

Ergonomic Hazards cited under the “General Duty” Clause in the Last Decade.

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Abstract: A search of the OSHA database of citations was conducted to identify citations issued under the “General Duty” clause of ergonomic hazards in the last decade. The records were analyzed for trends in the industries on which OSHA is focused. The data showed that OSHA focused on ergonomic hazards in nursing homes in 2012 and 2013, but hasn’t issued any citations for ergonomic hazards to this industry since that time. OSHA has shifted its focus of its citation of ergonomic hazards on warehousing and shipping operations more recently, and has issued nine citations for ergonomic hazards to Amazon since 2022.

Keywords: OSHA, Ergonomic Hazards,

1. Introduction

There have been twenty-three unique citations issued by OSHA for ergonomic hazards under the “General Duty” clause of the OSHAct in the last decade. Section 5(a)(1) of the [OSHAct](#) of 1970, often referred to as the “General Duty” clause, requires employers to “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.” OSHA has used its authority under this provision to cite employers for a variety of hazards which are not otherwise addressed by specific standards.

Following OSHA’s attempt to regulate ergonomic hazards in 2000 ([29 CFR 1910.900](#)) which was rescinded by action of the Congress, it pursued a “guidelines” approach in which it provided guidance to employers regarding how to mitigate ergonomic hazards in several specific industries (OSHA, 2000). OSHA has formalized some of these industry-specific guidelines for the mitigation of ergonomic hazards into “etools”, which are available at <https://www.osha.gov/etools> and https://www.osha.gov/sites/default/files/publications/final_nh_guidelines.pdf. These tools were made available in the period between 2001 and 2009. OSHA did not immediately begin issuing citations for ergonomic hazards under the “General Duty” clause in these industries, but in 2012 and 2013, it did issue citations to three different nursing homes for ergonomic hazards associated with patient handling tasks where the “guidelines” were not followed by the nursing homes to mitigate the risk of an injury during patient handling and transfers. The history of citations of ergonomic hazards under the General Duty clause before the period discussed in this paper is detailed in earlier publications (Purswell & Purswell, 2001; Purswell & Purswell, 2005; Purswell & Purswell, 2011)

2. Method

A search of the OSHA [database of General Duty clause citations](#) was done for inspections which resulted in citations for ergonomic hazards since 2012. A total of twenty six citations met the criteria, but three different ones were all associated with the same hazard and issued on the same date to the same employer. Because 5(a)(1) citations require that OSHA identify the specific hazard and reference a source to show that the cited employer was aware of the hazard in order to be upheld if the citations are challenged, there is some statement of the hazard in the citation summaries listed on the OSHA

website. These summaries were reviewed to identify the specific ergonomic risk factors noted by OSHA. These hazards were then included in Table 1 below.

3. Results

Table 1 shows the 23 unique citations issued by OSHA for ergonomic hazards under the General Duty Clause since 2012.

Table 1. Federal OSHA Citations for Ergonomic Hazards under the General Duty Clause since 2012.

<u>Inspection Number</u>	<u>Date opened</u>	<u>State</u>	<u>Type</u>	<u>Scope</u>	<u>NAICS</u>	<u>Name</u>	<u>Hazards</u>
732641.015	11/7/2012	ID	planned	Partial	623110	Wilkinson Georgia Idaho Senior Housing Lease Co.	performed transfer, assistance, and/or repositioning tasks for partial weight-bearing residents and non-weight bearing residents
892308.015	2/26/2013	CO	Planned	Complete	623110	Broomfield Skilled Nursing & Rehabilitation Center	repositioning tasks for partial weight-bearing residents and non-weight bearing residents
906668.015	5/13/2013	WI	Planned	Complete	623110	Simon Wisconsin Rapids Properties	manually lift, transfer, and reposition non-weight bearing, partial weight bearing, and weight bearing residents repeatedly lifting, twisting, bending,
940209.015	9/6/2013	NY	Referral	Partial	493110	Hannaford Bros.	excessive force or exertion, repetitive motions, and awkward postures
975114.015	4/29/2014	AL	Complaint	Complete	311615	Wayne Farms	excessive force or exertion, repetitive motions, and awkward postures
985510.015	7/17/2014	ME	Planned	Complete	493120	Hannaford Brothers	excessive force or exertion, repetitive motions, and awkward postures
986498.015	7/23/2014	ME	Planned	Complete	493110	Shaw'S Supermarkets	excessive force or exertion, repetitive motions, and awkward postures
1009437.015	11/20/2014	NJ	Referral	Partial	481111	United Continental Holdings	excessive force or exertion, repetitive motions, and awkward postures
1014956.015	12/16/2014	DE	Planned	Partial	311615	Allen Harim Foods, Llc	excessive force or exertion, repetitive motions, and awkward postures

Table 1. Federal OSHA Citations for Ergonomic Hazards under the General Duty Clause since 2012. (cont.)

