



National  
Construction  
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## **PRESS KIT**

White Paper: Rethinking OSHA's Multi-Employer Citation  
Doctrine: A Comprehensive Policy Analysis and Reform  
Blueprint

Prepared by the National Construction Policy Institute  
(NCPI) • August 2025

# Press Release

FOR IMMEDIATE RELEASE

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Headline: NCPI Calls for Clear Limits on OSHA's Multi-Employer Citation Doctrine to Strengthen Worker Safety and Reduce Litigation

Subhead: New white paper proposes statutory and regulatory reforms, including a safe harbor that lets prime contractors assist subcontractors with training, PPE, and technology without automatically assuming liability.

The National Construction Policy Institute (NCPI) has released a landmark white paper, "Rethinking OSHA's Multi-Employer Citation Doctrine," which outlines a practical, legally durable framework to align accountability with actual control on complex construction sites. The paper traces the doctrine's evolution, highlights the operational and economic costs of inconsistent enforcement, and proposes a balanced reform plan through legislation and formal rulemaking.

"Right now, well-intentioned primes risk citations merely for helping subs get safer," said Trent Cotney, Senior Fellow at NCPI and author of the paper. "Our recommendations would remove that chilling effect, reward proactive safety leadership, and still hold bad actors accountable."

The white paper recommends: (1) a statutory safe harbor allowing general contractors to furnish PPE, training, and safety technologies without automatically becoming 'controlling employers'; (2) a graduated citation matrix tied to an employer's real ability to abate hazards; and (3) incentives for data-driven safety partnership agreements that raise standards across multi-employer jobsites.

NCPI's roadmap includes both near-term rulemaking under Part 1926 and longer-term statutory amendments to clarify §5(a)(2) obligations, harmonize state plan enforcement, and embed due-process safeguards. The result: clearer expectations, stronger collaboration, and safer worksites nationwide.

Download the white paper: <https://constructionpolicyinstitute.org/resources>

About NCPI: The National Construction Policy Institute is a non-partisan think tank focused on practical, research-driven policies that improve safety, efficiency, and compliance across the construction industry. Learn more at [www.constructionpolicyinstitute.org](http://www.constructionpolicyinstitute.org).

## **Executive Summary**

**Problem:** OSHA's multi-employer worksite doctrine was developed through sub-regulatory guidance and uneven case law, which exposes general contractors to citations for hazards created by subcontractors, even where the prime did not create the hazard or expose its own employees. The result is inconsistent enforcement, higher costs, and a chilling effect on collaborative safety efforts.

**Why Now:** Recent Supreme Court decisions limiting judicial deference to agencies raise new questions about the doctrine's durability without clear statutory authority. This moment presents a unique opportunity to create a fair, uniform standard that protects workers and clarifies employer duties.

**What NCPI Proposes:** (1) Codify clear limits on controlling-employer liability based on knowledge, control, and reasonable opportunity to abate; (2) create a documented good-faith safe harbor; (3) incentivize multi-employer safety partnerships; and (4) harmonize state plan enforcement to reduce patchwork compliance burdens.

**Impact:** Encourages primes to invest in training, PPE, and technology for subcontractors; reduces litigation and overhead; improves safety performance; and restores predictability for national contractors operating across multiple jurisdictions.

## **Key Messages & News Hooks**

- The doctrine's current application can penalize safety leadership by treating assistance as evidence of control.
- Courts are scrutinizing agency overreach; durable reform should come through legislation or formal rulemaking.
- NCPI's safe-harbor and graduated-liability model protects workers while aligning accountability with real authority and knowledge.
- Harmonizing state plan enforcement reduces compliance fragmentation and cost without weakening safety outcomes.
- The paper offers concrete text for both a new Part 1926 standard and targeted amendments to §5(a)(2).

