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# MIOSHA

Construction Safety and Health Division (CSHD)  
Michigan Occupational Safety and Health Administration (MIOSHA)  
Department of Labor and Economic Opportunity (LEO)

## DIVISION INSTRUCTION

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DOCUMENT IDENTIFIER:  
CSHD-STD-17-1R1

DATE:  
September 22, 2021

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**SUBJECT: Confined Space in Construction**

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- I. Purpose. This instruction establishes enforcement policy and provides explanation of the standard to ensure uniform enforcement and interpretation.
- II. Scope. This instruction applies to the Construction Safety and Health Division staff.
- III. References.
  - A. 29 CFR 1926, Subpart AA, [Confined Spaces in Construction; Final Rule](#), May 4, 2015, Federal Register, Vol. 80, No. 85, pp 25365-25526.
  - B. Construction Safety and Health Standard, Part 14. /R408.41401 et seq., [Tunnels, Shafts, Caissons, and Cofferdams](#).
  - C. Construction Safety and Health Standards, Part 35. /R 408.43501 et seq., [Confined Space in Construction](#).
  - D. Construction Safety and Health Standard, Part 665. /R325.62991 et seq., [Underground Construction, Caissons, Cofferdams, and Compressed Air](#).
  - E. Construction Safety Standards, Part 9. /R408.40901 et seq., [Excavation, Trenching, and Shoring](#).
  - F. General Industry Safety Standards, Part 90. /R408.19001 et seq., [Permit-required Confined Spaces](#).
  - G. [Michigan Occupational Safety and Health Administration, Field Operations Manual \(FOM\)](#), as amended.
  - H. Occupational Health Standards, Part 490. /R325.63001 et seq., [Permit-required Confined Spaces](#).
  - I. Occupational Health Standards, Part 504. /R325.50301 et seq., [Diving Operations](#).
- IV. Distribution. MIOSHA Staff; Federal OSHA; S-drive Accessible; Internet Accessible and MIOSHA Messenger.
- V. Cancellations. All previous versions of this division instruction.
- VI. Next Review Date. This instruction will be reviewed three (3) years from date of issuance.
- VII. History. History of previous versions include:  
CSHD-STD-178-1, August 15, 2017
- VIII. Contact. [Eric Allen](#), Safety and Health Manager and [Dan W. Maki](#), Safety and Health Manager

- IX. Originator. [Lawrence Hidalgo Jr.](#), Director
- X. Background. The Occupational Safety and Health Administration (OSHA) published the Confined Space in Construction Standard on May 4, 2015, with an effective date of August 3, 2015. MIOSHA adopted the OSHA standard by reference, and the MIOSHA standard became effective on October 22, 2015.
- XI. Significant Changes.
- A. Updated standard titles
  - B. Added Appendix E: Confined Spaces Litigation Settlement - Telecommunications
- XII. Organization of this Instruction. Compliance guidelines are addressed both within the main part of this instruction and the appendices. Appendices to this instruction are:
- A. [Appendix A](#): Additional Standards Addressing Confined Space
  - B. [Appendix B](#): Permit-Required Confined Space (PRCS) Program Evaluation Considerations
  - C. [Appendix C](#): Confined Spaces in Construction – Frequently Asked Questions
  - D. [Appendix D](#): Guidance on the Reclassification of Permit-Required Spaces (PRCS)
  - E. [Appendix E](#): Confined Spaces Litigation Settlement – Telecommunications
- XIII. Standard Overview. All employers engaged in construction work must (1) identify any confined spaces in which their workers will be working, and (2) determine whether any such spaces are permit spaces. When workers work in permit spaces, they must be protected against the hazards in those spaces. To ensure such protection, the Confined Space in Construction Standard imposes duties on entry employers, host employers, and controlling contractors. If an employer knows that a permit space is present at its worksite, it must inform its workers of the location and danger posed by each permit space. It may inform its workers by making sure that warning signs are posted. In addition, where an employer’s workers have no work to do in the permit space, that employer must ensure that its workers stay out. One way to do this is for employers to make sure that workers recognize permit space warning signs and understand their significance.

An **entry employer** is an employer who decides that an employee it directs will enter a permit space. There may be more than one entry employer if the employees of multiple employers must enter the space. Each entry employer is responsible for complying with all provisions in the confined space standard except those specifically imposed on the controlling contractor and host employer.

A **controlling contractor** is the employer with overall responsibility for construction at the worksite. The controlling contractor is responsible for coordinating entry operations when there is more than one entry employer and when other activities on the site could foreseeably result in a hazard in the permit space. In addition, controlling contractors

must provide any information they have about any permit space hazards and precautions previously used in the space.

A **host employer** is the employer that owns or manages the property where the construction work is taking place. Where the host employer has information about permit space hazards on the site, it must share that information with the controlling contractor, who is then responsible for sharing it with the other employers on the site.

In no case will there be more than one host employer. If the owner of the property on which the construction activity occurs has contracted with another employer to manage the property and provided any relevant information it has about permit spaces on the property to the managing entity, the managing entity is the host employer. Absent such a contract and exchange of information, the owner of the property is the host employer. If the controlling contractor owns or manages the property, it is both the controlling contractor and the host employer.

- A. R 408.43501 sets out the scope of the standard and provides examples of confined spaces. The standard does not apply to any of the following:
1. Construction work regulated by [Construction Safety Standards Part 9 “Excavation, Trenching, and Shoring.”](#)
  2. Construction work regulated by [Construction Safety and Health Standard Part 14 “Tunnels, Shafts, Caissons, and Cofferdams.”](#)
  3. Construction work regulated by [Occupational Health Standards Part 504 “Diving Operations.”](#)
  4. Construction work regulated by [Construction Safety and Health Standard Part 665 “Underground Construction, Caissons, Cofferdams, and Compressed Air.”](#)

However, when this standard applies and there is a provision that addresses a confined space hazard in another applicable standard (not one of the standards listed above), the employer must comply with both that requirement and the applicable provisions of this standard.

- B. 1926.1202 contains definitions of key terms used in the standard. A confined space is defined as a space that is large enough and so configured that an employee can bodily enter and perform assigned work, has limited or restricted means for entry or exit, and is not designed for continuous employee occupancy. This section also contains definitions for the controlling contractor (overall responsibility for construction at the worksite) and host employer (owns or manages the property where the construction work is taking place).
- C. 1926.1203 contains general requirements to identify all confined spaces, notify employees, take measures to keep their unauthorized employees out of the spaces, and develop a written PRCS program if they decide to enter a permit space.

