

OSHA Policies, Programs and Training Requirements *Considerations for Tribes and Tribal Enterprises*

Introduction

The OSHA Act was passed in 1970 to ensure that employers provide a workplace free of recognized hazards for their employees. Since 1970, additional standards have been developed and added to the original Act to control and minimize workplace accidents. The OSHA General Industry Standards (29 CFR 1910) and the OSHA Construction Standards (29 CFR 1926) are key standards for promoting safety in the workplace.

Sovereign Nations, State and local governments are generally exempt from the jurisdiction of the Occupational Safety & Health Administration (OSHA), which was originally created for private employers. However, most Gaming Compacts require use of OSHA Standards as the basis for establishing safety standards for workplace conditions and practices. In this scenario, safety standards should meet or exceed the OSHA standards. This approach makes sense from a loss control perspective, to provide a safe workplace free of recognized hazards. Recently Tribal enterprises have been cited for noncompliance under Federal OSHA, as a private employer, since they are not an extension of the Tribal governments. Therefore, it is important for Tribal Enterprises to be knowledgeable about the OSHA standards, review operations to identify applicability of the standards, and ensure that required OSHA policies, programs, and training programs are in place.

Safety Policy Requirements

Listed below in table format are some of the written programs required by OSHA. This list is not all inclusive of the standards, but can serve as a quick reference to determine program areas that should be considered initially. Combined with information on employee exposure and workplace hazards, the decision can be made on which programs should be established and/or updated for as part of a comprehensive safety program.

Program	Standard Reference	When Applicable
Asbestos	1001(f)(i-iii)	Asbestos present and airborne levels are above prescribed limits.
Bloodborne Pathogens*	1030(c)(1)(i)	Potential exposure to body fluids
Building Maintenance Powered Platforms	66(e)(9)	When powered platforms are used, establish an emergency action plan.
Confined Space	146©(2-3)	When confined spaces exist and are entered. Permit system required.
Employee Emergency Plans*	38(a)(b)	All occupied buildings – threat of fire, spill, tornado, etc.
Hazard Communications*	1200(e)(1)	Virtually all departments (e.g., whiteout is considered a hazardous product.)
Hot Work	106(h)(7)(ii)(a)	When performing hot work (welding or grinding) near flammables. Hot work permit required.

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Hoists and Gantry Cranes	179(d)	A preventative maintenance program for chain hoists and similar equipment.
Lockout/Tagout	147(c)(1)	If maintenance is done on potentially energized equipment. Inspection and/or permit is required.
Occupational Noise / Hearing Conservation	95(b)(1)	Hearing Conservation Program is required if 8 hour average exposures exceed 85 decibels.
Respiratory Protection	134(b)(1)	When exposure to chemicals or dust merit of require the use of respirators; including dust masks and SCBA.

General Duty Clause

The general duty clause describes the employer's obligation to "furnish each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees." Ergonomics is one specific area that does not have a specific requirement in the standard that is cited for enforcement purposes under the general duty clause. The risk factors associated with ergonomics are found in jobs requiring repetitive, forceful, or prolonged exertions of the hands; frequent or heavy lifting, pushing pulling, or carrying of heavy objects; and prolonged awkward postures. OSHA has developed voluntary guidelines in specific industries, such as nursing homes, but enforcement is through the "general duty clause."

Safety Training Requirements

The OSHA standards are very specific about safety training requirements. Even when a specific written program may not be required, specific requirements do exist for training. The standards detail who should be trained, content of training, and frequency of training. This information can be used as a guideline for determining the safety training program for the Tribal enterprise

.Safety training may be required upon initial assignment and with any change in operations or assignment, annually or on a less frequent periodic basis. OSHA required trainings with standards cited include:

Employee Emergency Plans and Fire Prevention Plans

29 CFR Part 1910.38(a)(5)(i), (ii), and (iii) and (b)(4)(i) and (ii)

These plans need to be easily understood by all employees so that in the event of an emergency, employees could instruct visitors (patrons) on evacuation procedures. In addition, employees should know about the fire hazards of the materials and the processes to which they are exposed. OSHA requires training when the plan is initially developed, whenever employee responsibilities or actions are changed, or whenever the plan itself is changed.

