



**HO-CHUNK NATION CODE (HCC)
TITLE 6 – PERSONNEL, EMPLOYMENT AND LABOR CODE
SECTION 8 – OCCUPATIONAL SAFETY AND HEALTH
PROGRAM ACT OF 2002**

ENACTED BY LEGISLATURE: MAY 20, 2002

LAST AMENDED AND RESTATED: JUNE 8, 2004

CITE AS: 6 H CC § 8

1. Authority.

a. Article V, Section 2(a) of the Constitution of the Ho-Chunk Nation (“Constitution”) grants the Legislature the power to make laws, including codes, ordinances, resolutions, and statutes.

b. Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive Branch to be administered by such Departments in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power.

c. Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all government personnel.

d. Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation.

e. Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals.

f. Article V, Section 2(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation’s lands, interests in lands or other assets.

g. Article V, Section 2(o) of the Constitution grants the Legislature the power to enact laws to regulate and zone any lands within the jurisdiction of the Ho-Chunk Nation.

h. Article V, Section 2(q) of the Constitution grants the Legislature the power to issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities.

i. Article V, Section 2(s) of the Constitution grants the Legislature the power to promote public health, education, charity, and such other services as may contribute to the social advancement of the members of the Ho-Chunk Nation.

j. Article V, Section 2(t) of the Constitution grants the Legislature the power to enact laws governing law enforcement on lands within the jurisdiction of the Nation.

k. Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers.

2. **Purpose.** The purpose of this Act is to establish and promulgate policy and guidance for the Nation's Occupational Safety and Health Program to provide both basic and situation specific safety rules and procedures that are to be followed by all Nation employees.

3. **Applicability.** The requirements of this Act, to include guidance and procedures contained in each subsection, shall apply to all employees, facilities, offices and enterprises owned or operated by the Nation or otherwise under the jurisdiction of the Nation.

4. **Declaration of Policy.**

a. The Ho-Chunk Nation is committed to employee safety and loss control. It is the Nation's policy that every employee and all property be protected from controllable hazards. All employees shall work under the safest conditions possible. The Nation seeks to maintain the workplace and employee equipment free from recognized hazards and to provide information, training, and supervision to enable employees to perform their jobs safely.

b. The Nation reserves the right to add to, eliminate, or modify the plan described herein where and when it is deemed in the Nation's best interests to do so. The Nation will provide notice prior to the implementation of such modifications.

c. While this program will help the employer and employee recognize and avoid obvious hazards, it cannot possibly cover all situations. When in doubt, employees shall consult their supervisor for guidance.

5. **Scope.** The Nation's Occupational Safety and Health Program shall consist of the following subsections to this Act. Each subsection of this Act shall have the effect and force of an ordinance and may be separately amended by the Legislature.

a. Subsection 1. General Safety. (6 HCC § 8-1)

- b. Subsection 2. Exposure Control. (6 HCC § 8-2)
- c. Subsection 3. Hazard Communication. (6 HCC § 8-3)
- d. Subsection 4. Electrical Safety. (6 HCC § 8-4)
- e. Subsection 5. Lock-Out/Tag-Out. (6 HCC § 8-5)
- f. Subsection 6. Powered Industrial Truck Safety. (6 HCC § 8-6)
- g. Subsection 7. Personal Protective Equipment. (6 HCC § 8-7)
- h. Subsection 8. Fire Safety. (6 HCC § 8-8)
- i. Subsection 9. Emergency Preparedness/Disaster Planning. (6 HCC § 8-9)
- j. Subsection 10. Occupational Health and Environmental Controls. (6 HCC § 8-10)
- k. Subsection 11. Indoor Air Quality. (6 HCC § 8-11)
- l. Subsection 12. Ergonomics. (6 HCC § 8-12)
- m. Subsection 13. Construction Safety. (6 HCC § 8-13)
- n. Subsection 14. Fall Protection. (6 HCC § 8-14)
- o. Subsection 15. Permit-Required Confined Spaces. (6 HCC § 8-15)
- p. Subsection 16. Fleet Safety. (6 HCC § 8-16)
- q. Subsection 17. Workplace Violence Prevention. (6 HCC § 8-17)
- r. Subsection 18. Respiratory Protection. (6 HCC § 8-18)
- s. Subsection 19. Agricultural Safety. (6 HCC § 8-19)
- t. Subsection 20. Recordkeeping. (6 HCC § 8-20)

6. Definitions.

- a. "C.F.R." means the U.S. Government Code of Federal Regulations.
- b. "Employee" means one who is employed by a facility or establishment, which affects commerce.

