



# Public Health Law

Office for State, Tribal, Local and Territorial Support  
Centers for Disease Control and Prevention

## Selected Tribal Laws Related to Occupational Safety and Health

American Indian and Alaska Native tribes are sovereign nations that maintain a government-to-government relationship with the United States.<sup>1</sup> There are currently 567 federally recognized tribes throughout the contiguous United States and Alaska.<sup>2</sup> In addition to exercising political sovereignty, tribes exercise cultural sovereignty through traditions and religious practices unique to each tribe's history and culture.<sup>3</sup> Cultural sovereignty "encompasses the spiritual, emotional, mental, and physical aspects" of Native people's lives and is a foundation to tribal exercise of political sovereignty.<sup>4</sup>

As sovereign nations, tribes have inherent authority to protect the public health and welfare of their citizens and "to make their own laws and be ruled by them."<sup>5</sup> Thus, in the context of occupational safety and health, tribes have the authority to promote occupational safety and health using methods most appropriate for their communities.<sup>6</sup> Tribes have exercised this authority by passing laws related to occupational safety and health and by providing occupational safety and health services through tribal agencies and programs.<sup>7</sup>

This document offers examples of selected tribal laws related to occupational safety and health. These laws can be referenced by jurisdictions interested in developing or updating their own occupational safety and health laws.<sup>8</sup> While tribal codes sometimes incorporate federal or state occupational safety and health laws by reference, this document does not provide an overview of state or federal occupational safety and health laws. The following tribal laws provide examples of occupational safety and health codes, laws specific to certain industries or activities, child labor laws, and workers' compensation laws.

For more information about occupational safety and health, visit CDC's National Institute for Occupational Safety and Health [website](#).

### Occupational Safety and Health Codes

Tribal codes offer examples of occupational safety and health laws that seek to prevent and mitigate occupational injuries, illnesses, and fatalities.<sup>9</sup> Often these laws establish a tribal occupational safety and health agency or commission,<sup>10</sup> occupational health and safety standards,<sup>11</sup> and they also allow for the inspection and enforcement of these standards for tribal and other employers.<sup>12</sup>



For example, the Confederated Tribes of the Colville Reservation Code includes an Industrial Safety and Health chapter.<sup>13</sup> The chapter establishes “that personal injuries and illnesses arising out of conditions of employment impose a substantial burden upon employers and employees in terms of lost production, wage loss, medical expenses, and payment of benefits under the industrial insurance act. Therefore, in the public interest and for the welfare of the people of the Colville Indian Reservation and 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 by the provisions of this Chapter 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 [federal] Occupation[al] Safety and Health Act of 1970 [OSHA].”<sup>14</sup>

The Industrial Safety and Health chapter applies to “employment performed in any work place within the jurisdiction of the Confederated Tribes of the Colville Reservation.”<sup>15</sup> The chapter requires that all employers who engage in business on the Colville Reservation<sup>16</sup> “furnish to each of his employees a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to his employees.”<sup>17</sup> The chapter provides the tribe’s executive director the authority to develop safety standards,<sup>18</sup> enter employer premises for inspections,<sup>19</sup> and cite employers for violations of applicable safety standards.<sup>20</sup> The director is charged with the responsibility to “develop and maintain an effective program of collection, compilation, and analysis of industrial safety and health statistics.”<sup>21</sup>

The chapter also requires employers to “make, keep, and preserve, and make available to the [tribe’s executive] director such records regarding his activities relating to this Chapter as the director may prescribe by regulation as necessary or appropriate for the enforcement of this Chapter or for developing information regarding the causes and prevention of occupational accidents and illnesses.”<sup>22</sup> It also requires that [t]he director shall prescribe regulations requiring employers to maintain accurate records, and to make periodic reports of work-related deaths, and of injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.”<sup>23</sup>

The Oneida Tribe of Indians of Wisconsin’s Code of Laws includes a safety law, which establishes that the tribe has a duty to “provide a work environment free from recognized hazards within the work place . . . [and] to assure all hazards can be identified which can cause harm to the employee.”<sup>24</sup> The safety law sets “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.”<sup>25</sup> The safety law also provides plans and processes related to emergency evacuations,<sup>26</sup> fire prevention,<sup>27</sup> personal protection equipment,<sup>28</sup> electrical safety,<sup>29</sup> machine guarding,<sup>30</sup> among others.<sup>31</sup>

