



HO-CHUNK NATION CODE (HCC)
TITLE 6 – PERSONNEL, EMPLOYMENT AND LABOR CODE
SECTION 8 – OCCUPATIONAL SAFETY AND HEALTH
PROGRAM ACT OF 2002
SUBSECTION 13 – CONSTRUCTION SAFETY

ENACTED BY LEGISLATURE: MAY 20, 2002

LAST AMENDED AND RESTATED: December 6, 2022

CITE AS: 6 HCC § 8-13

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

2. **Purpose.** This subsection provides for the Ho-Chunk Nation (hereinafter referred to as “HCN”) to provide oversight to contractors while on Ho-Chunk Nation properties to insure their ability to work in a safe manner that is consistent with recognized good safety practices and that are compliant with applicable Ho-Chunk Nation and Federal safety and health regulations.

3. **General.**

a. These guidelines are intended to assist the HCN in improving the safety and health performance of the contractors that work on HCN projects. Generally, the individual(s) responsible for the project is/are responsible to make sure the contractor is aware and applies these guidelines. Throughout the remainder of these guidelines the individual will be referred to as the Owner’s Representative (O/R). Other disciplines such as Occupational Safety and Health, Environmental and Purchasing will be actively involved and assist the O/R as needed.

b. Contracts/Purchase orders will contain a provision that if the contract terms (including safety) are not met, the contract/purchase order will be subject to suspension, termination, or other means of contractual enforcement.

4. **Definitions.**

a. “ASTM International” means American Society for Testing and Materials.

b. “Contractor” means any non-HCN company and/or employee who agree to furnish materials and/or services on site.

c. “ISEA” means International Safety Equipment Association.

d. “Owner’s Representative (O/R)” means a person designated as facility project manager/leader. The O/R has the responsibility to manage every aspect of the project.

e. “Facility Safety Representative” means a person designated by the facility to represent the facility on safety matters with the contractor.

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f. “Competent Person” means one who is capable of identifying existing and predictable hazards in the surroundings or work conditions, which are unsanitary, hazardous, or dangerous to employees, and has the authority to take prompt corrective measures to eliminate them.

g. “Qualified Person” means one who, by possession of a recognized degree, certificate, or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his/her ability to solve or resolve problems related to the subject matter, the work, or the project.

h. “OSHD” means the Occupational Safety and Health Division of the Ho-Chunk Nation Department of Labor.

5. General Expectations of Contractors.

a. Contractors shall have a designated safety representative on site at all times while work is being performed.

b. The contractor shall comply with:

(1) The HCN Occupational Safety and Health Program Act and all pertinent subsections.

(2) Federal OSHA 1910 General Industry Standards, 1926 Construction Standards, along with state and local regulations.

c. Upon first notification of a Federal OSHA inspection the contractor shall immediately notify the O/R who in turn shall notify the Division of Safety.

d. The contractor is responsible for providing or making provisions for first-aid medical treatment for their employees. HCN medical facilities are off-limits, except in the case of a medical emergency.

e. All contractors shall wear the appropriate personal protective equipment, as required by HCN safety ordinances. HCN will not provide any such personal protective equipment to contractors.

f. The contractor shall conduct appropriate industrial hygiene monitoring throughout the duration of the job.

g. All contractor employees shall display their company logo on their hard hat. All contractor supervisors shall display their names on their hard hats.

h. All contractor vehicles shall display a readily visible company identification on the driver’s side.

i. An OSHA 300 Log must be maintained on site and updated within three days of the last OSHA Recordable injury.

j. Contractors must obtain approval from the facility prior to setting or parking trailers.

k. The contractor shall comply with HCN policy on employee consumption of drug or alcoholic beverages while on HCN property.

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1. The contractor shall provide a written investigation report to the OSHD within 24 hours of all OSHA Recordable injuries and illness.

