



**Oregon**  
Theodore R. Kulongoski, Governor

**Department of Consumer and Business Services**  
Oregon Occupational Safety & Health Division (OR-OSHA)  
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August 4, 2000

Reviewed: November 25, 2007

Kelly Artieta, Safety Manager  
Foster Wheeler Zack, Inc  
PO Box 349  
Boardman, OR 97818

Dear Mr. Artieta:

This is to correct information which was provided to Mr. Dale Reed in a letter dated April 3, 1995. In the letter which I responded to at that time Mr. Reed indicated that your firm was engaged in construction type activities at PGE's Boardman facility. The question posed was whether construction activities fell under the scope of 1910.269 or 1926. I indicated that construction activity is regulated by Division 3 (1926). This continues to be the case.

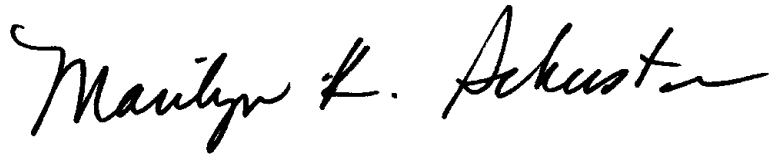
What was apparently not adequately clarified was the distinction between construction activities vs. maintenance work. Maintenance activities are generally defined as making or keeping a structure or its parts in proper condition in a routine, scheduled or anticipated fashion without having to significantly alter the structure or equipment in the process. This definition implies keeping equipment working in its existing state.

In the program directive on the permit required confined space standard (19 10.146) issued by Federal OSHA and adopted by OR-OSHA there is a discussion on the distinction between construction and maintenance in confined spaces. It states that "refurbishing of existing equipment and space is maintenance, reconfiguration of space or installation of substantially new equipment (as for a process change) is usually construction." It goes on to provide a number of examples of maintenance activities including the relining of a tank needing restoration, relining of a furnace with new refractory, and relining of a sewer line using a sleeve.

Given the above definitions and the descriptions of your activities provided by our enforcement staff following a recent inspection, the process of cleaning and welding to maintain the boilers at Boardman would be considered maintenance. As such you would need to follow the requirements of the general industry standards including 1910.146 Permit Required Confined Space.

I apologize for any confusion which this may have caused. If you have any questions or would like to discuss this further please call me at (503) 378-3272.

Sincerely,

A handwritten signature in black ink that reads "Marilyn K. Schuster". The signature is written in a cursive style with a prominent initial 'M' and a long, sweeping underline.

Marilyn K. Schuster, Manager  
Standards & Technical Resources Section  
Oregon Occupational Safety & Health Division