



HO-CHUNK NATION CODE (HCC)
TITLE 6 – PERSONNEL, EMPLOYMENT AND LABOR CODE
SECTION 8 - OCCUPATIONAL SAFETY AND HEALTH
PROGRAM ACT OF 2002
SUBSECTION 3 - HAZARD COMMUNICATION

ENACTED BY LEGISLATURE: MAY 20, 2002

LAST AMENDED AND RESTATED: December 6, 2022

CITE AS: 6 HCC § 8-3

1. **Authority.** See basic document (Occupational Safety and Health Program Act.) **Note:** The following text has been updated to align with the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS), Revision 3, issued in the Federal Register, March 26, 2012. This rule became effective May 25, 2012.
2. **Purpose.** This subsection of the Occupational Safety and Health Program Act provides detailed safety guidelines and instructions for receipt, use, and storage of chemicals by employees and contractors at the Nation’s facilities.
3. **General.** Some chemicals are explosive, corrosive, flammable, or toxic. Other chemicals are relatively safe to use and store but may become dangerous when they interact with other substances. To avoid injury and/or property damage, persons who handle chemicals in any area of the Nation must understand the hazardous properties of the chemicals. Before using a specific chemical, safe handling methods and health hazards must always be reviewed. Supervisors are responsible for ensuring that the equipment needed to work safely with chemicals is accessible and maintained for all employees on all shifts.
4. **Definitions.** See basic document (Occupational Safety and Health Program Act). In addition, the following definitions apply to this subsection.
 - a. “Chemical “means any substance, or mixture of substances.
 - b. “Common name” means any designation or identification such as a code name, code number, trade name, brand name or generic name used to identify a chemical other than by its chemical name.
 - c. “Container” means any bag, barrel, bottle, box, can, cylinder, drum, reaction vessel, storage tank, or the like that contains a hazardous chemical. For purposes of this Subsection, pipes or piping systems, and engines, fuel tanks, or other operating systems in a vehicle, are not considered to be containers.
 - d. “Employee” means a worker who may be exposed to hazardous chemicals under normal operating conditions or in foreseeable emergencies. Workers such as office workers who encounter hazardous chemicals only in non-routine, isolated instances are not covered.

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e. "Exposure or exposed" means that an employee is subjected in the course of employment to a chemical that is a physical or health hazard, and includes potential (e.g., accidental, or possible) exposure. "Subjected" in terms of health hazards includes any route of entry (e.g., inhalation, ingestion, skin contact or absorption.)

f. "Flammable liquid" means any liquid having a flashpoint at or below 199.4° F (93°C). Flammable liquids are divided into four categories as follows:

(1) Category 1 shall include liquids having flashpoints below 73.4° F (23°C) and having a boiling point at or below 95° F (35° C)

(2) Category 2 shall include liquids having flashpoints below 73.4° F (23°C) and having a boiling point above 95° F (35°C).

(3) Category 3 shall include liquids having flashpoints at or above 73.4° F (23° C) and at or below 140° F (60° C). When a Category 3 liquid with a flashpoint at or above 100° F (37.8° C) is heated for use to within 30 ° F (16.7° C) of its flashpoint, it shall be handled in accordance with the requirements for a Category 3 liquid with a flashpoint at or above 100° F (37.8° C).

(4) Category 4 shall include liquids having flashpoints above 140° F (60° C) and at or below 199.4° F (93° C). When a Category 4 flammable liquid is heated for use within 30° F (16.7° C) of its flashpoint, it shall be handled in accordance with the requirements for a Category 3 liquid with a flashpoint at or above 100° F (37.8° C).

g. "Flash Point" means the minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite.

h. "Foreseeable emergency" means any potential occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which could result in an uncontrolled release of hazardous chemical into the workplace.

i. "Hazard class" means the nature of the physical or health hazards, e.g., flammable solid, carcinogen, oral acute toxicity.

j. "Hazardous chemical" means any chemical, which is a physical hazard or a health hazard.

k. "Hazard statement" means a statement assigned to a hazard class and category that describes the nature of the hazard(s) of a chemical, including, where appropriate, the degree of hazard.

l. "Hazard Warning" means any word, picture, symbol, or combination appearing on a label or other appropriate form of warning which convey the specific physical and health hazard(s), including target organ effects, of the chemical(s) in the container(s).

