

TRICOR Safety Consulting

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The General Duty Clause

The Occupational Safety & Health Act of 1970 is the law that founded OSHA and the federal workplace safety regulatory system we know today. Section 5(a)(1) of that law establishes a duty on the part of employers to "furnish a place of employment [that is] free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees."

This is known as the General Duty Clause. Its function is to enable OSHA to crack down on workplace hazards not covered by a specific OSHA Standard.

Example: OSHA inspectors identified more than 300 cases of cumulative trauma disorders such as carpal tunnel syndrome and rotator cuff injuries at a poultry plant. OSHA doesn't have a standard on ergonomics. So it cited the plant for violating the General Duty Clause. The plant eventually paid \$200,000 to settle the charges [Secretary of Labor v. Hudson Foods, Inc.].

Terrorism and the Clause

In theory, OSHA could use the General Duty Clause to cite an employer for not protecting workers against terrorist hazards the way it did for not preventing ergonomics risks. So far, it hasn't done this. And, it's unlikely to do so in the future.

Explanation: The General Duty Clause doesn't require employers to ensure against all hazards that cause death or serious bodily harm - only "recognized" ones. Is terrorism a "recognized" hazard?

The term "recognized" isn't defined in the OSHA statute. Some federal courts have interpreted it to mean dangerous conditions that can be detected by the senses that are generally known to be hazardous. See Pratt & Whitney Aircraft v. Secretary of Labor, 649 F.2d 96 (2d Cir. 1981). Terrorism would

clearly be considered a recognized hazard under this interpretation.

But other courts have held that a hazard must be foreseeable to be considered recognized. See Kelly Springfield Tire Co., Inc. v. Donovan, 729 F.2d 317 (5th Cir. 1984). It would be tough to make the case that terrorist attack is foreseeable. OSHA has issued two interpretation letters stating that it doesn't consider terrorism to be a foreseeable risk for purposes of applying the HAZWOPER or Emergency Action Plans Standards. Presumably, the same interpretation would apply to application of the General Duty Clause.

More importantly, the use of the General Duty Clause to cite an employer for not doing enough to protect workers against terrorism would be completely inconsistent with the current OSHA policy of treating terrorism as a non-traditional hazard. It would also deviate from the OSHA approach of using the carrot rather than the stick to get employers to combat terrorist risks in the workplace.

Structurally, there's nothing in the regulatory scheme to prevent OSHA from treating terrorism like any other workplace hazard. OSHA has the authority to develop a standard covering terrorism. It can also use existing standards and statutory obligations to force employers to protect workers against terrorist threats in the workplace.

But that's not the way the current OSHA administration wants to go. OSHA is prepared to encourage but not compel employers to deal with terrorism. Some may consider this a bad policy; others may applaud it. All that's clear is that it's not likely to change before the next presidential election in 2008.

Source: safetyxchange.org

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Wisconsin Building Safety Week

Safe and healthy buildings don't happen by chance. Knowledgeable owners, designers, contractors, workers, and officials make sure of safety and health. Protect the safe outcome and investment value of your construction project. Building regulations help protect your safety and your property.

State and national evaluation of products helps prevent fraud, encourages energy efficiency, and protects safety and health. Building code enforcement is a buttress against the sudden horrors of natural disasters - hurricanes, snowstorms, tornados, wild fires, and earthquakes.

You've seen lives and property destroyed this past winter in multiple building collapses in Europe, Asia, and Africa. Codes, Design, Plan Review, Permits, Construction, Installation & Inspections

- All part of protecting the health and safety of people in Wisconsin -
- All part of supporting the quality of communities and the value of properties -

Historically, there have been great improvements in our protection against the dangers that are involved with using elevators, boilers, electricity, sanitary facilities, heating units, and other building systems. At the beginning of the 20th century people decided there were too many preventable deaths and injuries. Modern code enforcement began. Now, for example, fewer boilers explode, fewer welds fail, elevators don't fall anywhere near as often, and bad wiring doesn't cause as many fires or electrocutions.

The public has an expectation that governments will work to protect their safety, health, and property. Your home is probably your most important purchase - Protect your family's safety, health, and finances - Be sure building codes are followed.

In this time of skilled do-it-yourselfers, the active support of code officials is an impor-

tant supplement for safety, health, and value.

Your onsite wastewater treatment system (and your neighbor's) are very important to your family's health.

Good building design and efficient energy systems and appliances help us all in the face of energy worries.

Building code enforcement helps you!