- D. 1926.1204 contains specific elements for a PRCS program. This program includes provisions to keep other employees out of the spaces as well as all the necessary procedures for safe entry operations.
  - E. 1926.1205 contains the requirements for permits prior to each entry into a permit space.
  - F. 1926.1206 contains the specifics of the entry permit.
  - G. 1926.1207 requires worker training for entrants, attendants, and entry supervisors. Training must be provided in a language and vocabulary that employees can understand and be done prior to their first assigned duties or before any change in duties. Training records must be kept for the length of the employee's employment.
  - H. 1926.1208 contains requirements of the authorized entrants and includes a requirement that the employer ensure that the entrant understands the hazards and all that they will need to do in the space.
  - I. 1926.1209 contains requirements for the attendants and includes a requirement that the employer ensure that the attendant understands the hazards and all that they will need to do in their role, including staying outside the space until relieved by another attendant.
  - J. 1926.1210 contains requirements for the entry supervisor and includes a requirement that the employer ensure that the entry supervisor understands the hazards and all that they will need to do in their role, including when to terminate an entry or remove unauthorized individuals who attempt to enter a space.
  - K. 1926.1211 contains requirements for rescue and emergency services. Whenever an employer designates third-party rescue services, they must evaluate their ability to respond to a rescue summons in a timely manner and proficiently. This section also requires the employer to inform each rescue service of the hazards they may confront at the site. When the employer designates their own employees to provide rescue services, the employer must ensure that they are trained, including cardiopulmonary resuscitation and basic first aid, and provide the necessary personal protective equipment.
  - L. 1926.1212 requires the employer to involve employees and their authorized representatives in the development and implementation of the PRCS program.
  - M. R 408.43505 requires the employer on request to provide documents to the director of the Michigan Department of Labor and Economic Opportunity or his or her designee.
- XIV. Safety of MIOSHA Staff. A MIOSHA employee shall not enter any confined spaces whether a permit-required confined space or a non-permit space as defined in General Industry Safety Standard Part 90, Occupational Health Standard Part 490, or Construction Safety and Health Standard Part 35 without prior approval from the division director or designee. See section IV. B. 2. c) of Chapter IV of the [MIOSHA FOM](#), as amended.

- XV. Inspection Procedures. Safety officers/industrial hygienists (SOs/IHs) shall conduct inspections and investigations relative to the Confined Space in Construction standard (Part 35) in accordance with the [MIOSHA FOM](#), as amended, and this instruction. See [Appendix B](#) of this instruction. Appendix B is intended only as an aid and is not intended to be the sole basis on which an employer's PRCS program is evaluated.
- A. Unprogrammed Inspections. A comprehensive PRCS program review is expected to include a review of all recognized confined spaces where the subject of the complaint, referral, or initiating event is a permit space hazard. Additionally, the employer's PRCS program must be evaluated when the SO/IH observes an employee exposed to a permit space hazard even if it was not the subject of the complaint, referral, or event.
  - B. Programmed Inspections. A review of the employer's compliance with Part 35 shall be part of the comprehensive construction programmed inspections in any workplace where a confined space may exist. Where a review is not done and a confined space is found to exist in the workplace, the basis for the decision not to review shall be explained in the case file.
- XVI. Documentation for Violations. Because the standard focuses on the integrity of the employer's PRCS program and each of its components, SOs/IHs are expected to carefully review the employer's written PRCS program and supporting documentation and note the extent of any discrepancies between the program as documented and as implemented. Deficiencies in either required program content or implementation shall be cited.

XVII. Citation Guidelines. Citations for violations of Part 35 shall be issued in accordance with the FOM and this instruction. See the table below for guidance. Use the local/state standard alleged violation element (SAVE) in the OSHA Information System (OIS) for each alleged violation.

A.	Condition(s)	Alleged Violation(s)	Comment(s)
A.	<ul style="list-style-type: none"> <li>Confined space is <u>not</u> present.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>Part 35 does not apply.</li> <li>One or more confined spaces need to be present for Part 35 to apply.</li> </ul>
B.	<ul style="list-style-type: none"> <li>Confined space is present.</li> <li>Permit space is <u>not</u> present.</li> <li>No employee entered confined space.</li> <li>Employer decides its employees will <u>not</u> enter confined space.</li> </ul>	<ul style="list-style-type: none"> <li>None</li> </ul>	<ul style="list-style-type: none"> <li>If an employer's employees will not enter confined space, then Part 35 does not apply to that employer. Part 35 only applies if one or more of the employees that the employer directs may work in confined space.</li> </ul>
C.	<ul style="list-style-type: none"> <li>Confined space is present.</li> <li>Permit space is <u>not</u> present.</li> <li>There is no compliance with requirements of Part 35.</li> <li>An employee may or may not have entered confined space before the date of your inspection.</li> <li>An employee may work in confined space.</li> </ul>	<ul style="list-style-type: none"> <li><b>1926.1203(a).</b> A competent person must identify all confined spaces.</li> </ul>	<ul style="list-style-type: none"> <li>Cite other-than-serious because a serious hazard is not present, that is, permit space is not present.</li> </ul>
D	<ul style="list-style-type: none"> <li>Permit space is present.</li> <li>No compliance with requirements of Part 35.</li> <li>No employee entered permit space.</li> <li>Employer decides its employees will <u>not</u> enter permit space.</li> </ul>	<p><u>GROUP THE FOLLOWING:</u></p> <ul style="list-style-type: none"> <li><b>1926.1203(a).</b> A competent person must identify each space that is a permit space.</li> <li><b>1926.1203(b)(1).</b> Inform exposed employees.</li> <li><b>1926.1203(b)(2).</b> Inform controlling contractor and employees' authorized representative.</li> </ul> <p><u>CITE SEPARATELY:</u></p> <ul style="list-style-type: none"> <li><b>1926.1203(c).</b> Take effective measures to prevent its employees from entering permit space.</li> </ul>	<ul style="list-style-type: none"> <li>Cite serious</li> </ul>

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	Condition(s)	Alleged Violation(s)	Comment(s)
E.	<ul style="list-style-type: none"> <li>• Permit space is present.</li> <li>• No compliance with requirements of Part 35.</li> <li>• No employee entered permit space.</li> <li>• Employer decides its employees will enter permit space.</li> </ul>	<p><u>GROUP THE FOLLOWING:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1203(a).</b> A competent person must identify each space that is a permit space.</li> <li>• <b>1926.1203(b)(1).</b> Inform exposed employees.</li> <li>• <b>1926.1203(b)(2).</b> Inform controlling contractor and employees' authorized representative.</li> </ul> <p><u>GROUP THE FOLLOWING:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1203(d).</b> Have a written PRCS program at the construction site.</li> <li>• <b>1926.1212(a).</b> Consult with affected employees and their authorized representatives on all aspects of the PRCS program.</li> </ul> <p><u>CITE SEPARATELY:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1207(a).</b> Provide training.</li> </ul>	<ul style="list-style-type: none"> <li>• Cite serious.</li> </ul>
F.	<ul style="list-style-type: none"> <li>• Permit space is present.</li> <li>• No compliance with requirements of Part 35.</li> <li>• Employee entered permit space.</li> </ul>	<p><u>GROUP THE FOLLOWING:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1203(a).</b> A competent person must identify each space that is a permit space.</li> <li>• <b>1926.1203(b)(1).</b> Inform exposed employees.</li> <li>• <b>1926.1203(b)(2).</b> Inform controlling contractor and employees' authorized representative.</li> </ul> <p><u>GROUP THE FOLLOWING:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1203(d).</b> Have a written PRCS program at the construction site.</li> <li>• <b>1926.1212(a).</b> Consult with affected employees and their authorized representatives on all aspects of the PRCS program.</li> </ul> <p><u>CITE SEPARATELY:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1205(a).</b> Prepare an entry permit.</li> </ul> <p><u>CITE SEPARATELY:</u></p> <ul style="list-style-type: none"> <li>• <b>1926.1207(a).</b> Provide training.</li> </ul>	<ul style="list-style-type: none"> <li>• Cite serious.</li> </ul>

## Appendix A

### **Additional Standards Addressing Confined Space**

When Part 35 applies and there is a provision that addresses a confined space hazard in another applicable standard, the employer shall comply with both that requirement and the applicable provisions of Part 35. See Construction Safety and Health Standards, Confined Space in Construction, Part 35, Rule 3501(3).

