

TRANSCRIPT OF PROCEEDINGS

IN THE MATTER OF:)
)
ADVISORY COMMITTEE ON)
CONSTRUCTION SAFETY AND)
HEALTH, (ACCSH))

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UNITED STATES DEPARTMENT OF LABOR
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

IN THE MATTER OF:)
)
 ADVISORY COMMITTEE ON)
 CONSTRUCTION SAFETY AND)
 HEALTH, (ACCSH))

Room N-3437
 Frances Perkins Building
 200 Constitution Avenue, N.W.
 Washington, D.C.

Tuesday,
 April 26, 2016

The parties met, pursuant to the notice, at
 9:01 a.m.

ATTENDEES:

ACCSH Committee:

PETE STAFFORD, Chair
 North America's Building Trades Unions

JEREMY BETHANCOURT
 Arizona Construction Training Alliance

KEVIN CANNON
 The Associated General Contractors of America

CINDY DePRATER
 Turner Construction Company

STEVEN HAWKINS
 Tennessee Occupational Safety and Health
 Administration

PALMER HICKMAN
 Electrical Training Alliance

ATTENDEES: (Cont'd.)

ERIC KAMPERT
Occupational Safety and Health Administration
Construction Services

THOMAS MARRERO, JR.
OTS Holdings

DONALD PRATT
Construction Education and Consultation Services
of Michigan

STEVEN RANK
International Association of Bridge, Structural,
Ornamental and Reinforcing Iron Workers

JERRY RIVERA, National Electrical Contractors
Association, Washington, D.C. Chapter

CHARLES STRIBLING
Kentucky Labor Cabinet Department of Workplace
Standards

LISA WILSON, Esquire
Office of the Solicitor, Department of Labor

Special Guest:

DAVID MICHAELS
Occupational Safety and Health Administration,
Assistant Secretary of Labor

Public:

NIGEL ELLIS
National Safety Council, Occupational Safety and
Health Administration Alliance
Ellis Fall Safety Solutions, LLC

JOSH FLESHER
Occupational Safety and Health Administration

JENS SVENSON
Occupational Safety and Health Administration,
Construction Services

ATTENDEES: (Cont'd.)

RODD WEBER
PENTA Building Group

WILLIAM MOTT
Hunt Construction Group

TRAVIS PARSONS
Laborers' International Union of North America

WAYNE CREASAP
The Association of Union Constructors

BILL HERING
Matrix North American Construction
The Association of Union Constructors

CARL HEINLEIN
American Contractors Insurance Group

COURTNEY MURRAY
Occupational Safety and Health Administration,
Directorate of Construction

WILLIAM ZETTLER
Occupational Safety and Health Administration,
Directorate of Standards and Guidance

WESLEY WHEELER
National Electrical Contractors Association

MARK HAGEMANN
Occupational Safety and Health Administration,
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DAMON BONNEAU
Occupational Safety and Health Administration,
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DANEZZA QUINTERO
Occupational Safety and Health Administration,
Construction Services

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P R O C E E D I N G S

(9:01 a.m.)

1
2
3 MR. STAFFORD: All right. Morning,
4 everyone.

5 ALL: Good morning.

6 MR. STAFFORD: Let me do a head count here.
7 So, we have eight, so we have a quorum, so let's go
8 ahead and get started. Welcome to round two of our
9 discussions on a construction specific program
10 guideline. I appreciate your participation in
11 yesterday's meeting. I think it took us a little
12 while, from my perspective, to try to get lined out on
13 where we were headed, but now that we got the first
14 two sections out of the way, I'm hoping today will go
15 a little bit smoother. We have several to get
16 through.

17 So, based on our conversation yesterday, we
18 are going to have the OSHA staff has reconciled what
19 we've recommended as far as action items for the first
20 two sections. I was inclined to go back and back up
21 and take a look at that, but I don't want to get
22 bogged down in those first two sections again.

23 So, I think maybe the best thing for us to
24 do as we proceed is to go through all of the sections,
25 maybe take a little bit of break -- I don't know

1 how -- you know, in terms of timing how long it takes
2 to get it in there.

3 And then I would like at whatever time that
4 is today is go back and do a quality control and have
5 the committee and the stakeholders that are still with
6 us later this afternoon go through all the sections
7 one last time, so that we can see them together all in
8 writing, and make one final fine tunement before we
9 adjourn today.

10 We're on the schedule to go until 5:00. I'm
11 not necessarily sure that we're going to go until
12 5:00. We're going to go as long as it takes to get
13 the job done. Dr. Michaels is on the schedule to
14 address us later this afternoon. I haven't talked to
15 OSHA staff. I'm assuming that that's still the case,
16 so we'll have to be a little bit fluid with
17 Dr. Michaels' schedule.

18 So, with that, let's go through
19 introductions. I think we're going to go back to the
20 past format, in terms of having stakeholders' input
21 and have you sign up, and depending on how we progress
22 perhaps we could have stakeholders once we go back
23 through at the end, and if you have any particular
24 burning desire to make a comment about a section then,
25 maybe we could have stakeholder input after we

1 finalize each section.

2 So, let's try that. If it gets a little bit
3 unwieldy, I might have to stop that, but obviously
4 you're here. This is important to you. It's
5 important to us. So, we want to make every
6 opportunity to have your comments as long as you're
7 here with us today. So, let's start with
8 introductions. Kevin?

9 MR. CANNON: Kevin Cannon, employer rep,
10 Associated General Contractors of America.

11 MS. DePRATER: Cindy DePrater, employer rep,
12 Turner Construction Company.

13 MR. BETHANCOURT: Jeremy Bethancourt, public
14 representative, ACTA Safety.

15 MR. RIVERA: Jerry Rivera, employer rep,
16 NECA.

17 MR. MARRERO: Tom Marrero, employer rep with
18 OTS Holdings.

19 MR. STRIBLING: Good morning. Chuck
20 Stribling, state representative, Kentucky Labor
21 Cabinet.

22 MR. HICKMAN: Palmer Hickman, employee rep,
23 IBW.

24 MR. PRATT: Don Pratt, employer rep,
25 representing the National Association of Homebuilders.

1 MR. HAWKINS: Steve Hawkins, Tennessee OSHA
2 state plan rep.

3 MS. WILSON: Lisa Wilson, ACCSH counsel.

4 MR. KAMPERT: Eric Kampert, OSHA DFO.

5 MR. STAFFORD: Okay. Thank you, committee.
6 Nigel, for the second day in a row, we'll start with
7 you. You like that seat, huh, in the left corner?

8 MR. ELLIS: Representing the power in the
9 back of the room, Nigel Ellis representing the
10 National Safety Council on the OSHA Alliance.

11 MR. FLESHER: Josh Flesher, Directorate of
12 Construction.

13 MR. SVENSON: Jens Svenson, Directorate of
14 Construction.

15 MR. WEBER: Rodd Weber, PENTA Building
16 Group.

17 MR. MOTT: Bill Mott, Hunt Construction
18 Group.

19 MR. PARSONS: Travis Parsons with the
20 Laborers.

21 MR. CREASAP: Wayne Creasap, the Association
22 of Union Constructors.

23 MR. HERING: Bill Hering, Matrix North
24 American Construction and also representing the
25 Association of Union Constructors.

1 MR. MURRAY: Courtney Murray, Directorate of
2 Construction.

3 MR. ZETTLER: Will Zettler, Directorate of
4 Standards and Guidance.

5 MR. WHEELER: Wes Wheeler, National
6 Electrical Contractors Association.

7 MR. BONNEAU: Damon Bonneau, the Directorate
8 of Construction.

9 MS. QUINTERO: Danezza Quintero, Directorate
10 of Construction. Good morning.

11 MR. STAFFORD: Good morning.

12 MS. LAWLESS: Good morning. Jennifer
13 Lawless, Directorate of Construction.

14 MR. STAFFORD: Okay. Good morning. Thanks
15 again, everyone.

16 I am going to pass out to the committee one
17 handout that we would like in the exhibit, Lisa. And
18 this is -- I should have had it yesterday, and I'm
19 remiss for not having it, but this last week or two
20 weeks ago the Dodge Data Analytic, formerly
21 McGraw-Hill, released a study that we participated in
22 in CPWR, and looking at Safety and Health Programs,
23 practices and policies to build an effective safety
24 culture or climate in the construction industry.

25 And if you look at that, as I mentioned

1 yesterday, when we talk about culture or climate we're
2 all talking about the same things generally; maybe a
3 little bit of word changes, but we're always coming
4 back to management leadership, worker involvement,
5 effective communication, effective supervisor and
6 worker training, et cetera.

7 And so as we go through these sections I
8 thought it might be useful for the committee to take a
9 look at what the survey is saying, what the
10 contractors are saying to us about what they're doing,
11 and where there are gaps in what they're doing.
12 There's specific information, for example,
13 on --there's a whole section of slides on worker
14 involvement, on management leadership and some of the
15 other topics that we are going to be talking about
16 today, so I share this with you. It's available on
17 CPWR's website.

18 I didn't have enough time this morning to
19 make copies. Some of the building trades folks have
20 probably already seen copies. We've had Steve Jones,
21 the main author of Data Analytic, do a presentation
22 for the talk at the Association of Union Contractors
23 leadership meeting a few months back. He's been at
24 the building trades meeting at our last meeting and
25 with the CURT folks in April, where this was formally

1 released, to share the information, so I thought it
2 might be useful to the committee and to the
3 stakeholders if you haven't seen it.

4 So, with that, I'd like to share that with
5 you. We were a premier sponsor of CPWR, which means
6 we threw some money at it. We also helped Dodge in
7 developing the questions for the survey and we get the
8 raw data for our data center to do their own
9 manipulation. There was also several contractor
10 groups that are participating partners. I don't have
11 any copy left for me, but the AGC is one of those.

12 SMACNA, NECA and other associations have
13 joined in the study and for their role, it's just
14 simply their commitment to share the study information
15 with their member contractors, so I just thought it
16 would be a good opportunity to share it with you. So,
17 I think, Eric, unless you have anything or, Lisa,
18 any --

19 MS. WILSON: Sure. Mr. Chairman, I'd just
20 like to designate the Dodge Building a Safety Culture
21 report as Exhibit 5. Thank you.

22 (The document referred to was
23 marked for identification as
24 Exhibit No. 5 and was
25 received in evidence.)

1 MR. STAFFORD: Okay. Did everyone on the
2 committee get one? All right. Is there one left
3 extra? I gave mine away too. Yeah. Let me borrow
4 this here. I want to get into it. Okay. So, we're
5 going to try to get in. Again, we just have to be a
6 little bit fluid. I think we're going to take on the
7 next section now, where we left off yesterday and talk
8 about hazard identification and assessment.

9 So, as we agreed yesterday, we're going to
10 kind of look at the OSHA document, and we have this
11 parallel document, a draft for the committee that
12 we're trying to align. And I don't know if anyone on
13 the committee has had a chance to go through these
14 action items.

15 If you have, if you have any suggestions or
16 anything that you think doesn't apply to construction,
17 in terms of what this section is saying, it's time to
18 now share that. If you have any thoughts about
19 whether we should delete any of these action items or
20 just go to the parallel document and talk about other
21 action items that we think may be appropriate for the
22 construction industry, if there's any.

23 (No response.)

24 MR. STAFFORD: All right. So, the draft
25 document -- so, you see what was in the OSHA document.

1 I'm not going to go through and read that again today,
2 unless we need to. So, some additional action items
3 in the parallel document on how to accomplish it is,
4 "Every worker must have some basic training in hazard
5 recognition. As a starting point, all workers should
6 have the OSHA 10 course to be supplemented by
7 orientation, training and toolbox talks/JSAs to cover
8 hazards on each specific site."

9 The second item for consideration is,
10 "Workers need information about potential hazards; for
11 instance, if hazardous chemicals are used safety data
12 sheets must be easily available and workers must have
13 HAZCOM training so they can read the labels and SDSs
14 and know what precautions are necessary. Access to
15 injury logs, OSHA 300s, can also help them understand
16 what incidents have occurred, and where hazardous
17 conditions might need to be addressed."

18 And the last other bullet for consideration
19 is, "Many times, accidents happen when workers are
20 doing something they are not normally doing, a
21 non-routine task. These tasks should be approached
22 with particular caution and require JSAs to be
23 reviewed with special attention. Preparation should
24 be made for emergency situations."

25 So, those are the other draft action items

1 thought maybe more specific to construction, so if you
2 have any comments or suggestions or thoughts, I'd
3 appreciate it. Yeah, Jerry and then Tom?

4 MR. RIVERA: Yes. Jerry Rivera, employer
5 representative. On this, the first bullet point,
6 "Every worker must have some basic training in hazard
7 recognition," where it says, "should have the OSHA 10
8 hour course or equivalent," I would recommend, and the
9 reason why I add that, that might not be the right
10 verbiage, but to acknowledge that there is like the
11 OSHA 20-hour course for the ET&D partnership, maybe
12 the steel erectors have something that fits that need,
13 but it's more industry specific, so it gives a little
14 bit of flexibility in case everybody has something
15 industry specific in that case.

16 MR. STAFFORD: Okay. That sounds reasonable
17 to me. So, then, we would just modify that to say the
18 OSHA 10 course or equivalent training. Is that right?
19 Tom?

20 MR. MARRERO: That was my same comment.

21 MR. STAFFORD: All right. Guys, I'm sorry.
22 I've been chastised a little bit. So, we have to go
23 back, and this is my fault. Mostly for the folks are
24 jumping in. Let's remember for the court reporter
25 that we need to announce who we are, and our

1 representations. So, that's my fault. We got a
2 little bit carried away yesterday in our meeting.

3 Any other comments on that first bullet?

4 Yes, Don?

5 MR. PRATT: Mr. Chairman, Don Pratt,
6 employer rep. I really question whether we should
7 even mention the OSHA 10 or equivalent course in
8 there. "Should have training." "Should have safety
9 training," I would prefer.

10 We've got a lot of workers out there. I'm
11 not saying that they shouldn't have it, but to put
12 this in the document where it almost makes it it
13 doesn't say required -- I understand that -- but it
14 sure implies that. I'm really leery of doing that.

15 We have a way of self-policing our industry
16 in the home building industry, and training our folks,
17 and maybe sometimes we don't do a very good job of it,
18 but at least, I think, if we just have, "should have
19 formal safety training," I think that would suffice,
20 but that's my feeling.

21 MR. STAFFORD: Any other comments or
22 opinions? I mean, I think this was put in there, Don,
23 because we see, you know, it's kind of industry
24 practice, and if you look at the survey that Dodge
25 did, I mean, on almost a significant percentage, I

1 think 70 or so of the contractors that responded to
2 the survey are requiring it.

3 As you know, we have eight states that
4 require the OSHA 10 for construction workers, so I
5 thought that that would be a common baseline for
6 everyone, since that seems like it's the benchmark for
7 the industry.

8 MR. PRATT: Again, Don Pratt. Mr. Chairman,
9 that is true in commercial. That is not true in
10 residential. I don't know of any contractor in my
11 state that requires the OSHA 10.

12 A lot of people have it, because I teach the
13 class, but I would say the vast majority of employees
14 in my state, and I can only speak to my state, do not
15 have the OSHA 10. So, for whatever that's worth.

16 MR. STAFFORD: Okay.

17 MR. PRATT: Commercially, yes, a lot of
18 contractors require it, but in residential that's not
19 the case.

20 MR. STAFFORD: Okay. I appreciate that,
21 Don. Kevin, and then we'll go to Palmer.

22 MR. CANNON: Kevin Cannon, employer rep. I
23 was just going to follow up with Don, and maybe just
24 ask if you look at page 19, if that is what he was
25 getting at under Education and Training where, you

1 know, at the beginning, it has, "receive specialized
2 training when their work involves unique hazards."
3 Maybe that could be worded differently, but I think
4 that is getting to your point, you know --

5 MR. PRATT: Yeah. Don Pratt. That would --

6 MR. CANNON: -- of seeking training that is
7 applicable.

8 MR. PRATT: Yeah. Don Pratt. That would be
9 fine.

10 MR. CANNON: Yeah. So, I think my point is
11 I think it's covered later on in the document what Don
12 is attempting to say.

13 MS. DePRATER: Are you saying leave this
14 out?

15 MR. STAFFORD: Okay.

16 MR. CANNON: No, no. I mean, I think it's
17 fine.

18 MR. STAFFORD: Any other questions or
19 comments? Palmer?

20 MR. HICKMAN: Thank you, Mr. Chairman.
21 Palmer Hickman, employee rep. I was going to say, now
22 that we've pointed out that it may be covered on page
23 19, that might be fine, but the "or equivalent"
24 certainly would cover.

25 If the training that's being done is

1 equivalent to the 10, it has a recognition,
2 identification, an abatement for entry level workers.
3 It does concern me that there's a pocket of the
4 industry that isn't getting the OSHA 10. This might
5 raise the awareness and help that happen, but I do
6 think that the "or equivalent" would probably get us
7 there.

8 It would disturb me again that we found a
9 pocket that isn't getting this training, because it's
10 very minimum. I mean, I know many people were
11 thrilled that everybody's been through the OSHA 10,
12 but when you look at the purpose of it, it's for entry
13 level worker training, and it's sad that even after
14 20, 30 years people have been in the business that
15 they're getting the OSHA 10 for the first time.

16 So, again, that doesn't help me think that
17 we don't need to put it in there, the fact that people
18 aren't getting it, so "or equivalent" hopefully will
19 appease it and maybe the words on page 19 are
20 satisfactory. Thank you.

21 MR. STAFFORD: All right. Thank you,
22 Palmer. Well, we'll get through it, and then we'll
23 come back and revisit it. Yes, Don?

24 MR. PRATT: Yeah. Don Pratt. Just one
25 quick thing. Who's going to determine the

1 equivalency?

2 MR. STAFFORD: Uh-huh.

3 MR. HAWKINS: It wouldn't matter if it's not
4 a requirement for OSHA.

5 MR. PRATT: I understand.

6 MR. STAFFORD: Yeah. I mean, Jerry, you're
7 the one that raised this. I'm assuming you're saying
8 that, in your mind, there's other good hazardous
9 recognition programs other than the OSHA 10 that would
10 satisfy this requirement. Yes?

11 MR. RIVERA: Jerry Rivera, employer group.
12 There's some 10 hour courses that are industry
13 specific, that model the 10 hour course that could be
14 a little bit more stringent in many cases, and there
15 might be trade association resources that could be
16 used as supplemental. I think it gives, number one,
17 the industry a starting point. Hey, you have the 10
18 hour, or something that's equivalent to that nature,
19 if you want to make it more industry specific.

20 At the end of the day -- I think we talked
21 about this yesterday -- those who don't want to do it
22 and won't do it, but at least if they have somewhat of
23 an equivalent that they can take to a trade
24 association, or another industry group it might be an
25 angle.

1 MR. STAFFORD: Right.

2 MR. HAWKINS: This is supposed to be a
3 helpful document, so if you're a novice business
4 owner, and you read this, and it says "I should train
5 people in hazards" and it shows you the 10 hour,
6 that's a nice little something together and say, "Oh,
7 okay. Here's something where I can go."

8 You're saying hazard recognition training,
9 but, you know, the business owner may not have any
10 idea where to get that. If you throw the 10 hour in
11 there, no matter how we word it, it ought to stay so
12 the person could look in and say, "Well, okay. Let me
13 Google that." They Google it and say, "Well, I can
14 let my workers take this for 79 bucks or whatever." I
15 don't care how you work it to make it, you know, more
16 palatable to the folks and open up other
17 opportunities, but it ought to state.

18 MR. STAFFORD: Right. Any other comments or
19 suggestions? Cindy?

20 MS. DePRATER: Thank you.

21 MR. HAWKINS: Similar? Use the word similar
22 instead of equivalent.

23 MR. RIVERA: Sure.

24 MR. HAWKINS: Or similar training.

25 MR. STAFFORD: Yeah. Jeremy? Please.

1 MR. BETHANCOURT: Jeremy Bethancourt, public
2 representative. I have to agree with Steven Hawkins
3 and others in that saying that it actually is
4 something that people can actually find that they can
5 do gives them some sort of a guidance on what they
6 might be trying to provide their equivalent training
7 to.

8 Like Steve says, if they don't know what
9 they need to do, this gives them at least a baseline,
10 because this is a recommendation document on how to
11 improve, right, now you have to do it. It's if you
12 want to do better this is what you should do, if I'm
13 understanding what the whole purpose of this document
14 is.

15 MR. STAFFORD: That's exactly what it is.
16 It's a guideline, like you said. It's to guide. Yes,
17 Cindy?

18 MS. DePRATER: Cindy DePrater, employer rep.
19 I agree the OSHA 10 is a good reference, but let's not
20 forget the OSHA 10 is, as you point out, the basic
21 training. But what if we were to add what the similar
22 is, just a couple of other examples?

23 So, it might be something like HAZWOPER, or
24 asbestos awareness training, depending on your
25 specific job. If you add that to it, then you open up

1 a little bit more of a door for them to recognize it's
2 not just the OSHA 10, which is going to give them just
3 very, very basic training. We all know that. So, I'm
4 suggesting that we broaden this a little bit more, and
5 leave the OSHA 10 in.

6 MR. STAFFORD: Okay. Yes, Palmer?

7 MR. HICKMAN: Thank you. Cindy,
8 that's -- Palmer Hickman, employee rep. That's
9 certainly not a bad idea to give some examples.

10 I just would caution. The OSHA 10 is a
11 carefully crafted introduction to OSHA. It covers
12 many things, including employee rights, other things,
13 such as the Focus Four. So, as long as we pattern it
14 after the leading hazards, and what is in the
15 introduction to OSHA, because that's an important
16 concept of the OSHA 10. Thank you.

17 MR. STAFFORD: Okay. So, it sounds like --
18 go ahead, Steve. Just introduce yourself.

19 MR. HAWKINS: A single point. If I were a
20 worker and I were about to go to work for an asbestos
21 abatement contractor, I believe I'd choose the
22 asbestos training over the OSHA 10 --

23 MS. DePRATER: Yeah.

24 MR. RIVERA: Yeah.

25 MR. HAWKINS: -- hands down. So, I think it

1 needs to be very broadly worded right here. So, you
2 might get good hazard awareness training from lots of
3 sources.

4 MS. DePRATER: Right.

5 MR. HAWKINS: Mention the 10 hour. Give a
6 couple of other examples. You're trying to help
7 somebody.

8 MS. DePRATER: That's it.

9 MR. HAWKINS: You're trying to get them to
10 think about the hazards on the jobsite. The one thing
11 that worries me a little bit, I think sometimes people
12 send their workers to 10 hour training, and they go
13 "Well, I'm glad that's done."

14 MS. DePRATER: Right.

15 MR. HAWKINS: And, you know, it's really not
16 at all.

17 MR. STAFFORD: All right. Yeah. Palmer?

18 MR. HICKMAN: Thank you, Mr. Chairman. I
19 don't want to belabor this much longer, but the
20 sentence does go on beyond OSHA 10, "to be
21 supplemented by orientation training, toolbox talks to
22 cover hazards on each specific site." So, it doesn't
23 say if you've done the 10, you're all set for all the
24 training you need to do. That's a baseline minimum,
25 plus whatever else you need.

1 So, certainly, I don't disagree that there's
2 other ways to get this basic hazard awareness, but to
3 Steve's point, I think it's a good pointer, if you
4 don't know, if you're not already doing it, an example
5 of the types of things that it's a recognized training
6 that covers many important topics, such as the
7 Focus Four, introduction to OSHA, and all those things
8 that are covered there, including employee rights.
9 Thank you.

10 MR. STAFFORD: Okay. Thank you. So, it
11 sounds like we're going to keep it in, at least for
12 now and broaden it, I think because this is, I mean.
13 You know, I was thinking we have a lot of training
14 that we've done in my organization that's in the
15 public domain. As I said yesterday, there's a lot of
16 resources available if we could just point them in
17 that direction for the training that is out there,
18 right? So, maybe this is an opportunity to -- for
19 this to be a resource guide. Yes, Cindy?

20 MS. DePRATER: Cindy DePrater, employer rep.
21 And just to Palmer's point, totally agree with you.
22 I'm just reading it verbatim, which says, "All workers
23 should have." "All workers should have the 10 hour."
24 So, broadening it, to me, makes it more palatable to,
25 and helpful, to others. Can we ask OSHA to put in

1 some additional pieces to this? Okay.

2 MR. STAFFORD: Right. Yes?

3 MS. QUINTERO: So, what I have right now is,
4 "All workers should have a hazard recognition
5 training, such as the OSHA 10 hour course, asbestos
6 training." We can add, "or all workers should have
7 the OSHA 10 hour or equivalent or similar," so there's
8 two choices.

9 MR. STAFFORD: Uh-huh.

10 MS. DePRATER: Cindy DePrater. Is the Focus
11 Four a -- you mentioned that. Kevin mentioned that.
12 Is the Focus Four an actual course? Something? No?

13 MR. STAFFORD: Yes.

14 (Simultaneous conversations.)

15 MR. STAFFORD: Go ahead, Palmer.

16 MR. HICKMAN: Palmer Hickman, employee rep.
17 Yeah, it's within the OSHA 10. OSHA does provide the
18 content if you choose to use that --

19 MS. DePRATER: Okay. So add the Focus Four.

20 MR. HICKMAN: -- as a Focus Four.

21 MR. STAFFORD: This is just a one hour
22 module in the OSHA 10, right, what you're talking
23 about?

24 MS. QUINTERO: It can be broadened. Yeah.

25 MR. STAFFORD: Right. All right. Okay.

1 MS. QUINTERO: So we'll delete or
2 equivalent, similar, I guess something along that
3 line --

4 MR. STAFFORD: Yeah, Chuck? Please.

5 MR. STRIBLING: Chuck Stribling, state plan
6 representative. It doesn't make sense to me to put
7 Focus Four in --

8 MS. DePRATER: Okay.

9 MR. STRIBLING: -- unless you're going to
10 name all the components --

11 MR. STAFFORD: No, no.

12 MR. STRIBLING: -- of the OSHA 10 class.

13 MR. PRATT: Absolutely not.

14 MR. STAFFORD: Yeah. We don't want to do
15 that.

16 MS. DePRATER: Okay.

17 MR. STRIBLING: Because you already say OSHA
18 10.

19 MS. DePRATER: I was just asking. I didn't
20 know.

21 MR. STRIBLING: And it should be OSHA 10
22 hour instead of OSHA 10. So, I don't think Focus Four
23 is appropriate.

24 MR. STAFFORD: I think that's right. Yeah.
25 Don Pratt?

1 MR. PRATT: Yeah. Don Pratt, employer rep.
2 I don't want to lose "or equivalent." I don't care if
3 the word is equivalent or similar. I don't care, but
4 I don't want to lose that. I think that's very, very
5 important.

6 MR. STAFFORD: Okay. Yeah. No, I think we
7 can keep it. I think "or similar" is fine, I mean, I
8 think as far as the wording goes. Yeah, Palmer?

9 MR. HICKMAN: To this same point, again
10 we're nitpicking. I'm nitpicking now. Asbestos
11 training, I think, would be covered by the hazards on
12 each specific site, so I think even mentioning that,
13 even as important as it is, I mean, where do we end
14 it? Silica? Asbestos?

15 MS. DePRATER: Good one. Put that one in
16 there.

17 MR. HICKMAN: Yeah.

18 MS. DePRATER: Cindy DePrater, employer rep.
19 Palmer, I don't disagree. I just think that if we're
20 trying to help people, making them aware of more
21 programs besides just the OSHA 10 is a valid and
22 reasonable expectation of this document.

23 MR. STAFFORD: Yes, Palmer?

24 MR. HICKMAN: One more shot. If we could
25 maybe expand, "cover hazards, such as" maybe towards

1 the end of the sentence? I think it's, "OSHA 10 hour
2 course or similar to cover hazards such as asbestos,
3 silica," you know, something beyond what already would
4 be covered in the 10.

5 MR. STAFFORD: Yeah. No. I'm afraid to go
6 down that path, because then obviously we're going to
7 be missing some things, right?

8 MR. HICKMAN: The old "such as" stuff.

9 MR. STAFFORD: Yeah, "such as."

10 MR. HICKMAN: Okay.

11 MR. PRATT: Yeah. I wouldn't go there, of
12 course.

13 MR. STAFFORD: You know, I think maybe this
14 is an opportunity, as I say, to list something, or go
15 back to the appendix or the attachment where there are
16 some resources on these training programs that would
17 be available. And it should be, you know, the 10, the
18 10 hours basic hazardous awareness, plus specific
19 hazardous awareness training you need based on the job
20 task, right? Yeah, Chuck?

21 MR. STRIBLING: Chuck Stribling, state plan
22 representative. Is there any desire that the
23 introduction paragraph before the first bullet?

24 MR. STAFFORD: In the main document?

25 MR. STRIBLING: No, in the supplemental.

1 Any desire to put it into the main document?

2 MR. STAFFORD: Yeah. That's a good
3 question. I like the language, personally.

4 MR. STRIBLING: I do too. I think it --

5 MR. BETHANCOURT: I like it.

6 MR. STRIBLING: -- makes it easy to --

7 MR. BETHANCOURT: Understand.

8 MR. STRIBLING: I would say maybe add it as
9 the opening to the language that's in OSHA's document.

10 MR. STAFFORD: So, it would be under Action
11 Item. That could just be inserted as a paragraph, the
12 first paragraph under Action Item 1? Is that --

13 MR. BETHANCOURT: Higher up.

14 MR. STAFFORD: Does that seem reasonable?

15 MR. STRIBLING: Yeah. I was thinking higher
16 up, under where OSHA starts out, "A proactive --

17 MR. STAFFORD: Proactive?

18 MR. STRIBLING: -- process."

19 MR. STAFFORD: Okay.

20 MR. STRIBLING: That you put this --

21 MR. BETHANCOURT: Before that.

22 MR. STRIBLING: -- before that as a lead in
23 to what OSHA has.

24 MR. STAFFORD: Okay.

25 MR. BETHANCOURT: Yeah.

1 MR. STAFFORD: Is everyone okay with that?

2 MS. DePRATER: Uh-huh.

3 MR. BETHANCOURT: Uh-huh.

4 MR. STAFFORD: Okay. So, Danezza, then the
5 paragraph in the parallel dark, that first paragraph
6 will be the first paragraph --

7 MR. BETHANCOURT: That was easy.

8 MR. STAFFORD: -- of this section. We're
9 not deleting anything. We're just adding that
10 paragraph. Are we good?

11 MS. DePRATER: I guess we are.

12 MR. STAFFORD: All right. So, any other?
13 Are we ready to move on to the next section then?

14 MR. PRATT: Yes.

15 MR. STAFFORD: All right. So, again, all of
16 these other things are good that's in there? We don't
17 want to strike anything out for construction that's in
18 the OSHA document?

19 (No response.)

20 MR. STAFFORD: Then we're going to move on
21 into the OSHA document, Hazard Prevention and Control,
22 which starts on page 16.

23 MS. DePRATER: I'm sorry.

24 MR. CANNON: Where are we?

25 MR. STAFFORD: All right. We're on page 16,

1 Hazard Prevention and Control.

2 MS. DePRATER: We have two more bullets.

3 MR. CANNON: Did we skip Hazard
4 Identification and Assessment?

5 MR. STAFFORD: Wait, wait, wait.

6 MR. CANNON: I thought we said that we were
7 good with Hazard Identification and Assessment, or no?

8 MS. DePRATER: Well, you have two more
9 bullets on the next page of your document we did not
10 discuss.

11 MS. QUINTERO: So, bullet number one for the
12 training, we're going to insert that?

13 MS. DePRATER: Danezza, are you asking about
14 the every worker? You've already got that, right?

15 MS. QUINTERO: Yes. And on that we have
16 just agreed every worker must have some training.
17 That would go --

18 MS. DePRATER: Cindy DePrater, employer rep.
19 I thought that would go in the main body --

20 MS. QUINTERO: Also?

21 MS. DePRATER: -- rather than an action
22 item. I thought that fit best in the main body. I'm
23 talking about bullet number one where it says, "Every
24 worker must have some basic training."

25 MR. STAFFORD: What bullet? Where are we?

1 MS. DePRATER: Hazard Identification.

2 MR. STAFFORD: I mean, I thought we'd gone
3 through Hazard Identification and Assessment and said
4 we were all good.

5 MS. DePRATER: You have two more bullets on
6 the next page, Pete.

7 MR. STAFFORD: All right. So you want to
8 add those then, Cindy?

9 MS. DePRATER: I'm asking where we should.

10 MR. BETHANCOURT: Mr. Chairman?

11 MR. STAFFORD: Yes, Jeremy?

12 MR. BETHANCOURT: Jeremy Bethancourt, public
13 representative. I think one of the things that we
14 discussed yesterday is potentially that what we're
15 going to do is just look at the document that you did,
16 review the document that OSHA has, and then just make
17 changes, and then allow OSHA to try to merge the
18 documents.

19 We're not going to go through the exercise
20 of figuring out exactly where this is because that
21 would be even more monotonous than we're already
22 facing, right?

23 MR. STAFFORD: No, we're not, but as a part
24 of this exercise too, remember we have to figure out
25 if what's already in there is something that we think

1 is worthy of keeping for construction because we could
2 go back from the beginning. At the end of the day,
3 what are we doing here if we're just adding bullets to
4 a document that already exists? And maybe that's all
5 we're doing, you know.

6 Part of the exercise is to try to understand
7 the action items that are in here, is that applicable
8 to construction, or not. And if we've decided that it
9 is, and we've all looked through it and said,
10 "Everything in this document is good for
11 construction," then let's just go through the parallel
12 document and decide what we would like to add and be
13 done with it. I mean, I --

14 MS. DePRATER: So, Mr. Chairman --

15 MR. STAFFORD: Yes, Cindy?

16 MS. DePRATER: Cindy DePrater. So the next
17 two bullets that are showing on the screen, we need to
18 decide whether those two under Hazard Identification
19 and Assessment belong.

20 So workers need information about potential
21 hazards. For example, if hazardous chemicals are
22 used, the safety data sheets, SDS, must be easily
23 available and workers must have HAZCOM -- I think I
24 would spell that out, hazard communication -- training
25 so they can read the labels and SDSs and know what

1 precautions are necessary. Access to the injury logs,
2 OSHA 300, can also help them understand what incidents
3 have occurred and where hazardous conditions might
4 need to be addressed.

5 MR. STAFFORD: So, are you asking, Cindy,
6 whether --

7 MS. DePRATER: I actually think that's a
8 very good bullet point with the minor correction to
9 the hazardous communication and should be considered
10 for this section.

11 MR. STAFFORD: Okay. Appreciate it.

12 MR. HAWKINS: What section?

13 MS. DePRATER: Hazard Identification and --

14 MR. HAWKINS: I know that.

15 MS. DePRATER: -- Assessment.

16 MR. HAWKINS: The top part or down under --

17 MS. DePRATER: I believe it belongs in
18 Action Item Number 1.

19 MR. HAWKINS: Okay.

20 MS. DePRATER: I'll make that
21 recommendation.

22 MR. HAWKINS: Okay.

23 MR. STAFFORD: Yeah, Palmer?

24 MR. HAWKINS: Thank you.

25 MR. HICKMAN: Under collect information

1 about workplace hazards?

2 MS. DePRATER: Hold on. Let me move back.
3 Yes. Collect existing information about workplace
4 hazards, and this one starts with when workers need
5 information about potential hazards.

6 MR. HICKMAN: This is really more about
7 training then.

8 MS. DePRATER: Do we have a training piece
9 in this one?

10 MR. STAFFORD: There will be. The training
11 comes later, yes.

12 MS. DePRATER: A different core element.
13 Okay.

14 MR. STAFFORD: Yeah. It's its own point.

15 MR. PRATT: Page 19.

16 MR. HAWKINS: Can we flag that, and have it
17 considered for page 19 under Training? That's really
18 what that whole paragraph is talking about, having
19 access to logs.

20 MR. STAFFORD: Yeah.

21 MS. DePRATER: Collecting SDS sheets at the
22 very beginning of their work process. I don't
23 disagree with that.

24 MR. HAWKINS: Which is already on this.

25 MS. DePRATER: Sure.

1 MR. HAWKINS: SDS is already here.

2 MR. STAFFORD: Yeah, we could do that. Yes,
3 Palmer?

4 MR. HICKMAN: One friendly amendment I hope
5 to the bullet points. The third bullet point under
6 that supplemental document, that preparation should be
7 made almost, seems like it should be a separate bullet
8 point. It seems like an independent thought from --

9 MR. HAWKINS: Starting with what word?

10 MR. HICKMAN: Preparations should be made.

11 MR. STAFFORD: It certainly could be a
12 separate bullet, so why don't we make it that.

13 MS. DePRATER: Where would you propose it
14 goes?

15 MR. STAFFORD: With the rest of --

16 MR. STRIBLING: Mr. Chairman?

17 MR. STAFFORD: It would be the last bullet.
18 Yeah? Chuck and then Jeremy.

19 MR. STRIBLING: Just so that I'm
20 understanding this in my head, because I haven't had
21 enough coffee yet, this first bullet might be one that
22 we think goes best on page 19.

23 MR. HAWKINS: The first bullet on the second
24 page, right? The second, right?

25 MR. STRIBLING: Where it says, "Every worker

1 must have some basic training." Correct. This second
2 bullet, to me, looks like it might be something that
3 goes on page 20, Action 3, Action Item 3.

4 MR. HAWKINS: That could be.

5 MR. STRIBLING: And the third bullet and the
6 fourth bullet, if you make it, as Mr. Hickman
7 suggested, another bullet that starts with
8 preparations, could stay in this second in Action Item
9 4.

10 MR. RIVERA: That's brilliant.

11 MR. STRIBLING: That's my comment, Mr.
12 Chairman.

13 MR. STAFFORD: Okay.

14 MS. DePRATER: Both of them?

15 MR. STAFFORD: All right. So, yeah. Does
16 anyone have a problem with that? I mean, I think
17 that's a good suggestion.

18 MR. STAFFORD: So, let Chuck give that to
19 Danezza, so she can get that incorporated in. Yes,
20 Steve? Please.

21 MR. HAWKINS: Steve Hawkins. Before we
22 leave this section, there is some stuff on page 12
23 under Hazard Education that really don't seem like
24 they belong for construction.

25 MR. CANNON: And that's what I was getting

1 at.

2 MR. HAWKINS: Before we leave this section
3 like, for example, How To Accomplish It on Action Item
4 2. The first one says observe the workflow. That
5 doesn't sound like a construction term. It sounds
6 like an industry term. And then the second bullet
7 says include ancillary activities, such as facility
8 equipment maintenance. Facility maintenance is not
9 really a construction thought. Equipment maintenance
10 is. Purchasing and office functions.

11 MR. HAWKINS: That's office functions, not
12 really belong there. Onsite contractor. That whole
13 thing needs to be reworded or deleted.

14 MR. STAFFORD: Or just deleted out.

15 MR. HAWKINS: Deleted, yeah.

16 MR. STAFFORD: So what's the preference, to
17 just delete it out or try to reword it?

18 MR. HAWKINS: I think we can delete the
19 second bullet entirely --

20 MR. STAFFORD: Altogether? Okay.

21 MR. HAWKINS: -- for this purpose.

22 MR. RIVERA: Second bullet where?

23 MR. HAWKINS: Page 12, Action Item 2.

24 MR. CANNON: Conduct regular worksite
25 inspections. Yes, that second bullet.

1 MR. STAFFORD: So we're going to delete out
2 altogether, including ancillary activities, blah,
3 blah, blah?

4 MR. HAWKINS: Yes.

5 MR. STAFFORD: All right.

6 MR. HAWKINS: And then on the previous one,
7 if you would strike" observe the workflow, and it
8 would read like conduct regular worksite inspections
9 and inspect equipment and materials and talk to
10 workers would still be very applicable."

11 So, conduct regular inspections, delete "to
12 observe the workflow." So, conduct regular
13 inspections, comma inspect equipment and materials
14 comma and talk to workers.

15 MR. STAFFORD: Okay. Anybody have a -- yes?
16 Go ahead.

17 MR. HAWKINS: Be sure to document those.

18 MR. STAFFORD: All right. Kevin?

19 MR. CANNON: Kevin Cannon, employer rep. As
20 Jeremy pointed out yesterday, would it be wise to open
21 up the inspect the jobsite or workplace portion with
22 the note on the following page where it explains
23 OSHA's requirement for construction that employers
24 designate a competent person to conduct their frequent
25 and regular inspections and then talk about some of

1 these items?

2 MR. BETHANCOURT: Maybe make a footnote?

3 MR. CANNON: I mean, as part of that
4 intro --

5 MR. BETHANCOURT: Right.

6 MR. CANNON: -- to that section, if we're
7 talking about construction.

8 MR. STAFFORD: So you're suggesting, Kevin,
9 so I understand just like we did before is moving that
10 note up front in the --

11 MR. CANNON: That note, yes.

12 MR. PRATT: Is there a page number?

13 MR. STAFFORD: We're on page 12 and 13, Don.
14 I don't have a problem with it, you know, if that --

15 MR. CANNON: I mean, that kind of puts it
16 out there.

17 MR. STAFFORD: Anyone else? I mean --

18 MR. HAWKINS: I think highlight it at home
19 and put it forward just to the front of the thing.

20 MS. LAWLESS: Mr. Chairman, could you just
21 repeat that then, what you want?

22 MR. STAFFORD: Yeah. So, on page 12
23 bleeding over into 13, the italicized note, we're
24 suggesting putting that up front, right up front under
25 Action Item 2 before the paragraph hazards can --

1 MS. LAWLESS: The first three, right? For
2 all three?

3 MR. STAFFORD: For all three of those, yeah.

4 MS. LAWLESS: All three.

5 MR. STAFFORD: It all goes in the
6 introductory paragraph before hazards can be
7 introduced.

8 MS. LAWLESS: So, it should go in the intro
9 paragraph in Action Item 2?

10 MR. STAFFORD: Yes.

11 MS. LAWLESS: Before the existing paragraph?

12 MR. STAFFORD: Yes.

13 MS. LAWLESS: Got it.

14 MR. STAFFORD: Correct? Everybody? Okay.

15 MR. HAWKINS: Are you good?

16 MS. LAWLESS: Yep.

17 MR. HAWKINS: So then, I think we should
18 consider rewording the checklist. It might help
19 things. "Typical hazards fall into several
20 categories." Chemical and biological agents shouldn't
21 be what we lead with in construction. It should
22 probably be fall protection, electrical hazards, maybe
23 list the Focus Four there.