The Confederated Tribes of Siletz Indians Code includes a personnel safety ordinance that seeks “to protect the safety and health of all Employees.”<sup>32</sup> The ordinance establishes rules for tribal employees on topics such as requiring “[a]ll employees and passengers who drive or ride in GSA vehicles or personal vehicles while on Tribal business must wear seat belts”<sup>33</sup> and prohibiting smoking “inside any building, Tribal vehicle or Smoke Free designated campus.”<sup>34</sup>

## Industry- or Activity-Specific Laws

Tribal codes also provide examples of 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.<sup>35</sup>

## **Infectious Waste**

The Cherokee Code of the Eastern Band of the Cherokee Nation requires that the tribe “limit occupational exposure to blood and other potentially infectious materials,” for tribal employees.<sup>36</sup> The Squaxin Island Tribal Code includes an employee handbook for the Tribe’s child development center.<sup>37</sup> The handbook requires the child development center employees to “receive initial and ongoing training on the risks of occupational exposure to ‘Blood borne Pathogens,’ and measures to reduce or eliminate risk. Attendance is mandatory for ‘Blood borne Pathogens’ trainings.”<sup>38</sup>

## **Gaming**

The Tribal-State Gaming Compact between the Yurok Tribe and the State of California, codified in the tribal code, requires that the tribe “[a]dopt and comply with standards no less stringent than federal and state workplace and occupational health and safety standards” for its gaming facility.<sup>39</sup> Similarly, the Oneida Nation Gaming Ordinance requires that tribal gaming facilities meet “all applicable Federal and Tribal health and safety standards.”<sup>40</sup>

## **Mining**

The Navajo Nation Code includes a mine safety chapter that authorizes the tribe to inspect “all surface and underground mines and mining operations within the jurisdiction of the Navajo Nation”<sup>41</sup> for unsafe conditions.<sup>42</sup> Under the mine safety chapter, the tribe is authorized to “order the immediate partial or complete closure of the mine or mining operation” if it believes that an “unsafe condition or practice creates an extreme and/or immediate menace to life, limb, or health.”<sup>43</sup> In addition to levying penalties to the mine operator for noncompliance of mine safety standards,<sup>44</sup> the mine safety chapter allows the tribe to fine Navajo Nation tribal members for working in a mine that has been closed due to safety conditions.<sup>45</sup> The chapter also “adopts as its interim standards for mine safety and health, including the standards for the training of workers, those substantive standards contained in the regulations promulgated under the Federal Mine Safety and Health Act of 1977 . . . as they may be amended, and other applicable federal laws, rules and regulations.”<sup>46</sup>

## **Motor Vehicle Safety**

The Ordinances of the Confederated Tribes of Siletz Indians require that tribal government employees operating tribal vehicles must “[s]uccessfully complete motor vehicle safety training at least every three years.”<sup>47</sup> The ordinance requires that the employees use all applicable vehicle safety systems, including seat belts,<sup>48</sup> and prohibits texting, emailing or using a cell phone without hands-free technology while operating the vehicle.<sup>49</sup>

## **Public Works**

The Grand Traverse Band of Ottawa and Chippewa Indians Code establishes that “[t]he use of personal protective equipment (PPE) is required when fluoride compounds are handled or when maintenance on fluoridation equipment is performed” for Department of Public Works staff.<sup>50</sup>

## **Toxic Materials**

The Confederated Tribes of the Colville Reservation Code requires the tribe’s executive director to “issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate

provisions for each employee or former employee to have access to such records as will indicate his own exposure to toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents, in concentrations or at levels which exceed those prescribed by any applicable safety and health standard . . . and shall inform any employee who is being thus exposed of the corrective action being taken.”<sup>51</sup>

## Child Labor Laws

Child labor laws seek to protect young workers by requiring safe working environments that protect their health, safety, and well-being.<sup>52</sup> The Navajo Nation Code specifically references child labor. It establishes that “[t]he Navajo Nation shall 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 Navajo Nation lying within each respective state.”<sup>53</sup> The Navajo Nation Code further authorizes the President of the Navajo Nation “to promulgate such additional protective regulations with respect to child labor on the Navajo Nation as he or she deems necessary and proper to protect the best interests of the Navajo Nation.”

