



PUYALLUP TRIBE OF INDIANS

Tribal Occupational Safety & Health

Kimberly Turnipseed

Director & Trainer

VISION

It is our Vision to create an environment within the Puyallup Tribe of Indians Reservation that is free of hazards to ensure the prevention of injury and accidents for all those within our borders.





**A safe workplace, is not really rare,
They exist where the people all care.
Where taking risk, is rejected
Hazards found, and corrected,
And we watch out - For Everyone There.**

Don Merrell

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CHAIN OF COMMAND

Tribal Council

Human Resources Director

TOSH Director

TOSH Staff



SOVEREIGNTY

We have the right, as Tribal Nations, to enact our own Occupational Safety & Health Laws

We have the right to enforce our own laws

We have the right to cite violators within our jurisdiction

We have the right to require training



OSHA JURISDICTION ON THE REZ

- Court Precedent
 - ❖ Cases on Both Sides of the Argument
- Err on the Side of Caution
 - ❖ Keeps Workers Safer

HOMELAND SECURITY



Design: www.gballard.net for www.calle.org

SIERRA MADRE MOUNTAINS, MEXICO — Geronimo photographed before surrender to General Crook, March 27, 1886, Cañon de los Embudos (photo by C.S. Fly).

GERONIMO: "I was no chief and never had been, but because I had been more deeply wronged than others, this honor was conferred upon me, and I resolved to prove worthy of the trust."

RIFLES: (l-r) Winchester 1875 carbine, Winchester 1875 carbine, 45-70 Trapdoor Springfield carbine and 45-70 Trapdoor Springfield.

APACHE WARRIORS: (l-r) Yanozha, Chappo (Geronimo's son), Fun (Yanozha's half brother), Geronimo.

FIGHTING TERRORISM SINCE 1492

FEDERAL LAW

- Are we bound by Federal OSHA Laws?

- ❖ Yes & No-There is mixed precedent in Federal Courts in regards to Tribal Nations and OSHA Laws
- Scalia v. Red Lake Nation Fisheries-8th Circuit-NO
- US Dept. of Labor v. Oshre-9th Circuit-YES
- Donovan v. Coeur d'Alene-9th Circuit-YES
- Donovan v. Navajo Forest Products-10th Circuit-NO
- Reich v. Mashantucket Sand & Gravel-2nd Circuit-YES
- Menominee v. Solis-7th Circuit-YES



I recommend to my tribe and to you to err on the side of caution and follow Federal OSHA Laws, at a minimum. Our code is written with the "Adoption by Reference" of Federal OSHA Standards. It expressly states we are not giving up our sovereignty.

We have the ability to strengthen the code where we feel necessary to better protect our workers.

FEDERAL VS. STATE

- Federal: Applies to Tribes**, States, and Native Contractors on Tribal Land within our jurisdiction (Trust or Fee)



- State: Non-Native Contractors even on Trust* or Fee Lands are subject to State OSH Laws where applicable
- Not all states have an approved State OSHA Plan

* Check with your Law Office

** Mixed Precedent in Federal Court of Applicability

BENEFITS

- We keep control
- Penalties can bring in income
- Spend 50k today to potentially save more than 1 million or more in L&I Claims, Penalties, and Family Payouts



WHAT IT COSTS...

Accidents, injuries, and illnesses cost our tribes, our businesses, our contractors, and our community.

- Direct Costs
 - Medical Expenses
 - Loss Time
 - Low Morale
- Long Term Costs
 - Citations and Penalties
 - Litigation
 - ❖ Wrongful Death
 - ❖ Amputation
 - ❖ Loss of Eye

Estimated Total Cost table

Injury Type	Instances	Direct Cost	Indirect Cost	Total Cost	Additional Sale (Indirect)	Additional Sale (Total)
Burn	1	\$47,192	\$51,911	\$99,103	\$5,191,120	\$9,910,300
Amputation	1	\$96,003	\$105,603	\$201,606	\$10,560,330	\$20,160,600
Carpal Tunnel Syndrome	1	\$30,930	\$34,023	\$64,953	\$3,402,300	\$6,495,300
Hernia	1	\$20,940	\$23,034	\$43,974	\$2,303,400	\$4,397,400
Mental Stress	1	\$35,151	\$38,666	\$73,817	\$3,866,610	\$7,381,700

From OSHA.GOV Cost Estimator

TRAINING

Benefits

- Cost Savings
- Lower Accidents/Injuries Rate
 - Lower Medical and insurance Costs
 - Lower Litigation Costs
 - Raises Morale
- Shows we Care about our people, our staff, and guests to our reservations
 - Continues to Show WHO we are
- Watch out for each other
 - You Are Your Brothers Keeper
- Potential Revenue
 - Class Cost
 - Grants
 - Citations/Penalties

We Provide

- OSHA 10/30-Construction
- OSHA 10/30 General Industry
- Specialized Safety Classes
 - Fall Protection Safety
 - Ladder Safety
 - Excavation Safety
 - Leadership Safety
 - And much more...
- TOSH Presentations and Consultations
- First Aid/CPR/AED
- Wilderness First Aid
- BLS (Basic Life Saving CPR)
- AVERT (Active Violence Emergency Response Training)



CITATIONS AS REVENUE

SHOULD WE CONSIDER THIS AS A REVENUE SOURCE?