24 MR. CANNON: Focus Four, yeah. That's what
25 I was thinking.

1 MR. HAWKINS: Work and process flow probably
2 not good for this. Equipment maintenance, equipment
3 operation certainly are. So, maybe we could remove
4 chemical and biological agents, and list the Focus
5 Four hazards, physical agents. General housekeeping
6 would be good to leave, equipment maintenance,
7 everything but workflow. We might take it out.

8 MR. BETHANCOURT: Mr. Chairman, Jeremy
9 Bethancourt.

10 MR. STAFFORD: Yes?

11 MR. BETHANCOURT: If we keep taking out
12 workflow, I mean, a better word in construction
13 literally is schedule, or however we say schedule,
14 because, I mean, there are schedules that we have to
15 maintain that may be similar in trying to get the
16 point across about workflow.

17 And workflow is in here in several places,
18 Steve, and I was trying to follow along with what you
19 were talking about. Even in the beginning under
20 Action Item 2, it says, "Hazards introduced over time
21 in the workflow."

22 MR. HAWKINS: There is workflow in
23 construction too. You know, you get the lumber, but
24 it's --

25 MR. BETHANCOURT: They just call it

1 something different.

2 MR. HAWKINS: -- worded different.

3 MR. BETHANCOURT: They just call it
4 something different. They just word it different.

5 MR. HICKMAN: Well, it's later in that
6 sentence, but they specifically mention scheduling in
7 construction, if you read further in that same
8 paragraph.

9 MR. HAWKINS: So, our Focus Four, our fall
10 protection, electrical --

11 MR. STAFFORD: Caught in between, struck by.

12 MR. HAWKINS: I don't even know if you want
13 to call it in between and struck by, because there's
14 probably not a struck by checklist out there, so maybe
15 just fall protection and electrical.

16 Fall protection is already there. Just add
17 electrical, and then maybe strike workflow from that
18 list. And then, the next bullet says, "Before
19 changing workflows, making major organizational
20 changes or introducing new equipment."

21 MS. LAWLESS: Did you want scheduling there?

22 MR. PRATT: It's in the next sentence. You
23 might be able to strike that whole sentence.

24 MR. HAWKINS: So, we need to fix that second
25 bullet, because it's not construction-like at all.

1 Before changing workflows, major organizational
2 changes or introducing -- introducing new equipment
3 and materials and processes are important, I would
4 think, and construction conflicting work schedules may
5 create hazards, which they often do.

6 And it says, "Consider initiating a thorough
7 hazard review whenever you consider facility
8 modification." That's probably not applicable to
9 construction, generally. "Introduce a new chemical"
10 certainly is, "purchase or install new equipment,
11 purchase new equipment, change in work practices."
12 That certainly is. "Change in equipment during
13 maintenance activities" could be, and then there's the
14 scheduling again that should stay, review new health
15 information.

16 So, I would just strike the first bullet,
17 consider any facilities modification, because
18 that's --

19 MR. PRATT: Inapplicable.

20 MR. HAWKINS: Yeah. And then I would strike
21 "before changing workflows or making major
22 organizational changes." I would say, "Before
23 introducing new equipment, materials or process,
24 evaluate and plan for changes in potential hazards,"
25 kind of reword that to make it more like what we're

1 trying to accomplish here.

2 MR. STAFFORD: Sounds good. Any questions
3 or comments to that?

4 MS. DePRATER: That's good.

5 MR. STAFFORD: Everyone concur?

6 MR. BETHANCOURT: Would it be --

7 MS. DePRATER: I think that's good.

8 MR. STAFFORD: Yeah, Jeremy?

9 MR. BETHANCOURT: Jeremy Bethancourt. Would
10 it serve the purpose if we actually started off, "In
11 construction, conflicting work schedules may create
12 hazards," and then talk about moving to the part where
13 we just modify the beginning statement? Does that
14 make sense to anybody else?

15 MR. HAWKINS: I don't think you want to
16 elevate changes in work schedule above these other
17 bullets, because they're similar.

18 MR. BETHANCOURT: Within that paragraph?

19 MR. HAWKINS: Yeah. Where it says changing
20 workflows?

21 MR. BETHANCOURT: Right.

22 MR. HAWKINS: It's already there. You're
23 just saying reword the entire sentence so you start
24 with change in schedules?

25 MS. DePRATER: I agree with you.

1 MR. PRATT: No. I agree with Steve.

2 MS. LAWLESS: We need a summary of the
3 wording when you're done.

4 MR. STAFFORD: Steve? Steve, could you do
5 that again, so that they capture it?

6 MR. HAWKINS: Before strike changing
7 workflows and strike making major organizational
8 changes.

9 MS. LAWLESS: Got it.

10 MR. HAWKINS: Before and the word or.
11 "Before introducing new equipment, materials or
12 processes, evaluate the plan changes for potential
13 hazards," and then strike in construction, because
14 that's where we are.

15 MS. LAWLESS: Yep.

16 MR. HAWKINS: So, you'd start out with,
17 "Conflicting work schedules may create hazards --

18 MS. LAWLESS: Yep.

19 MR. HAWKINS: -- or may also increase
20 hazards. Consider initiating a thorough hazard review
21 whenever you" -- strike the first bullet -- "introduce
22 new chemicals, purchase new equipment, change work
23 practices, change equipment during maintenance
24 activities." And then leave the bullet about
25 scheduling and receive new safety and health

1 information.

2 MS. LAWLESS: Got it. Thank you.

3 MR. STAFFORD: Thank you, Steve. Any other
4 questions or comments on that? Everyone agrees with
5 that?

6 (No response.)

7 MR. STAFFORD: Okay.

8 MR. HAWKINS: That next Action Item 3 seemed
9 like it was pretty good to me, actually.

10 MR. STAFFORD: Which?

11 MR. HAWKINS: About conducting incident
12 investigations.

13 MR. STAFFORD: The action item in the core
14 document.

15 MR. HAWKINS: It seemed like it would flow
16 for construction fine.

17 MR. BETHANCOURT: Did we determine --

18 MR. STAFFORD: Yeah, Jeremy?

19 MR. BETHANCOURT: Jeremy Bethancourt. Did
20 we determine that the bullet point three from your
21 document was actually going to go in that section
22 right there, in Action Item 3, How To Accomplish It?

23 MS. DePRATER: I had that down.

24 MR. BETHANCOURT: I think that's what Chuck
25 was saying. Is that what we're doing, or suggesting?

1 MR. STRIBLING: What?

2 MR. MARRERO: Actually you said page 20.

3 MR. STRIBLING: What were your suggestions
4 again here?

5 MR. MARRERO: I think he said page 20.

6 MR. STRIBLING: Yeah. Chuck Stribling.
7 Which bullet point are we talking about?

8 MR. BETHANCOURT: Are we saying the bullet
9 point from Pete's document, bullet point three, and
10 then we broke up and made another bullet point four.

11 MR. PRATT: "Many times"? It starts with
12 "many times"?

13 MR. BETHANCOURT: "Many times," yeah.

14 MR. PRATT: Okay. All right.

15 MR. BETHANCOURT: Sorry. "Many times."

16 MR. STRIBLING: Right.

17 MR. BETHANCOURT: Is that where we're
18 suggesting this go, into this section?

19 MR. MARRERO: Go into Action Item 4, yes.

20 MR. STAFFORD: You put that in there, right,
21 Chuck, already?

22 MR. BETHANCOURT: Wouldn't that go in 3?

23 MS. DePRATER: Cindy DePrater, employer rep.
24 I also agree. I think it should go in 3. It's
25 dealing with accidents.

1 MR. STRIBLING: I understand that, but
2 reading the sentence, it talks about non-routine
3 tasks. That's what the whole sentence is about.

4 MR. BETHANCOURT: I gotcha. Okay. You're
5 right.

6 MR. HAWKINS: I think it really goes along
7 in accident investigation, or incident investigation.

8 MR. STAFFORD: Right. Palmer?

9 MR. HICKMAN: That was what I was going to
10 say. Action Item 4's title is 'Identify Hazards
11 Associated With Emergency and Non-routine Situations.'
12 That seems to be specifically what it's talking about.
13 Thank you.

14 MR. HAWKINS: We'll give Palmer a bingo for
15 that. Bingo. I agree. That's exactly where it goes.

16 MS. DePRATER: Amen.

17 MR. HAWKINS: Can we add that bullet then to
18 Action Item 4?

19 MR. STAFFORD: Yeah. I think that's been
20 done, right? That's what Chuck was working with them
21 on, Jennifer and Danezza on.

22 MS. DePRATER: And you separated the two?

23 MR. STAFFORD: Uh-huh.

24 MR. HAWKINS: So we have two bullet items
25 for 4.

1 MS. DePRATER: Right.

2 MR. STAFFORD: Okay.

3 MS. DePRATER: Yes.

4 MR. HAWKINS: You know, and the second part
5 of that bullet, if we made it two bullets -- I don't
6 know if we ever did -- that whole last paragraph --

7 MR. STAFFORD: On preparations?

8 MR. HAWKINS: Yeah. Would go there. All
9 those thoughts would go there.

10 MR. STAFFORD: Yeah. I think you put that
11 in, right? That's in, right?

12 MS. LAWLESS: That's how we have it.

13 MR. STAFFORD: Okay.

14 MS. LAWLESS: We were open to two bullets,
15 so the first bullet starts out, "Many times," the
16 second bullet starts out, "Preparations," and they're
17 both under Action Item 4. Is that correct?

18 MR. STAFFORD: Yes.

19 MS. LAWLESS: Thank you.

20 MR. STAFFORD: Thank you. All right. Are
21 we good then? We're ready to move on, everybody?

22 MR. HICKMAN: Perfect is close enough.

23 MR. STAFFORD: What's that, Palmer?

24 MR. HICKMAN: Perfect is close enough.

25 MR. STAFFORD: All right. So, let's go on

1 then to Hazard Prevention and Control, which starts on
2 page 17 of the core document.

3 MS. DePRATER: 16.

4 MR. CANNON: 16.

5 MR. STAFFORD: 16 of the core document.

6 Sorry. Okay. Any issues with -- let's see. What did
7 I do here. So, my lead in paragraph, "In addition to
8 identifying hazards" -- you have a couple typos there,
9 I see.

10 MR. BETHANCOURT: Danezza said we don't need
11 to worry about --

12 MR. STAFFORD: "You have a mechanism to get
13 them corrected, who is responsible to follow up and
14 make sure corrections are made. Supervisors and
15 foremen should keep track of issues that have been
16 raised, and make sure they are addressed and
17 corrected. Letting problems languish inevitably means
18 someone will get hurt, and in addition, it destroys
19 trust and workers will get discouraged about bringing
20 up problems. They will think it won't make any
21 difference."

22 That's not worded very well. I don't know
23 if we want to use that or not, but that was the lead
24 in paragraph that I came up with.

25 MR. HICKMAN: Excuse me. This is

1 Chuck Stribling. It's just that last sentence. If
2 you want to keep it, it's the last sentence that needs
3 help.

4 MR. STAFFORD: Yeah. Well, I'll ask the
5 committee. Do you think it's worth keeping that intro
6 in this anywhere?

7 MS. DePRATER: I'd let it go.

8 MR. STAFFORD: You want to let it go, Cindy?

9 MS. DePRATER: Yeah. Cindy DePrater,
10 employer rep. I agree with Chuck. I think taking out
11 the last sentence, and just using the first sentence
12 is applicable.

13 MR. HAWKINS: And the intro in the core
14 document is really pretty good.

15 MR. STAFFORD: It's good too, yeah.

16 MS. DePRATER: It is. It is.

17 MR. STAFFORD: I mean, we don't have to use
18 it at all, unless you think it's helpful. We could
19 just use the intro that's in the core document,
20 because it's good. What's your pleasure? I mean, is
21 the core -- the intro good with you?

22 MR. HAWKINS: Stick with the core.

23 MR. BETHANCOURT: Leave the core one, yeah.

24 MR. STAFFORD: Yeah. Anybody have a
25 problem? Palmer?

1 MR. HICKMAN: Yeah. It's interesting that
2 that's a sentence we want to take out, because I think
3 that's a concept that I haven't seen really address
4 the fact that workers will get discouraged if they see
5 nothing happening from them bringing things up.

6 There's really two different concepts in
7 that sentence. It's a long sentence. Letting
8 problems languish is the one thought, and then the
9 fact that folks will get discouraged if they bring
10 things up and nothing happens. I think that's an
11 important concept. I'd hate to lose it, so --

12 MR. HAWKINS: Well, let's keep it in mind.
13 We'll put it in one of these bullets where it belongs.

14 MR. STAFFORD: Okay.

15 MR. HICKMAN: Sounds good.

16 MR. STAFFORD: You know, there's no research
17 or data to support that. That's what I think.

18 MR. HICKMAN: Right.

19 MR. HAWKINS: Oh, it's --

20 MR. HICKMAN: It's anecdotal

21 MR. STAFFORD: Right. You know, that's a
22 culture issue for me. All right. So that's going to
23 be on the tickler. We may put that in another section
24 then.

25 MS. QUINTERO: And your introduction will

1 be --

2 MR. STAFFORD: We're going to stay with, for
3 now, the introduction that's in the core document. No
4 changes for that section, right? Everyone is okay
5 with that?

6 MS. LAWLESS: The OSHA core document, or --

7 MR. STAFFORD: The OSHA core document.

8 MS. LAWLESS: Gotcha.

9 MR. STAFFORD: We all agree with that?
10 Everybody likes that?

11 MS. DePRATER: Uh-huh.

12 MR. STAFFORD: Okay. Action Item 1,
13 Identify control options. Investigate options for
14 controlling each hazard, making use of available
15 information, how to accomplish it.

16 I thought it was fine. Personally, I think
17 action item applies to construction, Action Item
18 Number 1. Anybody have any issues, or think that
19 needs to be removed or modified?

20 MR. HAWKINS: The core document?

21 MR. STAFFORD: In the core, yeah, Action
22 Number 1.

23 MR. HAWKINS: The word facility in the
24 second bullet, knowledge of facility, probably is not
25 applicable to construction.

1 MS. DePRATER: Right.

2 MR. HAWKINS: The second bullet, get input
3 from workers who may be able to suggest to you the
4 solutions based on their knowledge --

5 MR. STAFFORD: Of the worksite?

6 MR. HAWKINS: -- of equipment and work
7 processes.

8 MR. STAFFORD: And take that --

9 MR. HAWKINS: Facility is an odd one.

10 MR. STAFFORD: That is. Do you want to say
11 at the worksite, or just take that out like and
12 knowledge of equipment and the work processes?

13 MR. HAWKINS: I would just take out
14 facility. Knowledge of equipment and work processes,
15 that's pretty all-encompassing for construction
16 activities.

17 MR. STAFFORD: Everybody okay with that?
18 Danezza? Jennifer? Good?

19 MS. QUINTERO: Yes.

20 MR. STAFFORD: Okay. Action Item 2, Select
21 Controls. "Select controls that are most feasible,
22 effective and permanent."

23 MR. HAWKINS: Not much in construction is
24 permanent, typically.

25 MR. STAFFORD: Right.

1 MR. HAWKINS: That means we can leave it.

2 MR. STAFFORD: Well, we could certainly just
3 take that out. I guess we could just say select
4 controls that are the most feasible and effective and
5 take out permanent.

6 MR. HAWKINS: Let's take out permanent.

7 MR. STAFFORD: So, "Action Item Number 2,
8 The lead will select controls that are most feasible
9 and effective" period. and take out permanent. The
10 bullets are --

11 MS. DePRATER: No. No, not there. Back up
12 under where it says the very sentence before how to
13 accomplish. Select controls that are most feasible
14 and effective.

15 MR. STAFFORD: And then any action items.
16 "Plan to eliminate or control all serious hazards, use
17 interim controls if needed while you're developing and
18 implementing permanent controls, select controls
19 according to a hierarchy that emphasizes engineering
20 solutions on down to PPE basic." You know, that's all
21 good I think.

22 MR. HAWKINS: It's certainly where we start
23 most of it.

24 MS. DePRATER: Do you take out the word
25 permanent there as well?

1 MR. CANNON: Permanent in that one, as well,
2 in the second bullet.

3 MR. STAFFORD: All right. Use interim
4 controls while you are developing and implementing --

5 MS. DePRATER: Controls.

6 MR. STAFFORD: -- controls. That's okay.

7 MR. HAWKINS: You're going to leave it,
8 right?

9 MS. DePRATER: I'm just asking.

10 MR. HAWKINS: Because a temporary control
11 might be you're going to wear this respirator until we
12 get the wet cutting fixed on the chop saw.

13 MS. DePRATER: Okay.

14 MR. BETHANCOURT: So, you know, that would
15 be an interim control. A permanent solution would be
16 get the water feed corrected to the saw blade on the
17 chop saw. That's a pretty basic safety thing, so I
18 would think we should leave that.

19 MR. STAFFORD: I think everyone agrees with
20 that, it looks like.

21 MS. DePRATER: Yep. I think that's perfect.

22 MR. STAFFORD: Okay. The last two bullets,
23 use a combination of control options when no single
24 method fully protects workers and consider how
25 selected controls may impact training needs. I'm

1 assuming that means you have to train them on how to
2 use the controls. All okay with that?

3 MS. LAWLESS: Can you repeat that, Chairman,
4 please? Use --

5 MR. STAFFORD: That's all fine. I think
6 what's there is good. Just leave as is. Any other
7 questions or issues on that?

8 (No response.)

9 MR. STAFFORD: Action Item 3, Develop and
10 update a hazard control plan. Any questions or
11 comments on that?

12 MS. DePRATER: I think that's good.

13 MR. STAFFORD: Any issues with the language
14 in Action Item 3?

15 MR. HAWKINS: You know, is it really likely
16 that construction is going to track progress toward
17 completion? It almost seems like that's -- you know,
18 when I see that I'm thinking about a hearing
19 conservation program where we're going to implement
20 hearing conservation controls or we're going to do
21 engineering controls over the next 12 months. We're
22 going to monitor our progress.

23 I would ask the construction professionals
24 in the room to weigh in on whether that's an
25 applicable bullet to what we're doing here --

1 MR. STAFFORD: Okay. I was going to --

2 MR. HAWKINS: -- on how you will track
3 progress towards completion --

4 MR. STAFFORD: Right. I was going to --

5 MR. HAWKINS: -- because I'm just asking.

6 MR. STAFFORD: Yeah. -- raise the same
7 thing. Yes, Palmer?

8 MR. HICKMAN: Thank you, Mr. Chairman. I
9 think we've already covered this globally with
10 direction, but that burger flipping picture there
11 probably doesn't lend itself well to construction.
12 That may be where the worker came from to come into
13 construction, but that one -- we need a different
14 picture.

15 MR. HAWKINS: What you used to do before you
16 were a mason.

17 MR. HICKMAN: So, I think we probably made a
18 global recommendation already that we review the
19 images that are there and update them to construction-
20 like images.

21 MR. STAFFORD: Yeah. I think we've covered
22 that up front. I mean, I think in the final document
23 that OSHA will insert construction photos.

24 But back to Steve's point. I mean, you
25 know, I don't know. Don, I'll look to you and the

1 other contractors here. I mean, how realistic is it
2 in construction that you're going to track your
3 progress for completing your control plan?

4 MR. PRATT: Yeah. Don Pratt. I would think
5 that we ought to take that out. You wouldn't do that.

6 MR. STAFFORD: Cindy?

7 MS. DePRATER: Cindy DePrater, employer rep.
8 I agree with Don. That one should come out. I'm also
9 thinking that there's opportunity here to start
10 placing in your job hazard analysis wording and then
11 there's also a piece that's missing.

12 And I know we have a communication section,
13 but I still think it needs to go here, is that how are
14 you going to communicate this plan to others around
15 your area?

16 MR. HAWKINS: You know, we're going to get
17 to Section 5. That's the place to put that, and I
18 think it's also the place to put that bullet that we
19 talked about about not letting it languish. That's
20 the implementation part of this, implement what you're
21 going to do, and that's communicate to the workers. I
22 agree with you, and I think --

23 MS. DePRATER: Yeah.

24 MR. HAWKINS: -- we're almost to where it
25 would go.

1 MS. DePRATER: Okay.

2 MR. STAFFORD: So then for the purposes of
3 this --

4 MR. BETHANCOURT: Mr. Chairman?

5 MR. STAFFORD: -- discussion, Jennifer and
6 Danezza, for Action Item 3 on page 17 we're simply I
7 think going to delete the last sentence in that lead
8 in paragraph.

9 MR. BETHANCOURT: Mr. Chairman, Jeremy
10 Bethancourt. I disagree with the fact that we don't
11 track our progress towards completing our plan,
12 because one of the things that we have to do is come
13 up with a plan on how we're going to address the
14 hazards, and then verify that it's actually occurring
15 out in the field.

16 And so, I'm not sure that that's the way
17 that we would word it, but I'm not sure that removing
18 that altogether to say that we're not going to find
19 out whether or not what we're doing and the plan that
20 we've put in place is actually going to work.

21 MR. HAWKINS: That's going to go in Section
22 5, Implement the Controls --

23 MS. DePRATER: Right.

24 MR. HAWKINS: -- on the next page, verify
25 that what you've done works.

1 MS. DePRATER: Right.

2 MR. BETHANCOURT: Well then, I remove my
3 disagreement if you're thinking that that's going to
4 work there.

5 MS. DePRATER: It works there.

6 MR. STAFFORD: Okay. So, we're going to
7 delete that sentence. Action Item 4 in the main OSHA
8 document, page 17, select controls to protect workers
9 doing non-routine operations and emergencies.

10 MR. HAWKINS: I think tasks is more
11 construction-like than operations.

12 MS. DePRATER: Yeah.

13 MR. HAWKINS: Non-routine tasks and
14 emergencies.

15 MS. DePRATER: Yeah.

16 MR. HAWKINS: Operations might be fine too.
17 I'm just putting it out there.

18 MR. STAFFORD: No. I mean, yeah. Okay.
19 Fine. Nothing wrong with that. I think everywhere we
20 should do that. So, we'll change that to tasks. And
21 then any issues with the bullets?

22 MR. HAWKINS: The same one on the first
23 sentence, non-routine tasks. Unplanned equipment
24 shutdowns is probably not construction-like.

25 MR. STAFFORD: Where are you seeing that,

1 Steve?

2 MR. HAWKINS: In that opening paragraph
3 right there under the first action item.

4 MR. STAFFORD: Okay. "Plan to protect
5 workers during non-routine tasks unforeseeable, such
6 as fires, chemical releases, hazardous material
7 spills. So, you just want to -- yeah, that's probably
8 so.

9 MR. HAWKINS: Well, the two I was wondering
10 about is equipment shutdowns and chemical releases. I
11 don't know if that -- we could leave it though. I
12 mean, there's a lot of people that do construction on
13 a refinery.

14 MR. STAFFORD: Doing the maintenance in
15 particular.

16 MR. HAWKINS: get killed the process
17 sometimes, so --

18 MR. STAFFORD: Okay. Any other questions or
19 comments on that?

20 MR. HAWKINS: No.

21 MR. STAFFORD: Okay.

22 MR. HAWKINS: On the bullets, the last
23 bullet, "conduct emergency drills," does anybody in
24 construction do emergency drills on large projects?

25 MS. DePRATER: Absolutely.

1 MR. BETHANCOURT: Yes.

2 MR. HAWKINS: So, we'll leave that, right?

3 MR. BETHANCOURT: Yeah, we actually do.

4 MR. HAWKINS: People really do that?

5 MR. BETHANCOURT: Especially with good GCs.

6 (Simultaneous discussion.)

7 MS. DePRATER: I require on every, single
8 project, two drills a year, evacuation drills. They
9 make up their own scenario. They phone it into our
10 800 crisis line. We require all subcontractors of any
11 size to participate. They are part of the crisis
12 plan.

13 MR. HAWKINS: Cool. Cool.

14 MR. STAFFORD: That is good. And, Jeremy,
15 obviously, the small employers are doing it too?

16 MR. BETHANCOURT: Well, what we do is when
17 we're working with a big contractor that's part of the
18 group, you know, preplanning meeting that we have, and
19 they go over how we're going to do it, and then
20 they'll have us practice it sometimes on these long
21 projects that they're working on.

22 So, we all huddle and talk about what we
23 learned, and whether everybody made it the way they
24 were supposed to. Literally they plan that out.

25 MS. DePRATER: Yeah.

1 MR. HAWKINS: I don't want to spoil the
2 topic, but I do think it's neat how things have
3 changed. When I first came to work and we did a fire
4 drill, it was a big joke. Now, when that bell rings
5 it's like everybody just --

6 MS. DePRATER: It's no joke.

7 MR. BETHANCOURT: Oh, it's not a joke.

8 MR. HAWKINS: -- files out there and rallies
9 and gets counted.

10 MS. DePRATER: Yep.

11 MR. HAWKINS: I mean, it used to they'd ring
12 and about half the people wouldn't even go out of the
13 building, you know. It's different now. It really
14 is. I think it's due to the construction doing that
15 too.

16 MR. BETHANCOURT: Well, when that big
17 foghorn blasts --

18 MS. DePRATER: I was on a project last week
19 where they were literally at every stairwell. They
20 had run a wire -- intercom system -- up and down every
21 stairwell, and so they can stand right there at the
22 gate. They pick up the phone, and it announces
23 throughout the entire project what's going on. So,
24 that's how far it's advancing.

25 MR. HAWKINS: Sorry, Mr. Chairman.

1 MR. STAFFORD: Oh, that's okay, Steve. The
2 recorder is probably not liking it very much, but I
3 don't care, having the conversation.

4 All right. Action Item 5, Implement
5 selected controls in the workplace.

6 MR. HAWKINS: Here's where I think we should
7 consider the second half of your Hazard Prevention and
8 Control introductory paragraph, maybe not worded
9 exactly like it is, but, "Letting problems languish
10 inevitably means someone will get hurt. In addition,
11 it destroys trust and workers will get discouraged
12 about bringing up second problems. They think it
13 won't make a difference."

14 That thought ought to go right here in
15 implementation of those selected controls. That's the
16 most important part is to do it and let people see
17 that you've done it, so I think we should include that
18 thought in the introductory paragraph, here. Just --

19 MR. STAFFORD: Okay.

20 MS. DePRATER: I agree.

21 MR. PRATT: After hazard control plan.

22 MR. HAWKINS: Right. Right there on page

23 15 --

24 MR. STAFFORD: Right.

25 MR. HAWKINS: -- at the top.

1 MS. DePRATER: Yes.

2 MR. STAFFORD: So, it would essentially be
3 the second paragraph under that intro. So, we'll
4 keep, "Once you have selected hazard prevention and
5 control measures implement according to the hazard
6 control plan."

7 Next paragraph, "Letting problems languish
8 inevitably means someone will get hurt, and in
9 addition it destroys trust and workers will get
10 discouraged about bringing up problems that don't get
11 fixed," or whatever. We need to play with those words
12 a little bit, but for now that's good enough. "That
13 don't get addressed."

14 MS. DePRATER: "That don't get addressed."
15 I agree.

16 MR. STAFFORD: Are you good with that,
17 Jennifer?

18 MS. LAWLESS: We're good.

19 MR. STAFFORD: Okay. And then the rest of
20 those bullets on Action Item Number 5, "How to
21 accomplish. Hazard control measures according to
22 priorities established in hazard control plan."
23 That's good. "When resources are limited, implement
24 measures of worst first case basis." I'm not sure I
25 like that. What does it mean when resources are

1 limited?

2 MR. BETHANCOURT: We don't have to fix this?

3 MR. STAFFORD: That you're not going to do
4 it?

5 MR. BETHANCOURT: Not fix things just
6 because it's limited resources?

7 MR. HAWKINS: Yeah. I don't really like
8 that either.

9 MR. BETHANCOURT: Boy, that almost sanctions
10 making a choice.

11 MR. HAWKINS: It doesn't work well in an
12 informal conference, I can tell you that.

13 (Laughter.)

14 MR. STAFFORD: Yeah. What do you think
15 about if it's okay we just take that bullet out
16 altogether?

17 MR. PRATT: Yeah. I think that's the best.

18 MR. BETHANCOURT: That's horrible. Do that
19 on the regular document too.

20 MR. HAWKINS: Who came up with that? Oh, it
21 was OSHA.

22 MR. STAFFORD: That's the OSHA core
23 document.

24 MS. DePRATER: It must have been Lisa.

25 MR. HAWKINS: They've heard it so long, they

1 started believing it.

2 MR. BETHANCOURT: It's gone.

3 MR. STAFFORD: And then, "Quick fixes" -- is
4 that okay -- "include general housekeeping, removal of
5 obvious tripping hazards" -- that's
6 fine -- "electrical cords and basic lighting." I
7 think that --

8 MR. BETHANCOURT: That's fine.

9 MR. STAFFORD: -- last bullet is good.
10 Okay. So, we're just, on that section, essentially
11 just eliminating bullet number two on how to
12 accomplish it.

13 Okay. Action Item 6, "Follow up to confirm
14 that controls are effective. To ensure the controlled
15 measures remain effective, track progress" -- and here
16 where we're back to your issue, Jeremy. "Track
17 progress in implementing controls, inspect controls
18 once they are installed and follow routine preventive
19 maintenance practices," which is basically what you
20 were getting at, right, Jeremy?

21 MR. BETHANCOURT: Yeah, you have to. Yes.
22 Thank you.

23 MR. STAFFORD: All right. So, "How to
24 accomplish it. Conduct regular inspections, confirm
25 that work practices, admin, and PPE use are being

1 followed, conduct routine preventive maintenance of
2 equipment." That's all fine.

3 MS. DePRATER: Uh-huh.

4 MR. STAFFORD: "Track progress and verify --

5 MR. HAWKINS: There's the word facilities
6 again.

7 MR. STAFFORD: Where? Oh, yeah.

8 MR. HAWKINS: "Routine maintenance of
9 facilities." You might just take that out. Make it
10 equipment and controls.

11 MS. DePRATER: Uh-huh.

12 MR. STAFFORD: Okay. "Track progress and
13 verify implementation by asking the following
14 questions: Have all control measures been implemented
15 according to schedule?"

16 MR. HAWKINS: What schedule?

17 MS. DePRATER: I think you just cut it off
18 right there.

19 MR. STAFFORD: Can't you just say, "Have all
20 control measures been implemented?"

21 MS. DePRATER: Yes.

22 MR. HAWKINS: Right.

23 MS. DePRATER: Yeah.

24 MR. PRATT: Exactly.

25 MR. STAFFORD: "Have emergency controls been

1 properly installed and tested?" That's, Cindy, back
2 to yours. It sounds like that's an SO -- standard
3 operating procedure. "Have workers been appropriately
4 trained so they understand the controls, including
5 safe work practices and PPE use requirements?"

6 MR. HAWKINS: Right.

7 MR. STAFFORD: Are controls being used
8 correctly and consistently?

9 MS. DePRATER: Mr. Chairman, Cindy DePrater,
10 employer rep.

11 MR. STAFFORD: Yes?

12 MS. DePRATER: This is also where I would
13 add, "Has this been shared with other contractors
14 working in the immediate area." You don't want them
15 just keeping their plan to themselves. You want them
16 sharing it with anybody that's within their sphere of
17 influence.

18 MR. STAFFORD: You think that goes here,
19 Cindy, with our multiemployer section, maybe?

20 MS. DePRATER: I don't know. It seems to be
21 the most logical, but I'll leave that to the
22 committee.

23 MR. HAWKINS: Let's stick it here. That's
24 not a bad place for it, just that one more bullet.

25 MS. DePRATER: That it, one more bullet.

1 MR. HAWKINS: "Have you communicated" --

2 MS. DePRATER: "With other contractors."

3 MR. BETHANCOURT: Because a lot of times it
4 may not be you that created the hazard --

5 MS. DePRATER: Right.

6 MR. BETHANCOURT: -- and you've got to
7 address it with somebody else.

8 MS. DePRATER: Right.

9 MR. BETHANCOURT: Sorry. I spoke out of
10 turn. Jeremy Bethancourt.

11 MR. HAWKINS: "Have the controls been
12 communicated" --

13 MS. DePRATER: Been communicated.

14 MR. BETHANCOURT: Right. To "trade partners
15 and other contractors."

16 MS. DePRATER: To trade partners.

17 MR. BETHANCOURT: Trade partners.

18 MS. DePRATER: Or "trade partners and other
19 contractors."

20 MR. BETHANCOURT: Contractors.

21 MR. STAFFORD: Trade partners. What's a
22 trade partner?

23 MR. BETHANCOURT: It's a happy way of saying
24 people that are dictating what you're supposed to do,
25 is it not?

1 MS. DePRATER: Yeah. We use it a lot,
2 believe it or not.

3 MR. BETHANCOURT: We use it a lot in this.

4 MR. STAFFORD: A trade partner?

5 MS. DePRATER: Trade partners.

6 MR. BETHANCOURT: We do use it a lot, yeah.
7 I do.

8 MR. STAFFORD: I use the DOE --

9 MS. DePRATER: It's a lot in design/build
10 work when you bring in architect engineer, mechanical
11 and electrical general contractor.

12 MR. STAFFORD: Okay.

13 MR. BETHANCOURT: We talk about them as
14 being partners, not --

15 MR. STAFFORD: Okay.

16 MS. DePRATER: It's a partnership.

17 MR. BETHANCOURT: -- contractors.

18 MR. HAWKINS: So, what about, "Have the
19 controls been communicated to other contractors in the
20 area?"

21 MS. DePRATER: Okay. Fine.

22 MR. HAWKINS: That's pretty generic. Is
23 that okay? "Have the controls been communicated to
24 other contractors in the area?"

25 MS. DePRATER: Yeah. "Have the controls

1 measures" -- "Have the controls been communicated."

2 MR. HAWKINS: We really ought to start with
3 have, since all the other sentences all start with
4 have.

5 MS. DePRATER: Okay.

6 MR. HAWKINS: "Have the controls been
7 communicated to other contractors in the area." Have
8 it read just like these other bullets.

9 MS. DePRATER: Yeah. She's trying to get it
10 down.

11 MR. STAFFORD: Everybody okay with that,
12 then? So we're going to have Danezza and Jennifer add
13 the last bullet then on Action Item 6, have the
14 controls been communicated to other contractors in the
15 area.

16 MS. DePRATER: Perfect.

17 MR. STAFFORD: Okay. So --

18 MS. DePRATER: Now --

19 MR. STAFFORD: Yes, Cindy?

20 MR. CANNON: The supplemental.

21 MS. DePRATER: The supplemental.

22 MR. PRATT: Mr. Chairman, Don Pratt. We did
23 not talk about the other three bullets on your
24 document.

25 MR. STAFFORD: Right, and I'm looking at

1 that now to see if those -- do you think that these
2 are worthy of adding? We already have now six action
3 items. I mean, I'm not concerned. I'm not going to
4 say it's a concern, but at the end of the day that
5 we're going to have a separate construction guideline
6 that's going to be a heck of a lot bigger than the
7 initial OSHA guideline, right?

8 And so, we started this conversation about
9 very simple, direct language for construction
10 employers. Just, in the end, having an 80 page
11 document, is that going to be helpful or not to the
12 construction industry? I mean, I'm just throwing it
13 out, you know, because what we're doing is essentially
14 taking the core document. We haven't removed much.
15 We're generally just adding more action items to it.

16 And I'm not saying that that's a bad thing,
17 but that, at the end of the day, I mean, we're going
18 to have a very large document for construction, versus
19 the core document for all the other industries.

20 MR. PRATT: Mr. Chairman?

21 MR. STAFFORD: Yeah?

22 MR. PRATT: Yeah. Don Pratt. Your three
23 bullets, I think we've covered those.

24 MS. DePRATER: I think we have, too.

25 MR. STAFFORD: They're already in? Okay.

1 MR. PRATT: Yeah. So, I mean, if anybody
2 else sees something I missed --

3 MR. BETHANCOURT: Jeremy Bethancourt. Like
4 what Steve said yesterday, I mean, so this is a good
5 document that we're providing. If you want to read
6 the document, it's just like the directions for the
7 whatever you're plugging in.

8 Like Steve said yesterday, they're going to
9 read the summary, and if they really want to know how
10 it works, don't we want to provide them with a good
11 document, even if at times it is a little bit longer?

12 MR. STAFFORD: I was just raising it. I'm
13 not saying that we don't. We'll just go through the
14 exercise. Yeah, Palmer?

15 MR. HICKMAN: Thank you, Mr. Chairman.
16 Bullet point three, I'll ask you to specifically
17 identify if you think we've covered that elsewhere in
18 the document. It's clear that you consider that
19 important, and --

20 MR. STAFFORD: Well, you know, I put this in
21 based on my reading the docket, and folks saying this
22 is an opportunity to take advantage of a guide like
23 this, and get into more prevention through design.

24 As I said yesterday, we heard when this same
25 committee a few years back was dealing with the Safety

1 and Health Program standard at the time, we heard from
2 the contractor community the prequalifications of
3 their subs based on leading indicators. Are they
4 training their management? What kind of programs do
5 they have? What kind of policies do they have?

6 All of those kinds of things are important
7 to performance on construction sites, so this was my
8 stab at adding something that in a program if our
9 large contractors are saying bringing subs on their
10 job is important to the climate and how they perform
11 overall, this was an opportunity to put something in
12 on prequalification.

13 We have developed a prequalification
14 checklist based on that exercise that we could
15 reference in this document, and say, "If you're
16 interested in bringing in subcontractors or high
17 performers when it comes to safety and health here's a
18 checklist that you could use to evaluate their
19 programs." Yes, Jeremy?

20 MR. BETHANCOURT: So, Mr. Chairman, so if I
21 understand in thinking about prevention through
22 design, because that's one of the items that I know
23 that the American Society of Safety Engineers
24 addressed in their comments to OSHA about the
25 document, would that be a good thing to address in

1 Action Item 1, with your comments that you've made, if
2 the focus was to try and come up with some prevention
3 through design aspects to this part of the document?

4 MS. DePRATER: Cindy DePrater.

5 MR. BETHANCOURT: That's a question.

6 MR. STAFFORD: Yeah, Cindy?

7 MS. DePRATER: I actually think that
8 choosing the right subcontractor fits better with
9 coordination and communication on multiemployer
10 worksites.

11 MR. STAFFORD: It may very well belong
12 there. I mean, that's --

13 MS. DePRATER: I would just say consider it
14 there. I don't know that it for sure fits, but we
15 could shorten this tremendously by just saying,
16 "Evaluate the right subcontractors to work with you."

17 MR. STAFFORD: If it's important. I mean,
18 it may not be important.

19 MS. DePRATER: It is important.

20 MR. STAFFORD: You know, I'm just relaying.
21 And we've got resources that if contractors are
22 interested in that, we've developed checklists that
23 they could use for that purpose, if this is a guide to
24 provide resources that are available to them for free.

25 Is everyone in agreeance that maybe we just

1 consider that in the multiemployer section then about
2 how you select or prequalify subcontractors? And
3 then, the rest of the bullets, I think if everyone
4 agrees with Don that we've more or less covered them
5 in certain action items, then we don't have to
6 consider those. Everybody okay with that?

7 MR. HAWKINS: Uh-huh.

8 MS. DePRATER: Uh-huh.

9 MR. STAFFORD: Okay. What time have we got?
10 Do you want to take a break or do you want to get to
11 the next section?

12 MS. DePRATER: Ten minutes?

13 MR. STAFFORD: All right. Let's have a
14 break until 10:30. How about that? Thank you.

15 (Whereupon, a short recess was taken.)

16 MR. STAFFORD: All right. Let's go ahead
17 and reconvene, please. We have a quorum.

18 Okay. We're ready to move on to Education
19 and Training, which is page 19 on the core document.
20 I really didn't have much to add in mine, so I don't
21 think we're going to have to jump back to that
22 parallel thing, although I must say that, through this
23 committee, we have developed and you'll see in mine
24 the Foundations for Safety Leadership.

25 I had a meeting with my Deputy up with the

1 leadership of the Directorate of Training and
2 Education at OSHA outside of Chicago early last week,
3 and we've got unofficial -- well, official word. It's
4 not official yet, but that OSHA will approve the
5 Foundation for Safety Leadership training as an
6 elective module in the OSHA 30, which is terrific. I
7 mean, this is a lot of work from this committee to get
8 that in there.

9 So, hence, when you look at the Dodge survey
10 that I provided to you, and you see that 86 percent of
11 the large U.S. construction employers are leaning on
12 the OSHA 30 for their supervisory training, I added in
13 the language on mine that we would like for the folks
14 that are teaching that OSHA 30-hour to use the two and
15 a half elective module as a part of that training
16 program. So, that's the one difference in my bullet,
17 in terms of the training for supervisors.

18 So, with that said, Education and Training.
19 Is there an issues or problems? Have you had a chance
20 to look at the intro section of that? You know, we
21 don't have to go back to my parallel document, because
22 I didn't really write an intro section to the section.
23 I just basically wrote two action items; that workers
24 should have the 10, supervisors should have the 30,
25 and the supervisors as a part of that 30 should have

1 the two and a half hour Foundations for Safety
2 Leadership elective module in that.

