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U.S. Department of Labor

Occupational Safety and Health Administration  
Washington, D.C. 20210

Reply to the attention of:



OCT 30 2003

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

Re: Storage of materials on scaffolds longer than needed for immediate operations. 29  
CFR 1926.250(b)(5).

Dear Ms. McNeil:

We were recently contacted by Rashod Johnson of the Mason Contractors Association of America (MCAA) regarding Question and Answer (1) in our June 10, 2003, interpretation letter to you (answering your inquiry of March 27, 2002). MCAA provided additional information on the issue presented by that question - storage of masonry materials on scaffolds. After reviewing the new information, we have revised our answer to Question (1). We apologize for any confusion or difficulty this change may cause.

The following is a replacement response to your March 27, 2003 inquiry.<sup>1</sup>

*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**

Storage of materials

29 CFR 1926 Subpart H - Materials Handling, Storage, Use, and Disposal, section 1926.250(b)(5), requires that:

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

Your scenario describes storing masonry materials (such as masonry block) on scaffolds several days in advance of block laying activities as well as storing the material on scaffolds overnight in

<sup>1</sup> This letter rescinds and replaces our June 10, 2003, letter. Note that we have not changed the answer to Question (2) of the June 10, 2003 letter.

preparation for the next day. For purposes of 29 CFR 1926.250(b)(5), "immediate operations" means work that will be done in the shift. The plain language of section 1926.250(b)(5) prohibits the storage activities you describe. However, this provision was enacted prior to the promulgation of the current scaffold standard, Subpart L - Scaffolds, §§ 1926.450 - 1926.454.

In the current scaffold standard, there are detailed provisions that address the hazards typically associated with material stored on a scaffold. These provisions address those hazards more comprehensively than the original standard.<sup>2</sup>

For example, a new "Falling Object Protection" section adds greater protections than were provided initially by section 1518.451(a)(16). Section 1518.451(a)(16) required overhead protection "to workers on scaffolds exposed to overhead hazards." Section 1518.451(a)(6) required overhead protection for persons required to work under the scaffold. The new section, 1926.451(h), specifies in greater detail the measures needed to protect such workers (such as requirements for toeboards and screens, guardrail systems, debris nets, catch platforms or canopy structures). Note in particular that the measures in 1926.451(h)(2) are specifically designed to catch or deflect objects that could fall from the scaffold.

The general toeboard requirements in the 1971 version stated that "toeboards shall be a minimum of 4 inches in height." § 1518.451(a)(5). This requirement was expanded and amended to specify not just the toeboard's height, but also its strength, how it is to be fastened to the platform and what type of material must be used for toeboards (see § 1926.451(h)(4)). An appendix was also included that details how a toeboard may be built to be in accordance with these requirements (see Subpart L, Appendix A).

The capacity requirement was amended to ensure that the scaffold can support "its own weight" and at least 4 times the maximum intended load applied or transmitted to it. (See § 1926.451(a)(1)(emphasis added), compared to § 1518.451(a)(7)). Other changes were also made to make more stringent capacity limits of suspension rope, direct connections to roofs, floors and counterweights, and stall loads (compare § 1518.451(a)(19) with §§ 1926.451(a)(2)-(a)(5)).

The current Subpart L also requires more than just supervision by a competent person when a scaffold is erected, moved, dismantled or altered, as was required by section 1518.451(a)(3).<sup>3</sup> Section 1926.451(d)(3)(i) requires an evaluation by a competent person before use of the scaffold to determine that the supporting surface is capable of supporting the load; section 1926.451(f)(3) requires an inspection before each workshift by a competent person of the scaffold and its components; section 1926.451(f)(7) requires the competent person to be qualified in scaffold

<sup>2</sup> The original Subpart L was promulgated in 1971 at the same time as the material storage standard (section 1518.250(b)(5), later redesignated section 1926.250(b)(5) - "General requirements for storage"). 29 C.F.R. § 1518.250(b)(5)(1971); 29 C.F.R. § 1926.250(b)(5)(1996). See volume 36 of the Federal Register at page 7340, April 17, 1971, for the language of the material storage standard and subpart L as originally adopted under 29 C.F.R. § 1518.451 (1971).

<sup>3</sup> See also § 1518.451(h)(14) (Masons' adjustable multiple-point suspension scaffold).

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erection, moving, dismantling, and alteration, and such activities must be performed by "experienced and trained employees selected for such work by the competent person".

Training requirements for scaffold assembly, use and falling object hazards were also added to Subpart L (§§ 1926.454(a)(1)-(a)(4); § 1926.454(b)(3); §1926.454(c)(2)).

In light of the comprehensive requirements in the current scaffold standard, as long as all the requirements in the current scaffolds standard are met, storage of materials on a scaffold for more than one shift's work will be considered a *de minimis* violation of 1926.250(b)(5).<sup>4</sup>

### Inspection

A related issue involves an inspection requirement in the scaffold standard, 1926.451(f)(3), which 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.

Construction materials such as a pallet of brick or block that is stored on a scaffold for more than one shift may prevent the competent person from seeing a portion of the top surface of the platform. However, in most cases, it is sufficient to view the bottom surface.

*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.<sup>5</sup>

If you need any further clarification on this subject, please contact us by fax at: U.S. Department of Labor, Directorate of Construction Office of Construction Standards and Guidance, (202) 693-1689. You may also contact us by mail at the above office, Room N3468, 200 Constitution Avenue, N.W., Washington, D.C. 20210, although there may be a delay in our

<sup>4</sup> *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.

<sup>5</sup> However, OSHA can enforce only that which is required by OSHA standards.

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receiving correspondence by mail.

Sincerely,



Russell B. Swanson, Director  
Directorate of Construction

**NOTE:** 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>.