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m. “Health Hazard” means a chemical which is classified as posing one of the following health effects: acute toxicity (any route of exposure); skin corrosion or irritation; serious eye damage or eye irritation; respiratory or skin sensitization; germ cell mutagenicity; carcinogenicity; reproductive toxicity; specific target organ toxicity (single or repeated exposure); or aspiration hazard .

n. “Immediate Use” means the hazardous chemical will be under the control of and used only by the person who transfers it from a labeled container and only within the work shift in which it is transferred.

o. “Label” means any written, printed, or graphic material displayed on or affixed to containers of hazardous chemicals.

p. “Label elements” means the specified pictogram, hazard statement, signal word and precautionary statement for each hazard class and category.

q. “Mixture” means any combination of two or more chemicals if the combination is not, in whole or in part, the result of a chemical reaction.

r. “Physical Hazard” is a chemical that is a combustible liquid, a compressed gas, explosive flammable, an organic peroxide, an oxidizer, pyrophoric, unstable (reactive) or water reactive.

s. “Pictogram” means a composition that may include a symbol plus other graphic elements, such as a border, background pattern, or color, that is intended to convey specific information about the hazards of a chemical.

t. “Permissible Exposure Limit (PEL)” means the level of allowable exposure to a hazard in accordance with OSHA.

u. “Precautionary statement” means a phrase that describes recommended measures that should be taken to minimize or prevent adverse effects resulting from exposure to a hazardous chemical, or improper storage or handling.

v. “Pyrophoric gas” means a chemical in a gaseous state that will ignite spontaneously in air at a temperature of 103° F (54.4° C).

w. “Safety Data Sheet (SDS)” means written or printed material concerning a hazardous chemical.

x. “Signal word” means a word used to indicate the relative level of severity of hazard and alert the reader to a potential hazard on the label. The signal words used are “danger” and “warning”. “Danger” is used for the most severe hazards, while “warning” is used for the less severe.

y. “Simple asphyxiant” means a substance or mixture that displaces oxygen in the ambient atmosphere and can thus cause oxygen deprivation in those who are exposed, leading to unconsciousness and death.

z. “Threshold Limit Value (TLV)” means the level of allowable exposure to a hazard in accordance with the American Conference of Government Industrial Hygienists (ACGIH).

5. General Chemical Safety.

a. Assume all chemicals are hazardous. The number of hazardous chemicals and the number of reactions between them is so large that prior knowledge of all potential hazards cannot be assumed. Use chemicals in as small quantities as possible to minimize exposure and reduce possible harmful effects.

b. The following general safety rules shall be observed when working with chemicals:

- (1) Read and understand the SDS.
- (2) Keep the work area clean and orderly.
- (3) Use the necessary safety equipment.
- (4) Carefully label every container with the identity of its contents and appropriate hazard warnings.
- (5) Store incompatible chemicals in separate areas.
- (6) Substitute less toxic materials whenever possible.
- (7) Limit the volume of volatile or flammable material to the minimum needed for short operation periods.
- (8) Provide means of containing the material if equipment or containers should break or spill their contents.

6. Chemical Storage.

a. The separation of chemicals (solids or liquids) during storage is necessary to reduce the possibility of unwanted chemical reactions caused by accidental mixing. Use either distance or barriers to isolate chemicals into the following groups:

- (1) Flammable liquids: store in approved flammable storage lockers.
- (2) Acids: treat as flammable liquids.

(3) Bases: do not store bases with acids or any other material.

(4) Other liquids: ensure other liquids are not incompatible with any other chemical in the same storage location.

b. Chemicals will not be stored in the same refrigerator used for food storage. Refrigerators used for storing chemicals must be appropriately identified by a label on the door.

7. Purchases.

a. Purchasing Departments and any other purchasing activities will check all new chemical purchase requests to verify that a statement requesting SDS appears on each purchase request before it is processed.

b. Purchasing and any other purchasing activities will send a copy of the SDS with all new chemical purchases to the requesting department/enterprise.

8. Container Labeling.

a. All containers of chemicals entering the workplace will be checked to ensure that they are properly labeled with chemical name; signal word; hazard statement(s); pictograms; precautionary statement(s) and name, address, and telephone number of manufacturer, importer, or other responsible party.

b. Any container entering the facility that does not have the proper label shall be sent back to the supplier to be replaced by a properly labeled container.

c. Portable containers into which hazardous chemicals are transferred from labeled containers, and which are intended for the immediate use of the employee who performs the transfer, is not required to be labeled.