### **Construction Safety and Health Standards**

#### **Welding and Cutting, Part 7, Rule 713**

Covers welding and cutting operations in confined spaces.

#### **Electrical Installations, Part 17, Rule 1725(1)**

Requires a properly identified disconnect switch at the entrance of a confined space when electrical wiring is used in the space.

#### **Fire Protection and Prevention, Part 18, Rule 1884(2)**

Covers use of heaters in confined spaces.

#### **Process Safety Management of Highly Hazardous Chemicals, Part 91, 1926.64(f)(4)**

Concerns process safety management requirements for confined spaces.

#### **Hazardous Waste Operations and Emergency Response, Part 432, Rules 4(6)(i), 7(3)(a), and 23(2)**

Requirements for a safety and health program for employees involved in hazardous waste operations.

### **General Industry Safety and Health Standards**

#### **Welding and Cutting, Part 12, Rule 1213(1) to 1213(6)**

Covers working in confined spaces.

#### **Electric Power Generation, Transmission and Distribution, Part 86, 1910.269(e)(6)**

Requirements for entering enclosed spaces when they contain a hazardous atmosphere.

#### **Process Safety Management of Highly Hazardous Chemicals, Part 91, 1910.119(f)(4)**

Concerns process safety management requirements for confined spaces.

#### **Health Hazard Control for Specific Equipment and Operations for Construction, Part 621, Rule 62104(2) and 62107**

Use of heaters in confined spaces. Welding, cutting, and heating in confined spaces.

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**Hazardous Waste Operations and Emergency Response, Part 432, Rules 4(6)(i), 7(3)(a), and 23(2)**

Requirements for a safety and health program for employees involved in hazardous waste operations.

**Welding, Cutting and Brazing, Part 529, Rules 6, 10, 12, 13, 20, 21, 22, 23, and 24**

Specifies ventilation and respiratory protection requirements for welding in confined spaces using fluorides, zinc, mercury, lead, beryllium, or cadmium.

## Appendix B

### Permit-Required Confined Space (PRCS) Program Evaluation Considerations

This appendix has been included for general guidance only. It is not intended to direct the SO/IH's investigation or restrict the manner in which an employer's PRCS program is evaluated.

#### I. INITIAL INFORMATION

- A. To what degree is the employer familiar with the standard and its contents? (Does the employer understand the key terms defined in the standard?)
- B. Request identification of those confined spaces evaluated and determined to require a permit, their locations, along with any documentation as to the permit space determination (memos, contract, report, etc.) and when the determination was made.

How does the employer meet the standard's requirement of paragraph (c)(6) for review of existing non-permit confined spaces for hazards which would convert them to a permit space?

- C. Evaluate the process by which the employer identified any confined spaces, as follows:

NOTE: If an employer elects not to have its employees enter the confined space, a thorough evaluation of each space is not required.

- 1. Analyze the evaluation method and equipment used.
  - a) Was the determination made based upon historical data? If so, how reliable is that data?
  - b) Were the substance's hazards appropriately identified and evaluated to comply with 1926.1203(a) or 1926.1204(b) of the standard? All the hazards that can affect the safety and health of entrants must be determined; e.g., gasoline is flammable but also contains benzene which can be a health hazard.
  - c) Were the sampling methods and/or testing equipment appropriate for each substance?
  - d) Are mechanical and other non-atmospheric hazards, for the space or for the work to be performed in the space, addressed in the employer's evaluation method?
- 2. If the employer has arranged to have some other party (consultant or insurance carrier) evaluate the workplace, request a copy of the report

presented to the employer in order to assess the adequacy of the evaluation.

- D. Are contractors performing permit space entries? If so, determine who they are and their work location.
  - 1. Are these spaces multi-employer worksites?
  - 2. Did the contractor develop the PRCS program in use? If not, whose program is being used or followed by the contractor? If so, how was their program coordinated with the host employer's or general contractor's program?
  - 3. What measures have the employers taken to facilitate coordination and safety for multi-employer worksites? Examples of these measures might be communications systems, postings, assignments of liaison personnel, or contractual agreements.

## II. TRAINING

- A. Employees:
  - 1. What is the employer's policy with regard to employee entry referenced in 1926.1207 and how are the employees informed of the policy?
  - 2. How are the affected employees referenced in 1926.1207 identified? Who are they?
  - 3. How are affected employees informed of the employer's policies on confined space entry?
  - 4. How and when are new or reassigned employees informed of the existence and locations of confined spaces?
  - 5. Is the employer's PRCS program used in employee training?
- B. The trainer:
  - 1. Who are the individuals conducting the training, and what training are they providing?
  - 2. For the training being presented, is the trainer knowledgeable about the subject matter in general and with the particular permit space situations at the workplace?

- C. The employer:
  - 1. How does the employer verify that the training has been provided?
  - 2. How does the employer evaluate employee proficiency in the duties required by the PRCS program?
  - 3. What criteria does the employer use to decide if retraining is necessary?

### III. PRCS PROGRAM

- A. Obtain a copy of the employer's written policies and procedures.
  - 1. Where is the written PRCS program normally kept?
  - 2. Who is in charge of the PRCS program?
  - 3. Does the written PRCS program or procedures provide for compliance with the applicable elements listed in 1926.1204 of the standard?
- B. Does the PRCS program provide appropriately for employee input regarding the classification of spaces, the identification of hazards, training, the adequacy of entry procedures and precautions, and other areas where employee knowledge and experience would be pertinent?

### IV. ENTRY PROCEDURES

- A. Obtain a list of entrants or identify the employees who have been assigned the duties of “authorized entrant,” “attendant,” or “entry supervisor,” and determine who is authorizing entry. During the inspection, interview a sufficient number of employees in each category to evaluate the training provided and the PRCS program's effectiveness.
- B. Determine the name, position, and training of the person(s) responsible for authorizing or in charge of entry under the permit system.
- C. Review all data relating to each 1926.1203(e) “Alternate Procedure” entry undertaken. The following are some examples of questions the SO/IH may consider useful:
  - 1. What is the size (volume) and configuration of the permit space?
  - 2. How have the physical properties (molecular weight, vapor pressure, etc.) of the atmospheric hazards been considered in the design of the ventilation plan?

3. What is the capacity of each piece of ventilation equipment being used? Does capacity match requirements of the space(s)?
  4. What is the air exchange rate required to maintain acceptable entry conditions under a worst-case scenario?
  5. What are the procedures the employer uses to determine acceptable entry conditions?
  6. Where and how is the data maintained?
  7. Do the entrants know what the "safe for entry" conditions are and where the supporting data is maintained?
  8. How does the employer demonstrate that the only hazards in the permit space are atmospheric?
  9. How did the employer demonstrate that continuous forced air ventilation would maintain the space safe for entry?
  10. How did the employer collect and document the monitoring and inspection data used to support the classification of the space?
  11. How does the employer make the documentation of determinations and supporting data available to permit space entrants?
  12. How does the employer determine that the operations or activities being performed within the permit space (for example: mucking, cleaning, etc.) do not contribute to the atmospheric hazard?
- D. Identify the equipment to be used for sampling and monitoring the permit space to comply with 1926.1204(d).
1. Determine if the equipment is being maintained and calibrated in accordance with the manufacturer's recommendations.
  2. Have air sampling, monitoring plans and procedures been developed which take into consideration any sampling equipment limitations?
  3. Do sampling plans include measuring exposure at the employee locations as well as other locations in the space?
- E. Who has the employer authorized to certify that the pre-entry measures required under 1926.1203(e) have been taken?
1. What does the certifier know about the confined space being entered?