## Workers’ Compensation

Workers’ compensation is a form of insurance coverage that provides medical and other benefits to workers injured in the course of employment.<sup>54</sup> For example, the Poarch Band of Creek Indians Tribal Code includes a workers’ compensation ordinance “for the purposes of enhancing tribal sovereignty, exercising the Tribe’s right of self-government and providing benefits to Tribal employees who suffer work-related injuries.”<sup>55</sup> The ordinance requires that the tribe “pay Compensation . . . in every case of Injury or death of an Employee arising out of and in the course of his or her employment, without regard to any question of negligence.”<sup>56</sup>

The Snoqualmie Tribal Code also includes a Workers’ Compensation Claim Act.<sup>57</sup> The purpose of the act is “to establish the rights and benefits of employees of the Snoqualmie Indian Tribe for on-the-job bodily injuries that are caused by accidents or occupational disease . . . . The Tribe believes that creating a tribal workers’ compensation program is an important attribute of sovereignty and necessary to ensure that Tribal employees are protected from harm and treated fairly, while the business interests of the Tribe are not put in jeopardy by frivolous or unwarranted claims for workers’ compensation benefits.”<sup>58</sup> Under the Workers’ Compensation Claim Act, individuals seeking to file a claim “must notify their supervisor, department director, risk management coordinator, or the human resources director of any and all injuries immediately, and in no even[t] later than three (3) days from the date of occurrence. Failure to report such on-the-job injury shall result in the worker’s forfeiture of benefits . . . unless the claimant can demonstrate an extraordinary reason that prevented the reporting of the injury or occupational disease in a timely manner.”<sup>59</sup>

The Mashantucket Pequot Tribe’s Workers’ Compensation Code is administered by the Mashantucket Pequot Workers’ Compensation Commission, led by a chief commissioner.<sup>60</sup> Under the code, “[t]he commissioner shall hear all claims and questions arising under this Code. The commissioner shall have power to summon and examine under oath such witnesses, and may direct the production of, and examine or cause to be produced or examined, such books, records, vouchers, memoranda, documents, letters, contracts or other papers in relation to any matter at issue as he may find proper, and shall have the power to order depositions. He shall have power to certify to official acts and shall have all powers necessary to enable him to perform the duties imposed upon him by the provisions of this Code.”<sup>61</sup>

The Mashantucket Pequot Tribe’s Workers’ Compensation Code also requires that “[t]he chief commissioner shall prepare, publish and distribute an illustrated booklet explaining, in informal and readily understandable language, employee benefits and responsibilities under the Mashantucket Pequot Tribal Workers’ Compensation Code. The chief commissioner shall prepare, publish and distribute revisions to such booklet whenever changes in the tribal Workers’ Compensation Law necessitates such revision.”<sup>62</sup>

## Acknowledgments and Disclaimers

This document was developed by Aila Hoss, JD, Carter Consulting, Inc., contractor with the Public Health Law Program (PHLP) and Hillary Li, JD candidate 2017, University of North Carolina Chapel Hill School of Law, fall 2016 PHLP extern, within CDC’s Office for State, Tribal, Local and Territorial Support. This document was produced in collaboration with the CDC’s National Institute for Occupational Safety and Health. The authors thank Matthew Penn, JD, MLIS, director of Public Health Law Program, for his editorial assistance.

For technical assistance with this inventory, please contact [phlawprogram@cdc.gov](mailto:phlawprogram@cdc.gov). PHLP provides technical assistance and public health law resources to advance the use of law as a public health tool. PHLP cannot provide legal advice on any issue and cannot represent any individual or entity in any matter. PHLP recommends seeking the advice of an attorney or other qualified professional with questions regarding the application of law to a specific circumstance. The findings and conclusions in this summary are those of the author and do not necessarily represent the official views of CDC.

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<sup>1</sup> COHEN’S HANDBOOK OF FEDERAL INDIAN LAW, § 4.01[1][a] (Nell Jessup Newton et al. eds., 2012).

<sup>2</sup> [Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs](#), Fed. Reg. 81, 86 (May 4, 2016).

<sup>3</sup> Wallace Coffey and Rebecca Tsosie, *Rethinking the Tribal Sovereignty Doctrine: Cultural Sovereignty and the Collective Future of Indian Nations*, 12 STAN. L. & POL’Y REV. 191, 196 (2001) (arguing that the concept of “cultural sovereignty” needs to be defined by Native communities and outside the construct of political sovereignty: “[W]e hope to open a dialogue about sovereignty and our collective future that is generated from *within* our tribal communities.” *Id.* at 192.). Wallace Coffey is the chairman of the Comanche Nation Business Committee. Rebecca Tsosie is a law professor at the Indian Legal Program at Arizona State University. At the time of publication of this article, Chairman Coffey and Professor Tsosie both served on the Board of Directors of the Native American Rights Fund, which they credited as providing the “impetus for this dialogue on cultural sovereignty.” *Id.* at n.a1.