6. **First Aid/Medical Procedures.** Each individual contractor will be responsible to provide emergency medical first aid to their employees. All injuries, no matter how minor, must be reported to the contractor and must receive first aid treatment. The facility will assist the contractor with injuries in an emergency situation. The contractor shall provide a written report of all injuries and illnesses to the O/R and or Facility Safety Representative.

7. **Alcohol and Drug Policy.** No alcoholic beverages or illegal drugs are to be brought onto Ho-Chunk Nation properties, nor is anyone to be allowed to report to work while under the influence of drugs or alcohol. The Ho-Chunk Nation will not attempt to dictate subcontractor drug testing program content but will expect that a comprehensive pre-employment and for-cause drug testing program including both alcohol and controlled substances are established.

8. **Incident/Accident Investigation.** The Contractor shall thoroughly investigate all accidents/incidents that resulted in an injury to one of its employees, as well as near- miss situations that could have resulted in a serious accident or injury to employees. This information will be communicated to the O/R or the Facility Safety Representative.

9. **Fire Protection.** The purpose of this section is to promulgate and promote fire prevention and fire protection measures for use by all HCN and contractor personnel working on HCN projects.

a. All of the contractor's employees must be familiar with the location and use of fire extinguishing equipment and alarms to be used in case of an emergency. The contractor will provide their own fire extinguishing equipment when work being done by their employees involves working with open flame, arcs, or highly-flammable materials.

b. Flammable and combustible liquids brought onto HCN projects must be stored in an approved safe container, which is properly labeled and color coded to identify the contents. The facility must approve the quantity, use and storage of these chemicals. SDSs must be available on site.

c. Smoking on HCN properties is restricted to outside smoking areas, other than casino or bingo hall proper.

10. **Safety Training.** It is the responsibility of the contractor to assure that the proper safety training for employees is updated and documented as per HCN, local, state, and federal regulations. Contractors shall be required to certify that all employees have been informed of all HCN guidelines, policies, and procedures.

11. **Personal Protective Equipment (PPE).** Any PPE exceptions will need to be addressed in writing to the Department of Labor, OSHD. If exceptions are made, they will need to be approved by the OSHD. The contractor shall assure compliance to 6 HCC § 8-7 *Personal Protective Equipment* while working on HCN projects.

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a. Safety Eye Wear Policy.

(1) ANSI approved eye protection is required to be worn at all times. The contractor will provide nonprescription safety glasses with side shields or approved safety glasses to be worn over prescription eyewear. Safety eyewear worn by the contractor employees must meet specifications set forth in ANSI Z87.1 standards.

(2) When operations present potential eye or face injury, goggles or a full-face shield must be worn over safety glasses. Examples: grinding, chipping, or similar operations.

(3) When the employee is exposed to chemicals, or dusts additional PPE may be required (e.g., goggles or face shield).

b. Foot Protection Policy. Safety-toed footwear, meeting ASTM F-2412 and ASTM F-2413 are required as a condition of employment on HCN projects. Safety-toed footwear will be worn 100% of the time.

c. Hard Hat Policy. All employees and visitors on any HCN construction project are required to wear hard hats that meet ANSI/ISEA specifications of Z89.1. Hard hats will be worn 100% of the time.

d. Hearing Protection. All employees of the contractor who are working in designated “hearing protection” areas, must wear hearing protection. There may be other areas where noise levels exceed 85dB, or where conditions present a potential hazard to the employees’ hearing, where hearing protection is required. The contractor is responsible for ensuring that this equipment is available and worn.

e. Respiratory Protection. The contractor shall have a written respiratory program that meets requirements of 6 HCC § 8-18 *Respiratory Protection* and OSHA C.F.R. 29 § 1910.134, *Respiratory Protection*. It is the responsibility of the contractor to assure that the respiratory requirements of the HCN are followed.

f. Hand Protection. The contractor shall require employees to use appropriate hand protection when the employees’ hands are exposed to hazards such as those from skin absorption or harmful substances, severe cuts, lacerations, severe abrasions, punctures, chemical burns, thermal burns, or harmful temperature extremes.