Source: www.wisconsin.gov

Safety by the Numbers

- Wooden Railings, the posts at least 2 in. by 4 in. stock spaced not to exceed 6 ft. 1910.23(e)(3)(I)
- Pipe railings, posts and top and intermediate railings at least 1 1/2 inches nominal diameter with posts spaced not more than 8 feet of centers. 1910.23(e)(3)(ii)
- Anchoring posts and framing members of railings must withstand at least 200# force. 1910.23(e)(3)(iv)
- Standard toeboard shall be 4 inches nominal in vertical height 1910.23(e)(4)
- All handrails and railing shall be provided with a clearance of not less than 3 inches between the handrail or railing and any other object 1910.23(e)(6)
- Skylights screens capable of withstanding a load of at least 200 pounds 1910.23(e)(8)
- Fixed stair strength to carry a load 5 times the normal live load, but never less strength than to carry safely a moving concentrated load of 1,000 pounds 1910.24(c)
- Fixed stairs shall have a minimum width of 22 inches 1910.24(d)
- Fixed stairs shall be installed at angles to the horizontal of between 30 deg. and 50 deg. 1910.24(e)
- Stairway platforms shall be no less than the width of a stairway and minimum of 30 inches in length measured in the direction of travel. 1910.24(g)

Look for more conditions and regulations in each newsletter.

Government, Industry Officials Launch National 'Call Before You Dig' Number

At a press conference on May 1, the Common Ground Alliance (CGA) along with U.S. Secretary of Transportation Mary Peters, the Federal Communications Commission and others launched the new national "Call Before You Dig" number.

"Now that there is a single number to call, any time, there's no excuse for putting lives at risk by striking a utility line," Peters said. "If 911 is the number you call to report emergencies, 811 is the number to call to prevent them."

The 811 number was designated by the FCC in 2005, and its creation was supported by more than 15 industry stakeholder groups that now promote its use nationwide.

The press conference also was the kick-off of a national public education campaign that will use a Web site (<http://www.call811.com>), television and radio PSAs, industry and consumer outreach, and local events to raise awareness of the new number and demonstrate its relevance to consumers and professionals who conduct digging activities.

"Knowing the approximate locations of where utility lines are buried before each digging project helps protect America's pipelines, industry and people," said CGA President Bob Kipp. "We believe the new 811 number will encourage more people to have their lines marked to protect themselves, their neighbors and their community."

Nationwide, risky assumptions about the location of underground utility lines, which are buried at various depths below the ground, lead to more than one unintentional hit per minute every day, every year. Even simple digging jobs can damage utility lines and disrupt vital services to an entire neighborhood, harm those who dig, and result in expensive fines and repair costs.

For more information about the 811 service and a new national survey on consumer digging habits, visit <http://www.call811.com>.

Source: www.ohsonline.com

Most Frequently Cited OSHA Standards

The following were the top 5 most frequently cited OSHA Construction Standards related to physical hazards in 1991.

1. Fall Protection - Guarding open sided floors/platforms. 500(d)(1)
2. PPE - Head protection from impact, falling or flying objects. 100(a)
3. Electrical - Ground fault protection. (404(b)(1)(i))
4. Electrical - Path to ground missing or discontinuous. (404(f)(6))
5. Trench/Excavation - Protective Systems for trenching/excavation. 652(a)(1)

Source: www.osha.gov

OSHA QUICK CARD™

Protect Yourself Heat Stress



When the body is unable to cool itself by sweating, several heat-induced illnesses such as heat stress or heat exhaustion and the more severe heat stroke can occur, and can result in death.

Factors Leading to Heat Stress

High temperature and humidity; direct sun or heat; limited air movement; physical exertion; poor physical condition; some medicines; and inadequate tolerance for hot workplaces.

Symptoms of Heat Exhaustion

- Headaches, dizziness, lightheadedness or fainting.
- Weakness and moist skin.
- Mood changes such as irritability or confusion.
- Upset stomach or vomiting.

Symptoms of Heat Stroke

- Dry, hot skin with no sweating.
- Mental confusion or losing consciousness.
- Seizures or convulsions.

Preventing Heat Stress

- Know signs/symptoms of heat-related illnesses; monitor yourself and coworkers.
- Block out direct sun or other heat sources.
- Use cooling fans/air-conditioning; rest regularly.
- Drink lots of water; about 1 cup every 15 minutes.
- Wear lightweight, light colored, loose-fitting clothes.
- Avoid alcohol, caffeinated drinks, or heavy meals.

What to Do for Heat-Related Illness

- Call 911 (or local emergency number) at once.

While waiting for help to arrive:

- Move the worker to a cool, shaded area.
- Loosen or remove heavy clothing.
- Provide cool drinking water.
- Fan and mist the person with water.

For more complete information:

OSHA Occupational Safety and Health Administration
U.S. Department of Labor
www.osha.gov (800) 321-OSHA

OSHA 3154-07R-06