- c. "Employer" means a person or establishment affecting commerce who has employees.
- d. "Nation" means the Ho-Chunk Nation.
- e. "OSHA" means the Occupational Safety and Health Administration of the U.S. Government Department of Labor.
- f. "OSHD" means the Occupational Safety and Health Division of the Ho-Chunk Nation Department of Labor.
- g. "Program" means the Ho-Chunk Nation Occupational Safety and Health Program.
- h. "Violation" has the following meanings:
 - (1) Other-Than-Serious. A violation that has a direct relationship to job safety and health of an employee, but probably would not cause death or serious physical harm.
 - (2) Serious. A violation where there is substantial probability that death or serious physical harm to an employee(s) could result.
 - (3) Willful. A violation where the employer intentionally commits or allows a condition in violation of this Act.
 - (4) Repeated. A violation where any portion of the Act is found and cited, and upon re-inspection the same violation or condition or a substantially similar violation is found.

7. Employee Compliance. Each employee is responsible for complying with all safety regulations within the Nation's Occupational Safety and Health Program and the following basic principles:

- a. Always Follow Safety Rules. Applicable safety rules and regulations are to be followed at all times.
- b. Do Not Perform Unsafe Acts. Employees should never perform any tasks that they believe may be unsafe. Any such conditions or practices should be reported to a supervisor immediately.
- c. Listen to Supervisors. Supervisors have been instructed to familiarize employees with safe operations and practices. All employees must follow established safety rules in performing their assigned tasks.
- d. Detect Symptoms. Learn to detect early signs and symptoms of any illnesses or ailments to get proper treatment.

e. Avoid Discipline or Discharge. Each employee is responsible for his or her performance and for following safety rules. Failure to do so may lead to disciplinary action.

8. Reporting Job-Related Injuries and Illnesses. All job-related injuries and illnesses must be reported.

a. Follow Orientation Rules. Information on reporting job-related accidents shall be covered in new employee orientations.

b. Report Immediately.

(1) An employee must report any injury, no matter how slight, to his or her supervisor no later than the end of the employee's **workday** on the day of the accident causing the injury. An injury may be reported by another on behalf of the employee. An employee's failure to report a job related injury no later than the end of his/her workday shall result in the employee being ineligible for worker's compensation and/or medical benefits.

(2) The supervisor is responsible for completing an Injury Report Form and submitting it within 24 hours to the Human Resource Department, the Department of Personnel or its agent, as applicable. A supervisor's failure to file an injury report that initially prevents the employee from becoming eligible for worker's compensation and/or medical benefits shall result in disciplinary action against the supervisor.

c. Cooperate in the Investigation. Employees who are involved in accidents should give full details concerning the nature of their injuries, the cause, the time/date, and any other relevant information.

d. Secure Medical Treatment. Employees should immediately secure any necessary medical treatment.

e. Record Information. Employees and supervisors shall fill out all accident reporting forms. If first aid is applied on the premises, the nature of the first aid, condition of the individual, and recommendation for further treatment must all be recorded.

f. Avoid Discipline or Discharge. An employee who does not promptly or properly report accidents or illnesses in accordance with this Act may be disciplined.

9. Safety Responsibilities of Supervisors. Supervisors will:

a. Emphasize safety and participate in all safety meetings.

b. Check for and eliminate hazards or control any hazards that cannot be eliminated.

c. Make sure that all employees are properly trained in all of the following safety issues that apply to their job.

- (1) Hazard communication.
- (2) Bloodborne pathogens.
- (3) Respirator use.
- (4) Personal protective equipment.
- (5) Forklift operation.
- (6) Confined space.
- (7) Lock-Out/Tag-Out.
- (8) Other training programs required due to the nature of their job.

d. Ensure all employees wear required Personal Protective Equipment.

10. Employee Training. To reduce the chance of injury, the Nation's policy is to provide each employee with training in the tools, equipment, and skills necessary to perform his or her job. Training will comply with the specifics of any OSHA standards. Employees are to cooperate and take training seriously as its purpose is to protect their lives, health, and safety.

11. Safety Committees.

a. Each of the Nation's facilities shall have a safety committee that shall meet quarterly. Nation facilities shall include each of the gaming operations, Wellness Center, and any other divisions and enterprises under the jurisdiction of the Nation.

b. The committees shall be evenly mixed between supervisory employees and non-supervisory employees. Each department and each shift shall be represented on the committee.

c. The committees shall have formal meeting agendas and minutes shall be taken at each meeting.

d. The purpose of the committees shall be to discuss in-house safety issues, suggest possible solutions, take steps to correct safety issues, and report upon the effectiveness of the corrective actions taken.

e. The committees shall have the authority, with guidance from OSHD, to enforce the provisions of this Act and Program at their facility.

f. OSHD personnel shall attend safety committee meetings as advisors.

