Working together for Montana's municipalities.

MMIA
MONTANA MUNICIPAL INTERLOCAL AUTHORITY

TRENCHING AND EXCAVATION SAFETY

Quick Facts

Did you know the average cubic yard of dry fill dirt weighs 2,000 pounds? If it's made up of a mixture of sand, stone and gravel, the weight can easily exceed 3,000 pounds per cubic yard. So the material of a 3'x3'x3' excavation weighs as much as a mid-sized car!

There is no reliable warning when a trench fails. The walls can collapse suddenly, and workers will not have time to move out of the way. Even a seemingly small amount of dirt can fatally crush or suffocate workers. If they survive a trench collapse, they may suffer traumatic brain injuries, injuries such as compartment syndrome or crush syndrome, spinal cord injuries, broken bones, and a host of other serious injuries.

What can you do to prevent workplace fatalities in trenching and excavation operations?

Follow the requirements outlined in 29 CFR 1926.651 and 1926.652. Following those requirements will

help you protect workers and it is also the law! All employers, including municipalities, must comply with the trenching and excavation requirements found in those federal codes of regulation.

To view the full 1926 Subpart P standards, visit https://bit.ly/2NtMaVZ.

Overview

Nationally workplace fatalities related to trenching and excavation have tripled since 2014 according to the Occupational Safety and Health Administration. Trench collapses, or cave-ins, pose a great risk to workers' lives. When done safely, trenching operations can limit worker exposure to cave-ins and other potential hazards including falls, falling loads, hazardous atmospheres, and incidents involving mobile equipment.

Trench Safety Measures

Trenches 5 feet (1.5 meters) deep or greater require a protective system unless the excavation is made

entirely in stable rock. If less than 5 feet deep, a competent person may determine that a protective system is not required.

2020 CENSUS — MAKE SURE MONTANA COUNTS!

By Montana Census 2020

Across Montana, folks are working hard to get Montanans to self-respond to the 2020 Census. But the COVID-19 pandemic created challenges for getting an accurate count of our state's residents. Currently, Montana is 7th lowest among states with a response rate of 55.3 percent, compared to the national average of 61.6 percent.

Without an accurate count, Montana risks having other states get some of our fair share of funding. Missing only one resident means a community misses up to $20,000 over the next decade. Overall, more than $2 billion from 300 federal programs is allocated back to Montana based on census information. That includes more than $500,000 annually in funding for highways, water and wastewater, housing, and other infrastructure programs.

As leaders in your communities, you can help. The state is partnering with libraries and other organizations across Montana that have signed up to be "Be Counted" sites. These are great locations for a local, socially-distanced event. Additionally, local Complete Count Committees in 67 locations across the state are made up of local leaders who are working to increase the count by promoting and educating Montanans about the importance of the 2020 Census to our state's elections, funding and future. You can find a Be Counted site or Complete Count

Committee near you or information about how to start your own at CENSUS.MT.GOV. The website also features videos, PSAs, flyers, and other messaging to help create effective local outreach. For more information and ideas on how to get more Montanans to self-respond to the Census, you can also sign up for our newsletter at https://bit.ly/3dvCiFK.

Responding to the Census is quick, easy, and safe. Anyone can fill out their form today at my2020census.gov, by phone at 1-844-330-2020, or by mail using the form distributed by the U.S. Census to their household. Responding to the Census once every decade matters to every community in Montana today and for the future. Make it count, Montana!

Visit mtleague.org/2020-census to pledge your town's commitment to the census and gain valuable resources. ■

THE LEAGUE CORNER

89th Annual League Conference Goes Virtual

After careful deliberation and at Director Tim Burton's recommendation, the League Board of Directors has elected to change the 2020 Montana League of Cities and Towns Conference to a virtual event.

Our Virtual 2020 League Conference will be October 7-9. We are working hard to find ways to make this conference educational, valuable, and fun for all participants including the League and MMIA annual business meetings, attorney CLEs, clerks' credits, nationally recognized speakers, networking and more.

