

OSHA’s Confined Spaces Standard Can Be Misleading

MANY CONTRACTORS and agricultural employers mistakenly believe that they are not required to comply with OSHA’s Permit-required Confined Spaces Standard (29 CFR 1910.146), which, as the standard states, applies to “general industry.”

This mistaken notion arises from the wording contained in the standard’s “scope and application” paragraph, which states: “This section does not apply to agriculture, to construction, or to shipyard employment.”

However, this can be extremely misleading. When the work being performed is of a construction nature, the agricultural, construction or shipyard operator is exempt. However, when the work can be classified as repair or maintenance, the company is required to follow the standard.

The best way to understand this duality is to study the enforcement directive for this standard — CPL 2.100 — that OSHA wrote for its compliance officers. The directive states that permit-required confined spaces that are undergoing maintenance or modifications that do not require construction are bound by the general industry standards.

However, if a confined space is created during construction, is the outcome of construction activity, or is entered to perform construction, then the work performed is not subject to the standard until the confined space is turned over for general industry operations, the directive explains.

Clearly, it is the type of work being performed, not the core business of the company performing it, that determines if a task is maintenance or construction.

That’s why it makes good business sense to follow the general industry standard, especially when there is doubt as to how the task may be classified.

The one caveat

Contractors should also keep in mind that OSHA’s enforcement policy states that those companies not covered under the general industry standard must comply with the American National Standards Institute (ANSI) Standard Z-117.1 Safety Requirements for Confined Spaces.

This standard parallels 29 CFR 1910.146, so in point of fact, a construction company would be following the general industry standard. ❖

The dangers

Hazards that may be present in confined spaces include:

- Toxic atmospheres,
- Oxygen deficiency,
- Oxygen enrichment,
- Flammable atmospheres, and
- Excessive heat.

Types of confined spaces

- Tanks
- Underground vaults
- Water and sewer pipes
- Storage bins
- Pits
- Silos
- Boilers
- Industrial trash compactors
- Hoppers

Examples of confined space maintenance covered by standard

- Lining a tank that is in need of restoration, either to prevent the structural part of the tank from deteriorating or prevent the housed product from becoming contaminated. In either case, the partial patching or total removal of existing lining and replacement is considered maintenance.
- Relining a furnace with new refractory material is maintenance.
- Tuck pointing and individual brick replacement in a manhole is maintenance.
- Relining of a sewer line with a sleeve, which is pushed through a section of the existing system, is maintenance.
- Repainting, which is part of a scheduled program to maintain a system or prevent its deterioration, is maintenance.

