



New OSHA Construction Confined Space Standard is More Prescriptive than General Industry Standard

by Matthew Crouse

"This rule will save lives of construction workers. Unlike most general industry worksites, construction sites are continually evolving, with the number and characteristics of confined spaces changing as work progresses. This rule emphasizes training, continuous worksite evaluation and communication requirements to further protect workers' safety and health."

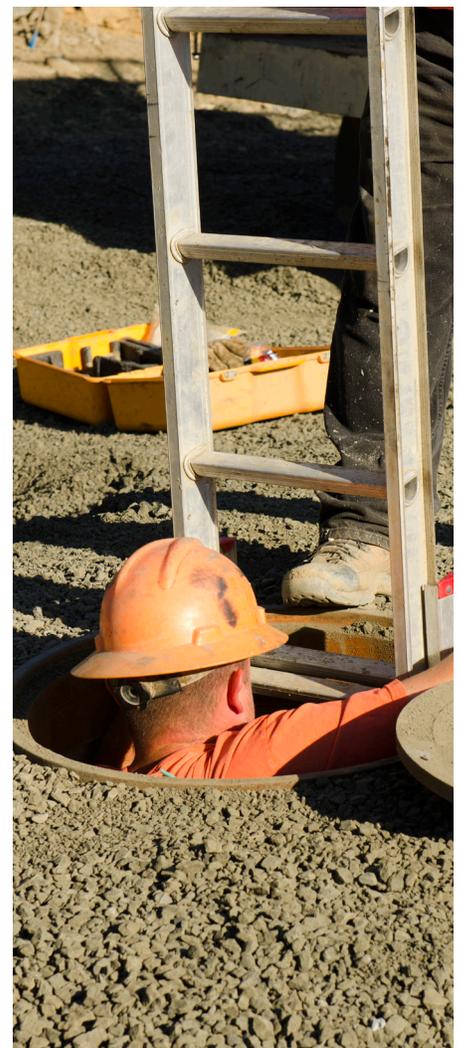
— Assistant Secretary of Labor for Occupational Safety and Health, Dr. David Michaels

OSHA has released the long-anticipated Confined Space Standard for Construction with an effective date of October 2, 2015. It will affect every workplace that performs confined space entries. It is prescriptive and complex, so waiting to review the program until October would not be a wise plan. More specificity will help with understanding compliance but introduces significant new requirements that some will find burdensome and confusing.

In the more than 600 page preamble, OSHA goes through great lengths to explain and justify the new regulation by lives saved, injuries avoided, and implementation cost. There is also ample discussion and response from the public comment period. The end result is the new subpart AA that will be found in 29CFR1926.1200 and is more than simply a reprint of 29CFRR1910.146 that is used for general industry permit required confined spaces. The new, more prescriptive subpart AA replaces the two paragraphs of 1926.21(b) (6) that basically said the employer needs to make their employees aware of the hazards of a confined space.

The new standard also affects Subpart V Electric Power Transmission and Distribution 1926.953 and amends the definition of an enclosed space. It will now be considered a confined space when it meets the construction industry definition of a confined space:

1. Is large enough and so configured that an employee can bodily enter it.
Notice the difference from the general industry standard that it drops the "and perform assigned work"
2. Has limited or restricted means for entry and exit, and
3. Is not designed for continuous occupancy.





Even if you are in general industry, you must now also comply with the more prescriptive 1926.1200 if you are performing construction work in a confined space. To avoid duplicate efforts OSHA has stated if you are in compliance with the new 1926 subpart AA you will be considered in compliance with 1910.146.

OSHA is also pushing to replace the term “shall” with the word “must”, but essentially having the same intent of mandatory compliance. In either case, nearly every employer will need a written confined space program or programmatic system that prevents employees from entering confined spaces. At the very least, everyone needs to know what the confined space is so they do not find they are unknowingly working in danger. The standard requires the competent person to identify and communicate all Permit Required Confined Spaces (PRCS). This can be challenging in the developing and changing construction site. This might need to be a daily task to ensure spaces are identified, marked, and communicated to all the required and potential affected parties.

