

PRELIMINARY DRAFT - FOR DISCUSSION PURPOSES ONLY
Due Date for Written Comments to NIGC: August 9, 2011

1 Part 573 - Enforcement

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14 § 573.1 What is the purpose of this Part?

Deleted: Scope.

15 This part sets forth general rules governing the Commission's enforcement of the Act,
16 this chapter, and tribal ordinances and resolutions approved by the Chair ~~man~~ under part
17 522 ~~or 523~~ of this chapter. Civil fines in connection with notice of violation issued under
18 this part are addressed in part 575 of this chapter.

19 Voluntary compliance is the goal of the Commission. This part sets forth efforts for
20 achieving voluntary compliance, and when voluntary compliance is not forthcoming,
21 enforcement.

22 § 573.2 When may a letter of concern and/or non-compliance notice be issued?

23
24 (a) Prior to the Chair issuing a notice of violation to a respondent, a letter of concern
25 and/or non-compliance notice may be provided to the respondent, detailing concerns
26 regarding the respondent's compliance with the Act, this chapter, or any tribal ordinance
27 or resolution approved by the Chair under part 522 of this chapter.

28
29 (b) Action under this section does not constitute agency action, and may be taken by
30 issuing the respondent:

31
32 (1) A "letter of concern" which recites available facts and information about the incident
33 or condition and indicates that it may be a violation; or

34
35 (2) A "non-compliance notice" which confirms an assessment of the matter and states the
36 necessary corrective action the respondent needs to take, agrees to take, or has taken.

37
38 (c) Either action under sub-section (b) may provide a time period for the respondent to
39 come into voluntary compliance. And, if corrective action is not fully completed, legal
40 enforcement action may be taken.

41
42 (d) The Chair's discretion to issue a notice of violation is not limited or constrained in
43 any way by this section.

6/28/2011

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2 | § 573.3 When may the Chair issue a notice of violation?

Deleted: Notice of violation.

3 (a) The Chair~~man~~ may issue a notice of violation to any person for violations of any
4 provision of the Act or this chapter, or of any tribal ordinance or resolution approved by
5 the Chair~~man~~ under part 522 ~~or 523~~ of this chapter.

6 (b) A notice of violation shall contain:

7 (1) A citation to the federal or tribal requirement that has been or is being violated;

8 (2) A description of the circumstances surrounding the violation, set forth in common and
9 concise language;

10 (3) Measures required to correct the violation;

11 (4) A reasonable time for correction, if the respondent cannot take measures to correct the
12 violation immediately; and

13 (5) Notice of rights of appeal.

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15 | § 573.4 When may the Chair issue an order of temporary closure?

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16 (a) *When an order of temporary closure may issue.* Simultaneously with or subsequently
17 to the issuance of a notice of violation under §573.3 of this part, the Chair~~man~~ may issue
18 an order of temporary closure of all or part of an Indian gaming operation if one or more
19 of the following substantial violations are present:

20 (1) The respondent fails to correct violations within:

21 (i) The time permitted in a notice of violation; or

22 (ii) A reasonable time after a tribe provides notice of a violation.

23 (2) A gaming operation fails to pay the annual fee required by 25 CFR part 514.

24 (3) A gaming operation operates for business without a tribal ordinance or resolution that
25 the Chair~~man~~ has approved under part 522 ~~or 523~~ of this chapter.

26 (4) A gaming operation operates for business without a license from a tribe, in violation
27 of part 522 or part 559 of this chapter.

28 (5) A gaming operation operates for business without either background investigations
29 having been completed for, or tribal licenses granted to, all key employees and primary
30 management officials, as provided in §558.3(b) of this chapter.

- 1 (6) There is clear and convincing evidence that a gaming operation defrauds a tribe or a
2 customer.
- 3 (7) A management contractor operates for business without a contract that the Chair~~man~~
4 has approved under part 533 of this chapter.
- 5 (8) Any person knowingly submits false or misleading information to the Commission or
6 a tribe in response to any provision of the Act, this chapter, or a tribal ordinance or
7 resolution that the Chair~~man~~ has approved under part 522-~~or 523~~ of this chapter.
- 8 (9) A gaming operation refuses to allow an authorized representative of the Commission
9 or an authorized tribal official to enter or inspect a gaming operation, in violation of
10 §571.5 or §571.6 of this chapter, or of a tribal ordinance or resolution approved by the
11 Chair~~man~~ under part 522-~~or 523~~ of this chapter.
- 12 (10) A tribe fails to suspend a license upon notification by the Commission that a primary
13 management official or key employee does not meet the standards for employment
14 contained in §558.2 of this chapter, in violation of §558.5 of this chapter.
- 15 (11) A gaming operation operates class III games in the absence of a tribal-state compact
16 that is in effect, in violation of 25 U.S.C. 2710(d).
- 17 (12) A gaming operation's facility is constructed, maintained, or operated in a manner
18 that threatens the environment or the public health and safety, in violation of a tribal
19 ordinance or resolution approved by the Chair~~man~~ under part 522 ~~or 523~~ of this chapter.
- 20 (13) A gaming facility operates on Indian lands not eligible for gaming under the Indian
21 Gaming Regulatory Act.
- 22 (b) *Order effective upon service.* The operator of an Indian gaming operation shall close
23 the operation upon service of an order of temporary closure, unless the order provides
24 otherwise.
- 25 (c) *Informal expedited review.* Within seven (7) days after service of an order of
26 temporary closure, the respondent may request, orally or in writing, informal expedited
27 review by the Chair~~man~~.
- 28 (1) The Chair~~man~~ shall complete the expedited review provided for by this paragraph
29 within two (2) days after his or her receipt of a timely request.
- 30 (2) The Chair~~man~~ shall, within two (2) days after the expedited review provided for by
31 this paragraph:
- 32 (i) Decide whether to continue an order of temporary closure; and
- 33 (ii) Provide the respondent with an explanation of the basis for the decision.

1 (3) Whether or not a respondent seeks informal expedited review under this paragraph,
2 within thirty (30) days after the Chair~~man~~ serves an order of temporary closure the
3 respondent may appeal the order to the Commission under part 577 of this chapter.
4 Otherwise, the order shall remain in effect unless rescinded by the Chair~~man~~ for good
5 cause.

6 **§ 573.5. When does a notice of violation become final agency action?**

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8 If the respondent fails to appeal the notice of violation as provided for in part 577 of this
9 chapter or the notice of violation is not withdrawn by the Chair, the notice of violation
10 shall become final agency action and a final order of the Commission.
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~~-NOTICE OF VIOLATION~~

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