2. How is the certification made available to each employee entering the space?
3. Are there any entry procedures used beyond those required by 1926.1204-1208 to inform entrants of entry conditions and how they relate to the acceptable entry conditions that have been determined?
4. How does the employer notify entrants of the need to exit the space when a hazardous atmosphere is detected?

## V. RESCUE

Review the employer's policy to determine which rescue procedures are being employed. If non-entry rescue has been ruled out, ascertain which of the entry rescue options has been implemented.

### A. Non-entry rescue:

1. If non-entry rescue is being practiced, what equipment is used?
2. If non-entry rescue is not being practiced, what are the employer's reasons for not using it?
3. Does the employer review each space to be entered to determine whether to employ or not to employ non-entry rescue?
4. If entry was made through a top opening, was an approved hoisting device or similar means used to lift workers out of the space?

### B. On-site rescue services (an employer's own employees):

1. Determine the number of employees assigned to perform rescue, verify training for each member of the rescue service, and find out which of them have a current first-aid and cardiopulmonary resuscitation (CPR) certification.
2. Review the rescue procedures as they compare with the written PRCS program.
3. Note the work shifts of the rescuers and compare them to the permit entry times.

### C. Non-employer rescue employees (off-site):

1. Who provides the off-site rescue service and where is the service located?

2. How is the arrangement between the employer and the off-site rescue service documented (contract, letter of agreement, verbal agreement)?
3. How does the employer decide, given the identified permit space hazards, that the off-site rescue service's response time, experience, and training are adequate?
4. Have the rescue training requirements in 1926.1211(b) been met?
5. What method is used to summon rescuers?
6. Are rescue services on-call or on-site when permit space entry is underway?
7. What is the response time for rescue service?
8. How does the entry supervisor verify that the rescue service will be available during the time of employee entry?
9. Has the rescue service agreed to notify the employer immediately in the event that the rescue service becomes unavailable?

D. Combinations:

If combination of on-site and off-site rescue services is employed:

1. Obtain a copy of the rescue plan which describes the roles of each party, and
2. Verify that the on-site and off-site rescue services employees have trained together as a team.
3. Determine if, the combined rescue services enable the employer to comply with the requirements for rescue services.

## Appendix C

### Confined Spaces in Construction – Frequently Asked Questions (Confined Spaces Litigation Settlement – Residential Construction)

The questions and answers below are provided to assist employers in protecting their workers while working in and around confined spaces in construction.

#### *SCOPE*

#### **1. What is a confined space?**

A confined space means a space that (1) is large enough and so configured that an employee can bodily enter it; (2) has limited or restricted means for entry and exit; and (3) is not designed for continuous employee occupancy (see 1926.1202). All three criteria must be met in order for a space to be considered a confined space and covered by the Confined Space in Construction Standard (hereinafter "Confined Space in Construction Standard" or "Standard").

#### **2. What is a permit-required confined space?**

A permit-required confined space or permit space means a confined space that has one or more of the following characteristics: (1) contains or has the potential to contain a hazardous atmosphere; (2) contains a material that has the potential for engulfing an entrant; (3) has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or contains any other recognized serious safety or health hazard (see 1926.1202).<sup>1</sup>

#### **3. Paragraph 1926.1203(a) requires that each employer ensure that a competent person identifies all confined spaces in which one or more of the employees it directs may work, and identifies each space that is a permit space, through consideration and evaluation of the elements of that space, including testing as necessary. If the competent person must enter the space to assess its characteristics and potential hazards, must the competent person treat the space as a permit-required confined space?**

A: If the competent person can reasonably foresee the presence of a hazard or potential hazard that would make the space a permit-required confined space (see response to Question 2), the competent person<sup>2</sup> must treat the space as a permit-required confined

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<sup>1</sup> Under the Standard, the word "hazard" means either a "physical hazard" or an "atmospheric hazard" as defined in the Standard. An unsafe condition that does not meet the definition of "physical hazard" or "atmospheric hazard" would not be considered a "hazard" under the Standard or for purposes of this document.

<sup>2</sup> A competent person means someone who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has the

space when entering the space to assess it. However, if the competent person cannot reasonably foresee the presence of such a hazard, the competent person would not need to treat the space as a permit-required confined space when entering the space to assess it. Of course, if the competent person encounters such a hazard when assessing the space, whether or not the hazard was reasonably foreseeable, the competent person must treat the space as a permit-required space after identifying the hazard.

**4. Does the Standard impose additional requirements on "permit-required confined spaces" beyond those imposed for "confined spaces"?**

Yes. In fact, the vast majority of the Standard's requirements only apply to permit required confined spaces, and attics, basements, and crawl spaces in a residential home will not typically trigger these requirements. Once the employer's competent person performs an initial evaluation and determines that a confined space does not require a permit (1926.1203(a)), the employer's only further obligations under the Standard are to have a competent person reevaluate the space and, if necessary, reclassify it as a permit-required confined space if changes in the use or configuration of the space occur that could increase the hazards or potential hazards to entrants or if the employer has any indication that the initial evaluation may have been inadequate (1926.1203(f)).

If the employer's competent person determines that the space is a permit-required confined space, the following provisions also apply: entry communication and coordination (1926.1203(h)), permit-required confined space program (1926.1204), permitting process (1926.1205), entry permit (1926.1206), training (1926.1207), duties of authorized entrants, attendants, and entry supervisors (1926.1208-1210), and rescue and emergency services (1926.1211).

**5. Does the characteristic "contains or has the potential to contain a hazardous atmosphere" in the definition of "permit-required confined space" refer only to those atmospheres which pose an acute hazard?**

Yes. Where employees are exposed to hazardous atmospheres that do not present an immediate danger of death or impairment that could impede the employee's ability to exit the confined space without assistance, OSHA's health standards for those hazards apply, rather than the Confined Spaces in Construction Standard (see 1926.1202 definition of "hazardous atmosphere").

**6. In some residential home building<sup>3</sup> projects, the home builder constructs multiple homes with the same or similar basic configuration. If the presence or absence of**

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authorization to take prompt corrective measures to eliminate them (see 1926.1202 definition of "competent person").

<sup>3</sup> As used in this Q&A, "residential home building" or "residential home construction" refers to work on any residence being built using traditional wood frame construction materials, methods, and procedures that are typical to single-family home or townhouse construction. Traditional wood frame construction materials and methods include (1) framing materials - wood (or equivalent cold-formed sheet metal stud) framing (not steel or concrete), wooden floor joists and roof structures; (2) exterior wall structure - wood (or equivalent cold-formed sheet metal

**any potential hazard in an attic, crawl space, or basement is known, does the Standard require a competent person to examine each attic, crawl space, or basement in each home to make a determination as to whether the space is a permit-required confined space?**

No. The standard requires a competent person to identify all permit-required confined spaces in which employees may work "through consideration and evaluation of the elements of that space, including testing as necessary." 1926.1203(a). If a competent person can reliably determine whether attics, crawl spaces, or basements with the same or similar configuration contain one of the hazards or potential hazards listed in response to Question 2 without physically inspecting each of the spaces, the competent person need not physically examine each space to make the identification required under 1926.1203(a).

