**What is EPA’s General Duty Clause?**

In our last blog, we looked at OSHA’s General Duty Clause and some example violations. Did you know that EPA has a General Duty Clause as well?

The EPA General Duty Clause can be found in the Clean Air Act, Section 112(r)(1). It states companies that produce, process, handle or store hazardous substances/chemicals have a primary duty to identify release hazards and prevent chemical accidents.

If your company doesn’t fall under EPA’s Risk Management Plan (RMP) requirements, you will fall under EPA’s General Duty Clause.

**General Duty Clause vs. RMP**

If you produce, process, handle or store hazardous substances/chemicals, you will need to comply with either the EPA General Duty Clause or the requirements for EPA’s Risk Management Plan (RMP) based on your operations.

The requirements for RMP can also be found this same Clean Air Act Section 112(r) as the General Duty Clause, and it also applies to the same types of facilities who use hazardous chemicals. However, RMP is focused on one or more of 140 targeted toxic or flammable chemicals that have the potential to be released at certain threshold quantities.

RMPs are directly submitted to EPA. Water treatment plants, agricultural COOPs, and chemical manufacturers are typical types of companies who need to comply with RMP. Ammonia, chlorine, propane, and sulfur dioxide are among those 140 chemicals.

RMPs must include:

* Potential effects of a chemical accident
* Hazard assessments
* 5-year accident history
* Evaluation of worst-case scenarios and alternative accident release potentials
* Prevention programs that include safety precautions, maintenance, monitoring, and employee training measures
* Emergency response program that lists emergency health care, employee training measures, procedures for informing the public.

**What is Required by EPA’s General Duty Clause?**

In an EPA inspection, the inspector can ask your company to produce the all relevant information to show you are complying with the General Duty Clause. To be compliant, companies are required to address the following:

* Identify hazards which could occur if an accidental release happens
  + Identify the environmental, health and safety hazards
  + Identify potential release scenarios through experience/industry research, analysis and logic trees, or “What If” brainstorming
  + Determine consequences in each scenario
* Design and maintain a safe facility by putting features such as these in place
  + Design safety codes
  + Use less hazardous chemicals when possible
  + Equipment quality control, using alternate processes, determine process siting, using safety technology
  + Standard Operating Procedures
  + Employee training
  + Change management
  + Incident investigation programs
  + Self audits
  + Preventative maintenance programs
* Determine potential consequences of accidental releases and minimize them
  + Development of an Emergency Response Plan that contains, at a minimum: anticipated releases, mitigation, notification process to local responders and local responder involvement.
  + Coordination with local emergency response officials including the local emergency planning committee
  + Training for “out of the norm” circumstances
  + Periodic exercises using your plan, training, and equipment practicing response, evacuation, sheltering-in-place, and worker’s ability to perform in the event of an emergency.

Inspectors will also be looking into the thoroughness of your process hazard analyses, your evaluations, and the elements you’ve put into place, and whether or not they apply to your current operations.

**Which One Applies to Your Facility?**

Because the RMP is specific to certain chemicals and threshholds, all companies with the potential for accidental chemical releases may not fall under its requirements. However, if RMP does not apply to your company, then the EPA General Duty Clause will.

Which one applies to your facility? Have you completed all the necessary analyses required? Do you have all the programs, processes and training in place? If the answer to any of these questions is no, then iSi can help. Contact us today for more information.