

the notice of violation was issued, when practicable.

(c) The Chairman may review and reassess any civil fine if necessary to consider facts that were not reasonably available on the date of issuance of the proposed assessment.

**§ 575.6 Settlement, reduction, or waiver of civil fine.**

(a) *Reduction or waiver.* (1) Upon written request of a respondent received at any time prior to the filing of a notice of appeal under part 577 of this chapter, the Chairman may reduce or waive a civil fine if he or she determines that, taking into account exceptional factors present in a particular case, the fine is demonstrably unjust.

(2) All petitions for reduction or waiver shall contain:

(i) A detailed description of the violation that is the subject of the fine;

(ii) A detailed recitation of the facts that support a finding that the fine is demonstrably unjust, accompanied by underlying documentation, if any; and

(iii) A declaration, signed and dated by the respondent and his or her counsel or representative, if any, as follows: Under penalty of perjury, I declare that, to the best of my knowledge and belief, the representations made in this petition are true and correct.

(3) The Chairman shall serve the respondent with written notice of his or her determination under paragraph (a) of this section, including a statement of the grounds for the Chairman's decision.

(b) *Settlement.* At any time prior to the filing of a notice of appeal under part 577 of this chapter, the Chairman and the respondent may agree to settle an enforcement action, including the amount of the associated civil fine. In the event a settlement is reached, a settlement agreement shall be prepared and executed by the Chairman and the respondent. If a settlement agreement is executed, the respondent shall be deemed to have waived all rights to further review of the violation or civil fine in question, except as otherwise provided expressly in the settlement agreement. In the absence of a settlement of the issues under this paragraph, the respondent may contest the assessed civil fine before the Com-

mission in accordance with part 577 of this chapter.

**§ 575.9 Final assessment.**

(a) If the respondent fails to request a hearing as provided in part 577 of this chapter, the proposed civil fine assessment shall become a final order of the Commission.

(b) Civil fines assessed under this part shall be paid by the person assessed and shall not be treated as an operating expense of the operation.

(c) The Commission shall transfer civil fines paid under this subchapter to the U.S. Treasury.

[58 FR 5844, Jan. 22, 1993, as amended at 58 FR 16495, Mar. 29, 1993]

**PART 576 [RESERVED]**

**PART 577—APPEALS BEFORE THE COMMISSION**

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577.3 Request for hearing.

577.4 Hearing deadline.

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577.7 Conduct of hearing.

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577.12 Intervention.

577.13 Transcript of hearing.

577.14 Recommended decision of presiding official.

577.15 Review by Commission.

AUTHORITY: 25 U.S.C. 2706, 2713, 2715.

SOURCE: 58 FR 5845, Jan. 22, 1993, unless otherwise noted.

**§ 577.1 Scope.**

(a) This part provides procedures for appeals to the Commission regarding:

(1) A violation alleged in a notice of violation;

(2) Civil fines assessed by the Chairman;

(3) Whether an order of temporary closure issued by the Chairman should be made permanent or be dissolved; and

(4) The Chairman's decision to void or modify a management contract under part 535 of this chapter subsequent to initial approval.

(b) Appeals from determinations of the Chairman under 25 U.S.C. 2710 and 2711 (regarding management contracts)