

**Confined Space Advisory Committee  
November 12, 2013**

An advisory group met on November 12, 2013 to discuss the Oregon Confined Space rules and issues. Those in attendance include:

Michael Wood – Oregon OSHA	Dennis Winn – Iberdrola Renewables
Mark Goldberg – Liberty Mutual	Tony Howard – Hoffman Construction
Tom Lindmark - PGE	Scott Neufeld - SDAO
Mark Tobiasson – Coffman Exc.	Tony Barsotti - TCM
Peggy Munsell – Oregon OSHA	Maria Lemay – Intel
Dave McLaughlin – Oregon OSHA	Jim Salisbury – City of Newport
Bret Taylor – Cascade Shoring	Nathan Taylor – MEI Group
Doug Jenkin – PGE	Mark Veeley – Apollo Environmental
Mark Hillyard - Mowat Construction	Jim Tyler - Vestas
David Olson – TCB Inc.	Jim Johnson – D2000
Steve Eversmeyer – Port of Portland	Mark McGuire – EWEB
Mary Lou Wilson - Wildish	Greg McDonald – Public Works Supply
Andy Graham - Cummins, Goodman, Denley & Vickers, P.C.	Chris Poindexter – PGE

- Oregon OSHA began with reviewing the minutes from the previous meeting. Some edits and clarifications will be made and the minutes reposted to the Web site.
- An attendee asked if there was an opportunity to incorporate competent person requirements. Oregon OSHA responded that this change would increase the requirements of the rule, which we said we would not do. An attendee felt that the entry supervisor could be that competent person. It was pointed out that there is no specific requirement for an entry supervisor for alternate entry. Another attendee felt that all employees who are involved in confined space activities are required to be trained to identify hazards.
- There was discussion regarding positive isolation. An attendee recommended removing the word positive. A comment was made that ANSI has a definition for isolation that we may want to take a look at.
- There was a discussion around “engineered systems” e.g., ventilation and excavation systems and that some systems have a low failure rate. Oregon OSHA pointed out that engineered systems don't necessarily have a low failure probability. An attendee felt that the standard is a performance based standard and the employer has to identify the hazards and control measures. Oregon OSHA responded that it is but there are parameters for the types of controls used.

- There was quite a bit of discussion regarding **sewer plugs**. One attendee pointed out that plugs under the right circumstances can fail; improper air or fluid pressures could blow the plug. Another comment was that a competent person could make all necessary determinations based on the manufacturer's instructions (including pipe size and calculating pressures) and qualifications of the person. Who can (or should) be able to implement an engineered control; "competent or authorized persons"?

A comment was made that the manufacturer instructions identify the issues and procedures that must be followed to use a plug safely. A comment was made that most plugs fail from misuse, and another comment was that plugs and ventilation used correctly can effectively deal with the hazard as long as people are adequately trained. Oregon OSHA commented that control measures that require training or can be misused are poor controls (control vs. elimination) especially if the solution requires more training. One concern for some control measures is that inadequate controls are not always the best option or may need a secondary control.

An Attendee mentioned that control measures can be circumvented. Oregon OSHA pointed out that there is a big difference between a conscious circumvention versus inadvertent circumvention.

A comment was made that sewer entry is discussed in an appendix of 1910.146. The issue of sewer plugs may be specifically for entering sewers under alternate entry.

- **Alternate entry** was discussed. It was pointed out that alternate entry is a permit space that requires certification (documentation) that hazards have been effectively dealt with.

A question was asked about **fall hazards** as it relates to alternate entry. Can you do alternate entry if falls are in addition to another hazard? Would eliminating all other hazards mean that fall hazards would not require a permit entry?

Other examples:

Fall hazard (hazard still exists even when fall protection is used) and you have eliminated other hazards, can you use alternate entry?

Fall hazard (hazard still exists even when fall protection is used) and you have controlled atmospheric hazards, can you use alternate entry?

Fall hazard (hazard still exists even when fall protection is used) and you have converging walls?

Strict reading of the rule, because the fall hazard still exists and other hazards were identified in the space, would not allow use of alternate entry procedures because the fall hazard has not been eliminated. Oregon OSHA position has been that a fall hazard by itself does not make the space a permit required confined space. These other scenarios would need to be looked at to determine our position related to fall protection. Oregon OSHA may look at rule language to specifically address fall hazards for alternate entry.

