

Three Needless Deaths: Recognize Confined Space Dangers on Your Job Sites

Labor & Employment Law Update

on July 24, 2017

On July 14, 2017, the U.S. Department of Labor's Occupational Safety and Health Administration cited a contractor for 10 serious violations after the deaths of three workers who succumbed to toxic gases in a manhole on January 16, 2017.

Preventable safety failures led to the deaths of Elway Gray, a 34-year-old pipe layer, who entered the manhole – a confined space – and quickly became unresponsive; Louis O'Keefe, a 49-year-old laborer, who entered the hole in an attempt to rescue Gray; and Robert Wilson, a 24-year-old equipment operator, who followed to rescue his two fallen coworkers. Two other employees and a firefighter were also exposed to the toxic gases during rescue attempts but survived.

Post-incident atmospheric testing of the confined space revealed lethal levels of carbon monoxide and hydrogen sulfide. OSHA investigators issued *Douglas N. Higgins, Inc.* and its related contracting company, serious citations, totaling \$119,507, in penalties.

The incident-related serious violations included failure to:

- Purge or ventilate the confined space before entry;
- Prevent workers from exposure to an asphyxiation hazard;
- Provide necessary rescue and emergency equipment for employees that were overcome inside a permit-required confined space;
- Develop and implement a written hazard communication program for a worksite on which employees were exposed to dangerous chemicals and gases;
- Use a calibrated direct-reading device to test for toxic gases, creating an asphyxiation hazard;
- Create and document the confined space entry permit;
- Provide training to employees in the safe performance of their assigned duties in permit-required confined spaces; and
- Provide a guardrail around the manhole opening, exposing employees to a fall hazard.

Full citations may be found [here](#).

OSHA Area Director Condell Eastmond's comments were all too familiar: "Three employees needlessly lost their lives and others were injured due to their employer's failure to follow safe work practices."

This case should remind all employers that confined spaces within the workplace often present difficult and involved identification, training, written program management and compliance documentation retention issues.

What responsibility do companies have to ensure that their contractors protect their workers?

Those organizations that have a record of previous "serious" violations must be aware OSHA will rigorously enforce employee training, workplace safety information requirements, toxic workplace condition testing and all related rescue and emergency safety equipment regulations and will issue repeat, willful and, in extreme cases, criminal violations, should subsequent violations be documented by OSHA.

Three
Needless
Deaths:
Recognize
Confined
Space
Dangers on
Your
Job Sites