

# 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:** 000

**Revision Date:**

**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 “Notice of Violation” 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.

**Violations**

1. Citations

- a. Citations are issued when the employer or employee violates any safety and health standard adopted pursuant to the Ordinance.
- b. Citations will be 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.

2. 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.
- b. 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.

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#### 3. 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:

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

- 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.

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4. Individual(s) in violation of TOSHA
  - a. Any individual violating TOSHA rules and regulations will be 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.
  
5. 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.
  
6. 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.
  
7. 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.