Visit www.mtleague.org/annual-mlct-conference for updated details as we get closer to the event.

2020-2021 Associate Members

New League Associate Members are posted on the League website. Due to their continued support of the League, they make our work possible, please check out the list to see if one of these organizations could complete your project. Go to www.mtleague.org/affiliates-and-associate-members for more information.

2020 League Directory is Now Online!

The hard copy of the 2020 League Directory was printed in June and copies were sent to every municipality. If you would like to access the online version of our directory, please visit with your office staff for the link and password, or visit the basic version at www.mtleague.org/basic. ■

Trenching and Excavation Safety - Continued

Trenches 20 feet (6.1 meters) deep or greater require that the protective system be designed by a registered professional engineer or be based on tabulated data prepared and/or approved by a registered professional engineer in accordance with 1926.652 (b) and (c).

Competent Person

The Occupational Safety and Health Standards require, before any worker entry, that employers have a competent person inspect trenches daily and as conditions change to ensure the elimination of excavation hazards. A competent person is an individual who is capable of identifying existing and predictable hazards or working conditions that are hazardous, unsanitary, or dangerous to workers; soil types; and protective systems required, and who is authorized to take prompt corrective measures to eliminate these hazards and conditions.

Protective Systems

There are different types of protective systems. Designing a protective system is complex and requires consideration of many factors including: soil classification, depth of cut, water content of soil, changes caused by weather or climate, surcharge loads (e.g., spoil, other materials to be used in the trench) and other operations in the vicinity. Any system used must meet the required performance criteria of the standards.

► **Benching** – means a method of protecting workers from cave-ins by excavating the sides of an excavation to form one or a series of horizontal levels or steps, usually with vertical or near-vertical surfaces between levels. Benching cannot be done in Type C soil (as defined in 1926 Subpart P Appendix A). Type C soil is common throughout Montana.

► **Sloping** – involves cutting back the trench wall at an angle inclined away from the excavation. The angle may not be steeper than 1 ½:1 (for every foot of depth, the trench must be excavated back 1 ½ feet) unless the employer uses one of the options listed in 1926.652 (b) (1) (i) or 1926.652 (b) (1) (ii).

► **Shoring** – requires installing hydraulic rams or other types of supports to prevent soil movement and cave-ins.

► **Shielding** – protects the workers by using trench boxes or other types of supports to prevent soil cave-ins.

Access and Egress

► Know where underground utilities are located before digging.

   ► Use 811 services for locates, and have a copy of the 811 ticket readily available.

► Conduct a personal protective equipment (PPE) assessment for each task workers will be performing, and provide the necessary PPE.

► Keep heavy equipment away from trench edges.

► Keep excavated soil (spoils) and other materials at least 2 feet (0.6 meters) from trench edges.

► Identify other sources that might affect trench stability.

► Provide ladders, steps, ramps, or other safe means of egress for workers working in trench excavations 4 feet (1.22 meters) or deeper.

   ► Means of egress must be located so as not to require workers to travel more than 25 feet (7.62 meters) laterally within the trench.

► Test for atmospheric hazards such as low oxygen, hazardous fumes and toxic gases when > 4 feet deep.

► Inspect trenches at the start of each shift.

► Inspect trenches following a rainstorm or other water intrusion.

► Inspect trenches after any occurrence that could have changed conditions in the trench.

► Do not work under suspended or raised loads and materials.

► Utilize traffic control devices to prevent the motoring public from entering the work area and to separate traffic from the work to reduce vibration of the soil.

► Ensure that personnel wear high visibility or other suitable clothing when exposed to vehicular traffic.