12. Personal Work Environment.

a. All work and storage areas shall be kept clean to the extent that the nature of the work allows. Cleanups shall be made on a daily basis and all tools, materials, and debris shall be kept out of walkways (i.e., hoses and cords should be properly stored when not in use, exposed nails shall be removed or bent over immediately).

b. All lines (electrical, hoses, etc.), which cross a walkway shall be either elevated or protected in such a manner that they will not be damaged by traffic.

c. Personal Conduct. All contractor personnel are expected to conduct themselves in a professional and business-like manner. Horseplay, practical jokes, and physical threats will not be tolerated on HCN projects. All employees of the contractor are expected to stay within their authorized work area. No one will be allowed to wander onto or go on any other HCN property for any purpose without the specific permission of the facility manager or project manager.

d. Illumination. The contractor is responsible for providing employees with adequate lighting to ensure safe working visibility. The contractor will supply any special equipment needed for this purpose.

e. Sanitation. Portable water and toilet facilities may be provided for construction projects. These facilities must be used for the intended purpose in a proper manner. The contractor is responsible for supplying if needed and insure these facilities are kept in a clean and operating order.

13. Equipment.

a. Ladders.

(1) All of the contractors' ladders shall meet the ANSI standards. Ladders shall be inspected prior to each use and maintained in a safe condition.

(2) A competent person shall inspect contractor ladders and maintain documentation of the inspections.

(3) Ladders shall be placed at the proper angle and shall be placed to prevent slipping, or it shall be lashed and secured in position. In no instance shall ladders be used in a horizontal position.

(4) The contractor will see that each employee receives adequate training on the proper methods of climbing and utilizing ladders.

(5) The contractor shall see that the ladders are collected and stored when not in use.

b. Scaffolding.

(1) All contractor scaffolding shall be capable of supporting, without failure, its own weight plus at least four times the maximum intended load. They shall be erected on a sound, rigid footing, capable of carrying the maximum intended load without settling or displacement.

(2) Scaffolding shall be designed by a qualified person and erected under the supervision of a competent person. Erection crews shall inspect each component part for defects. Uprights shall bear on-base plates and mudsills, or other adequate foundations.

(3) All working platforms shall be fully planked, with scaffold-grade planking; the gaps between planks shall not exceed 1 inch. Planks shall be free of defects and shall extend over the supports no less than 6 inches, unless cleated, or no more than 12 inches. When overlapping planks, they must overlap at least 12 inches.

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(4) Guardrails, midrails, and toe boards will be installed on all open sides and ends of platforms more than 6 feet above the ground or floor. "X" bracing can serve either as guardrails or midrails, depending upon the height of the crossing members, but never both.

(5) Scaffolds that exceed a 4:1, height to base ratio, shall be restrained from tipping over by tie guys, or bracing. Scaffolds shall be secured at intervals of every 26 feet vertically and 30 feet horizontally.

(6) Mobile scaffolds require all casters to be locked when in use, with a diagonal brace to prevent racking or collapse. No one shall ride nor allow materials to be stored on the scaffold when it is being moved, towers must be only used on level surfaces and ensure that there are no overhead obstructions or energized electrical lines in the path of travel.

c. Welding and Cutting.

(1) No welding or cutting shall be performed on HCN properties without proper authorization. The contractor shall be responsible to ensure appropriate fire-fighting equipment is on hand, and that all flammable and combustible materials are properly covered, shielded, or moved a minimum of 35 feet from the work site.

(2) The contractor shall provide for adequate shielding around all welding and grinding work done by his employees.

d. Storage of Oxygen and Fuel Gases.

(1) Oxygen cylinders in storage shall be separated from fuel gas cylinders or combustible materials by a distance of 20 feet, or by a non-combustible barrier having a fire-resistance rating of at least ½ hour.

