CHERIE BERRY
COMMISSIONER OF LABOR

August 11, 2011

ALLEN MCNEELY
DEPUTY COMMISSIONER/DIRECTOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

Mr. Don McGee
McGee Brothers Company, Inc.
4608 Carriker Road
Monroe, NC 28110

Dear Mr. McGee:

A letter of interpretation from Federal OSHA, dated May 24, 2011, recently came to my attention. The letter references a memo, dated April 27, 2001, from NCDOL to you that discusses, among other topics, the use of a work platform on a pump jack scaffold as the top rail of the guardrail system. Item number 3, on page two of NCDOL's letter, referenced a federal OSHA training program and illustrative photo. *"Training material and information provided by Federal OSHA states no midrail is needed in an example provided (photo slide, Pump Jack / Ladder Jack Scaffold Photo Compliance Guide – March 1998) in which gap between platforms is 23 inches. In this example the work bench can serve as the top rail because the vertical distance from the platform is 23 inches + 4 inch thick platform + 12 inch horizontal plank width = 39 inches."*

OSHA removed the entire training program that contained this example and NCDOL is removing our reference to it from the memo to you. Current ANSI A10.8 guidance on the topic states that "When a workbench is used at an approximate height of 42 inches, the toprail may be eliminated if the workbench is fully decked, the planking is secured, and it is capable of withstanding a 200-pound force applied in any direction." (paragraph 21.11)

We have not recently observed the work practice at McGee Brothers. If the work practices are still the same as those observed in 2000, then the work practices would be in compliance with the scaffolding standards. I do not believe that this wording change affects your situation. I know the agency will be happy to discuss the matter further if needed. If you have any questions about NCDOL action to remove reference stated in April 27, 2001 memo please contact Bobby Davis at (919) 807-2873; email: bobby.davis@labor.nc.gov. Thanks for your continued work in North Carolina.

Sincerely,

Allen McNeely

Encls: Excerpts from ANSI A10.8 1988 and 2001

Copy of May 2011 federal letter of interpretation

Copy of April 2001 NCDOL memo

cc: James G. Maddux, Director
Directorate of Construction

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Excerpts from ANSI A10.8 1988 and 2001

ANSI A10.8-1988/2001 Safety Requirements for Scaffolding – American National Standard for Construction and Demolition Operations

ANSI A10.8-1988 Para.21.10 Pump jack scaffolds shall be provided with a guardrail system as specified in 4.5. No guardrail is required when body belts with lifelines (see 4.33) are attached and provided for employees. The guardrails shall be affixed to the pump jack brackets and shall not be attached to the planking or platform.

Para. 21.11 When a workbench is used at an approximate height of 42 inches, the toprail may be eliminated if the workbench is fully decked, the planking is secured, and if it is capable of withstanding a 200-pound force in any direction.

ANSI A10.8-2001 Para. 21.10 Pump jack scaffolds shall be provided with a guardrail system as specified in 4.6. No guardrail is required when personal fall arrest system (see 4.37) are attached and provided for employees.

Para. 21.11 When a workbench is used at an approximate height of 42 inches, the toprail may be eliminated if the workbench is fully decked, the planking is secured, and it is capable of withstanding a 200-pound force applied in any direction.

U.S. Department of Labor

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

Reply to the attention of:

MAY 2 4 2011

Mr. Matt Main
Assistant Safety Director
Shiel Sexton, Co., Inc.
902 N. Capitol Avenue
Indianapolis, Indiana 46204

Dear Mr. Main:

Thank you for your October 3, 2008 letter to the Occupational Safety and Health Administration (OSHA). Since it involved construction issues, it was forwarded to the Directorate of Construction for response. We apologize for the delay in our reply. Your correspondence, including an OSHA guidance slide, and an April 27, 2001, North Carolina Occupational Safety and Health Division scaffold interpretation letter to Mr. Don McGee, addresses fall protection requirements for "pump jack scaffolds" used in construction. Particularly you question the accuracy of the slide, number 14 of 33 in OSHA guidance document "Pump Jack/Ladder Jack Scaffold Photo Compliance Guide," March 1998 and North Carolina's reliance on the slide. This letter constitutes OSHA's interpretation of only the requirements discussed and may not be applicable to any question not delineated in your original correspondence.

