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insure that materials purchased do not pose an unreasonable hazard to worker health. The purchasing agent should require that all chemical shipments be accompanied by a material safety data sheet, Port said.

Other jobs the industrial hygienists must do include:

(1) Know what processes materials are going through.

(2) Inventory the control measures used in the plant (ventilation, protective clothing, etc.), and insure that they are adequate and performing up to specifications.

(3) Check emergency controls to insure that if primary systems fail, some backup is provided to protect workers.

Exposures to health hazards should be well documented for two reasons, Port said. First, documentation will show compliance with federal or state standards. Second, records of low exposure may persuade an insurance carrier to lower workers' compensation rates, he said.

Federal Agencies

ASSISTANT LABOR SECRETARY REPORTS FEDERAL JOB SAFETY-HEALTH EFFORTS

ANAHEIM, CALIF. — (By an OSHR staff correspondent) — To upgrade the Federal Government safety program, the Occupational Safety and Health Administration must correct weaknesses, be firm about objectives, and revise guidelines, Assistant Secretary of Labor for Administration and Management, Fred G. Clark, told the Western Safety Congress on May 21.

In his keynote address to the Congress' Regional Federal Safety and Health Conference, Clark outlined some of the OSHA efforts now being made to insure that federal workplaces are safe and healthful.

Perhaps the most significant effort being made is the development of a new executive order to implement more fully the provisions of section 19 of the Occupational Safety and Health Act. Clark outlined some of the provisions of the proposed order (Current Report, January 31, p. 1108), noting specifically that the role of Field Federal Safety Councils will be spelled out in detail. In addition, the criteria for federal agency safety programs will be revised and expanded, he said, in an attempt to insure that the safety and health program will be an important part of each agency's operation.

Field Federal Safety Councils will serve as the focal points for safety and health problems that arise at agency field offices, Clark said. Also, under the proposed new executive order, the field councils will be reconstituted to include representation from agency employees as well as the agencies themselves.

As the leader in federal job safety and health efforts, OSHA and the Department of Labor should be models of effective safety programming, Clark said. This has not been the case in the past, but now Labor Secretary Peter Brennan has charged Clark with responsibility for developing a comprehensive departmental safety and health program that can serve as a model for other agencies. One of the first products of this program was publication of a 16-page safety booklet distributed to department employees, he said. A rehabilitation program for problem drinkers and drug users also is planned.

Clark pledged that the OSHA program would continue until every worker could feel safe on the job.

USA 732033

Litigation

DISTRICT COURT UPHOLDS DECISION AGAINST INSULATION MANUFACTURERS

A label by the manufacturer on packages of asbestos insulation material informing the user that the product "may be hazardous" is not sufficient warning of the gravity of the dangers associated with asbestos to an insulation worker using the product, the U.S. Court of Appeals for the Fifth Circuit ruled.

The ruling, issued on May 13, upheld a judgment for the plaintiff entered in the U.S. District Court for the Eastern District of Texas in *Clarence Borel v. Fibreboard Paper Products Corporation et al* (No. 72-1492).

The suit was brought by the insulation worker against six manufacturers of insulation materials containing asbestos for injuries caused by failure of the firms to warn of dangers involved in handling asbestos. Three of the firms issued no warnings with their products, and the other three issued "cautions" to alert contractor-purchasers of the products.

The defendant firms argued that the plaintiff had known for years that inhaling the asbestos dust was harmful to his health, and that in fact the jury in the original trial had found the plaintiff guilty of contributory negligence because of this knowledge.

The court noted that the three warnings were placed on the products only a few years before the plaintiff's suit. The warning labels, the court stated, constituted only diluted "cautions" which did not suggest the gravity of the risk of exposure, the danger of asbestosis, mesothelioma, or other cancers. The labels stated in essence that breathing asbestos in excessive quantities could be harmful, that the dust produced by the products should not be inhaled, and that respirators should be used where adequate ventilation control was not available. It was shown that the warnings were issued for the contractor-purchasers of the products and that the manufacturers never conducted tests to determine the extent of the danger from usage.

Although there was evidence to show that the plaintiff was aware of possible harmful effects of the dust and that he failed to wear a respirator (which was not required on the job), the court held that contributory negligence in strict liability cases is not a defense "when such negligence consists merely in a failure to discover the defect in the product, or to guard against the possibility of its existence." Only contributory negligence "which consists in voluntarily and unreasonably proceeding to encounter a known danger, and commonly passes under the name of assumption of risk" is a defense in a strict liability suit, the court held.

In affirming the verdict of the district court, the court concluded that there was no compelling evidence that reasonable persons would have concluded that the plaintiff was aware of the risks but nevertheless continued to encounter them.

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