Additional Resources

1. For additional resources on trenching and excavation safety including the Trenching and Excavation Safety Publication, Trench Safety QuickCard, Trench Safety Posters, and more, please visit: https://bit.ly/3eQRj6t

2. Contact MMIA's Risk Management team at riskmgmt@mmia.net or (406) 443-0907.

3. Contact Montana Department of Labor and Industry's Safety and Health Bureau at (406) 494-0324 or visit http://erd.dli.mt.gov/safety-health/onsite-consultation

For additional information, visit our web page at www.mmia.net/trenching-and-excavation-safety/. ■

LIMITING RISK IN TELEWORK ARRANGEMENTS

Due to the unique circumstances around COVID-19, MMIA has received a number of questions regarding teleworking arrangements. During this pandemic, many employers have offered telework. It is important to remember telework arrangements may not work for all organizations, positions or employees. Practices vary widely depending on the organization. MMIA recommends members that allow telework arrangements consider the following risk management tips to avoid claims of liability, cyber liability, and workers' compensation.

Develop detailed telework policies that include:

► How an employee requests a telework arrangement and the process for evaluating the request for approval based on, but not limited to, the position type, individual employee's work habits and past performance.

► Conditions of employment, including that a telework arrangement does not change:

  ► Benefits or pay;

  ► Expectation that work performed at the remote location is official city/town business;

  ► Requirement for adherence to all policies;

  ► Hours of work required;

  ► Process for how leave requests are to be made; and,

► The expectations that the employee is working while at the remote location, and is not the sole care taker of another during work hours.

► Information about safety and security of the employee and property, including:

  ► Confirmation of a safe, orderly work area free of hazards (i.e. tripping, electrical, fire, etc.);

  ► Ergonomic needs for the remote workspace;

  ► Adequate home/renters insurance;

  ► Aecure storage for hard-copy documents; and,

  ► IT security protocols including but not limited to:

    ► Ensuring employees do not use personal devices for work;

    ► Ensuring integrity and confidentiality of electronic work (i.e. preventing family members or visitors from accessing work devices);

    ► Ensuring the latest patches are deployed and installed on remote work devices;

    ► Ensuring employees access systems and networks via secure connections including VPNs or WIFI that is secured with a complex password;

2020 MMIA EMPLOYEE BENEFITS WELLNESS PROGRAM — THE SAME AS LAST YEAR!

The 2020 Wellness Program will follow the same format as last year. Employees, retirees, and their spouses on an MMIA Employee Benefits (EB) plan can earn up to $200 each ($50 for each activity below) on a physical gift card sent at the end of the calendar year.

1. Get a Health Screening between July 1 and September 30, 2020.
2. Watch the Online Education Video and take the quiz by September 30, 2020.
3. Review your Health Screening results in a follow-up phone call with a Take Control health coach by November 6, 2020. Make sure to schedule your appointment a week after you get screened and don't wait until the last minute, as scheduling availability is limited.
4. Achieve 80% or higher employee participation in the Health Screening.

We need you to get the word out! Here are four things you can do to encourage the four incentive activities!

Lead the way! Show that you support the Wellness Program by being the first to sign up for your Health Screening. Let everyone know how great the video is. Rave about your follow-up call. Nothing encourages participation more than leaders and managers being the first in line.

Put up a poster. We sent posters to every city. You can also request more by emailing ebgroup@mmia.net.

Send an email. When your city's screening is coming up, send an email to remind employees, not just of the screening, but of the other important activities as well.

Make it fun! Provide snacks for after screenings, have departments compete to see who can get the most employees to go, give out "good job" stickers. Your imagination is the only limit when it comes to fun ways to get employees involved and feeling positive about wellness.

Please note both Carehere and It Starts With Me (ISWM) are taking additional precautions this year to help prevent the spread of COVID-19. These may include COVID-19 screening prior to appointments, enforcing social distancing, requiring face masks, and not allowing walk-in appointments for screenings. For more information specific to your screening location, go to www.mmiaEB.net/wellness and click on the applicable "Health Screening COVID-19 Notice" in the "$50: Health Screening" tile. ■

WAIVING MEDICAL COVERAGE

MMIA wants to remind all cities and towns that it is important for employees to sign a waiver form each year if the employee declines enrollment in the medical benefits you offer.

