

AVON CIVIL ENGINEERING

PO BOX 721 York

York Shire Incident Report

Date : Friday 19 September 2014-09-22

Location : Forrest Oval

Incident Summary : Contractor working on Shire project has failed to comply with the OSH Act in relation to an exposed trench.

The construction industry should be aware of its obligations to protect employees and members of the public under the *Occupational Safety and Health Act 1984*, regulations and codes of practice.

Incident Detail :

- 1) Breach of Regulation 3.109 :
Failure to ensure safety of the Public

7.1 General

Excavation work presents particular hazards to members of the public unless protective measures are taken.

The safety of the public must be considered where excavation work is carried out. Regulation 3.109 of the Occupational Safety and Health Regulations requires that where any person is at risk because of excavation work, suitable barriers are erected between the persons at risk and the likely cause of danger.

- 2) Breach of Section 7 of the Act :
Failure to erect appropriate barriers
Failure to provide warning lights
Failure to set up reflectorised signs

7.3 Outside working hours

The following precautions should be taken outside working hours:

- erect appropriate barriers around the excavation;
- provide warning lights;
- set up reflectorised signs to give advance warning to vehicular traffic; and
- where practicable, arrange construction so that excavation work across driveways and roadways is backfilled before the end of a working day. If this is not practicable, provide access with safety guard rails across the excavation.

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- 3) Breach of Regulation 3.2.1 of the Act :
Failure to carry out appropriate pre planning and co ordination

1.6 Preplanning and co-ordination

Preplanning and co-ordination between those involved in excavation operations and activities is essential to ensure the safety of employees and protect members of the public.

Safety in and around excavations should be considered as part of job planning from the commencement of a project. Identification of hazards should be part of the planning, design and estimating process.

Regulation 3.109(1) also provides for suitable signs that warn of the risk to be erected where excavation work is carried out. Signs should be placed at appropriate locations around the perimeter of the excavation where they may be easily seen. Signs should comply with the requirements of AS 1319.

To ensure appropriate hazard management, an identification of the hazards and an assessment of the risks from these hazards should be carried out in conjunction with the safety and health representatives, if any, of the workers involved in the work. A job safety analysis that lists the hazards and suggests safety procedures should be prepared.

- 4) Questionable Compliance with Regulation 3.1 of the Act :
Apparent inadequate supervision of site by a competent person.

3. Competent person

Employers should ensure a competent person maintains supervision of employees when excavation work is being carried out.

A competent person is defined in the regulations as 'one who has acquired through training, qualification or experience, or a combination of those things, the knowledge and skills required to do that thing competently'.

- 5) Questionable Compliance with Section 19(1)(b) of the Act
Apparent failure to observe duty of care to an independent contractor.

A principal objective of Western Australia's *Occupational Safety and Health Act 1984* is to promote safe working environments and to prevent harm to employees at work. To do this, it imposes duties of care on employers, employees and others, and requires employers and employees to co-operate in ensuring that workplaces and work practices are safe and without risks to health.

One of the employer's primary duties under the Act is to provide:

"such information, instruction, and training to, and supervision of, the employees as is necessary to enable them to perform their work in such a manner that they are not exposed to hazards."

Employers owe this same duty of care to independent contractors and the contractor's employees working at the workplace. The Commission for Occupational Safety and Health Guidance note *General duty of care in Western Australian workplaces* provides detailed information on the duty of care.