3 Whether the committee is going to concur
4 with that or not, you know, it's just something that I
5 put in there, because it's now available, and we've
6 done so much work through our training work group to
7 try to make that happen, so I appreciate all your help
8 on that.

9 So, in terms of Education and Training, any
10 issue with the lead in paragraph, or the lead in
11 section, "Workers who know about workplace hazards and
12 the measures in place to control them can work more
13 safely and be more productive. Education and training
14 means that employers, managers, supervisors and
15 workers will" -- and so, I don't see any, unless
16 there's some --

17 MS. DePRATER: Cindy DePrater, employer rep.

18 MR. STAFFORD: Uh-huh?

19 MS. DePRATER: I didn't see anything until I
20 got to, "In addition, all workers receiving
21 specialized training when they are assigned specific
22 roles in managing." I took out "or operating." I
23 don't know how they're going to operate the Safety and
24 Health Program. I would just say, "in managing the
25 Safety and Health Program."

1 MR. STAFFORD: Okay.

2 MS. DePRATER: Or it could say, "in managing
3 and implementing," but operating just doesn't seem to
4 fit.

5 MR. BETHANCOURT: Uh-huh.

6 MR. STAFFORD: Okay. Anybody have a problem
7 with that, of just deleting it out, then? Palmer?

8 MR. HICKMAN: I think a statement about the
9 same sentence. I had a different concern or question.
10 This is not unique to construction. I'm not sure that
11 it even works for the existing document. "In
12 addition, all workers receive." Are they making a
13 statement that all workers --

14 MR. HAWKINS: Should.

15 MR. STAFFORD: "Should receive."

16 MR. HICKMAN: -- "should receive" I think
17 is -- or "need to." "Should" is nonmandatory, but
18 "need to" is more actionable. So, yeah. There's a
19 word missing there, I think, in my opinion. "In
20 addition, all workers need to receive specialized
21 training," or "should." Whatever works for the
22 committee.

23 MR. STAFFORD: I think that works. I think
24 "should" is probably --

25 MR. HAWKINS: Should receive.

1 MR. STAFFORD: -- a better terminology here.
2 So, "In addition, all workers should receive
3 specialized training when they are assigned specific
4 roles in managing the Safety and Health Program" and
5 take out "or operating."

6 MR. HICKMAN: Yeah. Yeah.

7 MR. STAFFORD: You know, I don't know.
8 Again, how often on your jobsites are you turning
9 things over to your craft workers to manage your
10 program?

11 MR. HAWKINS: But you might have a
12 supervisor to do workplace inspection.

13 MR. BETHANCOURT: Well, that's what a
14 competent person is.

15 MS. DePRATER: That's what a competent
16 person is.

17 MR. HAWKINS: I was thinking the same thing
18 until I -- well, maybe they're talking about like a
19 lead man, or a --

20 MS. DePRATER: Nonworking foreman.

21 MR. HAWKINS: Yeah.

22 MR. CANNON: Yes.

23 MR. HAWKINS: That kind of person saying,
24 "Well, you need to do these daily inspections," or
25 "You need to do your toolbox talks," and so, they

1 would need some training on how to do that aspect of
2 managing or implementing the Safety and Health
3 Program.

4 MS. DePRATER: Competent persons.

5 MR. BETHANCOURT: Competent person for
6 scaffolding.

7 MS. DePRATER: That would be an assigned
8 role, for sure.

9 MR. BETHANCOURT: For sure.

10 MR. STAFFORD: Okay. So, we're good just
11 with leaving it the way it is, the way we just read it
12 then?

13 MR. HAWKINS: If you're talking about giving
14 somebody training to help them understand how to bring
15 workers, to make workers involved in your safety and
16 health effort --

17 MS. DePRATER: Uh-huh. That's the way I
18 read it.

19 MR. HAWKINS: -- for your management system.

20 MR. STAFFORD: Okay. Then if that's the
21 way --

22 MS. DePRATER: Not in operating it.

23 MR. STAFFORD: Okay. So then, we'll just
24 leave it at that. So again, the sentence will read,
25 "In addition, all workers should receive specialized

1 training when they are assigned specific roles in
2 managing the Safety and Health Program." Okay.

3 MR. HICKMAN: I think we're leaving receive
4 in.

5 MS. DePRATER: Uh-huh.

6 MR. HAWKINS: Do we need to replace
7 operating with implementing? Is that what the talk
8 really is?

9 MS. DePRATER: That was my other suggestion.
10 Yeah.

11 MR. HAWKINS: Managing or implementing.

12 MR. STAFFORD: If we're going to go with
13 that we should probably flip that around, "Specific
14 roles in implementing and managing the Safety and
15 Health Program."

16 MR. HAWKINS: I agree.

17 MS. DePRATER: I agree.

18 MR. HAWKINS: I think that's what it ought
19 to say.

20 MS. DePRATER: I agree. Perfect.

21 MR. STAFFORD: Okay.

22 MR. HAWKINS: You can't manage it before you
23 implement it.

24 MS. DePRATER: Right.

25 MR. STAFFORD: Yeah. All right. Action

1 Item Number 1 in this section, "Provide program
2 awareness. Provide workers and managers with basic
3 understanding of the program structure, plans and
4 procedures. This knowledge ensures that everyone can
5 fully participate in program development and
6 implementation.

7 "How to accomplish it. Provide training to
8 all managers, supervisors and workers, as well as
9 contractors, subcontractor, and temporary agency
10 workers on safety and health policies, goals and
11 procedures, Safety and Health Program functions, what
12 to do in an emergency, employer responsibilities under
13 the program, how workplace safety and health-related
14 information will be communicated, workers' rights
15 under the OSH Act."

16 MS. DePRATER: Those are all good.

17 MR. STAFFORD: Second bullet, "Ensure that
18 training is provided in a language and at literary
19 level that all workers can understand."

20 Next bullet, "Emphasize that the program can
21 only work when everyone participates and feels
22 comfortable discussing concerns, making suggestions
23 and reporting injuries, incidents, and hazards."
24 Everybody okay with that?

25 (No response.)

1 MR. STAFFORD: Last bullet, then, "Confirm,
2 as part of the training, that all workers have the
3 right to report injuries, incidents, hazards and
4 concerns and to fully participate in the program
5 without fear of retaliation."

6 MS. DePRATER: Do we need to say it twice?

7 MR. STAFFORD: We put that somewhere, and
8 I --

9 MR. RIVERA: Yeah, we did. I can't
10 remember.

11 MR. STAFFORD: Yeah, Tom?

12 MR. MARRERO: I'm sorry. Back to bullet
13 point number one. Where it says "temporary agency
14 workers," can we strike agency and just put,
15 "temporary workers," to encompass all types of
16 temporary workers?

17 MR. STAFFORD: I don't see why not. Does
18 anyone have an issue --

19 MR. BETHANCOURT: I agree.

20 MS. DePRATER: That's fine.

21 MR. STAFFORD: -- with that because there's
22 a lot of that.

23 MR. BETHANCOURT: Agreed.

24 MS. DePRATER: That's fine.

25 MR. STAFFORD: Okay.

1 MR. PRATT: Tom, what was that again?

2 MR. MARRERO: The first bullet point.

3 MR. BETHANCOURT: "How to accomplish."

4 MR. STAFFORD: So, "Provide training to all
5 managers, supervisors and workers, as well as
6 contractors, subcontractor and temporary workers," not
7 temporary agency workers.

8 Okay. Back to the last bullet then we just
9 read. I can't remember what section, and I guess it
10 doesn't hurt to be duplicative, but I think we had a
11 bullet on retaliation earlier on, and I can't
12 remember. It was probably on hazard identification,
13 or prevention. I can't remember where that was.

14 MS. DePRATER: What I might suggest -- Cindy
15 DePrater, employer rep. What I might suggest is that
16 you just delete the last bullet, and you just in the
17 one above it where it says emphasize, could we not
18 just say, "Emphasize and confirm that the program,"
19 because those two seem to be a little bit duplicative.
20 Does anybody else read it that way?

21 If you just say, "Emphasize and confirm that
22 the program can only work when everyone participates
23 and feels comfortable discussing concerns, making
24 suggestions, and reporting injuries, incidents, and
25 hazards."

1 MR. HAWKINS: It doesn't tell people,
2 though, that they have the right, and that's what the
3 second one really does. It might be a good idea to
4 remind an employer not only does it work well, but the
5 employees actually have the right to report these
6 things to you.

7 MR. BETHANCOURT: Is there a problem with
8 being duplicative in that respect, since it is so
9 important?

10 MR. HAWKINS: Probably not.

11 MR. HICKMAN: But, again, unless there's a
12 reason to do this for construction, I mean, trying to
13 fix the existing document, at least in our opinion,
14 really isn't our mission here. Just a thought.

15 MR. STAFFORD: Okay. So, we say how to
16 accomplish it, the workers' rights under the OSH Act.
17 I'm not so sure, Cindy.

18 MS. DePRATER: Yeah.

19 MR. STAFFORD: I think you've tightened the
20 language up, but I'm not so sure that it harms
21 anything to keep that if everyone is okay with it.
22 Are we okay with that?

23 MS. DePRATER: It fits the page nicely.

24 MR. STAFFORD: Okay.

25 MR. RIVERA: Symmetry.

1 MR. BETHANCOURT: All right. Education and
2 Training.

3 MR. STAFFORD: All right. Sounds good.
4 We'll just leave that. then.

5 Action Item 2, "Train workers on their
6 specific roles and responsibility in the Safety and
7 Health Program. Additional training may be needed to
8 ensure that managers and workers can incorporate
9 Safety and Health Program responsibilities in their
10 daily routines and activities. I mean, I kind of like
11 the words. I'm really not sure --

12 MS. DePRATER: I'm not sure what it says.

13 MR. STAFFORD: -- what that means.

14 MS. DePRATER: "Additional training may be
15 needed to ensure managers and workers can incorporate
16 Safety and Health Program responsibilities."

17 MR. STAFFORD: Additional training may.

18 MS. DePRATER: It's not --

19 MR. STAFFORD: What do you think? I'm not
20 sure what that adds. Additional training may be
21 needed.

22 MS. DePRATER: Yeah. It's not --

23 MR. HICKMAN: Mr. Chairman, it looks like
24 you have to read it in the context of the action item
25 heading.

1 MS. DePRATER: I think I'd reword this.

2 MR. STAFFORD: So, give me an example of
3 we're training a pipefitter on a job. He's a craft
4 worker, and we want him to know -- him or her -- what
5 their additional responsibilities are. What does that
6 mean?

7 MR. HAWKINS: It probably wouldn't fit that,
8 but if you're talking about, I own a plumbing
9 contracting company, and you're talking about trained
10 workers, everybody who works for my company is a
11 worker.

12 MR. CANNON: Yeah.

13 MR. HAWKINS: And so, if you're talking
14 about a project manager, you might have to give him
15 some specialized training on how to implement the
16 employee participation part of my Safety and Health
17 Program. That's the way I would read that where it
18 would make sense. Probably not for a pipefitter, but
19 maybe for the supervisor, or the project manager.

20 MR. STAFFORD: Okay. So, should we instead
21 of saying worker -- and I know, Palmer. I'll get
22 right to you.

23 MR. HICKMAN: Okay.

24 MR. STAFFORD: Should we say that
25 specifically and take out workers if we're talking

1 about management here?

2 MR. HAWKINS: Train employees. Train
3 employees on their specific roles. Make it more
4 generic because workers, I think in the construction
5 context workers means somebody who has to wash their
6 hands when they're done.

7 MR. STAFFORD: Right. I mean, that's the
8 way I always view --

9 MR. HAWKINS: Yeah.

10 MR. STAFFORD: -- the difference between a
11 craft worker. I mean, you're starting with your front
12 line foreman on up to the general foreman and your
13 superintendents. Right?

14 You know, when we're talking about workers
15 well, everyone has a role. In my mind, the workers
16 are the craft workers that are putting product in
17 place, not the foreman that's managing them, even
18 though they are an employee and a worker, but that's
19 how I distinguish it in my giant, sixth grade brain.

20 MS. DePRATER: Can I? Cindy DePrater,
21 employer rep.

22 MR. BETHANCOURT: So, it should say manager?

23 MS. DePRATER: I would say maybe we just
24 change this to say "Additional training may be needed
25 to ensure that manager and workers can identify risks

1 and hazards associated with their specific role, daily
2 routines and activities."

3 MR. HAWKINS: Yeah, but that's not -- that's
4 a good sentence, but for the purposes of this specific
5 action item this is about training them on specific
6 duties that you would assign.

7 So, you developed the Safety and Health
8 Program for your company and you said, "Okay, the
9 three of you guys are going to now do workplace
10 inspections, and if that's part of your program that
11 you're going to implement. You're going to have to
12 give them some direction on how to do that, some
13 training on how you want those forms completed, and
14 when to do them and those kind of things.

15 MR. STAFFORD: Right.

16 MS. DePRATER: So you think this is more
17 related to a manager's role versus how they conduct
18 their daily task?

19 MR. HAWKINS: I do. I think this is people
20 that you've identified. You've given them a specific
21 responsibility in your Safety and Health Program that
22 you want them to do and you're going to have to train
23 them on how to do that.

24 MR. STAFFORD: Right.

25 MR. HAWKINS: Which it might be job cost or

1 it might be --

2 MS. DePRATER: Okay.

3 MR. HAWKINS: -- workplace inspections or it
4 might be training on hazards. You know, if you're
5 going to say I'm going to designate Jerry and Tom and
6 Jeremy, make them our trainers, and they're going to
7 train our staff on this new procedure and Jerry goes
8 man, I never talked to anybody -- in front of anybody
9 -- in my whole life. You might going to have to send
10 him for some training on how to --

11 MS. DePRATER: Right.

12 MR. HAWKINS: -- conduct a class. That's
13 the way I read that.

14 MR. STAFFORD: No. I do too. I mean, if
15 you're going to have --

16 MS. DePRATER: Okay.

17 MR. STAFFORD: -- a foreman that's going to
18 be responsible for doing toolbox talks or safety
19 huddles every morning, he may need some direction on
20 how to do that as a part of the program.

21 MR. HAWKINS: How to keep people's attention
22 and how to approach it.

23 MR. STAFFORD: Right. Exactly.

24 MS. DePRATER: Okay.

25 MR. STAFFORD: Yes? Palmer and then Jeremy.

1 MR. HICKMAN: Yeah. To answer your question
2 that you asked, Mr. Chairman -- Palmer Hickman,
3 employee rep -- I think there's probably several that
4 come to mind.

5 Maybe you're a fire watch. That's your
6 designated role in the Safety and Health plan. Maybe
7 you're the rescue person, maybe first aid. You're
8 assigned to be the first aid competent person, the
9 attendant in a confined space program. So, that's
10 what I read into this when I read these words, but
11 maybe I'm way off base, so --

12 MR. STAFFORD: No. I don't think you are.
13 I think we're kind of getting there. I mean, I think
14 this needs to be changed a little bit to say that if
15 you're a manager or a worker, and you have a specific
16 role in the program, whatever that is, that it needs
17 to say it somehow like that. Yes, Jeremy?

18 MR. BETHANCOURT: I think I'm understanding
19 what Palmer is saying is I don't disagree that we
20 should keep workers in there and wherever a worker has
21 a role, that that worker is actually part of the
22 program, that they have where they are supposed to
23 interact.

24 For example, in my organization, I teach
25 managers their tasks, but I also teach workers that

1 they are part of the program and that I'm going to
2 expect them to take an active role in assisting, you
3 know, throughout the day --

4 MR. STAFFORD: Right.

5 MR. BETHANCOURT: -- and so, we should be
6 training them.

7 MR. STAFFORD: I agree. So, why not in that
8 sentence just say, "Additional training may be needed
9 to ensure that managers and workers understand their
10 roles and can carry out their responsibilities as a
11 part of the Safety and Health Program?"

12 MS. DePRATER: Right.

13 MR. BETHANCOURT: That's it.

14 MR. HAWKINS: Perfectly stated.

15 MS. DePRATER: Perfect.

16 MR. STAFFORD: Yes. I'm sorry. Jerry?

17 MR. RIVERA: Yes, Mr. Chairman. In this
18 section, there might be the opportunity to include,
19 you know, reference to the safety leadership by
20 adding, "Besides the managers, supervisors and
21 employees."

22 So, the inclusion of supervisors in that
23 definition might be more encompassing, because
24 supervisor will be leading those safety and health
25 efforts often, and some managers, so you want to

1 probably try to capture that, as well.

2 MR. STAFFORD: Okay. Fair enough. So, I
3 forgot what I just said, but we can just add
4 "supervisors, managers and workers." Jennifer, what
5 did I say?

6 MS. LAWLESS: "Understand and carry out
7 their roles, responsibilities, daily routines, and
8 activities." That's what we left off with before.
9 Jerry added supervisors.

10 MR. STAFFORD: Okay. Could you read it one
11 more time, Jennifer?

12 MS. DePRATER: The whole thing.

13 MS. LAWLESS: "Additional training may be
14 needed to ensure that managers, supervisors and
15 workers can understand their roles and carry out their
16 responsibilities, daily routines and activities."

17 MR. STAFFORD: Okay. Take out the word can,
18 so that, "understand their roles," and I'd put
19 supervisors in front of managers.

20 MS. LAWLESS: Okay.

21 MR. RIVERA: Or management.

22 MR. STAFFORD: Is everybody okay with that,
23 then?

24 MS. DePRATER: Yeah.

25 MR. RIVERA: Yeah.

1 MS. DePRATER: Yeah.

2 MR. HAWKINS: Yep.

3 MR. STAFFORD: Okay. "How to Accomplish It.
4 Instruct workers with specific roles." Again, when
5 we're talking about workers now I'm -- I'm sorry.
6 Tom?

7 MR. MARRERO: How does "management" sound to
8 everybody?

9 MR. BETHANCOURT: Yes.

10 MR. MARRERO: Because you want it from the
11 top down, from the owner all the way down to the --

12 MR. BETHANCOURT: And then it's one word.

13 MR. MARRERO: Yeah. So, "management and
14 workers."

15 MR. BETHANCOURT: That's it. That's it.

16 MR. RIVERA: So, will that change --

17 MR. BETHANCOURT: That's everybody.

18 MR. RIVERA: Okay. Yeah.

19 MR. BETHANCOURT: That's all management.

20 MR. RIVERA: Including supervisors?

21 MR. BETHANCOURT: Right. It includes
22 everybody.

23 MR. MARRERO: Right.

24 MR. BETHANCOURT: Management.

25 MR. STAFFORD: Sounds good to me. You know,

1 again I think these are just kind of playing with
2 words, but if we just want to say "management and
3 workers" I think that fits. I mean, supervisors,
4 foremen, superintendents, they're all in management.

5 MS. LAWLESS: Is that how you want it?

6 MR. STAFFORD: I can't see it without my
7 glasses, so one of you look at it, and see if that's
8 how we want it or not.

9 MS. DePRATER: "To ensure that management."

10 MS. LAWLESS: Management.

11 MR. BETHANCOURT: That management and
12 workers, and then it's everybody.

13 MR. STAFFORD: Okay. So then, "How to
14 accomplish it." I guess based on this path we're
15 going down, is "Instruct management and workers in
16 their specific roles within the Safety and Health
17 Program on how they should carry out those
18 responsibilities." Yes, Palmer?

19 MR. HICKMAN: Can we go back up to the
20 action item, please, because I think there, unless
21 we've added it there, it just says workers, so we
22 probably need to --

23 MR. BETHANCOURT: Management and workers.
24 Oh, at the top? Yeah. I see now.

25 MS. LAWLESS: I thought we changed it to

1 employees. Am I --

2 MR. STAFFORD: We changed it back and forth
3 three or four different times, Jennifer, so it's hard.

4 MR. BETHANCOURT: Do you see that? Can you
5 scroll up just a little bit?

6 MR. STAFFORD: I recognize it's hard for you
7 to keep up.

8 MS. LAWLESS: Okay.

9 MR. STAFFORD: Why don't we just say, from
10 the beginning, "Train managers and workers." We're
11 talking about managers and workers. Or if you want,
12 maybe we can add the word "craft." You know, we're
13 talking about managers and craft workers. Are we good
14 with that? Can we just stick with managers and
15 workers, or managers and craft workers?

16 MR. HAWKINS: I think --

17 MR. BETHANCOURT: Management.

18 MR. HAWKINS: -- let's use workers.

19 MR. STAFFORD: Just workers? Okay. All
20 right. So, throughout, "managers and workers."

21 All right. So then, "How to accomplish it.
22 Instruct managers and workers. Provide opportunities
23 for managers and workers. As a program, institute a
24 more formal process for determining the training needs
25 of managers and workers responsible for developing,

1 implementing, and maintaining the program."

2 MR. BETHANCOURT: And then the same thing.

3 "Train managers and workers on hazard identification."

4 MR. STAFFORD: Is that okay with everyone?

5 MS. DePRATER: I think so.

6 MR. STAFFORD: Jennifer? Good?

7 MS. LAWLESS: Yeah.

8 MR. STAFFORD: We're all comfortable with
9 that? "Action Item 3, Train workers on hazard
10 identification and controls, providing workers with
11 basic understanding of hazards." So, again, are we
12 talking about managers and workers, or are we just now
13 talking about workers here?

14 "Providing workers with a basic
15 understanding of hazardous recognition and control,
16 and actively involving them in the process to help you
17 eliminate hazards before an incident occurs." So, I'm
18 assuming in this instance, Action Item 3, we're
19 actually really talking about just the craft workers.

20 Yes, Chuck?

21 MR. STRIBLING: I think the core document
22 makes a bit of a shift --

23 MS. DePRATER: It does.

24 MR. STRIBLING: -- in this whole Education
25 and Training section. Up until now, this document, to

1 me, has been addressed more to management. In this
2 section, it's specifically being addressed to the
3 workers.

4 MR. STAFFORD: Yeah.

5 MR. STRIBLING: So, you know, if we want to
6 include managers and workers all throughout, then we
7 should do it consistently throughout this section, or
8 do we go with, as they've done here, shifting the
9 focus, the discussion?

10 MS. DePRATER: This does feel like a shift.

11 MR. HAWKINS: Well, I think it is.

12 MR. STAFFORD: It is.

13 MR. HAWKINS: This is where you're talking
14 about training every day people on this is what you
15 watch for, and this is what you do when you see it. I
16 think you're right.

17 MS. QUINTERO: But if you look at bullet one
18 on how to accomplish it, it says "train managers and
19 workers" --

20 MR. STAFFORD: Yeah.

21 MS. QUINTERO: -- so I guess the intention
22 of the Agency was managers and workers.

23 MS. DePRATER: Uh-huh.

24 (Pause.)

25 MR. KAMPERT: This is Eric with OSHA, OSHA

1 rep. So, we're having some issues about what the
2 intentions of this section was. I was wondering, we
3 do have some people in the general public there from
4 DSG, and we were wondering if we could get any input
5 from either Mark or Will, if they thought it might be
6 helpful.

7 It seems like if you look at the top of the
8 Education and Training, the very top, it does say
9 "workers," and then under Action Item 1, it does say,
10 "provide workers and managers." So, I think the group
11 seems like they need some clarification.

12 MS. DePRATER: We do.

13 MR. KAMPERT: Is this intended for workers,
14 managers and workers, and just see what the intent of
15 what OSHA had and then can we can focus what we want
16 to do for construction.

17 MR. STAFFORD: Oh, you don't have an opinion
18 on that?

19 MR. HAGEMANN: Yeah. I'm not sure we can
20 shed any light on this other, than the way it's
21 written.

22 MS. DePRATER: Which is why I was getting
23 confused. It just seems like it took a U-turn.

24 MR. HAGEMANN: Sorry. I got here a little
25 late this morning, so I'm just --

1 MR. STAFFORD: That's fine. We don't have
2 many more.

3 MR. HAGEMANN: But I don't know that I can
4 necessarily shed any light on the different action
5 items, and why it's management, why it's workers and
6 how it was developed other than the fact that that's
7 the way it is, and if you guys see a different way of
8 writing it, then we can certainly, you know, take a
9 look at that as well for the overall document.

10 MR. STAFFORD: Well, I mean, in my mind
11 we're talking about both.

12 MR. HAGEMANN: Right.

13 MR. STAFFORD: We're talking about managers
14 and workers here, the people that need to be trained.
15 And so, I think maybe part of the confusion is that
16 even if you're a manager, I know some of them that
17 actually work, so managers are workers too, right, and
18 so, maybe that's part of the problem.

19 MR. HAGEMANN: I can see where it can be
20 confusing using both terms, and having different
21 action items using different terms, but, again, there
22 were specific reasons why one action item was maybe
23 just for workers, and others were for workers and
24 managers, because those are certain things we want
25 both of them to do.

1 MR. STAFFORD: Right. Well, I think the
2 purpose, you know, in my mind, again, to have an
3 effective Safety and Health Program when you're
4 talking about training and education, you're talking
5 about training and educating your managers --

6 MR. HAGEMANN: Sure.

7 MR. STAFFORD: -- and you're also talking
8 about training and educating your workforce.

9 MR. HAGEMANN: Right.

10 MR. STAFFORD: That's all part and parcel to
11 an effective Safety and Health Program, and we just
12 have to break that out.

13 So, if you go back to the very beginning of
14 this section it says, "Workers who know about
15 workplace hazards and the measures." That's good, but
16 maybe we start out, "Managers and workers who know
17 about workplace hazards and the measures in place to
18 control them can work more safely and be more
19 productive," or maybe we have to start wordsmithing
20 that, but I think it's up front that we're talking
21 about training and education for management, and we're
22 talking about training and education for craft workers
23 here.

24 We don't have a section dealing specifically
25 with training and education for managers, and a

1 separate section dealing with training and education
2 for workers so they're combined, and we just have to
3 clarify that --

4 MR. HAGEMANN: Right.

5 MR. STAFFORD: -- in our minds. Yes, Don?

6 MR. PRATT: I think we should combine it all
7 the way through, the whole document, managers and
8 workers, and then I don't think we can go wrong.

9 MR. RIVERA: At least in this section.

10 MR. STAFFORD: I think so in this section,
11 because it's both. I mean, we're saying -- you know,
12 right. Okay.

13 MR. RIVERA: We all agree with it.

14 MR. BETHANCOURT: In this section.

15 MR. STAFFORD: Yes, Chuck? I'm sorry.

16 MR. STRIBLING: Chuck Stribling, state plan
17 representative. Where you just said workers who know
18 about workplace hazards, just change the word workers
19 to employees --

20 MS. DePRATER: That's what I was going to
21 say.

22 MR. BETHANCOURT: That's where we started.

23 MR. STRIBLING: -- because the next
24 paragraph specifically talks about employers,
25 managers, supervisors and workers.

1 MR. HAGEMANN: Right. Right.

2 MR. STAFFORD: Yep.

3 MR. STRIBLING: So, just change that one
4 word, workers, to employees.

5 MR. HAGEMANN: Yeah. So, right up front, we
6 kind of say that this education and training is for
7 everybody, and then throughout the specific action
8 items, we, you know, kind of tailor it to --

9 MR. STAFFORD: All right. Well, right. So,
10 I think that's a good suggestion. So, employees are
11 inclusive of everyone, right? Management and craft
12 workers are all employees. So, if we go back to the
13 front, "employees who know about workplace hazards,"
14 and then it breaks it out in the next paragraph. I
15 think that's right, Chuck.

16 MR. STRIBLING: Yeah.

17 MR. STAFFORD: Yes, Tom?

18 MR. MARRERO: Tom Marrero, employer rep. I
19 think, Chuck, that's a good suggestion, but it doesn't
20 encompass everybody, because you also have owners, as
21 well, that are front line individuals and they're not
22 considered technically employees, so --

23 MR. STAFFORD: Who's that?

24 MR. MARRERO: The employer themselves, the
25 owners.

1 MR. HAWKINS: If they're an LLC though or a
2 corporation --

3 MR. STRIBLING: Well, if they're a
4 corporation they're an employee.

5 MR. HAWKINS: Actually they are.

6 MR. BETHANCOURT: Unless they're a sole
7 proprietor.

8 (Simultaneous discussion.)

9 MR. HAGEMANN: I think I'd be careful using
10 the term employees, because throughout the document,
11 we use workers and not employees, so we don't want to
12 interchange the two. For this document, we're
13 specifically using the term workers when we mean a
14 worker, and manager is when we mean a manager, and
15 supervisor when we mean a supervisor.

16 MR. STAFFORD: Yes, Palmer?

17 MR. HICKMAN: With disdain he says. Had the
18 public commented on this section, seeing a problem
19 with managers being excluded when only workers were
20 mentioned?

21 MR. STAFFORD: I hadn't seen anything when I
22 read through the material in the document that
23 addressed this.

24 MR. HICKMAN: Do we see a distinction?

25 MR. STAFFORD: That doesn't mean that it's

1 not there. I just didn't see it.

2 MR. HICKMAN: Yeah. Did we see a
3 distinction here for construction? I mean, it makes
4 sense that we do, but at the same time, I think we're
5 supposed to constructionize this, so we're trying to
6 think what they were thinking when they wrote.

7 They started with managers and workers, and
8 then they talked about just workers. So, I don't
9 think it does any harm, but it might be beyond our
10 scope to start fixing, improving the existing
11 document. Just a thought.

12 MR. STAFFORD: No. I appreciate that. You
13 know, I don't know if it would be improving it, but if
14 we're going to constructionize it, we've gone back in
15 full circles. You know, again, if it's managers, I
16 like Chuck's idea, but if OSHA doesn't want to use the
17 word employees, then if we're back to managers and
18 workers, I mean --

19 MR. HICKMAN: Right.

20 MR. STAFFORD: -- I think that's where we're
21 at.

22 MS. DePRATER: Cindy DePrater, employer rep.
23 I think the fact that we're all struggling with this
24 section does mean that there is some issue with it,
25 and so I think we do need to take a little bit deeper

1 look, but I think what happened is they started
2 talking about workers in the first section, and in the
3 very last paragraph of the first section, it literally
4 started talking about assigned roles, and that's where
5 it shifted.

6 And then the rest of the document seemed to
7 take on this manager and supervisor and employee feel
8 to it, so I think the fact that we're all struggling
9 with it means that it's definitely not as clear as it
10 needs to be, and it's beginning to feel -- that's why
11 I was struggling with this action item too.

12 Steve, to your point, I was trying to say,
13 "Okay, is this the competent person?" And maybe
14 that's how we do this. Maybe we define this into
15 saying examples, "such as," you know, specific to
16 construction, "such as the competent person or the
17 fire watch person, or the" -- add a couple of examples
18 so it becomes at least a little more clear where we
19 don't have to get into trying to wordsmith this to be
20 more clear.

21 MR. BETHANCOURT: We already say that,
22 though.

23 MS. DePRATER: I don't think they've given
24 any specific examples. Like, for example, "Action
25 Item 2, How to Accomplish It. Instruct" -- where we

1 started to say instruct management and workers with
2 specific roles, you could say, "such as the fire
3 watch, or the competent person," if that's what we
4 mean, "or the trainer of the 10 hour course."

5 Those are assigned specific roles, and not
6 the daily activities of doing a pretask plan or a
7 daily huddle, and then accomplishing what you set out
8 to do that day. Maybe if we can just give a few
9 examples throughout this portion of it, it will make
10 more sense to all of us.

11 MR. STAFFORD: Anybody have any thoughts or
12 comments to that? We can pass on this and come back.
13 I mean, again, I --

14 MS. DePRATER: I don't want to get hung up
15 on it.

16 MR. STAFFORD: Because we are getting hung
17 up, I mean.

18 MR. HAWKINS: But, I mean, for OSHA to say
19 that we used employers where we meant -- I mean,
20 workers where we meant workers and managers where we
21 meant managers, I heard what you said.

22 But when you go to Education and Training,
23 we say, "Provide program awareness." We say workers
24 and managers. Then we say, "Train workers on their
25 specific roles and responsibilities in the Safety and

1 Health Program." Wouldn't we also train managers?

2 MR. STAFFORD: Train managers. Right.

3 MR. HAWKINS: Are those the same roles?

4 MR. STAFFORD: Yes.

5 MS. DePRATER: And isn't that employees?

6 MR. STAFFORD: And we have done that before,
7 right?

8 MR. HAGEMANN: Right.

9 MR. STAFFORD: I mean, okay.

10 MR. HAWKINS: These are good comments for
11 the general industry document, for the master
12 document.

13 MR. HAGEMANN: As well, yeah. Absolutely.
14 And apparently there's some confusion here, so --

15 MR. HAWKINS: Yeah. Obviously there is,
16 because this is -- you know, just the fact that we're
17 struggling with it. I mean, I think we have just
18 tossed -- it looks like we have interchanged these
19 words several times, in even places where we probably
20 didn't mean to, or the people who wrote it didn't
21 probably mean to.

22 MR. HAGEMANN: Right. And even sometimes
23 the action item title doesn't maybe match up with the
24 language that's in there, so, yeah. I think we'll
25 have to take a look at this as we go through the

1 general industry document, and the comments that came
2 in, and take a good, close look at this.

3 MR. STAFFORD: Chuck, and then Don?

4 MR. STRIBLING: So, as a general
5 session -- I'm sorry, suggestion, could we just
6 suggest to the Agency to make it clear that it's
7 managers and workers throughout this entire section,
8 as Mr. Pratt suggested earlier, and instead of us
9 trying to wordsmith every word on this, obviously they
10 heard us and it's not clear, so let them fix it?

11 MR. STAFFORD: Yeah, I think so.

12 MR. HAWKINS: I do think that's right.

13 MR. STAFFORD: Yeah. I mean, in the end, I
14 think that's where we're coming to. We're talking
15 about managers and workers.

16 MR. HAWKINS: We've only got two pages that
17 we have to do this with, right? There's only two
18 pages for this section?

19 MR. STAFFORD: On this, right. On this
20 section, right.

21 MR. HAWKINS: And it does look like that
22 managers and workers in almost every case would be
23 the term.

24 MR. STAFFORD: Would be --

25 MR. HAWKINS: Would be the term.

1 MR. STAFFORD: Yes?

2 MS. DePRATER: Cindy DePrater. You'll have
3 to go back and change the introduction, as well, this
4 page 4, where it says Education and Training. This
5 all just refers to workers.

6 MR. STAFFORD: Page 4?

7 MR. HAWKINS: Yeah, the very first page.

8 MS. DePRATER: Right here.

9 MR. PRATT: The breakout sheet.

10 MR. STRIBLING: The breakout.

11 MR. HAWKINS: Oh.

12 MR. STAFFORD: Oh.

13 MR. CANNON: All the way up front.

14 MR. STAFFORD: Okay. All right. So, I
15 mean, I think let's move on, but I think that's
16 generally what we're talking about for our document.
17 I don't know about other industries, but we're talking
18 about managers, people with management responsibility,
19 and workers.

20 MR. HAWKINS: And we make statements like,
21 "Emphasize the program can only work when everyone,"
22 that's kind of workers and management.

23 MR. STAFFORD: And managers.

24 MR. HAWKINS: That's everybody. Right.

25 MR. STAFFORD: Right. Or we clarify that.

1 Instead of saying everyone, we say managers and
2 workers, depending on how it goes, right?

3 MR. HAWKINS: We can make that general
4 recommendation for this section.

5 MR. STAFFORD: All right. So, we'll do
6 that. Thank you.

7 MR. STRIBLING: Thanks.

8 MR. STAFFORD: Okay. So, do you want to
9 move on to Program Evaluation and Improvement? All
10 right. For those of you who had looked at this, any
11 issues with what's in here now that OSHA has done on
12 Program Evaluation and Improvement for construction?

13 (Pause.)

14 MS. DePRATER: I think it was fine.

15 MR. STAFFORD: Any issues? It all looks
16 like it applies to construction to me, at least the
17 intro part. Everybody okay?

18 MS. DePRATER: Uh-huh.

19 MR. STAFFORD: "Action Item 1, Monitor
20 Performance and Progress. Define appropriate metrics
21 and indicators to measure performance. Establish and
22 follow procedures to collect, analyze, and review
23 performance data."

24 So, how would you do that? I'm in a pickup
25 truck with my brother and one helper, and I'm going to

1 define appropriate metrics. What does that mean to
2 me?

3 MR. HAWKINS: That's that new, weird tape
4 measure.

5 (Laughter.)

6 MR. STAFFORD: Right.

7 MR. BETHANCOURT: I mean, should we just say
8 methods maybe, is that -- "define appropriate
9 methods?"

10 MR. HAWKINS: Well, a method and a metric
11 are two different things.

12 MR. BETHANCOURT: I understand.

13 MR. HAWKINS: A method is how and the metric
14 is, you know, identifying what you're going to
15 measure, I think. I don't --

16 MR. STAFFORD: No. I think that's right. I
17 mean --

18 MR. HAWKINS: Kilometers. I know that.

19 MR. STAFFORD: So, again, I mean, that's
20 a --

21 MR. HAWKINS: But we've got that same issue
22 with this whole document --

23 MR. STAFFORD: Right.

24 MR. HAWKINS: -- in a lot of places. So,
25 you could throw a layman's definition in parentheses.

1 MR. BETHANCOURT: Well, that's what I'm
2 saying. We need to say something. What is a metric?

3 MR. CANNON: Desired outcomes, I mean.

4 MR. BETHANCOURT: Google it and figure out
5 what it says.

6 MR. MARRERO: Can you put that in the
7 document, Google it?

8 MR. BETHANCOURT: As long as it's in quotes
9 with a little R on it or TM or something like that, I
10 think we're allowed.

11 MR. STAFFORD: All right. So what do you
12 want to do about this? I mean, are you okay with it?
13 I know we're --

14 MR. BETHANCOURT: Well, Mr. Chairman, I
15 think we should go with the suggestion that Steve had
16 that we maybe even explain that, somehow in a
17 footnote. We're using a word that two guys in a
18 pickup truck are going to go, like truly?

19 MR. HAWKINS: But you know what? We've got
20 to back up though. We've already said that our goal
21 here is not to dumb, not to --

22 MR. STAFFORD: No. That's not a good term,
23 but we're not trying to make this for --

24 MR. HAWKINS: We're not trying to take this
25 to the pickup truck and two guys.

1 MR. BETHANCOURT: But if we provide a
2 definition, are we not helping them as they move
3 forward?

4 MR. HAWKINS: We can help them, but we're
5 not trying to take this to that level, because if we
6 are then we have to go back and start over. We don't
7 want to do that, do we?

8 MR. STAFFORD: No. No, we're not. I mean,
9 even for large contractors, I mean, these are great
10 words.

11 MR. BETHANCOURT: Yeah.

12 MR. STAFFORD: And, you know, we've done
13 research projects on metrics and measures, and in the
14 end, you're trying to develop measures to measure the
15 measures, right, and it gets very, very confusing.

16 And I'm not even sure for large contractors
17 that we start out with this action item, saying,
18 "Define appropriate metrics and indicators to measure
19 performance is very valuable." Yes, Chuck?

20 MR. STRIBLING: Could we just say "define
21 appropriate indicators?" Because all the rest of this
22 is going to get into a bunch of different lagging and
23 leading. Just leave out the term metrics.

24 MR. STAFFORD: I think that's a good
25 suggestion, or just leave it out altogether, and just

1 start with the -- Jeremy and Jerry?

2 MR. BETHANCOURT: Sorry.

3 MR. STAFFORD: Okay. Because I'm having a
4 hard time already, and two conversations are not
5 helpful to me right now.

6 I mean, why don't we just say, "Establish
7 and follow procedures to collect, analyze, and review
8 performance data," and forget the measure of the
9 measure indicators.

10 MR. PRATT: Yeah. I like that.

11 MR. HAWKINS: Are you still up in the
12 introduction part? That's the first place that
13 metrics is -- it's used up there in the introduction
14 too. "Establish, report and track metrics and
15 indicate whether the program is effective." You could
16 just say "evaluate" to determine if the --

17 MR. STAFFORD: "Program evaluation means
18 that you establish important track metrics that
19 indicate whether the program is effective." And so,
20 what are you suggesting, Steve?

21 MR. HAWKINS: I'm for getting rid of the
22 words "program evaluation improvement means." Strike
23 that. Strike the next bullet, and make the second
24 bullet just another paragraph to what's already there.
25 "Evaluate the overall program initially and

1 periodically, to identify efficiencies and
2 opportunities for improvement."

3 MR. STAFFORD: And that would be a part of
4 the intro, and not a bullet?

5 MR. HAWKINS: Right.

6 MR. STAFFORD: Everybody okay with that?

7 MR. BETHANCOURT: I like it.

8 MS. DePRATER: I like it.

9 MR. CANNON: Aye.

10 MS. LAWLESS: Steve, one more time, please.

11 MR. HAWKINS: Strike "program evaluation
12 improvement means that you colon." Strike that.
13 Strike the next bullet. And then you don't ever want
14 to have one bullet, so just make that bullet the
15 second paragraph. Unless you're Barney Fife, right?
16 He just has one.

17 MS. LAWLESS: So, the second paragraph
18 should start, "Evaluate overall program?"

19 MR. STAFFORD: Yes.

20 MS. LAWLESS: Got it. Thank you.

21 MR. STAFFORD: Okay. And then, "Action Item
22 1, Monitor performance and progress." You just want
23 to delete that first sentence?

24 MR. BETHANCOURT: Right.

25 MR. STAFFORD: And we're going to start it

1 with saying, "Establish and follow procedures to
2 collect, analyze, and review performance data."

3 MR. BETHANCOURT: Good.

4 MR. HAWKINS: That's probably better, yeah.
5 I think it is.

6 MR. STAFFORD: Everybody okay with that?

7 MS. DePRATER: Uh-huh. Uh-huh.

8 MR. STAFFORD: "Progress or performance
9 indicators should include both *leading* and *lagging*
10 indicators. Lagging indicators generally track worker
11 exposures and injuries that have already occurred.
12 Leading indicators reflect the potential for injuries
13 and illness that have not yet occurred.