### ***GENERAL QUESTIONS ON ATTICS, CRAWL SPACES, AND BASEMENTS***

**7. Does the mere presence of a physical hazard in an attic, crawl space, or basement (before steps are installed) make the space a permit-required confined space under the Standard?**

No. However, if the attic, crawl space, or basement (before steps are installed) is a confined space, the presence of a physical hazard in the space would trigger the permit-required confined space requirements if the physical hazard is not isolated<sup>4</sup> (see 1926.1203(g)) or if there is potential employee exposure to the physical hazard. Note that not all unsafe conditions constitute "physical hazards," which the standard defines as only those conditions that could impede an entrant's ability to exit the space without assistance.

**8. Does the presence of electrical equipment in an attic, crawl space, or basement (before steps are installed) automatically make the attic, crawl space, or basement (before steps are installed) a permit-required confined space?**

No. Only if an entrant has exposure to a serious hazard associated with the electrical equipment, such as an exposed live conductor, and the exposure could impede the entrant's ability to exit the space without assistance, would the presence of electrical

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stud) framing or masonry brick or block; and (3) methods - traditional wood frame construction techniques (see OSHA's Compliance Guidance for Residential Construction, STD 03-11-002 (June 6, 2011), available on OSHA's website). Work on multi-family residences may also be considered "residential home building" or "residential home construction" provided that the work similarly meets the criteria set forth above.

<sup>4</sup> For physical hazards, the Standard defines the term "isolate" as "the process by which employees are completely protected against . . . contact with a physical hazard, by means such as blanking or blinding; misaligning or removing sections of lines, pipes, or ducts; a double block and bleed system; lockout or tagout of all sources of energy; blocking or disconnecting all mechanical linkages; or placement of barriers to eliminate the potential for employee contact with a physical hazard." 1926.1202. Guarding by location is also an acceptable means of isolation under the Standard (see response to Question 44).

equipment make the attic, crawl space, or basement (before steps are installed) a permit-required confined space.

**9. Is a dimly lit attic, crawl space, or basement (before steps are installed) necessarily a permit-required confined space?**

No. A confined space with limited lighting alone would not be considered a permit required confined space, provided that the limited lighting could not impede an entrant's ability to exit the space without assistance.<sup>5</sup>

**10. Does the mere presence of animals in an attic, crawl space, or basement (before steps are installed) that is a confined space automatically make the attic, crawl space, or basement (before steps are installed) a permit-required confined space?**

No. The presence of animals would only make a confined space a permit-required confined space if the animals posed a physical hazard, as defined by the standard.

**11. Does the presence of water in an attic, crawl space, or basement (before steps are installed) that is a confined space always make the attic, crawl space, or basement (before steps are installed) a permit-required confined space?**

No.

**12. Are attics, crawl spaces, or basements (before steps are installed) containing utility service lines (e.g., water, natural gas, fuel oil, sewage, steam and electric power) that pass through them always considered to be permit-required confined spaces?**

No. If utility services pass through attics, crawl spaces, or basements (before steps are installed) that are confined spaces, the inherent hazards of the material flowing through the service lines do not have to be considered in the permit space determination unless it is reasonably foreseeable that a rupture or leak could occur such that the contents of the service lines could cause a serious safety or health hazard that could impede an entrant's ability to exit the space without assistance.

***SPECIFIC QUESTIONS ON ATTICS***

**13. Are all attics in a residential home considered confined spaces under the Standard?**

No. A confined space is a space that (1) is large enough and so configured that an employee can bodily enter it; (2) has limited or restricted means for entry and exit; and (3) is not designed for continuous employee occupancy. All three criteria must be met for an attic to be considered a confined space. In many instances, an attic will not be

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<sup>5</sup> Note, however, that dimly lit spaces can potentially pose other safety hazards, and lighting must comply with Rule 133 of Construction Safety Standards, Part 1, "General Rules."

considered a confined space because there is not limited or restricted means for entry and exit. For example, attics with a permanent, full-size doorway and/or stairwell access would rarely<sup>6</sup> meet the definition of a confined space, provided there are no other impediments to egress. An attic under construction where there is no drywall in place would also not have limited or restricted means for entry or exit and would not be considered a confined space.

**14. Are attics that are confined spaces generally considered permit-required confined spaces?**

No. Attics that are determined to be confined spaces would generally not be permit required confined spaces because they typically do not contain the types of hazards or potential hazards that make a confined space a permit-required confined space (see response to Question 2).

**15. Does the presence of a fall hazard alone in an attic make an attic a permit required confined space?**

No. A fall hazard in an attic, such as falling through the drywall of the attic, could cause a serious injury. However, fall hazards within an attic would not generally impede the ability of an entrant to exit the space without assistance and therefore would not trigger the permit-required confined space requirements. MIOSHA notes that even though permit-required confined space requirements would not be triggered in this situation, employers would still be obligated to protect their employees from fall hazards, as appropriate and required, when they are working in an attic where fall hazards exist.

**16. Does the presence of a mechanical fan in an attic automatically make the attic a permit-required confined space?**

No. The presence of a mechanical fan would only make the attic a permit-required confined space if it is reasonably foreseeable that the fan could cause an injury that could impede an entrant's ability to exit the space without assistance.

**17. Does the presence of asbestos in an attic make the attic a permit-required confined space?**

No. Asbestos would not trigger the permit-required confined space requirements of the Standard. However, if asbestos were present in an attic, an employer would need to follow any applicable requirements of MIOSHA's asbestos standards.

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<sup>6</sup> See response to Question 21 regarding stairwell access to attics.

**18. When does an employee perform an "entry" into an attic for purposes of the Standard?**

The Standard defines "entry" as the action by which any part of a person passes through an opening into a *permit-required confined space*. Thus, regardless of whether or not such action is intentional or any work activities are actually performed in the space, if any body part of an entrant breaks the plane of an attic opening that would constitute an entry under the Standard, *provided that the attic also meets the requirements of a permit-required confined space*.

**19. In the residential home building industry, frequently an employee will need to perform a final inspection of an attic before turning over a home to a home owner. This inspection is often of limited duration. Does this inspection constitute an "entry" into a permit-required confined space under the Standard if there is no reasonably foreseeable hazard present?**

No. A final inspection of an attic would rarely constitute an "entry" because even if an attic were a confined space, it would not normally contain any of the hazards or potential hazards that would trigger the permit-required confined space requirements of the Standard: (1) contains or has the potential to contain a hazardous atmosphere; (2) contains a material that has the potential for engulfing an entrant; (3) has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or (4) contains any other recognized serious safety or health hazard (see 1926.1202). An entry employer may rely on a competent person's expertise and experience in determining whether the presence of such a hazard or potential hazard is reasonably foreseeable during such an inspection or any other time when it is necessary to enter into an attic that is a confined space. If the attic *is* a permit-required confined space, the employer must comply with the permit-required confined space provisions of the Standard whenever there is an entry regardless of the duration of the entry.

The same analysis would apply to other inspections conducted by employees either at the outset of a construction project or as the project progresses. If there is no reasonably foreseeable hazard or potential hazard present in an attic or any other space during the construction process, the permit-required confined space requirements would not be triggered.