The new standard includes some additional definitions on what constitutes a barrier. Also, the definition of and requiring the use of a competent person is now required. In the general industry standard the onus is on the employer but the construction standard puts it on the competent person. This new responsibility might make it possible for OSHA to cite the competent person specifically in addition to the employer in matters of non-compliance.

OSHA has also introduced the term “controlling contractor,” the employer with overall responsibility for construction at the worksite. The “Entry Employer” decides when and if an employee it directs will enter a permit space. The “Host Employer” owns or manages the property and may or may not be the controlling and/or entry employer. The Host Employer can transfer the responsibility to another for general management of the PRCS program. However, there can be only one Host employer--a responsibility that many would rather dodge than accept.

To help with compliance, OSHA has also defined “control” as it relates to limiting hazards in a space as well as defining an emergency. It has also further explained conditions that create limited or restricted for entry and exit to include trip hazards, poor illumination, slippery floors, inclining surfaces, and ladders. Apart from ladders, all of those conditions could be widely interpreted, greatly expanding the scope of what constitutes a PRCS.

The new standard mandates the use of an early warning system for potential engulfment hazards to include remote sensors and lookouts with communication equipment. It further requires continuous monitoring, whereas general industry allows for periodic monitoring. Under section 1926.1203 of the general requirements, if the employer can do periodic monitoring if it can prove that continuous commercially available monitoring is not available or that periodic monitoring is sufficient. Commercially available monitoring equipment is readily available at a cost, of course, and trying to prove that periodic monitoring is sufficient when it comes to life safety is not going to be a fight with merit. This section will require an investment in equipment, maintenance, and training but will pay out in reduced incidents and improved safety if fully implemented.



Like the general industry standard, there must be coordination with affected parties. However, this can get exponentially more difficult in a construction environment when dealing with the host employer, controlling contractor, entry employer, and myriad of affected employers (i.e. other subs working near and or potentially affecting entry operations). With the rapidly changing construction environment, the designated competent person may find themselves in a full time role of communication coordinator.

A strong emphasis on ventilation and continuous monitoring of that ventilation is common through the final standard as well. Immediate notification and evacuation of the space is required in the case of forced air ventilation system malfunctions. Further, the new standard includes a requirement to have a means of detecting an increase in atmospheric hazard level in the event that the ventilation system stops working. Since some increases can only be detected with monitoring equipment, all entries require the use of commercially available digital monitoring equipment.

The standard allows for a trained attendant to monitor multiple spaces as in the general industry PRCS program. Again, with the rapidly changing construction environment a single attendant might find him or herself stretched too thin to be effective in the designated role.

Training must be done prior to confined space entries and the new standard requires that those records be kept while the employee is employed by that employer. However, it would not be a good idea to purge training records with a pink slip; you never know when there may be a future issue where records are required.

Hoisting systems can be job-made but must be approved by a registered PE prior to use. Like other job made safety equipment it is probably best to use commercially available safety, hoisting, and retrieval equipment design for the intended purpose of hoisting and moving people.

These are a few of the key differences in the construction PRCS over that for general industry. Ultimately, the new standard will require a significant investment in resources but will yield immeasurable savings in human life. The time to get to work on creating or updating your PRCS is now.

AUTHOR

Matthew's professional 16 year career has been spent in the automotive, heavy manufacturing, metals processing, weapons manufacturing, and demilitarization arenas. Matt has had the opportunity to hone his skills with some of the most respected companies in the world such as HP, General Dynamics, Novelis, Toyota, and Washington Group. He has gained extensive field experience managing highly hazardous chemicals and processes as well as ISO 14001 and OHSAS 18001 auditing compliance. Matt is a Certified Safety Professional (CSP) and a Certified Hazardous Materials Manager (CHMM). He is also a Department of Defense Range Safety Officer and a Radiation Safety Officer. He holds a bachelor's degree in Occupational Safety & Health and a master's degree in Environmental Science from Jacksonville State University in Jacksonville, Alabama. Matt is currently serving as Delegate to the Georgia Chapter of ASSE and where he is a professional member. He proudly served in the USAF in support of Operations Desert Shield and Desert Storm as a Loadmaster on a C-141 cargo plane.

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