<sup>4</sup> *Id.* at 210.

<sup>5</sup> *Williams v. Lee*, 358 U.S. 217, 271 (1959).

<sup>6</sup> Tribes maintain “inherent powers of limited sovereignty which has never been extinguished.” *United States v. Wheeler*, 435 U.S. 313, 322–3 (1978) (quoting F. Cohen, HANDBOOK OF FEDERAL INDIAN LAW 122 [1945]). *Wheeler* further explains that “Indian tribes still possess those aspects of sovereignty not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status.” *Wheeler*, 435 U.S. at 323.

<sup>7</sup> See, e.g., Kalispel Tribe Workers Protection Code, KALISPEL TRIBE LAW AND ORDER CODE §§ 23–1.01 - 23–9.03 (2011); Navajo Nation Occupational Safety and Health Act, 15 NAVAJO CODE § 1401-1574 (2010); [Office of Occupational Safety and Health](#), CHOCTAW NATION (last visited Sept. 26, 2016); [Tribal Occupational Safety and Health Administration](#), THE CONFEDERATED TRIBES OF THE COLVILLE RESERVATION (last visited Sept. 26, 2016).

<sup>8</sup> During September–December 2016, PHLP collected select tribal code provisions that referenced mosquitos or vectors using WestlawNext, a legal research database. PHLP selected the provisions for inclusion in this document on the basis of legal research assistance requests received on these legal domains. The following tribal codes are available using this database: Absentee Shawnee Tribe of Indians; Confederated Tribes of the Colville Reservation;

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Confederated Tribes of Siletz Indians; Coquille Indian Tribe; Eastern Band of Cherokee Indians; Grand Traverse Band of Ottawa & Chippewa; Kalispel Tribe of Indians; Leech Lake Band of Ojibwe; Little River Band of Ottawa Indians; Little Traverse Bay Bands of Odawa; Mashantucket Pequot; Navajo Nation; Oneida Tribe of Indians of Wisconsin; Poarch Band of Creek Indians; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; Sac & Fox Tribe of the Mississippi in Iowa; Snoqualmie Indian Tribe; Squaxin Island Tribe; Standing Rock Sioux; Swinomish Indian Tribal Community; White Earth Nation; Wind River Reservation, Eastern Shoshone & Northern Arapaho Tribes; and Yurok Tribe of California.

<sup>9</sup> *See, e.g.*, Industrial Safety and Health, COLVILLE CONFEDERATED TRIBES CODE §§ 6-1-1 - 6-1-16 (2011); Personnel Safety, CONFEDERATED TRIBES OF SILETZ INDIANS CODE § 2.886-2.890 (2012); Kalispel Tribe Workers Protection Code, KALISPEL TRIBE LAW AND ORDER CODE §§ 23-1.01 - 23-9.03 (2012); Navajo Nation Occupational Safety and Health Act, 15 NAVAJO CODE § 1401-1574 (2009); Safety Law, ONEIDA TRIBE OF WISCONSIN CODE §§ 33.1-1 - 33.19-1 (2010).

<sup>10</sup> *See, e.g.*, KALISPEL TRIBE LAW AND ORDER CODE § 23-2.01 (2012); 34 MASHANTUCKET PEQUOT TRIBAL LAWS ANN. § 2 (2014); 15 NAVAJO CODE § 1431 (2009); SILETZ TRIBAL CODE § 2.887 (2012).

<sup>11</sup> *See, e.g.*, 34 MASHANTUCKET PEQUOT TRIBAL LAWS ANN. § 5 (2014); 15 NAVAJO CODE § 1421 (2009); ONEIDA TRIBE OF WISCONSIN CODE § 33.6-1 - 33.19-1 (2010); SILETZ TRIBAL CODE § 2.888 (2012).

<sup>12</sup> *See, e.g.*, COLVILLE CONFEDERATED TRIBES CODE 6-1-23, 6-1-28, 6-1-29 (2011); 34 MASHANTUCKET PEQUOT TRIBAL LAWS ANN. § 7 - 9 (2014); 15 NAVAJO CODE § 1451. 1461, 1471 (2009).

<sup>13</sup> COLVILLE CONFEDERATED TRIBES CODE §§ 6-1-1 - 6-1-16 (2011).