(2) All cylinder valves must be closed when any work is finished and when any cylinders are empty or being moved.

(3) Valve protection caps must be placed and secured properly before compressed-gas cylinders are transported, moved, or stored.

(4) Compressed gas cylinders must be secured in an upright position with a chain, or other appropriate and approved system, designed for such a purpose at all times.

(5) All cylinders must be kept at a safe distance or shielded from welding or cutting operations.

(6) Fuel-gas cylinders shall not be taken into a confined space.

e. Compressed Air.

(1) Hoses and couplings shall be checked before each use. Only use hoses that are designed to handle compressed air.

(2) All hose couplings must have a positive locking device.

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(3) Compressed air used for cleaning purposes is to be reduced to less than 30 PSI (pounds per square inch) when the nozzle end is obstructed or dead-ended.

(4) All hoses exceeding ½ inch inside diameter shall have a safety device at the source of supply, or branch line, to reduce pressure in case of hose failure.

(5) Use of compressed air to clean self or co-workers is strictly prohibited.

f. Motor Vehicle and Power Equipment.

(1) All vehicles or power equipment is to be checked to ensure that all parts, equipment, and accessories that affect safe operation are in proper operating conditions and free from defects.

(2) All motor vehicles and power equipment are to be operated by authorized personnel. The driver has the overall responsibility for the safety of passengers and for the stability of the load.

(3) Drivers must have a valid operator's/driver's license to operate vehicles.

(4) Seat belts must be worn at all times.

(5) Only trained and licensed operators shall be permitted to operate a powered industrial truck. Industrial trucks shall be maintained free of debris accumulation.

(6) Never leave a motor vehicle running and unattended.

(7) Shut off motor to refuel.

(8) Smoking and open flames are not allowed when refueling or charging batteries.

(9) Passengers are not allowed to ride in the back of flatbed trucks, or pickup trucks unless in the pickup truck passengers are seated on the bed of the truck and not seated on side rails.

g. Power Tools.

(1) Fuel-Powered Tools.

(a) All fuel-powered tools must be shut off while being refueled, serviced, or maintained.

(b) Smoking, matches, open lights, or similar ignition sources are prohibited in the vicinity of any refueling operations.

(c) Any fuel-powered tool that develops a leak in the fuel system must be taken out of service immediately and repaired or replaced.

(d) When fuel-powered tools must be operated indoors or in confined spaces, proper ventilation must be maintained so as not to allow a hazardous atmosphere to form.

(2) Electrical Tools.

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(a) All 110 volt power tools, must either be approved “double insulated,” or have a current assured grounding test I.D. Those not meeting one of these requirements must either be tested or replaced before use.

(b) Cords of power tools are not to be used to lift or lower the tool.

(3) Pneumatic Tools.

(a) Percussion type impact tools must have a safety clip or retainer to prevent the attachment from disengaging while in use.

(b) All pressurized hose quick disconnect type (non-threaded) fittings, couplings, and connectors, must have a safety mechanism providing a positive means to prevent accidental disconnect.

(c) All hose lines greater than ½ inch inside diameter are to be equipped with a safety device at the source, or branch line from the source, to automatically reduce pressure in case of hose failure.

(4) Power-Actuated Tools.

(a) Only persons trained in the proper use of the particular power-actuated tool are permitted to operate it.

(b) The tool must never be pointed at another person whether it is empty or not.

(c) The tool must only be loaded just prior to use and never left unattended when loaded.

(d) The tool must never be used near flammable or explosive materials or atmosphere.

(e) Fasteners must never be driven into materials that might be easily penetrated unless suitably protected against the possibility of rear exit.

(5) Grinder – Abrasive.

(a) Abrasive wheel bench or stand grinders must have safety guards strong enough to withstand bursting wheels.

(b) Adjust work rests on grinders to a clearance not to exceed 1/8 inch between rest and wheel surface.