9. Housekeeping Supplies.

a. Maintain the smallest possible inventory of chemicals to meet immediate needs.

b. Periodically review stock of chemicals on hand.

c. Ensure storage areas, or equipment containing large quantities of chemicals, are secure from accidental spills.

d. Rinse emptied bottles that contain acids or inflammable solvents before disposal.

e. Recycle unused laboratory chemicals wherever possible.

- f. *DO NOT* place hazardous chemicals in salvage or garbage receptacles.
- g. *DO NOT* pour chemicals onto the ground.
- h. *DO NOT* dispose of chemicals through the storm drain system.
- i. *DO NOT* dispose of highly toxic, malodorous chemicals down sinks or sewer drains.

10. SDS and Inventory Lists.

- a. Department supervisors will review incoming data sheets for new and significant health and safety information and ensure that the new information is given to the affected employees.
- b. Copies of all SDSs will be kept in the department and will always made available to employees.
- c. The SDS will be reviewed annually for accuracy and completeness.
- d. A current master inventory list of all SDSs will be maintained at each department and facility. The list will be indexed by number to the SDS referenced on the inventory list. A copy of the current master inventory list for each facility will be forwarded to the OSHD.
- e. A new chemical will not be used until its SDS has been obtained.

11. SDS Information. SDSs are provided by the chemical manufacturer to provide additional information concerning safe use of the product.

Table I outlines information in the SDS

TABLE I
Minimum Information for an SDS

Heading	Subheading
1. Identification	(a) Product identifier used on the label; (b) Other means of identification; (c) Recommended use of the chemical and restrictions on use; (d) Name, address, and telephone number of the chemical manufacturer, importer, or other responsible party; (e) Emergency phone number.
2. Hazard(s) identification	(a) Classification of the chemical; (b) Signal word, hazard statement(s), symbol(s) and precautionary statement(s) (Hazard symbols may be provided as graphical reproductions in black and white or the name of the symbol, e.g., flame, skull and crossbones); (c) Describe any hazards not otherwise classified that have been identified during the classification process; (d) Where an ingredient with unknown acute toxicity is used in a mixture at a concentration $\geq 1\%$ and the mixture is not classified based on testing of the mixture as a whole, a statement that X% of the mixture consists of ingredient(s) of unknown acute toxicity is required.
3. Composition/information on ingredients	Except for trade secrets: <u>For Substances</u> (a) Chemical name; (b) Common name and synonyms; (c) CAS number and other unique identifiers; (d) Impurities and stabilizing additives which are themselves classified and which contribute to the classification of the substance.

	<p><u>For Mixtures</u> In addition to the information required for substances:</p> <p>(a) The chemical name and concentration (exact percentage) or concentration ranges of all ingredients which are classified as health hazards and</p> <ol style="list-style-type: none"> (1) Are present above their cut-off/concentration limits; or (2) Present a health risk below the cut-off/concentration limits. <p>(b) The concentration (exact percentage) shall be specified unless a trade secret claim is made, when there is batch-to-batch variability in the production of a mixture, or for a group of substantially similar mixtures with similar chemical composition. In these cases, concentration ranges may be used.</p> <p><u>For All Chemicals Where a Trade Secret is Claimed</u> Where a trade secret is claimed, a statement that the specific chemical identity and/or exact percentage</p>
<p>4. First-aid measures</p>	<p>(a) Description of necessary measures, subdivided according to the different routes of exposure, i.e., inhalation, skin and eye contact, and ingestion;</p> <p>(b) Most important symptoms/effects, acute and delayed.</p> <p>(c) Indication of immediate medical attention and special treatment needed, if necessary.</p>
<p>5. Fire-fighting measures</p>	<p>(a) Suitable (and unsuitable) extinguishing media.</p> <p>(b) Specific hazards arising from the chemical (e.g., nature of any hazardous combustion products).</p> <p>(c) Special protective equipment and precautions for fire-fighters.</p>
<p>6. Accidental release measures</p>	<p>(a) Personal precautions, protective equipment, and emergency procedures.</p> <p>(b) Methods and materials for containment and cleaning up.</p>