14 MR. CANNON: Wow.

15 MR. HAWKINS: I'm not sure that's true.

16 MR. CANNON: Right. That's not.

17 MR. HAWKINS: I'm not sure that's a
18 definition of a leading indicator.

19 MR. CANNON: No. Well, I think it can go
20 both ways.

21 MR. HAWKINS: I mean, it could be.

22 MS. DePRATER: Well, the leading --

23 MR. CANNON: The leading indicator can show
24 what's been done and what's not been done.

25 MR. HAWKINS: What do you and Don and --

1 what do you all use?

2 MS. DePRATER: I'll start.

3 MR. HAWKINS: What do you use for a leading
4 indicator?

5 MS. DePRATER: So, Cindy DePrater, employer
6 representative. So we track two types of leading
7 indicators, both passive and active. So, how well you
8 write the scope of a contract, and tie that to a risk
9 mitigation plan can be a passive leading indicator.
10 How well you staff your job for safety can be a
11 passive leading indicator.

12 An active leading indicator for us can be
13 something like how often you audit your project to
14 identify hazards, and then mitigate those hazards.

15 MR. HAWKINS: That's what I thought.

16 MR. CANNON: Yeah.

17 MS. DePRATER: So, those are the types.

18 MR. HAWKINS: What percentage of your
19 toolbox talks are you doing?

20 MS. DePRATER: Correct.

21 MR. HAWKINS: Are you doing 100 percent
22 every week?

23 MS. DePRATER: Correct.

24 MR. HAWKINS: Training.

25 MS. DePRATER: How many quality JHAs and

1 pretask plans do you see on a daily basis? Not just
2 how many are done, but what's the quality of them, can
3 be a leading indicator. So, you're trying to improve
4 your own percent improvement over baseline.

5 How many people are wearing safety glasses
6 that day can be an indicator. They don't have to be
7 so finite that you can't get your arms around them.
8 So, you start at 25 percent of the people wearing
9 glasses. Okay. I'm going to --

10 MR. HAWKINS: So, PPE compliance.

11 MS. DePRATER: PPE compliance can be an
12 actual leading indicator of your culture. There are
13 lots of them.

14 MR. STAFFORD: So, what do you want to do
15 here?

16 MR. HAWKINS: This is pretty arcane for this
17 document.

18 MR. STAFFORD: I think so. It's not very
19 helpful.

20 MS. DePRATER: I think it's important,
21 though, that they recognize that there are other ways
22 to measure besides your --

23 MR. HAWKINS: Lag.

24 MS. DePRATER: -- lagging indicators that
25 have already happened. The cake is baked. It's done.

1 MR. HAWKINS: I will tell you. I will
2 submit this. If we think that, and I do, you better
3 put some examples in this document about what the heck
4 you're talking about, if you're going to talk about
5 leading indicators to a person who might have 10
6 employees, and they're an excavation contractor.
7 They're not going to know what that is.

8 MR. STAFFORD: Right. And it's all the
9 things that we've talked about. In my mind, the
10 leading indicator are things that --

11 MR. HAWKINS: Things that we do.

12 MR. STRIBLING: We do, yeah. Keep reading.

13 MR. HAWKINS: All right. Thank you.

14 MR. STAFFORD: We do what?

15 MR. STRIBLING: There are examples of
16 leading indicators.

17 MS. DePRATER: Oh. How's that?

18 MR. HAWKINS: Read on. Read on, Mr. Chair.
19 Thank you.

20 MR. STRIBLING: But, Mr. Chair?

21 MR. STAFFORD: Yes, Chuck?

22 MR. STRIBLING: It sounds to me what we
23 don't like is that definition of leading indicator.

24 MS. DePRATER: Right.

25 MR. STAFFORD: I don't like it, but --

1 MR. STRIBLING: Right. I would agree with
2 you. So, unless we have another to offer, then maybe
3 we could suggest to the Agency to come up with
4 something better.

5 MR. STAFFORD: Uh-huh. Maybe we could put
6 that on the tickler and come back and address that at
7 the end, because I do think that the leading
8 indicators need a better definition.

9 MS. DePRATER: Something with the word
10 proactive.

11 MR. HAWKINS: If we hold that until after we
12 work our way through the --

13 MR. STAFFORD: Yeah. I'm just saying
14 that'll be on the tickler list in the end, because I
15 do believe that.

16 All right. "Develop and track measures or
17 indicators of progress toward established safety and
18 health goals. Tracking lagging indicators, such as."
19 Those are good examples. "In addition, tracking
20 leading indicators, such as." Those all seem fine.

21 MR. HAWKINS: The first one does.

22 MR. STAFFORD: "Number of hazards and close
23 calls reported, number and frequency of management
24 walk throughs." These are things that you just said,
25 right, Cindy, in this case?

1 MS. DePRATER: Uh-huh.

2 MR. STAFFORD: "Number of hazards identified
3 during inspections, number of workers who have
4 completed required safety and health training." How
5 about "managers and workers who have completed
6 required safety and health training?"

7 MR. HAWKINS: Yeah. Yes.

8 MR. STAFFORD: "Number of days needed to
9 take corrective action after a workplace hazard is
10 identified or an incident occurs."

11 MS. DePRATER: Uh-huh.

12 MR. STAFFORD: That's a good one.
13 "Conformance to plan preventive maintenance schedules.
14 Conformance to plan preventive maintenance schedules."

15 MR. HAWKINS: That's a pretty good one
16 actually --

17 MS. DePRATER: It is.

18 MR. HAWKINS: -- even for like aerial lifts.

19 MS. DePRATER: Oh, sure.

20 MR. HAWKINS: Are you doing your PMs on your
21 equipment like you're supposed to, brakes, all those
22 safety devices, broken glass, you know, your crane
23 inspections.

24 MR. STAFFORD: Okay. How about the next
25 one, "Worker opinion about program effectiveness?"

1 MS. DePRATER: Absolutely.

2 MR. STAFFORD: Again, how about, "Manager
3 and worker opinions about program effectiveness?"

4 MR. HAWKINS: You have to do a culture
5 assessment for that one.

6 MR. STAFFORD: Keep track of monitoring
7 activities and results and analyze trends over time.

8 MS. DePRATER: Yeah.

9 MR. HAWKINS: And then share the results for
10 all your workers.

11 MS. DePRATER: Yeah.

12 MR. HAWKINS: Next page?

13 MR. STAFFORD: Yep.

14 MS. DePRATER: So, the note -- this is Cindy
15 DePrater. I would take that note again and move it up
16 in this section, because it does speak a little bit to
17 the leading indicators. They can either be
18 qualitative or quantitative.

19 MR. HAWKINS: Move the note to the
20 introductory paragraph for Action Item 1 at the end.

21 MS. DePRATER: Right. And then I would
22 change, and I'll just throw this out and we can
23 wordsmith it. I would change that leading indicator
24 sentence to say "leading indicators are proactive and
25 can measure the successful implementation and impact

1 of the developed program."

2 MR. HAWKINS: Of the program.

3 MR. STAFFORD: What are you reading, Cindy?

4 MS. DePRATER: Okay. Under Action Item 1,
5 second paragraph, last sentence, where it says,
6 "Leading indicators reflect the potential." We didn't
7 like that. It's on page 21. "Leading indicators
8 reflect the potential for injuries and illnesses that
9 have not yet occurred."

10 MR. STAFFORD: Uh-huh.

11 MS. DePRATER: Okay. I suggest changing
12 that to "leading indicators are proactive and can
13 measure the successful implementation and impact of
14 the developed program," and then you all can tear that
15 up.

16 MR. STAFFORD: Yes?

17 MS. LAWLESS: The successful implementation
18 and?

19 MS. DePRATER: Successful implementation and
20 impact --

21 MS. LAWLESS: Thank you.

22 MS. DePRATER: -- of the developed program,
23 and then move the note up right under that.

24 MR. STAFFORD: Is everybody okay with that?
25 No problems with that?

1 (No response.)

2 MS. DePRATER: You can see it up on the
3 screen if you want to.

4 MR. STAFFORD: Okay.

5 MS. DePRATER: You are taking out "Reflect
6 the potential for injuries and illnesses that have not
7 yet occurred, right? " Take that portion out. No, no,
8 no. Leave that.

9 MS. LAWLESS: Oh, you want that in?

10 MS. DePRATER: Leave that in.

11 MS. LAWLESS: You want the first one in?

12 MS. DePRATER: Yeah. Leave in, "Progress or
13 performance indicators should include both leading and
14 lagging indicators. Lagging indicators generally
15 track worker exposures and injuries that have already
16 occurred."

17 MS. LAWLESS: Leading indicators are
18 proactive --

19 MS. DePRATER: Correct.

20 MS. LAWLESS: -- and can measure the
21 successful implementation and impact on the Safety and
22 Health Program.

23 MS. DePRATER: Correct. And then, the note
24 comes up right under that.

25 MR. STAFFORD: You said the success of the

1 Safety and Health Program, right?

2 MS. DePRATER: That's what you're trying to
3 do is see how well --

4 MR. STAFFORD: Yeah.

5 MS. DePRATER: -- it's being --

6 MR. STAFFORD: Right.

7 MS. DePRATER: Are the controls you put in
8 place actually working. There we go.

9 MR. STAFFORD: So, everyone is okay with
10 that?

11 MR. BETHANCOURT: Don't forget the success
12 before S&H Program.

13 MS. DePRATER: Successful.

14 MS. LAWLESS: I have measure the successful
15 implementation and impact of the Safety and Health
16 Program.

17 MS. DePRATER: That's it.

18 MS. LAWLESS: Am I correct on that?

19 MS. DePRATER: You are correct.

20 MR. BETHANCOURT: Oh, okay. I'm sorry.
21 Yeah.

22 MR. STAFFORD: All right. Thank you, Cindy.
23 Everybody okay with that?

24 (No response.)

25 MR. STAFFORD: Are we ready to move on,

1 then?

2 MS. DePRATER: We are.

3 MR. STAFFORD: Do you want to tackle
4 Coordination and Communication in Multiemployer
5 Worksites before lunch?

6 MS. DePRATER: Were we okay with Action 2
7 and Action 3.

8 MR. HAWKINS: Were we doing to do Action 2
9 and Action 3?

10 MS. DePRATER: Page 22.

11 MR. HAWKINS: Let's tackle those two.

12 MS. DePRATER: We can tackle that before
13 lunch.

14 MR. HAWKINS: Yeah.

15 MS. DePRATER: Verify the programs
16 implementing and operating.

17 MR. STAFFORD: All right. So, what do you
18 think about that? "At least once a year, evaluate the
19 entire program to ensure that it operates as intended,
20 controls identified" --

21 MS. DePRATER: I think I might change that
22 to say beyond periodic monitoring of your program at
23 least once a year.

24 MR. BETHANCOURT: Then you're telling them
25 that they should be doing it more than once a year.

1 MR. STAFFORD: See, in my mind this is where
2 it comes back to these guidelines from 26 years ago.
3 This is a general industry setting, right? mean, we
4 should be in construction or evaluating our program
5 every time we implement it on a new construction site.
6 It's not once a year.

7 MS. DePRATER: Right.

8 MR. BETHANCOURT: It happens so fast you
9 have to.

10 MR. HAWKINS: I see your point, yeah.

11 MR. BETHANCOURT: From one project to the
12 next, see what to do.

13 MR. STAFFORD: Yeah. Chuck and then Tom.

14 MR. STAFFORD: So could we just strike at
15 least once a year and start with the word evaluate, or
16 do you want to --

17 MR. STAFFORD: Or do you say continuously?
18 I mean, I don't know if you want to go down that road,
19 but if you're any contractor, large or small, if you
20 have 10 different projects going on, you're always
21 assessing where it is, right? I mean, you're not
22 doing it --

23 MS. DePRATER: Continually evaluate the
24 program from project to project to ensure.

25 MR. STAFFORD: Yes? Tom and then, Jerry,

1 were you next or Jeremy? Tom, go ahead.

2 MR. MARRERO: Tom Marrero, employer rep. I
3 was going to say, "Regularly evaluate the entire
4 program." I think that would encompass whenever the
5 need to evaluate would ever come.

6 MR. STAFFORD: So as opposed to
7 continuously, regularly? I mean, it's --

8 MR. MARRERO: Continuously or at
9 least -- yeah.

10 MR. STAFFORD: So, what do you think about
11 that, though? I mean, how do you evaluate how your
12 program is working when you have 10 projects going on
13 simultaneously? It's working in one job and it's not
14 working on the other. So what kind of guidance are we
15 trying to provide employers in that situation? Yes,
16 Palmer?

17 MR. HICKMAN: Thank you, Mr. Chairman. I
18 think I heard someone say something similar to
19 frequently. Regular would be if I do it every five
20 years I'm going to do it every five years. That's
21 regular intervals. That may not be often enough.

22 So, if we need something more frequently
23 than once a year, then maybe frequently is the right
24 word, or maybe this is an OSHA policy and that's why
25 it's in here at least once a year. But I've heard

1 different thoughts, but I think regularly would not
2 mean frequently or more often than once a year,
3 necessarily.

4 MR. STAFFORD: So, you don't like regularly
5 because that can imply it's a longer period of time,
6 and so frequently, continuously. So, again, answer my
7 question. If I'm a contractor and I have 20 jobs, 18
8 are going really well, and two are going bad, what do
9 you do to evaluate the bad?

10 MS. DePRATER: Cindy DePrater, employer
11 representative. So, what we do is we have one -- I'll
12 start there. We have one corporate program. That
13 does get evaluated once a year for new programs, such
14 as silica or confined space.

15 During the year, if those come along, those
16 are incorporated by reference, and then that goes out
17 to every project, but you have projects that are
18 continually running and unless it's a mandate they
19 were established under this program that was written a
20 year ago, so they're bound by contract, and so are the
21 subcontractors to that contract.

22 So, if you have 20 of them running under
23 this program, they take the corporate program, they
24 enhance it to be project specific, owner specific, and
25 then every single project has their own corporate

1 hybrid program that is specific to their job.

2 So, in answer to your question, you have 10
3 of them working. You'd have to go back to those one
4 or two projects and individually look at that program,
5 which is very specific to that project, and find out
6 what's not working or what was left out or what was
7 bypassed.

8 MR. STAFFORD: Okay. So is that something
9 that we would need to consider for construction in
10 some kind of guidance document such as this on how we
11 go about doing that? I mean, you know, my experience,
12 and I'll get to you in a minute, Palmer. You can put
13 your hand down. I know that you're in line here.

14 We have an organizational safety culture.
15 Every jobsite has a specific safety climate, and in my
16 mind, to do an evaluation and assessment of your
17 program is somehow whatever the frequency is --

18 MS. DePRATER: The standard.

19 MR. STAFFORD: -- is understanding the
20 assessment, so that you have your organizational
21 safety culture carries down to the safety climate on
22 each individual construction job. And so if you think
23 about it in that way, how often do you need to assess
24 what's happening on a specific construction site that
25 your program is operating effectively?

1 And if it's wrong, I mean, how long does it
2 take you to get to a point if you have 20 jobs, 18 are
3 going well, two are not going very well at all, and we
4 see that all the time in my organization. We get
5 requests from large contractors that have a particular
6 job or two that they're having issues with and they
7 want a third party to come in and have a look-see.

8 And it's not very uncommon, but what would
9 we do in terms of a guidance for any size employer, if
10 you have a lot of jobs, some are good and some are
11 bad? What's the guidance? How do you fix the bad?
12 How do you do that?

13 MS. DePRATER: The guidance for us is to
14 evaluate the program and the culture, because it's
15 going to be one of those two.

16 So there's three areas you look at
17 typically. It's the capabilities of the workers, how
18 trained and educated are they; it's the environment,
19 are the handrails up, the guardrails up, the floor
20 holes covered; and the behavior of the workers, what
21 is the attitude and the culture being set. Those are
22 the three areas that we would look at on any project
23 to find out what's wrong, because it's not usually
24 just one thing.

25 MR. STAFFORD: But as opposed to the

1 behaviors of management?

2 MS. DePRATER: Everyone.

3 MR. STAFFORD: Okay. Yeah, Palmer and then
4 Jeremy?

5 MR. HICKMAN: Thank you, Mr. Chairman. I'm
6 going to try to attempt to answer the question that
7 you asked, and it says at least once a year evaluate
8 the entire program.

9 Certainly, to your point, we would want to
10 look at components of the program -- hazard
11 identification, compliance, what have you -- on a
12 frequent and regular basis as required by the OSHA
13 standard, but the whole entire program, it's really an
14 audit I think of the program and that seems to be
15 consistent with most on at least an annual basis.

16 You could certainly do it every day. That
17 would be at least on an annual basis. But it puts a
18 no longer than a year, so it could be weekly. It
19 could be monthly. It could be quarterly. But the
20 entire program, that's what this is addressing. So, I
21 don't disagree the components of it. The components
22 of your program certainly need to be probably almost
23 on an hourly basis if not minute-by-minute,
24 project-by-project, what have you, so --

25 MR. STAFFORD: In my mind, this is critical,

1 because I think when we look at evaluation this is
2 what separates construction from these other
3 industries. We're not on a shop floor here. We don't
4 have one written program that's in place, you know,
5 for a thousand people on an assembly line. We have
6 one written program.

7 And I'm not sure what the value is
8 evaluating your written program because the bottom
9 line is how the written program is implemented on each
10 of your construction sites. In my mind, that's a
11 large distinction that really separates construction
12 out, because it's not, as Mr. Mott said yesterday, we
13 have a nice bounded, three-ring binder with all this
14 great stuff in our program that no one sees. The
15 evaluation is how is it working on each one of your
16 sites.

17 MS. DePRATER: So, why couldn't we enhance
18 it to say, you know, if it is at least once a year you
19 should evaluate your program, but maybe there's a
20 second sentence to this that on a frequent and regular
21 basis you should also evaluate whatever the day-to-day
22 activities, metric results, issues and concerns.

23 MR. HICKMAN: Did you say metric results?

24 MS. DePRATER: I did. I know.

25 MR. HICKMAN: We're scrubbing that word.

1 MR. STAFFORD: What is it?

2 MR. HICKMAN: Metric results.

3 MS. DePRATER: Bad habit.

4 MR. HICKMAN: I'm just kidding.

5 MR. STAFFORD: So, maybe it's not the entire
6 program, because, again, in my mind, that's what you
7 have in writing. It's the evaluation, perhaps. The
8 distinction is the implementation of the program on
9 each of your sites. I don't know. I don't want to
10 make this more complicated than it already is, but
11 I --

12 MS. DePRATER: No. I think you're on the
13 right track.

14 MR. STAFFORD: I really think this is the
15 difference, and I think this is where the guideline
16 was written again for general industry, a
17 manufacturing plan as opposed to construction sites.
18 Yes, Chuck?

19 MR. STRIBLING: Would it be you're
20 evaluating the effectiveness of your program?
21 Implementation and effectiveness?

22 MR. STAFFORD: Effectiveness? Yeah, I think
23 that would help. I think that helps get us in the
24 right direction.

25 MR. HICKMAN: On an ongoing basis.

1 MS. DePRATER: There you go.

2 MR. STAFFORD: Okay. Ongoing, continuously,
3 whatever the right words are.

4 MR. HICKMAN: "Evaluate the entire program
5 on an ongoing basis."

6 MS. DePRATER: "On an ongoing basis."
7 That's good. Yeah.

8 MR. STAFFORD: Okay. So, I would go back to
9 Action Item Number 2 and say we're going to strike at
10 least once a year, and help me on this. We're going
11 to evaluate --

12 MS. DePRATER: The entire program.

13 MR. BETHANCOURT: Continually evaluate.

14 MR. STAFFORD: Okay. We're going to --

15 MS. DePRATER: On an ongoing basis is what
16 he just said.

17 MR. MARRERO: Looking for somewhere else
18 to --

19 MR. STAFFORD: "We're going to continuously
20 evaluate the implementation and effectiveness of the
21 program on each of your construction projects."

22 MS. DePRATER: Okay.

23 MR. BETHANCOURT: Because we're looking for
24 proactive, right?

25 MS. DePRATER: We are, but also keeping your

1 program updated to OSHA standards too is important.

2 MR. STAFFORD: Yes, Tom?

3 MR. MARRERO: Tom Marrero, employer rep. I
4 think we should also include something in there, "as
5 jobsite conditions change," too, especially in the
6 construction industry every minute changes on a
7 jobsite. I think it's imperative that we include
8 something along those lines.

9 MS. DePRATER: Would that go in the "How To
10 Accomplish It"?

11 MR. HICKMAN: That seems to be covered in
12 Action Item 3, bullet point three. That's a great
13 point that Tom makes.

14 MR. STAFFORD: All right.

15 MS. DePRATER: Okay. So, the way she's got
16 it worded up there, it says, "Continuously evaluate
17 the effectiveness of the entire program on an ongoing
18 basis to ensure that it operates as intended, controls
19 identified hazards effectiveness and drives progress
20 towards established safety and health goals and
21 objectives."

22 MS. LAWLESS: Mr. Chairman, is that what you
23 wanted in 3?

24 MR. STAFFORD: I'm not sure what I want at
25 this point, Jennifer. Yeah, Palmer? Go ahead.

1 MR. HICKMAN: All right. Under Action Item
2 3 there's a note. If we move that up front more
3 forward maybe into Action Item 2, that seems to be
4 addressing many concerns here.

5 "Scope and Frequency of the Program
6 evaluations will vary depending on the scope,
7 complexity and maturity of the program and types of
8 hazard it must control." So, that seems to speak to
9 the maybe more often than once a year that may be
10 needed to be more than just a note.

11 MR. HAWKINS: So, move the note from
12 Number 3 --

13 MS. DePRATER: Yeah.

14 MR. HAWKINS: -- to Number 2 --

15 MS. DePRATER: Yeah.

16 MR. STAFFORD: To Number 2.

17 MR. HAWKINS: -- after the introductory
18 paragraph for Number 2.

19 MR. STAFFORD: Yeah. Sounds good.

20 MS. DePRATER: Cindy DePrater, employer
21 rep. I would also -- we were discussing this over
22 here -- add something about OSHA standards that
23 change. You don't want them to miss that during the
24 year.

25 So, "The scope and frequency of program

1 evaluations will vary depending on the scope,
2 complexity, OSHA programs, OSHA specific programs and
3 maturity of the program" -- I would just add it
4 somewhere in there -- "and on the types of hazards it
5 must control."

6 MR. STAFFORD: Any other questions or
7 comments on this section?

8 (No response.)

9 MR. STAFFORD: I still, personally, think
10 we're missing it here --

11 MS. DePRATER: Yeah.

12 MR. STAFFORD: -- and I'm kind of at this
13 point at the end of trying to sort it out, because I
14 really do. I mean, I think when you evaluate your
15 program and perceptions, that it's really driven by
16 what's happening on individual construction sites,
17 versus what's happening in the written program. We've
18 seen that time and time again.

19 MS. LAWLESS: Mr. Chairman, does that look
20 like what you're wanting to have stated there for --

21 MR. STAFFORD: Jennifer, if I could see that
22 I would tell you. You guys can -- yes, Jeremy?

23 MR. BETHANCOURT: Mr. Chairman, Jeremy
24 Bethancourt. I think one of the things that we are
25 missing is the specific about it being on construction

1 sites.

2 MS. DePRATER: Yes.

3 MR. BETHANCOURT: And that has not been
4 addressed, and the change is that we wanted to address
5 it on construction sites, because that's I think what
6 your point is is that's where the changes are
7 happening, not in our overall program.

8 MR. STAFFORD: All right. So, let's just
9 go --

10 MR. BETHANCOURT: As applied. Okay. So,
11 "Continuously evaluate the effectiveness of the entire
12 program as applied on the construction sites on an
13 ongoing basis," or something like that.

14 MS. DePRATER: I think it's two things. I
15 think it's the program, and then how it's effectively
16 running on the construction site.

17 MR. BETHANCOURT: Maybe it needs two
18 bullets.

19 MR. MARRERO: So then, do we add the entire
20 program and site specific program?

21 MR. BETHANCOURT: Maybe that's the answer.

22 MS. DePRATER: "Evaluate your entire program
23 and your site specific programs?"

24 MR. MARRERO: And your site specific
25 program.

1 MR. STAFFORD: Yeah, Palmer? Yeah. I think
2 that might be helpful, Tom. Yes, Palmer?

3 MR. HICKMAN: Thank you, Mr. Chairman. I
4 think what we are concerned with here in the overall
5 Program section is probably either at least mentioned,
6 if not addressed, in the Hazard Identification and
7 Assessment section, so that's more of the ongoing, and
8 that's how it starts at least in the existing document
9 on page 11. "A proactive ongoing process to identify
10 and assess hazards in order to fix them is a core
11 element."

12 So that seems to be the day-to-day,
13 minute-to-minute things change. I know we've adapted
14 this somewhat, based on your recommendations there,
15 but I think it might be already addressed in a
16 different section. What your concerns are are
17 certainly very valid, but this is a different section
18 and it's almost the overall program as opposed to the
19 different section on Hazard Identification and
20 Assessment.

21 So, if it's not already addressed certainly
22 we need to address it, but again maybe we have at
23 least that concept of what changes on a day-to-day
24 basis might be covered in the Hazard Identification
25 and Assessment portion of the program that we've

1 already gotten past. Just a thought.

2 MR. STAFFORD: Okay. Appreciate that. Yes,
3 Chuck?

4 MR. STRIBLING: So, if I understand what
5 you're saying -- I just want to make sure I get your
6 point right -- you're saying it's evaluating the site.
7 It's evaluating the program at the site.

8 MR. STAFFORD: Yes.

9 MR. STRIBLING: Not the overall program.

10 MR. STAFFORD: Right. That's what I'm
11 saying, because --

12 MR. STRIBLING: Well, let's just say that.
13 Let's just change this to say that.

14 MR. STAFFORD: But you may not agree with
15 it.

16 MR. STRIBLING: I agree. I agree.

17 MS. DePRATER: Cindy DePrater, employer rep.
18 Chuck, let me just make sure I'm clear. This whole
19 section is talking about program evaluation, right?
20 So, are you saying strike from this action item the
21 verification of the program itself?

22 MR. STRIBLING: No.

23 MS. DePRATER: Okay.

24 MR. STRIBLING: We can keep the overall
25 program --

1 MS. DePRATER: Okay.

2 MR. STRIBLING: -- as a component that needs
3 to be evaluated --

4 MS. DePRATER: Right.

5 MR. STRIBLING: -- on whatever basis we say,
6 but maybe we need to add language --

7 MS. DePRATER: Yes.

8 MR. STRIBLING: -- that speaks about
9 evaluating the program --

10 MS. DePRATER: Yes.

11 MR. STRIBLING: -- at the site.

12 MS. DePRATER: Okay.

13 MR. STAFFORD: All right.

14 MS. DePRATER: Thank you.

15 MR. STAFFORD: So, let's go back to the
16 parallel document. And I don't know if this is going
17 to help or hurt. So, here's what I say. "The best
18 way to see if your program is working is to ask your
19 workers." I should have said on the jobsite.

20 MS. DePRATER: At the site level. The best
21 way.

22 MR. STAFFORD: "If they are identifying
23 hazards, fixing them before someone gets hurt, raising
24 safety issues regularly and easily, or acting to stop
25 the job if there is a dangerous situation, then you

1 have an effective program."

2 That may be oversimplification, but that was
3 my attempt to say on the job if all these things are
4 happening, your program is probably pretty good. You
5 have policies in place. You have written programs.
6 Your workers are empowered to report hazards, and
7 management is doing something about it.

8 MR. HAWKINS: Certainly the converse is
9 true. If you don't have these things, you do not have
10 an effective program.

11 MR. STAFFORD: Right. Whatever you do, no
12 matter what the pretty, little book looks like in your
13 office on your shelf.

14 MR. HAWKINS: And who all signs it.

15 MR. STAFFORD: Right. So, "How to
16 accomplish it. You can create a short, anonymous
17 survey." There's plenty of surveys that we can put
18 into an appendix if employers, you know, want
19 guidance, "where they can give you an honest picture
20 of what is happening. You may be surprised what they
21 say, but it's definitely the best measure of success.
22 Where problems are identified, ask workers for help in
23 solving them and coming up with better, safer
24 approaches and procedures."

25 I guess my point is here, because we've seen

1 this. I mean, it's going back now, but when we were
2 involved in doing the assessment out at the Sidney
3 Center project, where we had eight construction
4 fatalities over a 15 month period on that jobsite and
5 did the perception survey, if you were to talk to
6 senior management of that employer, they would say
7 that, "We have a great program and we have tremendous
8 culture and everything is terrific."

9 But as you go down the line of the chain of
10 command to general foreman, foreman and ultimately to
11 the workers, the workers' foreman had significant
12 perceptions of what was happening on that job that was
13 different than senior management, and you could never
14 get there if you were just looking at what the
15 elements of what was written in a program. You could
16 only get there by looking what was happening on that
17 specific construction site.

18 MR. HAWKINS: Right. That's the climate
19 question to those people.

20 MR. STAFFORD: Right.

21 MS. DePRATER: This is Cindy DePrater again.
22 If we were to leave Option 2 as to verify the overall
23 program is working, take this one as another action
24 item to verify the site program is working, would that
25 make sense?

1 That way you're not mixing the two. You're
2 saying the two steps are evaluate the overall program
3 regularly on an ongoing basis. Then you have to
4 evaluate your site level programs for their
5 effectiveness, as well. That's still part of your
6 program evaluation.

7 So, I'm suggesting we add the site level
8 piece as a separate action item. So, you're going to
9 verify the program, your overall program, is
10 implemented and operating, and then you're going to
11 verify your site level is operating. It's two steps.
12 It really is.

13 MR. STAFFORD: I know. Uh-huh.

14 MS. DePRATER: Just a suggestion.

15 MR. STAFFORD: I'm really looking at the
16 employers here. I mean, these are your programs,
17 right, Kevin? Speak up. Come on.

18 MS. DePRATER: This is what we would do.

19 MR. STAFFORD: We need to understand what's
20 going on, and what you're thinking about this. I
21 mean, these are Safety and Health Programs that
22 management is developing that are going to involve
23 workers in the process, and let's figure out how we're
24 going to evaluate whether it's working.

25 You could, I guess, survey managers, and ask

1 them if their own program is working. You can survey
2 front-line supervisors, and ask them, or you can
3 survey the workers. In my mind, as an employee
4 representative, I think the best way to understand or
5 evaluate whether your program is effective is talking
6 to the guys on the deck.

7 MS. DePRATER: And that's where this gets
8 to.

9 MR. STAFFORD: Jeremy?

10 MR. BETHANCOURT: Pete, Jeremy Bethancourt.
11 You know, one of the things that we did is we actually
12 did a survey of everybody and showed them where the
13 gap is, and what the management thinks, versus what
14 the employees thought, and it opened up some eyes as
15 to what was really going on, when workers thought one
16 thing that was different from what the management
17 thought.

18 MR. STAFFORD: Uh-huh. Okay.

19 MR. BETHANCOURT: So, providing some sort of
20 guidance like that might be helpful if we let them
21 know, you know, your perception is not necessarily
22 going to be what the guys in the field are seeing, as
23 far as safety management.

24 MR. STAFFORD: Right. I mean, we've all
25 been there. If you've worked in construction, you

1 have senior management saying one thing, and your
2 foreman says --

3 MR. BETHANCOURT: Heck no.

4 MR. STAFFORD: -- "Forget that. This is
5 what we're doing here today on my crew."

6 MR. BETHANCOURT: Right.

7 MR. STAFFORD: I mean, you know, that's --

8 MR. BETHANCOURT: That's exactly right.

9 MR. STAFFORD: -- what we're dealing with,
10 and that's the difference in perception. So, when
11 you're looking at a management program, and it's going
12 through or back to our discussion who's a manager and
13 a worker, it has to flow down.

14 And so how do you assess that it's really
15 doing that, is the question in my mind. How do you
16 evaluate that's happening? And you could look at
17 overall written programs, Cindy, and I think that
18 maybe we should, but, again, you know, I would almost
19 even throw out that evaluation of what your corporate
20 written program is, and go directly to what is
21 happening on each of your construction projects.

22 MS. DePRATER: Say that again.

23 MR. BETHANCOURT: Well, I like his survey.
24 I like your survey suggestion, Pete.

25 MR. STAFFORD: I mean, so you have a written

1 program, and it says all the right things, but if it's
2 not implemented -- the true evaluation in my mind is
3 how it's implemented on the jobsite. And so, to go
4 back and look to see what your program says about
5 PPE --

6 MR. BETHANCOURT: It doesn't matter.

7 MR. STAFFORD: -- I mean, while it might be
8 important, and may be updated, the bottom line is
9 what's happening on PPE is really only matters is
10 what's happening on the jobsite, if you go through the
11 hierarchy controls, and your program says you start
12 with engineering controls all the way down to PPE,
13 right?

14 MS. DePRATER: You have to start --

15 MR. STAFFORD: But on your jobsite, you're
16 not doing anything about engineering controls. You're
17 just handing out PPE.

18 MS. DePRATER: And that's the Action Item 3,
19 which was the correction of the deficiencies and
20 identifying opportunities to prove. You have to start
21 with a baseline. If you don't have that foundation
22 set to at least a 75 or 80 percent standard, they
23 don't have anything to start with, and if you're not
24 evaluating that properly, you're just throwing junk at
25 them.

1 So, you have to have a foundation. You have
2 to build from that foundation, and then you have to
3 identify and correct, which is Action Item Number 3.
4 I still think it's 3. It's two steps. Verify your
5 overall program is effective just by the written word,
6 and the way you've placed your rules, and then you can
7 go measure those rules.

8 MR. STAFFORD: Okay. Fair enough. Yeah,
9 Palmer?

10 MR. HICKMAN: Thank you. To get us to move
11 on, because I think these concepts do need to be
12 incorporated, I hear the entire program probably is
13 problematic, so I was going to say "all components,"
14 but to be consistent with the page 4 categorization,
15 it says "core elements," so perhaps we can say either
16 on an ongoing --

17 MR. STAFFORD: Page 4. Where are you,
18 Palmer?

19 MR. HICKMAN: On page 4.

20 MR. STAFFORD: I'm on page 22.

21 MR. HICKMAN: I understand that. So, we
22 don't want to wait for an annual evaluation of the
23 entire program, so I am suggesting that we evaluate
24 the core elements on an ongoing basis. That
25 incorporates we're looking at each component of it,

1 not just the entire thing, only on an annual basis.
2 We're looking at all components continuously.

3 MS. DePRATER: Sure.

4 MR. HICKMAN: I think that's what I'm
5 hearing that we want to do. I'm trying to use
6 terminology that's already in the document. On page
7 4, when we talk about all the components, they call
8 them core elements. I would have called it all
9 components, but I'm trying to be consistent with
10 terminology, unless we changed it from core elements
11 on page 4, where we give this overview of each
12 component of the program. So, we want to continuously
13 monitor all aspects of the program.

14 MS. DePRATER: I like that.

15 MR. STAFFORD: Yep.

16 MS. DePRATER: All aspects.

17 MR. HICKMAN: That's what I'm hearing the
18 direction we're trying to go. Pete, does that meet
19 your intent?

20 MR. CANNON: But I think what Pete is
21 saying, how do you monitor --

22 MR. STAFFORD: I just don't know how you do
23 that. I mean, unless you're actually implementing the
24 program on your project, how do you evaluate whether
25 your written program is working?

1 MS. DePRATER: I think that's part of how do
2 you accomplish that. That's within these bullets, and
3 we can add to them if they're not all there.

4 MR. HICKMAN: That's the how to accomplish
5 it.

6 MR. STAFFORD: Okay. Well, let's do it,
7 "How to accomplish it."

8 MR. HICKMAN: And I think you have some
9 great bullet points there that will get us there in
10 your supplemental document. So we're going from --

11 MR. BETHANCOURT: You just do it.

12 MR. HICKMAN: -- monitoring all at least
13 once a year to monitor everything continuously.

14 MS. DePRATER: All aspects.

15 MR. HICKMAN: And then how to accomplish it.
16 We have some things that are already there. You have
17 some things to add. I think we're all set. At least
18 I'm hearing that's going to address the concerns here,
19 which I think are valid.

20 MR. STAFFORD: Yes, Tom?

21 MR. MARRERO: But I think in addition, we
22 should put a bullet point that says, you know, ensure
23 the effectiveness of a site program, as well, just to
24 make sure that we got that covered, and maybe add some
25 sub-bullet points to that.

1 MR. HICKMAN: And to that point,
2 Tom -- Palmer Hickman -- if we move that note, maybe
3 that note could be tweaked a little bit to explain
4 what we mean.

5 MR. MARRERO: Yeah.

6 MR. HICKMAN: The program, maybe it's all
7 components of the program or all whatever we call it,
8 elements, core elements.

9 MR. STAFFORD: Maybe we're getting
10 cross-wise here, you know, in dealing with a -- maybe
11 we make the distinction between what your overall
12 corporate Safety and Health Program is to your site
13 specific plan --

14 MR. BETHANCOURT: There you go.

15 MR. CANNON: Yeah.

16 MR. STAFFORD: -- and somehow we break out
17 these action items in that way. Yeah, Chuck?

18 MR. STRIBLING: Maybe in this section, as
19 Mr. Hickman suggested, we expand that note to speak
20 directly about the importance of implementation
21 onsite, to drive home the point you've made that we
22 add language to this that emphasizes that this is more
23 than just reviewing a piece of paper. I mean, this is
24 for the construction industry, so this might be an
25 opportunity to come up with something that's not in

1 here to drive that home.

2 MR. STAFFORD: Right. Okay. So then, let's
3 go just real quickly, so that we can take a break here
4 for lunch and just get through the Program Evaluation,
5 so we can come back and deal with Multiemployer Sites
6 right after lunch. So, we have language, I think,
7 under Action Item 2 that's been modified. I can't see
8 it. Could you read it to me?

9 MS. QUINTERO: "Action Item 2, Verify the
10 program at each jobsite." You said something at each
11 jobsite. "Verify the program is implemented and is
12 operating." I don't know if we want to add, you know.

13 MS. DePRATER: I think "at each jobsite"
14 comes out.

15 MS. QUINTERO: Got it. Okay. "Continuously
16 evaluate the effectiveness of the entire program, and
17 your site-specific programs on an ongoing basis to
18 ensure that it operates as intended, controls
19 identified hazards effectively, and drive progress
20 towards established safety and health goals and
21 objectives."

22 MR. STAFFORD: I think, Cindy, that's
23 exactly what you said.

24 MS. DePRATER: That is.

25 MR. STAFFORD: So we're, everyone, okay with

1 that.

2 MR. HAWKINS: Yeah.

3 MR. BETHANCOURT: Yes.

4 MS. QUINTERO: We're going to add another
5 paragraph. That is the one for the note that was on
6 the bottom. We put it on the introduction. "The
7 scope and frequency of program evaluation will vary
8 depending on the changes in OSHA standards on the
9 scope, complexity and the maturity of the program and
10 on the types of hazards it must control."

11 MR. STAFFORD: Okay.

12 MS. DePRATER: I would take out "on the"
13 because it is changes in the OSHA standards, scope --

14 MS. QUINTERO: Perfect.

15 MS. DePRATER: -- complexity. There.

16 MR. STAFFORD: Okay. Okay. So then, "How
17 to accomplish it."

18 MR. BETHANCOURT: Right.

19 MS. DePRATER: Oh, my God.

20 MR. STAFFORD: Yes? I'm sorry, Chuck.

21 MR. STRIBLING: Is this where before we get
22 into how to accomplish it, we want to have a paragraph
23 or something that addresses the concept, what you've
24 been talking about, of it's what's happening at the
25 site?

1 MR. STAFFORD: Uh-huh.

2 MR. BETHANCOURT: Well, isn't that what we
3 talk about in how to accomplish --

4 MR. STAFFORD: Yeah. I don't know if we
5 should put that in a paragraph, or it becomes a
6 bullet.

7 MS. DePRATER: I think it's a bullet.

8 MR. STAFFORD: A bulleted item on how we
9 reconcile that.

10 MR. STRIBLING: Okay.

11 MS. DePRATER: It's a bullet.

12 MR. BETHANCOURT: It's a bullet.

13 MS. DePRATER: It's a bullet.

14 MR. STAFFORD: So, "How to accomplish it.
15 Verify that the program's core elements have been
16 fully and effectively implemented on each of your
17 jobsites."

18 MR. HAWKINS: Yep.

19 MR. BETHANCOURT: Yep.

20 MR. STAFFORD: "Verify that the following
21 key processes are in place and operating as intended.
22 Reporting injuries, illnesses." Okay. That's fine.
23 "Conducting workplace inspections." That's fine.
24 "Tracking progress and controlling identified hazards
25 to ensure that hazard control measures remain

1 effective." I think that's okay. "Collecting and
2 reporting the data needed to monitor progress and
3 performance."

4 MS. DePRATER: And then, I would --

5 MR. STAFFORD: So, what is that real quick?
6 What is the data we need to monitor performance? Are
7 we simply talking about injury/illness data? Are
8 we --

9 MR. BETHANCOURT: Inspection reports.

10 MR. STAFFORD: Inspection reports. I guess
11 my point is do we need to say as a guide what kind of
12 data are we talking about, such as?

13 MR. BETHANCOURT: An example.

14 MS. DePRATER: Such as.

15 MR. STAFFORD: So, such as? Throw them out.

16 MR. BETHANCOURT: Inspection reports.

17 MR. HAWKINS: Inspection reports.

18 MR. MARRERO: Training.

19 MR. BETHANCOURT: Observations. Employee
20 observations.

21 MS. DePRATER: Yes.

22 MR. BETHANCOURT: Those are leading
23 indicators.

24 MR. STAFFORD: Okay.

25 MR. STRIBLING: Didn't we just go through

1 that?

