



General Duty Clause

General duty clause issues - The general duty clause is often used to cover anything that is not specifically covered by a regulation in which an employee is in danger or potentially in danger of death or physical harm.

§ 1903.1 Purpose and scope. (GENERAL DUTY CLAUSE)

Requires that every employer covered under the Act furnish to his employees, employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees. The Act also requires that employers comply with occupational safety and health standards promulgated under the Act, and that employees comply with standards, rules, regulations and orders issued under the Act which are applicable to their own actions and conduct.

Although this rule seems to indicate that it covers all hazardous situations that are not specifically covered, there are some guidelines that an inspector is required to follow. The four basic guidelines are:

1. The employer must have failed to keep the workplace free from hazards that the employees were exposed to. The hazard must threaten physical harm to the employees. There is not an abatement measure for this type of citation, only that the employer must keep the workplace free from any hazard. He can do that by any safe means he sees fit.
2. The hazard must be recognized. It can be recognized by the industry that the employer is in, by an employer statement either written or oral during an inspection, or it can be a common-sense type of recognition.
3. The hazard is or is likely to cause death or serious physical harm.
4. The hazard must be corrected by a useful method. OSHA must identify a method that is feasible.

EXAMPLE: In a hazardous situation involving high pressure gas where the employer has failed to train employee properly, has not installed the proper high pressure equipment, and has improperly installed the equipment that is in place, there are three abatement measures which the employer failed to take; there is only one hazard (that is, exposure to the hazard of explosion due to the presence of high pressure gas) and hence only one general duty clause citation.

EXAMPLE: A fire occurred in a workplace where flammable materials were present. No employee was injured by the fire itself but an employee, disregarding the clear instructions of his/her supervisor to use an available exit, jumped out of a window and broke a leg. The danger of fire due to the presence of flammable materials may be a recognized hazard causing or likely to cause death or serious physical harm, but the action of the employee may be an instance of unpreventable employee misconduct. The citation should deal with the fire hazard, not with the accident involving the employee who broke his/her leg.

Just remember that the General Duty Clause is still a gray area. An employer has a better chance of avoiding a citation of this nature if he makes an effort to do the right thing and if he is prepared, organized, and polite during an inspection. OSHA tends to disapprove of employers who are dishonest and rude and are likely to use this citation in that type of situation. Also, OSHA tends to use this citation when there are other hazards that they can issue citations on.

Resources:

OSHA Field Inspection Reference Manual
Chapter III, Inspection Documentation

http://www.osha.gov/Firm_osh_data/1000007.html