7. Handling and storage	(a) Precautions for safe handling. (b) Conditions for safe storage, including any incompatibilities.
8. Exposure controls/personal protection	(a) OSHA permissible exposure limit (PEL), American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Value (TLV), and any other exposure limit used or recommended by the chemical manufacturer, importer, or employer preparing the safety data sheet, where available. (b) Appropriate engineering controls. (c) Individual protection measures, such as personal protective equipment.
9. Physical and chemical properties	(a) Appearance (physical state, color, etc.); (b) Odor; (c) Odor threshold; (d) pH; (e) Melting point/freezing point; (f) Initial boiling point and boiling range; (g) Flash point; (h) Evaporation rate; (i) Flammability (solid, gas); (j) Upper/lower flammability or explosive limits; (k) Vapor pressure; (l) Vapor density; (m) Relative density; (n) Solubility(ies); (o) Partition coefficient: n-octanol/water; (p) Auto-ignition temperature; (q) Decomposition temperature; (r) Viscosity.
10. Stability and reactivity	(a) Reactivity; (b) Chemical stability; (c) Possibility of hazardous reactions; (d) Conditions to avoid (e.g., static discharge, shock, or vibration); (e) Incompatible materials; (f) Hazardous decomposition products.

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11. Toxicological information	<p>Description of the various toxicological (health) effects and the available data used to identify those effects, including:</p> <ul style="list-style-type: none"> (a) Information on the likely routes of exposure (inhalation, ingestion, skin and eye contact); (b) Symptoms related to the physical, chemical and toxicological characteristics; (c) Delayed and immediate effects and also chronic effects from short- and long-term exposure; (d) Numerical measures of toxicity (such as acute toxicity estimates). (e) Whether the hazardous chemical is listed in the National Toxicology Program (NTP) Report on Carcinogens (latest edition) or has been found to be a potential carcinogen in the International Agency for Research on Cancer (IARC) Monographs (latest edition), or by OSHA.
12. Ecological information (Non-mandatory)	<ul style="list-style-type: none"> (a) Ecotoxicity (aquatic and terrestrial, where available); (b) Persistence and degradability; (c) Bioaccumulative potential; (d) Mobility in soil; (e) Other adverse effects (such as hazardous to the ozone layer).
13. Disposal considerations (Non-mandatory)	Description of waste residues and information on their safe handling and methods of disposal, including the disposal of any contaminated packaging.
14. Transport information (Non-mandatory)	<ul style="list-style-type: none"> (a) UN number; (b) UN proper shipping name; (c) Transport hazard class(es); (d) Packing group, if applicable; (e) Environmental hazards (e.g., Marine pollutant (Yes/No)); (f) Transport in bulk (according to Annex II of MARPOL 73/78 and the IBC Code); (g) Special precautions which a user needs to be aware of, or needs to comply with, in connection with transport or conveyance either within or outside their premises.
15. Regulatory information (Non-mandatory)	Safety, health and environmental regulations specific for the product in question.

16. Other information, including date of preparation or last revision	The date of preparation of the SDS or the last change to it.
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NOTE 1: To be consistent with the GHS, an SDS must also include the headings in Sections 12 through 15 in order.

NOTE 2: OSHA will not be enforcing information requirements in sections 12 through 15, as these areas are not under its jurisdiction.

12. Written Hazard Communication Program

a. Each facility within the Ho-Chunk Nation shall develop, implement, and maintain a written hazard communication program which at least describes how the criteria specified for labels and other forms of warning, safety data sheets, and employee information and training will be met, and which also includes the following:

(1) A list of the hazardous chemicals known to be present using a product identifier that is referenced on the appropriate safety data sheet (the list may be compiled for the workplace as a whole or for individual work areas); and

(2) The methods the supervisor will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels).

b. The supervisor shall make the written hazard communication program available, upon request, to employees and/or their designated representatives.

13. Employee Information and Training.

a. All employees shall be provided effective information and training on hazardous chemicals in their work area at the time of their initial assignment, and whenever a new chemical hazard the employees have not previously been trained about is introduced into their work area.

b. Information and training may be designed to cover categories of hazards (e.g., flammability, carcinogenicity) or specific chemicals. Chemical-specific information must always be available through labels and safety data sheets.

c. Training will consist of general training covering:

(1) Methods and observation that may be used to detect the presence or release of a hazardous chemical in the workplace, such as monitoring conducted by the supervisor, continuous monitoring devices, visual appearance or odor of hazardous chemicals when being released.

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(2) The physical, health, simple asphyxiation, combustible dust, and pyrophoric gas hazards, as well as hazards not otherwise classified, of all chemicals in the workplace.