Question: *Can the width of the workbench on a pump scaffold be used to achieve the correct vertical height for a toprail to comply with the OSHA guardrail requirements for pump jack scaffolds?*

Answer:

No. Paragraph 1926.452(j) contains requirements for pump jack scaffolds. In particular, 1926.452 (j)(3) provides that "a workbench may be used as a toprail only if it meets all the requirements in paragraphs (g)(4) (ii), (vii), (viii), and (xiii) of §1926.451."

Paragraph 1926.451 (g)(4)(ii) states "[t]he top edge height of the toprails or equivalent member on supported scaffolds manufactured or placed in service after January 1, 2000 shall be installed between 38 inches (0.97 m) and 45 inches (1.2 m) above the platform surface." For scaffolds placed in service before January 1, 2000, the top edge height of the toprail may be between 36 and 45 inches. OSHA's regulations contain no exceptions to these requirements based on the width of the workbench.

We will make sure that North Carolina, Indiana and the other states that administer their own OSHA-approved State Plans are aware of the issues concerning the pump jack scaffolds photo compliance guide document and its recent removal from OSHA's web site. These states adopt

and enforce occupational safety and health standards that are either identical to or at least as effective as federal OSHA's. For more information, see http://www.osha.gov/dcsp/osp/index.html.

Thank you for your interest in occupational safety and health. We have deleted the entire "Pump Jack/Ladder Jack Scaffold Photo Compliance Guide", from the OSHA website and hope you find this information helpful. 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. If you have any further questions, please feel free to contact the Directorate of Construction at (202) 693-2020.]

Sincerely,

James G. Maddux, Director
Directorate of Construction

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NORTH CAROLINA DEPARTMENT OF LABOR

CHERIE K. BERRY
COMMISSIONER

JOHN H. JOHNSON
DEPUTY COMMISSIONER/DIRECTOR
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

April 27, 2001

OSHA Standard Interpretation and Compliance Letter - Table of Contents

- **Record Type:** Interpretation
- **Standard Numbers:** 1926.451, 1926.452
- **Subject:** Pump Jack Scaffolding System (Masonry use), McGee Brothers Company, Inc.

Mr. Don McGee
McGee Brothers Company, Inc.
4608 Carriker Road
Monroe, North Carolina 28110

Dear Mr. McGee:

This letter is provided to bring closure to on-going dialogue between 2/16/2000 and 5/19/2000 addressing issues and/or concerns related to pump jack scaffolding as presented previously by McGee Brothers Company, Inc. I apologize that the action to complete this response was not provided you before now. The information attached is essentially the same as that contained in a draft document discussed and provided you and company representatives at a meeting held in Charlotte on 5/19/2000 (attended by Bob Andrews and Bobby Davis). That meeting allowed discussion of the proposed pump jack scaffold system as designed by Mr. David Young and interpretation of related safety standards. In addition, that meeting gave us the opportunity to address issues which stemmed from Standards Officer Bobby Davis' visit to your company and job site on 2/16/2000. We also evaluated your previous request for a variance from standards which regulate pump jack scaffolding. In subsequent discussion after the 2/16 meeting, it was agreed that a variance request did not properly address your company's concerns as indicated in your letter about pump jack use. It was determined that an interpretation of the standard and/or clarification best addressed your specific concerns. Therefore the enclosed attachment (six total pages) is offered to clarify the 14 issues addressed.

As an agency, we will ensure our compliance personnel are provided information and training on pump jack scaffold systems as proposed for use by your company. I encourage you to continue your efforts to ensure your employees are trained and use the pump jack system as indicated in the design by Mr. Young. I believe the focus of our combined efforts will work to ensure employee safety and compliance with appropriate safety standards. Please note that the interpretation provided for Item #2 stipulates that your company no longer modify scaffold planking by embedding rebar across the planks and parallel to the bearers. If we can be of any further assistance regarding employee safety or health related concerns please contact Bobby Davis at (919) 807-2873; email: bdavis@mail.dol.state.nc.us.

