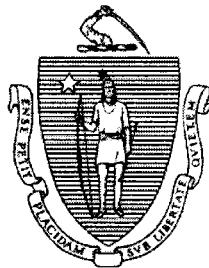


To the Joint Committee on Public Safety and Homeland Security, the Senate Committee on Ways and Means, and the House Committee on Ways and Means of the Massachusetts General Court

August 15, 2025



COMMISSIONER OF THE DIVISION OF
OCCUPATIONAL LICENSURE

In conjunction with the
DEPARTMENT OF LABOR STANDARDS

ANNUAL REPORT ON FINES IMPOSED, COLLECTED AND
EXPENDED PURSUANT TO G.L. c. 82A, § 1
(EXCAVATION AND TRENCH SAFETY)

Acknowledgements

This annual report was prepared by the staff of the Office of Public Safety and Inspections (OPSI), in conjunction with the Department of Labor Standards (DLS), pursuant to G.L. c. 82A, § 1 which states in relevant part: "The office of public safety and inspections of the division of occupational licensure, in conjunction with the department of labor and workforce development, shall file a report detailing the amount of fines imposed, collected and expended pursuant to this section with the house and senate committees on ways and means and with the joint committee on public safety and homeland security not later than August 15 of each year."

Statutory and Regulatory Requirements

Commencing in January 2009, all excavators are required to obtain a permit prior to the creation of a trench made for a construction related purpose on public or private land or rights-of-way in accordance with Chapter 82A of the Massachusetts General Laws. Further, all municipalities are required to establish a local permitting authority for the purpose of issuing these permits, with the designation of the local permitting authority left to the discretion of the individual municipalities. In addition to the permit and local permitting authority requirements mandated by statute, the trench safety regulations require that all excavators, whether public or private, take specific precautions to protect the public and prevent unauthorized access to unattended trenches.

The statute further mandates that the Office of Public Safety and Inspections (OPSI) within the Division of Occupational Licensure draft trench safety regulations in conjunction with the Department of Labor Standards (DLS). These are codified in section 14.00 of title 520 of the Code of Massachusetts Regulations.

Enforcement

As a practical matter, the enforcement of the regulations is almost exclusively done at the municipal level, which is responsible for the issuance of permits and is authorized to take administrative action on those permits. OPSI is authorized to assess administrative fines for violations and has requested that municipalities refer appropriate cases to OPSI for investigation and appropriate action pursuant to the regulations.

During FY 2025, DLS conducted 45 trench inspections and interventions; 45 inspections of construction sites, DPW facilities, and other locations where trench safety was discussed; and 15 trench safety training sessions where trench safety may be part of a larger training presentation and not the sole subject. Total attendance for trench safety training sessions conducted by DLS was 1,799 attendees, and trench safety literature was distributed at 325 job sites and exhibit halls as part of those presentations.

DLS was active in enforcing trench safety during this period. The DLS Workplace Safety and

Health Program conducted 26 site inspections and interventions and issued corrective actions to prevent cave-ins and other trench incidents.

During FY 2025, OPSI performed 106 unannounced compliance inspections across the Commonwealth to ensure adherence to 520 CMR 14.00 pertaining to unattended trench safety as well as 520 CMR 6.00 concerning hoisting machinery operation. In most instances, OPSI inspectors found that excavators were appropriately licensed and unattended trench safety measures were understood and instituted as prescribed by 520 CMR 14.00. Where matters were not well understood, OPSI inspectors took time to reference regulatory requirements and emphasize the importance of barriers and other safety measures. Unattended trench safety regulatory infractions discovered during compliance inspections were minor and did not warrant fines or administrative penalties. Rather, compliance inspections were successfully used as a tool to help promote program safety measures.

However, there were two investigations of complaints involving unattended trenches resulting in two violations being issued, totaling \$2,000.00 in fines.

Budget

The Open Trenches and Excavations Trust (8311-2872) began Fiscal Year 2025 with a balance of \$7,710.13. The current balance is \$7,710.13. During Fiscal Year 2025, the Trust received \$0.00 from enforcement actions. The Trust paid out \$0.00.

Training

DLS performed two OSHA 10-Hour Construction courses where trenching and excavation was covered as a topic. These were conducted in Hyannis in November, 2024 for 22 attendees, and Westboro in May, 2025 for 14 attendees.

OPSI and DLS continued their cooperative alliance with the New England Water Works Association (NEWWA). NEWWA holds a four-day trench competent person training three times a year. DLS provides training on OSHA trench and excavation regulations and what happens during a DLS safety inspection, and OPSI provides training on Massachusetts regulations 520 CMR 6 hoisting, and 520 CMR 14 excavation and trench safety. Including webinars, over 1,795 public and private sector employees attended. These events were held in-person on February 12, 2025, in Westport, February 13, 2025, in Hyannis, February 25, 2025, in Pittsfield, February 26, 2025, in Westfield, February 27, 2025, in Woburn, March 11, 2025, in Fitchburg, and May 8, 2025 via online webinar.

DLS conducted in-person training and outreach for municipal public works employees by presenting at the New England Water Works Association, Digsafe's Managing Underground Safety Training (MUST), Massachusetts Highway Association, Massachusetts Water Works, New England Public Works Expo and Massachusetts Municipal Association conferences, and individual outreach meetings in Excavation Safety for municipal water and sewer departments. Over 500 public sector employees attended these training sessions and webinars combined.

In the private sector workplaces, DLS conducted 13 construction site consultations which included a discussion on trench safety, assessment of existing trenches, OSHA standards, and evaluation of trench safety programs. DLS intervened at another five private sector work sites where an active trench was located without all the required safety precautions in place. For public sector workplaces, DLS conducted 18 trench site inspections and issued corrective actions to prevent cave-ins and other trench accidents. DLS also conducted five site visits at municipal employers and three interventions at private sector worksites involving trenching and excavation safety.

DLS distributed trenching and excavation handouts at 6 conferences where municipal employees were in attendance and hand delivered packets of safety information, including trenching and excavation safety, to public works departments in Bristol and Worcester Counties. Conferences included the New England Public Works Expo and Massachusetts Municipal Association Conferences.

Outreach

OPSI continues to communicate with municipal authorities, excavators and others through standardized mass email messaging as well as in-person, when appropriate, to emphasize the importance of trench and other matters of public safety. Both agencies continue to respond to phone calls and e-mails regarding trench safety, jointly addressing questions and concerns of interested parties. Finally, in January 2018 DLS joined the emergency management notification list developed by OPSI to refer trench incidents to DLS and OSHA. Through this communication channel OPSI informs DLS regarding potential trench safety violations for public sector worksites. Likewise, DLS refers potential hoisting violations to OPSI for evaluation and follow-up.

Conclusion

OPSI, and DLS continue to regulate and enforce excavation and trench safety pursuant to their responsibilities under G.L. c. 82A. Over the course of the last year, the two agencies performed substantial training and outreach activities to facilitate stakeholder compliance and understanding of statutory and regulatory obligations. OPSI and DLS will continue to engage stakeholders in the coming year in their ongoing effort to promote excavation and trench safety for all affected parties.