MIOSHA

Michigan Occupational Safety and Health Administration (MIOSHA)
Department of Labor and Economic Opportunity (LEO)

AGENCY INSTRUCTION

DOCUMENT IDENTIFIER:	DATE:
MIOSHA-COM-19-1R1	July 25, 2024

SUBJECT: Trenching and Excavation – National Emphasis Program (NEP)

I. Purpose. This instruction describes agency enforcement and consultation policies and provides instruction to ensure compliance with the federal Occupational Safety and Health Administration (OSHA) NEP for trenching and excavation.

II. Scope. This instruction applies to the Construction Safety and Health Division (CSHD) and the Consultation Education and Training (CET) Division.

III. References.

A. Agency Instruction MIOSHA-ADM-13-1, MIOSHA Initiatives, as amended.

B. Construction Standard Part 9, Excavation, Trenching, and Shoring (Part 9, Excavation, Trenching, and Shoring).

C. MIOSHA Field Operations Manual, as amended (FOM).

D. OSHA Directive CPL-02-00-161, National Emphasis Program on Trenching and Excavation, October 1, 2018.

IV. Distribution. MIOSHA Staff; Federal OSHA; S-drive Accessible; MIOSHA Messenger; and Internet Accessible.

V. Cancellations. All previous versions of this agency instruction.

VI. Next Review Date. This instruction will be reviewed five (5) years from date of issuance.

VII. History. History of previous versions include:

MIOSHA-COM-19-1, February 12, 2019

VIII. Contact. Lawrence Hidalgo, Jr., Division Director, CSHD and Tarah M. Kile, Division Director, CET Division

IX. Originator. Barton G. Pickelman, Director

X. Background. In 1985, OSHA implemented CPL 02-00-069 - Special Emphasis: Trenching and Excavation, in response to the continuing incidence of trench/excavation collapses and accompanying loss of life. According to the Census of Fatal Occupational Injuries (CFOI) data, published by the Bureau of Labor Statistics (BLS), there were 130 fatalities recorded in trenching and excavation operations between 2011 and 2016. The private construction industry accounted for 80%, or 104, of those fatalities. An alarming 49% of those construction fatalities occurred between 2015 and 2016. In light of the recent resurgent number of trenching/excavation fatalities and serious injuries, OSHA determined that these worksites continue to warrant an increased enforcement presence. CPL-02-00-161 describes a federal program change which replaces CPL 02-00-069. With this instruction, MIOSHA establishes enforcement policies and procedures for their

trenching and excavation inspections which are at least as effective as CPL-02-00-161 of the federal OSHA NEP on Trenching and Excavation.

XI. Significant Changes. Eliminated Figures 1 and 2.

XII. Enforcement Activities.

A. CSHD safety officers (SOs) should initiate inspections under this NEP when they observe an open trench or an open excavation, regardless of whether or not a violation is readily observed. These observations may occur during the course of their normal work-day travel or while engaged in programmed or un-programmed inspections. Trenching and excavation operations will also be assigned for inspection as the result of incidents, referrals, and complaints.

B. When SOs observe trenching or excavation operations but are unable to begin an immediate inspection (i.e., responding to an incident, etc.), they shall notify their supervisor of their observations.

C. When SOs observe trenching or excavation operations, they are permitted to initiate an inspection upon discovering an excavation/trench. The SO will give highest priority to preventing further employee exposure if trenching or excavation hazards are observed.

D. Any unprotected trench or excavation that is brought to the attention of MIOSHA management shall be evaluated, and, if appropriate, inspected (i.e., referrals from city inspectors, state agencies, and other third parties).

E. Whenever an inspection is initiated under this instruction, on the basis of an SO self-referral, the SO shall include in the case file narrative a description of the circumstances which prompted the inspection.

F. During all programmed CSHD safety and health inspections (such as national, or state emphasis programs), and during all un-programmed inspections (incidents, complaints and referrals), SOs/IHs (industrial hygienists) will observe the surrounding area for open trenches or excavations and conduct an inspection under this NEP, if any are present. CSHD IHs should request inter-office assistance from safety if an IH observes any unprotected trench or excavation.

G. The scope of inspections scheduled under this NEP will be in accordance with the FOM.

H. Inspections under this NEP shall normally be limited to evaluating worker exposure to safety and health hazards associated with the excavation. However, an SO may expand the scope of an inspection if other safety and/or health hazards or violations are observed in plain view and/or brought to their attention. SOs shall follow the guidelines in the FOM when expanding the scope of any inspection.

I. At the end of each NEP inspection, the SO will provide the employer with information concerning trenching and excavation hazards. For example, the SO

may give the employer the website address for MIOSHA's excavation standards and related outreach materials or provide copies of MIOSHA publications.

XIII. Outreach Activities.

A. In accordance with Agency Instruction MIOSHA-ADM-13-1, MIOSHA Initiatives, as amended, CET and CSHD will develop an outreach plan. The plan was implemented for 90 days prior to initiating inspections under this instruction. CET construction consultants will continue outreach efforts after the 90-day outreach period has concluded. Outreach activities may include:

1. Letters, LEO media releases, email announcements, MIOSHA News, MIOSHA e-News and trade magazine articles to disseminate information about this NEP.
2. Developing or revising educational resources (fact sheets, publications, PowerPoint presentations).
3. CET seminars/informational sessions for employer groups, trade associations, as well as worker groups.
4. CET training for local licensing/permitting agencies and provide outreach materials to these same agencies for distribution to employers/contractors when they request dig permits.
5. Collaborating with cooperative program participants, including Voluntary Protection Program sites, Partnership sites, and Alliance members, to share success stories and technical information concerning effective means of controlling, reducing, or eliminating excavation hazards.

B. CET construction consultants will provide consultative assistance at worksites on trenching and excavation hazards at the request of an employer.

C. CET construction consultants should expand the scope of a consultative visit when they observe an open trench or an open excavation.

D. As part of the consultative visit, CET construction consultants will provide the employer with information concerning trenching and excavation hazards when appropriate.

XIV. Activity Coding.

A. All CSHD enforcement activities (inspections, complaints, and referrals) conducted under this NEP must be coded with the NEP code, "TRENCH," entered in the OSHA Information System (OIS). Additionally, "Construction" will also be selected under State Emphasis Program.

B. All CET on-site consultation activities (Request, Visit, and Compliance Assistance) conducted in response to this NEP will also be coded "TRENCH" into OIS.

C. All CET Training and Consultation (T&C) activities (training, hazard survey, consultation) conducted in accordance with this instruction will be coded as Part 9, Excavation, Trenching, and Shoring in the T&C database.