

June 10, 2003

Walsh Northeast Division
Attn: Barbara McNeil
5 Necco Court
Boston, MA 02210

Re: 29 CFR 1926.250(b)(5) (prohibition against storing materials on scaffolds longer than needed for immediate operations)

Dear Ms. McNeil:

This is in response to your letter, dated March 27, 2002, to the Occupational Safety and Health Administration's (OSHA) Regional Administrator in Boston, requesting an explanation of the §1926.250(b)(5) prohibition against storing more materials on scaffolds than are needed for immediate operations. Your letter was forwarded to the National Office for response. We apologize for the long delay in answering your inquiry.

We have paraphrased your questions as follows:

Question 1: *Is it permissible to store masonry materials on a scaffold two days prior to the laying of block? May the materials be left on the scaffold at the end of the shift where the work will resume the next day?*

Answer

One of the requirements in 29 CFR part 1926 Subpart H - Materials Handling, Storage, Use, and Disposal, is §1926.250(b)(5), which states:

Materials shall not be stored on scaffolds or runways in excess of supplies needed for immediate operations.

Your scenario describes storing masonry units on scaffolds several days in advance of block laying activities as well as storing the units on scaffolds overnight in preparation for the next day. The plain language of §1926.250(b)(5) prohibits the storage activities you describe. For purposes of 29 CFR 1926.250(b)(5), "immediate operations" means work that will be done in the shift.

Keep in mind that some provisions in the scaffold standard would be difficult to meet if materials other than those needed for one shift are stored on a scaffold. For example, §1926.451(f)(3) states:

Scaffolds and scaffold components shall be inspected for visible defects by a competent person before each work shift, and after any occurrence which could affect a scaffold's structural integrity.

The importance of keeping platforms visible for inspection is highlighted by the companion requirements for wood platforms. Section 1926.451(b)(9) prohibits covering wood platforms in a way that obscures either the top or bottom of the platform:

Wood platforms shall not be covered with opaque finishes ... [In addition, when treated with preservative, fire retardant or slip-resistant coatings] the coating may not obscure the top or bottom wood surfaces.

Therefore, if storage of materials for more than one shift would prevent the competent person from inspecting the scaffold before each work shift, there would be a violation of both §§1926.250(b)(5) and 1926.451(f)(3). In most cases, where only an incidental amount of materials are left over at the end of the shift, and they did not interfere with inspecting the scaffold, the violation of §1926.250(b)(5) would be considered *de minimis*.

Question 2: *May a controlling contractor require a subcontractor to abide by stricter scaffold safety requirements than those found in OSHA standards?*

Answer

Yes. OSHA standards are minimum requirements; they do not prohibit employers from imposing more stringent, contractual requirements. For example, in the scenario described in Question 1, the controlling contractor could prohibit the storage of materials on scaffolds even where such storage would be considered only a *de minimis* violation.

If you need additional information, please contact us by fax at: U.S. Department of Labor, OSHA, Directorate of Construction, Office of Construction Standards and Guidance, fax # 202-693-1689. You can also contact us by mail at the above office, Room N3468, 200 Constitution Avenue, N.W., Washington, D.C. 20210, although there will be a delay in our receiving correspondence by mail.

Sincerely,

Russell B. Swanson, Director
Directorate of Construction

¹*De minimis* violations are violations of standards that do not affect safety or health. Citations are not issued for *de minimis* violations, and no corrective action is required.

²*However, OSHA can enforce only that which is required by OSHA standards.*