



October 24, 2025

Mr. David Keeling
Assistant Secretary of Labor
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

RE: Docket No. OSHA-2025-0041: Proposal to eliminate worker protection under the General Duty Clause (GDC) for “inherently risky employment activities.”

Dear Assistant Secretary Keeling:

On behalf of the Occupational Health and Safety Section of the American Public Health Association (APHA), a diverse community of public health professionals that champion the health of all people and communities, we write to provide comments on the proposed “Interpretation of the General Duty Clause: Limitation for Inherently Risky Professional Activities” (90 *Federal Register* 28370). We strongly disagree with this proposed change, which is contrary to the purpose of the Occupational Safety and Health Act, which is “to assure safe and healthful working conditions for working men and women.”

The broad language in this notice of proposed rule would exempt many occupations and work operations and thus threaten the health and safety of workers across multiple industries. We urge OSHA to withdraw this proposed rule. OSHA must retain the authority and the means to protect all workers from recognized hazards.

OSHA’s language concerning the scope of the proposed rule is vague and could apply to many occupations and industries.

OSHA proposes to eliminate worker protection under the General Duty Clause (GDC) for “inherently risky employment activities.” Many occupations are inherently risky. Healthcare workers are exposed to infectious diseases. Construction workers are at risk from falls while working at heights or severe injuries while working with dangerous tools or being struck by equipment. Agricultural workers are at risk of injury from exertional activities or exposure to pesticides and adverse weather conditions. Hazardous waste workers, emergency response workers, loggers, landscapers, tree trimmers, roofers, and fishing operation workers are all among the most hazardous occupations.

All of these occupations and all the occupations listed by OSHA in the proposed rule have hazards and workplace controls that limit the risk. Healthcare workers are protected through infection

control procedures, ventilation requirements, and PPE. Construction workers and roofers have fall protection procedures and equipment. Petrochemical workers have process safety management procedures. Excavation workers have trenching equipment.

The definition of inherent is “existing in something as a permanent, essential, or characteristic attribute.”* In 1969, the coal mining industry considered black lung disease as inherent or “part of the job”. But through the Mine Safety and Health Act, which required engineering and workplace controls to protect coal miners from breathing in coal dust, many fewer coal miners get black lung now. The same can be said for OSHA’s asbestos standard or lead standard or ventilation standard or electrical standards or the many more standards that have raised the bar for workplace safety and health. OSHA standards have helped to decrease workplace deaths from approximately 14,000 in 1970 to approximately 5,000/year now and cut workplace injuries by 500%.

Workers in the entertainment industry must be covered

The entertainment industry is wide-ranging, with many types of workers and many hazards. Working with animals, such as the Sea World case, is an example and one that led to the preventable death in 2010 of Dawn Brancheau, 40. Other examples of hazards are special effects (explosions, compressed gas, dangerous chemicals, electrical hazards), stunts (working at heights, climbing, falling, diving, speed driving), and musculoskeletal injuries and disorders from dancing, acting, and playing instruments. In addition, many workers in the entertainment industry are young. Young workers are at increased risk of work-related injuries for a number of reasons, including lack of training and experience, lack of maturity, and placement in riskier jobs^{1,2,3,4}.

OSHA identifies professional sports as an example of an entertainment job that should be excluded from the GDC because of inherent risks. Many in professional sports are young and at increased risk for the reasons noted above. Yet, over time, many of these risks have been addressed with safer equipment, like safer helmets, improved exercise regimens, and rapid treatment of injuries. Traumatic brain injury (TBI) has received wide attention, and the National Football League has rules in place to mitigate this hazard⁵. It is likely that, over time, more hazards and more workplace controls will be identified. Without the protection of the GDC, there is little incentive for employers to identify hazards and put controls in place.

Importance of the General Duty Clause

To label an occupational hazard as “inherent” implies that there is no way to control or prevent the hazard. Sometimes workplace hazards can be completely prevented through removal of the hazard or substitution of a less hazardous exposure. In other cases, the number or severity of injuries and illnesses can be lessened through engineering and administrative controls. The GDC simply requires that feasible abatement measures be implemented to address the hazard. There is no reason to exempt any industry or occupations from the principal tenet of the OSH Act that

* Dictionary.com, accessed October 10, 2025.

employers “shall furnish to each of 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.”