Personal Protective Equipment:

29 CFR Part 1910.132(f)

Before doing work requiring the use of personal protective equipment (PPE) employees will be trained to know when PPE is necessary; what type of PPE is necessary; how it is worn; and what its limitations are, as well as know its proper care, maintenance, useful life and final disposal. The employer must certify in writing that the training has been carried out and that the affected employees understand it.

Accident Prevention Signs and Tags:

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29 CFR Part 1910.145(c)(1)(ii), (2)(ii)

This standard requires the employer to inform the employee, upon initial assignment, of the meaning of signs and the precautions to be taken when caution and danger signs are present.

Portable Fire Extinguishers:

29 CFR Part 1910.157(g)

Employees who are expected to use fire extinguishers to put out a fire in the workplace must be trained in the operation of the extinguisher, including how to remove it from wall mounts. "Where the employer has provided portable fire extinguishers for employee use in the workplace, the employer shall also provide an educational program to familiarize employees with the general principles of fire extinguisher use and the hazards involved with incipient state fire fighting. This training will be provided upon initial employment and at least annually thereafter.

Powered Industrial Trucks:

29 CFR Part 1910.178 (i)

The employer shall ensure that each powered industrial truck operator is competent to operate a powered industrial truck safely, as demonstrated by the successful completion of the training and evaluation specified in this paragraph. Prior to permitting an employee to operate a powered industrial truck (except for training purposes), the employer shall ensure that each operator has successfully completed the training required by this paragraph, except as permitted by paragraph (l)(5). Trainees may operate a powered industrial truck only under the direct supervision of persons who have the knowledge, training, and experience to train operators and evaluate their competence; and where such operation does not endanger the trainee or other employees. Refresher training is required when an operator is observed operating in an unsafe manner, when the operator has been involved in an accident or near-miss, when evaluation reveals that the operator is not operating the truck safely, different vehicle assignment, or changes in the workplace that affect truck operations. An evaluation of each operator's performance shall be conducted at least once every 3 years. **Certification:** The employer shall certify that each operator has been trained and evaluated as required by this paragraph (l). The certification shall include the name of the operator, the date of the training, the date of the evaluation, and the identity of the person(s) performing the training or evaluation.

Bloodborne Pathogens Standard:

29 CFR Part 1910.1030(g)(9)(2)(i)-(ix)

Employee training under this standard is required prior to potential exposure, annually thereafter, and when duties or procedures change that may affect exposure potentials. This standard spells out that training is to include the following: access to and knowledge of the text of the standard and the employer's exposure control plan; epidemiology, symptomology and transmission routes of bloodborne pathogens; universal precautions; methods of compliance to include work practice controls, engineering controls, and PPE; availability and efficacy of the Hepatitis B vaccine; post-exposure follow-up and protocol; communications of hazards; training; and record keeping. The Bloodborne Pathogen Standard specifically requires that there be an opportunity for interactive questions and answers with the person conducting the training session. Employee training must be supplemented with the required site specific information, and a person must be accessible for interaction.

Hazard Communications:

29 CFR Part 1910.1200(h)

Prior to employee exposure in the workplace, employers are to train all affected employees with information to assist them in identifying and detecting hazardous chemicals. The labeling system used by the facility and the details of the

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SDS should be thoroughly reviewed with employees. "Employers shall provide employees with information and training on hazardous chemicals in their work area at the time of their initial assignment and whenever a new hazard is introduced into their work area."

All training is to be site specific. It is the employer's responsibility to instruct each employee in the recognition and avoidance of unsafe conditions and the regulations applicable to his or her work environment to control or to eliminate any hazards or other exposure to illness or injury.

Most commercially available training programs contain the basic information requirements. However, it is necessary to customize the program to fit the needs and address the specific hazards of the employees receiving the training. In addition, accurate records should be maintained to effectively document the training.