Pros

- Citations can be high amounts

Cons

- Sites are unsafe
- Injuries & Illnesses Occur
- Low Morale
- Employee Turnover

CITATION/PENALTY SCHEDULE

• TOSH PENALTY SCHEDULE

DRAFT

TOSH citations inform the employer and employees of the regulations and standards alleged to have been violated, and of the proposed length of time set to correct (abate) alleged hazards. The employer receives citations with notice of proposed penalties, delivered personally by a TOSH representative or by certified mail, return receipt requested. These are the types of violations that may be cited and the penalties that may be proposed:

Other-Than-Serious Violation (after warning has been given)	Minimum: \$500 Maximum: \$5,000 For each violation
Serious Violation	Minimum: \$1,500 Maximum: \$10,000 For each violation
Serious Willful Violation (results in severe injury)	Minimum: \$1,000 Maximum: \$20,000 For each violation
Willful Violation (results in death)	Multiplier up to 15X Possible recommendation of criminal charges to appropriate law enforcement agency.

CLASS COST

- OSHA 10 is \$149.00 per person
- OSHA 30 is \$499.00 per person
- CPR/First AID/AED is \$149.00 per person
 - Wilderness First Aid \$249.00
 - BLS \$249
- AVERT is \$299.00 per person
 - Prices subject to change without notice
 - Minimum attendance for Class is 3 people
 - Group Discounts Available
 - All class prices do not include Travel Costs



MAKING MANDATORY

- Tribal Governments can require OSH Laws, OSHA Training, other relevant Trainings
- TERO Commissions can require all clients attend
 - Have removed from site if not completed
 - Ineligible for TERO Referrals until completed

We are asking for a 6 month Grace Period after the law is passed.



ENFORCEMENT

- TOSH enforces current Federal and State OSHA Laws (Federal-Tribal Contractors, State-non Tribal Contractors)
- Site Checks
- Investigation of Safety Violations
- Investigation of Complaints from Workers
- Investigate all serious Incidents that occur
- Provide Up to Date, Relevant, and Continuous Training



INSPECTIONS

- Imminent Danger
- Investigative
- Employee Complaint
- Programmed
- Follow-up



IMMINENT DANGER...



When an employer puts a worker in a situation that could cause a catastrophic situation or a fatality we want to respond as quickly as possible. It will be the goal of this office to respond to these events within hours, as that may be all we have. In almost all areas of Industry, as well as, construction, fatalities are inevitable. By responding quickly, we can alleviate, if not eliminate these from happening.

INVESTIGATIVE...



An investigative inspection is performed as we investigate injuries and illnesses.

EMPLOYEE COMPLAINT...



When an employee files a report with any area OSHA Office (Federal, State, or Tribal), we will go out and perform an inspection of the specific complaint. Where a programmed Inspection covers the entire facility, an employee complaint will be investigated simply for that area of concern. Employee complaints are to be kept confidential, unless subpoenaed by a court of law.

PROGRAMMED...



We will keep a database of all businesses and construction projects under Tribal jurisdiction. We use a random algorithm to produce weekly inspections.

FOLLOW-UP...



When we write citations, penalties, or abatement orders, we perform follow-up inspections to verify that they have fixed the listed problem(s). Some times these follow-up inspections are done via phone, fax, and email by the employer providing sufficient documentation, including pictures and video, showing they have abated the problem.

RECORD KEEPING

Be Organized



- Abatement Schedule
 - ❖ 1st, 2nd, 3rd Warning
 - ❖ Compliance with Abatement Directives
- Citation Database
 - ❖ Willful
 - ❖ Repeated
 - ❖ Multipliers
- OSHA 10/30 Trained Individuals
 - ❖ Keep scanned or Photocopies of Cards
 - ❖ Recommend Re-Certification every 2 Years
 - ❖ Does not Expire
- Duplicate Training Files
 - ❖ Office Copy
 - ❖ Trainer Copy
 - ❖ Audits

CODE

- Puyallup Tribe is completing the code and are working on the Resolution. Pre-Public comment has resulted in a positive response.
- Code can be customized for Tribal needs
 - ❖ We are developing a separate Dive & Fishing Code
 - ❖ We cover everything from General Industry to Maritime
 - ❖ We may get into Agriculture in the future



MEMOS OF UNDERSTANDING

- State OSHA/L&I Departments
- Federal Agencies
- Local DOTs



WHAT'S NEXT?



Once the code is approved, posted, and resolution complete...

