



U.S. Department of Labor Occupational Safety & Health Administration

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Search



Advanced Search | [A-Z Index](#)



OSHA News Release

2005 - 03/22/2005 - OSHA Fines Mendon, N.Y., Contractor \$116,000 for Cave-In Hazards at Two Greater Rochester Worksites

[OSHA News Release - Table of Contents](#)

OSHA Regional News Release

U.S. Department of Labor
Office of Public Affairs

Region 2

Region 2 News Release: 05-436-NEW/BOS 2005-055
Tuesday, March 22, 2005
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OSHA Fines Mendon, N.Y., Contractor \$116,000 for Cave-In Hazards at Two Greater Rochester Worksites

BUFFALO, N.Y. -- Failure to supply cave-in protection for workers at two Rochester-area sewer installation sites has resulted in a Mendon contractor being fined \$116,000 by the U.S. Labor Department's Occupational Safety and Health Administration (OSHA).

Victor Excavating Inc. was cited for a total of eight alleged willful and serious safety violations after OSHA inspectors found employees working in unprotected nine to ten-foot deep excavations at jobsites on Ambassador Drive in Rochester and Linden Avenue in Brighton. Each excavation also lacked a ladder or other safe means of exit. The inspections took place on Sept. 17 and Oct. 22, 2004.

"The walls of an excavation can collapse suddenly and with great force, stunning and burying workers beneath tons of soil before they have a chance to react or escape," said Art Dube, OSHA's area director for western New York. "OSHA standards clearly mandate that excavations five feet or deeper must be safeguarded against cave-ins. This employer knew such life-saving protection was required for the workers, yet repeatedly refused to provide it."

As a result, Victor Excavating was issued three willful citations and fined \$105,000 for lack of cave-in protection at both excavations and for failing to provide a ladder or other safe means of exit from the Brighton excavation. OSHA defines a willful violation as one committed with an intentional disregard of, or plain indifference to, the requirements of the Occupational Safety and Health Act and regulations.

The company also received five serious citations with an additional fine of \$11,000 for storing excavated material too close to the edge of the Brighton excavation; not providing a safe means of exit from the Rochester trench; failing to ensure employees wore head protection and were trained to recognize and avoid unsafe conditions; and not instituting and maintaining an accident prevention program. A serious violation is a condition where there is a substantial possibility that death or serious physical harm can result to an employee.

Victor Excavating has 15 business days from receipt of the citations to request and participate in an informal conference with the OSHA area director or to contest them before the independent Occupational Safety and Health Review Commission. The investigation was conducted by OSHA's

Buffalo area office, 5360 Genesee St., Bowmansville, NY, telephone (716) 684-3891. OSHA offers detailed information on excavation safety on its Web site: <http://www.osha.gov/SLTC/trenchingexcavation/index.html>. A "Quick Card" about trenching safety is available in English and Spanish at: http://www.osha.gov/Publications/trench/trench_safety_tips_card.pdf.

Employers are responsible for providing a safe and healthful workplace for their employees. OSHA's role is to assure the safety and health of America's workers by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual improvement in workplace safety and health. For more information, visit www.osha.gov.

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 [OSHA News Release - Table of Contents](#)

 [Back to Top](#)

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