



Australian Government

Comcare

**Proposed review of the *Occupational
Health and Safety (Safety Standards)
Regulations 1994 - Part 7 Confined
Spaces***

Consultation Paper

Comcare

Consultation period finishes 17th October 2008

Foreword

The Safety, Rehabilitation and Compensation Commission (the Commission) oversees the operation of the *Occupational Health and Safety Act 1991* (the Act). The functions of the Commission include:

- developing occupational health and safety policies and strategies and ensuring compliance with the Act; and
- overseeing legislative policy and advising the Minister for Employment and Workplace Relations on matters relating to the Act.

Comcare is a statutory body established by the Australian Government to lead and promote efforts to prevent and reduce the incidence of occupational injury and disease as well as promote safety by producing a healthy and safe work environment.

Comcare undertakes a number of functions on behalf of the Commission. Comcare's activities include education, regulation, enforcement, research and provision of relevant policy advice to both the Commission and persons covered by the Act.

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Purpose

1. The purpose of this paper is to seek comments from stakeholders on a proposed review of Part 7, *Confined Spaces* of the *Occupational Health and Safety (Safety Standards) Regulations 1994*. The review, which is being undertaken to identify current issues with the Regulations and to identify potential amendments, would address the issues.

Background

2. Confined spaces are inherently risky workplaces. They are often restrictive in size, with limited means of entry and exit, an increased risk of irrespirable atmosphere, and may exacerbate the severity of hazards such as noise, thermal comfort and manual tasks.
3. In April 1996, Part 7 *Confined Spaces*, of the *Occupational Health and Safety (Safety Standards) Regulations 1994* (the Regulations) came into effect. The Regulations contain provisions to ensure that employers and manufacturers eliminate, or manage, the risks to health and safety in relation to confined spaces. The Regulations are based on the National Occupational Health and Safety and Commission (NOHSC) National Standard for confined spaces which is the Australian/New Zealand Standard *Safe Work in Confined Spaces* AS/NZS 2865:1995.
4. AS/NZS 2865:1995 was reviewed and a revised version AS/NZS 2865:2001 developed. In reviewing the AS/NZS 2865:1995, the following key changes were made:
 - a. amendment to the definition of a confined space, clarifying the intent that oxygen level can mean either a deficiency or an excess;
 - b. the inclusion of further guidance on applying the definition of a confined space (appendix);
 - c. revision of the written authority form in an appendix; and
 - d. revision of the risk assessment section (Appendix) and inclusion of a suggested risk assessment form.
5. AS/NZS 2865:1995 and 2001 both contain further clarification about certain matters. For example, the scope and application of the standard is clarified by defining 'entry' to a confined space as "when a person's head, i.e. the breathing zone, or upper body is within the boundary of the confined space." In contrast, a definition of 'entry' is not defined in the Regulations. The Regulations are going to be reviewed to improve clarity and reflect changes in AS/NZS 2865:2001.

Issues

6. Issues have been raised by stakeholders regarding the lack of clarity around the scope of the Regulations, for example, in what situations the provisions apply (particularly surrounding the definition of a confined space and entry), and the lack of flexibility in some provisions, for example entry permits and the requirement for a stand-by person.
7. Part 7.10 of the Regulations requires a stand-by person to be present whenever a risk assessment identifies a risk to health or safety when operating in a confined space. In

contrast, AS/NZS 2865:2001 require a stand-by person to be present when control measures cannot adequately eliminate or minimise identified risks to health and safety.

8. A comparison of the key differences between AS/NZS 2865:2001 and the Regulations is as follows. Note that there isn't a significant difference in the definition of a 'confined space' between the AS/NZS 2865:2001 and the Regulations.

