We hear the term “General Duty Clause” a lot in workplace safety circles. But, what does it really mean? Just when can it be used? When can’t it be used?

What is the General Duty Clause?
The General Duty Clause (GDC) refers to Section 5(a)(1) of the Occupational Safety and Health Act. It says that each employer must “furnish to each of his or her 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 or her employees.”

When is it used?
OSHA can only cite GDC provisions for hazards that are not addressed by a particular standard. (OSHA’s actions on ergonomic hazards and heat stress are good examples of the application of the GDC in situations where a standard does not currently exist.)

How does OSHA evaluate a potential GDC situation?
In general, the following three elements are necessary to prove a violation of the GDC:

1. The employer failed to keep the workplace free of a serious hazard.
OSHA defines a GDC “hazard” as a condition or practice in which employees are exposed, creating the potential for death or serious physical harm to employees. The cited employer’s own employees must be exposed to that hazard. OSHA can only cite the hazard, however, not the lack of a particular abatement method. For example, in a situation involving high-press machinery that vents gases next to a work area where the employer has not installed proper high-pressure equipment, has improperly installed the equipment that is in place, and does not have...
adequate work rules addressing the dangers, there are three abatement measures the employer has failed to take. But, there is only one hazard, i.e., employee exposure to the venting of high-pressure gases into a work area that may cause serious burns from steam discharges.

In addition, the hazard must be reasonably foreseeable. However, all the factors which could cause a hazard do not need to be present in the same place at the same time in order to prove foreseeability. For example, if combustible gas and oxygen are present there need not be an ignition source present for an explosion hazard to be cited under GDC.

2. The hazard is recognized.

There are three ways OSHA can prove the employer recognized the hazard:

• **Employer recognition.** Evidence of such recognition may consist of written or oral statements made by the employer or supervisory personnel, or instances where employees have clearly called the hazard to the employer’s attention.

• **Industry recognition.** While evidence of recognition by an employer’s similar operations within an industry is preferred for the issuance of a GDC violation, evidence that the employer’s over-all industry recognizes the hazard may be sufficient for OSHA to cite the violation.

• **Common-sense recognition.** OSHA only uses this in flagrant cases such as dumping 500-pound rocks from a second story to a walkway with no barriers or warnings to those below.

3. **There is a feasible and useful method to correct the hazard.**

OSHA must be able to show that there is a feasible and available method to correct the GDC hazard. However, lack of a particular abatement method is not sufficient for OSHA to provide a GDC violation, so long as the employer’s abatement method is sufficient. In other words, OSHA cannot cite an employer under the GDC for not having a particular safety control in place, so long as an adequate control is in place.

OSHA’s General Duty Clause: What It Really Means

The General Duty Clause is one of OSHA’s most important and flexible enforcement tools. OSHA routinely uses the GDC to cite employers for hazards ranging from unsecured storage racks to repetitive motion injuries to lack of workplace violence controls. In fact, last year the Agency used the GDC a total of 1,579 times and issued penalties totaling $5 million.

But, what can be done to avoid GDC violations?

One effective action is to implement a comprehensive safety and health management system that calls for thorough hazard analysis and routine inspection and follow-through. Other ways include:

• **Determine industry/ANSI standards for situations that impact your operations and where there is no specific OSHA standard (for example, conveyor safety).**

• **Follow manufacturer’s instructions for equipment.** OSHA routinely holds employers responsible for this (for example, storage rack installation and forklift inspection).

• **Act on employee complaints and injury reports.** OSHA can hold employers responsible for investigating such reports and taking appropriate action.

• **Take a look at OSHA’s database of GDC citations to become familiar with what the Agency expects.** Access it at www.osha.gov/pls/imis/generalsearch.html.
Safety Focus: Know what to do if there is a chemical release

Fires, explosions, injuries, and illnesses can result from the release of hazardous substances such as flammable, toxic, corrosive, or radioactive materials; disease-causing agents; or hazardous wastes. An emergency requires urgent and immediate action to minimize the danger. To have a safe emergency response, the response team members need specialized training.

