



**HO-CHUNK NATION CODE (HCC)
TITLE 6 – PERSONNEL, EMPLOYMENT AND LABOR CODE
SECTION 8 – OCCUPATIONAL SAFETY AND HEALTH
PROGRAM ACT OF 2002
SUBSECTION 10 – OCCUPATIONAL HEALTH AND
ENVIRONMENTAL CONTROLS**

ENACTED BY LEGISLATURE: MAY 20, 2002

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CITE AS: 6 HCC § 8-10

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1. **Authority.** See basic document (Occupational Safety and Health Program Act).

2. **Purpose.** This Subsection of the Occupational Safety and Health Program Act preserves and maintains the Nation’s invaluable human resources and assures every employee a workplace free from recognized health hazards. A work force which functions at a high level of health and well-being results in greater creativity and increased productivity.

3. **Definitions.** See basic document (Occupational Safety and Health Program Act). In addition, the following definitions apply to this Subsection.

a. "Associated" means to be connected or united with.

b. “Complete Health Evaluation” means a medical examination, the scope of which is determined by a physician, based upon an individual’s age, sex, medical history, and position requirements.

c. "Disability" means:

(1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(2) a record of such impairment; or

(3) being regarded as having such an impairment.

d. “Environmental Health” means the science devoted to the recognition, evaluation, and control of those occupational and environmental hazards or stresses arising in or from the workplace that may cause sickness, impaired health and well-being, or significant discomfort and inefficiency among employees.

e. “Hazard” means anything, which causes danger, peril, or risk to persons or property.

f. “Hazardous Occupation” means employment, which has an associated danger or peril and a degree of risk for personal injury or illness.

g. “Serious Condition” means an unhealthful working condition in which there is a substantial probability that death or serious physical harm could result.

h. “Unhealthful Working Conditions” means situations that cause or could cause illness to employees in the course of their employment.

4. Policies.

a. Occupational Health. It is the Nation’s policy to minimize sick absences and reduced productivity due to marginal physical disability, permanent disability, or pre-death. This shall be accomplished by providing to employees:

(1) Pre-placement health evaluations.

(2) Contracted occupational health providers who will provide medical monitoring exams as required by OSHA and other appropriate regulatory agencies, or as deemed necessary for other hazardous materials exposures.

(3) Certification examinations for those whose work may either exacerbate a pre-existing condition or jeopardize the health of others dependent on them.

b. Environmental Health. It is the Nation’s policy to:

(1) Ensure that all employees will be provided with a healthful workplace environment that is free from harmful levels of exposure to toxic or hazardous chemical,

physical, and biological agents, and to ergonomic stresses, which may result in illness, serious physical injury, or death.

(2) Comply with all Federal standards/requirements pertinent to workplace hazards. In the event of conflicting standards or regulations, the ones that are most protective for employees will be met.

(3) Maintain and utilize an inventory of chemical and physical potential health hazards/agents in all Nation workplaces.

(4) Employ sufficient and pertinent exposure-monitoring techniques to ensure compliance and conformity with environmental health standards and guidelines.

(5) Formulate and recommend techniques or methods for hazard abatement where exposures are found to be excessive.

5. Responsibilities and Authorities.

a. The contracted Occupational Health Clinics shall provide advisory and interpretive services on matters dealing with the policy, responsibilities, requirements, and procedures contained in this Subsection.

b. The Occupational Safety and Health Division (OSHD) shall:

(1) Ensure that close cooperation and coordination between the Nation's entities and the contracted occupational health clinics are maintained.

(2) Prescribe additional or more stringent requirements than those established in this Subsection when they determine that such requirements are necessary to protect the health and well-being of the Nation's employees.

(3) Determine the number of contracted occupational health clinics and the types and extent of services to be provided, according to working conditions, the number of employees, and the program requirements.

6. Requirements.

a. Health Services Providers. Occupational health services shall be contracted. The contracted providers shall provide licensed physicians and nurses qualified in occupational medicine and occupational nursing and their programs shall comply with the requirements of this Subsection.

b. Pre-Placement Health Evaluation.

(1) Upon being offered a position but prior to beginning employment, each prospective employee shall fill out the approved Pre-Placement Questionnaire.

(2) The prospective employee will be given access to a fax machine to fax the completed questionnaire to the contracted occupational health provider. The prospective employee will keep the original Pre-Placement Questionnaire. There will be no copies of the questionnaire in the employee's personnel file.

