

§ 1241.70

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.