



Deval L. Patrick  
Governor

Timothy P. Murray  
Lieutenant Governor

*The Commonwealth of Massachusetts*  
*Department of Public Safety*

*&*  
*Department of Labor, Division of Occupational Safety*  
*Boston, Massachusetts 02108*

[www.mass.gov](http://www.mass.gov)

Kevin M. Burke  
Secretary  
Executive Office of Public  
Safety & Security

Suzanne M. Bump  
Secretary  
Executive Office of Labor &  
Workforce Development

Thomas G. Gatzunis, P.E.  
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Department of Public Safety

Laura M. Marlin  
Commissioner  
Division of Occupational Safety

**DESCRIPTION: LOCAL PERMITTING AUTHORITY--TRENCHES**

Section 2 of Chapter 82A of the General Laws requires cities and towns to designate 1 board or officer to issue permits for the excavation of trenches on privately-owned land and for the excavation of public ways in the city or town. This board or individual will be known as the "Permitting Authority." While the Permitting Authority has no duty to inspect a trench prior to issuing a permit, the responsibilities of the Permitting Authority include :

1. The collection, review, and cataloging of required documents prior to the issuance of a trench permit. These documents will include:
  - a. DIG-SAFE information;
  - b. The name and contact information of the excavator in whose name the permit is issued;
  - c. The name and contact information of the excavator performing the excavation of the trench;
  - d. The name of the competent person at the worksite as that term is defined by the regulations at 520 CMR 14.02;
  - e. The Massachusetts Hoisting Equipment license number(s), grade(s) and expiration date(s) of the person(s) operating Hoisting Equipment;
  - f. The permit expiration date, where applicable;
  - g. The specific location of the trench;
  - h. The name and contact number of the insurer; and
  - i. The required certificate of insurance.
2. The collection of any municipal fee determined by the city or town;
3. The issuance of trench permits;
4. Enforcement of the requirements for protections for the General Public as included in 520 CMR 14.04, including:
  - a. Responding to reports of open, unattended trenches;
  - b. Notifying permit holders of the unsafe, unattended condition of a trench;
  - c. Taking action to make open, unattended trenches safe until the permit holder is provided with reasonable time to respond to notification of an unsafe trench (such as by posting an attendant or police detail);
  - d. Ordering the immediate shutdown of a trench;
  - e. Performing inspections of trenches when required by the regulations before reopening after immediate shutdown;
  - f. Convening or assisting the municipality in convening disciplinary hearings relative to the suspension or revocation of a permit as necessary in response to alleged violations of the statute or regulations;
  - g. Taking follow-up actions in response to violations of the statute or regulations; and
  - h. Reporting violations of 520 CMR 14.00 as needed to the Department of Public Safety.

There are no prerequisites to be designated as the Permitting Authority; however the Department of Public Safety and Division of Occupational Safety recommend the delegation to an individual or board/department presumed to have knowledge of construction, engineering, or excavation safety already. Relevant areas of

knowledge that may be helpful in determining the most appropriate board or individual to act at the Permitting Authority include:

1. The excavation of trenches;
2. The operation of hoisting equipment, including licensure as a Hoisting Equipment Operator;
3. Engineering practices;
4. Public works administration.

To assist municipalities, the Department of Public Safety and Division of Occupational Safety have identified several boards or individuals that may already be part of the municipal administration and may also be designated as the Permitting Authority for purposes of the statute and regulations. Appropriate boards and individuals may include:

1. City or Town Engineer;
2. Director/Assistant Director/ Supervisor of Public Works or a DPW board;
3. Local Building Official or Building Department
4. Local Fire Chief or Fire Department.
5. Individual or Department responsible for street opening permits

Finally, it should be noted that the regulations included at 520 CMR 14.00 are narrow in scope and apply only to the protection of the General Public from hazards inherent in open, unattended trenches. **The regulations included at 520 CMR 14.00 do not regulate worker safety. Necessary worker safety practices for trenches are provided in the existing OSHA Excavation Standard, 29 CFR Subpart P, Excavations, 1926.650-652.**