## **Suggested Headlines**

- New NCPI Blueprint Seeks to Fix OSHA's Multi-Employer Doctrine Without Weakening Safety
- Safe Harbor, Not Silence: NCPI Plan Would Let Primes Help Subs Without Automatic Liability
- Ending Patchwork Enforcement: NCPI Calls for National Standard on Multi-Employer Citations

## **Pull Quotes (Attributable to Author)**

"The safest jobsite is one where primes are empowered not punished for helping subs get safer."  
Trent Cotney

"Liability should follow knowledge, control, and a real chance to abate not job titles." Trent Cotney

"Uniform rules and a good-faith safe harbor will make it easier to build safely and fairly across state lines." Trent Cotney

## **Media Q&A**

**Q:** What is the multi-employer citation doctrine?

**A:** The multi-employer worksite doctrine is an OSHA enforcement policy that allows the agency to cite more than one employer at a single jobsite if each had a role in creating, exposing, correcting, or controlling a hazard. In construction, this means a prime or general contractor can be cited for safety violations affecting subcontractor employees even if the prime's own workers were not exposed.

**Q:** Why is reform needed now?

**A:** Enforcement is inconsistent across circuits and state plans, and recent Supreme Court decisions increase legal uncertainty if duties are not clearly defined by statute or rulemaking.

**Q:** Does NCPI's proposal reduce worker protections?

**A:** No. It preserves accountability while creating clear limits and a documented good-faith safe harbor that encourages proactive safety support.

**Q:** How would the safe harbor work?

**A:** If a prime maintains a site-specific safety program, documents oversight, and acts promptly on hazards, it would not be cited absent willful blindness or gross negligence.

**Q:** What changes are recommended for OSHA rules?

**A:** Adopt a construction-specific multi-employer standard in Part 1926 defining control, knowledge, and reasonable opportunity to abate, plus a good-faith defense.

**Q:** Is legislative action also needed?

**A:** Yes. Congress should clarify §5(a)(2) to explicitly authorize targeted multi-employer citations with limiting principles and a safe harbor.

**Q:** How would this affect small subcontractors?

**A:** It would increase access to training, PPE, and technology provided by primes, improving safety performance without shifting strict liability downstream.

Q: What is the expected impact on costs and litigation?

A: Clear rules and safe-harbor documentation reduce disputes, defense costs, and bid uncertainty while preserving strong safety outcomes.

### **Social Media Toolkit**

LinkedIn (600–900 characters):

NCPI's new white paper lays out a practical path to fix OSHA's multi-employer citation doctrine without weakening safety. We propose clear limits on controlling-employer liability, a documented good-faith safe harbor, and a national standard that rewards collaboration on complex jobsites. When primes can provide training, PPE, and tech without automatic liability, everyone is safer. <https://constructionpolicyinstitute.org/resources> #Construction #OSHA #Safety #Policy #RiskManagement #Compliance

X / Twitter (max 280):

New from NCPI: a blueprint to reform OSHA's multi-employer doctrine with clear limits + a good-faith safe harbor so primes can help subs get safer without automatic liability. Read the white paper. <https://constructionpolicyinstitute.org/resources> #OSHA #Construction #Safety

Facebook / Instagram caption:

NCPI's new white paper shows how to strengthen safety and reduce litigation on multi-employer jobsites. We recommend a safe harbor that lets primes support subs with training, PPE, and tech paired with clear limits on liability. Read more and download the report.

<https://constructionpolicyinstitute.org/resources> #Construction #OSHA #WorksiteSafety #RiskManagement #Policy #Compliance #NCPI

## **Boilerplate & Contacts**

About NCPI: The National Construction Policy Institute is a non-partisan think tank dedicated to practical, research-driven policies that improve safety, efficiency, and compliance across the construction industry. NCPI convenes legal, technical, and industry experts to develop actionable solutions that work on real jobsites.

Author Bio (short): Trent Cotney is a Senior Fellow at NCPI and a nationally recognized construction attorney and industry advocate. He has served as general counsel to multiple trade associations and frequently writes and speaks on OSHA compliance, contract risk, and workforce policy. He is the author of the books, *OSHA Defense for the Construction Industry* and *OSHA Defense: Know Your Rights*.

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