

U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210



October 27, 1995

Mr. Edward A. Donoghue Associates Inc.
Code and Safety Consultant to NEII
Shushan Road, P.O. Box 201
Salem, NY 12865-0201

Dear Mr. Donoghue:

This is in further response to your letter of January 27, and the joint meeting of June 20, between National Elevator Industry Inc. (NEII) and the Occupational Safety and Health Administration (OSHA) requesting guidance in determining whether elevator pits meet the definition of confined spaces. We would like to thank the NEII members for your frank discussion and for conveying the difficulties you face in your industry.

After listening to the presentation restating NEII's position and explanation of the underlying rationale for its position, OSHA believes:

- 1) The need for a ladder to exit an elevator pit means that there is a restricted means of entry and exit; (Please note: deep elevator pits that have a standard door entry at the base of the pit would not be considered to be restrictive to entry or exit.)
- 2) Most elevator pits are not designed for continuous human occupancy since they generally cannot be occupied during normal elevator operation.

The third element of the confined space definition (large enough to enter and do work) was not at issue. Thus, with all the definition's elements met, our answer to the question of whether elevator pits are to be considered confined spaces continues to be, generally yes.

However, being classified as a confined space does not automatically mean that elevator pits are Permit-Required Confined Spaces. In order for a confined space to be classified as a "Permit space" an acute hazard must be potentially or actually present within the space at the time of entry.

During the meeting the members asserted that as to the vast majority (estimated to be 99%) of the nation's 700,000 elevators:

- 1) They are in commercial and residential buildings (with the remainder being in industrial settings). Therefore, potential acute atmospheric hazards in the pits are rare because most of the elevators are in the public areas of commercial buildings and share the ambient air of these areas. As such, the chance for the development of a toxic atmospheric condition is usually remote and does not generally need to be addressed beyond the initial evaluation and determination of the space.
- 2) The predominant hazards (mechanical and electrical) stem from elevator-related equipment. Consequently, while most pits may not contain a potential atmospheric hazard, elevator pits generally are permit-required confined spaces by virtue of the electrical-mechanical hazard(s). Where the electrical-mechanical hazard(s) can be eliminated, and where there are no potential or actual atmospheric or other hazards, the pit can be de-classified and rendered non-permit required spaces by employing the procedures specified in paragraph 1910.146(c)(7). The use of lockout/tagout procedures contained in the 29CFR1910.147 standard has been deemed to be "elimination" within the PRCS standard's definition of this term, where mechanical and electrical hazards are concerned. It is our understanding that the pit stop switch would not lock-out the elevator since it is not a main electrical energy disconnect; the main disconnect to elevator equipment would have to be used and locked or tagged to accomplish an

electrical de-energization.

However, if elimination of the hazards require entry into the pit, the permit-required confined space entry procedures would have to be followed until the hazards were eliminated. Reclassification can be accomplished by either the host employer or the entry (contractor) employer.

As noted in the standard, using ventilation to preclude the possibility of a hazardous atmosphere is considered control of the atmospheric hazard and is not considered elimination. If any of the hazards that originally triggered the classification of the space as a permit space reappear, or a new hazard is introduced into the non-permit space, entry operations under (c)(7) must stop and the space must revert to a permit space. To continue to employ paragraph (c)(7), all hazards must be eliminated.

Elevator service and repair companies must coordinate with the host employer with respect to the initial evaluation of the pit space for compliance with the PRCS standard. This will include obtaining from the host employer the necessary hazard information to allow the elevator company to evaluate or reevaluate the pit space. To that end, a restating of the "host employer" obligations to contractors who work at their facilities is in order as it was an issue during our discussions.

Besides the initial determination requirement of paragraph (c)(1), the "host" employer must comply with the five (5) requirements of paragraph (c)(8) when engaging another employer (contractor) who will have employees in permit spaces under the control of the host employer.

These 29 CFR 1910.146(c)(8) requirements are:

- (i) Inform the contractor that the workplace contains permit spaces and that permit space entry is allowed only through compliance with a permit space program meeting requirements of paragraph (d) of 1910.146.
- (ii) Apprise the contractor of the elements, including the hazards identified and the host employer's experience with the space, that make the space in question a permit space.
- (iii) Apprise the contractor of any precautions or procedures that the host employer has implemented for the protection of employees in or near permit spaces where contractor personnel will be working.
- (iv) Coordinate entry operations with the contractor, when both host employer personnel and contractor personnel will be working in or near permit spaces, as required by paragraph (d)(11) of the PRCS standard.
- (V) Debrief the contractor at the conclusion of the entry operations regarding the permit space program followed and regarding any hazards confronted or created in permit spaces during entry operations.

A host employer, when appraising a contractor of the potential hazards of a specific space, must sufficiently identify each of the potential hazards anticipated in the space under consideration based on the work environment where the space resides. A bare statement that a hazardous atmosphere is or is believed to be present in the elevator pit area does not meet OSHA's intent for communication of hazard with regard to the 29 CFR 1910.146(c)(8)(ii).

In our meeting, you referred to standard industry entry practices and training associated with pit entry (Lockout/Tagout, Hazcom, etc.) established in the NEII developed "Field Employee Safety Handbook." You also stated that the vast majority of pit entries are accomplished by one employee who, with respect to 1910.146(c)(7)(iii), would be the evaluator, certifier, and entrant. Since the purpose of the certification is to document that the hazards have been eliminated and identify the person making the determination for entrants, it appears that employees who were adequately trained to do the 1910.146(c)(7)(iii) evaluation would not need to document that the hazards were eliminated if the only employee working at the site is the one doing the (c)(7) determination.

In summary:

- 1) OSHA continues to view elevator pits generally as confined spaces;
- 2) There has to be a potential or actual hazard present in the elevator pit in order for it to be classified as a permit-required confined space. Most elevator pits contain at least mechanical and electrical hazards.
- 3) If all the hazards in the elevator pit can be eliminated, the pit can be reclassified as a non-permit space.
- 4) Host employers must provide contractors with the specific hazard information on which the permit space-determination is based.

As before, a copy of this letter will be provided to all our Regional Administrators for further distribution within Federal OSHA community and also to our State Plan stakeholder.

Should you have questions on this response, please contact Mr. Don Kallstrom in the Office of General Industry Compliance Assistance (202)219-8031 x-109.

Sincerely,

John B. Miles, Jr., Director
Directorate of Compliance Programs