From the General Safety and Health Provisions
1926.32 Definitions.

(g) "Construction work." For purposes of this section, "Construction work" means work for construction, alteration, and/or repair, including painting and decorating.

http://www.cbs.state.or.us/external/osha/pdf/rules/division_3/div3c.pdf

Standard Interpretations
05/11/1999 - Maintenance vs. construction; working from fixed ladders.

• Standard Number: 1910.12; 1926.1053(a)(18); 1926.1053(a)(19); 1926.1053(b)(4)

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.

May 11, 1999

J. Nigel Ellis, Ph.D., CSF, P.E., CPE
President
Dynamic Scientific Controls
P.O. Box 445
Wilmington, Delaware 19899-0445

Dear Mr. Ellis:

This is in response to your letter of March 18, 1998 in which you raised several issues "for answer now where possible but also intended for [inclusion in the Advanced Notice of Proposed Rulemaking on Subpart M]." We apologize for the long delay in answering your letter. We have answered several of your questions below. With respect to the others, we will consider including the issues they raise in our upcoming Advance Notice of Proposed Rulemaking for Subparts M (fall protection) and L (scaffolds).

Question 1: The difference between maintenance and construction

Answer: Your first question is whether painting a power pole is maintenance or construction work. In your example the poles are painted "periodically between ten and twenty years." You ask if the following factors bear on whether the work is maintenance or construction: (1) whether the work is done by an outside contractor rather than by a power company's own

employees; (2) if the poles are painted while major parts of the pole are live; (3) if painting the poles is a regular part of the employee's work, and (4) type of tower (pole or lattice).

If the painting of the poles is an anticipated, routine, and periodic event to keep them from degrading and to maintain them in their original condition, then the painting is maintenance work. The fact that 10 or 20 years transpires between repainting would not normally alter this conclusion, as long as the repainting continues to be a scheduled activity. The following factors do not affect whether the work is considered maintenance or construction: whether the work is done by the power company or by an outside contractor; parts of the tower are live; painting the poles is a regular part of the employee's work and whether the tower is of a pole or lattice configuration.

[Note: Additional clarification on this issue is available in the November 18, 2003 letter to Mr. Raymond V. Knobbs (Added 6/14/2004)]

Question 2: When painting or welding is done as a construction activity, do OSHA regulations permit the work to be done while standing on one foot on an offset step (climbing) single rail ladder?

Answer: No; §1926.1053(b)(19) prohibits the use of single rail ladders.

Question 3: Is working (other than climbing activity or accessing) from any fixed ladder permitted? Does this depend on whether fall protection is provided?

Answer: First, under §1926.1053(a)(19), fall protection must be provided - whether the employee is climbing (up or down) or working from a ladder - whenever the length of climb equals or exceeds 24 feet. Also, even if the length of climb is less than 24 feet, under §1926.1053(a)(18), cages, wells, ladder safety devices, or self-retracting lifelines must be provided where the top of the ladder is greater than 24 feet above lower levels.

Second, §1926.1053(b)(4) provides that "ladders shall be used only for the purpose for which they were designed." For those situations where §1926.1053 does not require fall protection, an employee may work from a fixed ladder without fall protection only where that work is consistent with the purpose for which the ladder was designed. Most vertical, fixed ladders were not designed to work from with both hands off the ladder.

In addition, as explained in the next answer, a cage or well is usually designed to provide fall protection while moving up or down the ladder - not while working with both hands off the ladder.

Question 4: If a worker leans out from a fixed ladder while working and uses the ladder safety system for support, must the employer protect the worker with an additional fall protection device?

Answer: Most ladder safety systems (vertical lifeline type systems) are not designed to support a worker leaning out from the ladder; they are usually designed to protect a worker

while fully on the ladder. Also, a cage or well is not designed toprovide fall protection for a worker using the cage or well for support, or working with both hands off the ladder. Using such ladder safety systems, cages or wells for support would violate §1926.1053(b)(4).

In the type of situation you describe, if the worker cannot perform the work with both feet and one hand on the ladder, the employee will have to be protected by more than a harness andlanyard connected to a ladder safety device. The tie-off type support would have to meet the requirements of a boatswain's chair or other single point adjustable scaffold. The requirements for these devices are listed in §1926.452(o).

Question 5: Is climbing a single rail ladder permitted on a tank or power pole under 1926.1053(b)(19)?

Answer: No. Section 1926.1053(b)(19) prohibits the use of single rail ladders.

