

# Tribal Laws Related to Occupational Safety and Health

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Building Bridges to Enhance the Well-Being of American Indian and Alaska Native Workers

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# Presentation Overview

- **CDC's Public Health Law Program**
- **Occupational Safety and Health Codes**
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# **CDC's Public Health Law Program**



# CDC's Public Health Law Program

- **What we do**

- Advance the use of law as a public health tool

- **How we do it**

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- **Workforce development:** webinars, trainings, training materials, fellowships, internships, externships
- **Outreach and communications:** formal networks of state, tribal, local, and territorial public health attorneys



# CDC's Public Health Law Program

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- CDC programs and state, tribal, local, and territorial health departments

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# **Tribal Occupational Safety and Health Codes**

# What are Tribal Occupational Safety Laws?

- **Tribal occupational safety and health codes can:**
  - Seek to prevent and mitigate occupational injuries, illnesses, and fatalities
  - Establish a tribal occupational safety and health agency or commission
  - Implement occupational health and safety standards
  - Allow for inspection and enforcement of these standards for tribal and other employers within tribal jurisdiction





# Examples of Purpose Statements

## ■ Confederated Tribes of the Colville Reservation

- “in order to assure, insofar as may reasonably be possible, **safe, and healthful working conditions** for every man and woman working on the Colville Indian Reservation, the Colville Business Council ... declares its purpose ... to **create, maintain, continue, and enhance the industrial safety and health program** of the Tribes, which program shall equal or exceed the standards prescribed by the [OSHA] of 1970.” CCT § 6-1-17.

## ■ Ho-Chunk Nation

- “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.” 6 HCC § 8(2).

# Examples of Purpose Statements

## ■ Navajo Nation

- “The administration and enforcement of the ... Act shall use appropriate measures **to foster sensitivity and respect for Navajo Indian cultural beliefs and practices in achieving harmony** and fulfilling the challenge of providing safe and healthy working conditions for Navajo employees.” 15 Navajo Code § 1402.

## ■ Oneida Tribe of Indians of Wisconsin

- “These guidelines are the standards which the Oneida Tribe shall adopt **to ensure the safety of its employees**. All guidelines **comply with the minimum standards set by OSHA**. When direct language does not show reference the minimum OSHA standards will be exercised.” 3 O.C. § 303.1-1.

# Industry- or Activity-Specific Laws

- Tribal codes can also declare occupational safety and health laws specific to certain industries or activities, such as:
  - Infectious waste
  - Gaming
  - Mining
  - Motor vehicle operation
  - Public works, and
  - Toxic materials



## Examples of Industry- or Activity-Specific Laws

- **Infectious Waste:** “Tribal staff **will follow universal precautions** when responding to, and disinfecting after, **incidents involving blood or potentially infectious body fluids**[.]” Jamestown S'Klallam Tribe Code 28.05.01(B).
- **Gaming:** “**to impose** on its gaming operation **standards and requirements equivalent to or more stringent** than those contained in ... the federal [OSHA] of 1970, and any other federal laws relating to ... **conditions of work**[.]” 5 Navajo Code § 2039(B)(1).
- **Public Works:** “**Safety shoes are required while working in the designated areas** of Warehouse, Public Works, and Natural Resources.” Siletz Tribal Code § 2.888(a)(6).

# Child Labor Laws

- Tribal codes can seek to protect young workers by requiring safe work environments that do not jeopardize their health, safety, well-being, or educational opportunities
- **Example: Navajo Nation**
  - **“adhere as nearly as may be possible to the applicable child labor laws** of the states of Arizona, New Mexico and Utah on work projects within those portions of the ... Nation lying within each respective state.” 15 Navajo Code § 801.



# Recordkeeping and Reporting Requirements

- Tribal codes can contain provisions for tribal employees and employers to report work injuries and keep records. This information can:
  - Help evaluate the safety of a workplace
  - Understand industry hazards
  - Implement better worker protections, and
  - Prevent future workplace injuries and illnesses



# Examples of Recordkeeping and Reporting Requirements

- **Mashantucket Pequot Tribe:** “Each Employer **shall make, keep and preserve, and make available** to the Commissioner or her designee **such records** regarding the Employer’s activities relating to this Law, ... for the enforcement of this Law or **for developing information regarding the causes and prevention** of occupational accidents and illnesses.” 34 M.P.T.L. § 7(b)(1).
- **Ho-Chunk Nation:** “**An employee must report any injury ... to his or her supervisor** no later than the end of the ... workday on the day of the accident causing the injury.” “The supervisor is responsible for **completing an Injury Report Form** and submitting it within 24 hours[.]” 6 HCC §§ 8(8)(b)(1)-(2).
- **Winnebago Tribe of Nebraska:** “No Compensation for an Injury ... shall be provided **unless a notice of the Injury** shall have been given to the Employer ... **not more than thirty (30) calendar days**, after the happening thereof[.]” WTC 7-1207(1).

# Workers' Compensation



- Tribal codes can provide workers' compensation: a type of insurance coverage that provides medical, wage, and other benefits to tribal employees who are injured at work
- **Example: Puyallup Tribe**
  - “This chapter **establishes a workers' compensation program** for employees of the Tribe. Its purpose is to provide coverage for employees ... who are injured on the job... [It] is adopted in order **to provide**, regardless of fault, **medical treatment** for injured workers, **and income** to them and their dependents; **to restore injured workers physically and economically** to a self-sufficient status; and to provide a system to administer the program and resolve any disputed claims that arise under it.” Puyallup Tribal Code § 14.04.010.



## But....

- Taking an open view of worker safety and health, many issues not addressed:
  - Health care facility regulations
  - Retail food establishment regulations
  - Indoor air quality
  - Active shooter policies
  - First responder training and PPE



# And....

- Taking a look at the whole person:
  - Safe drinking water
  - Building and housing codes
  - Fire safety codes
  - Sick leave policies
  - Minimum wage



# Resources Related to Tribal Occupational Safety

- **NIOSH**

- <https://blogs.cdc.gov/niosh-science-blog/2016/04/21/ai-an-partnership/>
- <https://www.cdc.gov/tribal/data-resources/information/worker-safety.html>

- **National Indian Health Board**

- [https://www.nihb.org/tribal\\_resources/tribal\\_resources.php](https://www.nihb.org/tribal_resources/tribal_resources.php)

- **Native American Rights Fund, National Indian Law Library**

- <https://narf.org/nill/triballaw/codes.html>

- **CDC PHLP**

- <https://www.cdc.gov/phlp/publications/topic/tribal.html>

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