12. Administration and Enforcement. The provisions of this Act shall be administered by the OSHD.

a. The Safety Division will periodically, but not less than annually, review, update, and promulgate the provisions herein as the need arises.

b. Noncompliance. Any person or employer found to be in violation of this Act or incorporated references shall be subject to a mandatory citation, which shall include a monetary penalty not to exceed \$200.00 per citation, upon a finding by the OSHD that a supervisor or employee has repeatedly ignored or willfully violated any section of this Act.

(1) Other-than-serious violation with a written citation without monetary penalty.

(2) Serious violation assessed \$0 to \$50.00.

(3) Willful violation assessed \$50 to \$100.00.

(4) Repeated Violation assessed \$100 to \$200.00

c. Employer Rights and Responsibilities. Following an OSHD inspection, if the employer who has been cited, may take either of the following courses of action:

(1) If the employer agrees to the citation and notification of monetary penalty, the employer must correct the condition by the date set in the citation (if one is proposed) and pay the penalty. Payment shall be made to General Fund of the Ho-Chunk Nation and shall be documented.

(2) If the employer does not agree, the employer will have 15 working days from the date the employer receives the citation to contest in writing any or all of the following:

(a) Citation.

(b) Proposed penalty.

(c) Abatement date.

13. Severability. If a court of competent jurisdiction adjudges any provision of this Act or the Nation's Occupational Safety and Health Program to be unconstitutional or invalid, the remainder of this Act and Program shall not be affected thereby.

14. **Effective Date.** This Act shall take effect upon its adoption by resolution by the Legislature.

Appendix A. Publication Status of Occupational Safety and Health Program

Legislative History:

12/6/01	Reviewed by Administration Committee.
1/9/02	Legislature posts for 45-day Public Review.
5/20/02	Enacted as the Occupational Health and Safety Program Act of 2002 (6 HCC § 8) by Legislative Resolution 5/20/02E.
9/4/02	Amended and Restated by Legislative Resolution 9/4/902D amending paragraph 8b.
3/3/04	Draft of Amended Act sent out for 45-day Public Review.
6/8/04	Amended and Restated by Legislative Resolution 6/8/04A to strengthen the administration and enforcement of the Act.

APPENDIX A (PUBLICATION STATUS OF OCCUPATIONAL SAFETY AND HEALTH PROGRAM) TO SECTION 8 (OCCUPATIONAL SAFETY AND HEALTH PROGRAM ACT) TO TITLE 6 (PERSONNEL, EMPLOYMENT AND LABOR CODE) OF THE HO-CHUNK NATION CODE (HCC)

Publication Status of the Occupational Safety and Health Program Act

As Of: 6/8/2004

Document Name	Document Cite	Effective Date	Remarks
Occupational Safety and Health Program Act	6 HCC § 8	6/8/04	Amended
General Safety	6 HCC § 8-1	5/20/02	
Exposure Control	6 HCC § 8-2	5/20/02	
Hazard Communication	6 HCC § 8-3	5/20/02	
Electrical Safety	6 HCC § 8-4	5/20/02	
Lock-Out/Tag-Out	6 HCC § 8-5	5/20/02	
Powered Industrial Truck Safety	6 HCC § 8-6	5/20/02	
Personal Protective Equipment	6 HCC § 8-7	5/20/02	
Fire Safety	6 HCC § 8-8	5/20/02	
Emergency Preparedness/ Disaster Planning	6 HCC § 8-9	5/20/02	
Occupational Health and Environmental Controls	6 HCC § 8-10	5/20/02	
Indoor Air Quality	6 HCC § 8-11	5/20/02	
Ergonomics	6 HCC § 8-12	5/20/02	
Construction Safety	6 HCC § 8-13	5/20/02	
Fall Protection	6 HCC § 8-14	5/20/02	
Permit-Required Confined Spaces	6 HCC § 8-15	5/20/02	
Fleet Safety	6 HCC § 8-16	5/20/02	
Workplace Violence Prevention	6 HCC § 8-17	5/20/02	
Respiratory Protection	6 HCC § 8-18	5/20/02	
Agricultural Safety	6 HCC § 8-19	5/20/02	
Recordkeeping	6 HCC § 8-20	9/4/02	