**20. How hot must it be in an attic that is a confined space for the attic to be considered a permit-required confined space under the Standard?**

Extreme heat can be considered a serious physical hazard in attics such that the attics could be considered permit-required confined spaces. MIOSHA has not quantified how hot it must be to trigger the permit-required confined space requirements. However, the heat must be so extreme that it could potentially impede an entrant's ability to exit the attic without assistance. Factors that the Agency would consider are (1) the temperature of the space while work is performed, (2) the nature and duration of the tasks performed

in the heat, and (3) whether the entrant is acclimatized to work in extreme heat. A short-duration, light-duty task performed in a hot attic would typically not constitute a physical hazard triggering the permit-required confined space requirements. In addition, measures to control the heat in an attic (e.g., use of a fan) will be considered by the Agency in determining whether a serious hazard exists in the first instance.

**21. Many new residential homes are constructed with pull down stair access to the attics, often referred to as "disappearing attic stairways." For attics that use this type of stair access, would MIOSHA consider the attics to be confined spaces?**

Whether an attic with pull down stair access would be considered a confined space depends on whether the configuration of the stairs impedes the ability of employees to exit the space. Ladder-like pull down stairs that require employees to ascend/descend hand-over-hand, limit egress and could therefore render an attic a confined space. An attic that can be accessed via pull down stairs that resemble the structure of a stationary stairway and do not require an employee to ascend/descend hand-over-hand would not be considered a confined space if there are no impediments to egress.

**22. During some residential home building projects, employees may be performing work activities in an attic with no atmospheric or physical hazards present. However, after starting work, another crew of employees may perform activities outside of the space (e.g., painting or staining parts of a home outside of the attic) that could impact conditions in the attic. Does the performance of duties outside of an attic typically turn a "confined space" into a "permit-required confined space?"**

No. The performance of duties outside of an attic would only turn a "confined space" into a "permit-required confined space" if the work outside of the attic could create a hazardous atmosphere or physical hazard in the attic that could impede the ability of an entrant to safely exit the space without assistance. It would be rare for this to occur in the residential home building environment. For example, the use of portable power tools outside of an attic will rarely, if ever, create a noise hazard such that it would impede the ability of an entrant to safely exit the attic without assistance. Similarly, performing painting and staining outside of an attic will rarely create a hazard that would impede the ability of an entrant to safely exit an attic without assistance. However, using certain high (volatile organic compound) VOC solvents in paint thinners or in floor stripping could potentially create a hazardous atmosphere in an adjacent attic or other confined space.

**23. During remodeling work on residential homes, the remodelers will often need to enter a confined space to assess certain aspects of the construction of the home (e.g., electrical wiring, location of plumbing lines, etc.). Do employees performing this initial assessment have to follow the permit-required confined space requirements of the Standard?**

A competent person must assess these spaces to determine whether they are permit required confined spaces prior to any entry. The employer will only need to follow the requirements of a permit-required confined space program if, based on the competent

person's assessment, the employer has reason to believe the space is a permit-required confined space. It would be rare that a remodeler would need to follow the permit-required confined space requirements in this situation because most confined spaces in a residential home will not contain the hazards that would trigger the permit-required confined space provisions: (1) contains or has the potential to contain a hazardous atmosphere; (2) contains a material that has the potential for engulfing an entrant; (3) has an internal configuration such that an entrant could be trapped or asphyxiated by inwardly converging walls or by a floor which slopes downward and tapers to a smaller cross-section; or (4) contains any other recognized serious safety or health hazard (see 1926.1202).

**24. If a HVAC unit in an attic that is a confined space needs repair, requiring a contractor to enter the attic to perform certain activities to fix the unit, is that entry into the attic covered by MIOSHA's Confined Space in Construction Standard?**

No, provided the repair is considered maintenance work on the unit (covered by the general industry standards) such as adjusting existing equipment or replacing component parts in kind. However, upgrading the HVAC system or its component parts would be considered construction work covered by the Standard.<sup>7</sup> This would also be the case for any other piece of equipment in an attic that is a confined space.

**25. Some attics in residential homes are accessed through standard door openings, which include the following dimensions:**

- 24" x 80"
- 30" x 80"
- 32" x 78"
- 32" x 79"
- 32" x 80"
- 34" x 80"
- 36" x 78"
- 36" x 79"
- 36" x 80"
- 38" x 82"
- 42" x 80"
- 60" x 80"
- 64" x 80"
- 68" x 80"
- 72" x 80"
- 74" x 96"

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<sup>7</sup> This response is consistent with OSHA's general policy on distinguishing between general industry and construction work as described in a Letter of Interpretation from OSHA to Raymond V. Knobbs issued on November 18, 2003, available on OSHA's website.

**For attics with entry doors of standard dimensions, such as those listed above, would MIOSHA consider the attics to be confined spaces under the Standard, assuming there are no other impediments to access/egress on or around the entrance?**

No. Attics with full-sized doors at least two feet in width and six feet, six inches in height would not meet the definition of a confined space, provided the path to the entrance and area around the entrance are kept clear of structural or temporary impediments to egress.

**26. Is the contractor who creates a permit-required confined space responsible for placing a warning sign on or around the entrance to the space warning of the existence of a permit-required confined space?**

Only an employer that should reasonably anticipate that the employees it directs may enter a permit-required confined space is required to post a sign or other equally effective means to warn employees of the location of and danger posed by the permit-required confined space. For example, if a contractor affixes drywall to the roof trusses of a residential home and creates a confined space, that contractor is not required to post a warning sign that the attic constitutes a permit-required confined space, unless (1) the attic meets the criteria of a permit-required confined space, and (2) the contractor should reasonably anticipate that the employees it directs may enter the attic.

**27. Is the permit for a permit-required confined space required to be posted?**

No. However, the permit must be "made available" at the time of entry to all authorized entrants or their authorized representatives. This requirement to make the permit available could be met by posting the permit or by "any other equally effective means" (see 1926.1205(c)).

### ***SPECIFIC QUESTIONS ON BASEMENTS***

**28. Is a basement in a residential home that is designed for continuous occupancy by a homeowner a confined space under the Standard?**

No, provided the basement is configured as designed (e.g., has permanent stairs, walk-out entry/exit, or egress window installed).

**29. Before a set of stairs is installed in a residential home into a basement, home builders may access the space through a walk-in door to/from the outside (i.e., walk-out basement). Under these circumstances, would the basement be considered a confined space?**

No. Provided there is a door to/from the outside to the basement, the basement would not be considered a confined space as there would not be limited or restricted means of egress.

**30. In some homes, before a set of stairs is installed into a basement, home builders may access the space through a basement egress window that complies with Section R310 of the 2012 or 2009 International Residential Code. Under these circumstances, would the basement be considered a confined space?**

No. If the basement has an egress window that meets the specifications of Section R310 of the 2012 or 2009 International Residential Code, the basement would not be considered a confined space as there would not be limited or restricted means of egress to and from the basement.

#### *OTHER-SPACES IN RESIDENTIAL HOMES*

**31. There are some spaces in a residential home that may technically meet the definition of a confined space, but there is no reasonably foreseeable hazard within the space that could impede an employee's ability to exit the space without assistance. Examples of this would be a small pantry or a small space underneath a stairwell in a home. Are these spaces considered permit-required confined spaces under the Standard?**

No. Even if the space is a confined space (see response to Question 1), if there is no reasonably foreseeable hazard or potential hazard within a space that could impede an entrant's ability to safely exit the space without assistance (see response to Question 2), then a residential home builder would not be required to consider the space a permit-required confined space under the Standard. A residential home builder may rely on a competent person's experience and expertise in determining whether any such hazard or potential hazard in a space is reasonably foreseeable.