<sup>14</sup> *Id.* § 6-1-17.

<sup>15</sup> *Id.* § 6-1-19.

<sup>16</sup> *Id.* § 6-1-18(c).

<sup>17</sup> *Id.* § 6-1-22(a).

<sup>18</sup> *Id.* § 6-1-21.

<sup>19</sup> *Id.* § 6-1-23.

<sup>20</sup> *Id.* §§ 6-1-28, 6-1-29, 6-1-34.

<sup>21</sup> *Id.* § 6-1-42.

<sup>22</sup> *Id.* § 6-1-38.

<sup>23</sup> *Id.*

<sup>24</sup> ONEIDA TRIBE OF WISCONSIN CODE § 33.4-1 (2010).

<sup>25</sup> *Id.* § 33.1-1.

<sup>26</sup> *Id.* § 33.9-1.

<sup>27</sup> *Id.* § 33.6-1.

<sup>28</sup> *Id.* § 33.10-1.

<sup>29</sup> *Id.* § 33.7-1.

<sup>30</sup> *Id.* § 33.18-1.

<sup>31</sup> *Id.* §§ 33.6-1 - 33.19-1.

<sup>32</sup> SILETZ TRIBAL CODE § 2.886 (2012).

<sup>33</sup> *Id.* § 2.888(20).

<sup>34</sup> *Id.* § 2.888(19). *See also, id.* § 2.806, which establishes smoke free workplace standards for the Confederated Tribes of Siletz Indians.

<sup>35</sup> *See, e.g.*, 18 NAVAJO CODE § 401-411 (2009); 12 GRAND TRAVERSE BAND CODE § 605(a) (2012); YUROK TRIBAL-STATE GAMING COMPACT § 12.2(d) (2010).

<sup>36</sup> EASTERN BAND CHEROKEE INDIANS CODE Ch. 96 App., § 4.24 (2010).

<sup>37</sup> SQUAXIN IS. TRIBE POL. & PROC. CDC Emp. Hdbk. (2010).

<sup>38</sup> *Id.*

<sup>39</sup> YUROK TRIBAL-STATE GAMING COMPACT § 12.2(d) (2010).

<sup>40</sup> ONEIDA TRIBE OF WISCONSIN CODE 21.14-2(a) (2010). *See also*, 5 NAVAJO CODE § 2039, which requires that “[t]he Navajo Nation shall take all necessary action to impose on its gaming operation standards and requirements equivalent to or more stringent than those contained in the federal Fair Labor Standards Act of 1938, [FN1] the federal Occupational Safety and Health Act of 1970, [FN2] and any other federal laws relating to wages, hours of work and conditions of work, and the regulations issued thereunder.”

<sup>41</sup> 18 NAVAJO CODE § 401(A) (2009).

<sup>42</sup> *Id.* § 402.

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- <sup>43</sup> *Id.* § 403(A).
- <sup>44</sup> *Id.* § 409.
- <sup>45</sup> *Id.* § 406.
- <sup>46</sup> *Id.* § 407.
- <sup>47</sup> SILETZ TRIBAL CODE § 2.044(h).
- <sup>48</sup> *Id.*
- <sup>49</sup> *Id.*
- <sup>50</sup> 12 GRAND TRAVERSE BAND CODE § 605(a) (2012).
- <sup>51</sup> COLVILLE CONFEDERATED TRIBES CODE 6-1-38(c) (2011).
- <sup>52</sup> *See, e.g.,* [Child Labor](#), U.S. DEPARTMENT OF LABOR (last visited Sept. 28, 2016).
- <sup>53</sup> 15 NAVAJO CODE § 801 (2009).
- <sup>54</sup> *See, e.g.,* [Workers' Compensation](#), U.S. DEPARTMENT OF LABOR (last visited Sept. 28, 2016).
- <sup>55</sup> POARCH BAND CR. IND. CODE § 34-1-2 (2010).
- <sup>56</sup> *Id.* § 34-2-1.
- <sup>57</sup> SNOQUALMIE TRIBAL CODE 5.2, § 1.0 (2012).
- <sup>58</sup> *Id.* § 3.
- <sup>59</sup> *Id.* § 8(a).
- <sup>60</sup> 13 MASHANTUCKET PEQUOT TRIBAL LAWS ANNOTATED ch. 1 § 2(a) (2014).
- <sup>61</sup> *Id.* § 4.
- <sup>62</sup> *Id.* § 6.