2 MR. STAFFORD: So, inspection results.

3 MR. BETHANCOURT: Results of inspection.

4 MR. STAFFORD: All right. Employee
5 observations.

6 MR. STRIBLING: Didn't we just go through
7 that --

8 MR. BETHANCOURT: We did.

9 MR. STRIBLING: -- talking about under
10 Action Item 1 the lagging and leading indicators?

11 MR. STAFFORD: Uh-huh.

12 MR. BETHANCOURT: We did.

13 MR. STRIBLING: So, if I'm reading this
14 book, I'm thinking that's the data we're talking
15 about, what we just addressed.

16 MR. STAFFORD: Okay.

17 MR. BETHANCOURT: Can we say, "As in Action
18 Item 1?"

19 MS. DePRATER: Yes.

20 MR. STAFFORD: Okay.

21 MR. CANNON: Or, "Such as the leading
22 indicators identified in" --

23 MR. BETHANCOURT: In Action Item 1.

24 MS. DePRATER: In Action Item 1.

25 MR. BETHANCOURT: There you go.

1 MR. STAFFORD: And whatever it is, I mean, I
2 think we just have to tell them what we're talking
3 about when we talk about data collection.

4 MR. BETHANCOURT: Pete? Mr. Chairman?

5 MR. STAFFORD: Yeah, Jeremy?

6 MR. BETHANCOURT: Jeremy Bethancourt. Now,
7 it seems to me like, and I don't know if we put it
8 after this, since we've said verify that key processes
9 are in place as intended and then we're going to list
10 that.

11 I think one of the things that we do need to
12 do and to your point about the climate and the culture
13 on the job is that we do some sort of a survey, and
14 where we would stick that bullet item based on your
15 number, "How to accomplish it," your bullet item, I
16 actually thought that something similar to what you've
17 written should be integrated somewhere, because I
18 don't see anything in here yet that talks about
19 surveying --

20 MR. CANNON: "Action Item 3, Proactively
21 seek input." I mean, I don't know.

22 MR. BETHANCOURT: But that's correct
23 deficiencies. I'm not sure if --

24 MR. CANNON: But that's how you identify the
25 deficiencies.

1 MR. HICKMAN: Through anonymous surveys.
2 Proactively seek input through anonymous surveys.

3 MS. DePRATER: Yeah.

4 MR. BETHANCOURT: In Action Item 3.

5 MR. STAFFORD: So, we could do it in Action
6 Item 3, and just give an example. "Proactively seek
7 input from managers, workers, supervisors and other
8 stakeholders on how you can improve the program," and
9 then we could say something like, for example, for
10 instance, "you can create a short, anonymous survey,"
11 and then reference the attachment where there are
12 instruments that we and other folks have developed to
13 do that, and then give them the guide. How does that
14 sound?

15 MR. HICKMAN: That's good.

16 MR. STAFFORD: Is everyone okay with that?

17 MS. DePRATER: Yep.

18 MR. STAFFORD: That's where that would go?

19 MS. DePRATER: Yep. I'm just making sure
20 she's catching up with us.

21 MR. STAFFORD: All right.

22 MR. BETHANCOURT: Oh, are you reading what
23 she's doing as she's doing it?

24 MS. DePRATER: I am.

25 MR. BETHANCOURT: Good for you.

1 MR. STAFFORD: Any other changes, then, for
2 the Action Item 3, and how to accomplish it? All that
3 applies? Everybody is okay with that?

4 MS. LAWLESS: Mr. Chairman, did we capture
5 that as stated? Or, Cindy, since you can see it?

6 MS. DePRATER: You did. You did.

7 MS. LAWLESS: Great.

8 MS. DePRATER: "Such as leading and lagging
9 indicators as identified in Action Item 1."

10 MS. LAWLESS: Thank you.

11 MR. STAFFORD: Okay. And then, "Action Item
12 3, How to accomplish it," and bullet two, "Proactively
13 seek input from managers," et cetera, et cetera,
14 et cetera. We're going to give a for instance, there
15 and go back to the other document that says, "you can
16 create short, anonymous," blah, blah, blah, and then
17 reference the instruments in the appendix.

18 MS. LAWLESS: Mr. Chairman, we also have a
19 bullet here from yesterday from Mr. Nigel Ellis that
20 says to insert the following. "One thing may be
21 missing on page 22, Action Item Number 3. Correct
22 program deficiencies and identify opportunities for
23 improvement, seek out relevant public published
24 research to help improve safety methods.: I believe
25 that was by Young & Beschorner. That was his

1 reference. Do you want to incorporate that, as an
2 example?

3 MR. CANNON: It's specific research.

4 MR. BETHANCOURT: We have to be careful who
5 we -- we don't look like we're -- what's the right
6 word? Endorsing. Endorsing.

7 MR. STAFFORD: So, you don't want to do it?
8 Is that what you're saying?

9 MR. HAWKINS: Not the example.

10 MR. CANNON: No. No.

11 MR. STAFFORD: Not the example.

12 MR. BETHANCOURT: I think the Agency tends
13 to be concerned about that.

14 MR. HAWKINS: We can say published data, but
15 not that specific one.

16 MR. BETHANCOURT: Yeah.

17 MR. STAFFORD: All right. So, we'll take
18 out the example, and add the bullet, "Seek out
19 relevant published" --

20 MS. LAWLESS: "Research to help improve
21 safety methods periods?"

22 MR. BETHANCOURT: That's it.

23 MR. STAFFORD: Period.

24 MR. BETHANCOURT: That's it.

25 MS. LAWLESS: Got it.

1 MS. DePRATER: Are we adding the survey to
2 the proactively --

3 MR. STAFFORD: Yeah.

4 MS. DePRATER: Okay.

5 MR. STAFFORD: I think we can just say --

6 MS. DePRATER: Perfect.

7 MR. STAFFORD: -- "for instance," or, you
8 know --

9 MS. DePRATER: Perfect.

10 MR. STAFFORD: "You can develop, create a
11 short, anonymous survey," blah, blah, blah.

12 MS. DePRATER: Bullet three, I would take
13 out facilities.

14 MR. STAFFORD: Okay. So, did you get that,
15 Danezza?

16 MR. CANNON: So, maybe say --

17 MR. STAFFORD: So, bullet three under Action
18 Item 3, we're going to determine whether changes in
19 equipment, materials, key personnel or work practices
20 trigger any need for changes for the program, and take
21 out the word facilities.

22 MS. DePRATER: Uh-huh. Yep.

23 MR. STAFFORD: Any other?

24 MR. HICKMAN: Are we going to take out
25 "metrics" in the fourth bullet?

1 MR. STAFFORD: Fourth bullet. "Determine
2 whether the metrics and goals are still relevant, and
3 how you can change them to more effectively drive
4 improvements and workplace safety and health."

5 MS. DePRATER: Would you just change that to
6 indicators?

7 MR. HICKMAN: Indicators and goals?

8 MR. PRATT: What does that mean?

9 MS. DePRATER: You have to have some sort of
10 metric to gauge yourself against.

11 MR. STAFFORD: What do you think? I mean,
12 is that --

13 MS. DePRATER: Objectives? Goals and
14 objectives?

15 MR. STAFFORD: I mean, when I read that, I
16 mean, as a practical matter, you know, if you're --

17 MS. DePRATER: It makes perfect sense.

18 MR. STAFFORD: Where are your goals
19 changing? I mean, at the end of the day, if you're
20 striving for zero hazards, and therefore zero
21 injuries, I mean, determine whether your goals are
22 still relevant.

23 What does that mean? We're going to shift
24 goals in midstream of a construction project, and
25 we're going to figure out if our new goals are

1 relevant to that jobsite? I'm not sure even what
2 that -- the words sound good, but I don't know what it
3 means.

4 MR. BETHANCOURT: Take the bullet out.

5 MR. STAFFORD: What do you think? I'm just
6 not sure what it does.

7 MR. BETHANCOURT: On a project, how are we
8 changing our goals if we've planned it out? It's a
9 goal. I sure as heck am not changing my goal.

10 MS. DePRATER: All of our projects have
11 goals --

12 MR. STAFFORD: Yeah.

13 MS. DePRATER: -- to meet.

14 MR. STAFFORD: Right.

15 MR. BETHANCOURT: That's it. You don't
16 change them.

17 MR. STAFFORD: Are you changing them? I
18 guess --

19 MR. BETHANCOURT: No.

20 MS. DePRATER: We're not changing them, but
21 we're determining whether they're --

22 MR. MARRERO: You might be adding to it.

23 MS. DePRATER: -- effective.

24 MR. BETHANCOURT: You're never going to get
25 rid of them.

1 MS. DePRATER: Maybe not relevant, but
2 effective.

3 MR. STAFFORD: Okay. Well, if you can come
4 up with some language, Cindy, that you think is
5 better. I just --

6 MS. DePRATER: "Determine whether the
7 metrics and goals established are effective." Let me
8 work on that one. Let me work on that one. Let me
9 write something down, but I think it's going to be,
10 "Determine whether the goals and metrics -- metrics
11 and goals -- established are being implemented to
12 drive continual improvement in workplace safety and
13 health." I don't know whether I can say that again or
14 not.

15 MR. STAFFORD: All right. You play with
16 that. I mean, in my mind, I mean, if you're
17 questioning --

18 MS. DePRATER: "Determine whether the
19 metrics and goals established are implemented --

20 MR. STAFFORD: Again, as a practical matter
21 what is the goal --

22 MS. DePRATER: -- to drive improvement in
23 safety and health."

24 MR. STAFFORD: -- of your program? You
25 don't want anybody hurt on the job, right? Does that

1 goal ever change?

2 MR. BETHANCOURT: That's the goal. I don't
3 see how it changes.

4 MS. DePRATER: The goal doesn't change, but
5 how you're implementing it does change, and that's
6 through your control measures, your practices, your
7 procedures and whether they're following it.

8 So, a great example is a utility line
9 strike. You can have all the processes and procedures
10 in place to identify that line, locate the line, do
11 the potholing, hydro vaccing, everything, and you
12 still hit the line. And every time we go back and
13 look at something like that, it's typically a
14 procedure that was not followed. Somebody missed a
15 step and cut a corner.

16 MR. STAFFORD: But has your goals changed?

17 MS. DePRATER: The goal didn't change. I'm
18 not saying the goal. You still have to measure it,
19 though, to determine whether they're effective, your
20 processes and procedures are effective.

21 MR. CANNON: In meeting your goals.

22 MS. DePRATER: And again, if you don't like
23 goals, then --

24 MR. STAFFORD: No. I'm fine.

25 MS. DePRATER: -- "determine whether your

1 processes and procedures" --

2 MR. STAFFORD: It's not that at all. I just
3 don't understand where your goals change. You
4 start --

5 MS. DePRATER: I'm not saying the goals
6 change.

7 MR. STAFFORD: It says, "Determine whether
8 the metrics and goals are still relevant and how you
9 could change them to more effectively drive
10 improvements in workplace safety and health." So, how
11 are you changing your goals midstream?

12 MR. HICKMAN: Let's constructionize that
13 bullet point --

14 MS. DePRATER: There you go.

15 MR. HICKMAN: -- because it makes no sense,
16 apparently, in relationship to a construction site.

17 MS. DePRATER: Okay.

18 MR. HICKMAN: If we need to keep it at all.

19 MS. DePRATER: You still have to measure.

20 MR. HICKMAN: I guess the question is what
21 do we lose if we delete it from a construction focused
22 document? What do we lose? It seems like the essence
23 of it is captured in the other bullet points there.

24 MS. DePRATER: The thing I'm keying on is
25 identify opportunities to improve in the heading, and

1 if we're going to improve, we have to measure. So,
2 that's all I'm saying is if you're going to improve,
3 you have to have something to measure your percent
4 improvement over baseline.

5 MR. STAFFORD: Okay. That's fair enough.
6 You work on some language --

7 MS. DePRATER: Okay.

8 MR. STAFFORD: -- Cindy, that you think
9 would be appropriate.

10 MS. DePRATER: You can lose this whole thing
11 if you want, but there still just has to be one
12 sentence that says make sure that you are measuring
13 the program -- if you want to say it that way,
14 measure -- because the program is here. "Measure the
15 program for effectiveness to drive improvement."
16 Pretty simple.

17 MR. STAFFORD: Okay. Fair enough.

18 MS. DePRATER: But let me work on it.

19 MR. STAFFORD: I mean, I think this whole
20 document is about continuous improvement, so I think
21 that's right. Okay. Before we tackle Multiemployer
22 Worksites, why don't we take a lunch --

23 MR. MARRERO: Mr. Chairman?

24 MR. STAFFORD: Yes, Tom?

25 MR. MARRERO: I'm sorry. And I know

1 everybody wants to go to lunch. Going back to Action
2 Item Number 2, I think we should add something in
3 there, and I know, Palmer, you stated that it was
4 somewhere in 3 here, in Action Item 3, but I think we
5 need to put something in here that states, "As site
6 conditions change ensure that the core elements are
7 maintained."

8 That's not necessarily a deficiency. But
9 it's more something that we should be implementing on
10 a continuous basis. And within the construction
11 industry, since there's always conditions changing, I
12 think we should highlight that as a bullet, as a
13 bullet point in here.

14 MR. STAFFORD: On How to accomplish it? A
15 new bullet under How to accomplish it, under Action
16 Item 2?

17 MR. MARRERO: Yes.

18 MR. STAFFORD: And so read it again, Tom.

19 MR. MARRERO: "As site conditions change,
20 ensure that the core elements are maintained."

21 MR. STRIBLING: Question. I get what you're
22 saying, but they change every, single day.

23 MR. BETHANCOURT: That's why it's
24 continuous.

25 MS. DePRATER: Right.

1 MR. STRIBLING: Every hour. So, it's kind
2 of like you're in a perpetual, just chasing your tail.
3 I get what you're saying, but --

4 MR. MARRERO: Right.

5 MR. STRIBLING: -- that's construction.

6 MR. BETHANCOURT: I feel like I'm chasing my
7 tail right now.

8 MS. DePRATER: Uh-huh. Sure.

9 MR. MARRERO: I'll just throw it out there
10 for food for thought.

11 MR. BETHANCOURT: It's well taken.

12 MR. STAFFORD: Yeah. Okay. All right. Why
13 don't we break until 1:00.

14 MS. DePRATER: Sounds good.

15 MR. STAFFORD: That gives us 50 minutes.
16 All right. Thank you.

17 (Whereupon, at 12:10 p.m., the meeting in
18 the above-entitled matter recessed, to reconvene at
19 1:00 p.m. this same day, Tuesday, April 26, 2016.)

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A F T E R N O O N S E S S I O N

(1:10 p.m.)

MR. STAFFORD: All right. So, let's reconvene, please. A little bit behind schedule. All right. Let's move on down to the home stretch here. I know this has been a very, I guess, grueling process, but we're getting close here to the end, at least on the last section dealing with coordination and communication on multiemployer sites, so let's take that up.

So, we have the document itself, the core document. I, in my document, really didn't say a whole lot on this issue. I ran out of time and energy. So, let's just look at the core document. I mean, up front I would say that to distinguish us, the, you know, "Does This Element Apply to Me?" for a construction-specific document, that that be -- I would suggest we delete that altogether.

MR. HAWKINS: Just replace this with a yes?

MR. STAFFORD: Yeah. Or we could just say yes. Right. Yeah. All right. Then --

MR. HAWKINS: If you X that out, I think we all agree with that.

MR. STAFFORD: To X out --

MR. HAWKINS: We ought to just take that --

1 MR. STAFFORD: I think we should just take
2 that out. I mean, this is our, you know -- and I
3 would go ahead and -- if you could just bear with me,
4 I looked at it and the first sentence there, or
5 paragraph of the lead in introduction, I
6 would -- here's -- I've just tweaked it a little bit.

7 I said, "At most construction work sites
8 today, workers of more than one employer work
9 alongside or interact which (sic) each other." So
10 that would -- you know, as opposed to, "On many work
11 sites today."

12 "Typically, some workers are employed by a
13 host employer." You know, that's terminology, I
14 think, that when we were looking this for general
15 industry OSHA was trying to make the distinguish
16 between the host employers versus a temporary agency
17 or temporary workers.

18 In our case, in construction, if you want to
19 call it the host employer, I think that's fine, versus
20 the general contractor or the construction manager.
21 But if a host employer fits the bill on what it is
22 that we're talking about, I'm fine with leaving that,
23 and if the committee is. It's just what you think
24 about it.

25 "Typically, some workers are employed by a

1 host employer" -- so let's go with that -- "and others
2 by a contractor, subcontractor, temporary staffing
3 agency, or independent or temporary workers," I would
4 say.

5 MR. BETHANCOURT: You know, I would take off
6 staffing agency, Mr. Chairman.

7 MR. STAFFORD: But in some cases, there are
8 staffing agencies.

9 MR. BETHANCOURT: Okay. I see what you're
10 saying. I see.

11 MR. STAFFORD: Okay. So, Jennifer.

12 MS. LAWLESS: Leave it in?

13 MR. STAFFORD: Yeah. So the -- again, I'm
14 just going through this, you guys. "Typically, some
15 workers are employed by a host employer." We're good
16 with that. As opposed to saying contractor, general
17 contractor, construction manager, the contractor in
18 charge, we're calling host employer. That's fine.

19 "And others by contractor, subcontractor,
20 temporary staffing agency or temporary workers."

21 MR. RANK: So, workers would be employed by
22 temporary workers?

23 MR. STAFFORD: All right. Well, all right.

24 MR. BETHANCOURT: Mr. Chair?

25 MR. HAWKINS: You see where -- is staffing

1 agency just a wrong term now?

2 MR. BETHANCOURT: Mister --

3 MR. STAFFORD: Yeah. Hold on.

4 MR. MARRERO: Yeah. Everybody assumes
5 temporary workers are individuals from staffing
6 agencies and that's a misconception, because there's a
7 lot of different contingent workforce arrangements.

8 MR. STAFFORD: So, in a multiemployer site,
9 you have temporary workers that are coming out of a
10 staffing agency, and perhaps you have independent
11 temporary workers that are coming to the job site, not
12 from staffing agencies, employed by the host, employed
13 by the subcontractors. I mean, I guess we just have
14 to figure out how to put the language in there to
15 cover that, on who the employer is, in this case of
16 temporary workers.

17 Yeah, Jeremy?

18 MR. BETHANCOURT: Could we -- might I
19 suggest where we have the comma, temporary staffing
20 agencies, or other contingent temporary workers, or
21 something.

22 MR. HAWKINS: Can you give us an example?

23 MR. BETHANCOURT: Well --

24 MR. MARRERO: Piece workers.

25 MR. BETHANCOURT: Yeah, piece workers.

1 MR. STAFFORD: You know, if you look at the
2 data, I mean --

3 MR. HAWKINS: You mean in construction?

4 MR. BETHANCOURT: Yeah. All the time.

5 MR. HAWKINS: Can you give us -- I'm sorry.

6 MR. STAFFORD: No, I'm just going to say,
7 Steve, I mean I think in the construction industry now
8 we have about two million workers that are classified
9 as independent contractors. Two million.

10 MR. HAWKINS: Rightly or wrongly.

11 MR. STAFFORD: Rightly or wrongly.

12 MR. BETHANCOURT: Rightly or wrongly. Yep.
13 That's it. And they're there.

14 MR. HAWKINS: Well, they don't just walk up
15 on their own volition and start to work, so somebody's
16 telling them what to do, generally, right?

17 MR. BETHANCOURT: That's right, but
18 they -- that's true, but they do just walk up.
19 Sometimes, they're given a job, and they do the job
20 and they move on.

21 MR. HAWKINS: If they do that for your
22 company, they're your employee, right?

23 MR. STAFFORD: That's right.

24 MR. BETHANCOURT: That's right, but they're
25 temporary. Yeah, they're -- but they're temporary.

1 They're in and out.

2 MR. HAWKINS: But they're still -- but --
3 they may be temporary, but I think this is talking
4 about if they're temporary and they work for you,
5 they're your employee for the purposes of this
6 paragraph. Can you give me an example of somebody, a
7 temporary -- who doesn't fit into one of these four
8 categories?

9 MR. MARRERO: This is Tom Marrero, employer
10 representative. The independent contractor that
11 comes -- that is hired -- that is just hired on that
12 isn't traditionally a independent contractor with, you
13 know, the LLC, or, you know, the worker's comp
14 insurance or anything. He's just an individual and
15 he's 1099, onto a job, hired --

16 MR. HAWKINS: So he's self-employed.

17 MR. MARRERO: Self-employed.

18 MR. STAFFORD: Self-employed. Uh-huh.

19 MR. MARRERO: Self-employed.

20 MR. BETHANCOURT: Right, but on a multi --
21 I'm sorry.

22 MR. STAFFORD: That's okay. That's all
23 right.

24 MR. BETHANCOURT: But on a multiemployer job
25 site -- when we're talking about a multiemployer job

1 site, you are actually regulating the rest of the
2 people that are on that job site independent of that
3 guy, and they have responsibilities to that guy on a
4 multiemployer job site. Am I incorrect? And so,
5 that's what this is, this section is talking about.

6 MR. HAWKINS: Well then, so if we added,
7 "and some may be self-employed," does that now catch
8 every possible person that would be on site?

9 MR. BETHANCOURT: Contingency would be the
10 best word, because it encompasses all those
11 different --

12 MR. HAWKINS: Well, we've tried to get away
13 from terms that most folks don't -- I don't think most
14 readers would know what you're talking about if you
15 said that. I could be wrong. I just, I wouldn't
16 think that most people would know contingency workers.
17 I don't --

18 MR. STAFFORD: All right. Well, let's look
19 at it again. Palmer? Palmer, go ahead.

20 MR. HICKMAN: Thank you. All right. So, in
21 the context of the sentence, it said, "some workers
22 are employed by," and we're giving examples, so we
23 can't say temporary workers are employed by temporary
24 workers. So either -- I'm going to suggest that we
25 could take the whole sentence out, and would the first

1 sentence and the last sentence make sense without
2 those examples?

3 MR. BETHANCOURT: Less is more.

4 MR. STAFFORD: All right. So, right now the
5 way -- "At most construction work sites" -- come on.
6 We're going to have to get through this first
7 paragraph here. "At most construction work sites
8 today, workers of more than one employer work
9 alongside or interact with each other." We all agree
10 with that.

11 "Typically, some workers are employed by a
12 host employer, which may be an owner or general
13 contractor" -- I guess that's fine -- "and others by a
14 contractor, subcontractor or temporary staffing
15 agency." Now, temporary staffing agency is different,
16 right, because these are temporary workers coming out
17 of a staffing agency, versus you stopping down at the
18 7-11 in the morning, and getting three guys off the
19 corner, and putting them in your pick up truck, and
20 taking them to the job site.

21 MR. HAWKINS: Those are temporary workers.
22 They belong to you.

23 MR. STAFFORD: Those are, but -- right, but
24 they're not coming through an agency, I guess is the
25 distinction. So, the --

1 MR. HAWKINS: So, the only thing that looks
2 like that's missing here is a self-employed
3 individual.

4 MR. STAFFORD: Uh-huh. So, I don't know.
5 We're -- Kevin, I mean, how often on a large AGC
6 member contractor do you have self-employed people out
7 on your job sites?

8 MR. CANNON: I would say -- I mean, I can't
9 give you a figure as how often, but it -- I would say
10 it does happen.

11 MR. STAFFORD: A lot. It's -- I mean, it's
12 a typical -- it's not surprising to see that.

13 MR. CANNON: No, it wouldn't be surprising
14 but I can't, you know, give the frequency.

15 MR. PRATT: Mr. Chairman?

16 MR. CANNON: There's a lot more than what we
17 like to admit.

18 MR. PRATT: In the residential field you
19 probably have at least 50, maybe more, percent of your
20 workers are self-employed or 1099 employees. 1099 --

21 MR. HAWKINS: Also known as misclassified.

22 MR. PRATT: Well but it doesn't matter.
23 They're still that way, okay? I mean, I can't
24 determine what IRS is going to do, but they are there,
25 and they're working.

1 MR. STAFFORD: Right. Okay.

2 For the purposes of this guideline, though,
3 I mean, if we think about it, if we have a large
4 multi-employee project, even if it's, you know, a
5 residential area where a lot of homes are going up,
6 and 50 percent of the workforce out there are
7 self-employed, then for the specifics, you know, for
8 the purposes of this guide, are we suggesting that the
9 host employer be sure that those self-employed people
10 are a part of the program, have a say in the program,
11 have written programs and policies, all the things
12 that we've been talking about today?

13 MR. PRATT: That's exactly where I'm going.

14 MR. HAWKINS: Yes.

15 MR. STAFFORD: Uh-huh.

16 MR. PRATT: Are we going to say that? As an
17 example, if I hire somebody to put a roof on a house,
18 I may look up there, and there may be five independent
19 contractors working on that roof.

20 MR. HAWKINS: It's almost guaranteed that
21 those people are misclassified employees.

22 MR. PRATT: They're piecemeal.

23 MR. HAWKINS: It's almost guaranteed. You
24 apply the employee test to those people, I would
25 submit to you eight out of 10 times, they're

1 misclassified employees.

2 MR. STAFFORD: Uh-huh.

3 MR. HAWKINS: Just because people are
4 cheating, I don't think we ought to acknowledge that
5 in this document. If you want to add some are
6 self-employed, I'm okay with that.

7 MR. STAFFORD: No, I think we should because
8 we have to deal with how the self-employed are -- have
9 fit into the program. Because I agree with you, you
10 know, I think there's a lot of misclassification out
11 there, but there's a lot of legitimate single
12 self-employed contractors.

13 MR. HAWKINS: One man show. One man show.

14 MR. STAFFORD: One man shops.

15 MR. PRATT: And the host employer has
16 exposure.

17 MR. STAFFORD: Uh-huh.

18 MR. HAWKINS: I think we ought to add self-
19 employed, but --

20 MR. STAFFORD: Okay. So all right.
21 "Typically, some workers employed by the host
22 employers and others by a contractor, subcontractor,
23 temporary staffing agency, or are self-employed?" Is
24 that --

25 MR. PRATT Yes.

1 MR. BETHANCOURT: Sole proprietor? Is that
2 the right word?

3 MR. STRIBLING: No.

4 MR. HAWKINS: No, it's self-employed. You
5 better use that. People will know what that means.

6 MR. STAFFORD: Tom?

7 MR. MARRERO: The DOL has a definition for
8 contingent worker, and it uses independent contractor
9 and part time, temporary, seasonal, and lease workers,
10 so I don't -- can we use some of that? Would it be
11 too much?

12 MR. HAWKINS: Why would we when it's a
13 seasonal worker, but during the season that they're
14 working, they work for you, and that's already stated
15 in here.

16 MR. BETHANCOURT: Yeah. I think this works
17 better.

18 MR. STAFFORD: Okay. So, I'm going to read
19 it again and see if we're hitting here. "Typically,
20 some workers are employed by a host employer, which
21 may be an owner or general contractor, and others by
22 contractors, subcontractors, temporary staffing
23 agency, or are self-employed." Is that okay?

24 MR. PRATT: Yeah. I think we covered it.

25 MR. STAFFORD: All right. "In these

1 settings, employers must establish mechanisms to
2 coordinate their efforts and communicate information
3 to ensure that all workers on site and their
4 representatives can participate in efforts to prevent
5 and control injuries and illness, and that workers are
6 afforded equal protections against hazards."

7 MR. HAWKINS: That last part is kind of --

8 MR. STAFFORD: I don't like that.

9 MR. HAWKINS: It sounds like the 17th
10 Amendment of the Constitution, or something. It seems
11 odd to be right there. I don't know what that
12 amendment is, but -- not equal -- that's strange to
13 me. It seems strange.

14 MR. STAFFORD: It just seems like to me it
15 should say, "In these settings, employers must
16 establish mechanisms to coordinate their efforts and
17 communicate information to ensure that all site
18 employers and workers" -- I mean, you know, I guess --
19 or their representatives? I'm not even sure why
20 that's there.

21 MR. RANK: We should just strike that whole
22 sentence.

23 MR. HAWKINS: Not the whole sentence, I
24 don't think. The last half of it. I don't think.

25 MR. PRATT: Stop right after --

1 MR. STAFFORD: So, what does that mean, and
2 their representatives? That we're talking about a
3 union shop steward?

4 MR. CANNON: Yeah. And then, it says it
5 down in the bottom.

6 MR. STAFFORD: Okay. Where at?

7 MR. CANNON: "OSHA refers to these -- OSHA
8 refers to just not -- but their representatives, such
9 as labor unions."

10 MR. STAFFORD: Do we want to do that? I
11 mean, to me the most important thing is, in this case,
12 that those, the communication is amongst the
13 employers. It's the employer's responsibility to pass
14 that on to their own employees. If you're a
15 self-employed contractor, you or an employer should
16 get that information.

17 I mean, you know, as someone that's -- works
18 and likes unions, I'm not so sure why that we want to
19 start involving shop stewards in a program standard,
20 personally. What are the other -- Steve Rank, I'm
21 looking at you. You're a labor representative.

22 MR. RANK: Yeah. I just think that it's
23 been noted down at the bottom, and as long as it makes
24 reference to the representative, which could be, you
25 know, how we work in our framework.

1 MR. STAFFORD: I mean, it's not that it's a
2 good thing. I'm just not saying in the guideline that
3 we should be worried about how we're getting
4 information to the shop stewards, or to the business
5 manager, or agent, right?

6 MR. RANK: Right. I guess you could read
7 into it several ways. That's the problem.

8 MR. HAWKINS: I think we would end the
9 sentence after injury and illness. I think it seems
10 really odd that we say, "Workers are afforded equal
11 protection against hazards," unless -- I don't know
12 what we're trying to convey there.

13 MR. STAFFORD: I don't know that either.

14 MR. HAWKINS: If we did, we might want to
15 leave it, but I just don't know what the intention was
16 when that was written.

17 MR. STAFFORD: It seems like we've covered
18 that in other sections. So, if we're good with that,
19 then, "In these settings, employers must establish
20 mechanisms to coordinate their efforts and communicate
21 information to ensure that all" -- are you -- are you
22 folks good with all site contractors and workers --

23 MR. STRIBLING: How about --

24 MR. STAFFORD: -- can participate -- yeah,
25 Chuck?

1 MR. STRIBLING: How about just changing
2 workers to persons? Fits everybody. Or you can spell
3 it out like you said. Just --

4 MR. STAFFORD: I guess my confusion is, in
5 my mind, when we're talking about coordination and
6 communication, we're talking about coordination and
7 communications between contractors.

8 MR. STRIBLING: Okay.

9 MR. STAFFORD: I mean, not that coordination
10 and communication between workers is not important.
11 This is a management guideline. I think the point is
12 that we have to come up with ways that our contractors
13 and multiemployer sites are talking to each other, and
14 communicating about the program.

15 MR. PRATT: So, we're going to put a period
16 after workers.

17 MR. HAWKINS: After illness.

18 MR. STAFFORD: And strike the and the --

19 MR. PRATT: Okay. All right.

20 MR. STAFFORD: I think. I'm still --

21 MR. HAWKINS: Maybe the goal, maybe what was
22 intended there is that Lisa and I own a company, and
23 Lisa's employees are protected from hazards that I
24 create. Maybe that's what they intended to say that,
25 for multiemployer work site.

1 MR. STAFFORD: Uh-huh. All right. Well, we
2 need to move on. I mean, I guess for now, we could
3 just leave that. I mean, I don't want to confuse it
4 but in my -- maybe I'm the one confusing it, because
5 in my mind, again, this is the -- coordinating amongst
6 workers is great but, really, the idea is how we
7 commord -- communicate amongst the contractors on a
8 multiemployer site. It's up to each individual
9 employee to coordinate and communicate with their own
10 workforce.

11 MR. BETHANCOURT: So, we're substituting the
12 word contractors where it says --

13 MR. STAFFORD: I don't know that we are, but
14 I'm just saying, I mean, this is just my opinion, that
15 we're talking about coordination and communication
16 amongst contractors, I think.

17 MR. BETHANCOURT: It would make more sense
18 then, to have the word "their representatives" there,
19 too, when you substitute the word contractors.

20 MR. CANNON: To your point, should that
21 ensure that each employer? Because, again, we're
22 talking about --

23 MR. STAFFORD: Well, I don't know. We can
24 wordsmith it. I guess, for now, we've taken out
25 the -- shortened that sentence. If you're -- see,

1 again, this to me is where the -- this is this general
2 industry setting when you're on the shop floor, and
3 all the shop stewards are there along with the
4 workforce.

5 But that's -- you know, that happens some
6 ways in construction, but if we're talking about that
7 we have to put together a program that your business
8 agent has to be involved in coordinating amongst their
9 members on a multiemployer site, it just
10 becomes -- it's very complicated, and I don't think
11 that's what we're talking about.

12 I think we're talking about coordinating
13 between the employers, not coordinating between the
14 worker representatives and the workers.

15 MR. CANNON: I agree.

16 MR. BETHANCOURT: Right.

17 MR. STAFFORD: Okay. All right. So, let's
18 move on to Action Item 1: Management Leadership. "On
19 a multiemployer worker environment, the host employer
20 and the contractor, subcontractor, or temporary
21 staffing agency commit to a program that will provide
22 the same level of safety and health protection to
23 temporary and contract workers as to permanent
24 workers."

25 So, this is where -- you know, I think that

1 we really need to take some time on this section,
2 because I -- you know, I -- this is where we have to
3 make the break between, in this document, their -- in
4 their view, a multiemployer site is where you have a
5 host and you have temporary workers, not where you
6 have a host, a general contractor, or a construction
7 manager, and several tiers of subcontractors. It's
8 not -- it's missing here.

9 MR. RIVERA: Mr. Chairman, Jerry, employer
10 rep. What about if we add this language. It says,
11 "In a multiemployer work environment, the host
12 employer and the contractor, subcontractor, temporary
13 staffing agency commit to a program that will provide
14 the same level of safety and health protection" -- and
15 here's where I insert new language -- "for all workers
16 on site." Then strike out the remaining.

17 So, basically, after safety and health
18 protection, for all workers on site.

19 MR. BETHANCOURT: And then you cover
20 everybody.

21 MR. STAFFORD: What do you all think?

22 MR. RIVERA: Or for workers on site.

23 MR. RANK: I think that's better than what's
24 written.

25 MR. CANNON: What's written currently.

1 Kevin Cannon, employer rep. I think this is an area
2 where, you know, it should be identified then as a
3 partnership and not -- you know, you may be working to
4 one program, but everybody brings something to the
5 table. Get out of here. It's a partnership. I
6 think, you know, Mr. Mott, you know, made that
7 statement yesterday, and --

8 MR. RIVERA: I might be good with that.

9 MR. CANNON: I'm sorry, what's that?

10 MR. BETHANCOURT: Just teasing.

11 MR. CANNON: No, I know.

12 MR. STAFFORD: All right. So, what do you
13 want to do here?

14 MR. BETHANCOURT: Mr. Chairman, Jeremy
15 Bethancourt. I kind of think that we ought to go with
16 Jerry's suggestion by ending it after "health
17 protection to all workers on site," and then we can
18 pick up from there. Because then, it's implying
19 everybody. All the workers from every contractor
20 that's on the site. It doesn't matter who they're
21 working for.

22 MR. RIVERA: Sure. Mr. Chairman, and I
23 guess maybe, Kevin, I don't know if this satisfies
24 your request, but the language above says the host
25 employer and contractor, so it highlights -- it

1 doesn't say explicitly there's a partnership, but it
2 does say that these parties are involved, so it might
3 capture it, or maybe we might want to write something
4 towards, you know --

5 MR. CANNON Work together.

6 MR. RIVERA: -- work together.

7 MR. BETHANCOURT: And then, that
8 would -- yeah, saying something like work together.

9 MR. STAFFORD: Well give me some --

10 MR. BETHANCOURT: Well they say commit.

11 MR. RIVERA: We're all committing to it.

12 MR. BETHANCOURT: Commit to it.

13 MR. STAFFORD: Okay. So, what are we doing?
14 Do you want to make that change? Everyone agree with
15 Jerry's suggested change for action item, the language
16 in Action Item 1?

17 MR. HAWKINS: Yes.

18 MR. RANK: Yes.

19 MR. STAFFORD: So read it, Jerry.

20 MR. RIVERA: After safety and health
21 protection insert the language, "for all workers on
22 site," and strike out to temporary and contract
23 workers as to permanent workers.

24 MR. CANNON: Well, I think the, after that,
25 to my point that I make -- Kevin Cannon, an employer

1 rep -- the remainder of that paragraph kind of gets at
2 what I was, you know, suggesting, so -- where it says,
3 "each establishes their respective safety and health
4 responsibilities and obligations."

5 MR. PRATT: So, you're proposing to leave
6 that in. The balance of that paragraph.

7 MR. CANNON: Yes.

8 MR. PRATT: I don't have a problem.

9 MR. STAFFORD: All right. So, we're going
10 to put in what Jerry said, and then, the paragraph
11 will continue, "Before the start of any on site work
12 the host employer and contractor, subcontractor or
13 temporary staffing agency establish their respective
14 safety and health responsibilities and obligations,"
15 et cetera. Is everybody okay with that?

16 MR. MARRERO: For uniformity, should we
17 include self-employed?

18 MR. STAFFORD: Yeah. Okay? So, you know,
19 going back and reading this, I'm not even sure in my
20 mind if they're talking about the host employer. I
21 guess that's a general contractor, but I could almost
22 read this and think they're talking about the
23 owner/user. The host.

24 MR. HAWKINS: I was thinking the -- I
25 wondered if we ought to put general contractor in

1 parentheses right there, or, e.g., general contractor
2 where the host is.

3 MR. STAFFORD: Because why wouldn't it be
4 host contractor, as opposed to host employer, and then
5 we have -- what does host employer and contractor
6 mean?

7 MS. WILSON: It's the general industry
8 language. The host employer is the owner of the site.

9 MR. STAFFORD: Right. And we're been -- up
10 until now we're talking about the host employers being
11 the controlling contractor of the site, not the owner
12 of the site.

13 MR. HAWKINS: That's what we're thinking of
14 in our minds. Yeah.

15 MR. STAFFORD: Uh-huh.

16 MR. HAWKINS: And that wording comes
17 from -- several of the standards in general industry
18 talk about a host employer. In the confined space
19 standard, host employers have certain duties when they
20 bring in a contractor, and for the purposes of this,
21 it's really not applicable to what we're talking
22 about --

23 MR. STAFFORD: Right.

24 MR. HAWKINS: -- unless you replace that
25 with the general contractor.

1 MR. STAFFORD: Do you want to do that, or
2 just put that in parentheses, you think? When we say
3 host employer, in parentheses, i.e., general
4 contractor. Is that --

5 MR. HAWKINS: Right.

6 MR. RIVERA: Yeah, that might help.

7 MR. HAWKINS: Or e.g., for example.

8 MR. STAFFORD: Yeah. Okay.

9 MR. BETHANCOURT: But couldn't the general
10 contractor be a controlling contractor? They could be
11 a project manager, general contractor. Because that
12 term general contractor takes on several different
13 names in the workplace.

14 MR. STAFFORD: No.

15 MR. HAWKINS: We should give a couple
16 examples. General contractor or the managing
17 contractor.

18 MR. STAFFORD: Construction manager or
19 whatever it is.

20 MR. HAWKINS: Construction manager is
21 another one.

22 MR. STAFFORD: All right, so we're going to
23 do that? A few examples then when we say host
24 employer. For example, general contractor --

25 MR. HAWKINS: You know, really, truly, Pete,

1 we probably ought to get away from host employer --

2 MR. STAFFORD: Uh-huh.

3 MR. HAWKINS: -- because I don't think -- I
4 mean, we need to talk to the construction folks in the
5 room. You don't ever think -- you don't think of host
6 employer. It's not something anybody in this room
7 who's associated with construction thinks about.

8 MR. BETHANCOURT: Except that now we've got
9 the new confined space standard, and doesn't that talk
10 a little bit about the host employer, now?

11 MR. RIVERA: Yeah. Yeah, we're starting to
12 see a lot of sprinkle --

13 MR. BETHANCOURT: A little -- just barely
14 getting in there with it now. And then if there isn't
15 one, then it's the GC kind of thing.

16 MR. RIVERA: Now, I will admit it has always
17 confused me, but we're starting to see more of that
18 language.

19 MR. HAWKINS: I'd rather put general
20 contractor and put host employer in parentheses for
21 this document.

22 MR. STAFFORD: Yeah? Mr. Mott, you have --

23 MR. MOTT: Yeah. The host employer has
24 traditionally conveyed ownership, whether it's a
25 company or whether or not have ownership of a facility

1 or a position. They may have a contractual obligation
2 but there's no ownership. So, I think -- in the
3 construction sense here, I think host would be
4 inappropriate.

5 MR. STAFFORD: Host would be --

6 MR. HAWKINS: Would be what?

7 MR. MOTT: Host employer would be
8 inappropriate --

9 MR. PRATT: Inappropriate?

10 MR. HAWKINS: You are saying inappropriate,
11 right?

12 MR. MOTT: Inappropriate.

13 MR. HAWKINS: Not -- yeah. Yeah.

14 MR. STAFFORD: And that's what
15 basically -- Steve, that's what just, you just said.
16 So okay. Then let's change that. Is everybody
17 agreeing on that?

18 MR. RIVERA: Well, and I don't know. I
19 guess I'm trying to think that, what the intent is
20 because there is an exchange of information that
21 occurs between that host contractor with that, you
22 know, contractor coming on site that might be relevant
23 to the safety and health of workers, like if,
24 particular safety health issues that are unique to
25 that facility.