Question 6: Does 1926.502(d)(20) require a second person to be present for rescue purposes?

Answer: Not necessarily. Section 1926.502(d)(20) states that "the employer shall provide for prompt rescue of employees in the event of a fall or shall assure that employees are able to rescue themselves." The particular hazard that Section 1926.502(d)(20) addresses is being suspended by the fall arrest system after an arrested fall. While an employee may be safely suspended in a body harness for a longer period than a body belt, "prompt" requires that rescue be performed quickly -- in time to prevent serious injury to the worker. There are a wide range of ways in which this requirement can be met, depending on the particular circumstances of the work site. For example, a single worker equipped with communication equipment that enables the worker to obtain help promptly would meet the requirement.

If you need further assistance, please write to: [U.S. Department of Labor, OSHA, Directorate of Construction, Office of Construction Standards and Guidance, Room N3468, 200 Constitution Avenue, N.W., Washington, D.C. 20210].

Sincerely,

Russell B. Swanson, Director
Directorate of Construction

[Corrected 6/14/2004. Question numbers were added for reference purposes.]

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=23328

08/14/2000 - Fall protection for various lift-devices; restraint, positioning, fall arrest and rescue requirements; maintenance vs. construction examples.

• Standard Number: 1926.451(g)(1)(vii); 1926.451(g)(4); 1926.453(b)(2)(v); 1926.500; 1926.502(d); 1926.502(d)(20)

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August 14, 2000

Mr. Charles E. Hill
Chairman, National Telecommunications Safety Panel
Southwestern Bell Telephone Company
St. Louis, Missouri 63101

Dear Mr. Hill:

This is in response to your letter of July 28, 1998, in which, representing the National Telecommunications Safety Panel and the dozen large companies it represents, you asked for interpretations regarding the telecommunications industry and the applicable Occupational Safety and Health Administration's (OSHA) standards for fall protection in bucket trucks. You asked four questions regarding OSHA's construction standards for scaffolds and fall protection as well as our general industry standards for powered platforms, manlifts, and vehicle-mounted work platforms. This letter responds only to the issues you raised regarding construction work. While we had hoped to be able to include answers in this letter to your general industry questions, OSHA is continuing to work with a number of industry groups on resolving those issues. Therefore, OSHA will address the general industry questions separately once that work is completed. We apologize for long time that this process has taken.

You ask us to describe the OSHA fall protection requirements for working from scissor lifts, aerial lifts and boom-type elevating work platforms. You also ask us to explain the difference between fall restraint systems, positioning systems, and fall arrest systems.

When Fall Protection On This Equipment Is Required in Construction Work

Aerial lifts/ boom-type platforms
Section 1926.453(b)(2)(v) of the Aerial Lift standard provides that workers in aerial lifts and boom-type platforms must be tied-off.

Scissor lifts
Workers on scissor lifts must either be tied-off or protected by guardrails. The Aerial Lift standard (§1926.453) applies to equipment covered in ANSI A92.2 (1969). Scissor lifts are not addressed in that ANSI standard; consequently, they are not covered by the Aerial Lift standard. Since they are a type of work platform, they are covered under the scaffold standard, §1926.451. Paragraph (g)(1)(vii) of §1926.451 requires that employees be protected by a personal fall arrest system or a guardrail system that meets the requirements of §1926.451(g)(4).

The options for tie-off are delineated below.

Restraint, Positioning and Fall Arrest Systems in Construction Work

Restraint Systems
A restraint system prevents a worker from being exposed to any fall. If the employee is protected by a restraint system, either a body belt or a harness may be used. When a restraint system is used for fall protection from an aerial lift or a boom-type elevating work platform, the employer must ensure that the lanyard and anchor are arranged so that the employee is not potentially exposed to falling **any** distance.

Positioning Devices: Construction Work
The only time a body belt may be used where there may be a fall is when an employee is using a "positioning device." In §1926.500 of the construction standards for fall protection, a "positioning device system" is defined as a body belt or body harness system rigged to allow an employee to be supported on an elevated vertical surface, such as a wall (or a pole), and work with both hands free while leaning. Therefore, in construction work, a positioning device may be used only to protect a worker on a **vertical** work surface. These devices may permit a fall of up to 2 feet (0.6 m). They may be used in concrete form work, installation of reinforcing steel, and certain telecommunications work. Since construction workers in bucket trucks, scissor lifts and boom-type elevating work platforms are on a **horizontal** surface, a positioning device may not be used for those workers.