The following table contains information on the most commonly cited standards for essential safety training:

Standard	Training	Applicability
1910.1200(h)	Hazard Communications – physical and health hazards of hazardous chemicals	All employees exposed to hazardous chemicals
1910.147©(7)	Lockout/Tagout	Authorized and affected employees
1926.451(a)(3)	Scaffolding; erection of	Competent person must supervise
1910.20	Access to employee exposure and medical records	Employees exposed to toxic chemicals
1910.134	Respiratory Protection – training on use in workplace	Anyone issued a respirator
1910.134(e)(2)	Respirators (issuance and selection of respirators)	Person who issues a respirator
1910.134(e)(3)	Respirators (safe use in dangerous atmospheres)	Respirator user
1910.151(a)(b)	Medical services and first-aid, availability of medical response personnel and supplies	First-Aid personnel
1910.304(f)(1) (v)(c)(2)	Electrical grounding (qualified person to service 50-1000v)	Electricians
1910.304(b)(1) (ii)(b)	Electrical wiring (competent person to assure grounding)	Electricians
<i>Training that must be performed initially or upon change of assignment</i>		
1910.38(a)(5)	Employee emergency action plans	All employees
1910.38(b)(4)	Fire prevention plans (fire hazards of materials present)	All employees
1910.95(n)(o)	Occupational Noise Exposure	Employees exposed
1910.120(e)	Hazardous waste operations and emergency response	Exposed employees
1910.145(c)	Accident prevention signs and tags; meaning and precautions	All employees
1910.157(g)	Portable fire extinguishers – use, fire principles, hazards, emergency procedures	Employees who may use equipment – annual retraining

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1910.165(b)	Employee alarm systems-reporting emergencies, posting numbers, etc	All employees
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OSHA 10-Hour Training

Many employers choose to use the OSHA 10-hour training program as an entry level safety training program. The training covers a variety of safety and health hazards which a worker may encounter at a general industry site. OSHA recommends this training as an orientation to occupational safety and health. Workers must receive additional training on hazards specific to their job. Training should emphasize hazard identification, avoidance, control and prevention, not OSHA standards.

10-HOUR GENERAL INDUSTRY REQUIRED COURSE TOPICS	
*OSHA subpart references are provided for informational purposes; training should emphasize hazard awareness	
Mandatory - 6 hours	Elective - 2 hours
<p>One Hour - Introduction to OSHA, including:</p> <ul style="list-style-type: none"> ▪ OSH Act, General Duty Clause, Employer and Employee Rights and Responsibilities, Whistleblower Rights, Recordkeeping basics ▪ Inspections, Citations, and Penalties ▪ Value of Safety and Health ▪ OSHA Website and available resources ▪ OSHA 800 number <p style="text-align: center;">One Hour Walking and Working Surfaces, Subpart D - including fall protection</p> <p style="text-align: center;">One Hour Exit Routes, Emergency Action Plans, Fire Prevention Plans, and Fire Protection, Subpart E & L</p> <p style="text-align: center;">One Hour Electrical, Subpart S</p> <p style="text-align: center;">One Hour Personal Protective Equipment, Subpart I</p> <p style="text-align: center;">One Hour Hazard Communication, Subpart Z</p>	<p>Choose at least two of the following elective topics:</p> <p>These topics must add up to at least two hours: Minimum one-half hour each</p> <ul style="list-style-type: none"> ▪ Hazardous Materials, Subpart H ▪ Materials Handling, Subpart N ▪ Machine Guarding, Subpart O ▪ Introduction to Industrial Hygiene, Subpart Z ▪ Bloodborne Pathogens, Subpart Z ▪ Ergonomics ▪ Safety and Health Program <p style="text-align: center;">Optional - 2 hour</p> <p>For the remaining two class hours: Teach any other general industry hazards or policies and/or expand on the mandatory or elective topics</p>

Special Industry Recommendations:

In addition to the six mandatory hours, the groups noted below should also teach the following:

- Medical/Health Care - 1 hour each - Introduction to Industrial Hygiene, Bloodborne Pathogens
At least 1/2 hour each - Ergonomics and Workplace Violence

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- Maintenance - Ergonomics and (if applicable) Powered Industrial Trucks
- Utility - Ergonomics, Powered Generation, and Confined Spaces
- Office - Ergonomics

This Tribal First Risk Control Consulting fact sheet is not intended to be exhaustive. The discussion and best practices suggested herein should not be regarded as legal advice. Readers should pursue legal counsel or contact their insurance providers to gain more exhaustive advice. For more information on this topic, please contact Tribal First Risk Control Consulting at (888) 737-4752 or riskcontrol@tribalfirst.com.