

Subpart B—Notices of Noncompliance and Civil Penalties

PENALTIES WITH A PERIOD TO CORRECT

§ 1241.50 What may ONRR do if I violate a statute, regulation, order, or lease term relating to a lease subject to this part?

If we determine that you have not followed any requirement of a statute, regulation, order, or a term of a lease subject to this part, we may serve you with a NONC explaining:

- (a) What the violation is.
- (b) How to correct the violation to avoid a civil penalty.
- (c) That you have 20 days after the date on which you are served the NONC to correct the violation, unless the NONC specifies a longer period.

§ 1241.51 What if I correct the violation identified in a NONC?

If you correct all of the violations that we identified in the NONC within 20 days after the date on which you are served the NONC, or any longer period for correction that the NONC specifies, we will close the matter and will not assess a civil penalty. However, we will consider these violations as part of your history of noncompliance for future penalty assessments under § 1241.70(a)(2).

§ 1241.52 What if I do not correct the violation identified in a NONC?

- (a) If you do not correct all of the violations that we identified in the NONC within 20 days after the date on which you are served the NONC, or any longer period that the NONC specifies for correction, then we may send you an FCCP.
 - (1) The FCCP will state the amount of the penalty that you must pay. The penalty will:
 - (i) Begin to run on the day on which you were served with the NONC.
 - (ii) Continue to accrue for each violation identified in the NONC until it is corrected.
 - (2) The penalty may be up to \$1,474 per day for each violation identified in the NONC that you have not corrected.
- (b) If you do not correct all of the violations identified in the NONC within 40 days after you are served the

NONC, or within 20 days following the expiration of any period longer than 20 days that the NONC specifies for correction, then we may increase the penalty to a maximum of \$14,754 per day for each violation identified in the NONC that you have not corrected. The increased penalty will:

- (1) Begin to run on the 40th day after the date on which you were served the NONC, or on the 20th day after the expiration of any period longer than 20 days that the NONC specifies for correction.
- (2) Continue to accrue for each violation identified in the NONC until it is corrected.

[81 FR 50316, Aug. 1, 2016, as amended at 82 FR 18860, Apr. 24, 2017; 83 FR 2909, Jan. 22, 2018; 84 FR 8418, Mar. 8, 2019; 85 FR 7223, Feb. 7, 2020; 86 FR 7810, Feb. 2, 2021; 87 FR 1673, Jan. 12, 2022; 88 FR 2522, Jan. 17, 2023]

PENALTIES WITHOUT A PERIOD TO CORRECT

§ 1241.60 Am I subject to a penalty without prior notice and an opportunity to correct?

(a) We may assess a penalty for a violation identified in paragraph (b) of this section without prior notice or first giving you an opportunity to correct the violation. We will inform you of a violation without a period to correct by issuing an ILCP explaining:

- (1) What the violation is.
- (2) The amount of the civil penalty. The civil penalty for such a violation begins running on the day it was committed.
 - (b) ONRR may assess a civil penalty of up to:
 - (1) \$29,505 per day, per violation for each day that the violation continues if you:
 - (i) Knowingly or willfully fail to make any royalty payment by the date specified by statute, regulation, order, or a term of the lease.
 - (ii) Fail or refuse to permit lawful entry, inspection, or audit, including refusal to keep, maintain, or produce documents.
 - (2) \$73,764 per day, per violation for each day that the violation continues if you knowingly or willfully prepare,

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maintain, or submit a false, inaccurate, or misleading report, notice, affidavit, record, data, or any other written information.

(c) We may use any information as evidence that you knowingly or willfully committed a violation, including:

(1) The act and failure to act of your employee or agent.

(2) An email indicating your concurrence with an issue.

(3) An order that you did not appeal or an order, NONC, or ILCP for which no further appeal is available.

(4) Any written or oral communication, identifying a violation which:

(i) You acknowledge as true and fail to correct.

(ii) You fail to or cannot further appeal and fail to correct.

(iii) You correct, but you subsequently commit the same violation.

[81 FR 50316, Aug. 1, 2016, as amended at 82 FR 18860, Apr. 24, 2017; 83 FR 2909, Jan. 22, 2018; 84 FR 8418, Mar. 8, 2019; 85 FR 7223, Feb. 7, 2020; 86 FR 7810, Feb. 2, 2021; 87 FR 1673, Jan. 12, 2022; 88 FR 2522, Jan. 17, 2023]

Subpart C—Penalty Amount, Interest, and Collections

§ 1241.70 How does ONRR decide the amount of the penalty to assess?

(a) ONRR will determine the amount of the penalty to assess by considering:

(1) The severity of the violation.

(2) Your history of noncompliance.

(3) The size of your business. To determine the size of your business, we may consider the number of employees in your company, parent company or companies, and any subsidiaries and contractors.

(b) We will not consider the royalty consequence of the underlying violation when determining the amount of the civil penalty for a violation under § 1241.50 or § 1241.60(b)(1)(ii) or (b)(2).

(c) We will post the FCCP and ILCP assessment matrices and any adjustments to the matrices on our Web site.

§ 1241.71 Do I owe interest on both the penalty amount and any underlying underpayment or unpaid debt?

(a) A penalty under this part is in addition to interest that you may owe on any underlying underpayment or unpaid debt.

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(b) If you do not pay the penalty amount by the due date in the bill accompanying the FCCP or ILCP, you will owe late payment interest on the penalty amount under 30 CFR 1218.54 from the date when the civil penalty payment became due under § 1241.72 until the date when you pay the civil penalty amount.

§ 1241.72 When must I pay the penalty?

(a) If you do not request a hearing on a FCCP or ILCP under this part, you must pay the penalty amount by the due date specified in the bill accompanying the FCCP or ILCP.

(b) If you request a hearing on a FCCP or ILCP under this part, the ALJ affirms the civil penalty; and

(1) You do not appeal the ALJ's decision to the IBLA under § 1241.9, you must pay the civil penalty amount determined by the ALJ within 30 days of the ALJ's decision; or

(2) You appeal the ALJ's decision to the IBLA under § 1241.9, and IBLA affirms a civil penalty; and

(i) You do not seek judicial review of the IBLA's decision under 30 U.S.C. 1719(j), you must pay the civil penalty amount that IBLA determines within 120 days of the IBLA decision; or

(ii) You seek judicial review of the IBLA decision, and a court of competent jurisdiction affirms the penalty, you must pay the penalty assessed within 30 days after the court enters a final non-appealable judgment.

§ 1241.73 May ONRR reduce my penalty once it is assessed?

ONRR's Director or his or her delegate may compromise or reduce a civil penalty assessed under this part.

§ 1241.74 How may ONRR collect my penalty?

(a) If you do not pay a civil penalty amount by the date when payment is due under § 1241.72, we may use all available means to collect the penalty, including but not limited to:

(1) Requiring the lease surety, for an amount owed by a lessee, to pay the penalty.

(2) Deducting the amount of the penalty from any sum that the United States owes you.