<u>Inspection Number</u>	<u>Date opened</u>	<u>State</u>	<u>Type</u>	<u>Scope</u>	<u>NAICS</u>	<u>Name</u>	<u>Hazards</u>
11053521.015	4/8/2015	FL	Complaint	Partial	561720	Mastercorp, Inc.	repetitive motions, and awkward postures
1184442.015	10/18/2016	PA	Referral	Partial	493110	Wakefern Food Corporation	repeated forceful lifting, extended reaching, twisting, and bending, Training selectors to move the product close to the body before it is lifted. This is especially important for those products weighing over 40 pounds. Providing training on the importance of starting the fork raised to the highest level. Allowing time for selectors to walk around the order pallet on the pallet jack to reduce long reaches (horizontal modifier). Training selectors to point their toes in the direction of the lift to minimize twisting while lifting (reduces asymmetry modifier). throwing empty boxes on an overhead conveyor with 7.5 feet height of conveyor belt above the floor for performing the same tasks repetitively.
1354100.015	4/11/2019	GA	Complaint	partial	561910	Menasha Packaging Company, Llc.	repeatedly manually lift, from a conveyor to pallets, boxes of various products weighing between 50-90 lbs, Application of the National Institute for Occupational Safety and Health (NIOSH) Revised Lifting Equation revealed Composite Lifting Indices (CLIs) of 7.8
1534564.015	6/1/2021	OK	Complaint	Partial	311611	Seaboard Foods, Llc	required to reach, twist, and bend, while repeatedly lifting packages from the bottom and the top of go-carts
1607234.015	7/18/2022	NY	Referral	Partial	454110	Amazon.com Services	required to perform lifting, forceful exertions, twisting, bending, long reaches, awkward postures manual material handling lifting tasks, involving forceful exertions and awkward postures, repeatedly
1608788.015	7/18/2022	FL	Referral	Partial	493110	Amazon.com Services	
1608898.015	7/18/2022	IL	Referral	Partial	493110	Amazon.com Services	

<u>Inspection Number</u>	<u>Date opened</u>	<u>State</u>	<u>Type</u>	<u>Scope</u>	<u>NAICS</u>	<u>Name</u>	<u>Hazards</u>
1611567.015	8/1/2022	CO	Referral	Partial	493110	Amazon.com Services	repetitive lifting and carrying, twisting, bending, and long reaches,
1611567.015	8/1/2022	CO	Referral	Partial	493110	Amazon.com Services	repetitive lifting and carrying, twisting, bending, and long reaches, required to perform lifting, twisting, bending, long reaches,
1611861.015	8/1/2022	ID	Referral	Partial	493110	Amazon.com Services	awkward postures, forceful pushing/pulling
1615182.015	8/16/2022	CO	Complaint	Partial	493110	Amazon.Com Services	reach, twist, and bend while repeatedly lifting packages from the bottom and the top of go-carts or Gaylords to the Induct belts at a high frequency
1647734.015	1/30/2023	NJ	Referral	Partial	454110	Amazon.Com Services	reach, twist, and bend while repeatedly lifting packages from the bottom and the top of go-carts
1647734.015	1/30/2023	NJ	Referral	Partial	454110	Amazon.Com Services	reach, twist, and bend while repeatedly lifting packages from the bottom and the top of go-carts
1610874.015	4/18/2023	NY	Referral	Partial	454110	Amazon.Com Services	bend and to perform long reaches to the back of the cage to lift packages

Several interesting trends are apparent in the data. Note that no new citations to nursing homes have been issued for ergonomic hazards since 2013. The third inspection of 2013 which resulted in a citation of an ergonomic hazard was issued to a warehousing operation. This inspection was prompted by a referral, meaning someone other than an employee notified OSHA of a suspected workplace hazard. The ergonomic hazards noted included “forceful exertions, repetitive motions, twisting, bending, and awkward postures.” While these hazards might also have been cited using the Revised NIOSH Lifting Equation, it was not referenced in issuing the citations.

Note that all inspections for ergonomic hazards under the General Duty clause since 2015 have been prompted by a Complaint or a Referral. This fact shows the importance of maintaining good labor relations so workers are not antagonized by management indifference to employee concerns about workplace hazards. Citations issued to warehousing operations, including the ones to Amazon, have all been contested. Only two of the inspections referenced the NIOSH lifting equation (inspections and 1184442.015 and 1534564.015). In several other citations listed in the table, the narrative description would be consistent with a low Recommended Weight Limit, but there was no mention of using the equation to evaluate the lifting tasks. Next, while this aspect was not included in the chart, Amazon has contested *all* the 5(a)(1) citations for ergonomic hazards. It will therefore be incumbent on OSHA to demonstrate that the tasks for which it cited Amazon do meet the criteria for a General Duty citation. The OSHA (2023) [Field Operations Manual](#) enumerates the four criteria necessary to sustain a challenged 5(a)(1) citation as follows:

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

Given that the hazard is described only qualitatively in the citations to Amazon, it may be difficult for OSHA to state by how much the hazard must be reduced to qualify as “feasible and useful.” Given that these practices are apparently widespread in Amazon’s operations, one would expect the company to vigorously contest these citations.

It is also noteworthy that of the nine citations issued to Amazon for ergonomic hazards, six were opened in the period between 7/18/22 and 8/16/22, and two more were initiated on 1/30/23. This illustrates another significant point. For a company with multiple locations like Amazon, there is also the risk of getting cited for ergonomic hazards as “Repeat” violations, which can increase the penalty amount by a factor of 10. A search of the OSHA database for FedEx and for UPS notably did NOT show any citations for ergonomic hazards to either of those two package handling companies. Amazon may wish to benchmark its package handling practices against those two companies.

Finally, it should be noted that states which operate “state plans” under Section 18 of the OSHAct may adopt and enforce their own regulations as long as they are “at least as effective” as the federal regulations and about half of the states have elected to do so. Some of these states, such as California, have adopted regulations to mitigate ergonomic hazards and may have issued citations based upon these additional requirements. Those citations, to the extent that they exist and reference regulations other than 5(a)(1) of the OSHAct, are not included in this analysis.

4. Citations and References

OSHA (1970) OSHAct of 1970 <https://www.osha.gov/laws-regs/oshact/completeoshact>

OSHA (2000) Ergonomics Program Rule. <https://www.govinfo.gov/content/pkg/FR-2000-11-14/pdf/00-28854.pdf>

OSHA (2023) Field Operations Manual [CPL 02-00-164](https://www.osha-slc.gov/cpl/02-00-164)

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