



Proposed OSHA Confined Space Regs Could Prove Costly

By Jeff Griffin, Senior Editor

A proposed rule change in the Occupational Safety and Health Administration (OSHA) requirements intended to protect personnel who work in and around confined spaces on construction projects, has raised concerns and opposition from some organizations who build and maintain the nation's sanitary sewer systems.

The proposed change – Confined Spaces in Construction; Proposed Rule - 72:67351-67425 – was published in the Federal Register on Nov. 28, 2007, with a three-month period ending Feb. 28 for interested parties to submit comments to OSHA.

NASSCO (National Association of Sewer Service Companies) actively opposes the rule change and on Feb. 19 sent a written request to OSHA to schedule a hearing on the rule change.

The NASSCO letter to OSHA claims “much” of the data in the economic analysis used to support the proposed rule change is “erroneous and incorrect,” and that implementing the rule if it is adopted would cost NASSCO members an estimated \$17.5 million each year. The letter also called it “regrettable” that no companies or entities from the sewer industry were part of the review panels utilized during the drafting of these rules.

In addition to the hearing request, a memo from the NASSCO safety committee urged association members to submit comments about the rule change before the Feb. 28 deadline.

NASSCO Executive Director Irv Gemora said the association has received no response to the request for a hearing.

Waiting for response

OSHA spokesperson Claude Knighten said the request for a hearing is under review and that all comments submitted about the proposed rule will be considered as part of the rule-making process. He provided no estimate about when a decision regarding a possible hearing would be reached but added that OSHA normally does not hold public hearings on proposed rules. Neither did he provide an estimate about how long the rule-making process will take. OSHA announces proposed actions via the Federal Register and press releases, he added. “If the proposed new rules for Confined Spaces in Construction are implemented, they will change significantly the way employers and employees work in and around confined spaces,” said Kathy Romans, chairperson of the NASSCO health and safety committee.

A basic change of the proposed rule compared to the one now in effect, said Romans, is that sewer manholes will be considered a part of a Continuous System-Permit Required Confined Space (CS-PRCS) that is part of a contiguous, larger confined space – the sewer system.

She said provision of the new rule would require:

- The employer to assign an attendant to

be stationed outside the CS-PRCS for the duration of the entry operation;

- Guardrails around open manholes and appropriate danger signs posted while any sewer manhole is open, even if work is not being performed in the manhole at the time. And for any manhole deeper than five feet, a mechanical retrieval device must be used.
- Continuous monitoring for non-isolated engulfment hazards using an early warning system or upstream lookout is required when entering any manhole, regardless of the associated sewer pipe size. This increases the number of employees required for every entry into a manhole to three; and
- The proposed standard also requires that a general contractor coordinate entry operations among all subcontractors, regardless of whether the general contractor has employees on site or in the confined space.

“Possibly the most costly of the requirements is found in section, 1926.1213 Rescue Criteria,” said Romans, “which requires training, equipment, rescue service and available first aid for medical care for both non-entry rescue and entry rescue.”

Costly underestimates

Elaborating on comments in the NASSCO letter to OSHA about faulty data, Gemora said OSHA states in the Federal Register

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that there are an estimated 641,000 confined spaces; about 329,000 of these would be considered permit-required confined spaces under this proposal. This estimate results in 320,500 permit-required confined spaces in the United States.

"In fact," said Gemora, "it is estimated that there are over 18,000,000 manholes in the United States. Thus, there are 50 times more permit-required confined spaces in the United States than estimated by OSHA."

Further, NASSCO questions OSHA's estimate that there are approximately "20,000 establishments" whose employees enter at least one confined space.

"There are well over 80,000 municipal sewer systems in the United States (Census of Governments - 2002)," Gemora said. "If you add this number, plus the number of 'establishments' listed by OSHA (20,000), the end result would be 100,000 establishments which have employees entering at least one confined space each year – five times more 'establishments' in the United States than estimated by OSHA."

The request to OSHA concluded with statistics developed by NASSCO: "In order to fully understand the impact the Proposed

Rule for Confined Space in Construction would have on our membership, we completed our own internal economic analysis," Gemora said. "We conservatively determined the average cost of a confined space entry will increase by approximately \$35 per entry. This may not seem significant, but our 350 members enter over 500,000 confined spaces annually. This represents an additional cost of \$17,500,000 per year for just our membership.

"OSHA's own analysis indicated the total cost to the entire construction industry would be \$67 million per year. It is not realistic for our small organization to represent over 20 per cent of the total costs for the United States."

NASSCO is dedicated to establishing and implementing standards for the rehabilitation of underground utilities. The organization's several hundred members represent rehabilitation industry manufacturers and suppliers, municipalities and utility districts, engineers and contracting firms. In addition to her responsibilities as health and safety committee chairperson, Romans serves on the association board of directors. She is national sales manager for NPC Specialty Products Inc. ■

A Complex Issue

OSHA's proposed rule changes for the protection of workers in confined spaces isn't easy to understand and explain – the full text of the proposal published in the Federal Register is 244 pages containing 68,465 words.

The link to access the proposal is: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=FEDERAL_REGISTER&p_id=20174.

Probably easier than entering the link is to go to the OSHA web site:

- www.osha.gov;
- In the Site Index near the top of the page, click on "C;"
- From the list, click on "Confined Spaces;"
- Click "Hot Topics;" and
- Click "General", hit the underlined heading: "Confined Spaces in Construction; Proposed Rule."

Good reading.