

Standard Interpretations

09/21/2001 - Clarification of utility "owner" as used in the Safety and Health Standards for Excavations, Underground Installations.



• **Standard Number:** [1926.651\(b\)\(2\)](#); [1926.651\(b\)](#); [1926.650](#); [1926.651](#);
[1926.652](#)

OSHA requirements are set by statute, standards and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

September 21, 2001

Mr. Frank C. DeFelice, Jr.
32 Cherry Lane
Durham, Connecticut 06422

Re: §1926.651(b)(2); utility owners

Dear Mr. DeFelice:

This responds to your March 1, 2001 letter to the Occupational Safety and Health Administration (OSHA) requesting clarification on OSHA's excavation standard. Specifically you ask if the word "owners," as stated in the rule, was meant to include persons legally recognized as the owner of the property where the excavation work was being performed.

OSHA's *Safety and Health Standards for Excavations* can be found in Subpart P, 29 CFR 1926.650-1926.652. The provision you reference is in the *Underground installations* in §1926.651(b). Paragraph (b)(2) reads in part:

*"Utility companies or **owners** shall be contacted within established or customary local response times,..... and asked to establish the location of the utility underground installations prior to the start of actual excavation. When utility companies or **owners** cannot respond to a request to locate underground utility installations....."*

For purposes of this section, "owner" means the owner of the utility installation (**Federal Register**, 54 FR 45915, October 31, 1989). During the rulemaking, it was noted that some utility installations were privately owned. In order to clarify its regulatory intent, OSHA amended the Final Rule to state that the employer must request utility companies or utility owners locate their utility installations prior to the start of excavation. Utility owners may not necessarily be the landowners, but land ownership is not the issue since requests for utility installation location must be directed to utility companies or utility installation owners.

If you require further assistance, contact us again by writing to: DOL-OSHA, [Directorate of Construction, Office of Construction Standards and Guidance], Room N3468, 200 Constitution

Ave., NW, Washington, D.C. 20210.

Sincerely,

Russell B. Swanson, Director
Directorate of Construction