

**§ 190.217**

taken is provided to the respondent upon request and whenever practicable.

[Amdt. 190-6, 61 FR 18514, Apr. 26, 1996, as amended by Amdt. 190-7, 61 FR 27792, June 3, 1996; 70 FR 11137, Mar. 8, 2005]

EFFECTIVE DATE NOTE: At 78 FR 58912, Sept. 25, 2013, §190.215 was removed, effective Oct. 25, 2013.

COMPLIANCE ORDERS

**§ 190.217 Compliance orders generally.**

When the Associate Administrator, OPS has reason to believe that a person is engaging in conduct which involves a violation of the 49 U.S.C. 60101 *et seq.* or any regulation issued thereunder, and if the nature of the violation, and the public interest warrant, the Associate Administrator, OPS may conduct proceedings under §§190.207 through 190.213 of this part to determine the nature and extent of the violations and to issue an order directing compliance.

[Amdt. 190-6, 61 FR 18514, Apr. 26, 1996]

EFFECTIVE DATE NOTE: At 78 FR 58912, Sept. 25, 2013, §190.217 was revised, effective Oct. 25, 2013. For the convenience of the user, the revised text is set forth as follows:

**§ 190.217 Compliance orders generally.**

When a Regional Director has reason to believe that a person is engaging in conduct that violates 49 U.S.C. 60101 *et seq.*, 33 U.S.C. 1321(j), or any regulation or order issued thereunder, and if the nature of the violation and the public interest so warrant, the Regional Director may initiate proceedings under §§190.207 through 190.213 to determine the nature and extent of the violations and for the issuance of an order directing compliance.

**§ 190.219 Consent order.**

(a) At any time before the issuance of a compliance order under §190.213 the Associate Administrator, OPS and the respondent may agree to dispose of the case by joint execution of a consent order. Upon such joint execution, the consent order shall be considered a final order under §190.213.

(b) A consent order executed under paragraph (a) of this section shall include:

- (1) An admission by the respondent of all jurisdictional facts;
- (2) An express waiver of further procedural steps and of all right to seek

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judicial review or otherwise challenge or contest the validity of that order;

(3) An acknowledgement that the notice of probable violation may be used to construe the terms of the consent order; and

(4) A statement of the actions required of the respondent and the time by which such actions shall be accomplished.

[45 FR 20413, Mar. 27, 1980, as amended by Amdt. 190-6, 61 FR 18514, Apr. 26, 1996]

EFFECTIVE DATE NOTE: At 78 FR 58912, Sept. 25, 2013, §190.219 was amended by revising paragraph (a) and adding paragraph (c), effective Oct. 25, 2013. For the convenience of the user, the added and revised text is set forth as follows:

**§ 190.219 Consent order.**

(a) At any time prior to the issuance of a compliance order under §190.217, a corrective action order under §190.233, or a safety order under §190.239, the Regional Director and the respondent may agree to resolve the case by execution of a consent agreement and order, which may be jointly executed by the parties and issued by the Associate Administrator. Upon execution, the consent order is considered a final order under §190.213.

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(c) Prior to the execution of a consent agreement and order arising out of a corrective action order under §190.233, the Associate Administrator will notify any appropriate State official in accordance with 49 U.S.C. 60112(c).

CIVIL PENALTIES

**§ 190.221 Civil penalties generally.**

When the Associate Administrator, OPS has reason to believe that a person has committed an act which is a violation of any provision of the 49 U.S.C. 60101 *et seq.* or any regulation or order issued thereunder, proceedings under §§190.207 through 190.213 may be conducted to determine the nature and extent of the violations and to assess and, if appropriate, compromise a civil penalty.

[Amdt. 190-6, 61 FR 18515, Apr. 26, 1996]

EFFECTIVE DATE NOTE: At 78 FR 58912, Sept. 25, 2013, §190.221 was revised, effective Oct. 25, 2013. For the convenience of the user, the revised text is set forth as follows: