Prairie Island Indian Community

Tribal Occupational Safety & Health

Violations and Civil Penalties

Subject: Process to determine the civil penalties for violating PIIC-TOSHA.

Policy Owner (Department): Occupational Safety

Effective Date: 02/2026

Revision Number: 001

Revision Date: 10/26

Policy:
Prairie Island Indian Community shall establish, document, implement, and maintain a Safety & Health Program and continually improve its effectiveness, consistent with the requirements of the Tribal Occupational Safety and Health Ordinance ("PIIC-TOSHA").

Purpose:
During an inspection or investigation, violation of the Tribal Occupation Safety & Health Ordinance (PIIC-TOSHA) may be discovered, resulting in a citation also known as a "Citation" and possible penalties. This procedure explains the process and criteria of the citation and corresponding penalties.

Scope:
All businesses, employers, and employees are subject to enforcement of the occupational safety and health rules and regulations.

Procedures:
Employers are required to provide a place of employment free from recognized hazards that are causing or likely to cause serious injury or death to employees and comply with the regulations and orders under the PIIC-TOSHA.
Employees are required to comply with the provisions of PIIC-TOSHA and all regulations and orders issued by the authority of the Ordinance that are applicable to the employee's own actions and conduct in the course of employment.

1. Violations
    a. Receiving a citation means the business or person is operating in violation of the PIIC-TOSHA. Each day or part of the day the violation continues is a separate violation and may be subject to daily penalties.
    b. Businesses that cannot achieve compliance immediately may seek a variance or temporary variance. See TOSHA-P03 Request for Variance procedure.
    c. Level of violations:
        - High hazard – Serious violation
        - Willful or repeated violation (most severe violation)
        - Medium hazard – Other-than-serious violation
        - Failure to communicate – posting, training, information, etc.
        - Low hazard – Minimum violation (least severe violation)

2. Citation and Notice of Penalties
    a. Citations are issued when the employer or employee violates any safety and health standard adopted pursuant to the Ordinance.

b. Citations are in writing and describe the nature of the violation, including a reference to the standard, regulation, or order alleged to have been violated.
c. A notice may be issued in lieu of a citation for minor violations that pose no immediate threat to the health or safety of employees. Notice is not required and is at the discretion of the PIIC-TOSHA Administrator.
d. Citations are documented using TOSHA-F07 Citation & Notice of Penalty form or similar document.
e. A copy of the citation must be posted where the affected employees gather, such as breakroom or department communication board, or where the violation was identified.

3. Citations for Dangerous Conditions:
   a. If the violation is such that there is a substantial probability that could result in death or serious physical harm an order of immediate restrain may be issued. Any order issued may require that steps are taken to avoid, correct, or remove such danger and prohibit the employment or presence of any individual in the location where danger exists.

4. Civil Penalties
   a. Businesses and PIIC departments in violation of the PIIC-TOSHA are subject to penalties.
   b. Considerations for the appropriateness of the penalty include the number of affected employees of the business, the gravity of the violation, the size of the business, the good faith of the employer, and any history of previous violations.
   c. The amount of the penalty is determined by the level of the violation
   d. PIIC – TOSHA Civil Penalty chart:

PIIC – TOSHA Civil Penalty	
Hazard Risk Rating	**Penalty per violation**
Violates posting of information	**$0 - $250**
Violates posting requirements	**$250 - $1,000**
Other-than-serious violation (medium risk)	**$0 - $1,000**
Serious violation (high risk rating)	**$1,500 - $7,000**
Fails to abate citation	**$1,000 - $7,000 per day**
Willful violation	**$5,000 - $70,000**
Repeat violation (within 3-year period)	**$1,000 - $70,000**

   e. A penalty shall be assessed giving due consideration to the number of affected employees of the employer, the gravity of the violation, the size of the employer's business, the good faith of the employer, and the history of previous violations.
   f. A penalty adjustment may be applied based on the employer size, good faith, and history of previous violations. Quick-Fix reduction may be applied.
      - A 10% reduction can be given on history
      - A maximum of 25% reduction for good faith efforts
      - A maximum of 70% reduction for size

- Quick-Fix reduction is intended to encourage employers to immediately abate hazards found during TOSHA inspections and to do so quickly to prevent potential employee injury and illness. Quick-Fix does not apply to all violations. A Quick-Fix penalty reduction of 15% may be applied after the adjustments for history and good faith.

g. No History penalty reduction for "repeated" violations. The Penalty for "repeated" violations can increase by 10%.
h. No Good Faith penalty reduction for the following:
   - Violations classified as high gravity serious, willful, repeat, and failure to abate.
   - Violations related to fatal injury or illness, or an incident resulting in serious injuries.
   - Blatant violations. Readily apparent violations that can be easily corrected.
i. Size reduction is calculated on the basis of the maximum number of employees at any one time during the previous 12 months.

5. Individual(s) in violation of TOSHA
   a. Any individual violating TOSHA rules and regulations are subject to punitive actions, administered by the employer.
   b. Punitive actions for safety violations in the workplace can range from verbal warnings to termination, focusing on correcting unsafe behavior.
   c. The TOSHA office must report observed violations to the individual's employer. The employer is then expected to take appropriate action to ensure employee compliance.
   d. The employer could be held accountable if these types of violations continue to occur.

6. Violation Abatement:
   TOSHA may exercise discretion in what is a reasonable amount of time required for correction of violations; however, the following guidelines should be followed:
   a. Violations that can be abated immediately such as through application of existing controls, must be completed at the time the violation was identified or shortly afterward during the walkaround. The abatement must be observed by the TOSHA representative onsite to be eligible for Quick-Fix reduction.
   b. For violations that require more complex abatement actions such as purchase of materials, fabrication of parts, training, etc., abatement should be completed within 30 days.
      - In extenuating circumstances such as where items are required to be ordered and shipped, an additional 60 days can be permitted.
      - Documentation must be provided to TOSHA either electronically or via mail with sufficient information to show full correction of the violation (photos, copies of written program, procedure, or other required documents).
   c. In all cases, the employer must prevent employee exposure to the hazard until the condition is abated.

7. Failure to abate:
    a. Additional penalties shall be imposed when the abatement date of the citation item has passed and the condition, hazard, or practice found upon re-inspection is the same for which the employee was originally cited and has never been corrected.
    b. Calculation of additional penalties:
        - In instances where no penalty was initially proposed, an appropriate penalty shall be determined using the PIIC – TOSHA Civil Penalty Chart.
        - The daily proposed penalty shall be multiplied by the number of days that the violation has continued unabated. The number of days unabated shall be counted from the day following the abatement date specified in the citation.
        - When a citation has been partially abated, a reduction of 25% to 75% of the proposed penalty is calculated as outlined above.

8. Right to Appeal
    a. The business has the right to appeal the citation, assessment or penalty within 15 working days.
    b. If, within 15 working days from the communication of the citation being issued, the business fails to notify the Administrator of its intent to appeal the citation or assessment or penalty, the citation and assessment is deemed final.
    c. PIIC-TOSHA Ordinance Section 10 describes the appeals process.

9. Nothing in this policy is intended to amend or alter the requirements of and processes found in the PIIC-TOSHA. In the event of a conflict between this policy and the PIIC-TOSHA, the PIIC-TOSHA controls.

Prairie Island Indian Community
TOSHA Office
5636 Sturgeon Lake Road
Welch, MN 55089

Citation & Notice of Penalty

TO: _____
_____
_____
_____

TOSHA Event ID: _____

Event Date: _____

Issuance Date: _____

This Citation and Notification of Penalty (this Citation) describe violations of the Tribal Occupational Safety and Health Ordinance. The penalty(ies) listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties within 15 days.

Posting
A copy of this Citation and Notice of Penalty must be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This citation must remain posted until the violation(s) cited herein as (have) been abated, or for 3 working days (excluding weekends and Tribal holidays), whichever is longer.

Right to Appeal
The employer has fifteen (15) working days to notify the Administrator that he or she wishes to appeal this citation or assessment of penalty. If, within fifteen (15) working days the employer fails to notify the Administrator that he or she intends to appeal the citation or assessment penalty and no notice is filed by any employee or representative of employees under Section 10(a)(1) of the PIIC-TOSHA, the citation and the assessment shall be deemed a final order and not subject to review by any court, agency, or other forum or body.

Violation Abatement
For each violation which you do not contest, you must provide abatement certification to the TOSHA office within 10 calendar days after each abatement date. Abatement certification includes the date and method of abatement.

Penalty Payment
Penalties are due within 15 working days of receipt of this notification unless contested. Make your check or money order payable to "Prairie Island Indian Community". Please indicate the Inspection Number on the remittance.

Compliance Officer: _____ Date: _____

Prairie Island Indian Community
TOSHA Office

TOSHA Event ID: _____
Event Date: _____
Issuance Date: _____

Citation and Notification of Penalty
Employer: _____

Violation ID: _____ **Type of Violation:** _____

Code Violation: _____ **Code Description:** _____

Violation Description: _____
_____
_____

Corrective Action: _____
_____

Date by which violation must be abated: _____ **Date:** _____
Penalty: **$** _____

Violation ID: _____ **Type of Violation:** _____

Code Violation: _____ **Code Description:** _____

Violation Description: _____
_____
_____

Corrective Action: _____
_____

Date by which violation must be abated: _____ **Date:** _____
Penalty: **$** _____

To avoid additional charges, please remit payment promptly for the total amount of the uncontested penalties summarized below. Make you check or money order payable to: "Prairie Island Indian Community" and indicate the Inspection ID on the remittance.

TOSHA Event ID: _____
Total Penalties: **$** _____