Sincerely,

John H. Johnson
Director

4 WEST EDENTON STREET • RALEIGH, NORTH CAROLINA 27601-1092
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Standard Interpretation Provided for McGee Brothers Construction Company

3. Request Variance or letter of interpretation to allow work bench position to serve as top rail on pump jack scaffold.	**Non-Mandatory App. A (1926 Subpart L App. A)** This appendix provides non-mandatory guidelines to assist employers in complying with the requirements of Subpart L of this part. However, the guidelines do not provide all the information necessary to build a complete system, and the employer is still responsible for designing and assembling these components in such a way that the complete system will meet the requirement of 1926.451(a).	**1926.452(j)(3) is more specific to address how work benches may be used as the toprail when guardrails are used as fall protection for pump jack scaffold. Specifically, the standard states that the workbench may be used as fall protection only if all requirements in paragraphs (g)(4)(ii), (vii), (viii), and (xiii) of 1926.451 are met. 1926.452(j)(4) may also be helpful to address other possible concern(s) about work bench use; wherein the standard is specific in stating work benches shall not be used as scaffold platforms. As related to the pump jack scaffold system used by McGee Brothers, 1926.451(g)(4)(ii) states: The top edge heights of toprails or equivalent member or supported scaffolds manufactured or placed in service after January 1, 2000 shall be installed between 38 inches (0.97 m) and 45 inches (1.2 m) above platform surface.** Training material and information provided by Federal OSHA states no midrail is needed in an example provided (photo slide, Pump Jack/Ladder Jack Scaffold Photo Compliance Guide – March 1998) in which gap between platforms is 23 inches. In this example the work bench can serve as top rail because the vertical distance from the platform is 23 inches + 4 inch thick platform + 12 inch horizontal plank width = 39 inches. **Further, ANSI A-10.8 (1988, 1977) established: When a workbench is used at an approximate height of 42 inches, the toprail may be eliminated if the workbench is full decked, if the planking is secured, and if it is capable of withstanding a 200—pound force in any direction.** 1926.451(g)(4)(vii) states the following as related to system used by McGee Brother's: Each toprail or equivalent member of a guardrail system shall be capable of withstanding, without failure, a force applied in any downward or horizontal direction at any point along its top edge of at least 200 pounds (890 n). Requirements stated in **1926.451(g)(4)(viii)** are: When the loads specified in paragraph (g)(4)(vii) of this section are applied in a downward direction, the top edge shall not drop below the height above the platform surface that is prescribed in paragraph (g)(4)(ii) of this section. 1926.451(g)(4)(xiii) states steel or plastic banding shall not be used as a top rail or midrail.	YES
4. Request NC/OSHA accept field testing by PE to allow pump jack poles to go up to 50 feet and maximum intended load be increased to 1200 lbs	**Appendix A – (j): Pump Jack Scaffolds** Wood poles shall not exceed 30 feet in height. **Maximum intended load—500 lbs between poles;** applied at the center of the span.	As understood by NCDOL/OSH the employer's concern and point of interest is that this requirement **is now stated in the Non-mandatory Appendix** of the standard. However, ANSI A-10.8 established requirements that: (1). Wood poles shall not exceed 30 feet in height for pump jack scaffolds; (2) pump jack scaffolds shall be designed for a working load of 500 pounds. The interpretation(s) as provided to address Item 1 and Item 2 should also be helpful to address employer's concern and desire stated here. Again, as stated in interpretation to address item 1, **design of a scaffold system by a registered professional engineer is acceptable provided the capacity criteria of paragraph .451(a) and the use criteria of .451(f) of the proposal are met.** Also, as related to this issue of concern the employer should remain aware of limitations or restrictions for equipment or integral parts established by manufacturer. In addition, the employer is responsible to ensure the scaffolding is erected and used in accordance with design specified by registered professional engineer; to include compliance with other applicable standards in section(s).	YES

Provided by: Bobby R. Davis, Safety Standards Officer
Information Date: May 2000