For instance, in *SeaWorld of Florida, LLC v. Perez*, 748 F.3d 1202 (D.C. Cir. 2014), a case ruled favorably for worker health and safety, OSHA described numerous feasible measures that SeaWorld could have taken to protect trainers and prevent the death of orca trainer Dawn Brancheau. One involved installing appropriate railings on the stairways; another involved using barriers and other engineering controls; and maintaining a minimum distance between trainers and whales known to be aggressive. Furthermore, we note that, after OSHA cited SeaWorld using the general duty clause, the company put these controls in place. Without the protection of the GDC, Sea World trainers, along with many other workers, would be at significantly greater risk of injury, illness and death.

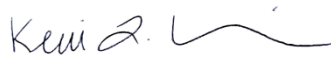
The GDC exists to protect workers exposed to both long-recognized and newly-recognized hazards when feasible means exist to address the hazard but no specific OSHA standard is in place. The GDC enables OSHA to address newer hazards, including workplace violence, Ebola, COVID-19, and heat illness. We are concerned that the proposed GDC changes will limit OSHA’s ability to protect all workers.

OSHA’s Use of the General Duty Clause

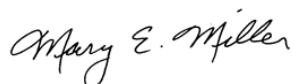
OSHA uses the GDC to cite employers when there is no specific standard that applies to the safety or health hazard. In the last five years, OSHA has cited companies under the GDC a little over 3,500 times or approximately 700 times per year⁶. OSHA conducts approximately 30,000 inspections per year⁷; thus, GDC citations make up only 2.3% of those inspections. Furthermore, a search of the GDC inspection data for the last 5 years shows that OSHA cited an entertainment industry employer (NAICS 71) only 41 times, a training industry employer (NAICS 61) only 4 times, and an information sector employer (NAICS 51) only 5 times. Clearly, OSHA does not “broadly exercise” the GDC. OSHA invokes the GDC in situations where there is a recognized and serious health or safety hazard and the employer has not employed feasible methods to correct or abate the hazard. OSHA considers both the efficacy of the abatement and the cost to the employer when determining feasibility. There is no evidence that use of the GDC in OSHA inspection cases has resulted in elimination of an occupation or bankruptcy of an employer. Rather, the GDC provides protection for some of America’s most vulnerable workers, including young workers, workers in hazardous jobs, and workers not already protected by specific OSHA standards.

In summary, we urge OSHA to withdraw this proposed rule. The ambiguous language and broad exclusions will put many workers at risk. This proposal will weaken OSHA’s authority to regulate employers and safeguard the health and safety of workers in the U.S. Rather, as the OSH Act states, OSHA should be strengthening its obligation to “assure safe and healthful working conditions for working men and women.”

Sincerely,



Kerri Wizner, MPH
Chair, OHS Section
kerri.wizner.mph@gmail.com



Mary E Miller, MN, RN
Co-Chair, Policy & Advocacy Committee
OHS Section, APHA
Marymiller51@gmail.com



Celeste Monforton, Dr.PH, MPH
Co-Chair, Policy & Advocacy Committee
OHS Section, APHA
cmonfort@gwu.edu

cc: Donald Hoppert, APHA Director of Government Affairs

REFERENCES

1. Breslin FC, Polzer J, MacEachen E et. al. Workplace injury or “part of the job”? Towards a gendered understanding of injuries and complaints among young workers. *Social Science & Medicine* 64 (2007) 782–793.
2. DeWit Y, Pickett W, Lawson, Dosman J. Farm activities and agricultural injuries in youth and young adult workers. *Journal of Agromedicine*, 20:318–326, 2015.
3. Evoy R, Syron L, Case S, Lucas D. Traumatic injuries among Alaska’s young workers: Linking cases from four data systems. *BMC Public Health*, 2022; 23:57
<https://doi.org/10.1186/s12889-022-14676-7>
4. Guerin RJ, Reichard AA, Derk S et. al. Nonfatal occupational injuries to younger workers - United States, 2012-2018. *Morbidity and Mortality Weekly Report*, September 4, 2020; 69 (35):1204-9.
5. Jacobi J, Wasserman EB, Mack CD et. al. The National Football League Concussion Protocol: A Review. *HSS J*. 2023 Aug;19(3):269-276. doi: 10.1177/15563316231177207.
6. General Duty Standard Search Results Page | Occupational Safety and Health Administration [osha.gov](https://www.osha.gov). (n.d.).
https://www.osha.gov/ords/imis/GeneralSearch.search?p_logger=1&stdquery=&naics=&sic=&Office=All&endmonth=10&endday=09&endyear=2020&startmonth=10&startday=09&startyear=2025&InspNr= . Date accessed: October 10, 2025.
7. Current enforcement summary. Occupational Safety and Health Administration. (n.d.).
<https://www.osha.gov/enforcement/current-enforcement-summary>. Date accessed: October 10, 2025