow down the ultimate elimination of asbestos, and undercut the underlying purpose of regulation. There may even be more asbestos available for various products, such as gaskets, because of the elimination of asbestos from other products, and the ability of those permit holders to sell their rights to use asbestos. Instead of searching for substitute products, users will be encouraged and permitted to continue using asbestos. If anything, the approach adopted by EPA should reward firms which phase out asbestos more quickly than required, and penalize those which delay.

Perhaps this concern can be illustrated by the following chart:



Under the proposed regulation, the EPA control would always be on the importer. While this may be efficacious from the EPA standpoint, it threatens to cause havoc in the gasket industry, and presumably in other product categories as well. The competitive dislocations at the product producers level could be severe.

Under the proposal, the controlled party could be an importer of asbestos, an importer of asbestos sheet for subsequent use in gaskets, or an importer of gaskets. Under the proposal, if during the phase-down period the asbestos importer reduced the level of his imports, he could sell the right to import additional asbestos to an actual gasket manufacturer. Or, the reverse could happen: the importing gasket manufacturer could reduce the use of asbestos, and sell his allocated or "banked" share to either an asbestos importer or the importer of sheeting material. We do not believe this is a logical way to reduce the use of asbestos, and we believe that it would injure domestic gasket manufacturers -- such as ourselves -- who are switching to substitutes, and inevitably charging higher prices as a result. Why should a gasket importer be allowed to increase

his use of asbestos as a direct result of the aggressive elimination of asbestos by a domestic manufacturer, and thereby gain a price advantage over domestic producers? We do not believe this is a logical way to regulate.

Our concern is heightened by the cost advantages currently enjoyed by foreign producers of gaskets. These cost advantages have been exacerbated by the new OSHA regulations which are applicable only to domestic producers and which will require expensive plant modifications. The EPA proposal threatens to provide even more advantages to the foreign producers. The U.S. government should do all that it can to avoid this result.

For all of the above reasons, we support a regulation based upon product group categories. This regulation should contain specific dates after which asbestos may not be used in products manufactured in or imported into the United States. This restriction need not apply at the customer or installer level, since that use will automatically be eliminated a relatively short time after importation or manufacturing is halted.

What should that timetable be? Our companies are moving to asbestos-free products as rapidly as technology and competition will permit. To use substitutes prematurely -- before they are proven safe and effective -- would amount to

exposing the public to safety risks and potentially higher warranty and product repair costs.

Insofar as gasketing material is concerned, costly substitutes are now available -- or soon will be -- for many gasket applications. Gaskets are produced in a variety of shapes, sizes, and compositions accommodating thousands of specific end uses, with each being put to different temperature and operating conditions. To accommodate reasonably all manufacturers, including the lead time required for engine and vehicle manufacturers to plan for and field test changes, we have recommended that three years be given to eliminate asbestos from gaskets used in an engine environment in which the highest operating temperature is under 400°. Where the operating temperature is between 400° and 750°, we recommend five years. Where temperatures exceed 750°, elimination of asbestos will take longer, and we recommend eight years. Our research to date has yielded no adequate substitute for all applications at these high temperatures. These time periods for a ban should apply universally to both original equipment and in the aftermarket.

Our proposal would result in gaskets being in excess of 90 percent asbestos free within five years. Details on this calculation are provided in the appendix to this testimony.

* * *

In short, our companies do not quarrel with the EPA objective of eliminating the use of asbestos in gaskets. We do take exception, however, to the method chosen to effectuate a phase-down, and believe that a complete ban on importation and manufacturing on a date certain would be a preferable approach.

We appreciate this opportunity to present our views on the EPA proposal. My colleagues and I will be pleased to try to answer any questions which you may have.

APPENDIX A

GASKET ENVIRONMENT PROFILE

<u>Gasket Environment</u> (1)	<u>Application Description</u> (2)	<u>Relative Material Req.</u> (3)	<u>Relative Product Mix</u> (4)	<u>Weighted Usage</u> (3x4)	<u>% Total Of Usage</u> <u>Appl. Cum.</u>	
Under 400°	Intake Manifold*	x1	67	67	17%	17%
400-750°	Cylinder Head	x3	100	300	75%	92%
Above 750°	Exhaust	x1	33	<u>33</u>	<u>8%</u>	<u>100%</u>
				400	100%	100%

* And other miscellaneous gaskets

RECOMMENDED ASBESTOS BAN SCHEDULEGASKET ENVIRONMENT

	<u>Under 400°</u>	<u>400° to 750°</u>	<u>Above 750°</u>	<u>Program Total</u>	
	3 YRS 17%	5 YRS 75%	8 YRS 8%	<u>AS CALCULATED</u>	<u>SUGGESTED USE</u>
<u>Completion</u>					
<u>Weighted % of Total</u>					
<u>Effective Ban Schedule</u>					
End of:					
Year 1	5.6%	15.0%	1.0%	21.6%	20%
2	5.7%	15.0%	1.0%	21.7%	20%
3	5.7%	15.0%	1.0%	21.7%	20%
4		15.0%	1.0%	16.0%	15%
5		15.0%	1.0%	16.0%	15%
6			1.0%	1.0%	4%
7			1.0%	1.0%	3%
8			1.0%	1.0%	3%
	<u>17.0%</u>	<u>75.0%</u>	<u>8.0%</u>	<u>100%</u>	<u>100%</u>

APPENDIX C

EFFECTIVE ASBESTOS BAN

	<u>EPA PROPOSAL-BAN % CUM</u>			<u>GASKET INDUSTRY PROPOSAL</u>		
	<u>AVG '81-'83</u>	<u>ADJ to '85 Sales</u>		<u>AVG '81-'83</u>	<u>ADJ to '85 Sales</u>	
Index	100	120		100	120	
Year		<u>Index</u>	<u>%</u>		<u>Index</u>	<u>%</u>
1	70%	90/120	75%	20%	40/120	30%
2	73%	93	78%	40%	60	50%
3	76%	96	80%	60%	80	67%
4	79%	99	83%	75%	95	79%
	82%	102	85%	90%	110	92%
	85%	105	88%	94%	114	95%
	88%	108	90%	97%	117	98%
5	91%	111	93%	100%	120/120	100%
9	94%	114	95%			
10	97%	117	98%			
11	100%	120	100%			