

Confined Space Advisory Committee

September 10, 2013

An advisory group met on September 10, 2013 to discuss the Oregon Confined Space rules and issues. Those in attendance include:

Michael Wood – Oregon OSHA	Peggy Munsell – Oregon OSHA
Marilyn Schuster – Oregon OSHA	Dave McLaughlin – Oregon OSHA
Mark Tobiasson – Coffman Exc.	Bret Taylor – Cascade Shoring
Eric Fullan – Portland Water Bureau	Grieg McDonald – Public Works Supply
David Olson – TCB Industrial Corp	Mark Veeley – Apollo Environmental
George Goodman – Cummins, Goodman et al	Troy DeYoung - SDAO
Pete Kimbrel – Orenco Systems Inc	Stan Thomas – Oregon OSHA
Steve Eversmeyer – Port of Portland	Maria Lemay – Intel
Mark Maguire – EWEB	Eliot Lapidus – AGC
Larry Hull – PGE	Doug Jenkin – PGE
Gary Boswell – PGE	Barry Moreland – NIETC
Mark Hopkins – EC Company	Chris Miller – AGC
Ellis Brasch – Oregon OSHA	

Michael Wood summarized the rationale for Oregon OSHA’s decision to withdraw the Oregon state- initiated confined space rule adopted in September 2012 (a decision that was announced in a [press release on September 4, 2013](#)). Certain provisions of the Oregon rule had unexpected impacts on industry sectors and had enough substance to justify going back to the drawing board with the state-initiated rule as the starting point for a new proposal.

The initial discussions related to the repeal of the Oregon rule and re-adoption of the Federal confined space rule in the interim. Stakeholders were asked about economic impacts related to re-adopting the Federal rule. Most stakeholders indicated there weren’t any. One exception or possible outcome would be alternate entry procedures that take an “all hazard approach” which is not available in the Federal rule. Oregon OSHA noted that in any case the division would be allowing employers to comply with either the state-initiated rule or the federal rule until a new state-initiated rule is finalized. The final rule will not include any requirements that are more stringent than those in the rule being withdrawn.

One of the attendees suggested that Oregon OSHA retain the current Oregon rule and move forward developing changes to the rule to address issues that have been identified. Stakeholder agreed to this avenue as the best option. Comments from some attendees identified full or part implementation of the Oregon rule and have already provided training to their employees. This approach would allow Oregon OSHA to address issues and concerns and complete a more comprehensive economic impact with the future re-adoption of the Oregon rule. It was also suggested that Oregon OSHA could continue with their current enforcement policy, which was originally a delay in applying the new requirements but could be used as a way to avoid enforcing the new requirements until a replacement rule is adopted and in place.

Oregon OSHA finds merit with this input from stakeholders and will consider this alternate approach. Oregon OSHA remains committed to addressing confined space hazards in general industry and construction workplaces.

The group asked that Oregon OSHA develop an issues list or substantive areas for discussion. Listed below are issues that were identified at the meeting. Stakeholders can also submit others to Oregon OSHA.

Rescue: Paragraph (9)

1. Should the requirement for a written agreement with third party rescue providers be retained? **(9)(b)(B)(x)(I)**
2. Should all members of the rescue team be trained in CPR & 1st aid, and in both general industry and construction? If so, must that training be reflected in an up-to-date certification? **(9)(b)(A)(iii) non-entry rescue and (9)(b)(B)(ix) entry rescue**
Comment: The rule requires that “*At least one member must be certified in first aid and CPR.*”
3. Should we define what self rescue is or is it self explanatory? **Comment** - in the definition of *hazardous atmosphere*, it refers to *impairment of ability to self rescue (that is, escape unaided from a permit space)*. The Federal rule has the same language for self-rescue in the definition of hazardous atmosphere.
4. Should we clear up the self-rescue language used in paragraph **(9)(a)**? “*Before employees enter a permit space, develop and implement procedures to remove entrants in the event of an emergency or when they are unable to self-rescue.*”
5. Does the size of rescue teams need to be defined or should it be up to the employer to determine their rescue size needs? **Examples given:** During turn – arounds, what determines the size of rescue team? What about emergency situations?
6. Question asked and responded to at the meeting: **Question** - When working in a space daily, why is an annual rescue practice needed? **(9)(b)(B)(vii)**
Answer – Being familiar with the space and space hazards is only one component of rescue. The other piece is being able to practice the rescue (includes use of equipment), evaluate how the rescue team responds, and the adequacy of the rescue plan.

Evaluation: Paragraph (4)

7. Should we look at this section of the rule related to evaluation of space; who needs to do it and how to deal with general or owner who doesn't do it. An attendee indicated that the rule language and use of evaluate and isolate needs to be reviewed.
8. Should we develop additional resources for small employers to evaluate spaces? If so, what kind of resources? Alternatively, should we require a “competent person” to identify confined spaces and evaluate permit space hazards? **Comment:** Appendix A contains a section on the *evaluation of permit-required confined spaces*.

Continuous systems:

9. Should we define what “positively isolate” means or should we remove the word “positively”? This language is used in the Oregon rule, **(10)Alternate Entry(b) Exception:** *Alternate entry cannot be used to enter a continuous system unless you can **positively isolate** the area to be entered from the rest of the space or can demonstrate and document that the conditions which caused the hazard no longer exist within the system during the entry.*

Comment: The Oregon definition for isolation is listed below and is similar to what is found in the Federal rule.

