



CHERIE K. BERRY
COMMISSIONER

KEVIN BEAUREGARD
ASSISTANT DEPUTY COMMISSIONER
OCCUPATIONAL SAFETY AND HEALTH DIVISION

MEMO

To: OSH Division

From: Kevin Beauregard, Assistant Deputy Commissioner

Date: October 5, 2015

Re: Temporary Enforcement Policy for Residential Construction Work in Confined Spaces

On May 4, 2015, OSHA published the Confined Spaces in Construction standard, which became effective August 3, 2015. The OSH Division adopted the rules verbatim, with an effective date of October 2, 2015 in North Carolina. OSHA subsequently issued a temporary enforcement policy, which has been in effect for all employers covered by the standard through October 2, 2015. OSHA has further extended their temporary enforcement policy through January 8, 2016, for employers engaged in residential construction work.

Per this memorandum, the NCDOL OSH Division adopts the above mentioned OSHA temporary enforcement policy for use in North Carolina. The OSHA temporary enforcement policy is attached.



Reply to the attention of:

OCT 1 2015

MEMORANDUM FOR:

REGIONAL ADMINISTRATORS AND
STATE PLAN DESIGNEES

THROUGH:

Dorothy Dougherty
DOROTHY DOUGHERTY
Deputy Assistant Secretary

FROM:

James G. Maddux
JAMES G. MADDUX, Director
Directorate of Construction

SUBJECT:

Temporary Enforcement Policy for Residential Construction Work in Confined Spaces

This memorandum provides guidance on the enforcement of the Confined Spaces in Construction standard published on May 4, 2015 for residential construction¹ work. The new standard went into effect on August 3, 2015. A temporary enforcement policy has been in effect for all employers covered by the standard through October 2, 2015, under the terms outlined below. OSHA now further extends this temporary enforcement policy through January 8, 2016, only for employers engaged in residential construction work. Before January 8, 2016, OSHA will not issue citations under the Confined Spaces in Construction standard to an employer engaged in residential construction work if the employer is making good faith efforts to comply with the standard, as long as the employer is in compliance with either the training requirements of the standard, found at 29 CFR 1926.1207, or the former training requirements found at 29 CFR 1926.21(b)(6)(i), which provided:

All employees required to enter into confined or enclosed spaces shall be instructed as to the nature of the hazards involved, the necessary precautions to be taken, and in the use of protective

¹ This enforcement policy incorporates the definition of “residential construction” in OSHA’s Compliance Guidance for Residential Construction, STD 03-11-002 (June 6, 2011), available on OSHA’s website. As a general matter, the intent of this enforcement policy is to cover construction work on single-family homes, duplexes, and townhouses, not multi-unit apartment buildings.

and emergency equipment required. The employer shall comply with any specific regulations that apply to work in dangerous or potentially dangerous areas.

Employers who fail to train their employees consistent with either 29 CFR 1926.1207 or 1926.21(b)(6)(i) would properly be cited for violation of 1926.1207. Factors OSHA will consider when evaluating whether an employer is engaged in good faith efforts to comply with the new standard include:

- If the employer has not trained its employees as required under the new standard, whether the employer has scheduled such training,
- If the employer does not have the equipment required for compliance with the new standard, including personal protective equipment, whether the employer has ordered or otherwise arranged to obtain such equipment required for compliance and is taking alternative measures to protect employees from confined space hazards, and
- Whether the employer has engaged in any additional efforts to educate workers about confined space hazards and protect workers from those hazards.

If any Regions have questions, please contact the Directorate of Construction, phone (202) 693-2020.