KELLY-MOORE MEMO

Feb Dec 7/5

TO TEXAS DIVISION STORE MANAGERS FROM SVEND STUBB DATE 6/29/78

SUBJECT Asbestos Containing Compounds

In a memo dated 6/9/78, Milton Elms and W. Harrison directed that certain asbestos containing compounds be removed from store inventory, put aside and marked "DO NOT SELL - FOR RETURN TO FACTORY". This directive was issued in order to comply with the Federal Laws which became effective June 16, 1978. The 12 products affected by these Federal Laws were specified in the memo dated 6/9/78.

This is to advise you that the new laws cover only the products specified in that memo. The laws do not cover Ceiling Textures, Wall Textures, Sand Finish Textures or Texture Paints. Several stores have requested that these products be returned to the factory.

The plant manager has been instructed to pick up from stores only the 12 items specified in the memo dated 6/9/78. If your store is holding any Ceiling Textures, Wall Textures, Sand Finish Textures or Texture Paints for return to the factory, you should place these items back in stock and advise your staff that these items are legal for sale.

SS/hh

Svend Stubb

cc: District Sales Managers
District Store Supervisors
W. Harrison
M. Elms
W. Moore
[redacted]
J. Wismann

67 003

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 10-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.

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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KELLY-MOORE MEMO

TO John Wisman FROM Svend Stubb DATE 11/21/7

SUBJECT PACO PRODUCTIONS

Effective immediately, the Hurst plant should discontinue the manufacture of the following ready-mixed Paco products:

4025	Taping Compound
4051A	All Purpose Compound
4051B	All Purpose Compound
4051N	All Purpose Compound

These products are being discontinued due to the fact that they contain asbestos. These products are to be replaced by 4051D All Purpose Compound which does not contain asbestos.

Please check and determine if the four products being discontinued contain any raw materials which are not used in other formulas. If so, advise me so that we can determine disposition of those items.

When you start manufacturing the asbestos-free formula, the following statement should be shown on the cartons:

ASBESTOS FREE

No Asbestos Has Been Used in the Manufacture of This Product

Until our current supply of cartons has been used up, we will use self-adhesive stickers to apply this statement to the cartons. These stickers have been purchased by San Carlos and a supply is being sent to you.

Svend Stubb

SS/vk

cc: Bill Harrison
Doug Merrill
William E. Moore
Dick Nachlinger

KM-1177-20M

KELLY-MOORE MEMO

TO William E. Moore FROM Svend Stubb DATE 1/23/78

SUBJECT ASBESTOS-CONTAINING JOINT COMPOUNDS

The ban on the manufacture of asbestos-containing Joint Compounds is now in effect and our plants manufacture only asbestos-free formulas. We now have less than 6 months to dispose of asbestos-containing Joint Compounds in stock at our stores.

A recent inventory of all stores showed current stock of asbestos-containing material to be 282,000 pounds of Dry Powders and 7,580 containers of Ready Mix.

We plan to take another store inventory by 4/1/78 and then make plans for disposing of any asbestos-containing material left in stock.

Svend Stubb

SS/vk

cc: Doug Merrill
Dick Nachlinger

KELLY-MOORE MEMO

TO John Wismann FROM Svend Stubb DATE 5/10/78

SUBJECT 4051 READY MIXED ALL PURPOSE JOINT COMPOUND

The Hurst Plant is current manufacturing 4051 Ready Mixed on a D formula. You should discontinue the manufacture of this formula immediately.

You are to start manufacturing 4051 on the A formula for distribution to the Texas Districts and to Denver. Your current manufacturing costs for this formula should be given to Shirley Beavers so that selling prices can be determined.

Svend Stubb

SS/vk

cc: Milton Elms
Wayne Harp
Bill Harrison
J.D. Johnson
Dennis McClintick
Doug Merrill
William E. Moore
John Paris
Jack Tucker
Dennis Wadsworth

1177-20M

PACO TEXTURES MEMO

TO: John Winslow FROM: Doug Merrill December 15, 1976

SUBJECT: ASBESTOS REGULATIONS

Please find attached, copies of the latest regulations governing asbestos use. Attachment number 1 is the reason for the return of asbestos use in ceiling texture.

There still exists Federal Occupational Health and Safety Standards (Attachment #2) and State Industrial Safety Orders (attachment #3) that require both the manufacturer and the contractor to comply with various standards.

Effective January 1, 1977 the State of California will classify asbestos (and vinyl chloride) as a cancer-causing carcinogen. This will establish standards and restrictions that will also effect the sale and transportation of products containing asbestos. This information is attached as number 4.