- Send resolution to BIA
- Meet with Regional Federal OSHA Office
- Get approved equivalent to a State Plan
- Implement Code and Inspections

GRANTS

- Working to obtain Grants
 - ❖ Susan Harwood Grant
 - ❖ SHIP Grants
 - ❖ Federal Programs
 - ❖ State Programs



FINES/CITATIONS

- ❖ Per OSHA, citation amounts must be at least set to their maximums.
- ❖ Will be set by Tribal Government
- ❖ Can be negotiated to be lowered, situationally dependent





CPR & AVERT

CPR/First Aid/AED

- Respond to minor incidents
- Learn use of emergency equipment
- Use at work or home
- Gain Confidence
- Save a Life

AVERT

- Violence in this country is on the rise
- Most Mass Shootings happen in the workplace
- Learn best response for survival
- Learn major wound care, wound packing, & tourniquet use

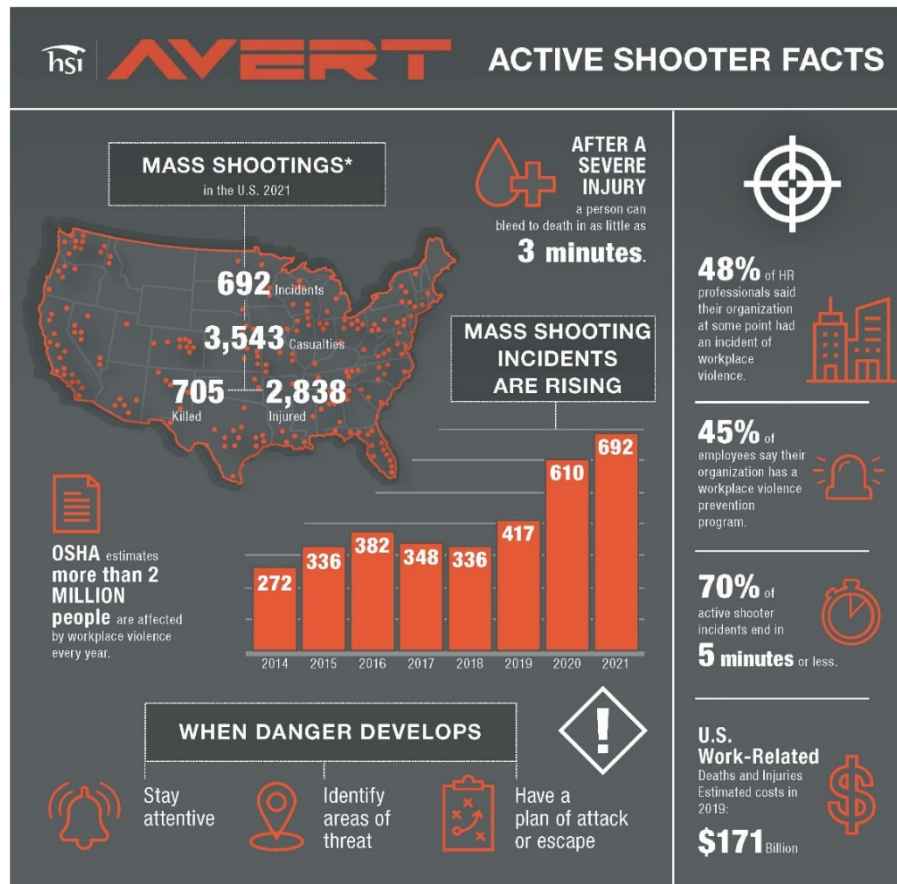
ALL BUSINESSES AND INSTITUTIONS NEED TO HAVE:



- An emergency action plan
- Active shooter response procedures
- Bleeding control training and **TAC+PAC** kits
- CPR & First Aid training

Sources:

GunViolenceArchive.org
 OSHA.gov
 SHRM.org
 FBI.gov



TOSH & TERO

✓ Working Together

- Great Relationships
- Help Each Program

✓ Client Benefits

- Better Trained
- Stay Safer
- Watch Out for Each Other

✓ Contractor Benefits

- Trained Workers
- Lower Costs
- Lower Loss Time
- Lower Accident/Injury Rating

✓ Citations

- TERO can use as a negotiation tool for more employment and training
- TOSH cannot negotiate for complete relief, but can reduce fines, with proper abatement



LINKS & CONTACTS

- OSHA

www.osha.gov

- WA L&I

www.lni.wa.gov

- Oregon OSHA

www.osha.oregon.gov

- California OSHA

www.dir.ca.gov

- UW Region X Training Center

www.osha.washington.edu/osha

- Kimberly Turnipseed

(253) 778-3696

kim.Turnipseed@puyalluptribe-nsn.gov

- Cina Melendez

cina.Melendez@puyalluptribe-nsn.gov

- Federal OSHA

(800) 321-6742

- UW Region X Training Center

(800) 326-7568 or (206) 685-3089

ce@uw.edu

QUESTIONS?



THANK YOU!



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