

OSHA General Duty Clause

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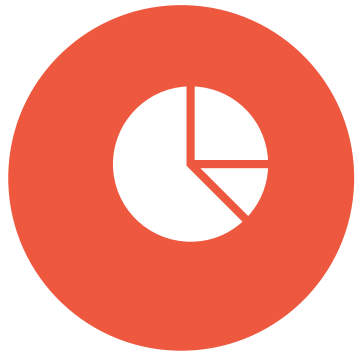
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General Duty Clause



WHAT IS REQUIRED?



WHAT CAN BE
CITED?.



HOW OFTEN USED?

OSHA General Duty Clause

The [General Duty Clause](#) from the OSHA Act of 1970 requires that, in addition to compliance with hazard-specific standards, all employers provide a work environment "free from recognized hazards that are causing or are likely to cause death or serious physical harm." The Occupational Safety and Health Administration (OSHA) relies on the General Duty Clause for enforcement authority.

. General Duty Clause

The General Duty Clause may be applied only in circumstances where “there is no standard that applies to the particular hazard and in situations where a recognized hazard is created in whole or in part by workplace conditions or practices that are not covered by a standard and the employer’s own employees are exposed to the alleged hazard..”

All the following elements are necessary for OSHA to prove a general duty clause violation:

- 1) The employer failed to keep the workplace free of a hazard to which its employees were exposed.
- 2) The hazard was recognized by the employer.
- 3) The hazard was causing, or was likely to cause, death or serious physical harm.
- 4) There was a feasible and useful method to correct the hazard.

Fabi Construction Company, Inc. and Pro Management Group v. Secretary of Labor

Employer Responsibilities Under OSHA's General Duty Clause

Each employer (subject to the OSH Act) must provide to all employees a safe place of employment.

A safe place of employment is one that is free of (1) recognized (2) serious hazards.

What Are “Recognized” Workplace Hazards?

OSHA considers a hazard to be recognized if the employer knew (or provably should have known) of its existence due to

- previous incidents,
- employee complaints,
- previous failures to correct,
- industry standards,
- or if the legally abstract ‘reasonable person’ would have recognized it as a hazard.

Some organizations that publish consensus standards include:

- American Conference of Governmental Industrial Hygienists;
- American Society of Agricultural Engineers;
- American National Standards Institute;
- American Petroleum Institute;
- American Society of Mechanical Engineers;
- American Welding Society;
- Compressed Gas Association;
- National Fire Protection Association; and
- Society of Automotive Engineers.

What Are “Serious” Workplace Hazards?

Serious hazards are those that could cause death, or “serious physical harm.”

OSHA describes serious physical harm in its [Field Operations Manual](#) to include the following injuries;

amputations, and lacerations of any kind involving significant bleeding and/or requiring suturing,

concussion, crushing injuries and bone fractures,

other serious impairment (temporary or permanent, chronic or acute) of any part of the body,

burns (from any source and including scalds),

sprains, strains, and musculoskeletal disorders

illnesses such as cancer, poisoning, chronic respiratory illness ,

hearing and/or visual impairment, and etc.

Common Hazards Cited Under OSHA's General Duty Clause

- Environmental hazards (extreme heat and cold, extreme weather events)
- Workplace violence
- Ergonomics and musculoskeletal disorders
- Combustible dust in a variety of locations
- Particular types of equipment (lasers, nail guns, pressure vessels, ammonia refrigeration systems)
- Respiratory hazards from an air contaminant that is not covered by an OSHA permissible exposure limit (PEL)
- Safety latch not in use on crane
- Storing incompatible chemicals together
- Structural damage to building causing struck by hazard
- Thermal stress (high heat and cold)
- Workplace violence risk that goes unmitigated

Common Hazards Cited Under OSHA's General Duty Clause

- Boilers not inspected and maintained
- Cell phone use while driving
- Combustible dust hazards
- Ergonomic hazards
- High visibility clothing not provided where struck by hazard exists with vehicular traffic
- Industrial storage racking not:
 - Having maximum permissible load amount posted,
 - Not secured in place where there is potential to be tipped over, or
 - Significant damage
- Personal fall protection equipment not inspected on annual basis
- Powered Industrial Truck (forklift) drivers not wearing a seat belt

The Hazard May Be Corrected by a Feasible and Useful Method

NFPA

ANSI

Gas Associations

NIOSH

CDC

Industry Guidelines

Operating Manuals

ETC.

