

Overview of proposed amendments to

Part 9: Confined Spaces **Section 9.11, Qualifications**

For the purposes of Part 9, a specific designation of a qualified person is provided in section 9.11 (2), which refers to professional credentials (i.e., CIH, ROH, CSP, CRSP and P. Eng.). Under the current regulation, persons holding a CIH or ROH designation are not required to have additional experience in confined space entry before completing a hazard assessment or drafting procedures to control identified hazards.

Because the consequences of poor hazard assessments and inadequate control procedures can be tragic, the proposal is to amend section 9.11 (2) (a) to ensure all qualified persons have experience in confined space entry in addition to any professional qualifications. Subsection (2) (c) will remain unchanged and allows the Workers' Compensation Board to recognize combinations of experience and training other than professional credentials, as few individuals outside large urban centres have the professional qualifications listed in existing section 9.11 (2) (a) and (b).

PART 9: CONFINED SPACES

HAZARD ASSESSMENT AND WORK PROCEDURES

- Qualifications 9.11**
- (1) The hazard assessment and written confined space entry procedures must be prepared
 - (a) by a qualified person who has adequate training and experience in the recognition, evaluation and control of confined space hazards, and
 - (b) in consultation with the person assigned overall responsibility for administration of the confined space entry program and with the joint committee or the worker health and safety representative, as applicable.
 - (2) For the purposes of subsection (1) (a) qualifications which are acceptable as evidence of adequate training and experience include
 - (a) certified industrial hygienist (CIH) or registered occupational hygienist (ROH) **provided that the holders of these qualifications have experience in confined space entry,**
 - (b) certified safety professional (CSP), Canadian registered safety professional (CRSP) or professional engineer (P. Eng.), provided that the holders of these qualifications have experience in the practice of occupational hygiene as it relates to confined space entry, or
 - (c) other combination of education, training and experience acceptable to the Board.
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Explanatory Note

For the purposes of Part 9, a specific definition of a qualified person is provided in section 9.11 (2) that refers to professional credentials (i.e., CIH, ROH, CSP, CRSP and P. Eng.). Under the current regulation, persons holding a CIH or ROH designation are not required to have additional experience in confined space entry before completing hazard assessments or procedures to control identified hazards.

Because the consequences of poor hazard assessments and inadequate control procedures can be tragic, it is proposed that existing section 9.11 (2) (a) be amended so that individuals holding hygiene designations (i.e., CIH or ROH) are also required to have confined space entry experience. This will ensure that all qualified persons have experience in confined space entry in addition to any professional qualifications.

Section 9.11 (2) (c) remains unchanged and allows the Workers' Compensation Board to recognize combinations of experience and training other than professional credentials. This paragraph recognizes that few individuals outside large urban centres have the professional qualifications listed in existing section 9.11 (2) (a) and (b).

The associated guideline will be revised to provide direction to officers on how to address deficiencies in assessments and procedures.

G9.11-1 Qualifications

Revised April 27, 2000; Revised _____

Regulatory excerpt

Section 9.11(1) of the *OHS Regulation* requires a hazard assessment and written confined space entry procedures be prepared by a "qualified person who has adequate training and experience in the recognition, evaluation and control of confined space hazards"

Section 9.11(2) of the *OHS Regulation* states "For the purposes of subsection (1)(a) qualifications which are acceptable as evidence of adequate training and experience include

(a) certified industrial hygienist (CIH) or registered occupational hygienist (ROH) provided that the holders of these qualifications have experience in confined space entry,

(b) certified safety professional (CSP), Canadian registered safety professional (CRSP) or professional engineer (P. Eng.), provided that the holders of these qualifications have experience in the practice of occupational hygiene as it relates to confined space entry, or

(c) other combination of education, training and experience acceptable to the board."

Purpose of guideline

The purpose of this guideline is to provide direction to employers on how to meet their obligations to select qualified persons to create confined space hazard assessments and work procedures. It also provides contact information on some of the accrediting agencies that issue professional certifications referenced in section 9.11.

Employer due diligence

Employers are responsible for selecting qualified persons, as defined in s. 9.11 of the *OHS Regulation*, to undertake confined space hazard assessments and written entry procedures. The employer must exercise due diligence in the selection of the qualified person. This is especially necessary if the person being engaged does not hold one of the certifications or the license credentials specified in section 9.11(2) (a) or (b). While each case must be considered on its merits, reliance by an employer on a person holding a certification or license specified in section 9.11(2) as being a "qualified person" for the purposes of section 9.11 would normally be considered reasonable, however, due diligence in all cases includes a review of the person's experience as well as their accredited credentials.

Section 9.11(2)(c) permits persons not certified or licensed to be considered qualified for the purposes of this section. Anyone experienced, knowledgeable and capable of doing the required hazard assessments and writing appropriate safe work procedures may be considered to be a "qualified person". The education, training and experience required to complete a particular confined space entry assessment and to write appropriate

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procedures will depend on the complexity of each situation and the hazards to be controlled.

Factors employers should evaluate in determining whether a person selected to undertake the confined space hazard assessment and entry procedures under 9.11(2)(c) is qualified include:

- specific education and training the person has received, and relevance to the industry or type of space the person will encounter;
- extent of experience with confined space entry relevant to the industry and type of space the person will encounter;
- experience with specific elements or tasks related to confined space entry, such as:
 - lockout and isolation
 - air monitoring
 - ventilation
 - use of lifeline, harness and lifting equipment
 - the use of personal protective equipment
 - participation in rescue drills
 - previous assessments conducted and procedures written.
- proficiency with applying exposure limits;

A deficient confined space risk assessment or work procedure may be an indication the person selected was not qualified to do the hazard assessment and/or develop the written confined space entry procedures. In all such situations, whether the person selected purports to be a qualified person under subsection (a), (b) or (c), prevention officers will enquire what steps the employer took to assess the person's qualifications. It should be noted that when evaluating the qualifications of a person who has prepared a hazard assessment and confined space procedures, the officer's primary focus will be the quality of the assessments and procedures rather than the person's credentials.

Where prevention officers encounter hazard assessments and work procedures that are deficient and the person selected meets the definition of "qualified person" in s. 9.11 (2) (a) or (b), the employer who engaged the "qualified person" may file a complaint with the accrediting agency.

Note that in addition to engaging qualified persons, employers are also responsible for ensuring that the confined space hazard assessment contains the required elements, and that the written confined space entry procedures have been developed based on the hazard assessment (see s. 9.9(2) and s. 9.10).

Prevention officers will also assess the extent to which the employer knew or should have known that the assessment and/or procedures were deficient. In particular, prevention officers will enquire into what steps the employer took to ensure that ss. 9.9 and 9.10 were complied with.

Contact with accrediting agencies

Among other things, accrediting agencies often maintain web sites with contact information on accredited persons. For example, the Canadian Registration Board of Occupational Hygienists maintains contact information on persons with ROH's, which

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can be accessed at www.crboh.ca. A list of persons with CIHs can be found on the American Board of Industrial Hygiene web site at www.abih.org. Lists of persons with CRSPs, which are issued by the Board of Canadian Registered Safety Professionals, are available at www.acrsp.ca