

Fact Sheet

Employees who work in grain bins: are they covered under OSHA's Confined Space Entry regulation, or the Grain Handling regulation?

The "Permit-Required Confined Space" regulation and the "Grain Handling Safety" regulation both have requirements for employees who enter these spaces, but the requirements in the two regulations are very inconsistent. This fact sheet is intended to clarify which rule is to be applied.

Introduction

Certain classes of University of Minnesota employees are required to enter and work in grain bins. This most commonly occurs at the numerous Research and Outreach Centers (ROCs) located throughout the state.

There are at least two regulations that would seem to apply to this type of work: the "Permit-Required Confined Space Entry" regulation (29 CFR 1910.146) and the "Grain Handling Safety" regulation (29 CFR 1910.272).

While both of these regulations include requirements for this type of work, the requirements are inconsistent, and supervisors and managers are confused as to which set of requirements to follow.

Summary of the Permit-Required Confined Space Entry regulation

This regulation was intended to apply to any type of work in which employees enter into any type of

permit-required confined spaces, such as manholes, sewers, crawl spaces, pits, etc.

Because it is intended to apply to a much broader class of confined spaces, the requirements are much more general, and open to interpretation.

It's very important to note that it is known as a "horizontal regulation": in other words, it applies to all industry types.

Summary of the Grain Handling Safety regulation

This regulation addresses numerous types of hazards and controls associated with grain handling operations. These include explosion prevention, machine guarding, and most notably, entry into grain storage structures.

Unlike the permit-required confined space entry rule, the grain handling regulation is known as a "vertical" regulation, meaning that it was written to apply to a specific industry.

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Important differences

There are many similarities between the permit-required confined space regulation and the portions of the grain handling safety regulation that discuss entry into grain bins.

For instance, both regulations focus on controlling atmospheric hazards, including explosion hazards. When properly administered, both regulations provide a high degree of protection for workers involved in this type of work.

However, there are important differences. Most notably, the grain handling regulation is much simpler to interpret and administer. Additionally, certain provisions of the confined space entry regulation that would be difficult or even impossible to comply with in agricultural settings are absent from the grain handling rule.

The bottom line...

OSHA's grain handling regulation supersedes the permit-required confined space regulation.

Documentation of this can be found in a February 8, 2005 letter of interpretation from OSHA to Mr. Ronald R. Demaray. This letter may be found here:

http://osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=25055

Therefore, all work involving employees entering into grain bins should be conducted in compliance with the grain handling regulation, not the permit-required confined space entry regulation.

There are many reasons for this, but the most important one is based on the legal theory that vertical standards such as the grain handling regulation will almost always supersede the horizontal standard such as the permit-required confined space rules.

This is because the vertical standards are almost always much more specific and customized to the type of industry and hazards at hand.

Questions

If you have questions on this topic, please contact the Office of Occupational Health and Safety at (612) 626-5008 or uohs@umn.edu, or see the website at <http://www.ohs.umn.edu>.