#### *MULTI-EMPLOYER COMMUNICATION PROVISIONS*

**32. Do the multi-employer communication requirements of 1926.1203(h)(1) of the Standard apply to host employers that do not have employees who work on the worksite?**

No. The requirements only apply to host employers with employees who work at the worksite, regardless of when those workers are at the site.

**33. Paragraph 1926.1203(h)(1) of the Standard includes requirements for permit space entry communication and coordination. It requires that before entry operations begin, the host employer must provide the following information, if it has it, to the controlling contractor: (1) the location of each known permit space; (2) the hazards or potential hazards in each space or the reason it is a permit space; and (3) any precautions that the host employer or any previous controlling contractor or entry employer implemented for the protection of employees in the permit space. Under the Standard, is the host employer required to perform a separate assessment of all spaces to gather the information required by this paragraph?**

No. The Standard only requires the host employer to communicate the information in paragraph (h)(1) if it is known by the host employer. The Standard does not require the host employer to perform a separate assessment to gather the information. In addition, the communication provisions only require host employers to convey the information to the controlling contractor through reasonable means. There is no requirement in the standard for the host employer to verify that the information has been received by the controlling contractor or transmitted to entry employers by the controlling contractor. A host employer that has the information in paragraph (h)(1) need only communicate the information to the controlling contractor one time to satisfy the requirements of the Standard. Additional communications will only be required if the host employer gains additional such information not included in the original communication.

**34. Are host employers/controlling contractors responsible for compliance with the permit-required confined space program provisions of the Standard if they have no reason to anticipate that the employees they direct will enter a permit-required confined space?**

No. However, these employers must nonetheless (1) take effective measures to ensure that the employees they direct do not enter any known permit spaces (see 1926.1203(c)), and (2) comply with 1926.1203(h). Otherwise, only employers that should reasonably anticipate that the employees they direct may enter a permit space are responsible for compliance with the permit- required confined space requirements of the Standard. For example, employers that will not direct any employees to enter a confined space are not required to comply with the following provisions of the rule: permit-required confined space program (1926.1204), permitting process (1926.1205), entry permit (1926.1206), training (1926.1207), duties of authorized entrants, attendants, and entry supervisors (1926.1208-1210), and rescue and emergency services (1926.1211).

**35. Can a residential home builder serving as a host employer or controlling contractor perform a single communication (whether from a host employer to a controlling contractor or from a controlling contractor to an entry employer) to fulfill its obligations under 1926.1203(h) of the Standard provided there are no expected deviations in the presence or absence of potential hazards in a confined space in a home?**

Yes. The Standard does not require multiple communications of the information in paragraph (h) between employers on a residential home building site (whether at a single home building site or a site with multiple homes being constructed) where the potential hazards of confined spaces remain the same or substantially the same as long as any minor differences between the spaces are not relevant to which provisions of the standard apply to the spaces. However, if a host employer or controlling contractor learns of new information relevant to assessing the space under the Standard after an initial communication, the host employer or controlling contractor would need to convey the new information in a subsequent communication.

**36. Does 1926.1203(h) necessarily require entry employers to communicate the specified information before and after each time an employee goes into an attic, basement, or crawl space that is a permit-required confined space?**

No. An entry employer must communicate the information required under 1926.1203(h)(3) before "entry operations" begin, and it must communicate the information required under 1926.1203(h)(5) after "entry operations" have ended. Entry employees may go into and out of the space multiple times while completing the tasks identified on the permit without making additional communications as long as the entry employer maintains control over the space between the pre-entry and post-entry communications required under 1926.1203(h)(3) and (h)(5). In addition, a single pre-entry communication could address entry operations in multiple spaces under 1926.1203(h)(3) and a single post-entry communication could address multiple entry operations under 1926.1203(h)(5), provided each space has its own permit and is addressed in the communication.

**37. Do the communication provisions in 1926.1203(h) apply to non-permit confined spaces?**

No. These provisions *only* apply to permit-required confined spaces. Employers who have confined spaces, but not permit-required confined spaces, are under no obligation to follow the communication requirements of the Standard.

**38. Does the exchange of information set forth between employers in 1926.1203(h) have to be in writing?**

No. MIOSHA does not specify how the information is to be exchanged. The Agency will deem it sufficient for each employer to provide the necessary information through any appropriate mechanism. The information exchange requirements can be oral. There is no requirement in the Standard for written communications between employers on multi-employer worksites.

**39. If an employer chooses to exchange the required information in writing under 1926.1203(h), can the written communication be informal?**

Yes. While the exchange of information does not have to be in writing, some employers may choose to establish a mechanism for a written exchange. The written exchange does not have to be formal. It can be performed through email, text message, or other informal means, so long as the required information is provided.

**40. Under 1926.1203(h), is the controlling contractor under any obligation to enter a space to get information to relay to a host employer or entry employer?**

No. A controlling contractor only needs to obtain information on permit-required confined spaces from the host employer and entry employer(s) and provide this information and other known information on permit-required confined spaces to a host

employer or entry employer. The Standard does not require a controlling contractor to enter spaces to gather information.

**41. On multi-employer worksites, is every employer responsible under 1926.1203(a) to assess the worksite to determine the location and presence of confined spaces and information about permit-required confined spaces?**

No. Only employers that should reasonably anticipate that the employees they direct may enter confined spaces are required to perform this assessment. For host employers and controlling contractors that have no reason to anticipate that the employees they direct may enter confined spaces, there is no obligation to perform this initial assessment of the worksite.

**42. Is a homeowner who is not an employer covered by the Standard?**

No. The Standard only applies to employers.

*APPLICATION OF THE STANDARD*

**43. Can an entry supervisor also serve as an attendant during an entry into a permit-required confined space?**

Yes. An entry supervisor also may serve as an attendant or as an authorized entrant, as long as that person is trained and equipped as required by the Standard for each role he or she fills.

**44. The Standard defines isolate or isolation as "the process by which employees in a confined space are completely protected against the release of energy and material into the space, and contact with a physical hazard, by such means as: blanking or blinding; misaligning or removing sections of lines, pipes, or ducts; a double block and bleed system; lockout or tagout of all sources of energy; blocking or disconnecting all mechanical linkages; or placement of barriers to eliminate the potential for employee contact with a physical hazard." Is guarding by location an acceptable form of isolation under the Standard?**

Yes. Guarding by location (that is, configuring the space or equipment in the space to eliminate employee exposure to the hazard) is an acceptable form of isolation under the standard.

**45. OSHA has identified "noise" as a potential physical hazard. What noise level must be reached in order to constitute a physical hazard such that the permit-required confined space requirements apply?**

There is no specific threshold noise level that must be reached in order for noise to constitute a physical hazard triggering the permit-required confined space requirements. However, the noise must be so extreme that it could impede an entrant's ability to safely exit the space without assistance. In most instances, noise levels below the eight-hour

time-weighted average (TWA) permissible exposure limit for noise in construction of 90 dBA would not constitute a physical hazard triggering the permit-required confined space requirements.