(3) The contracted provider will evaluate the prospective employee's medical history as it will affect the health and physical factors that relate to the hazards of the position they have been offered as shown on the Physical Demands Worksheet (See Appendix A). The purpose of this evaluation is to determine a prospective employee's health status as it may relate to any possible exposures associated with the position. In addition, it is to determine the prospective employee's physical capabilities as they relate to the position offered and any required accommodations necessary for safe and healthy job performance.

(4) The contracted provider will FAX the completed evaluation of the prospective employee's suitability for employment to the appropriate Personnel/Human Resources Department.

c. Job Change or Transfer Health Evaluation. Employees who change or transfer job functions with associated hazards shall fill out a medical history questionnaire. The contracted providers will evaluate the employee's medical history with emphasis on the effects of the position vacated and the health and physical factors that relate to the new job tasks and demands.

d. Return to Work (Fitness-for-Duty) Evaluation.

(1) An employee who occupies a position with an associated hazard, who is absent from work more than three (3) consecutive workdays due to either an occupational or a non-occupational illness or injury, shall submit either a health status report from a physician to the employee's supervisor stating that the employee is fit to work.

(2) Management may request a fitness for duty medical evaluation whenever it is necessary to determine the employee's ability to perform the essential functions of the employee's present position, or to perform the essential functions of the employee's position in such a manner that would not pose a direct threat to the health and safety of the employee or to others.

(a) If the Ho-Chunk Nation's designated physician or examiner determines the employee can safely continue working in the employee's position, the employee's department shall be notified that the employee is fit for duty.

(b) If the Ho-Chunk Nation's designated physician or examiner determines the employee cannot safely perform the essential functions of the position, written notification shall be sent to the appointing authority identifying the function(s) and/or job requirement(s) the employee cannot perform.

(c) If it is determined that an employee cannot safely perform the essential functions of the position, and the department is unable to provide reasonable accommodations, where applicable, or other suitable employment for the employee, management/supervision shall notify the Executive Director of Personnel in writing prior to taking any action. The notification shall outline the proposed action regarding the employee's continued employment, and provide justification for the action proposed and provide those protections for the employee as found in paragraphs 26b (Family Medical Leave) and Section 59 (Return to Work) of the Employment Relations Act (6 HCC § 5).

e. Screening Examinations. Tests and immunizations for specific diseases shall be provided by contracted providers as necessary based on an employee's on the occupational hazards.

f. Treatment of Injuries or Illnesses. Any employee with an occupationally related injury or illness shall follow the Workers' Compensation policies.

g. Post-Accident Drug/Alcohol Testing.

(1) drug and/or alcohol test shall be conducted on employees involved in accidents occurring during work time or on Nation property if the bodily injury requires medical attention from a health care provider or damage to equipment that exceeds \$1,000.00 in damages.

(2) Covered accidents include, but are not limited to, those that the employee caused or contributed to and that involve:

(a) Personal injury to employee or others which necessitates first aid or medical attention, or

(b) Damage to Nation property or equipment.

(3) Employees shall make themselves available for post-accident testing.

(4) If circumstances require an employee to leave the scene of an accident/incident, the employee must make a good faith attempt to notify his or her supervisor or department of his or her location. Any employee who fails to report any work-related accident/incident is in violation of this policy and is subject to disciplinary action, up to and including termination.

7. Reporting Requirements. OSHD or the site Safety Officer shall be advised of the results of each health evaluation performed on an employee, which contains meaningful data relative to physical limitations and/or work restrictions.

8. Medical Records.

a. Contracted providers shall maintain records of employee medical examinations in accordance with OSHA and other federal guidelines.

b. Medical records and professional evaluations of current employees and prospective employees will be maintained under the control of the contracted clinics and for use only by professional personnel and OSHD.

c. Employees shall be allowed access to their own records as specified in 29 C.F.R. § 1910.20, "Access to Employee Exposure and Medical Records."

9. Administration and Enforcement. See paragraph 12 of basic document (Occupational Safety and Health Program Act).

APPENDIX A: Physical Demands Worksheet

Legislative History:

12/6/01	Reviewed by Administration Committee.
1/9/02	Legislature posts for 45-day Public Review.
5/20/02	Enacted as Occupational Health and Environmental Controls (6 HCC § 8-10) by Legislative Resolution 5/20/02E.
6/10/06	Department of Labor submits draft amendment to Administration Committee.
3/22/06	Legislature places draft out for 45-Day Public Review.
6/6/06	Amended and Restated by Legislative Resolution 6/6/06E amending paragraph 6d as it relates to Return to Work (Fitness for Duty) Evaluation and adding paragraph 6g.

