

**Standard Interpretations****01/09/1991 - Clarification of Standards**

---



---

• **Standard Number:** [1926 Subpart P](#); [1926.651](#); [1926.652](#)

---

January 9, 1991

MEMORANDUM FOR:           BYRON R. CHADWICK  
                                  Regional Administrator, Region VIII

ATTENTION:                EDWARD J. KASSAK  
                                  Assistant Regional Administrator, FSO

THRU:                       LEO CAREY, Director  
                                  Office of Field Operations

FROM:                       PATRICIA K. CLARK, Director  
                                  Directorate of Compliance Standards

SUBJECT:                    Clarification of Excavation Standards

Your understanding of the responsibilities and conduct of a competent person while classifying soil at an excavation, as stated in your memorandum of September 25, is essentially correct. However, the responsibilities and conduct of the competent person at excavation sites will vary with the specific requirements specified at 29 CFR 1926.652.

29 CFR 1926.651(k) requires that an inspection shall be conducted by the competent person prior to the start of work and as needed throughout the shift. Daily inspections of the excavation, adjacent areas, and protective systems shall be made by a competent person. In situations where no competent person is determined to be available to conduct the daily inspections, 29 CFR 1926.651(k) must be cited.

Employers who elect to comply with the specifications of option 1, at 29 CFR 1926.652(b) (1), meet all the necessary requirements of the standard, except that a competent person must perform daily inspections as required at .651(k). Such inspections can be anticipated to primarily address hazardous atmospheres, or localized problems related to rainstorms and/or changing weather conditions.

Employers who elect to comply with the requirements of option 2 through 4, at 29 CFR 1926.652(b)(2), (3) and (4), must conduct, with the services of a competent person, the initial and daily visual inspections together with appropriate manual tests of the soil along the excavation. The slope, shoring, or shield system used must reflect the results of such inspections and tests if any of the soil is determined to be type A or B or equivalent as designated by the registered professional engineer (R.P.E.). Visual observation and at least random manual testing is required if no visual changes are noted. Type C soil need not be manually tested once it is visually determined to be type C and an appropriate protective system is in place. On the other-hand, type A or B soil must be manually tested to verify their type. During the daily or other inspection, required at .651(k), the competent person must visually ascertain if soil changes are occurring which could lower the classification of the previously categorized soil type. If, in the competent person's opinion (which is based upon

the visual criteria of the standard), deteriorating soil changes are occurring or have occurred, manual testing is mandatory and the soil classification must be ascertained. For instance, where type A soil has deteriorated to type B, based upon visual observation, manual testing is a must to confirm the condition of the soil. Whenever the soil is being downgraded to type C and a corrective protective system is put in place, no manual testing is required or necessary. It must be realized that once an excavation is opened, the soil type observed to exist at the time of opening will not improve with time; it can only deteriorate.

In further response to the concerns of the Regional SOL, we provide the following:

During initial opening of an excavation and where the job moves along through changing types of soil, the competent person must determine the respective types of soil as the job progresses. In order to correctly ascertain the soil types, the competent person must identify the locations and the limits of each type of soil, and must conduct visual and all appropriate manual tests to classify the initial (opening) soil types observed.

Regarding the issuance of citations related to no competent person available at the site, we offer the following;

The specific standard related to excavations is subpart P of 29 CFR 1926. The general requirements of 29 CFR 1926.20(b)(2) and .21(b)(2) are not to be cited under the guidance of the FOM of chapter IV, A.1.a. (4)(a), when a vertical or specific standard addresses the issue/circumstances. The requirements for inspection by a competent person are mandated by subpart P and therefore the general requirements are inapplicable to excavation.

Protective systems for excavations which are in compliance with the requirements of 29 CFR 1926.652(c) must be inspected daily to verify that the support systems installed remain effective. The knowledge and experience of the competent person is therefore considerably greater than that required of a competent person under the requirements of 29 CFR 1926.652 (b).

Protective systems constructed to the requirements of 29 CFR 1926.652(c), option 1, must be inspected against the requirements of appendices A, C or D. The competent person must be thoroughly knowledgeable of those requirements and must inspect daily to assure the continuing integrity of the system.

Protective systems constructed to option 2, of 29 CFR 1926.652(c), must be inspected against the manufacturer's specifications, recommendations, and limitations for the system and must verify that any deviation, if one was issued, continues to meet the manufacturers specific written approval. The competent person must be thoroughly knowledgeable of the limitations of the manufactured system.

Protective systems constructed to the option 3 requirement, of 29 CFR 1926.652(c), must meet the stipulations of the tabulated data which must be approved by a registered professional engineer. The competent person who inspects the system, on a daily basis, must be able to verify that the system continues to maintain the integrity required by the tabulated data. In the event that local deviations are noted, the competent person should consult with a registered professional engineer who can recommend proper corrective measures.

Option 4, of 29 CFR 1926.652(c), requires that the protective system be designed by a

registered professional engineer(R.P.E.). The competent person who inspects the system, on a daily basis, must be knowledgeable of the system design and its limitations. The competent person should report all deviations noted during inspections to the R.P.E. so that proper corrective measures can be taken.

In the event that the employer permitted employees to enter an excavation which was alleged to comply with CFR 1926.652(b) or (c), a violation of the standard exists if no competent person is determined to be available. In such an instance, both 29 CFR 1926.651(k) and .652 (b) or (c) must be cited and may be grouped as appropriate.

Modification of the compliance directive OSHA Instruction CPL 2.87, dated February 20, 1990, is contemplated. The information of this memorandum, further clarification of the standard and relevant enforcement policy will be addressed by change A.