



INTEROFFICE MEMORANDUM

Oregon Occupational Safety & Health Division

January 31, 2003

TO: Chris Ottoson, Enforcement Health Analyst
FROM: Marilyn K. Schuster, Standards and Technical Resources Manager
SUBJECT: Intent of OAR 437-002-0182 (25) & (26)

The following information was obtained in review of our historical documents by Judy Sugnet, Resource Center Coordinator:

You asked what was intended by the words "A means . . ." in OAR 437-002-0182(25). It appears in the first draft that was archived relating to the original adoption of the "fire fighter" standard that was adopted effective October 1, 1985.

Review of the other codes listed on the Adoption Order, showed matching language in the **Industrial Health & Safety Regulations of the Workers Compensation Board of British Columbia**. Section 68 of their code is titled "Fire Fighters" and Section 68.46 is Identification of Hazardous Locations the code language is as follows:

"68.46. (1) A means shall be provided for identifying premises where explosives, explosive agents, radio-active materials, or other unusually hazardous substances may be encountered by fire-fighters.

(2) In dealing with fires involving hazardous materials, special procedures shall be prepared in advance and made known to all concerned."

There was no reference in any of the archived material other than a note on the adoption order itself that the "Firefighter" codes of Washington, California and British Columbia had been reviewed.

A review of the material in the archival file found no records which related to the drafting

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committee meetings that took place prior to the “proposed” rule and the hearings subsequent to the publication of the “proposed” rule. They had one on the hearing on the rule recorded by a court reporter and that transcript was included in the archival material. That transcript did not have any information relating to the “A means . . .” language. According to a note in the file, all of the other hearings were tape recorded. These tapes are no longer available and a transcription was not included in the file.

The clearest statement about the introductory section is contained in an internal memo, which is undated and does not contain an authors name, but states the following:

“Present Draft

The introductory sentence to this section states that, “a means shall be provided for identifying premises where explosives, explosive agents, radioactive materials, or other unusually hazardous substances may be encountered by firefighters.”

“Comment

“The above sentence would have the effect of requiring the employer to identify previous to any alarm situation, premises where hazardous materials may be encountered by firefighters. In this day and age, hazardous materials can be found in many kitchens in single family residential dwellings, in most basements, garages or storage sheds on residential properties. As such we believe that it would be impossible to meet the wording of this sentence from a practical standpoint. To compound the problem, there is no provision in Oregon Statutes that allow the fire department to enter, for example, single family dwellings, for the purposes of identifying hazardous materials. We believe that the intent of this provision in the Firefighters Safety standards was to identify beforehand, premises that could be expected to house quantities of hazardous materials normally associated with hazardous materials incidents. In effect what we could be expected to identify, would those known locations where a prudent person might reasonably expect to contain a known quantity of hazardous material.”

Following this statement, there are several hand written suggested amendments to the section.

The information archived from the 1993 revision was also reviewed. There was no mention of why they used the “A means. . .” language from the British Columbia Code. A number of written testimony submissions were also reviewed where those sections of the rule were discussed and no one mentioned “A means . . .” in any of their testimony.

The Uniform Fire Code sections cited in the original adoption and in the 1993 amendments to this sections were also reviewed and the “A means . . .” language does not appear in either the 1982 or the 1991 editions of the standard.

Judy contacted Bob Albers of the State Fire Marshall’s Community Right to Know Program and he said that their survey contains all of the information that would be necessary for a fire department to know what hazardous materials are located at a nonresidential location. The Community Right to Know Act was passed during the 1985 Session and the first survey under the Act was implemented in 1986.

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Your second question was why Subdivision L continues to address emergency response to hazardous substances in OAR 437-002-0182(26) rather than making reference to 1910.120. During the 1996 review of 1910 Subdivision L, the subject of emergency response to hazardous materials was discussed and material was added to the subsection under discussion. The minutes from the advisory committee contain no indication that they discussed referencing out to 1910.120 nor is there any testimony in the record on this.