**46. If engineering and administrative controls cannot be implemented in a residential homebuilding project to address potential noise exposures, is it acceptable for a residential home builder to rely on personal protective equipment to address noise exposures for purposes of the Standard?**

Yes. A residential home builder may rely on personal protective equipment to address a noise hazard for purposes of complying with the Standard so long as the personal protective equipment itself does not serve to impede the ability of an entrant to safely exit the space without assistance.

**47. If a competent person determines that a confined space in a residential home does not contain or have the potential to contain a hazardous atmosphere, would an entry employer need to conduct atmospheric testing of the space before an entry and provide for continuous monitoring of the space during the entry?**

No. If a confined space does not contain or have the potential to contain a hazardous atmosphere, an entry employer is not required to perform atmospheric testing or atmospheric monitoring.

**48. In determining whether a space has limited means of egress such that it would be considered a confined space, does the size of the entry employee matter?**

No. Whether a space has limited means of egress is a fact-dependent determination based on the size of the entrance and the configuration of the inside of the space. It is not dependent on the size of an entry employee.

**49. Can MIOSHA cite an employer for not documenting the initial evaluation of the workplace required by 1926.1203(a)?**

No. The initial evaluation need not be documented. The employer, however, must be able to explain how the evaluation was conducted and describe the results. Thus, any citation will be for failure to evaluate the workplace as required by the Standard, rather than for failure to create a record of the evaluation.

**50. Does the initial evaluation for determining if a confined space is a permit space, required by 1926.1203(a), mandate a specific physical survey of each space?**

No. The evaluation requirement may be met through existing experience and knowledge of the space, provided this information is adequate to make the determination required by the Standard. For example, a competent person may have information which shows that the hazards or potential hazards of all attics, crawl spaces, and basements (before steps are installed) will not impede an entrant's ability to exit the space. Therefore, these spaces

would not need to be evaluated individually before each entry. This same approach can be used for any entry employer which has a number of identical spaces and information to support its determination(s). See the response to Question 6.

**51: Under the Standard, which employer issues the permit for permit-required confined spaces?**

The permit is issued by the entry employer (see 1926.1205(a) and the definition of "entry employer" in 1926.1202: the "employer who decides that an employee it directs will enter a permit space").

**52. If a rescue service fails to notify an entry employer that the rescue service is unavailable, will the entry employer be cited under the Standard?**

No. So long as the entry employer informed the rescue service that rescue services may be needed and of the requirement that the rescue service notify the employer if it is unavailable for rescue, and the rescue service agreed to provide the notification, no citation will issue to the entry employer if the rescue service fails to fulfill its agreement to notify the entry employer that it is unavailable to perform rescue services.

**53. If an employer establishes a policy prohibiting the employees it directs from working in a permit-required confined space and effectively communicates the policy to those employees, does that employer still need to have a rescue harness on site and train the employees it directs in rescue operations?**

No. Only employers that can reasonably anticipate that the employees they direct may enter permit-required confined spaces are subject to the requirement to develop and implement procedures for rescue and emergency services under 1926.1204(i) and 1926.1211.

**54. In fulfilling the requirements of 1926.1203(a), can a competent person rely on experience and past practice in terms of assessing the existence of confined spaces and permit-required confined spaces?**

Yes. A competent person can draw from his or her experience and expertise in making the required assessment under 1926.1203(a).

**55. What constitutes serious physical damage under the Standard?**

Section 1926.1202 defines serious physical damage as an impairment or illness in which a body part is made functionally useless or is substantially reduced in efficiency. Injuries involving such impairment would usually require treatment by a physician or other licensed health-care professional. In general, injuries requiring only first-aid treatment would not be considered serious physical damage because they would not impair an employee's ability to safely exit a confined space without assistance.

## Appendix D

### Guidance on the Reclassification of Permit-Required Confined Spaces (PRCS)

A permit-required confined space (PRCS) may be reclassified as a non-permit space under the following conditions as outlined in 1926.1203(g):

1. There is no actual or potential atmospheric hazard within the space.

This means that there are no atmospheric hazards in the space, and none will develop during the entry period. Use of forced air ventilation to control atmospheric hazards is not considered the elimination of the hazard. [See standard interpretation.](#)

When looking at atmospheric hazards in confined spaces OSHA is concerned about acute hazards that would impede the entrant's ability to escape the space. Chronic hazards such as silica, lead, asbestos, etc. would not constitute an atmospheric hazard in a confined space. [See standard interpretation.](#)

2. All hazards of the space must be eliminated.

Typically, this means that the employer can either remove hazards from the space, such as emptying bins, tanks, etc., or the employer can lock out mechanical or electrical hazards of the space. Lockout is considered to eliminate the hazard of electrical or mechanical hazards for the duration of the lockout. Flowable materials (fluids, finely divided solids, etc.) must be "isolated" (see definition in standard) from the permit space in order to eliminate the hazard. [See standard interpretation.](#)

The employer shall document the basis for determining that all hazards of the space have been eliminated through a certification that contains the following:

1. Date
2. Location of the space
3. Signature of the person making the determination

MIOSHA should encourage the employer to use the entry permit to document the reclassification to a non-permit space. The entry permit will document that hazard are not there or have been eliminated.

This certification is valid as long as the hazards remain eliminated. Once equipment is re-energized the space is again a PRCS. SO/IHs should review these certifications to ensure that they are being conducted each time the hazards of the space are eliminated. The employer is also required to document the basis that all hazards have been eliminated. This could be in a written paragraph, permit, checklist or other form but should clearly explain the hazards of the space and how they have been eliminated.

## Appendix E

### Confined Spaces Litigation Settlement – Telecommunications

This memorandum sets forth an enforcement policy under which work on or directly related to telecommunications lines and equipment by telecommunications employees in an existing telecommunications manhole or vault will not be subject to citation by OSHA under the Confined Spaces in Construction standards, 29 C.F.R. 1926.1200-.1213, if such work is performed in accordance with the Telecommunications standard, 29 C.F.R. 1910.268, and the hazards associated with such work are addressed by the Telecommunications standard. For example, the following work activities performed within an existing manhole or vault would typically fall under this citation policy because, absent unusual circumstances, these activities constitute work on or directly related to telecommunications lines and equipment and involve hazards addressed by the Telecommunications standard: maintenance and repair of telecommunications lines and equipment; testing, locating and inspecting telecommunications lines and equipment; splicing telecommunications lines; and installing and removing telecommunications lines and equipment.

However, not all work related to telecommunications manholes or vaults would fall under this citation policy. For example, constructing telecommunications manholes or vaults, or installing new ducts or horizontal boring for new ducts between existing manholes or vaults, would not fall under this citation policy because these activities do not constitute work on or directly related to telecommunications lines and equipment in existing telecommunications manholes or vaults. Activities outside the scope of this enforcement policy would be subject to citation under any applicable OSHA standard or regulation, which could include the Confined Spaces in Construction standard.

In addition, even where telecommunications employees are performing work on or directly related to telecommunications lines and equipment in existing manholes or vaults, unusual hazards may arise that are not addressed by the Telecommunications standard. For example, a manhole or vault could contain a toxic atmosphere that could not be made safe before entry as required by the Telecommunications standard. In such cases, work involving hazards not addressed by the Telecommunications standard would be subject to citation under any applicable OSHA standard or regulation, which could include the Confined Spaces in Construction standard.