Fall Arrest Systems Used in Construction Work
A device that permits an arrested fall is considered a fall arrest system. In construction work a body harness must be used in these systems. A fall arrest system can only be used where the aerial lift or scaffold is designed to withstand the vertical and lateral loads caused by an arrested fall. Fall arrest systems used in construction must comply with §1926.502(d). That provision prohibits the use of a body belt in a fall arrest system, and instead requires the use of a body harness.

Construction Work: When Does The Rescue Provision, §1926.502(d)(20), Apply?

You ask if employers must provide for self-rescue or prompt rescue when their employees are using a work positioning or restraint system. In light of the above definitions, we interpret your question as follows: first, must self-rescue or prompt rescue be provided where a harness and lanyard are set up so that the worker is not exposed to any fall (a restraint system)? The answer is no, since the worker would not be exposed to any fall.

Second, must the rescue provision be met where the worker is protected by a positioning system? The rescue provision applies where a fall arrest system is used while doing construction work. In construction work, a worker may use a positioning device only while working on a vertical work surface. Workers therefore may not use a positioning device while in a bucket truck or on a scissor lift. The only option other than a restraint system in that circumstance is a fall arrest system. If the lift can support the forces of an arrested fall and if a fall arrest system is used because the worker is exposed to a fall, the rescue provision does apply.

What Does The Rescue Provision Require

Prompt rescue, as required under §1926.502(d)(20), is not defined in the standard. The particular hazard that §1926.502(d)(20) addresses is being suspended by the fall arrest system after a fall. While an employee may be safely suspended in a body harness for a longer period than from a body belt, the word "prompt" requires that rescue be performed quickly -- in time to prevent serious injury to the worker.

You note that electrical utility and telecommunications workers sometimes work alone and that the employees' "status is maintained through normal work rules and operating procedures." We recognize that there are a wide range of variables and circumstances between worksites. The standard requires that, to the extent feasible, a reliable system be in place to ensure that rescue will be prompt. Precisely what is required to comply with this provision in a remote location will depend on what is feasible under the particular circumstances. The range of feasible options available in remote locations may be more limited than in more populated areas.

Applicability of Construction Standards to Electrical Utility and Telecommunications Work

You ask several questions relating to the applicability of OSHA construction standards to electrical utility and telecommunications work. Your questions ask us to distinguish between construction work, to which the OSHA construction standards apply, and maintenance work, where they do not apply. The following principles and examples apply in distinguishing between construction and maintenance:

(A) It is the activity to be performed, not the company's standard industrial classification (SIC) code, that determines whether the construction standard applies;

(B) "Maintenance" means keeping equipment or a structure in proper condition through routine, scheduled or anticipated measures without having to significantly

alter the structure or equipment in the process. For equipment, this generally means keeping the equipment working properly by taking steps to prevent its failure or degradation.

(C) Whether repairs are maintenance or construction depends on the extent of the repair and whether the equipment is upgraded in the process.

Example No. 1: Maintenance
Five percent of a company's utility lines are downed in a storm and are repaired or replaced. In so doing, the service is restored, with the same capacity and capabilities it had before the damage. This is maintenance work because only a small part of the total system is repaired or replaced and the work returns the system to its original condition.

Example No. 2: Construction
Three quarters of a company's lines are damaged and replaced. This is construction because the work is done to a very large portion of the total system.

Example No. 3: Construction
A few lines are changed to upgrade service. This is construction work because this part of the system, though only a very small portion, is improved relative to its condition before the work was done.

Example No. 4: Maintenance
A small water shut-off valve in a large, complex chemical processing system is removed and replaced. Its replacement is part of the routine maintenance of the system and removing and replacing the valve is done without making major alterations to the rest of the system. The removal and replacement of the valve would be considered maintenance.

Example No. 5: Construction
A 36-inch valve that is one of three major components in a processing system is removed and replaced. To do the job, about half of all the parts in the system have to be cut, unbolted, moved, or otherwise altered or replaced. Removing and replacing this valve would be considered construction because the valve constitutes a major portion of the equipment it is in and a significant portion of the system's parts must be moved or altered in the process of doing the job.

Unifying Parts 1910 and 1926

In your letter you suggest that the Agency unify the provisions of its parts 1910 and 1926 standards for fall protection and vehicle-mounted aerial lifts. We appreciate the need to simplify standards as much as possible and will keep your suggestion in mind in our upcoming rulemakings.