1 So, it's acknowledging that that
2 coordination happens at the front, end and that it's
3 disseminated downstream. So, I don't know if --

4 MR. HAWKINS: Well, if you want to do that,
5 then we go back up into this general requirement, the
6 introductory paragraph, and say "Typically, some
7 workers employed by a host employer, general
8 contractor, other contractors, subcontractors." If
9 you're going to do what Jerry's talking about, they
10 ought to be a separate entity.

11 MR. STAFFORD: All right. Well you're the
12 employers of the group. Which way do you want it?
13 What makes most sense for --

14 MR. CANNON: Yeah, I think what Steve said.

15 MR. BETHANCOURT: What Steve said is more
16 applicable in the industry. Jeremy Bethancourt.

17 MR. PRATT: I agree. I concur.

18 MR. STAFFORD: Okay. So, did you get that
19 then? Steve? No?

20 (Laughter.)

21 MS. LAWLESS: Some, this is how it's reading
22 in my world. "Typically, some workers are employed by
23 host employers, owners, general contractors, and other
24 subcontractors or temporary staffing agencies." Are
25 we leaving in, or self-employment? Are we leaving

1 that in in that one sentence? Okay. So then, it has
2 to be "host employer, general contractor, owner,
3 subcontractor, temporary staffing agency or are
4 self-employed."

5 MR. STAFFORD: No, I don't think that's
6 right. I mean, I think the owner comes out of there.
7 I mean, the owner certainly wouldn't come in after the
8 host and general contractor.

9 MS. LAWLESS: So, you want to remove the
10 owner? You just want to have the host as the owner?

11 MR. BETHANCOURT: That's what it sometimes
12 is, and otherwise it's not.

13 MR. STAFFORD: Yes, take owner out,
14 Jennifer.

15 MS. LAWLESS: Take the owner out. Okay.

16 MR. STAFFORD: Uh-huh. So, I'm going to ask
17 you to read that again.

18 MS. LAWLESS: Okay.

19 MR. STAFFORD: Why don't you do that.

20 MS. LAWLESS: Typically, some workers are
21 employed by a host employer, general contractor,
22 contractor, subcontractor, temporary staffing agency,
23 or are self-employed.

24 MR. STAFFORD: Is that okay? I'll go along
25 with it. I still don't like it, because to me, you

1 know, the host employer sounds too much, like the
2 owner, if that's what we're talking about. If we're
3 talking about a -- a contractor, why don't we say a
4 host contractor, versus a host employer? Then we go
5 to contractor, subcontractors. What's the difference
6 between a host employer and a host contractor?

7 MR. MARRERO: Mr. Chairman, we -- from the
8 temporary worker initiative, you see host employer in
9 all their documents and so forth, and I think that's
10 just more of a controlling of workers, not necessarily
11 an owner.

12 MR. STAFFORD: Uh-huh.

13 MR. MARRERO: I think that's how it's being
14 portrayed here.

15 MR. STAFFORD: All right. Jerry, and
16 then --

17 MR. RIVERA: Yeah. The way I've, we've used
18 it, and I'm not talking about everybody, but the way I
19 understand it is that host employer is the owner of
20 that facility and that host contractor could be that
21 general, GC on that end. So, again, the host employer
22 would be that facility owner in that --

23 MR. STAFFORD: All right. See, well I --

24 MR. RIVERA: I've seen the language.

25 MR. STAFFORD: -- agree with that, Jerry,

1 but I don't think that's my -- it's not explicit. In
2 my mind we're talking about the contractor that's in
3 charge of the job, not the owner, right? If we're
4 talking about the owner, that changes things. Then
5 we're put -- and OSHA, by the way, doesn't regulate
6 owners. So, what are we saying about the owner?

7 MR. RIVERA: I would just add this last
8 point, again reaffirming that there is an exchange of
9 information that happens in certain facilities, like
10 Patrick [PHONETIC] chemical, pharmaceutical. Where
11 there are some unique hazards, that exchange of
12 information is critical.

13 Thus, that's acknowledging that that
14 communication does have to occur between that host
15 employer or that contract employer, so that it could
16 be sent downstream. Again, just one example.

17 MR. STAFFORD: I agree, and I think that's
18 absolutely true, at least particularly in a lot of the
19 work that our folks do in turnaround jobs and those
20 kinds of things, but if we've if you're saying that
21 the host employer is the owner, why don't we just say
22 owner? It's confusing. It's confusing to me. Are we
23 talking about the owner, or a contractor?

24 MR. RIVERA: I'm good with owner.

25 MS. WILSON: Right. I think it's just

1 the -- they have to be an employer to be regulated by
2 the OSH Act, and it's whoever, you know, has the
3 control of the facility, whether they own it, or lease
4 it, or whatever.

5 MR. STAFFORD: Uh-huh.

6 MS. WILSON: Right? Who has the information
7 varies, you know, so there's a reconstruction job --

8 MR. RANK: Mr. Chairman?

9 MR. STAFFORD: Yeah? Steve? Go ahead,
10 Steve.

11 MR. RANK: There are some owners that have
12 very hands on, some owners that take direct control on
13 what happens on their sites.

14 MR. STAFFORD: Right.

15 (Pause.)

16 MR. RANK: Exxon Mobil. I mean, my gosh,
17 they are over everybody, so in that case -- that's
18 true.

19 MR. STAFFORD: All right. I don't even know
20 what to say, Jennifer, on where we're at with this, to
21 be quite frank with you. You know, this is -- we
22 don't have anything specific. Let's move on to Action
23 Item 1. I'll come back and we can hopefully look at
24 that language. I'm still not clear that we're talking
25 about a host employer.

1 If the host employer is the owner, I don't
2 understand why we don't say owner. We recognize that
3 the owner is not regulated by OSHA, but in certain
4 circumstances, the owner takes control over their job.
5 In other circumstances the owner doesn't. That's why
6 they contract it out, right?

7 They don't know about construction. They
8 want a construction firm to come in and do the job for
9 them and they're hands off. So, we can't tie
10 everything that we know, the up front and a guideline,
11 that the owner's going to be taking control of the
12 safety and health of what's happening on that job
13 site.

14 MS. DePRATER: But I'd say it certainly
15 makes it more simplistic, doesn't it? Just say --

16 MR. STAFFORD: Owner, if that's what we're
17 talking about, as opposed to host employer.

18 MS. DePRATER: Just say owner.

19 MR. STAFFORD: Yeah, Travis? Quickly.

20 MR. PARSONS: Yeah. Changes defer back to
21 OSHA's already established multiemployer policy that's
22 in the new compliance base standard. They have two
23 different definitions for these type things that
24 you're talking about. They already have a policy in
25 place. I'd ask OSHA to take a look at that when they

1 redo this document for construction.

2 MR. STAFFORD: I think that's a good
3 suggestion. Did you have a comment?

4 MR. SKOGLAND: I do. Blake Skogland. I
5 don't think we're trying to list here who we're
6 regulating, we're just saying who on this work site is
7 a worker and who might be employing them. If you're
8 saying that no host employer, no owner employs people
9 on the work site, then maybe they shouldn't be
10 included here.

11 But I -- we're not trying to say we're
12 regulating owners, we're just saying sometimes owners
13 or host employers and people on the work site. So,
14 that -- and it's just a list of who might be the
15 employers.

16 MR. STAFFORD: Uh-huh.

17 MR. PARSONS: Then there's a clear
18 definition in the new confined space standard for what
19 we're talking about.

20 MR. STAFFORD: Well we need to take a look
21 at that. So, anybody from OSHA have that definition,
22 by chance?

23 MS. DePRATER: Can I add something, Pete?

24 MR. STAFFORD: Yeah, Cindy? Please.

25 MS. DePRATER: Cindy DePrater. To your

1 point, there actually are times -- I'm just thinking
2 out loud now -- there are times when the owner will
3 bring in their facilities management people, or the
4 FF&E, furniture, fixtures and equipment people, or
5 their restaurant people to -- we built the building,
6 now they're going to install the restaurant.

7 They're not working under us, they're
8 working beside us, but they're hired directly by the
9 owner. So, there may be instances where the owner is
10 bringing in other contractors to do work right
11 alongside this group of people.

12 MR. STAFFORD: Right. No, I agree with
13 that. I think as long as we're talking about a
14 system, a guideline in which -- that we can ensure
15 that all contractors are communicating and sharing
16 information, that's the goal.

17 They don't have to be working on the same
18 assignment, but there could be three or four different
19 things going on in the same facility where you have
20 different contractors. The point is that you have to
21 figure out a system by which they can communicate, and
22 coordinate together on what's going on. That's what
23 we're trying to do, and not a very good job of it.
24 All right.

25 So, the -- it would be great if we had the

1 definition, and I appreciate you pointing that out.
2 Under the confined space rule, how OSHA defines this,
3 Travis, general contractor in a multiemployer site,
4 would be helpful.

5 "Action Item 1: Management Leadership. In a
6 multiemployer work environment, the host
7 employer" -- again, are we -- "the owner and the
8 contractor, subcontractor or temporary staffing agency
9 commit to a program that will provide the same level
10 of safety and health protection to temporary" -- you
11 know, I don't even -- we got to blow this whole
12 section up, and I don't really have the energy to
13 rewrite this. If you folks want to, have at it. I'll
14 be glad to sit here and listen to you.

15 Yes, Palmer?

16 MR. HICKMAN: Maybe we could just put a
17 general note here for OSHA to look at this in the eyes
18 of how they see the construction environment, and what
19 these parties are called. I mean, the problem with
20 picking a definition from subpart (A)(a), it applies
21 only to subpart (A)(a). I know subpart (V) also talks
22 about host, and that, but those definitions are only
23 applicable to those subparts. They wouldn't be
24 standard-wide definitions.

25 I mean, they might help us come up with some

1 words, but I don't think those definitions would apply
2 outside those subparts.

3 MR. STAFFORD: Okay. No, I appreciate.
4 Again, I think we're getting bogged down in the
5 definitions, and it's easy to do, but the bottom line
6 is if you have 10 contractors on one construction
7 site, how do you communicate and coordinate? That's
8 what we're trying to do. Forget host employer, host
9 contractor, owner this, owner this.

10 MR. HICKMAN: If we were allowed to say
11 it -- we would say all parties if we were allowed to
12 say all parties, but we're probably not allowed to say
13 all parties, we probably have to stick with employees,
14 and what have you.

15 So, I think maybe a general note,
16 Mr. Chairman, just to have OSHA consider using
17 language that's consistent with their verbiage in a
18 construction environment. Doesn't sound like we have
19 the resources here to know what that is. We've spent
20 a good amount of time trying to understand what those
21 are and what they mean by these terms, and I don't
22 know that we have the expertise.

23 We have a lot of folks from Directorate of
24 Construction here that probably understand what the
25 words might need to be. I think we delayed long

1 enough for somebody to come back with a definition in
2 subpart (A) (a).

3 MR. SKOGLAND: Blake Skogland. Under the
4 Confined Spaces Construction Standard, it says, "Host
5 employer means the employer that owns or manages the
6 property where the construction work is taking place."

7 "Note to the definition of host employer:
8 If the owner of the property on which the construction
9 activity occurs has contracted with an entity for the
10 general management of that property, and is
11 transferred to that entity, the information specified
12 earlier in this subpart, OSHA will treat that
13 contracted management entity as a host employer for as
14 long as that entity manages the property.

15 "Otherwise, OSHA will treat the owner of the
16 property as the host employer. In no case there will
17 be more than one host employer."

18 But for this it's different. We're talking
19 about host employers with employees for the purposes
20 of this. This is different requirements.

21 MR. STAFFORD: Uh-huh. Okay. Well, we
22 appreciate that.

23 MR. SKOGLAND: Thank you.

24 MR. STAFFORD: So, where do you want to take
25 this? What do you want to do with this at this point?

1 MR. STRIBLING: We can't say "all parties,"
2 but can we say "all entities?"

3 MS. DePRATER: I was going to go to
4 entities. I was thinking about that.

5 MR. STRIBLING: I'm just trying to come up
6 with something that encompasses everybody. Like you
7 said, Pete, if there's 10 people, 10 contractors, how
8 do you get 10 contractors communicating and
9 coordinating? Can we say "all entities?"

10 MR. STAFFORD: Well, I think that's a good
11 alternative, potentially. Entities is not bad.

12 MR. PRATT: Let's put that in there for now
13 and move on.

14 (Pause.)

15 MR. STAFFORD: All right. So, what do you
16 want to do? Let's move on, or stop. We'll -- I'll
17 adjourn --

18 MS. DePRATER: Can I --

19 MR. STAFFORD: -- this meeting --

20 MS. DePRATER: Can I suggest something?

21 MR. STAFFORD: -- if we need to, because
22 we're really, at this point, just not getting
23 anywhere.

24 Yes, Cindy?

25 MS. DePRATER: I was going to say I can

1 suggest something in here, because if this really does
2 go to management leadership, it should say something
3 about, "In a multiemployer work environment, the owner
4 should coordinate a meeting" -- and I'm just going to
5 give you language that you can work with later -- "the
6 owner should be coordinating a meeting with the
7 contractors under their control to come up with a
8 program, a common safety program, Safety and Health
9 Program, so that they're all working under a
10 standard." Some sort of a standard of execution.

11 You don't have to get into same level of
12 safety. You know, "Before the start of work on any
13 site, the owner and all contractors should review the
14 program. You're not going to establish their
15 respective programs, you're going to review the common
16 program and you're going to implement it to the best
17 of your ability on the project." That's what
18 management leadership is going to do.

19 MR. STAFFORD: What are you reading, Cindy?

20 MS. DePRATER: It's --

21 MR. CANNON: She's paraphrasing what it
22 said.

23 MS. DePRATER: I'm paraphrasing, at this
24 point.

25 MR. STAFFORD: Paraphrasing what?

1 MR. CANNON: What is actually under Action
2 Item 1.

3 MR. STAFFORD: Okay.

4 MS. DePRATER: That's what you're trying to
5 accomplish, not this verbatim. You're trying to get
6 the owner to call a meeting -- you're shaking your
7 head, but -- you know what? I'm going to stop,
8 because you're clearly frustrated.

9 MR. STAFFORD: See, I don't agree with that.
10 I mean, I think in some instances you do, but in some
11 instances, you don't. There are owners that are, have
12 contractors in because they don't want anything to do
13 with it. I'm having a custom home built.

14 MS. DePRATER: But what is the best
15 management practice?

16 MR. STAFFORD: I know nothing about
17 construction. I'm giving it to Cindy DePrater
18 construction company. I'm going to Florida for three
19 months until you build my house, and I'm coming back.
20 I don't want any responsibility for coordinating, or
21 talking to you, or your subcontractors.

22 MS. DePRATER: I'll bet you're there when
23 I'm installing every piece of tile in your bathroom.

24 MR. STAFFORD: I'm not. I don't want to see
25 it, all right? Right.

1 MS. DePRATER: I'll bet you you are.

2 MR. STAFFORD: Yes, Steve? Then we'll go to
3 Tom.

4 MR. RANK: Steve Rank. You're absolutely
5 right, Pete. I can't name the retail chains, but
6 there are some large retail stores built nationwide
7 that want absolutely nothing to do with these big,
8 million square foot, 40 foot high bay, single-story
9 structure buildings, okay?

10 And you're right, they want nothing to do
11 with it, so they hire construction manager, a
12 controlling contractor, a general contractor, and they
13 just take it right off their hands and that's it. So,
14 you're right, we do have those cases.

15 MR. STAFFORD: But on the other hand, we
16 have very active owners, particularly in turnaround,
17 that are there. I mean -- so, but -- so what do we
18 do? I mean --

19 MS. DePRATER: I think it should be, in this
20 case, what is the best management practice we want to
21 emulate? You spoke earlier to the OSHA 10. We want
22 everybody to take OSHA 10, because we think that's the
23 right thing to do. What is the right thing to do
24 here? If it's not to have the owner engaged, let's
25 say so.

1 MR. STAFFORD: I mean, I think that you have
2 to figure out a guideline for owners that want to be
3 engaged, how that works, versus when you contract it
4 out and the owner is a silent owner. You know, I
5 think that there's differences there.

6 MS. DePRATER: Right.

7 MR. STAFFORD: Yes, Tom?

8 MR. MARRERO: Can we just say all
9 employers --

10 MR. STAFFORD: For what purpose here?

11 MR. MARRERO: -- instead of host employer,
12 contractor. Just to make it less complicated.

13 MS. DePRATER: All employers who are
14 contracted for the job?

15 MR. BETHANCOURT: All employers on site.

16 MR. MARRERO: All employers.

17 MS. DePRATER: All employers on site?

18 MR. CANNON: I.e.? Did you want to say
19 contractors such as?

20 MS. DePRATER: That's fine.

21 MR. STAFFORD: And that will include your
22 staffing agencies and independent contractors.

23 MR. MARRERO: If you're an employer.

24 MR. BETHANCOURT: Wow, Tom. You figured it
25 out.

1 MS. DePRATER: I'm actually okay with that.

2 MR. BETHANCOURT: All employers.

3 MR. STAFFORD: So, if you look at action
4 item number one, all employers commit to a program
5 that will provide the same level of safety and health
6 protection --

7 MS. DePRATER: To everyone.

8 MR. STAFFORD: We've got to take out to all
9 site workers.

10 MS. DePRATER: To all workers.

11 MR. STAFFORD: "Before the start of any on
12 site work, the host --

13 MS. DePRATER: The employers. No.
14 Employers.

15 MR. STAFFORD: -- all employers establish
16 their respective safety and health responsibilities
17 and obligations" -- I guess that works to the extent,
18 but we're still not getting to the coordination part,
19 the communication between employers.

20 MR. CANNON: Kevin Cannon, employer rep. I
21 guess my question is, you know, for action item one,
22 is management leadership the right title? I mean,
23 because we're talking about preplanning and
24 coordinating before work starts.

25 MS. DePRATER: What would you call it,

1 Kevin?

2 MR. CANNON: I don't know.

3 MS. DePRATER: Problem, solution.

4 MR. CANNON: Yeah. But, I mean, you know,
5 because what we're asking is for each of the groups to
6 come together and have a discussion amongst themselves
7 about what their responsibilities are.

8 MR. STAFFORD: Uh-huh.

9 MR. BETHANCOURT: So, would we have
10 maybe -- well, that's when we get to the bullet
11 points, right, how to do that.

12 MS. DePRATER: Well maybe that's just
13 program coordination, which is --

14 MR. BETHANCOURT: Just move down to that.
15 Move to the bullet points.

16 MR. CANNON: And that's what I'm saying.
17 That action item number one should be "Coordinate your
18 programs."

19 MR. BETHANCOURT: It says that, right?
20 Coordinate safety and health information.

21 MR. CANNON: But it's titled management
22 leadership.

23 MR. RIVERA: Program coordination.

24 MR. CANNON: But it's titled management
25 leadership.

1 MS. DePRATER: Program coordination.

2 MR. BETHANCOURT: Right. Got ya.

3 MR. CANNON: You see what I'm saying?

4 MR. BETHANCOURT: Right. It's just got the
5 wrong -- maybe it's got the wrong title.

6 MS. DePRATER: I would just say it's program
7 coordination.

8 MR. STAFFORD: On Action Item 1, Cindy?

9 MS. DePRATER: Yes.

10 MR. STAFFORD: So Action Item 1 is program
11 coordination.

12 MS. DePRATER: Uh-huh. And then your
13 language, which says all employers. And you all
14 captured that?

15 MR. STAFFORD: Are you -- is everyone good
16 with that?

17 ALL: Yes.

18 MS. DePRATER: Then it moves to the bullets
19 of how you do that.

20 MS. LAWLESS: Excuse me. Cindy, then we'd
21 have to go back to page 4 and change the elements.

22 MS. DePRATER: We do. We have to go back to
23 page 4 and just change -- well the action items are
24 not necessarily listed on page 4.

25 MR. HICKMAN: Mr. Chairman, I don't think

1 we're changing the title of this core element --

2 MS. DePRATER: No.

3 MR. HICKMAN: -- coordination and
4 communication.

5 MS. DePRATER: No. Just the action item.

6 MR. HICKMAN: I was going to -- I was
7 wondering if we needed to change this to program
8 coordination and communication, but I'm looking to see
9 if communication is communicated in this action item.

10 MS. DePRATER: First bullet.

11 MS. DePRATER: We're only changing --

12 MR. HICKMAN: So, it's probably program
13 coordination and communication.

14 MS. DePRATER: Yeah. We're just going to
15 change the Action Item Number 1 title from Management
16 Leadership to Program coordination.

17 MR. BETHANCOURT: And that's what we've
18 talked about in this section.

19 MS. LAWLESS: And then the first sentence is
20 as such: "In a multiemployer work environment, all
21 employers commit to a program that will provide the
22 same level of safety and health protection to all
23 employees."

24 MS. DePRATER: Correct. And then continuing
25 on: Before the start of any on site work, employers

1 will establish their --

2 MS. QUINTERO: Sorry, Cindy, but the actions
3 in this section go directly to the core elements. The
4 one is the core element one, the two is the core
5 element two, the three is the --

6 MR. CANNON: I mean I understand that, but
7 does it necessarily fit?

8 MS. DePRATER: Does it have to --

9 MR. CANNON: Yeah. Because we're --

10 MS. DePRATER: Let me look at it. "Control
11 measures." So, that's an easy one to change. Again,
12 we'll say on page 4 under communication and,
13 coordination and communication of -- multiemployer
14 work sites: "All employers will coordinate on work
15 planning and scheduling to identify and resolve any
16 conflicts that could impact safety and health." You
17 can do away with the host employer.

18 MS. QUINTERO: Say it again. I'm not
19 following you. Under management leadership?

20 MS. DePRATER: Are you on page 4?

21 MS. LAWLESS: No. You're down here.

22 MS. QUINTERO: Uh-huh.

23 MS. LAWLESS: Right here. This one right
24 here, "the host employer" blah, blah, blah, blah,
25 scratch.

1 MS. DePRATER: Yeah. The employers -- all
2 employers --

3 MS. LAWLESS: Coordinate.

4 MS. DePRATER: -- will coordinate.

5 MR. STRIBLING: You don't need the will.

6 MS. DePRATER: You don't need will? Okay.
7 Fine. And then the second bullet, again, you just
8 lose host and contract. Workers from both, or workers
9 from all employers are informed -- all workers are
10 informed. Better? "All workers are informed about
11 the hazards," dot, dot, dot. So, does that clean that
12 up enough to make this title in Action 1: Program
13 Coordination? You all can tell us that, right, later?

14 MS. WILSON: I mean, OSHA will take all of
15 this under advisement.

16 MS. DePRATER: Okay.

17 MS. WILSON: I think she's right that it
18 needs titled, coordinate with the titles of the core
19 elements, but if you think it doesn't fit, tell us
20 what you think it should be.

21 MS. DePRATER: I think Action 1 is not
22 management leadership, it's -- if what -- if the true
23 meaning of the paragraph is what it sounds to me, like
24 coordination of programs, and I think to everybody
25 else, it is program coordination.

1 MR. HICKMAN: That's our suggestion.

2 MS. DePRATER: That's our suggestion.

3 MR. RIVERA: And that's one of the core
4 elements, coordination and communication.

5 MS. DePRATER: Yeah. Now we've got to read
6 through how do we accomplish that coordination.

7 MR. RIVERA: Yeah. Coordination and
8 communication most important.

9 MS. DePRATER: So, here. We're going to
10 start changing the how to accomplish this.

11 MR. STAFFORD: Or if that's even the right
12 thing to do.

13 MS. DePRATER: I think it's just number one
14 so far, Pete. Instead of keep temporary and contract
15 workers, it's going to say, "communicate to workers."
16 We're just going to take out temporary and contract.

17 MR. STAFFORD: Or contractors. I rewrote it
18 to say "communicate to all contractors,
19 subcontractors, and temporary workers, the commitment
20 to provide the same level --

21 MS. DePRATER: Same level. And that's the
22 key.

23 MR. STAFFORD: -- of safety and health
24 protection."

25 MS. DePRATER: I like that.

1 MR. STAFFORD: Okay.

2 MS. DePRATER: Did you capture that?

3 MS. QUINTERO: No. Where are we?

4 MR. STAFFORD: We're on how to
5 accomplishment on action item number one that's now
6 coordination and not management leadership.

7 MR. RANK: They're going to change that
8 action item title now?

9 MS. DePRATER: That's -- yes. That's going
10 to change to program coordination. That's our
11 recommendation.

12 MR. STAFFORD: I don't really want to do
13 this.

14 MS. DePRATER: Now, you haven't changed
15 everything there. Let's see what the language is.
16 No, back to page -- 24. Go back to page 24.

17 MR. PRATT: Three, three.

18 MR. BETHANCOURT: What are your thoughts,
19 Pete?

20 MR. STAFFORD: My thoughts are that we
21 should have broken out in work groups and had, and
22 just rewrite this section for construction and stop
23 doing this, and I'm willing to do that, and pass it
24 out to the committee if we have the time. I'm asking
25 OSHA that. That -- to sit here and do this, I think,

1 is not very productive to me, personally, as trying to
2 chair this thing.

3 I don't mind having an open discussion about
4 it but I would much prefer just to go back and rewrite
5 this section and share it with the committee, and then
6 give something on OSHA after we have time to look at
7 it, and read it, and then comment back and forth on
8 it, as opposed to getting in here, talking about these
9 kinds of changes that are -- we're obviously not
10 agreeing very much on this, personally. If we have
11 the time.

12 I guess, Eric, I'm asking you that. Do we
13 have the time for ACCSH -- I'll take the lead on the
14 redrafting this section, and giving out to everyone to
15 share with it in that way, versus trying to do this
16 around this table at this minute. Lisa or Eric?

17 MR. KAMPERT: I'm not sure I understand what
18 you're asking me, and I have a --

19 MR. STAFFORD: I think this whole section
20 needs to be rewritten, and I didn't have time to do it
21 before this meeting, and it's clear that no one else
22 had the time to do it before this meeting either. I
23 just think it would be much more productive if we
24 could, ACCSH, as a committee, draft up something, and
25 share it amongst each other and come up with a new

1 section on multiemployer work sites.

2 I mean, in other words, I don't think we're
3 going to walk out of here at 3:00, or 4:00, or 5:00
4 and anyone around this table feel extremely
5 comfortable about this section. We need more time to
6 absorb it and comment on it. I'm not sure, you know,
7 how best to do that with OSHA, but --

8 MR. KAMPERT: I'm not sure if we actually
9 have that time --

10 MR. KAMPERT: -- and also --

11 MR. BETHANCOURT: We have three hours.

12 MS. DePRATER: Yeah.

13 MR. KAMPERT: To send it out ever, and
14 everyone get their comments and then we coordinate it
15 all together?

16 MR. STAFFORD: I guess I'm just suggesting
17 is a work group for those of you that -- if it's the
18 full committee, that's great, but I think that we need
19 some time to rewrite this section, and share it
20 amongst each other, and give ourselves an opportunity
21 to go back and forth.

22 Besides getting bogged down on definitions
23 and word changes, it just doesn't seem to me, and
24 maybe I'm just getting old and I recognize that, but
25 it's become a very frustrating process for me right

1 now to try to chair this kind of discussion.

2 We have four or five different conversations
3 going on at once, we have two or three different
4 people doing different things, and I feel like I don't
5 have control of it, is what I'm saying. And I don't
6 feel that we're being very productive as an advisory
7 committee right now.

8 MR. KAMPERT: Okay. Well, if we meet at
9 full committee, then that's a whole nother ACCSH, so
10 we, I don't know if we can just all come together.

11 MR. STAFFORD: I don't want to do that. I
12 would just like to take some time and rewrite action
13 items for this section and share amongst the committee
14 and come up with a new section. That gives us time to
15 put pen to paper and think about it.

16 MS. WILSON: Okay. Mr. Chairman, I would
17 suggest we take a brief break, and talk about this and
18 what, you know, OSHA's schedule is for getting this
19 guidance out, and whether, you know, there could be
20 additional time for the committee.

21 MR. STAFFORD: Okay.

22 MS. DePRATER: I would agree. This is Cindy
23 DePrater. I would hate -- and I understand your
24 frustration, I do, but rewriting it in a vacuum,
25 sending it around does not allow this committee to

1 then comment publicly, and on record, and that's my
2 only concern is I think, I still think we'd have to
3 come back together, and go through this again, even
4 after that process.

5 MR. STAFFORD: Okay. I'm not going to say
6 whether I agree or disagree with that. You know,
7 whatever OSHA wants to do. This is your advisory
8 committee, so just tell us what you want to do.

9 MS. WILSON: Okay, but I think we
10 hear -- you know, this process is not always easy, and
11 I think we hear everyone's frustration with it.

12 MR. STAFFORD: I appreciate that, Lisa, but
13 we've got to move beyond that. I'm suggesting if you
14 think that -- what time is it? All right. If you
15 folks think in the next three hours we can hammer out
16 this multiemployer section starting over, then let's
17 do it.

18 MS. DePRATER: It's your call. You're the
19 chairman.

20 MR. STAFFORD: But if you think that we can.
21 I mean, we can't even get past the basic definitions
22 of what we're talking about here and no one's
23 obviously had time to look at it before this meeting
24 to think through what this really means to our
25 industry.

1 MR. KAMPERT: What's going to say that we
2 have time going forward?

3 MR. STAFFORD: Well I can't speak for the
4 rest of the committee but I'll commit, as the
5 Chairman --

6 MR. KAMPERT: Well, they can speak for
7 themselves.

8 MR. STAFFORD: -- I'll take the time to
9 write the draft of what I think is something that we
10 could all start to work from. I know they can speak
11 to them, for themselves, Eric. They clearly are, have
12 no problem doing that, so you don't need to tell me
13 that the committee can speak for themselves. I get
14 that.

15 MR. KAMPERT: Right.

16 MR. STAFFORD: Okay? I'm just -- I don't
17 think we're being very productive, and I wanted -- you
18 know, I'm willing to go through it and sit here for
19 the next three hours and talk about word changes and
20 action items if that's what the committee would like
21 to do. So, what would -- what's your pleasure?

22 MR. CANNON: Kevin Cannon, employer rep. I
23 think more time, as Pete has recommended, would be
24 helpful. In our opinion, you know, many, if not all,
25 of AGC members were, you know, pretty much already

1 accepting and implementing, you know, the core
2 elements.

3 This is one that was new and it is mentioned
4 so in the announcement, you know, this is a new core
5 element in here. I think this is the one that would
6 impact construction the most, so giving more time to
7 make sure we get it right would, in my mind, be the
8 right thing to do.

9 MR. STAFFORD: No, I understand the FACA
10 issues, and we have X number of people here if we have
11 to, you know, send comments out and share it broadly
12 with stakeholders that are in this room or whatever
13 that takes. Or I'm willing to -- if you -- look, I
14 mean, you guys are on the committee.

15 I've taken a stab at drafting up some action
16 items to the extent that I had time to, since this was
17 the last one in this new document. I've simply ran
18 out of time. I've got a day job, too, like the rest
19 of us, and so I just haven't had time to look at this
20 section in detail.

21 We're floundering here, I think, and so we
22 can either unflounder over the next three hours and
23 straighten it out, or take a breather and take a crack
24 at trying to draft up something and then share it.
25 And it won't take long. I don't think that we need to

1 have another ACCSH meeting to come back and talk about
2 it, but we can share it together, and come up with a
3 draft that we all think is appropriate for
4 construction.

5 Now, if you want to take a break to talk
6 about that, we can take a break to talk about that, or
7 we can continue. I'm asking the committee. I'm
8 looking you all in the face and saying do you want to
9 continue this or not? Yes or no? Who wants to
10 continue?

11 MR. HICKMAN: There you have it.

12 MR. PRATT: Mr. Chairman?

13 MR. STAFFORD: Wait a minute. Don, go
14 ahead, and then Jeremy.

15 MR. PRATT: My suggestion would be let's
16 take two weeks, go back home, think about these
17 things, you're going to be thinking about it, let us
18 get our comments down -- I don't have a comment on
19 every single section. I do have comments on certain
20 paragraphs.

21 I'd like to get those comments to you, okay,
22 in the next two weeks, and then you, if you have the
23 time, put a draft document together, circulate it to
24 all of us, and then maybe we can have a conference
25 call to finalize it.

1 MS. WILSON: Right. I mean right. Again,
2 you know, potentially FACA issues. Definitely a work
3 group can work together on this, but -- right -- I
4 suggest we take the brief break, and talk with OSHA
5 about, you know, what its timing is on this document
6 and what we could, how we could work with the
7 committee.

8 MR. STAFFORD: That sounds good. We'll take
9 a break. Ten minutes.

10 (Whereupon, a short recess was taken.)

11 MR. STAFFORD: I had a little chat with the
12 OSHA staff, and I think -- and again, I'm open, this
13 is your committee, our committee -- I think that we're
14 really getting bogged down on this section. We didn't
15 have a -- I, personally, and possibly -- had a lot of
16 time to take a look at this section.

17 And this is -- in my mind, when this first
18 guideline came out this was the most exciting new
19 section, because it included multiemployer sites that
20 the '89 guideline did not include, and therefore it
21 included construction, if you think about it in that
22 way.

23 But we obviously haven't had a lot of time,
24 and I'm struggling, obviously. And I'm sorry to
25 express my frustration, because I do get frustrated

1 when it seems like as the chair my -- our committee
2 goes around in circles. I think that's a bad job by
3 the chair, where you can't kind of keep the discussion
4 flowing and going, so most of the frustration is with
5 myself. So, let me apologize to you up front.

6 In talking to the agency, instead of trying
7 to wordsmith a section that was clearly written for an
8 industry, with OSHA's mind set at the time, thinking
9 about a host employer and temporary workers, that's
10 what this section is really written for, if you read
11 it in detail.

12 Of course, in our industry, the
13 multiemployer setting is much more than a general
14 contractor and a temporary worker, whether it's
15 through a staffing agency, whether it's a contractor
16 that's classified or misclassified as self-employed,
17 because we're in the world of a multiemployer setting
18 where we have construction managers, owners that are
19 actively involved, other owners that are not.

20 We have general contractors, we have job
21 sites where there are multiple general contractors, we
22 have job sites where there are no general contractors,
23 we have construction managers that do not have one
24 employee of their own. So, it's a very different
25 dynamic than what we're trying to deal with on this

1 document for all industries.

2 So in talking to the staff, instead of
3 trying to wordsmith, I think, and trying to fit
4 something that doesn't fit our industry, and come up
5 with the right words and getting bogged down in kind
6 of definitional issues, we decided that it would be
7 most helpful, I think, that if we could just come up
8 with basic concepts on what we think need to be
9 included in a multiemployer section for the purposes
10 of this exercise, and then we can work -- and,
11 hopefully, OSHA can take those concepts -- and they
12 have a lot of talented staff here that could take what
13 we think are important and they could do the word
14 smithing in the next round of a draft for
15 construction.

16 So, I think that's the best way to proceed,
17 if you concur. I mean, I'm open for any of your
18 comments or feedback now, but I think that that -- for
19 now I think that we need to just come up with and stop
20 going through the board and lining out, and
21 underlining, and deleting, and adding back, Jennifer
22 and Danezza. That we just come up with concepts in a
23 multiemployer setting on what we really want, are
24 trying to accomplish.

25 For me, again, and from my perspective, that

1 is in a multiemployer work setting, whether you have a
2 controlling contractor or not, but you have more than
3 one contractor that is on a job site.

4 What is important in terms of these
5 contractors sharing information with each other,
6 communicating about their programs, and making sure
7 that information flows down through each of their
8 respective workforces, so everyone on the job site
9 knows what the program is, the plan is, and know how
10 they fit into that I think is where we need to be. So
11 if you have any questions or comments about -- yeah?
12 I'm sorry, Eric. Go right ahead.

13 MR. KAMPERT: Yeah. Eric, OSHA. If I can
14 jump in. So I want to thank Pete for his due
15 diligence to carry us this far. I think this is a
16 good time to change our attack. So we won't be going
17 line by line but, you know, maybe if Danezza and Jen
18 could even just put up on the board -- we'll be almost
19 more brainstorming at this point.

20 We want to look for the concepts -- you guys
21 are the experts -- the concepts that are out there,
22 any problem areas that are out there with temporary
23 workers, and any best practices. Think about them.
24 We can jot them down, we can put them in those
25 different categories, maybe talk about all one at once

1 or just shoot from the hip. I'll kind of leave that
2 up to Pete.

3 But that's what we're looking for. We want
4 to have your expertise. We don't want to go away with
5 this, you know, just worrying about who OSHA has
6 coverage over and definitions. I think definitions is
7 a good part that we will probably put into the
8 section, because I notice it's a problem, but if we
9 can get your feedback. So, thank you, Pete.

10 MR. STAFFORD: Okay. So, let's start. I
11 mean, so if we had -- so let's just take a
12 hypothetical. We're on a construction site, and we
13 have a very active owner who is engaged and has
14 certain requirements that they are calling for, and we
15 have one general contractor and five layers of subs.

16 This is a hypothetical. What do we want to
17 happen on that job site? What are the important
18 things that we need to consider in a multiemployer
19 site coming down from the owner, through the GC,
20 through the five subs that we think is important in
21 terms of coordination and communication on Safety and
22 Health Programs? Yes, Jeremy?

23 MR. BETHANCOURT: Mr. Chairman, Jeremy
24 Bethancourt. I think one of the first things that
25 occurs that I'm used to is that you always have a

1 preconstruction meeting. And that's the best way to
2 get that information from all those different
3 entities. Hopefully, this is what you envision when
4 you said brainstorming.

5 MR. STAFFORD: Uh-huh.

6 MR. BETHANCOURT: That's what you do. I
7 mean, that's what I'm used to. That's one of the
8 first things I ask about when I find out that we've
9 gotten a contract. I say, "When is the precon," so
10 that I know when I need to be there to start sharing
11 information amongst the other trade partners, as we
12 call them out West.

13 MR. STAFFORD: Okay. So, at a precon, what
14 do you do? What would be a guide for a Kevin Cannon,
15 who's a new subcontractor that's on your job.
16 That's -- this is his first time. What does he need
17 to prepare himself when he comes to your precon?

18 MR. BETHANCOURT: One of the first things
19 that occurs is that, as the general contractor, I
20 would share my site-specific safety plan with those
21 subcontractors. Part of sharing that site-specific
22 safety program, I would then ask them, "What is your
23 safety program? Let's learn a little bit about what
24 you're doing in your organization. I've showed you
25 what I'm doing in my organization." Then there's that

1 expectation that I've now conveyed to Kevin Cannon
2 construction.

3 MR. STAFFORD: All right. So then, that
4 seems like, to me, is a reasonable number one action,
5 that you have a preconstruction conference, and the
6 first thing you do as an action item, you share, as
7 the general contractor, your site-specific Safety and
8 Health Program plan. Tom's saying no.

9 MR. MARRERO: No, I'm sorry. That was in
10 reference to him.

11 MR. STAFFORD: Okay.

12 MR. MARRERO: To Chuck.

13 MR. STAFFORD: Is that -- yeah, Don?

14 MR. PRATT: Don Pratt, representing
15 employers. That may work for a moderate or large
16 contractor, but for the small guys, they're not going
17 to have a precon meeting. I mean, I'm not saying we
18 shouldn't have it in here, I'm just saying that that's
19 not reality. What I'm looking at in this document is
20 to make it so user-friendly that it's reality. That
21 people are going to use it.

22 I'm not worried about the big contractor.
23 He's already doing this stuff. I'm worried about the
24 guy that we can't reach in the field. The guy that is
25 out there, he's doing his own thing, he's been doing

1 it for 25 years. He doesn't care about something like
2 this. We've got to make this so user-friendly that
3 it's going to apply to him.

4 The big guys are going to do their own thing
5 anyhow. The Turners of the world are going to do
6 their thing. I'm not saying we shouldn't have a
7 document, I'm just saying that -- I mean, having a
8 precon meeting for a small contractor, he's going to
9 look at and say, "What's this all about?" I mean, he
10 won't even understand what it is.

11 I'm talking about guys that employ one, two,
12 three, maybe 10 people. They're not going to go
13 through this kind of a document and make it useful for
14 them. I'm trying to figure out a way that we can
15 reach those guys with some safety to change their way
16 of thinking, to help them along the way, and develop a
17 program for them that they can take and utilize it in
18 their own businesses.

19 And multiemployer workers are huge in our
20 industry. Every job we do have multiple layers of
21 this. I'm thinking of a way that we can reach out and
22 touch them. That's why I'd ask for, you know, a
23 couple of weeks to think about -- this is probably the
24 one area that affects our industry more than anything
25 else, the home building industry, and I just -- it

1 scares me to think that we're going to come up with a
2 document that will never be used.

3 MR. STAFFORD: All right. Appreciate that.
4 Danezza, and then Jeremy, and then --

5 MS. QUINTERO: I'm doing the outline, so if,
6 by continue brainstorming, I can plug it in the
7 different sections. For example, right now we have
8 the large general contractor, but I think that they do
9 share site-specific with subcontractor.

10 So, if it's in a scenario for small
11 contractors -- for construction and communication,
12 what do we communicate with them, when it's a small
13 contractor? So, we can -- and that way you can then
14 compare the outline with what we have in place, and
15 decide what you have, and what you don't have. But I
16 think the brainstorm will be a --

17 MR. STAFFORD: All right. Sounds good.
18 Jeremy, and then Palmer.

19 MR. BETHANCOURT: So, to follow up, one of
20 the things that I do experience regularly is literally
21 a small crew, and that is their company. Literally
22 three gives, four guys. And that's what they're
23 doing. They show up to do a specific task.

24 And so, while I -- where I say a precon
25 meeting, it doesn't necessarily mean that you're going

1 to pull people in and all sit in an office for however
2 long, and interact. It literally could occur out on a
3 job site on a slab in the residential building
4 industry, where you're talking about the options that
5 are going to be in a house. Here are the things that
6 you're going to have to go through. It's going to
7 have to be conveyed to that small entity.

