

**§ 190.225 Assessment considerations.**

In determining the amount of a civil penalty under this part,

(a) The Associate Administrator, OPS shall consider:

(1) The nature, circumstances and gravity of the violation, including adverse impact on the environment;

(2) The degree of the respondent's culpability;

(3) The respondent's history of prior offenses;

(4) The respondent's ability to pay;

(5) Any good faith by the respondent in attempting to achieve compliance;

(6) The effect on the respondent's ability to continue in business; and

(b) The Associate Administrator, OPS may consider:

(1) The economic benefit gained from violation, if readily ascertainable, without any reduction because of subsequent damages; and

(2) Such other matters as justice may require.

[70 FR 11137, Mar. 8, 2005]

**§ 190.227 Payment of penalty.**

(a) Except for payments exceeding \$10,000, payment of a civil penalty proposed or assessed under this subpart may be made by certified check or money order (containing the CPF Number for the case), payable to "U.S. Department of Transportation," to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25770, Oklahoma City, OK 73125, or by wire transfer through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Payments exceeding \$10,000 must be made by wire transfer.

(b) Payment of a civil penalty assessed in a final order issued under § 190.213 or affirmed in a decision on a petition for reconsideration must be made within 20 days after receipt of the final order or decision. Failure to do so will result in the initiation of collection action, including the accrual of interest and penalties, in accordance with 31 U.S.C. 3717 and 49 CFR part 89.

[Amdt. 190-7, 61 FR 27792, June 3, 1996, as amended at 70 FR 11138, Mar. 8, 2005]

## CRIMINAL PENALTIES

**§ 190.229 Criminal penalties generally.**

(a) Any person who willfully and knowingly violates a provision of 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder shall upon conviction be subject for each offense to a fine of not more than \$25,000 and imprisonment for not more than five years, or both.

(b) Any person who willfully violates a regulation or order under this subchapter issued under the authority of 49 U.S.C. 5101 *et seq.* as applied to offshore gas gathering lines shall upon conviction be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 5 years, or both.

(c) Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any interstate transmission facility, any interstate pipeline facility, or any intrastate pipeline facility used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce (as those terms are defined in 49 U.S.C. 60101 *et seq.*) shall, upon conviction, be subject for each offense to a fine of not more than \$25,000, imprisonment for a term not to exceed 15 years, or both.

(d) Any person who willfully and knowingly defaces, damages, removes, destroys any pipeline sign, right-of-way marker, or marine buoy required by 49 U.S.C. 60101 *et seq.* or 49 U.S.C. 5101 *et seq.*, or any regulation or order issued thereunder shall, upon conviction, be subject for each offense to a fine of not more than \$5,000, imprisonment for a term not to exceed 1 year, or both.

(e) Any person who willfully and knowingly engages in excavation activity without first using an available one-call notification system to establish the location of underground facilities in the excavation area; or without considering location information or markings established by a pipeline facility operator; and

(1) Subsequently damages a pipeline facility resulting in death, serious bodily harm, or property damage exceeding \$50,000;