There was a discussion about rescue plans and self-rescue (allowed in fall protection applications).

There was discussion around lockout as hazard elimination versus a control of a hazard. Both Federal and Oregon OSHA have historically looked at it as elimination in the context of confined space. Oregon OSHA will add clarifying language in the Oregon rule.

During the discussion regarding Topic 13 of the previous meeting (Subsection (4)(b) – The following language is not as clear as it could be.” “You must evaluate all of your confined spaces to determine if they are permit-required confined spaces. This evaluation must include: . . . .” *Consider stating instead, “You must evaluate all confined spaces identified in your workplace to determine if they are permit-required confined spaces. In making a determination as to whether a space is a permit-required confined space, you must consider: . . . .” (leaving the list of (A) through (C) as is).*

An attendee felt that all confined spaces need to be evaluated. Oregon OSHA pointed out that the issue is; evaluating identified confined spaces versus all confined spaces.

- Oregon OSHA stated that we will not cite rescuers for not completing a permit before entering, as long as the hazards are all evaluated.
- A commenter asked about excavations and permit spaces. We reiterated that the excavation work is covered by the excavation standard and entering a space would be covered by the confined space standard.
- Oregon OSHA announced that they intend to remove the requirement for a “written agreement” between the employer and the third party rescue service.

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Issue #4. Subsection (2)(h): Why is there reference to “additional hazards that may be present”? It should go without saying that if there are other hazards present that would be addressed by other rules, those other rules would also apply. Is this language in here for some other reason than to reinforce that other rules may also apply to hazards that may exist in confined spaces?

An attendee suggested that they may submit a language tweak.

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Issue #5. Subsections (9)(b)(A)(iv)(III) and (9)(b)(B)(vii)(III): How do these “exceptions” to the annual practice rescue provisions apply? Part (iii) of the exceptions provide that the rescuers must still “conduct practice rescue operations in accordance with (8)(b)(A)(iv)(II) or (8)(b)(B)(vii)(II), respectively. Thus, it would seem that what the “exceptions” are really saying is that it is okay for a rescue services not to have a yearly practice rescue in every type of space in which they may perform rescues, provided that they practice rescue in spaces in which they are, in fact, being designated as non-entry rescuers for mobile workers. If that is that case, to reduce confusion and eliminate the circularity of the cross-referencing done in this “exception,” it would be better to re-write provision (iii) of the exception to state something along the lines of the following: “Have conducted a practice rescue within the last 12 months in the space to be entered or in a representative space with similar opening size, configuration, and accessibility issues as the space to be entered.”

Note that there is a cross-referencing problem in both of these “exceptions.” Both exceptions, in part (iii), erroneously cross-reference a section (8) subsection. The proper cross-reference is to a section (9) subsection. However, as discussed, it is recommended that the cross-reference simply be removed in each instance. *Oregon OSHA pointed out that the issue of incorrect cross-references had already been corrected.*

It was pointed out that the problem is that “rescuers must practice performing permit space rescues at least once every 12 months”; when spaces haven't been entered or aren't accessible. There was discussion around this issue with emphasis on; the need for a trained rescue provider, that training must occur in the actual space or representative space; and practice could occur prior to entry or within a 12 month period. Oregon OSHA agreed to look at the non-entry and entry sections of the rule for a possible rewrite.

An attendee pointed out that one can simulate the spaces. Question came up about representative spaces, e.g., could you use a vault to simulate a manhole entry? Probably not as the configurations are not the same.

A comment was made that rescue plans and training is critical for permit space entry as many would-be rescuers become victims.

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Oregon OSHA will try to have some draft rule language for the next meeting. There was one topic inadvertently left off last meeting's agenda and will be discussed at the November 26<sup>th</sup> meeting.

### **Organization**

Section (5) covers both the PRCS entry “program” and the permit process.

Organizationally, it may be better to split this section into two, one to address the PRCS “program” and one to address entry-by-entry permitting.

- Subsections (5)(a), (b), (c), (d), (g), and (h) are most pertinent to the “program.” (Subsection(d) is included here because it is aimed at requiring a description in the program as to how permitting is to take place.)
- Subsections (5)(e) and (f) do not deal with broad program issues, but rather with specific entry-by-entry issues such as what information each specific entry's permit must contain and who must have access to specific a specific entry's permit.
- Subsections (5)(e) and (f) could be reworked so they fit into section (6), which governs permit entry.