8 MS. LAWLESS: So, it's a coordination
9 meeting.

10 MR. BETHANCOURT: Yeah, coordination
11 meeting. Something that says here's the things you
12 need to watch out for or whatever, you know.

13 And I'll literally say, "Okay, welcome to
14 the job, you're a, you're the third tier from the top
15 or wherever, fifth tier from the top, so this is your
16 task now, you know, here's what I need you to be aware
17 of, here are the hazards on this job, here are the
18 things you need to be aware of, this is what the
19 general contractor expects from you, this is what you
20 need to make sure that you're doing."

21 Safety is a part of that conversation and
22 the things that they need to be aware of. Make sure
23 your folks all come with the correct PPE, make sure
24 that your, you know, ladders are in good condition,
25 that your fall protection equipment is correct, and

1 that you're tying off -- I mean, that can occur
2 in -- when I say precon, it could be informal. It
3 doesn't have to be this big thing, but it is a
4 interaction between the small group, and, a lot of
5 times, myself or our superintendents even.

6 MR. STAFFORD: Right. It's a coordination
7 of --

8 MR. BETHANCOURT: It's coordination, and it
9 can occur in a small setting with the two guys in the
10 pick up truck.

11 MR. STAFFORD: Palmer?

12 MR. HICKMAN: Thank you, Mr. Chairman. Just
13 a couple general observations. This is great. I
14 think that OSHA just gave us some more finite
15 direction that you're just looking for how this needs
16 to differ in construction. From what I heard so far
17 in this section, it was more terminology that we were
18 getting hung up on. Someone else might dispute,
19 including our chairman, but that seemed to be the
20 problem.

21 So, generally speaking, I think OSHA would
22 want to recognize that the terminology needs to change
23 to be representative of what the multiemployer work
24 site policy is for construction. It also needs to, I
25 think, in my opinion, has to match what their

1 standards are now. Certainly subpart (A)(a) was
2 mentioned, so some new terminology there, new
3 requirements there.

4 I'll speak to subpart (V). I'm more
5 familiar with that from the electrical industry. They
6 talk about host employer there as well, and the
7 exchange of information that needs to occur between a
8 host and subcontractor.

9 So, I think that whatever OSHA develops
10 also, not only the terminology has to match the
11 construction industry as it exists in a multiemployer
12 work site policy, but they have to, of course these
13 guidelines have to meet, match their standards. So,
14 they can't be directing -- the guidelines can't be
15 going down a different path than their existing rules,
16 especially their more current rules, like subpart
17 (A)(a) and subpart (V).

18 So, that's just generally what I think OSHA
19 should do. The terminology seems to be problematic.
20 It seemed to be general industry. A peg trying to fit
21 into a construction hole.

22 MR. STAFFORD: Uh-huh. Thank you, Palmer.

23 MR. HICKMAN: Because I think at the end of
24 the day whatever Jeremy, and Don, and others will say
25 will look very much like what's in here, as far as the

1 exchange of information. Everyone needs to be
2 protected, regardless of who they work for, we have to
3 tell about each other's hazards, we have to train.

4 So, I think as a structure element, we're
5 going to hear this all sound pretty much like what's
6 in here as an outline, but I think it's the
7 terminology that needs to be tweaked.

8 MR. STAFFORD: All right. Thank you,
9 Palmer.

10 Any other questions or comments on that?

11 (No response.)

12 MR. STAFFORD: So, other than the
13 coordination that we started down this road of our
14 hypothetical and we had this precon meeting, is there
15 next steps that we should think about in terms of
16 action items in terms of coordinating on a
17 multiemployer site?

18 MR. BETHANCOURT: Mr. Chairman?

19 MR. STAFFORD: Yeah, Jeremy?

20 MR. BETHANCOURT: Another one of the things
21 that occurs that we deal with, again, in residential
22 building, so we'll have a builder rep, one guy or gal
23 comes up and tells us -- not only do they relay the
24 information about safety equipment and things that we
25 needed to do on the job, but many times, there's going

1 to be many trades on the site, and so, as part of
2 that, they -- there's a schedule.

3 So as part of our role out I guess, for lack
4 of a better way of saying it, part of that is, "Here's
5 the schedule, here's who's scheduled to come in on
6 this date. You know, they'll be potentially on top of
7 you. You -- if there's going to be some issues and we
8 run behind, then we need to coordinate with them, so
9 that we all know that we're not interfering with each
10 other's tasks, where that could be problematic."

11 If somebody's working on a roof, say, and
12 then somebody comes in underneath them, there's now
13 hazards that could occur. So, when you have other
14 trades, there's coordination that has to occur, and
15 that's usually discussed with the general contractor
16 down to one-tier trades, subcontractor and so forth
17 down the line.

18 So, that communication goes back and forth
19 down a line. So, we're told something about schedule,
20 then if we're having issues, we relay that back up the
21 line.

22 MR. STAFFORD: Uh-huh.

23 MR. BETHANCOURT: I think that's something
24 that needs to be addressed if it hadn't been written
25 on there. But it's important that we acknowledge

1 there are schedules, and that does play a part in how
2 we're -- or an important part about the communication
3 that occurs.

4 MR. STAFFORD: As an action item then, if
5 we're thinking about scheduling in a -- again, we keep
6 coming back to small residential construction sites.
7 What does that mean? You coordinate in -- every -- in
8 huddles or safety meetings every morning? How does
9 that work?

10 MR. BETHANCOURT: Literally as simple as
11 phone calls to each other, you know. Text messages
12 nowadays. We'll do text messaging to each.
13 I'm -- you know, "Here's where my schedule is, call
14 for inspection, we're getting out of the way, we've
15 got this particular trade."

16 You know, I'll have post-tension folks show
17 up while there's somebody working on a roof and
18 they'll start pulling cables. There's a serious
19 safety issue going on when you get something like that
20 happening. So, you know, that kind of communication
21 there, you know, we then relay that -- just an
22 example -- to the general contractor. "Hey, do you
23 need us to pull off this job?"

24 This communication is not occurring, so I
25 mean, there's -- that's something that's important is

1 that everybody understands that best practice is we're
2 all supposed to communicate with each other when we're
3 going to do something that's potentially hazardous.

4 MR. STAFFORD: Uh-huh. Yeah, I guess I'm
5 just getting --

6 MR. BETHANCOURT: Did I answer your
7 question? I'm sorry.

8 MR. STAFFORD: Yeah. I'm just getting at
9 while we say that we can communicate in terms of an
10 action item as a guide for small employers, you know,
11 how you do that. I mean, you can say you need to
12 communicate, but what are the mechanisms for which is
13 best practices that you do that?

14 Yes, Cindy?

15 MS. DePRATER: Cindy DePrater, employee rep.
16 Couple of things that you can do is hold a weekly,
17 just make it a standard weekly coordination meeting.
18 Identify one point of contact, so that whoever is
19 communicating is not communicating with Kevin, and
20 Kevin doesn't do anything with it, when my real
21 contact was Jeremy, and I should have told him what
22 was going on, because he's part of the coordination
23 group. If you don't do that, you lose some of the
24 coordination.

25 And then, a third piece would be document

1 your communications. So, three bullet points under
2 that is just document, identify a specific contact for
3 coordination, usually that's the supervisor, you would
4 hope, and then hold weekly meetings.

5 MR. STAFFORD: Uh-huh. Any other questions
6 or comments on this issue? Yes, Jeremy?

7 MR. BETHANCOURT: That is a -- I mean I'm
8 not discounting your spot, but, I mean, that is a good
9 best practice. I don't know that that's actually even
10 going to be practical in a small employer setting.

11 MS. DePRATER: It may not.

12 MR. BETHANCOURT: I mean, these people are
13 running, chasing their tail a lot.

14 MS. DePRATER: And I get that. I'm just
15 trying to figure out how --

16 MR. BETHANCOURT: So, just throwing out an
17 idea of how to make it work. It's a good best
18 practice for sure.

19 MS. DePRATER: How do you give them better
20 ideas to become better contractors?

21 MR. BETHANCOURT: Yeah, they gotta know.
22 You're right.

23 MS. DePRATER: Yeah.

24 MR. BETHANCOURT: Got to give them ideas, I
25 guess. Sharing phone lists --

1 MS. DePRATER: Yes.

2 MR. BETHANCOURT: -- with all the different
3 tiers.

4 MS. DePRATER: Absolutely. For emergencies.

5 MR. BETHANCOURT: That's one of the things
6 that we've done. We've said, "Look, here's phone
7 lists." Something as simple as posting signs that
8 even say the phone number of the contact.

9 MS. DePRATER: Uh-huh. Uh-huh.

10 MR. BETHANCOURT: That's a way to
11 communicate. We post a sign, you know, of this is a
12 controlled zone or danger zone, and we list the name
13 of the foreman on the job. Then when somebody comes
14 in -- go. I'm sorry. Kevin?

15 MR. CANNON: No, no. You're fine.

16 MR. BETHANCOURT: You know, that's one of
17 the things that we've done, posting the phone numbers
18 right there. I know on a lot of job sites in, at
19 least in the Southwest, and Arizona specifically, they
20 have dust control issues as a result of other
21 legislation, not necessarily related to OSHA, and
22 there are phone numbers listed right on the --
23 literally big signs, four by eight signs that say
24 "Here's the responsible party," and it's generally the
25 superintendent on that site. So, there's a phone

1 number right there that folks can know to communicate
2 with.

3 So, looking for signage in the community
4 sometimes or on the job site is potentially one way
5 that we could communicate better about issues going on
6 on the job.

7 MS. DePRATER: Uh-huh.

8 MR. BETHANCOURT: I don't know. Again, I'm
9 just brainstorming. Throwing out ideas.

10 MR. STAFFORD: That's what we're doing
11 and --

12 MR. BETHANCOURT: These are the things that
13 I've experienced.

14 MR. STAFFORD: Yeah, Don?

15 MR. PRATT: Yeah, Mr. Chairman. Don Pratt.
16 I've got to leave, catch a plane, but here's what I'm
17 hoping that's going to happen with this document is
18 that we're going to be able to get it, take a look at
19 it, send it out to various people and shareholders and
20 make sure that this is the document we want to have
21 OSHA publish.

22 You know, I'm not saying we're going to have
23 a decision in that, I'm just saying that we need to
24 vet it properly and take the time to do that. It
25 seems to me like this thing is getting rushed through,

1 and I don't understand why. This is a very, very
2 serious, important document. We want to make sure
3 it's done right. I'm really, really concerned that I
4 want it used by 95 percent of our members, and not
5 just five percent.

6 MR. STAFFORD: Uh-huh. Okay.

7 MR. PRATT: So, with that, I have to leave.
8 I apologize. I've got to get home.

9 MS. DePRATER: Safe travels.

10 MR. STAFFORD: All right. Yeah. Thanks,
11 Don. I appreciate it.

12 MR. PRATT: All right.

13 MR. STAFFORD: Yes? Steve Rank?

14 MR. RANK: Steve Rank. Pete, you said
15 earlier that you were excited about having this new
16 category in here, because there wasn't any, one many
17 years ago. There is reason to be excited, because
18 that controlling entity, or contractor, whatever
19 you're calling that, really dictates the tone of the
20 project, okay?

21 We're talking about all these people
22 communicating and the best person to facilitate that
23 communication is that owner or representative that's
24 hiring subcontractors that are coming to that job
25 site, where they talk about training and talk about

1 fall protection. They can talk about substance abuse
2 on the side, they can talk about all this stuff.

3 You know, I could tell you that the general
4 contractors have done a really good job in making this
5 happen, and so, it's been working flawlessly when we
6 have problems.

7 The example you got about post-tensioning,
8 that's, you know, who we go to. If I've got people
9 trying to work on a deck when I'm doing
10 post-tensioning, pulling those tendons, who do I go
11 to? I go to that general contractor to say, "Pull
12 those other trades off or I'm leaving." Now that's
13 because they have the authority to control those other
14 subcontractors, but I don't.

15 As a steel erector, a reinforcing
16 contractor, I don't have the authority to tell another
17 contractor what to do, but the controlling contractor
18 that represents that owner sure as the hell does. So,
19 that's where we've had all our success is working with
20 these good general contractors, coming up with a site
21 plan, implement it, and if we've got problems we go to
22 them, okay? So, I don't know.

23 MR. STAFFORD: Yeah, Jeremy?

24 MR. BETHANCOURT: Mr. Chairman, to his
25 point, I think that is part of what we can do with

1 this section in here is to get the general contractors
2 to realize this really is your responsibility and you
3 have the ability to make some really good improvements
4 on job site safety if you will just embrace this. If
5 we can simplify it somehow or constructionize it
6 somehow, so that they understand here's some steps
7 that you can do, just do this.

8 MR. STAFFORD: Uh-huh.

9 MR. CANNON: I mean the way that's being
10 stated is that, you know, the end all, be all is the
11 general contractor and that's -- you know, again, you
12 guys -- yes, we do control the site, but you have your
13 plan as the steel erector, you know, you have your
14 plan as the electrical contractor.

15 You know what you're doing, so to say that,
16 you know, it all stops with us, I just -- I mean, yes,
17 correcting things that are brought to our attention,
18 of course, but it just sounds like you're implying
19 that everything falls within, you know, the authority.

20 MR. STAFFORD: You know, I think we have
21 to --

22 MR. BETHANCOURT: I don't want to get into a
23 debate.

24 MR. STAFFORD: Yeah. I mean, I -- well,
25 it's interesting, and we've had this discussion on a

1 lot of different issues about, you know, the
2 controlling contractor, but I think in this context
3 that if we could stop thinking about the
4 responsibility or the liability and what role the
5 general contractor has in communicating is, would kind
6 of distinguish that. I mean, it's just talking
7 about --

8 (Simultaneous discussion.)

9 MR. BETHANCOURT: It's just the supporting
10 of it.

11 MR. STAFFORD: Right. Communication.

12 MR. BETHANCOURT: You guys provide such a
13 great example. Chair, we got the report. GCs could
14 provide such a great example of how to lead how the
15 job would want to go. Not liability or
16 responsibility, but -- if I'm misinterpreting this --

17 MR. STAFFORD: No, I --

18 MR. BETHANCOURT: -- somebody let me know.

19 MR. STAFFORD: No, I --

20 MR. BETHANCOURT: But that's what I think
21 this is, would be a good document for.

22 MR. STAFFORD: Well, I mean that's what I'm
23 saying. I mean, that's why I think this, our section
24 in here is so different than this, because there are
25 examples of construction sites that we have to think

1 about, too, if we're going to do action items when
2 they're, for an example, when I'm an owner, and I have
3 five subcontractors and there is no general
4 contractor, right?

5 And so, what are the best practices or how
6 do you communicate or coordinate in that kind of an
7 example?

8 MR. BETHANCOURT: And to the point --

9 MR. STAFFORD: I'm just saying. I mean, I'm
10 not necessarily defending my colleague, Kevin Cannon,
11 here --

12 MR. BETHANCOURT: No, no, no, no. Well I
13 think, to the --

14 MR. STAFFORD: -- but I'm saying that
15 there's other multiemployer settings where it's, the
16 responsibility for coordination and communication is
17 not always just with the general contractor.

18 MR. BETHANCOURT: You know, I like the word
19 controlling contractor, creating employer. I get used
20 to those, the creating employer, control -- right.
21 Because then it seems very clear in my mind who that
22 is. In many instances it very well may be the
23 employer that I represent sometimes, where they hire a
24 sub tier. Well, look, that person just became a
25 controlling employer. They're not the general

1 contractor, but they are a --

2 MR. CANNON: That's what I just said a few
3 minutes ago.

4 MR. BETHANCOURT: I understand, but what I'm
5 saying is -- well I -- we're -- in a linear world, I
6 might have to add more to it, Kevin. But we have
7 situations whereby the controlling employer for
8 another employer tier down the line may not be the
9 general contractor, and so, isn't this document going
10 to help that person also understand where their place
11 is in this, what their role is potentially, to get the
12 controlling employer to understand that they have
13 responsibilities down the line?

14 MR. STAFFORD: Yeah. I mean, I think so.
15 Again, this is a little bit different. I think we're
16 prepared to have this discussion. I mean, I think
17 maybe we've come up with the different scenarios in
18 our industry where there, on multiemployer sites, what
19 those are.

20 And when you have a construction manager
21 that has no employees, you know, and has
22 10 -- whatever the numbers are, and go down the list
23 of scenarios of multiemployer sites, and maybe come up
24 with some action items for each of those different
25 scenarios. Might be helpful. I don't know but, you

1 know --

2 MR. BETHANCOURT: We can give examples then,
3 right?

4 MR. STAFFORD: This would be examples. I
5 mean, if we're coming up with multiemployer -- this is
6 my problem in trying to figure out this section. It's
7 only really written for general industry, and the
8 relationship between the host and the temporary
9 worker. That is only one of many, many, many
10 different multiemployer work sites that we have in
11 construction.

12 MR. BETHANCOURT: So, we just brainstorm and
13 give out ideas, Mr. Chairman? Is that the goal?

14 MR. STAFFORD: I mean, that's the goal now
15 are conceptually on how we do that.

16 MR. BETHANCOURT: It seems a little happier
17 of --

18 MR. STAFFORD: Uh-huh.

19 MR. BETHANCOURT: -- a goal.

20 MR. STAFFORD: I know. I mean, I don't know
21 if we have time to do that, or even if we want to go
22 through that exercise is come up with different
23 scenarios in our industry on what multiemployer work
24 settings look like. Is that worth doing?

25 MR. HICKMAN: That sounds more like a

1 training component that would supplement the rule.
2 That they would build some kind of training to sort of
3 flesh out these examples of the types of things -- I
4 don't know that that could -- you know, here's an
5 example of five subs with, working directly for an
6 owner or -- I don't know.

7 I think the guidelines are to be general in
8 nature, consistent with the terminology. I mean, I
9 don't know there's anyone here that hasn't worked
10 under the multiemployer work site policy understands
11 it, but that doesn't matter because the people that
12 are reading it probably don't.

13 So, however we -- you know, that -- there's
14 already training tools for that inside the 10 and 30
15 and, you know -- I don't know.

16 Steve?

17 MR. STAFFORD: Training tools for
18 coordinating on -- go ahead, Steve. Yeah.

19 MR. HICKMAN: Multiemployer work site
20 policy.

21 MR. HAWKINS: You know, I was thinking. For
22 our BPP and SHARP sites, one of the things that we
23 require is that they address outside contractors in
24 their Safety and Health Program.

25 And so, if you call a construction firm to

1 come and dig a pit in the middle of your plant to
2 install a new machine that's got to have a six foot
3 deep footer. and you're just working off a four inch
4 slab, you're bringing in a heavy piece of equipment,
5 we say to our BPP and SHARP sites, if you want to be
6 in this program, you have to have a component in your
7 Safety and Health Program that fleshes out how you're
8 going to handle this interruption.

9 Because that's what construction is in a
10 general industry setting. It's an interruption to
11 your day to day operations. It presents unique
12 challenges. You say -- we say you have to manage
13 that. And so, that's why this is in here, and I think
14 you've already pointed that out.

15 MR. STAFFORD: Uh-huh.

16 MR. HAWKINS: When you start thinking about
17 coordination on a construction site, it's, I think we
18 did exactly right to wipe the slate clean, and to tell
19 OSHA, "When it comes to this section, you're going to
20 have to start over. There's no way to fix this to
21 make it fit. There's no way to wordsmith this,
22 because it's a completely different thing." I know
23 it's overused, but it is apples and oranges, really.

24 MR. STAFFORD: Uh-huh.

25 MR. HAWKINS: It's not anywhere close. And

1 so, when you start thinking about how to cover
2 communication on a multiemployer construction site, I
3 can see that being Cindy's job where it's really
4 formalized, and then you can see it being where it
5 just happens that two of us, Lisa and I, wind up
6 working side by side on this house job, and it's just
7 a manager who's never been to the site before, and I'm
8 digging the foundation, and I'm laying block, and
9 she's she's digging the basement and the footers, or
10 something.

11 And so, I'm just -- I went through all that
12 to say this: Where do we even start with
13 instructions?

14 Do they even -- what is it that we want to
15 happen? If I'm an employer, and I'm a 15 man masonry
16 contractor, 25 man masonry contractor, manning the
17 mankind seems to work, like men and women, and
18 so -- because I have a friend that owns one of those,
19 and when I sign his citations, you know, it's never,
20 it's always bad because I know I'm going to get that
21 phone call, right? But I sign them anyway. I'm
22 really glad to. But he's doing better. Anyway,
23 neither here or there.

24 But he finds himself plugging into lots of
25 places, and so what does he really need to do to

1 communicate his hazards to the people around him? I
2 mean, if he really manages his hazards well, he
3 doesn't have much of anything to communicate to them.
4 If he's got his guardrails up, if he's got his tow
5 boards up, if he's managing access underneath his
6 scaffolds, if he's got all his people in hard hats,
7 he's mixing his concrete, he doesn't have a whole lot
8 to communicate to anybody else on that site.

9 So, just in -- just at the thousandth,
10 hundred-thousandth foot level, the highest level at
11 all, what is it that we're telling my friend who owns
12 Mark One Masonry? What does he -- what do we want to
13 tell him to do right here?

14 I don't know that we're -- I don't know that
15 we have to tell -- we need you to tell industry in
16 this document what you need to do if you bring
17 somebody from the outside into your workplace, but
18 what do I really need to tell Mark One Masonry? What
19 do you need to have in a written program about
20 communicating? I mean, I'm starting to wonder if we
21 have -- we're -- do we really tell him anything?

22 MS. DePRATER: Cindy DePrater. A couple of
23 things. You do want to communicate hazards if there
24 are hazards to communicate, but it also goes back to
25 what's been bought in the project. So, even on the

1 smallest project, residential project, you know, when
2 they're working on the roof, for example -- let's take
3 it to the smallest and then we'll take it to the
4 largest.

5 MR. HAWKINS: Right. Okay.

6 MS. DePRATER: So, from the smallest
7 contractor, who's going to put up -- on a second
8 story, you know, who's going to put up the handrail?
9 Where did that get bought? You know, so, there is a
10 coordination piece with the owner on who is paying for
11 what.

12 Typically, handrails and guardrails on a
13 house project for the second story, you know, they go
14 up, they build the temporary stairs out of wood, they
15 have the landing platforms, but now you're on a second
16 story with no walls yet. So, there is a coordination
17 there of just different materials being brought in,
18 when you're going to bring them in, who's going to
19 install them for protection of the workers.

20 MR. HAWKINS: A responsibility assignment.

21 MS. DePRATER: A responsibility assignment.

22 MR. HAWKINS: More than communication.

23 MS. DePRATER: Correct.

24 MR. HAWKINS: It's really who's going to do
25 it.

1 MS. DePRATER: Yeah. Then the second piece
2 of that is how do you communicate that among the
3 workers, as to who -- you know, if you walk up to the
4 edge of something, you know, when do you stop work?
5 Obviously immediately. And then, how does that get
6 corrected? Who do you report that to so it gets
7 corrected?

8 Now, you go to the opposite extreme. The
9 same thing applies. On a multi-story high rise
10 building, that coordination of who's going to buy the
11 handrails and guardrails is number one, and then,
12 who's going to maintain them after that contractor.
13 The steel contractor might put them up, but when he
14 leaves, who's going to --

15 MR. HAWKINS: Somebody takes the cable down
16 to fly something in --

17 MS. DePRATER: Yep.

18 MR. HAWKINS: -- who's going to --

19 MS. DePRATER: Who's going to maintain them?
20 Where does that fall to?

21 MR. HAWKINS: That's the kind of thing --
22 and so, what Cindy's saying, I think we should, for
23 the sake of this discussion, abandon the
24 multiemployer work site policy that OSHA, that we all
25 know what it says, because that only decides who gets

1 a citation when something goes wrong.

2 MS. DePRATER: Right. Right.

3 MR. HAWKINS: That really has no place in
4 this document. Controlling all that stuff -- you
5 know, you're talking about controlling, creating,
6 correcting, and exposing. That is all -- that's an
7 OSHA document about who gets a citation. It shouldn't
8 really even be brought up in this section, right?

9 MS. DePRATER: I think this becomes really
10 short. I don't think there are six action items in
11 this, I think there's maybe two: program -- well, I
12 think there's program coordination that we started
13 working on, you know, there is a coordination of your
14 program, but I, and I think there is a coordination at
15 the project level, which you were mentioning and you
16 might want to elaborate on that. It involves some of
17 these things that we're talking about right now.

18 MR. HAWKINS: When you create a hazard
19 that's uncontrollable, like carbon monoxide, if you're
20 running a generator on the second story wide open,
21 it's not a problem --

22 MS. DePRATER: Right.

23 MR. HAWKINS: -- right? But if you happen
24 to be running that thing in the basement, and your
25 workers are up on the third story, and you, you're

1 running a generator and it's running a compressor,
2 right, or you're running a gasoline engine that's
3 running a compressor, and you're running nail guns up
4 on the third floor, you're not exposed to the hazard
5 of --

6 MS. DePRATER: Right.

7 MR. HAWKINS: -- carbon monoxide. If a guy
8 goes into that basement to do some interior
9 waterproofing, or he's going to go and clean up the
10 concrete down there with a grinder, now he's exposed
11 to my generator, and my carbon monoxide that I'm
12 emitting, but none of my employees are exposed to it.

13 MR. STAFFORD: Uh-huh.

14 MS. DePRATER: And they haven't been trained
15 on it, maybe.

16 MR. HAWKINS: Right. So, one of things that
17 this communication piece should probably say is, it
18 should talk about if you're creating a hazard that
19 would affect other workers, you need to communicate
20 that hazard to the other workers on the site, to the
21 other contractors on the site.

22 So if we're talking about giving OSHA a
23 bullet list of here's some thoughts about what to do
24 right here, if you create a hazard that exposes other
25 workers to your hazard, even though you're not exposed

1 to it you need to communicate that hazard to them.

2 And give some examples, like paint fumes, like --

3 MS. DePRATER: Noise.

4 MR. HAWKINS: -- like noise, like --

5 MR. STAFFORD: Fall hazards. I mean --

6 MS. DePRATER: Fall hazards.

7 MR. HAWKINS: -- carbon monoxide, like
8 atmospheric hazards, which could include silica
9 exposure. You might have your -- Eric might be my
10 grinder guy, and I've got him medically fit to wear a
11 respirator, I've got him down in the basement
12 grinding, I've got it as wet as I can be or whatever,
13 maybe I can't do it wet for some reason, and so I
14 protected him, but if other guys come in there to do
15 some painting on the floor while he's in there
16 grinding, they're exposed to silica, and they don't
17 even know it.

18 MR. STAFFORD: Right.

19 MS. DePRATER: Right.

20 MR. HAWKINS: So, in the ideal world, which
21 is what we're trying to create here or move it toward
22 that, if I'm Eric's employer, I would tell the other
23 workers, "Hey, we got silica exposure, you all don't
24 need to come in here until we've finished and get this
25 cleaned up." So, communicating hazards that you

1 create to others would be a component. Okay. Another
2 component would be if you are exposed to a hazard that
3 you can't control, this communication piece would say
4 you need to go to the general contractor --

5 MS. DePRATER: Right. Right.

6 MR. HAWKINS: -- and seek a correction. We
7 would want to tell a newbie who's trying to design a
8 program, these are some things. You create a hazard,
9 tell others about it. Your workers are exposed to a
10 hazard that you can't control, we believe that needs
11 to be escalated to the general contractor, as well as
12 the contractor creating the hazard.

13 So, what other kinds of communication things
14 around safety and health are likely to happen on a
15 project so we can communicate to OSHA, "These are some
16 thoughts that you would put into this section."
17 That's two, right?

18 MS. DePRATER: Emergency evacuations.

19 MR. HAWKINS: That's right. The general
20 contractor needs to be told that if you're going to
21 have, if you're going to do emergency evacuations, you
22 need to communicate that to all contractors and
23 employees on the site. That's a good example of
24 communication. But see, you've got communication
25 going different directions and that's why it's so hard

1 to do this section, I think, in construction.

2 So, examples, that might be a good way to
3 break it up. Examples of general contractor
4 communications to other employers on the site, and
5 employees on the site, sub to sub type communications,
6 sub back to general type communications. Kind of make
7 it a triangle of all three directions, and give
8 examples --

9 MS. DePRATER: That's a good idea.

10 MR. HAWKINS: -- of things that need to be
11 communicated to other entities and other workers on
12 the site.

13 MR. STAFFORD: Uh-huh.

14 MS. DePRATER: Uh-huh. It's a good idea.

15 MR. HAWKINS: The general contractor should
16 communicate -- if you're writing this document,
17 general, they should communicate who's responsible for
18 correcting hazards, like guardrails. If you've
19 created it, and you take it down, who's going to be
20 responsible for putting it back up? Those are
21 examples of --

22 MS. DePRATER: Or in a union environment,
23 who do you notify to put it back up? Under union
24 agreements you might not be able to put it back up
25 yourself.

1 MR. STAFFORD: Uh-huh. Okay. No, that's
2 right.

3 Yeah, Palmer?

4 MR. HICKMAN: Thank you. Steve, you're
5 doing a great job of reciting the multiemployer work
6 site policy. It sounds like I'm reading right from
7 the OSHA 500 manual that I teach. I'm a trainer for
8 that. It's just you're describing exactly what the
9 multiemployer work site policy does, and the examples
10 they use, in the OSHA 500 manual that the instructors
11 use to teach a 10 and 30. So, that's a great resource
12 for OSHA to look at. Get it from DTE and --

13 MR. HAWKINS: Well, and to use that document
14 to flesh out communication. But don't talk about it
15 about to create controlling, and exposing and that.

16 MS. DePRATER: Right.

17 MR. HAWKINS: I think it should talk about
18 it in general terms.

19 MR. HICKMAN: In general terms.

20 MR. STAFFORD: Communication and
21 coordination.

22 MR. HAWKINS: Because what happens with the
23 multiemployer work site policy is when these
24 communications that we're talking about don't happen,
25 or they do happen and people don't take appropriate

1 action, that's when OSHA comes in, or TOSHA comes in
2 and starts issuing citations and fines to people who
3 should have taken action to do things if this
4 communication didn't take place, or if it did and, no
5 action was taken as a result.

6 MR. STAFFORD: Uh-huh. Right.

7 MR. HAWKINS: So, we're trying to pre-empt
8 that. We're going one step back, right, Palmer?
9 Going one step back and saying, "These are things that
10 communicate down from the general to the sub, from sub
11 to sub, and then from subs back to the general, or
12 temporary workers, or --

13 MR. STAFFORD: Whatever that means.

14 MR. HAWKINS: -- even self-employed for that
15 point."

16 MR. STAFFORD: Uh-huh. Right. No, I think
17 that's good. I think that -- yeah, Jeremy?

18 MR. BETHANCOURT: Jeremy Bethancourt. But
19 aren't we basically saying the same thing? Without
20 talking about the multiemployer policy, aren't we
21 basically trying to give guidance to people what,
22 ahead of time, so that they don't have that problem --

23 MR. HAWKINS: That's exactly what we're
24 trying to do.

25 MR. BETHANCOURT: -- before the break. So,

1 what do we call them? I mean, in order to be
2 consistent -- that was the only reason I used those
3 words, because those are, that's the consistency that
4 I have, and a lot of people do.

5 MR. HAWKINS: Yeah, but we don't -- I don't
6 think we use those words, because that's OSHA's
7 document that we use for citations.

8 MR. BETHANCOURT: So, what words do we use?

9 MR. HAWKINS: Use general contractor, you
10 use subcontractors, you talk about --

11 MR. BETHANCOURT: And that's --

12 MR. HAWKINS: -- creating hazards. You're
13 creating a hazard that you can't control that are
14 going to be exposed to other workers, you communicate
15 that to the other people who are affected by your
16 work. If you're the general contractor, you put down
17 your expectations to your subs. If the subs have
18 issues that they can't control, you send that back up
19 to your general contractor and seek their help.

20 You're trying to tell them to do this
21 communication, this circle or this triangle of
22 communication, and you flesh that out in this
23 document.

24 MR. BETHANCOURT: I wouldn't disagree with
25 that. Thank you for helping me to find the words but,

1 or helping everybody to find the words. I think
2 that's a good point to make. That way people realize
3 what they have to do ahead of time, and how they have
4 to communicate, in a happy way.

5 MR. HICKMAN: Even to that point,
6 Mr. Chairman -- Palmer Hickman here -- in the training
7 module, they talk about legitimate defense, but I,
8 when I teach it, I teach it in a different spin. Not
9 that it's more like how you would not be cited as an
10 employer, I teach people how you would prevent people
11 from being exposed to the hazards.

12 So, use that legitimate defense steps to
13 get, to back it up, so you don't get to that point.
14 As a last resort, you move your folks. Make sure you
15 notify of the hazard, communicate. After you've done
16 these six or seven things, you won't get a citation,
17 but take it back a step as a teaching. How do you not
18 get to that point I think is Steve's point.

19 MR. HAWKINS: And tell them if you're doing
20 this to avoid a citation you have missed the boat, so
21 bad you need to go back to the dock, dude. You need
22 to go all the way back. I mean, I don't talk about --

23 MR. STAFFORD: You didn't miss the boat, you
24 missed the ocean.

25 MR. HAWKINS: Yeah. Yeah. You know, you're

1 sitting -- you're on dry land in a boat. You can't go
2 anywhere like that.

3 MR. STAFFORD: Uh-huh.

4 MR. HAWKINS: So, that's one we don't want
5 to use, the -- I don't want to use the multiemployer
6 work site citation policy to section this out.

7 MR. STAFFORD: Right.

8 MR. HAWKINS: You don't want to put that in
9 here.

10 MR. STAFFORD: Yeah. No, I think we all
11 agree to that, I think. I think that's good. Any
12 other questions or comments then?

13 Chuck?

14 MR. STRIBLING: I had one. I know this is,
15 right now it's titled "Coordination and communication
16 on multiemployer work sites," but if you just look at
17 it from a multiemployer work site concept, we had
18 spoke earlier about prequalification. Is that
19 something that would come into play here, where we're
20 talking about multiemployer work sites?

21 I don't know that we put it in the document
22 anywhere to this point, which I think it's worth
23 mentioning as a way to be a part of your Safety and
24 Health Program. You may have a process for
25 prequalification.

1 MR. STAFFORD: No, it didn't get in there.
2 We were thinking about this section as the place where
3 it belongs, and so maybe is in there, some resources
4 that CS -- Steve?

5 MR. HAWKINS: And that is something for the
6 agency to consider, inclusion of prequalification.

7 MR. STAFFORD: Uh-huh. We could add that to
8 the appendices. There's some documents that we've
9 developed through this committee, as a matter of fact.
10 Any other questions or comments then on multiemployer
11 section?

12 I'm going to -- Eric, I mean, do you think
13 this discussion is enough that you're, that OSHA has
14 enough to think about, or how we could assist in kind
15 of writing some action items based upon these general
16 concepts that the group's thrown out?

17 MR. KAMPERT: Eric with OSHA. Yeah. No, I
18 think this is great discussion. I would ask when
19 there are problems out site, on site with
20 multiemployer, what's the causes?

21 MR. CANNON: Lack of communication.

22 MR. STAFFORD: Communication.

23 MR. KAMPERT: And that is solved by?

24 MR. HAWKINS: Communication.

25 MR. STAFFORD: That's it.

1 MR. HAWKINS: Well, for us, we solve it with
2 a citation, but short of that, yeah, it's solved with
3 communication. So, if you're going to be flying
4 something over, you communicate that to people, to
5 clear this area, because we're about to fly these
6 forms over the top of your heads.

7 MR. STAFFORD: That's right. Uh-huh.

8 MR. MARRERO: Enforcement.

9 MR. STAFFORD: Uh-huh.

10 MR. HAWKINS: I do think it's also a really
11 good place to reassert the fact that general
12 contractors are ultimately responsible for safety and
13 health on the site, especially -- Don's out of the
14 room. Now would be a good time to sneak that in
15 there.

16 MR. STAFFORD: Yeah. Okay.

17 MR. HAWKINS: Now we could get what we
18 really want, Mr. Chairman. No. But I think it is a
19 good time to say that they are responsible for
20 coordinating safety and health on the job site.

21 MR. STAFFORD: Uh-huh.

22 MR. HAWKINS: The general contractor has
23 that responsibility.

24 MR. STAFFORD: Uh-huh.

25 MR. HICKMAN: And we acknowledge that.

1 MR. HAWKINS: Yeah.

2 MR. STAFFORD: Uh-huh. When it-- right.

3 MR. HICKMAN: For coordination.

4 MR. STAFFORD: For coordination and
5 communication.

6 MR. HICKMAN: Right.

7 MR. STAFFORD: And that's what we're talking
8 about. I think that's good. I'd agree we could put
9 that back in.

10 MR. HICKMAN: Not assuming the
11 responsibility to, you know, implement someone's
12 program --

13 MR. HAWKINS: So, if you're a novice to this
14 and you're reading something, and it says, "Here are
15 things to consider" -- you know, again, I don't want
16 to -- I'm going to repeat myself.

17 General contractor, they communicate their
18 expectations. Sub to sub, and sub to the general, you
19 also communicate what your hazards are, as they occur
20 that you can't control that might affect others. And
21 then, if there's issues that can't be resolved between
22 sub to sub, that's when you seek the input of the
23 general to control that hazard and help you control
24 it.

25 MR. STAFFORD: Or help it. Uh-huh.

1 MR. HAWKINS: If you can't control it, or
2 it's beyond the scope of your authority to cover it,
3 in this communication step you encourage
4 subcontractors to seek the assistance of the general
5 contractor to solve this issue that you don't have the
6 authority or the ability to solve.

7 MR. STAFFORD: Right. I don't think
8 there's, anyone could argue with that. I don't think.
9 Kevin? Yeah. Okay.

10 MR. HAWKINS: So, what more could we add to
11 that --

12 MR. STAFFORD: I'm not sure we can add more
13 to that. I mean, you know -- hold on.

14 MS. LAWLESS: I don't know if you need to.

15 MR. STAFFORD: Uh-huh.

16 MR. HICKMAN: We hold these truths to be
17 self-evident. To steal a phrase

18 MR. STAFFORD: Kevin, do you have a --

19 MR. CANNON: Yeah. As I was mentioning to
20 you, it just sounds like this particular section could
21 be just talking about two areas, program and
22 coordination, and then the communication of the
23 hazards and allow OSHA to fill in the blanks.

24 MR. HAWKINS: And you could do that, "If
25 you're a GC, you should," and start listing bullets.

1 "If you're a subcontractor, you should," and start
2 listing bullets.

3 MR. STAFFORD: Right.

4 MR. HAWKINS: "If you're a sub of a sub, you
5 should," and list some bullets. And talk about those,
6 that circle of communication that we've talked about.
7 Down, over, and back up, depending on what the names
8 are at the time.

9 MR. STAFFORD: All committee that's left
10 agree with that? I mean is that something, OSHA, that
11 you can take and do, or can we help you with that, or
12 at this point --

13 MR. KAMPERT: I would like to have that list
14 because I think what happens is whenever you say the
15 should -- I think Mr. Mott mentioned it yesterday.
16 When you have a whole bunch of people on site,
17 everyone says, "It's not my job."

18 MR. STRIBLING: Yeah. Mr. Chair, and I
19 think the communication is critical, absolutely
20 critical, but there's more to it than that. There's
21 the walk the walk. And what happens when there's a
22 breakdown? I mean, there has to be some --

23 MR. CANNON: Accountability.

24 MR. STRIBLING: Thank you. There has to be
25 accountability. So, I think this should,

1 accountability, should be part of the discussion on
2 multiemployer as well.

3 MR. STAFFORD: Uh-huh. Okay. Fair enough.
4 I will agree with that. So, I'm just try -- I'm
5 looking at Eric. So, I mean, is this enough for this,
6 or is there more that needs to be done on this
7 discussion? So, we all agree with that, I think, if
8 we have those three general elements. That that's
9 what we think this section could include for
10 construction.

11 Is that enough for OSHA, or do you want us
12 individually to submit some of these things that Steve
13 was talking about to --

14 MR. KAMPERT: No, I think if we flesh this
15 out -- I don't know. Is it worth just glancing back
16 at the document? I mean, not to dig into it, but just
17 mentioning hazard identification and assessment,
18 hazard prevention and control.

19 MR. STAFFORD: No. Yeah, no. I think at
20 the end of this exercise, once we get through this
21 section, is we want to go back very quickly, and look
22 at the action items for all the other sections, to
23 kind of be sure that we've hit it all and it's been
24 captured for, starting with management leadership.

25 MR. HAWKINS: See, that's where -- okay.

1 When you start with management leadership, that's
2 where you might say, "General contractor, management
3 contractor, managing contractor," whatever those are.
4 That might be the section instead of -- that's who's
5 going to provide leadership.

6 On most construction sites, if you have a
7 GC, they're going to provide the safety and health
8 leadership most of the time. Would you agree with
9 that, Kevin? Most of the time.

10 MR. CANNON: Most of the time.

11 MR. HAWKINS: If you're running a job,
12 who --

13 MR. BETHANCOURT: I'm not allowed to comment
14 on general contractors, but most of the time, yes,
15 that's who we look to.

16 MR. STAFFORD: Well, see we can go back real
17 quickly, and, if you want to, look at management
18 leadership.

19 MR. BETHANCOURT: Dare we?

20 MR. STAFFORD: Now I'm not so sure that we
21 want --

22 MR. HAWKINS: We're not trying to make it
23 perfect, we're just trying to give some ideas.

24 MR. STAFFORD: Right.

25 MR. HAWKINS: One idea would be management

1 leadership, and you could flesh out the fact that most
2 of the time that's the general contractor.