(c) The distance from the top of the wheel to the wheel periphery guard or tongue guard shall not exceed ¼ inch.

(d) Inspect and ring test abrasive wheels before mounting.

(e) Properly dress wheel before using and/or when finished.

(f) RPM rating of the abrasive wheel must be in accordance with the RPM rating of the motor.

(6) Grinders – Portable (Air, Electric or Fuel).

(a) Portable grinders with any wheel attachment must have guards, hoods, and/or safety flanges in place except when wheel less than 2 inch OD is used or when the wheel is entirely within the work being processed.

(b) The use of any attachment wheel rated lower than the RPM's of the grinder is strictly prohibited.

(7) Aerial Lifts.

(a) All operators must be trained and receive proper instruction before operating aerial platforms.

(b) During use of boom-supported elevated work platforms, the employee is to wear a full body harness and a lanyard affixed to the attachment point in the basket.

(c) Check the work area for holes, obstacles, drop off or rough spots. Look for weak spots or covers on ramps or floors. Look for oil spills, wet spots, slippery surfaces, and soft soil and standing water.

(d) Check for overhead hazards. Assume all electrical parts and wiring are ENERGIZED and stay back at least 10 feet from electrical hazards.

(e) Do not travel in the extended position, except for equipment that is specifically designed for this type of operation.

(f) Never use ladders, planks, steps, or other devices to provide additional reach to gain greater height.

14. Procedures.

a. Material Handling. Physical differences make it impossible to establish safe lifting limits applicable to all workers. Before workers lift any heavy objects or bulky loads and carry it to another location, they should inspect the route over which they will move the object. By doing this walk, the employee can make sure that there are no obstacles or spill that could cause them to slip or trip.

b. Excavation and Trenching.

(1) Prior to excavation with power equipment, all utilities must be located by hand excavation to insure that no employee is exposed to any hazards and that disruption of service will not occur.

(2) Preplanning of every excavation by the responsible supervisor is required in order to prevent problems with items such as underground utilities, vehicular and pedestrian traffic, overhead utility lines, surface drainage, substructures and superstructures, excessive noise, laws, environmental impact laws, medical and/or emergency response facilities, potential for hazardous atmosphere, communications and back-up availability, and normal amounts of vibration in the area.

(3) Dewatering, as required to sustain a dry excavation, must be initiated, and maintained while work is being performed.

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(4) Prior to starting any work in the excavation area, the immediate supervisor, or designated person, shall inspect the excavation for possible hazards and to see that all safety requirements are met.

(5) Once an excavation exceeds 5 feet in depth, protective systems such as sloping, shoring, or shielding must be provided in accordance with the type of soils present on the project.

(6) A registered professional engineer must approve excavations below the level of the base of footing of any foundation or retaining wall that could reasonably expect to pose a hazard to employees.

(7) All excavations 4 feet or deeper must have a ladder, ramp, or similar safe means of access/egress within 25 feet of persons working in the excavation.

c. Confined Space Entry. See Chapter 11, 6 HCC § 8-15, Permit-Required Confined Spaces.

d. Electrical. See 6 HCC § 8-4, Electrical Safety.

e. Lock-Out/Tag-Out Procedures. See 6 HCC § 8-5, Lock-Out/Tag-Out.

f. Fall Protection. See 6 HCC § 8-14, Fall Protection.

g. Signs, Signal and Barricades.

(1) Signs and symbols required by hazardous job site conditions are to be visible at all times when work is being performed and are to be removed or covered promptly when the hazards no longer exist.

(2) Types of signs include:

(a) Danger Signs. To be use where immediate hazards exist.

(b) Caution Signs. To be used to warn of potential hazards or caution against unsafe practices.

(c) Exit Signs. To be used where required.

(d) Safety Instruction Signs. To be used to convey a safety message.

(e) Directional Signs. To be used to direct movement other than automotive.

