

(1) THE COMMISSIONER MAY ASSESS A CIVIL PENALTY OF NOT LESS THAN \$100 AND NOT EXCEEDING \$500 AGAINST A RAILROAD COMPANY THAT VIOLATES A MAINTENANCE REQUIREMENT FOR YARD TRACK MARGINS AND SIDETRACKS FOR EMPLOYEE SAFETY UNDER § 5.5-111 OF THIS TITLE.

(2) EACH DAY OF NONCOMPLIANCE WITH ANY ORDER THAT THE COMMISSIONER ISSUES UNDER § 5.5-111 OF THIS TITLE SHALL BE CONSIDERED A SEPARATE VIOLATION.

(E) REQUIRED FOR VIOLATIONS OF SEATING REQUIREMENTS FOR TRANSPORTING EMPLOYEES.

THE COMMISSIONER SHALL ASSESS AGAINST AN AGENT OF A RAILROAD COMPANY A CIVIL PENALTY OF \$100 FOR EACH EMPLOYEE THAT THE AGENT REQUIRES TO RIDE MORE THAN 5 MILES WITHOUT A SEAT AS REQUIRED UNDER § 5.5-110(A) OF THIS TITLE, REGARDLESS OF WHETHER THE EMPLOYEE IS IN ACTIVE SERVICE.

(F) AMOUNT OF CIVIL PENALTY.

IF A RAILROAD COMPANY DOES NOT CORRECT A VIOLATION FOR WHICH A CITATION HAS BEEN ISSUED WITHIN THE PERIOD SET FOR CORRECTION IN ACCORDANCE WITH § 5.5-116 OF THIS TITLE, THE COMMISSIONER MAY IMPOSE A CIVIL PENALTY NOT EXCEEDING \$100 FOR EACH DAY THAT THE VIOLATION CONTINUES.

(G) CONSIDERATIONS.

BEFORE THE COMMISSIONER ASSESSES A CIVIL PENALTY UNDER THIS SECTION, THE COMMISSIONER SHALL CONSIDER THE APPROPRIATENESS OF THE PENALTY IN RELATION TO:

- (1) THE SIZE OF THE RAILROAD COMPANY;
- (2) THE GRAVITY OF THE VIOLATION FOR WHICH THE PENALTY IS TO BE ASSESSED;
- (3) THE GOOD FAITH OF THE RAILROAD COMPANY; AND
- (4) THE HISTORY OF VIOLATIONS BY THE RAILROAD COMPANY.

(H) COLLECTION OF CIVIL PENALTIES.

(1) EACH CIVIL PENALTY UNDER THIS SECTION SHALL BE PAYABLE INTO THE GENERAL FUND OF THE STATE 90 DAYS AFTER THE VIOLATION BECOMES FINAL AND NONREVIEWABLE.

(2) THE COMMISSIONER SHALL REDUCE THE PENALTY BY 50% IF DURING THE 90-DAY PERIOD:

(I) THE RAILROAD COMPANY HAD NO REPORTABLE ACCIDENTS ATTRIBUTABLE TO A STATE OR FEDERAL REGULATION; OR