The National Resources Defense Council, Inc., has action underway (attachment #5) to ban consumer patching compounds that contain asbestos. In addition, we could be judged liable in a suit where a person exposed to our asbestos containing product that developed cancer related injury or death.

I believe I can improve the pumping, wipe down and flow problems that are now reported, but this could increase the chance of fall out. Also, I feel that psychologically our salesmen and some customers will always feel that a non-asbestos product is insuperior to one with asbestos.

We have been making a limited amount of ceiling texture (6373L 32# and 6374H 40#) with asbestos for out of state customers. It might be best to sell those customers that now prefer Hamilton with the asbestos product and have them state on their purchase order that they acknowledge and require the asbestos type. Meanwhile, we can continue to improve the non-asbestos type putting us ahead by July 1, 1978.

DWM/jlb

Attach. (37)

cc: W.E. Moore

47 225

PACO PRODUCTION MEETING
September 30, 1974

PRESENT: John Brown, Don Marquardt, Doug Merrill, Bob Miller, Bill Moore, Wes Wessel

1. Bill Moore will meet with Bob Farros this week and finalize approval on the Paco Product Brochure so that we can proceed with the printing.

2. After a review of our costs and other information concerning selling prices of our competitors, we have decided to announce a price increase on October 15 to be effective October 25, which will be the start of the new month's billing for November. This will include tape, as well as Paco joint compound and texture products. Doug Merrill is refiguring the Ontario costs and Wes Wessel will set up new proposed price increases for approval prior to October 15.

3. The change in our acoustic formula using a different form of asbestos instead of titanium has worked out very well in our field tests. We have had no complaints and some customers actually like it better. It has resulted in a lower cost for us; therefore, it has been agreed that we will make this change in the formula and not indicate it on the bag. However, we will be making some batches of the old material until the present raw material supply is used up. Because of this decrease in cost, we will not have to increase the price on our acoustic when we make the next price increase. This applies to 6373 "B" and "L" formulas only.

4. Doug Merrill and Wes Wessel have been checking into various types of cartons to determine if we could either get a cheaper carton or a stronger one, perhaps at the same price. It appears that it is going to be difficult to save any money on cartons because of the scarcity of the product; however, Doug has had some information that indicates we may get a stronger carton out of a single-wall type, instead of the double-wall we are now using, which would give us more strength for stacking purposes.

5. Because of the continued price increases, our 4001 and 4101 Ready Mix Joint Compounds have become prohibitive and most of the business has been lost, except for a little that the stores sell to small consumers. Therefore, we believe that it is not necessary to make this for the stores, since they can sell our regular 4051 and 4151 for the same purpose and at a lower cost. Bob Miller will advise John Winslow and Thelma Smothers of this, so that they can change our order forms. We will then discontinue those two items (4001 and 4101). Doug will also have the label changed on the 13 lb. pail on his next order. In the meantime, we will fill any orders for this with the 4051 product and the 13 lb. pail will be added to the sizes stocked in the 4051 series.

6. The next meeting will be Monday, November 25.

42 057

cc: Biddle, deVries, Fuhrman, Harrison, Hogue, Holland, Killstrom, Lambert, Mocon, Nesmith, Skaggs, Winslow

DRYWALL INDUSTRY TRUST FUN
"For the Advancement of Drywall in California"
9300 SOUTH SEPULVEDA BOULEVARD · SUITE 712
LOS ANGELES, CALIFORNIA 90045
PHONE (Area Code 213) 776-4555

PLAINTIFF'S EXHIBIT
KM-48

June 6, 1972

PHS 24
1-1-84 mtg
Merrill

Mr. Walter Pickens, President
PECO-TEXTURES
1057 Commercial Street
San Carlos, California 94070

Dear Mr. Pickens:

At a recent meeting of the General Executive Board Meeting of the Painters, held November 8, 1971 in Miami, Florida, Irving J. Seligoff, M. D. , Professor, Mt. Sinai School of Medicine of the City of New York, stated that they had just completed a three-year study on the affects of dust to a worker in the sheetrock taping industry. The study showed that persons who have worked as a taper for seven or more years are quite susceptible to cancer of the lung within the next ten year period.

In view of the recent Occupational Health and Safety Act, the Safety Committee of the Drywall Industry Trust Fund would like to solicit any recommendations or advice that you may have regarding the high incidence of cancer, lung disease, and skin irritation found in workers of the sheetrock taping industry.

Your comments and recommendations will be appreciated. Please forward them to our office, so that we might make them a part of our study on this subject.

Sincerely yours,

Bill Spence

B. W. Spence, Chairman
Safety Committee

BWS:jlw

Walt-
My only comment would be that workers should probably wear approved respirators during spray or sanding operations. The materials classed as toxic used in drywall products would be asbestos and silica. Dust itself can be a problem

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