(f) Traffic Signs. To be used to control traffic in the construction zone and protect pedestrians.

(3) Barricades.

(a) Barricades shall be used in place of caution tape whenever physical obstruction is required, to prevent people from falling into a hazard or being accidentally exposed to an immediate hazard or danger.

(b) Barricades must withstand a 200-pound force at any point, be 42 inches in height, have a mid-rail and have danger signs affixed.

15. Safety Criteria for Contractor Selection with Ten or More Employees. Contractor selection will be affected by safety performance and written safety and health program.

a. Safety performance. Contractors shall complete the form at Appendix A (Safety Criteria for Contractor Selection) to supply the following information to the Nation's Planning and Safety Departments. Comparative year-to-year performance levels/trends will be the criteria for judgement.

(1) Total Case Incident Rate (TCIR) for the past three years, plus the current year. Using totals from columns (G), (H), (I), and (J) from the OSHA 300 Log (number of Recordable injuries x 200,000/hours worked). The benchmark TCIR is 11.00 or less.

(2) Lost Time Incident Rate (LTIR) for the past three years, plus current year. Using Column H from the OSHA 300A Log (number of lost time injuries x 200,000/hours worked). The benchmark LTIR is 5.00 or less.

(3) Workers Compensation Experience Modification Rate (EMR) for the past three years plus current year. The benchmark EMR is 1.00 or less.

b. Written Safety and Health Programs. If required, the following information will serve as a benchmark for minimum requirements for a written safety program.

- (1) Safety policy statement, including Management's commitment to safety.
- (2) Description of each employee's responsibility related to safety.
- (3) Substance abuse program.
- (4) Injury tracking, reporting, and investigating system.
- (5) Work practices/safety procedures, consistent with tasks routinely performed by the contractor.
- (6) Requirements for periodic inspection/audit of work, etc.
- (7) Provision for medical treatment/services at the work site.
- (8) Safety training programs.
- (9) Emergency action plans (e.g. notification, head count).
- (10) Equipment and tool inspections (e.g. cranes, hoists, electrical tools, etc.).

16. Administrative and Enforcement. See Section 12 of the Occupational Safety and Health Program Act.

Appendix A – Safety Criteria for Contractor Selection

Legislative History:

12/6/01 Reviewed by Administration Committee.

1/9/02 Legislature posts for 45-day Public Review.

5/20/02 Enacted as Construction Safety (6 HCC § 8-13) by Legislative Resolution 5/20/02E.

9/29/22 Legislature posts for 45-Day Public Review.

12/6/22 Amended and restated as Construction Safety (6 HCC § 8-13) by Legislative Resolution 12-06-22E.

**APPENDIX A (SAFETY CRITERIA FOR CONTRACTOR SELECTION) TO
SUBSECTION 13 (CONSTRUCTION SAFETY)**

The following information is to be supplied to the Planning Department and the Safety Department when a contractor is being considered for project award.

A. Safety Performance

NAME OF CONTRACTOR: _____

1. Using your OSHA 300 Log (total of columns (G), (H), (I), and (J)), list your Total Case Incident Rate (TCIR) for the three most recent years plus the current year (number of Recordable injuries x 200,000/man-hours worked).

20__ _____ 20__ _____

20__ _____ Current _____

2. Using your OSHA 300 Log (Column H), list your Lost Time Incident Rate for the three most recent years plus the current year (number of Recordable injuries x 200,000/man-hours worked).

20__ _____ 20__ _____

20__ _____ Current _____

3. Submit a list of any fatalities, which may have occurred in the past three years.

4. Submit a list including the number of and nature if any OSHA citations incurred during the past three years.

5. Written Safety and Health Program will be submitted upon request.

6. If you are assigning someone to be the On-site Safety Representative:

a. Who will be the On-Site Safety Representative? _____

b. Will safety be a part-time or full-time responsibility? _____