	AS/NZS 2865:2001	The Regulations
'Entry' definition	Entry is defined as "when a person's head, i.e. the breathing zone, or upper body is within the boundary of the confined space" with a note that inserting an arm for the purpose of atmospheric testing is not considered an entry to a confined space.	Not defined.
Stand-by person	A stand-by person is required wherever a risk exists and control measures can't ensure that: <ol style="list-style-type: none"> 1. a safe oxygen level can be maintained; 2. no atmospheric contaminants are likely to be present in concentrations above the exposure standards; 3. there is no risk of fire /explosion/engulfment or entrapment; 4. the work performed cannot generate risk to health and safety; 5. equipment or conditions outside the confined space cannot control or monitor conditions within the confined space to ensure health and safety (ventilation, respirator air supply, vehicles and weather); or 6. there can be no other risks to the health and safety of persons entering the confined space. 	A stand-by person is required where a risk assessment indicates a risk to health or safety.
Written authority / Entry Permit	Written Authority is defined in AS/NZS 2865:2001 as 'A document which permits entry to or work in a confined space' with a note that a written authority is sometimes known by other names such as an entry permit, access authority or a permit to work. A written authority, for example an entry permit, should be issued and the period of its validity stated. The information and control measures listed on the written authority should be revalidated whenever it becomes evident that the duration of work	An entry permit is not defined by the Regulations. The Regulations require an employer to give written approval for entry to a confined space by issuing an entry permit that names the person and specifies any precautions or instruction necessary for safe entry and

	<p>will involve a change of person responsible for the work, a significant break in work continuity or a significant change in risk.</p> <p>The written authority should be displayed in a prominent place, usually adjacent to the confined space entry, to facilitate signing and clearance.</p>	<p>performance of work.</p> <p>The employer must ensure that each person who is required to carry out work in the confined space is informed of, and understand the contents of the permit before they enter the confined space. The employer must acknowledge in writing that the work in the confined space is completed and that all people involved in the work have left the confined space before the confined space is returned to normal use.</p>
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9. Comcare proposes to review the Regulations to ensure that the requirements of Part 7 are practical and provide adequate workable provisions for the management of risks associated with confined spaces.
10. The main focus of the review would be to improve the clarity of the scope and application of the Regulations, and ensure that the Regulations enable safe systems of working in confined spaces to be put in place in a reasonably practicable manner by employers.

Invitation for Comments

11. Comcare is committed to improving the health and safety of employees in the Commonwealth jurisdiction and engaging our customers and stakeholders in the process of achieving that improvement.
12. Employers, employees and other stakeholders in the Commonwealth jurisdiction are encouraged to participate in this consultation process and to provide comments (see Attachment A). Comments should be submitted to Comcare by close of business 17th October 2008.
13. Comcare proposes to set up an email group for further consultation. If you wish to participate in the email group on confined spaces, please provide your contact details (position title, organisation, email and phone) to Elin Berger via email: ohs.policy@comcare.gov.au or phone 1300 366 979 by 17th October 2008.

Attachment A - Comment Form

Thank you for taking the time to review this consultation paper on proposed amendments to the *Occupational Health and Safety (Safety Standards) Regulations 1991, Part 7 – Confined Spaces*.

This form is designed to be either printed and mailed or faxed. Alternatively it can be filled out and sent electronically to the email address listed below.

Please ensure your response is submitted to Comcare by C.O.B on the 17th October 2008 via:

Mail to: Elin Berger
OHS Policy
Research and Policy Branch
Comcare
GPO Box 9905
Canberra ACT 2601

Email to: OHS.Policy@comcare.gov.au

Fax to: (02) 6274 8658

Your contact details

Name:	
Organisation:	
Position held:	
Address:	
Phone no:	
Email address:	

Your comments

Comcare is particularly interested in your comments on the following aspects of the discussion paper.

Question 1.

What should the scope of the Regulations be? Should 'entry' be defined as part of this?
Comments:

Question 2.

What should the purpose of the entry permit / written authority be and when / how should they operate?
Comments:

Question 3.

What should the provisions of a stand-by person be and when / how should they operate?

Comments:

Please use this space if you have further comments on any aspect of this discussion paper.