Isolation is defined as;” *The process by which a permit-required confined space is removed from service and completely protected against the release of energy and material into the space by such means as:*

-Blanking or blinding.

-Misaligning or removing sections of lines, pipes, or ducts.

*-A double block and bleed system. **Comment:** definition in the Federal rule, but not in the Oregon’s rule.*

-Lockout or tagout of all sources of energy.

-Blocking or disconnecting all mechanical linkages.”

10. There was a suggestion that the definition of continuous system needed some help. Should this definition be changed? **Comment:** Definition taken from the 2007 Federal proposed Confined Space in Construction rule.

Continuous system is defined as, “A confined space that meets all of the following:

-Part of, and contiguous with, a larger confined space (for example, storm sewers, sanitary sewers, or steam tunnels)

-Cannot be isolated from the larger confined space

-Subject to a potential release from the larger confined space that can overwhelm control measures and/or personal protective equipment, resulting in a hazard that is immediately dangerous to life and health.

11. Blanking and blinding definition not in the rule, should we add or is it self-explanatory?

Comment: Not found in Federal rule either.

12. **Question:** Is use of a “bladder” a method that can be used to isolate a newly constructed piping system connection to an existing sewer system? Can it be used in existing systems? **Comment:** Need industry’s input on the merits of this system.

Exceptions: Establishes in rule what standards do not apply to the Oregon confined space rule.

13. **Question** asked at the meeting. Entering a sewer pipe; does only the pipe entry apply to the confined space rule? Does entry into a trench stay under Subdivision P?

Exception (a) - “Construction work regulated by Division 3/P Excavations, except for existing sanitary sewers and new sanitary sewers when connected to an existing sanitary sewer.”

Should the effective exemption for excavation work apply to sewer only if no entry to the sewer pipe is made as part of the project *or* only to work outside the pipe regardless of whether an entry is made as part of the project?

14. **Question:** What are the differences between confined space rule and telecommunication rule? **Comment:** Unclear what the question is.

Exception (d) - “Manholes and vaults regulated by 1910.268(o) in Division 2/R Telecommunications, except when those provisions are insufficient to render the space safe to enter.”

Definitions or explanations:

15. Should we replace the terms “permit-required space” and “permit space” with a term (such as “regulated space”) that does not imply such a space always requires a permit?
Comment: statement in paragraph (10) **Alternate Entry(a)** Permit spaces may be entered without a permit when
16. Should we define what limited access and egress means? **Comment:** Appendix A of the Oregon rule provides guidance on limited access and egress. Is additional information needed? *Limited means for entry and exit – “Typically, if you must contort your body to enter a space it may be limited means of entry and exit. Examples of this include having to climb through a porthole, climb up a ladder, or crawling through a tunnel in order to exit. Another way of measuring limited means of entry and exit is to determine how difficult it would be to extract an injured person from the space. If there is a need for any type of technical rescue operation to remove an immobilized person from the space then you likely have limited entry and exit. It is important to recognize that each space should be evaluated on a case by case basis and a limitation in one set of circumstances may not be a limitation elsewhere.”* Is more explanation needed? If so, what do you recommend?

Miscellaneous/Comments:

17. Would it be helpful to provide more rule clarity for construction workers?
Should Oregon OSHA develop a pamphlet for the construction industry?
18. Division 2/L still references the Federal Rule. Does that need to be updated?
Answer: Yes.
19. Under alternate entry can you do solo entries? **Answer:** Yes.
20. **Attendee comment:** There should be a separate section of the rule (or separate rule) specific to construction work, or to certain types of construction work? **Answer:** Oregon OSHA’s intent is to have one rule for Construction and General Industry.
21. **Question:** Do temporary isolation devices eliminate hazards? **Answer:** Yes, when it is a device that meets the requirements of 1910.147. Although it is a temporary elimination of a hazard, Oregon OSHA considers use of a device that meets the requirement of 1910.147 a method to eliminate a hazard. Appendix A of the Oregon rule discusses this issue. *“In evaluating physical hazards, it is important to understand that the confined space must be evaluated as it normally operates. There can be a tendency to evaluate a space after protective actions, such as lockout/tagout, are taken, and then not designate it as a permit space. If any actions, such as lockout/tagout, are necessary to make the space safe for entry, then it is a permit space. While lockout/tagout is recognized as a elimination of hazards, it is only a temporary elimination that exists only as long as the lock is in place. Once the lock is removed, the hazard is no longer eliminated. Another consideration for using lockout/tagout is that all of the requirements for using lockout/tagout in 1910.147, where applicable, still apply. Any hazards that still remain after applying lockout/tagout must still be addressed.”*

The preamble of the Federal rule, 1910.146, also discusses lockout/tagout as a method for reclassification (c)(7)(i) if there are no actual or potential atmospheric hazards and if all other hazards with the space are eliminated without entry into the space.

Comment: Oregon OSHA has taken a “all hazards” approach **(10)(a)** where;

(A) All hazards have been eliminated; or

(B) All physical hazards, if any, have been eliminated and all atmospheric hazards are controlled with continuous forced-air ventilation.

Note: For purposes of this rule, “hazard elimination” means that the conditions which caused the hazard no longer exist within the space.

Note: Continuous forced-air ventilation does not eliminate atmospheric hazards. It only controls the hazards.

Training: Paragraph (11)

22. Should awareness training (11)(c) requirements in the rule be changed? Who is the target group? A comment was made the ambiguities in rule should not have to be explained in a program directive, rule interpretation, or pamphlets.