What is HAZWOPER training?

There are five levels of training outlined in OSHA’s rule on Hazardous Waste Operations and Emergency Response (HAZWOPER):

- On-scene incident commander;
- Hazardous materials specialist;
- Hazardous materials technician;
- First responder operations level; and
- First responder awareness level.

Emergency responders with this training make up a hazardous materials (HAZMAT) response team. One of the most important members is the first responder at the awareness level. Training at this level gives you the ability to decide whether a release requires an emergency response.

As a first responder at the awareness level:

- You could witness or discover a hazardous substance release;
- Your response is limited to notifying the proper authorities; and
- You stay in a safe area.

Recognize an emergency

Some hazardous substance release situations that would require an emergency response include:

- Employees must be evacuated from the area,
- The response comes from outside the immediate release area;
- The release can cause conditions that are immediately dangerous to life and health or high levels of toxic substances;
- The release poses a serious threat of fire or explosion;
- The release requires immediate attention because of imminent danger;
- Personnel in the area may not be equipped to handle the severity of the hazard; or
- The situation is unclear or information is lacking.

What should you do?

The important thing to remember is to NOT do more than you have been trained to do. Attempting to respond to an emergency such as a spill without the proper training and equipment can lead to injury to yourself or others. This could also increase the risks for trained individuals because they may have to rescue you.

Your role is to be aware of situations or conditions that seem out of the ordinary. Awareness level means just that — being aware of what is normal and what is out of the ordinary for the area you work in.
Hydrate while the heat is on

It's important to drink water, especially when you’re working or exercising in hot weather. Physical exertion in high temperatures can bring on heat stroke, heat exhaustion, and other illnesses if you’re not careful.

The body cools itself by perspiring, and needs to replace the water it loses. Drink water frequently when you're exerting yourself so you don't become dehydrated. Avoid alcohol and drinks with large amounts of caffeine, as these cause the body to release water.

The water should be cool if possible (50 to 60 degrees is ideal), but very cold drinks could cause stomach cramps. Don’t wait until you’re thirsty to have a drink. Drink two to four glasses of non-alcoholic beverages each hour in hot weather.

How much water?

Although there is no hard and fast rule about how much water a person should drink, health experts generally recommend drinking six to eight 8-ounce glasses of water each day.

While some of the water entering our body each day comes from the foods we eat, most of it comes from drinking water. Water is lost through sweat, bathroom use, and when we exhale.

What does water do?

Water is critical for the human body; every cell needs it to function properly. A human deprived of water will die in a few days.

We depend on water to:

- Keep tissues in the mouth, eyes, and nose moist.
- Regulate temperature. When the body senses its temperature rising, sweat glands are stimulated and water is lost through sweating.
- Help the kidneys remove waste products. Drinking too little can put a person at higher risk for kidney stones, which result from a buildup of minerals on the lining of the kidneys. Water also helps food move through the intestines, preventing constipation.
- Keep skin looking its best. When people are dehydrated, their skin has a dry, wrinkled appearance.
- Bring oxygen and nutrients to cells. Dehydration can drain energy when a person exercises, as it leads to muscle fatigue.

Stay hydrated when working or playing in hot weather.

“Loss is nothing else but change, and change is Nature’s delight.”

--Marcus Aurelius, Roman emperor

Check out our website!  www.silverstonegroup.com

Established in 1945, SilverStone Group is a full-service, resource management company offering customized services for business and private clients. We begin each relationship by learning all there is to know about you and your business. Only then do we bring our expertise to bear, tapping the collective wisdom of our 200-member staff.

Our business was built on the Midwestern ethic of hard work, honesty, integrity and fairness -- and on the idea that the client's needs should come first. It's the right thing to do -- and it's just good business.

Joe Freeman, CSP, ARM
Safety Engineering Manager
SilverStone Group
402.964.5583

Portions © 2013 SilverStone Group