- must identify the existence of a measure(s) that is feasible, available, and likely to correct the hazard. Evidence of feasible measures must indicate that the recognized hazard, rather than a particular accident/incident, is preventable.

Examples of Key ANSI Standards

□ ANSI A10.40 - Ergonomics/Construction

□ ANSI A10.8: Safety Requirements for Scaffolding

□ ANSI A10.12: Safety Requirements for Excavation

□ ANSI A10.14: Ladder Systems

□ ANSI A10.15: Safety Requirements for Dredging

□ ANSI A10.16: Safety Requirements for Tunnels, Shafts & Caissons

□ ANSI A10.17: Safe Operating Practices for Hot Mix Asphalt Construction

□ ANSI A10.18: Safety Requirements for Temporary Roof & Floor Holes, Wall Openings, Stairways & Other Unprotected Edges in Construction & Demolition Operations

□ ANSI A10.32: Fall Protection Systems □ ANSI A10.33: Safety & Health Program Requirements for MultiEmployer Projects

□ ANSI A10.39: Construction Safety & Health Audit Program

□ ANSI Z10 - Safety and Health Management Programs

□ ANSI Z15 - Motor Vehicle Fleet Safety

□ ANSI Z117 - Confined Spaces (2003 version)

□ ANSI Z244 Lockout/Tagout

□ ANSI Z359 Fall Protection

□ ANSI Z400.1 - MSDS preparation guidelines

□ ANSI Z490 Safety, Health an

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Usage

-OSHA's aerial lift standard references ANSI A92.2-1969. Even though ANSI A92.2 has been revised, the OSHA aerial lift standard continues to require only compliance with the 1969 standard. There is no automatic adoption of the more current industry consensus standard. Even though many General Contractors are requiring the newer MEWP Training.

-Construction citations of NFPA 70E standard, which is one of many industry consensus standards developed by the National Fire Protection Association. NFPA 70E, which is titled "Electrical Safety Requirements for Employee Workplaces," is the NFPA's consensus standard for workplace electrical safety. It covers employee protection from electrical hazards including shock, arc blasts, explosions initiated by electricity, outside conductors, etc.

What is in a word?

Shall- will must

May-must do this or that.. choice

Recommend-Shouda wouda coulda

www.osha.gov

Help and Resources Tab

Data and Statistics Tab

General duty Clause search

January 4, 2017- January 4, 2022

United States:

4095 GDC were cited.

Region 1

421 GDC were cited



Lexmart International inc- \$7802 (42900)

The employees were exposed to ejection and crushing hazards from operating powered industrial trucks: (a) Lexmark International Inc. at 6555 Monarch Road in Longmont, CO: On and before July 2, 2021, employees were exposed to ejection and crushing hazards while operating the forklifts throughout the facility without securing the seatbelts that were furnished on each of the forklifts.

Seafreeze Ltd.- \$9557 (64,170)

On or about 7/8/21 employees were exposed to the potential for unexpected releases of ammonia at the following locations: (a) Outside of the ammonia mechanical room the ammonia system's compressed pressure receiver exhibited peeling paint and algae growth on the bottom of the tank, the king valve neck was missing paint and exhibited surface corrosion, and portions of the piping associated with the compressed pressure receiver also exhibited surface corrosion. (b) Outside the ammonia mechanical room the ammonia system's surge drums and associated piping insulation covers were damaged and exhibited algae growth in several locations. Additionally some of ammonia piping's insulation had been damaged and some of the insulated pipe exhibited ice buildup. (c) On the roof above the ammonia mechanical room the ammonia system's high pressure receiver and associated piping exhibited significant corrosion. (d) On the upper roof (roof above freezer # 1 and to the west of the ammonia mechanical room) damaged pipe insulation and corroded piping was observed. Additionally it was noted that outer coverings on the pipe insulation had been cut to accommodate pipe supports, but not sealed to prevent water intrusion into the insulation. (e) In the AMR an overhead valve and associated piping was observed with missing paint, excessive moisture accumulation and surface corrosion.

A. Vitti Excavators, Llc- \$4,291 (65223)

An employee was required to enter and exit an excavation that was more than 9 feet in depth and the employer did not ensure his safety by providing him a safe means to enter and exit the excavation. The employee was exposed to crushing and fall hazards while riding in the bucket of a Caterpillar excavator as a method to enter and exit the bottom of the excavation.

Links for more information:

ASSE: www.asse.org

ANSI: www.ansi.org

ASTM: www.astm.org

NFPA: www.nfpa.org

ACGIH: www.acgih.org

OSHA; www.osha.gov