This process protects both the city, as the employer, and the health plan. The Affordable Care Act (ACA) requires employers be able to show they offered coverage to at least 95% of its active full-time employees at least once a year. If they cannot prove it, they could be subject to a large fine. The signed waiver gives employers a record coverage was offered annually for ACA form 1095 reporting purposes.

For MMIA EB Program members, every employee eligible for medical coverage that is not enrolled in the plan must fill out the back of the enrollment form when the employee first waives coverage and every year during Open Enrollment. The enrollment form can be found on the EB website: www.mmiaEB.net. ■

MMIA WELCOMES NEW EMPLOYEES

The MMIA is excited to introduce you to two new property and liability claims adjusters hired in the last quarter.

Karyn Shirilla

Karyn was born and raised outside of Detroit, MI. Seven years ago, she moved to Helena, where her husband was raised, and fell in love with the beauty of Montana instantly!

Shortly after moving to Helena, she was hired as a Claims Support Specialist for the Montana Association of Counties. It was there that she first learned about self-funded risk pools and how their operations differ from those in the private sector. After a year as the Claims Support Specialist, she transitioned first into Workers' Compensation adjusting and then Property and Liability about two years later.

Karyn enjoys spending time with her two children, Jacob 13 and Riley 22, her husband Nathan and their three cats, Dani, Arya, and Drogo. She recently found out that she's going to be a Grandma, which is super exciting! Karyn is a diehard University of Michigan Wolverines fan (Go Blue!) and never misses a football game. She enjoys reading, all types of movies/music, cooking, hiking, and biking when she has free time.

Karyn is incredibly excited and grateful to be joining the MMIA team and looks forward to continuing to learn from all of the excellent staff that MMIA has on board. While it's been interesting to start a new job during a pandemic, everyone at MMIA has been truly wonderful.

Natalie Gallup, AIC, CCLA

Natalie has 17 years of experience as a claims adjuster in property liability. She has a degree in paralegal studies from Illinois Central College. Natalie comes to Montana with her husband, two daughters, two dogs, a cat, a bird, and a fish. She loves to hike, bike, read, and spend time with her large extended family.

Welcome to the MMIA, Karyn and Natalie!

SIGN UP TO REDUCE MUNICIPAL EXPOSURE TO CHILD ABUSE
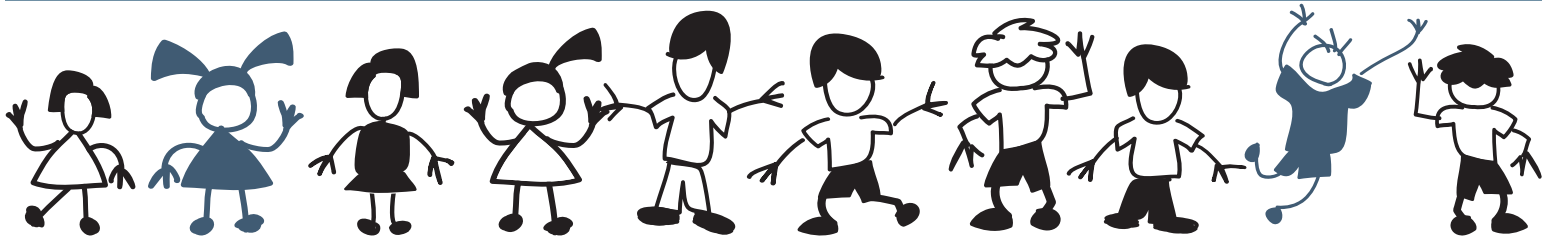
MMIA has partnered with industry leading Praesidium Inc. to help our members address the risk of child abuse in municipal operations with two powerful resources including the Know Your Score! Online Self-Assessment and the Armatus Learn to Protect Online Training System. These tools are available to members at no cost, and can be obtained by completing our online request form at https://form.jotform.com/mmia/CAP.

