

## Civil Penalty Summary

This summary provides a general overview to assist the public in understanding civil penalty calculations. Following an inspection or investigation of a pipeline facility that reveals a probable violation, the Office of Pipeline Safety prepares a Violation Report to document the violation. For any violation that warrants a civil penalty, data from the completed Violation Report is used to calculate risk-based civil penalties considering the statutory assessment factors in 49 U.S.C. § 60122 and 49 C.F.R. § 190.225.

The assessment factors are listed below in the left side column of the table. The middle column explains the range of potential conduct that was observed by PHMSA in connection with the violation, generally from least to most severe. A Violation Report must make a selection within this range for each assessment factor. The right column provides a range for the civil penalty that may be assessed under each assessment factor.

A civil penalty for a single violation is arrived at by combining the amounts assigned under each assessment factor. Application of the assessment factors in an individual case will depend on the facts specific to that case.

<b>Assessment Consideration</b>	<b>Range of Conduct</b>	<b>Civil Penalty Range</b>
Nature	<ul style="list-style-type: none"><li>- Records: Examples: Missing, inaccurate, or incomplete records</li><li>- Activities: Examples: Performance or conduct of activities: inspections, tests, maintenance, meetings, notifications, reports, emergency response, not preparing procedures, not complying with a special permit, not complying with a PHMSA order, or not following procedures</li><li>- Equipment/Facilities: Examples: Equipment not installed, missing, defective, inoperative, not properly sized, or not compatible with transported commodity</li></ul>	\$1,440 ↓ \$8,640
Circumstances	<ul style="list-style-type: none"><li>- Operator self-reported the violation to PHMSA (PHMSA includes State Partners) before it was discovered by PHMSA (Does not apply to operator post-accident/incident self-reporting.)</li><li>- PHMSA or a State partner discovered the violation</li><li>- Public reported the violation to PHMSA (including State Partners)</li></ul>	Variable credit ↓ \$13,824
	<ul style="list-style-type: none"><li>- Violation occurred; however, pipeline safety was minimally affected</li><li>- Violation occurred NOT within a HCA or “could affect” HCA, and NOT within an area required to be</li></ul>	\$1,440

Gravity	<p>covered by a gas distribution system integrity management program</p> <ul style="list-style-type: none"> <li>- Violation occurred within a HCA or “could affect” HCA, or within an area required to be covered by a gas distribution system integrity management program</li> <li>- Violation increased the severity of an accident/incident</li> <li>- Violation was a causal factor in an accident /incident</li> <li>- The number of instances of a violation incrementally increases the penalty</li> </ul> <p>Accident/Incident Consequences Factor Multipliers for the base penalty applied for any and all assessment considerations:</p> <ul style="list-style-type: none"> <li>- Reportable accident or incident</li> <li>- Unintentionally released Gas</li> <li>- Hazardous Liquid releases</li> <li>- Hospitalization injuries</li> <li>- Fatalities</li> </ul>	
Culpability	<p>Based on operator actions before the violation occurred:</p> <ul style="list-style-type: none"> <li>- After the operator found the non-compliance, the operator took documented action to address the cause of the non-compliance, and corrected the non-compliance before PHMSA learned of the violation. (Does not apply for operator Post-accident/incident enforcement actions.)</li> <li>- After the operator found the non-compliance, the operator took documented action to address the cause of the non-compliance, and was in the process of correcting the non-compliance before PHMSA learned of the violation. (Does not apply to operator Post-accident/incident enforcement actions.)</li> <li>- The operator failed to comply with an applicable requirement.</li> <li>- The operator made a deliberate decision not to comply with an applicable requirement.</li> <li>- The operator took egregious action (examples: manipulation of records or reconfiguration of equipment) that evidenced an effort to evade compliance or conceal non-compliance.</li> </ul>	-\$25,920  Maximum
History of Prior Offenses	Prior findings of violation include a civil penalty or compliance order in the five years that precede the date of the Notice. The prior findings of violation may be the same, similar, or different violations.	\$0  \$17,280

Good Faith	<p>Based on operator actions before PHMSA discovered the violation:</p> <ul style="list-style-type: none"> <li>- The operator had a reasonable justification for its non-compliance. (For example, the operator's interpretation of the requirement was reasonable, or the operator failed to achieve compliance for reasons such as unforeseeable events/conditions that were partly or wholly outside its control.)</li> <li>- The operator did not have a reasonable justification for its non-compliance.</li> </ul>	<p>-\$17,280</p> <p>↓</p> <p>\$0</p>
Other Matters as Justice May Require  (Any and all appropriate factors will be applied to the violation)	<p>Examples of individual Other Matters as Justice May Require:</p> <ul style="list-style-type: none"> <li>- Operator's written procedures exceeded a regulatory requirement and the non-compliance was against the requirements of the procedure that exceeded the regulation.</li> <li>- Violation of Section 60129, Protection of employees providing pipeline safety information</li> <li>- Reporting- Not reporting a known death with a telephonic or accident/incident report; Not reporting a known reportable injury or release &gt;238 bbls in water with a telephonic or accident/incident report; Telephonic or accident/incident report not submitted before PHMSA discovers it was not submitted.</li> <li>- Additional penalty for LNG violation per (190.223(c))</li> <li>- Repeat Violation</li> <li>- Repeat of a Repeat Violation</li> </ul>	<p>-\$17,280</p> <p>↓</p> <p>Maximum</p>
Economic Benefit	Economic Benefit gained from not complying with the regulation.	Variable addition
Ability to Continue in Business	Determination based on additional information that is presented later by operator	Variable credit

The total civil penalty per violation is calculated based on these assessment considerations and adjusted for the applicable daily and series limit. If a calculated penalty exceeds the maximum amount permitted by statute, the penalty will be reduced by the amount exceeding the cap. As of November 27, 2018, under 49 U.S.C. § 60122 and 49 CFR § 190.223, operators are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists up to a maximum of \$2,132,679 for a related series of violations pursuant to the requirements of Section 701 of the “Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015” (Pub. L.114-72),

which amended the “Federal Civil Penalties Inflation Adjustment Act of 1990” (Pub. L. 101–410) (Inflation Adjustment Act).