3 MR. STAFFORD: Uh-huh. You know, if we
4 could just go through them, if it's okay. If -- just
5 start on the screen, and go through each of the
6 sections with the action items to be sure we're all
7 comfortable with it. I'm not sure we need another
8 break at this point. I'd just like to get through
9 this and knock it out.

10 MR. HICKMAN: So, page 23, action item one,
11 is that where we are? Page 23, action item one?

12 MR. STAFFORD: No. We're going from the
13 beginning.

14 MR. HICKMAN: The very beginning.

15 MR. HAWKINS: All the way.

16 MR. STAFFORD: I'm on management leadership,
17 page number six in the master document. See what
18 we've -- just run through, for quality control, the
19 action items that you've captured.

20 MR. STRIBLING: Mr. Chair?

21 MR. STAFFORD: Yes, Chick (*sic*)?

22 MR. STRIBLING: I just wanted to point out
23 when we went over program evaluation and improvement,
24 we didn't take into consideration your suggestions.
25 Just throwing that out there so that if anybody saw

1 something in there they felt strongly about, you might
2 want to bring it up as we go through this.

3 MR. STAFFORD: When we get to that section.
4 Or maybe then if -- you know, once we get this and
5 it's back in OSHA's hands, you have the parallel
6 document, if there's things that we've missed in
7 incorporating some of those in the main document, I
8 mean, OSHA's free to take a look at that, and add or
9 delete as you see fit. How about that?

10 MS. LAWLESS: Mr. Chairman, just for
11 clarity, we are starting at the beginning of the OSHA
12 document on page 6 and working through all of the --

13 MR. STAFFORD: Yeah. Well, I would just
14 like to very quickly, yes, Jennifer, just run
15 through --

16 MS. LAWLESS: Okay. Just clarifying.

17 MR. STAFFORD: -- management leadership and
18 just hit all the action items that we've agreed to.
19 So, just make sure that we're all comfortable.

20 MS. LAWLESS: Okay. Thank you.

21 MR. STAFFORD: All right. So, we did some
22 word changings in the intro. I think we picked it up.
23 So, management leadership, starting on page 6.

24 MR. HAWKINS: No additional comments?

25 MR. STAFFORD: I can't see it.

1 MS. QUINTERO: Okay. The first paragraph,
2 this guideline, we --

3 MR. STRIBLING: No. We're going to page 6.

4 MR. STAFFORD: I just want to go through the
5 action items for each section that we've agreed to,
6 because we said that we would go back and do one final
7 quality control.

8 MS. QUINTERO: Action item one. We add a
9 new bullet. "Communicate policy to all workers when
10 they first come on the site. Utilize resources
11 available to construction employers, such as sample
12 written policy and program included in appendix."
13 Last I know, that was somewhere else and we decide to
14 incorporate.

15 Action 2. Nothing.

16 Action 3. We add after the first paragraph:
17 "Resource and needs will vary depending on your
18 organization size, complexity." And starting point in
19 program development: "resource and needs might
20 include capital equipment and supply, staff time,
21 training, access to information and tools," blah,
22 blah, blah, blah, blah, blah.

23 MR. STAFFORD: That was just the note there.
24 Right.

25 MS. QUINTERO: Exactly. The note was

1 relocated there. Action 4, bullet one. We add an
2 example, "such as competent and qualified person."
3 And we eliminate: "ensure that the leadership and
4 local management share the same safety and health
5 performance." And we eliminate: "set an example for
6 workers by following," blah, blah, blah, blah.

7 We add three new bullets. "All management
8 reps on site (owners, supervisor, and foremen) must
9 follow all safety rules, and continue.

10 Next bullet. "Conduct weekly or daily
11 toolbox talks on safety and health," appendix, blah,
12 blah, blah, blah.

13 Third bullet. "Every worker should get an
14 orientation when they first come on the job site that
15 focuses on safety and the potential hazards of the
16 specific site," blah, blah, blah, blah.

17 MR. HICKMAN: So, these were moved in from
18 Exhibit 4, I think.

19 MS. QUINTERO: Yes, that's correct.
20 Exhibits. That's it under that section. Now we go to
21 worker participation.

22 On the intro, bullet one, we delete design
23 and implementation.

24 The last paragraph, fifth line from the
25 bottom up, we delete "as can mandatory the drug

1 testing after reporting injury." That drug testing
2 section, we delete that.

3 Action item one. We add, maybe this is a
4 note from somewhere, I'm not sure, but: "Your worker
5 are the first line of defense, they might spot hazards
6 before you do, so it is extremely important that they
7 are engaged and empowered to act, to take action if
8 they see a hazard," blah, blah, blah, blah.

9 MR. HICKMAN: From Exhibit 4. Yeah.

10 MS. QUINTERO: Yes. And then we add an
11 example to the sixth paragraph: "Workers are often
12 best position to identify safety and health hazards,
13 such as unsafe conditions" -- okay -- "close call,
14 near misses, and actual incidents." That's it for
15 Action 1.

16 Action 2. Nothing. Anyone have something?

17 Action 3, we have one new bullet. "Since
18 workers often have the best idea on how to do the work
19 safely, daily planning meetings, huddles, tool box
20 talks," blah, blah, blah, blah.

21 We add another bullet. So, in this section
22 we add one, two, three, four new bullets.

23 The first one is: "Since worker often have
24 the best idea."

25 Second one: "Workers can also support the

1 program throughout participation."

2 Third: "For particularly hazardous tasks, a
3 job safety analysis or JSA."

4 And the last one: "When accidents do
5 happen, it is important to understand all the factors
6 that contribute to it." And for sure, we copied this
7 from --

8 MR. HICKMAN: Exhibit 4.

9 MS. QUINTERO: Exactly. Worker
10 participation. Action 4. Nothing under Action 4. If
11 someone has something, let me know.

12 Under Action 5, I don't have anything under
13 Action 5.

14 Now we move to hazard identification and
15 assessment. We have this. This was moved from
16 Exhibit 4. "Does everyone on the site know a hazard
17 when they see one? How do we make sure that they do?"
18 Blah, blah, blah, blah.

19 Action 1. Nothing new under Action 1.

20 Action 2. We add a new paragraph. "You
21 might need to devote more time and resources to
22 identifying and understanding more complex hazards,
23 such as," blah, blah, blah, blah.

24 The note that was on the bottom, we move it
25 up. "OSHA requires that construction employers

1 designate a competent person to conduct regular and
2 frequent inspections." Yeah, we don't want note, we
3 just want, you know, that to be a --

4 MR. STAFFORD: Right.

5 MS. QUINTERO: And the same thing for the
6 second note. We move it here. "See Appendix A,
7 implementation tools, and," blah, blah, blah, blah.

8 We remove, "Hazards can be introduced over
9 time as the work processes change." We remove
10 workload.

11 MR. MARRERO: You removed some general
12 industry terms, I believe.

13 MS. QUINTERO: Yeah. We removed chemical
14 agents, biological agents. We add: full protection,
15 electrical hazards. We just say that we need to add
16 more construction terms in this section.

17 MS. LAWLESS: And we removed workflow
18 bullet.

19 MR. STAFFORD: We had moved, yeah, the
20 bullet that started out, "Include ancillary activities
21 in these inspections."

22 MS. QUINTERO: Yes. Exactly. Yeah. You're
23 seeing here that it's crossed out.

24 MR. STAFFORD: Right.

25 MS. QUINTERO: Next bullet. Before, we

1 remove changing work flows, making major
2 organizational changes. So before intro -- the
3 paragraph is going to read: "Before introducing new
4 equipment, materials, or processes, evaluate," blah,
5 blah, blah, blah.

6 Then the next sentence. We removed in
7 construction. The sentence will start: "Conflicting
8 work schedules might also create hazards."

9 Then the note that was there, we removed
10 that note.

11 MR. STRIBLING: Took out the first bullet.

12 MS. LAWLESS: We also removed, "Consider any
13 facility modifications," from the first bullet.

14 MS. QUINTERO: Exactly. Yes. That's
15 correct.

16 Action number three. Nothing.

17 Action number four. We add two new bullets
18 on how to accomplish it. "Many times accidents happen
19 when workers are doing something they are not normally
20 doing," blah, blah, blah, blah.

21 Next bullet, "Preparation should be made for
22 emergency situation. Who will call 911? Are
23 emergency supplies available in the truck or the site?
24 Emergency, like a fall, can happen on any site at any
25 time."

1 That note is going to be removed after that?

2 Do you know?

3 MS. LAWLESS: The emergency plans?

4 MS. QUINTERO: Yeah.

5 MS. LAWLESS: I have nothing listed there.

6 MS. QUINTERO: Okay. So, for now, it stays
7 there.

8 Action 5. I have nothing on the hazard
9 identification assessment Action 5.

10 Hazard prevention and control. I don't have
11 anything on the introduction.

12 Action 1. The only thing I have is on
13 bullet number -- one, two, three. On third bullet,
14 the words, two words, "the facility," was removed.

15 Action 2, first sentence. "Select controls
16 that are most visible and effective." And we remove
17 and permanent.

18 MR. STAFFORD: Yep.

19 MS. QUINTERO: Action 3. Last sentence
20 under Action 3, the introduction, "Track your
21 progress." The word completing was removed.

22 Action 4.

23 MR. STRIBLING: Well, Action 3, isn't there
24 a bullet removed?

25 MS. QUINTERO: I don't have a bullet

1 removed.

2 MR. STRIBLING: Plan how --

3 MS. QUINTERO: Anyone else?

4 MS. LAWLESS: Yes. I --

5 MS. QUINTERO: You do?

6 MR. STRIBLING: Yeah. I had, "Plan how you
7 will track progress toward completion," was removed.

8 MR. BETHANCOURT: Yeah, that was.

9 MS. QUINTERO: Okay. Perfect. The Action 4
10 --

11 MR. STRIBLING: And one --

12 MS. LAWLESS: And the new construction
13 picture.

14 MS. QUINTERO: Yeah. That's --

15 MR. RANK: That's a global change.

16 MR. STRIBLING: But one other thing. Back
17 up. In Action 1, in the second bullet, I had that the
18 word workplaces was going to be changed.

19 MR. STAFFORD: You had? What did you have,
20 Chuck? I'm sorry.

21 MR. STRIBLING: Second bullet. "Investigate
22 control measures used in other workplaces," change the
23 word workplaces.

24 MS. QUINTERO: To what? Change that --

25 MR. STRIBLING: I don't know. I think we

1 said work sites.

2 MS. QUINTERO: Okay. Action --

3 MR. STRIBLING: Four.

4 MS. QUINTERO: -- 4, first sentence. "Plan
5 to protect workers during non-routine tasks". And
6 remove operations.

7 Under how to accomplish --

8 MR. STRIBLING: Wait a minute. Also remove
9 unplanned equipment shutdowns.

10 MS. LAWLESS: Same paragraph.

11 MS. QUINTERO: Uh-huh. Got it. How to
12 accomplish it. Develop -- bullet one. "Develop
13 process, procedures to control hazards that might
14 arise during non-routine tasks. Eliminate operations.
15 That's the only thing I have under that.

16 Five. Under introduction add a new
17 paragraph. "Letting problems languish in a inevitably
18 means someone," blah, blah, blah, blah.

19 How to accomplish. Remove bullet number
20 two, "When resources are limited increment measures."
21 So, we remove that.

22 Action number six. Under how to accomplish,
23 the one, two, three, four, fifth bullet. "Have all
24 controls measures being implemented." Then remove
25 "according to schedule."

1 MS. LAWLESS: And in the third bullet you're
2 also going to remove facilities. Conduct routine
3 preventative maintenance of equipment. Remove
4 facilities.

5 MR. STAFFORD: Yeah.

6 MS. QUINTERO: And then we add a new bullet
7 that says, "Have the controls be communicated to other
8 contractors in the area?"

9 Education and training. We start that
10 paragraph with managers and workers, rather than
11 workers.

12 A comment. A generic comment. "This
13 education and training section needs to be developed
14 for managers and workers. Those two words need to be
15 incorporated throughout education and training
16 section."

17 Last paragraph under the introduction. "In
18 addition, all workers should receive a specialized
19 training when they are assigned a specific role in
20 implementing and managing" -- delete or
21 operation -- "the Safety and Health Program."

22 Action 1: How to accomplish it. Tom said
23 remove the word agency. It's temporary workers only.

24 And we add a new bullet. "Every worker will
25 have some basic training in hazardous conditions. As

1 a starting point, all workers should have a hazard
2 recognition," blah, blah, blah, blah, blah.

3 Action 2. Training. The same thing.
4 Managers and workers. It says, "Additional training
5 might be needed to ensure that managers and workers
6 understand their roles and carry out their daily
7 routine and activities."

8 How to accomplish it. "Instruct managers
9 and workers."

10 Second bullet. "Provide opportunities for
11 managers and workers."

12 Third bullet. As the program evolves,
13 institute a more formal process for determine (*sic*)
14 the training needs for managers and workers
15 responsible for developing, implementing, and
16 maintaining the program."

17 Action 3. "Train managers and workers.
18 Introduction," blah, blah, blah. "Providing managers
19 and workers." Nothing else.

20 Under how to accomplish it, one new bullet.
21 "Workers need information about potential hazards.
22 For example, if hazardous chemicals are used, the
23 safety data sheets must be instantly available," blah,
24 blah, blah, blah.

25 Program evaluation and improvement. We

1 remove on the introduction section, "Program
2 evaluation and improvement means that you."

3 First bullet was removed. "Establish report
4 and track metrics." That was removed.

5 Action item one. First sentence was
6 removed, "Define appropriate measures and indicators
7 to measure performance."

8 Second paragraph. We add -- I add after
9 leading indicators, "please provide a more clear
10 definition and examples. After leading indicators,
11 please provide a more clear definition and example."

12 I also said, "Leading indicators are
13 proactive and can help measure -- and can measure the
14 successful implementation and impact of the Safety and
15 Health Program." I delete -- then we delete the rest
16 of the sentence.

17 We add a new paragraph. "Indicators can be
18 either quantitative or qualitative. Select indicators
19 that are measurable and that reflect the program goals
20 and identify areas of concerns."

21 How to accomplish. Nothing -- yeah. Hold
22 on. How to accomplish. We eliminate the note.

23 Now we go to action item number two. We
24 delete, "at least once a year." We're going to use
25 the word, "Continuously evaluate the effectiveness of

1 the entire program and newer site-specific programs on
2 an ongoing basis to ensure that it operates," blah,
3 blah, blah, blah.

4 Second paragraph, "The scope and frequency
5 of program evaluation will vary depending on changes
6 in OSHA standards, scope, complexity," blah, blah,
7 blah, blah.

8 "How to accomplish it. Verify that the
9 program core elements have been fully and effectively
10 implemented on each of your job sites." At the end of
11 the last bullet, "Collecting and reporting the data
12 needed to monitor progress and performance, such as
13 lagging and leading indicators, as identified in
14 action item one."

15 Action item three, third bullet. Remove the
16 word facilities.

17 Fourth bullet, "Determine whether the
18 measures and goals are implemented" -- there's some
19 grammar issue here -- "are implemented are still
20 relevant and how you could change them to more
21 effectively drive improvements in workplace safety and
22 health.

23 "Danezza will ask Cindy." Cindy's not here.
24 Cindy was going to rewrite that paragraph or provide
25 us some language, so.

1 And, "Seek out relevant safety and health
2 public research to help improve methods." That was
3 from Nigel. And remove the note.

4 MR. STAFFORD: Right.

5 MS. QUINTERO: And we're to the last one
6 here. Coordination and communication. We remove --

7 MS. WILSON: I'm sorry.

8 MS. QUINTERO: Go back?

9 MS. WILSON: Yeah. Go back to three,
10 please.

11 MS. QUINTERO: I have to ask Cindy. She was
12 going to provide us the language on that one.

13 MS. WILSON: Right. Is it also not where
14 we're adding about a short anonymous survey?

15 MR. HICKMAN: Yes.

16 MS. WILSON: Which is in --

17 MR. CANNON: That was the second bullet.
18 Just adding that on to the --

19 MS. WILSON: Oh.

20 MR. CANNON: -- of the second bullet, where
21 it says, "For instance develop or create a --

22 MS. QUINTERO: So, under, "Proactively seek
23 input from --

24 MR. CANNON: "Input from managers, workers,
25 supervisors, and other stakeholders" --

1 MS. QUINTERO: Okay. Read it for me. So,
2 at the end -- you're getting through the program.

3 MR. CANNON: Yeah, at the end of the
4 program.

5 Pete, what was it? For instance?

6 MR. STAFFORD: It's in my document. I just
7 can't find the page relevant --

8 MR. CANNON: Yeah. "For instance, you can
9 create a short anonymous survey, or they can give you
10 an honest picture of what is happening." I don't know
11 if you want to go on to say, "you may be surprised
12 what they say," but, you know.

13 MR. STAFFORD: It's in Exhibit 4, Jen.

14 MR. CANNON: Under program evaluation.

15 MR. STRIBLING: I had one other thing.

16 MS. QUINTERO: Uh-huh?

17 MR. STRIBLING: In this same section, back
18 under action item one, it's several bullets -- well,
19 on page 21 it says, "Worker opinions about program
20 effectiveness." Did we -- we talked about, but did we
21 change that to manager and worker?

22 MR. CANNON: And worker. Yeah.

23 MR. STAFFORD: And workers.

24 MR. CANNON: Yeah, manager and worker.

25 MR. STRIBLING: And then, you go three more

1 up and says, "Number of workers who have completed" --

2 MS. QUINTERO: Wait, wait. Action item one.

3 Not on the introduction. You are -- you --

4 MR. CANNON: How to accomplish it.

5 MS. QUINTERO: On how to accomplish?

6 MR. CANNON: Yes.

7 MR. STRIBLING: Yeah.

8 MS. QUINTERO: So, that will be bullet
9 number?

10 MR. STRIBLING: Well, it's several down. It
11 says, "Worker opinions about program effectiveness."

12 MS. QUINTERO: Yes, I got it. About program
13 effectiveness. Uh-huh. What else?

14 MR. STRIBLING: It should be manager and
15 worker.

16 MS. QUINTERO: Perfect. Okay.

17 MR. STRIBLING: Then you go three bullets
18 up, it says number of workers. I think we decided
19 number of managers and workers.

20 MR. STAFFORD: Yes.

21 MS. QUINTERO: Uh-huh. Good. Anyone else?

22 (No response.)

23 MS. QUINTERO: Okay. Coordination and
24 communication. We removed that whole section of,
25 "Does This Element Apply to Me." Okay. Let's see

1 that we do this. Okay.

2 The introduction paragraph. We start:
3 "Most construction." Then, we're not going to worry
4 about this definition. We going to ask the agency to
5 look at the compliance regulation for general
6 contractor definition. Be careful that the definition
7 only apply to one -- not only apply to one specific
8 regulation. It might not apply outside that subpart,
9 so we have to be careful with that.

10 Can we use the term "all parties," or "all
11 entities"? So, every time that we talk about who in
12 there --

13 MR. HICKMAN: I think we might have moved on
14 beyond that, in a subsequent thought to all employers
15 and all workers.

16 MR. STAFFORD: Yeah. I think on this
17 section, Danezza, we got out of the word smithing, and
18 just in our last, and our last issue was just general
19 concepts that we shared.

20 MS. QUINTERO: Okay. So, Palmer, how the
21 first paragraph is going to read: "Typically, some
22 workers are employed by"? Or that whole section is
23 going to be rewritten.

24 MR. STAFFORD: Yeah. I think that we don't
25 need to do, go through this exercise. I think that --

1 MS. QUINTERO: We're going to work on that
2 section.

3 MR. STAFFORD: Yeah. I mean, we have the
4 general concepts.

5 MS. QUINTERO: So, we're going to work in
6 this whole introduction section.

7 MR. STAFFORD: The whole section --

8 MS. QUINTERO: The whole section. Okay.

9 MR. STAFFORD: -- needs to be redone. Yeah.

10 MS. QUINTERO: So, for that section -- okay.
11 Perfect. No problem. And for that section, that's
12 for the section that we created an outline that I put
13 together in what I have for -- in where I have, for
14 example, things, such as communication. If you create
15 the hazard, you are responsible to communicate the
16 hazard to assisting --

17 MR. STAFFORD: Yeah. I think this --

18 MS. QUINTERO: That whole --

19 MR. STAFFORD: Yeah, that whole thing. I
20 mean I think the principles are communication,
21 coordination, responsibility, and back to what Steve
22 said in this section, from general contractor to
23 subcontractor, from sub back to general, from sub to
24 sub, et cetera. That's kind of -- that's the section.

25 MS. QUINTERO: Right. So, I think we agree

1 to everything before that section. All the others are
2 completed.

3 MR. STAFFORD: Yeah. So we're blowing that
4 up, the multiemployer section for construction, right,
5 basically is what we're going to do.

6 MS. QUINTERO: Okay.

7 MR. STAFFORD: Any other questions or
8 comments?

9 MR. RANK: Yeah. Pete?

10 MR. STAFFORD: Anybody? Yeah, Steve?

11 MR. RANK: You know, I don't think you left
12 anything out.

13 MS. QUINTERO: Thank you.

14 MR. STAFFORD: Yeah. That's good.

15 Lisa, or?

16 MS. WILSON: Yeah. I would recommend that
17 the committee have a motion recommending that OSHA
18 consider, you know, the changes that you have
19 agree -- you know, the changes that you have put into
20 the document.

21 MR. STAFFORD: Okay. That's fine with me.
22 Entertain a motion to that effect. Anybody would like
23 to make that motion?

24 MR. STRIBLING: So moved.

25 MS. WILSON: Okay. So --

1 MR. STAFFORD: Someone make a motion.
2 Chuck? Please.

3 MR. STRIBLING: I'm sorry. Chuck Stribling.
4 So moved.

5 MR. BETHANCOURT: What she said.

6 MR. STAFFORD: We need to frame the -- in
7 the form of a motion.

8 MR. RANK: Mr. Chairman, could we add as
9 part of that motion that the unfinished piece of
10 business also, you know, we have an opportunity to
11 fix. I mean, I want to make sure that that's not left
12 out.

13 MR. STAFFORD: Well, what -- maybe we should
14 do that in two separate actions --

15 MR. RANK: Because I want to make sure
16 that -- because of the --

17 MR. STAFFORD: -- okay, so, to make it
18 clear. All right. So, let's start over. Lisa, frame
19 up a motion that one of these folks are going to move,
20 and hopefully second.

21 MS. WILSON: I would suggest ACCSH
22 recommends that OSHA consider the changes to the
23 guidance document that the committee agreed to.

24 MR. HAWKINS: I think that was what Chuck
25 moved. I second Chuck's motion.

1 MR. STAFFORD: All those in favor, signify
2 by saying aye.

3 (A chorus of ayes.)

4 MR. STAFFORD: Those -- okay. Very good.
5 All right. Steve, frame your motion up about work
6 that's still to be done.

7 MR. RANK: Yeah. Just consideration for a
8 motion that the coordination and communication of
9 multiemployer work sites, that any unfinished
10 business, that we want to make sure that we're
11 involved in whatever surfaces, and we can have a look
12 at. You know, I want to make sure. It's very
13 important.

14 MR. CANNON: That would be two things. That
15 OSHA rewrite it, and then the second part would be
16 have --

17 MR. RANK: Include us. Yes.

18 MR. CANNON: In the review.

19 MR. RANK: Have us review the draft that
20 they come up with.

21 MR. STAFFORD: All right. So, let's redo
22 that a little bit. So, I want to make a motion that
23 this committee today, in concept, laid out an outline
24 for what the multiemployer section looked like, and
25 the motion is that the ACCSH have an opportunity to

1 review that section once OSHA drafts it. Do we have a
2 second?

3 MR. RANK: Second.

4 MR. STAFFORD: We've had a motion and a
5 second. Any discussion?

6 (No response.)

7 MR. STAFFORD: All those in favor signify by
8 saying aye.

9 (A chorus of ayes.)

10 MR. STAFFORD: Opposed?

11 (No response.)

12 MR. STAFFORD: Okay. Carries that. Any
13 other action items required, Eric or Lisa?

14 (No response.)

15 MS. WILSON: Okay. I think we're good. I
16 think Dr. Michaels is going to come speak to us.

17 MR. STAFFORD: I think somebody at the OSHA
18 staff should probably go down and let Dr. Michaels
19 know the committee is getting ready to adjourn. I
20 think he was scheduled to be here in about an hour and
21 our business is finished. Okay. We'll break until
22 4:00.

23 (Whereupon, a short recess was taken.)

24 MR. STAFFORD: Well, Dr. Michaels, you have
25 come at the end of a long day and a half. I'm sorry

1 our committee's dwindled down a little bit, but we
2 appreciate you taking the time to visit with us.

3 DR. MICHAELS: I would've come a little
4 earlier, had I known. I'm sorry. How are you?
5 First, I came up for a couple things.

6 One is to, at least those of you who are
7 still here, but really all of you, I want to thank you
8 for your work, not just today, but on this committee,
9 which is really a, you know, phenomenally valuable
10 committee, and gives us a great deal of insight,
11 advice, and helps us move forward. So, we're grateful
12 for your participation. We know no one pays you for
13 this, so it's really great.

14 I also wanted to thank -- and let me, in
15 particular, thank Pete as the Chair of this committee.
16 I'm really grateful that you continue to do that.

17 MR. STAFFORD: It's no problem, David.

18 DR. MICHAELS: It's very important for us
19 that you do this, and I think all of you are having a
20 big impact. I want to thank our staff, Eric for
21 helping to staff this committee, and the other folks
22 from the Directorate of Construction, who really have
23 really moved mountains. And I've seen the great work
24 that they do. And we're grateful for that, as well.

25 I know you spent the day on issues about

1 safety and health management programs. My
2 understanding is you've made great progress. They're
3 obviously some tough issues, but, you know, we heard
4 from many of you and from others that the construction
5 industry was special enough and different enough that
6 we should have a document specific to the industry.

7 And this is the first time we're doing that
8 so we know, of course, there are going to be some
9 bumps in the road, but it sounds like you've made
10 progress. You know, you don't have to resolve all the
11 issues today. That's up to us to resolve, so -- but
12 we certainly will take your advice very seriously.

13 Let me also thank Lisa Wilson, and the folks
14 from SOL who've been supporting this effort, because
15 both here and across all of our work SOLs, really sort
16 of a key part of all of our work.

17 So, I just wanted to mention three things
18 which have, you haven't discussed and I'm going to
19 make sure that got mentioned. One is early May we
20 have our Fall Safety Stand-down. This is something
21 that really has come out of the Directorate of
22 Construction, and they've really built it. And this
23 is the third year we're doing it, and it's really
24 become an important institution.

25 You know, last year, there were almost 900

1 deaths -- excuse me -- 2014, there were almost 900
2 deaths in the construction trades. 900 too many,
3 obviously. More than a third of those were caused by
4 falls.

5 Now we also have far too many falls outside
6 of construction, but in construction is a particularly
7 significant hazard, and everything we can do to save
8 those lives is what we should be doing. So, the
9 Safety Stand-down is coming up. I know all of you are
10 deeply involved.

11 Jeremy, I just saw those photographs you
12 sent me from billboards in Arizona. Thank you for
13 that. Really, everybody's involved and it's been
14 great.

15 Last year, we reached about two and a half
16 million workers in all 50 states, and actually,
17 internationally, there was a lot of pick up of this
18 all over the world. We'll continue to do that. This
19 year our goal is five million workers. We've been
20 meeting with employer groups, unions all across the
21 country.

22 We just -- I just came back from a meeting
23 with the Air Force that's going to involve hundreds of
24 thousands of workers and stand-downs around the world
25 not just, obviously, in construction, but they do a

1 lot of work where people can fall when they're
2 repairing airplanes, and doing things like that.

3 So, we are very excited about this. We
4 think it'll have an impact. We have, I think, a very
5 well-functioning certification program. We encourage
6 employers to log in and download certificates of
7 participation. They don't have to actually log in,
8 but just download certificates of participation, and
9 give us their feedback. So, that's the first thing.
10 Thank you all for your support on that.

11 I couldn't have this meeting without talking
12 about our silica standard. So many people at -- in
13 OSHA and the solicitor's office worked very hard on
14 that, and so many of you participated and gave us
15 data, and helped us put together what we think is a
16 useful standard.

17 We obviously think that the construction
18 industry will mostly use Table 1. That was why we
19 wrote it. It's written based on all the meetings
20 we've had with the construction industry and the
21 building trades for, you know, more than a decade,
22 where employers tell us they don't want to have to
23 measure their exposures, they want to just know what
24 they can do to be safe.

25 And we know enough about silica that we

1 could put together this table with your input. And we
2 think that Table 1, we expect it to be widely-used.
3 In fact, the message we're putting out now is, you
4 know, "You don't have to wait for 13 months from now
5 when it goes into effect." I mean, you should be
6 protecting workers from silica exposure now. It's not
7 a legal requirement, but you certainly should be doing
8 it and Table 1 certainly helps you get there.

9 There's always controversy, and, obviously,
10 there are some folks who put out press releases and
11 lawsuits saying, you know, they disagree with it. You
12 know, I've been following the history of OSHA
13 standards for quite a few years. I've written a great
14 deal on this. I have a number of articles, and it's,
15 you know, chapters in my book.

16 And you go back and you look at OSHA
17 standards from the beginning, there's a pattern you
18 always see, and I think we saw it this time. When we
19 first issue a standard, the folks who will be
20 regulated instinctively don't want to see regulation,
21 and I understand that. I mean that's the -- you know,
22 that's -- it's a natural reaction. And so, they hire
23 people to tell us that it's -- and this is always the
24 same discussion.

25 In fact, you can go back to vinyl chloride

1 in 1974 and 1975, where you had experts say, you know,
2 "The vinyl chloride standard," which is going to
3 prevent people from getting angiosarcoma of the liver,
4 that -- and there's a fabulous *New York Times* article
5 with exactly this quote, saying, "the vinyl chloride
6 standard is medically unnecessary, technologically
7 unfeasible, and will result in the loss of up to 2.2
8 million jobs". So, that was 1974. You know, 40
9 something years ago.

10 So, of course, what was interesting about
11 that is, you know, we said that the production of
12 polyvinyl chloride -- which is used in many materials,
13 you know, in vinyl, you know, building materials, in
14 records -- remember records -- shower curtains. I
15 mean vinyl is everywhere. Certainly vinyl siding is,
16 everyone still sees around.

17 Well, the vinyl industry used to make
18 polyvinyl chloride out of the vinyl chloride monomer
19 in these big processes where tanks were closed, but
20 there was a lot of opening of tanks, and the vinyl
21 chloride would get released into the air.

22 Within a year of our issuing a standard
23 reducing exposure to one part per million, which is a
24 dramatic, dramatic difference from the previous
25 standard, far more than we're doing with silica,

1 within a year, the engineers of American industry
2 figured out how they could enclose the processes, and
3 make their factories more productive, and more
4 efficient, and more profitable.

5 So, there's an article in *Chemical Week* in
6 1976 saying, "PVC comes out of jeopardy into
7 jubilation." And not a single job was lost, and
8 angiosarcoma caused by exposure to vinyl chloride has
9 disappeared.

10 So, we expect to see the response that we
11 always get, which is, "Don't do this, you don't have
12 to do it, you can't do it, it's going to kill jobs,"
13 but the history shows that not only are our -- the
14 costs that are estimated by employers way, you know,
15 large over estimates.

16 That -- the true cost of many of our
17 standards is far lower than what employers estimate,
18 but they're lower than OSHA estimates, because OSHA's
19 estimates can't take into account the fact that we
20 drive technology.

21 Engineers will look at this now, and they'll
22 say, "Well, all of a sudden we're going to have to
23 protect people from silica exposure, we're going to
24 come up with new ways to do that," and it will be more
25 effective and less expensive than things that we based

1 our standard on.

2 So, I promise you five years from now we'll
3 be looking at this and we'll be saying, "Boy, this was
4 easy to do." Not only that, 10 years from now we will
5 forget that there was an OSHA standard that made us do
6 this.

7 The best example, I think, is the
8 blood-borne pathogen standards that OSHA promulgated
9 in 1991. You know, this was after about 10 years of
10 the AIDS epidemic. HIV exposures in hospitals, in
11 medical centers, in doctors' offices, dentists' office
12 was a real risk. Hepatitis B was a big problem.
13 There were -- used to be somewhere about 15,000,
14 16,000 cases of hepatitis B every year in hospitals in
15 the United States.

16 So, OSHA issued a standard requiring things
17 like sharps containers. You have to wear gloves
18 in -- if you're a hospital employee. We heard from
19 dentists when we did our hearings saying, you know,
20 "If you make me wear gloves, I won't be able to
21 practice dentistry." Now I can't imagine -- the
22 gloves that they're wearing are mittens, maybe, but
23 when was the last time anyone here went to a dentist
24 who didn't wear gloves?

25 And I could tell you, you could ask most

1 dentists do they remember this, the reason they're
2 wearing gloves is OSHA requires it, or the reason they
3 have sharps containers is because OSHA requires it.
4 No one even remembers there's an OSHA standard, but we
5 changed the world that way.

6 And that's what will happen on construction
7 sites with silica. And ten years from now everybody
8 will be working much more safely. We will have
9 eliminated many, many cases, prevented many, many
10 cases of silicosis and lung cancer, and no one will
11 even remember that all this new equipment was
12 purchased and used and used more efficiently and
13 effectively because of the OSHA standard.

14 And so, I think you've all made an important
15 contribution to that, and I'm really honored to have
16 been part of this process.

17 So, finally, I just want to mention that on
18 Thursday of this week is Worker's Memorial Day. It's
19 also the 45th anniversary of OSHA, and it's not a
20 coincidence. President Nixon signed the OSHA Act in
21 December of 1970, and gave the Department of Labor
22 until April 28, 1971 to start.

23 Some years later, when activists -- and I
24 remember, actually, George McDonald from the Transport
25 Workers Union who came up with this idea said, you

1 know, "We should have a day to remember workers who
2 have been killed." And he said, "Well, we
3 should -- what day do we choose?" There was no
4 obvious date, so he said, "Let's do it on the
5 anniversary of OSHA."

6 It's now a worldwide activity, and certainly
7 most people in the world have no idea it's also OSHA's
8 birthday. You go to Australia, you go to England, all
9 over Europe, the International Labor Organization has,
10 you know, it's Worker Safety Day, or Worker's Memorial
11 Day, depending on where you are.

12 It's a day where there will be observances
13 all over the country remembering why we do this work,
14 often involving the families of workers who have been
15 killed, reminding us that no one should have to
16 sacrifice their life for a job.

17 In some ways it's, you know, it really is
18 part of the Bill of Rights. The ultimate right every
19 worker has is to be able to work without getting hurt.
20 We're the people, OSHA, the employers, the unions,
21 everybody here are the people who make that happen.

22 So, I'm grateful for the work that all of
23 you do, this committee, what you do, you know, in your
24 paid jobs, what else. You know, all the work that you
25 do. I think you make a big difference. So, I want to

1 thank you again. If anyone has any comments or
2 questions, I'm happy to take them.

3 MR. STAFFORD: Thank you very much, Dr.
4 Michaels. We always appreciate you joining us.

5 Anyone have any questions or comments for
6 Dr. Michaels? Just let me first say -- I'm sorry.
7 Jeremy, did you?

8 MR. BETHANCOURT: No.

9 MR. STAFFORD: Okay.

10 MR. BETHANCOURT: I have a comment to make
11 to Doctor --

12 MR. STAFFORD: Go ahead then.

13 MR. BETHANCOURT: So, Dr. Michaels, first
14 I'd just like to thank you. As my second term as a
15 member of ACCSH is coming to an end, I just wanted to
16 thank you and the agency for giving me the opportunity
17 to come here and participate with these fine folks
18 here, and help to promote safety in our workplace
19 throughout our country.

20 I wanted to make sure that I gave a special
21 thank you to my wife, Jennifer, who has been allowing
22 me to come here for all of these years. She does
23 sacrifice quite a bit, as I'm sure most of our spouses
24 do. So, I just wanted to say that. Especially since
25 it's our anniversary today. Put that on the record.

1 DR. MICHAELS: Well, and I want to thank you
2 for your contribution. It's been great. Lovely to
3 also get, meet your family when you bring them here.
4 It's a treat for us.

5 MR. BETHANCOURT: Thanks.

6 MR. STAFFORD: I think Jeremy just wanted
7 that on the record. That he thanked his --

8 MR. BETHANCOURT: Right. I just scored with
9 my wife.

10 MR. STAFFORD: That he thanked his wife.

11 MR. BETHANCOURT: I just showed her now on
12 the public record.

13 DR. MICHAELS: That's right.

14 MR. BETHANCOURT: I professed my love.

15 MR. STAFFORD: Any other questions or
16 comments for Dr. Michaels?

17 (No response.)

18 MR. STAFFORD: Again, David, thank you very
19 much. I mean, you could be -- should be commended on
20 the silica standard. I know what work the agency put
21 into that, and it's a really big deal and it was great
22 to see. I know there's some folks in this room that,
23 we had different opinions on it, but -- and you're
24 right. I mean, I think if you look at the standard in
25 Table 1, in terms of what we try to do, or what you

1 try to do for the industry and make it easy for
2 construction employers to prevent exposure to silica,
3 is right on.

4 I must say, not in my role as the chair of
5 this committee, but in my role in my other job at the
6 Building Trades, watching the process, going through
7 the rulemaking process, this, your staff just did a
8 tremendous job. As a citizen of this country, seeing
9 our government work, in particular with this silica
10 standard, was just great. And I really, truly
11 appreciate your work and all the work of your staff.

12 Yes, Steve?

13 DR. MICHAELS: And I do, too.

14 MR. HAWKINS: Dr. Michaels, I think some
15 things were pulled from the reg agenda when the agency
16 really focused on the silica. Do you know what might
17 be -- I mean, I'm interested in the walking working
18 surfaces.

19 DR. MICHAELS: Yes. Yeah. Our plan is
20 to -- we have every intention of issuing walking
21 working surfaces, or fall protection for general
22 industry while I'm here, and I only expect to be here
23 until January, so --

24 MR. HAWKINS: Good.

25 DR. MICHAELS: -- that's the plan.

1 MR. HAWKINS: I think we'd love to see --

2 DR. MICHAELS: Yeah. No, we -- and we
3 would, too.

4 MR. STAFFORD: Any other questions or
5 comments? Just one last comment, David. I know in
6 your, the revised guideline that we've been looking
7 at, I just wanted to give you a heads up now, even
8 though OSHA put in a new section on multiemployer
9 sites for construction, we basically blew that section
10 up today for construction --

11 DR. MICHAELS: Okay.

12 MR. STAFFORD: -- so that we're going to
13 start over with the agency on things that we think
14 apply to construction, and our unique nature of our
15 industry.

16 DR. MICHAELS: Well, we certainly heard the
17 message that, I don't want to say it's unique, but
18 construction is different than general industry, and
19 that you need a document that focuses on construction,
20 and that's why we have an advisory committee, and
21 that's why we look forward to getting your advice.

22 MR. STAFFORD: Okay. All right. Thanks
23 again.

24 DR. MICHAELS: Great.

25 MR. STAFFORD: Any other -- all right.

1 Thank you very much, Dr. Michaels, for being here.

2 DR. MICHAELS: Thank you so much.

3 MR. STAFFORD: I think -- we have, I
4 believe, one public comment. I think -- Bill,
5 Mr. Mott, did you sign up, or was that from --

6 MR. MOTT: I did but I've waved it off.
7 We're fine.

8 MR. STAFFORD: You waved it off. Okay.
9 Uh-huh. Okay. All right. Any other questions or
10 comments?

11 Yeah, Kev?

12 MR. CANNON: Okay. Kevin Cannon, employer
13 rep. I just wanted to revisit, you know, my question
14 yesterday. And I think -- about the enforcement and
15 how this is going to play, based on Eric's comments
16 as, you know, not knowing the relationship that this
17 guidelines will play with 1926-20(b).

18 So, I mean, if -- once we are provided with
19 the opportunity to review whatever is done with that
20 section that we blew up, if we could get some
21 information about, you know, or clarification from
22 Directorate of Enforcement, or the Solicitor's office,
23 or from somewhere as to how this will play out.

24 MR. STAFFORD: Okay. I mean, that's -- I
25 don't know if you want to respond to that, Eric, but

1 that's -- we -- the comment's on the record.

2 MR. KAMPERT: Yeah. Eric with OSHA. We'd
3 love to -- you know, these are guidelines. We aren't
4 sure, as we said before, exactly how it's going, and
5 we hope to have some sort of guidance, you know at
6 some point to help --

7 MR. STAFFORD: All right. Let me just say,
8 Kevin, as you know being a long time member here,
9 we -- there's -- just because we took a motion and
10 made a formal recommendation doesn't necessarily mean
11 that OSHA has to do that.

12 And so, with the timing of the agency and
13 trying to get the core document for all industries out
14 and construction, it's just really the liberty of the
15 agency, in terms of what they want to give back to us,
16 or what the next steps are from their perspective.
17 And it may be we'll see a guideline without seeing it
18 until it's published, right? So that we understand
19 that.

20 MR. CANNON: Well, at least an understanding
21 as --

22 MR. STAFFORD: Uh-huh.

23 MR. CANNON: -- it relates to the
24 enforcement.

25 MR. STAFFORD: Okay. Appreciate it. Any

1 other questions or comments?

2 (No response.)

3 MR. STAFFORD: I want to thank the
4 committee. I know it's been a long day and a half,
5 and I appreciate your efforts, all of you. Thank the
6 stakeholders that have been with us. Thank you very
7 much. Meeting is adjourned.

8 (Whereupon, at 4:15 p.m., the meeting in the
9 above-entitled matter adjourned.)

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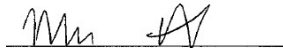
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REPORTER'S CERTIFICATE

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I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the United States Department of Labor, Occupational Safety and Health Administration.

Date: April 26, 2016



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