If you have additional questions, please do not hesitate to contact the Directorate of Construction, Office of Construction Standards and Compliance Assistance, Room N3468,

200 Constitution Avenue, N.W., Washington D.C. 20210.

Sincerely,

Russell B. Swanson, Director
Directorate of Construction

[Corrected 5/28/2004]

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24110

11/18/2003 - Clarification of maintenance vs. construction activities; standards applicable to the removal and replacement of steel tanks and structural steel supports.

Re: Distinguishing construction from maintenance

…Unlike construction work, there is no regulatory definition for "maintenance," nor a specified distinction between terms such as "maintenance," "repair," or "refurbishment." "Maintenance activities" have commonly been defined in dictionaries as making or keeping a structure, fixture or foundation (substrates) in proper condition in a routine, scheduled, or anticipated fashion. …

…Construction work is not limited to new construction, but can include the repair of existing facilities or the replacement of structures and their components. …

… the scale and complexity of the project are relevant. …

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24789

… Building maintenance, generally interpreted as making or keeping a structure, fixture or foundation in proper condition in a routine, scheduled, or anticipated fashion, normally falls under the scope of Division 2, General Industry. …

When work progresses beyond maintenance to repairs or replacements that would be defined as construction activities, …

http://www.cbs.state.or.us/external/osha/interps/2000/artieta.pdf

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Standard Interpretations

08/11/1994 - Construction vs. Maintenance.

• Standard Number: 1926.32; 1910.12

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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.

August 11, 1994

MEMORANDUM FOR: REGIONAL ADMINISTRATORS

FROM: JAMES W. STANLEY
Deputy Assistant Secretary

SUBJECT: Construction vs. Maintenance

OSHA's regulations define "construction work" as "construction, alteration, and/or repair, including painting and decorating." at 29 CFR 1926.32(g) and 29 CFR 1910.12(b). They further provide that OSHA's construction industry standards apply "to every employment and place of employment of every employee engaged in construction work." id. at 1910.12(a). In interpreting definitional provisions in these regulations, the Occupational Safety and Health Review Commission and the courts have looked to similar definitional provisions in other federal laws and regulations. For example, OSHA's regulations make specific reference to definitions in the Davis-Bacon Act and regulations promulgated under that Act. The Davis-Bacon Act regulations issued by the Department of Labor broadly define construction work or activity as follows:

> (i) The terms "building" and "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, * * * excavating,* * *.
>
> (j) The terms construction, completion, or repair mean the following:
>
> > (1) all types of work done on a particular building or work at the site thereof * * * 29 CFR 5.2(i) and (j).

In order for work to be construction work, the employer need not itself be a construction company. See e.g., **New England Telephone & Telegraph Co.**, 4 OSHC 1838, 1939 (1976), vacated on other grounds sub nom. and **New England Telephone & Telegraph Co. vs. Secretary of Labor** 589 F.2d 81 (1st Cir. 1978).

Further, construction work is not limited to new construction. It includes the repair of existing facilities. The replacement of structures and their components is also considered construction work. For example, in **Pacific Gas & Electric Co.**, 2 OSHC 1962 (1975), the Review Commission held that the replacement of a wooden utility pole is covered by the construction industry standards. The utility had argued that the replacement of the pole was "maintenance work," rather than "construction work." The Review Commission, however, concluded that pole replacement is "improvement" and, therefore, construction work. Similarly, construction work is typically performed outdoors, rather than at a manufacturing plant. This factor too is another hallmark of construction work. See e.g., **Cleveland Electric Co. vs. OSHRC** 910 F2d 1333 (6th Cir. 1990).

There is no specified definition for "maintenance", nor a clear distinction between terms such as "maintenance", "repair", or "refurbishment." "Maintenance activities" can be defined as making or keeping a structure, fixture or foundation (substrates) in proper condition in a routine, scheduled, or anticipated fashion. This definition implies "keeping equipment working in its **existing** state, i.e., preventing its failure or decline." However, this definition, (taken from the directive on confined spaces) is not dispositive; and, consequently, determinations of whether a contractor is engaged in maintenance operations rather than construction activities must be made on a case-by-case basis, taking into account all information available at a particular site.

Examples of activity that have been determined to be construction:

- OSHA has recognized that repair of highways is construction work. See e.g., **Yonkers Contracting Co.**, 11 OSHC 1994 (1984) (highway contractor cited under construction industry standards in connection with highway rehabilitation project); **Karl Koch Erecting Co.**, 3 OSHC 1223 (1975) (employer cited for violation of construction industry standards in connection with freeway repair project).