**APPENDIX A (PHYSICAL DEMANDS WORKSHEET) TO
SUBSECTION 10 (OCCUPATIONAL HEALTH AND
ENVIRONMENTAL CONTROLS) TO SECTION 8 (OCCUPATIONAL
SAFETY AND HEALTH PROGRAM ACT) TO TITLE 6
(PERSONNEL, EMPLOYMENT AND LABOR CODE) OF THE HO-
CHUNK NATION CODE (HCC)**

Physical Demands Worksheet

The following worksheet is to be completed for each new or revised job description. Please read the instructions carefully before beginning. Once submitted, this information will be reviewed by the Occupational Safety & Health Division and then presented to the Personnel Board of Directors (PBOD) for approval.

Frequency:

In the first two sections, place an "X" in the appropriate frequency column for each physical requirement and work environment listed. In the third section, place an "L" (lift) AND "C" (carry) in the appropriate column in each row. Example, a position may require an employee to lift a 35 lb. box onto a cart 30% of the time, but never carry it. The "Up to 35 pounds" row would have an "L" under Occasional and a "C" under Never.

Essential Functions:

This section will be used to signify job functions that are considered essential functions. If a listed function is considered essential, place an "E" in the box to the left of the function statement. Essential functions are those job functions that if removed would fundamentally change the job. Ask the following questions to determine whether a particular function is essential:

1. Does the position exist to perform that function? *If yes, then it is an essential job function.*
2. Can the function only be performed by a limited number of employees? *If yes, then it is likely to be considered an essential job function.*
3. Does the position require highly specialized skills? *If the function is highly specialized it is likely to be considered an essential job function.*
4. How much time does the employee spend performing the particular function? *The more time spent on a function, the more likely that it will be considered an essential job function.*
5. What is the consequence of not performing the function? *If failure to perform the function has adverse effects, it is likely to be considered an essential job function.*
6. What is the work experience of the person who held the position? *This information will also be considered relevant in determining whether or not a job function is essential.*

With these questions in mind, review the contents of each section and mark the appropriate functions.

Position Title: _____

	FREQUENCY				
	Never 0%	Seldom 1-10%	Occasional 11-33%	Frequent 34-66%	Continuously 67-100%
Physical Requirements (place an "X" in the appropriate column)					
Stand					
Walk					
Sit					
Finger dexterity					
Tool use					
Climb, balance					
Crouch					
Crawl					
Kneel, squat					
Bend, stoop (bending the upper body forward)					
Repetitive use of shoulders, arms, wrists, and hands					
Bimanual hand use (using two hands)					
Simple grasping					

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	FREQUENCY				
	Never 0%	Seldom 1-10%	Occasional 11-33%	Frequent 34-66%	Continuously 67-100%
Physical Requirements (place an "X" in the appropriate column)					
Equipment Use: _____					
Reaching at or above shoulder height					
Push (using force) – pushing equipment					
Pull (using force) – such as a drawer					
Pivot, twist (upper body or at waist)					
Static positions (holding one position w/o moving)					

	Never 0%	Seldom 1-10%	Occasional 11-33%	Frequent 34-66%	Continuously 67-100%
Work Environment (place an "X" in the appropriate column)					
Noise level _____					
Works near moving parts					
Vibration					
Works in high places					
Outside weather conditions					
Fumes _____					
Toxic or caustic chemicals _____					
Visual acuity					
Color perception					
Ability to taste, smell					
Eye-hand coordination					
Ability to hear verbal interaction					

Lifting and Carrying (place an "L" (lift) AND "C" (carry) in the appropriate columns)					
<i>Lift = from 10 inches off the floor to chest level</i>			<i>Carry = 1 or 2 handed beyond 4 feet</i>		
Up to 10 pounds (sedentary)					
Up to 25 pounds (light)					
Up to 35 pounds (light/medium)					
Up to 50 pounds (medium)					
Up to 75 pounds (medium/heavy)					
Up to 100 pounds (heavy)					
More than 100 pounds (very heavy)					

Who should be contacted to answer questions: _____

Work Telephone/Extension? _____

Completed by: _____

Printed name

Signature

<i>This section is completed by Occupational Safety & Health Division staff</i>	
Personal Protective Equipment: _____	_____
Immunization Requirements: _____	_____
Reviewed by: _____	_____
(Safety Division Staff)	(Date)