(3) The measures employees can take to protect themselves from these hazards, including specific procedures the Nation has implemented to protect employees from exposure to hazardous chemicals, such as appropriate work practices, emergency procedures, and personal protective equipment to be used.

(4) The details of the hazard communication program developed by the Nation, including an explanation of the labels received on shipped containers and the workplace labeling system used by the facility; the safety data sheet, including the order of information and how employees can obtain and use the appropriate hazard information.

d. All training conducted under this subsection of the Act will be documented.

c. Job Specific Training. Employees will receive on-the-job training from their supervisor. This training will cover the proper use, inspection and storage of necessary PPE and chemical safety training for the specific chemicals they will be using or will be working around.

d. Annual Refresher Training. Annual GHS refresher training will be conducted as part of the Nation's continuing safety training program.

e. Immediate On-the-Spot Training. This training will be conducted by supervisors for any employee that requests additional information or exhibits a lack of understanding of the safety requirements.

f. After attending training on this subsection or any hazardous chemicals, each employee will sign a form to verify he/she attended the training. Each employee will also sign a form to verify that the written program was/is made available for review and that he/she understands the subsection.

g. Documentation shall include the name of the trainer, the contents of the training, and acknowledgement of understanding (i.e., test and demonstration affirmation).

14. Information Chemical Users Must Know.

a. Fire and/or Explosion Information.

(1) Proper fire extinguishing agents to be used.

- (2) Firefighting techniques.
- (3) Any unusual fire or explosive hazards.

b. Chemical Reaction Information.

- (1) Stability of the chemical.
- (2) Conditions and other materials which can cause reactions with the chemical.
- (3) Dangerous substances that can be produced when the chemical reacts.

c. Control Measures.

- (1) Engineering controls required for safe product use.
- (2) The PPE required for use of product.
- (3) Safe storage requirements and guidelines.
- (4) Safe handling procedures.

d. Health Hazards.

- (1) Permissible exposure limits (PELs) and threshold limit values (TLVs).
- (1) Acute or chronic symptoms of exposure.
- (3) Main routes of entry into the body.
- (4) Medical conditions that can be made worse by exposure.
- (5) Cancer causing properties, if any.
- (6) Emergency and first aid treatments.

e. Spill and Leak Procedures.

- (1) Clean-up techniques.

- (2) The PPE to be used during clean-up.
- (3) Disposal of waste and clean-up material.

f. Employee Use of SDS. For the effective use of SDS, employees must:

- (1) Know the location of the SDS.
- (2) Understand the major points for each chemical.
- (3) Check SDS when more information is needed, or questions arise.
- (4) Be able to quickly locate the emergency information on the SDS.
- (5) Follow the safety practices provided on the SDS.

15. Non-Routine Tasks.

a. Before any non-routine task is performed, the employee will be advised of special precautions to follow. In addition, any other personnel who could be exposed will be informed of this potential exposure.

b. The department supervisor will provide the following specific safety training for employees present or affected.

- (1) Specific chemical names.
- (2) Hazards of the chemicals.
- (3) PPE required.
- (4) Safety measures to be taken.
- (5) Emergency procedures.

(6) Measures that have been taken to lessen the hazards, including ventilation, respirators, and the presence of another employee

c. Supervisors will document the training using the Chemical Safety Training Checklist form, which shall be marked “*Non-Routine Task Training*”.

16. Outside Contractors.

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a. It will be the responsibility of affected departments to provide other personnel or outside contractors with the following information:

- (1) Hazardous chemicals to which they may be exposed while in the workplace.
- (2) Measures to lessen the possibility of exposure.
- (3) Location of SDS for all hazardous chemicals.
- (4) Procedures to follow if they are exposed.

b. Affected departments will be responsible for contacting each contractor before work is started and finding out what chemicals the contractor is bringing into the workplace. If employees are to be exposed to these chemicals, their supervisor will inform those employees who may be exposed.

17. Administration and Enforcement. See Section 12 of the Occupational Safety and Health Program Act.

Legislative History:

12/06/01	Reviewed by Administration Committee.
01/09/02	Legislature posts for 45-day Public Review.
05/20/02	Enacted as Hazard Communication (6 HCC § 8-3) by Legislative Resolution 5/20/02E.
09/29/22	Legislature posts for 45-Day Review.
12/06/22	Enacted as Hazard Communication (6 HCC § 8-3) by Legislative Resolution 12-06-22E.