- OSHA has consistently taken the position that the repair of railroad track and related structures are construction work. Thus, in **Secretary of Labor vs. Consolidated Rail Corp.**, OSHRC Docket No. 91-3134 (filed Jan. 22, 1992), OSHA cited Conrail for violation of its construction industry standards, alleging that maintenance-of-way activities "involve at least in part, construction, alteration and/or repair * * *." In **Consolidated Rail Corp.**, 1979 OSAHRC LEXIS 640, 1979 OSHC (CCH) p. 23,392 (1979), OSHA cited a railroad for violation of construction industry standards in connection with replacement of damaged railroad ties on a bridge. See also **Burlington Northern Railroad Co.**, 14 OSHC 1402 (1989) (citation for failing to shore trench). More recently, in a 1993 case settled with the Norfolk Southern Railroad, it was determined that the replacement of thousands of aged and damaged ties and tons of ballast is "improvement and/or repair of track," and consequently such work is construction work. The case also determined that the repair and rehabilitation of railroad tracks, on site, using heavy equipment and workers spread over a large geographical area is also construction work.

In other instances, where an activity cannot be easily classified as construction or

maintenance even when measured against all of the above factors, the activity should be classified so as to allow application of the more protective 1910 or 1926 standard, depending on the hazard. In such cases the citation should be issued in the alternative with the emphasis on the more protective standard.

Questions on the above policy should be forwarded to the [U.S. Department of Labor, OSHA, Office of Construction Standards and Guidance, Room N3468, 200 Constitution Avenue, N.W., Washington, D.C. 20210].

[Note: Additional clarification on this issue is available in the November 18, 2003 letter to Mr. Raymond V. Knobbs (Added 6/14/2004)]

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=21569

04/12/1996 - Confined spaces: use of rescue-type SCBAs; maintenance vs. construction

• Standard Number: 1910.146(c); 1910.146(d); 1910.12(b); 1926.21(b)(6)

April 12, 1996
BMW Constructors, Inc.
1740 West Michigan St.
PO Box 2210
Indianapolis, Indiana 46222-0210
Dear Sirs:
This is in response to your letter requesting clarification of the Occupational Safety and Health Administration's (OSHA) standards addressing the use of escape only, self-contained breathing apparatus (SCBA) in permit-required confined spaces.
The confined space standard, contained in 29 CFR 1910.146 does not prescribe specific respirators to be used when performing permit required confined space work; instead, respirator selection is determined through compliance with the respirator standards, 29 CFR 1910.134 and 29 CFR 1926.103. Therefore, SCBAs approved for escape may only be used for emergency egress and not for entry or routine work in confined spaces. Respirators required as part of an entry permit must be selected in accordance with the requirements established by either 29 CFR 1910.134 or 1926.103.
In response to your specific questions, the following is provided:
1.Some owners of permit-required confined spaces require that contractors carry ELSA-10 escape SCBA equipment for each worker upon entry into the confined space. These escape SCBAs are simply air bottles with a ten minute air supply connected to a plastic hood. These SCBAs are to be used for emergency egress only and the confined space is of a nature that would not normally require any respiratory protection for workers. Is the possession of this equipment required by the OSHA standards or is this merely a requirement of the confined space owner to suit his own prerogatives?
First, it is important to keep in mind that the host employer that "arranges to have employees

of another employer (contractor) perform work that involves permit space entry" has obligations that are spelled out in §1910.146(c)(8) (host employers). Any additional requirements that the owner may place on you and your employees would be a contract matter between you and the owner.

Since the entering employees in the question you posed would be your employees, you would be considered their employer and it is you that must meet all of the requirements of the confined space standard with respect to them. Those requirements include .146(d)(9) (development and implementation of rescue procedures) and .146(d)(4)(viii) (providing rescue and emergency equipment). If escape-type SCBAs would be necessary for a rescue, then it would be your obligation under the standard to incorporate them in your rescue procedures and make sure that they are provided. Therefore, the answer to your question, "is the possession of this equipment required by the OSHA standards ...? " is yes if the nature of the circumstances would require that they be provided as part of your rescue procedures.

We cannot be more definitive than this because OSHA did not attempt in the standard to specify the equipment that would be needed for rescues and escapes in every type of permit-required confined space. Instead we have adopted a performance-type standard that requires each employer to determine what equipment would be necessary in the circumstances that they face in each instance.