Praesidium recently released their 2020 report that shares their global experience and research findings and provides industry trends in child abuse cases.

PRAESIDIUM

If your city/town has been waiting to assess their exposure to risk for child abuse, this report will illustrate how critical the assessment and subsequent risk management efforts are. You can read the full 2020 Praesidium report on the MMIA website at www.mmia.net/riskmanagement/child-abuse-prevention/.

For questions, please contact riskmgmt@mmia.net. ■

Limiting Risk in Telework Arrangements - Continued

- ▶ Implementing use of multi-factor authentication security;
- ▶ Configuring and monitoring firewalls for attempted or successful connections from unauthorized or suspicious internet protocol addresses; and,
- ▶ Ensuring employees attend regular training on cyber security.

▶ Ability for the employer to inspect the remote workspace, with notice, for compliance with the above mentioned safety and security requirements.

▶ A hold harmless statement regarding liability that requires the employee to indemnify and hold the city/town harmless for injuries to third parties and damages to real or personal property resulting in the home workspace.

▶ A statement that the city/town is liable for job related accidents that occur in the employee's remote work site during the established hours; and not responsible for accidents or injuries that occur at the remote worksite after hours or while the employee is not in the scope of employment.

▶ An inventory of equipment provided and any requirement for maintenance or storage.

▶ An explanation of employee costs associated with a telework arrangement such as providing the internet service, phone, electricity, adequate home/renters insurance, etc.

▶ Statement regarding the ability for either party to end the telework arrangement with adequate notice.

Formalize written telework agreements between the supervisor and the employee that includes:

- ▶ Confirmation of understanding the telework policy;
- ▶ Stated schedule of working hours/days. These stated hours and days are used for course and scope of employment for purposes of workers' compensation. Employees must adhere to the agreed upon schedule and receive approval for any deviation;
- ▶ Stated expectations for regular/prompt communication with supervisor, co-workers and customers including reporting of all injuries or incidents;
- ▶ Specific outcome-based performance objectives for the employee; and,
- ▶ Employee and supervisor signatures.

Resources

The following sites provide examples of public entity policies and practices, training resources, and cyber security resources.

Montana State Telework Policy – https://bit.ly/2YP3CKZ

Federal Agency Telework Policy Examples– https://bit.ly/2NAEjWl

Federal Telework Training Resources – www.telework.gov/training-resources/

Beazley Academy Webinar – Remote Working Securely Mitigating Risks and Avoiding Scams – www.beazley.com/beazley_academy.html

Beazley Academy – Cybersecurity Tips for Remote Working during the Coronavirus Outbreak – https://bit.ly/2CElzmJ

Visit https://mmia.net/riskmanagement/telework/ to learn more.

For questions please contact Angela Simonson, MMIA Human Resource Consultant at asimonson@mmia.net or 406-495-7017. ■

Upcoming Events

Due to COVID-19, some of our events have gone virtual. Visit www.mmia.net/news-events/calendar/ for up-to-date information.

August 14: MMIA Board Meeting

October 6-9: 2020 League Virtual Conference

- ▶ League Board Meeting
- ▶ MMIA Board Meeting
- ▶ League Annual Business Meeting
- ▶ MMIA Annual Business Meeting

Need more League/MMIA News? If you want to receive this newsletter, please contact Janel Favero, MMIA Communications Specialist, at jfavero@mmia.net. Please indicate if you would like to receive an electronic or hard copy.

If you would like to read past issues, visit the MMIA website at www.mmia.net/news-events/newsletters.

COVID-19 RESOURCES

The League and the MMIA continue to provide up-to-date information regarding the pandemic. Visit www.mtleague.org/covid-19 to stay up-to-date.

COVID-19 – Coronavirus Resources

As your municipality works through the current pandemic, please refer to the following resources:

President Trump

Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak (March 13, 2020)

Governor Bullock

Executive Order Declaring a State of Emergency in Montana (March 12, 2020)

> CAREs Act Relief Funds

> Phased Reopening