We do note, though, that the rescue-type SCBA is not sufficient for routine entry or work in a permit space.

2.Are ELSA-10 SCBAs considered respirators under 29 CFR 1926.103? If so, would the requirements of physical examinations apply? If this were the case, would this imply physicals for all workers regardless of whether they normally use respirators in their job duties or not.

Yes, ELSA-10 SCBAs are respirators under 1926.103 (and 1910.134). The standards do not require physical examinations, however. ~~They recommend determination of whether employees are physically able to perform the work and wear the respirators.~~ They require the employer to have a local physician determine what health and physical conditions are pertinent.

[This document was edited on 8/12/99 to strike information that no longer reflects current OSHA policy.]

3.Since 29 CFR 1910.146 does not specifically apply to construction operations, would you provide some guidance on OSHA's procedures for determining the difference between construction and maintenance operations in relation to this standard, as well as ANSI Z-117-1?

29 CFR 1910.12(b) defines construction work as "work for construction, alteration, and/or repair, including painting and decorating." Generally speaking reconfiguration of space or installation of substantially new equipment is usually considered construction, whereas refurbishing of existing equipment and space is considered maintenance.

Maintenance operations are covered by general industry standards contained in 29 CFR 1910 and construction activities are covered by the construction standards contained in 29 CFR 1926. While paragraph (a), scope and application, of 29 CFR 1910.146 does not apply to construction activities, is does not exclude contractors from coverage when performing maintenance type operations in confined spaces.

Thus, if you are a contractor performing maintenance type activities for a host employer, compliance with 29 CFR 1910.146 is required. Some examples of maintenance operations

would be:
The partial patching, total removal of existing lining and replacement, and installation of a new lining in a tank.
The relining of a furnace with new refractory.
Tuck pointing and individual brick replacement in a manhole.
Relining of a sewer line using a sleeve which is pushed through a section of the existing system.
Repainting, which is part of a scheduled program to maintain a system or prevent its deterioration.
For construction activities, hazards not addressed by §1926.21(b)(6) can be addressed by the general duty clause (Section 5(a)(1) of the Act) based on the requirements of the ANSI standard.
If we can be of any further assistance, please contact me or Mr. Dale Cavanaugh of my staff at (202) 219-8136. Sincerely,
Roy F. Gurnham, P.E., J.D.
Director
Office of Construction Services

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=22133

02/01/1999 - The difference between maintenance and construction;scaffold inspection requirements; and definition of periodic scaffold inspection.

The difference between maintenance and construction …

The difference between construction and maintenance
Question 1: There are two scaffold standards -- one for construction and one for general industry. What determines which standard applies -- the activity being performed, or the company's Standard Industrial Code (SIC)?

Answer: It is the activity to be performed while on the scaffold, not the company's standard industrial classification (SIC) code, that determines which standard applies.

Question 2: A valve is removed to install a test rig for maintenance and the valve is reinstalled when the work is completed. Is this a construction or maintenance activity?

Answer: "Maintenance" means keeping equipment or a structure in proper condition through routine, scheduled or anticipated measures without having to significantly alter the structure or equipment in the process. For equipment, this generally means keeping the equipment working properly by taking steps to prevent its failure or degradation.

In the activity you describe, a valve is removed so that a test rig can be temporarily installed to perform a maintenance activity. After the test, the rig is removed and the valve is either reinstalled or replaced with an identical valve. This would be considered a maintenance activity.

Question 3: If a valve is cut out and replaced, no matter what size it is, is this construction or

maintenance?

Answer: The size of the valve is not necessarily a factor in determining whether the activity is construction or maintenance. It would be a factor if, because of its size, the process of removal and replacement involves significantly altering the equipment that the valve is in.

> ***Example No. 1: Maintenance***
> A common household water shut-off valve in a home heating system is removed and replaced. Its replacement is part of the routine maintenance of the sytem and removing and replacing the valve is done without making major alterations to the heating system. The removal and replacement of the valve would be considered maintenance.
>
> ***Example No. 2: Construction***
> A 36 inch valve that is one of three major components in a processing system is removed and replaced. To do the job, 50 percent of all parts in the system have to be cut, unbolted, moved, or otherwise altered or replaced. Removing and replacing this valve would be considered construction because the valve constitutes a major portion of the equipment it is in and much of the rest of the system's parts must be moved or altered in the process of doing the job. …

http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=22687