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Mr. Armand Southall
Regulatory Specialist
Office of Natural Resources Revenue
United States Department of the Interior
P.O. Box 25165, MS 61030A
Denver, CO 80225

Re: RIN 1012-AA05. *Amendments to Civil Penalty Regulations*, proposed rule published in the Federal Register on May 20, 2014 (79 Fed. Reg. 28,862).

Dear Mr. Southall:

On May 20, 2014, the Department of the Interior's Office of Natural Resources Revenue ("ONRR") published proposed amendments to the civil penalty regulations in the Federal Register and requested public comments to such. ONRR proposes to amend 30 CFR Part 1241, subparts A through C ("Proposed Amendments"). Devon Energy Production Company, L.P. ("Devon") hereby submits the following comments to the Proposed Amendments and adopts and incorporates by reference the complete and submitted comments of the American Petroleum Institute ("API"), the Independent Petroleum Association of America ("IPAA"), the Western Energy Alliance ("WEA") and the Council of Petroleum Accountants Societies ("COPAS"). Devon is an active member of these named trade associations.

Devon is committed to compliance with royalty reporting and payment regulations, consistent with our lease obligations and applicable regulations, guidance, and statutes. Devon holds significant interests in federal and Indian leases, including leases, operated oil and gas wells, and interests in other wells not operated by Devon. In 2013, Devon paid approximately \$131,210,000 in federal and Indian royalties. Due to this significant investment in, and development on, federal and Indian leases, Devon may be adversely impacted by the Proposed Amendments as currently drafted.

ONRR states that the Proposed Amendments are intended to "clarify ambiguities, simplify the processes for issuing notices of noncompliance and civil penalties and for contesting notices of noncompliance and civil penalties, and rewrite the regulations in Plain Language." However, as presently drafted, the Proposed Amendments do not accomplish that intended purpose. Instead, the current draft creates uncertainty, will assess punitive penalties that are not proportionate with the alleged errors and deprives federal lessees of their legal rights. ONRR intends to impose knowing or willful civil penalties for a wide range of royalty reporting errors, including minor reporting mistakes, while simultaneously stripping away lessees' legal and procedural protections.

Echoing API and others, Devon's key problems with the Proposed Amendments include but are not limited to the following:

1. The current draft of the Proposed Amendments is well beyond the scope of the Federal Oil and Gas Royalty Management Act ("FOGRMA"). ONRR has expanded its authority significantly beyond what Congress intended. In addition, the Proposed Amendments limit or eliminate a payor's legal right to due process, create new definitions for well-established terms and legal standards, and are based merely on "current ONRR practice" rather than on statute or IBLA decisions.
2. 30 U.S.C. § 1719(d) imposes "knowing or willful" civil penalties of up to \$25,000 per violation per day (50 times the maximum daily penalty under § 1719(a)) on any person who commits criminal-type acts and steals oil or gas or "prepares, maintains, or submits false, inaccurate, or misleading" reports, records, or other data. Further, under 30 U.S.C. § 1720, these violations, and only these violations, are also subject to criminal penalties. However, the Proposed Amendments change the definition of "knowingly or willfully" to a lower standard - gross negligence - by removing the requirement of specific intent. This new "knowingly or willfully" standard would encompass virtually any alleged reporting error, even though the proper intent to withhold or to submit erroneous data is not present and Congress intended that this penalty be limited to the most severe civil and criminal acts. Applying this relaxed standard to all alleged errors is egregious and beyond the intent of Congress.
3. Proposed Amendments define "maintenance of false, inaccurate, or misleading information," which can result in severe civil penalties if done knowingly or willfully, to mean providing information to an ONRR data system, later learning it was wrong, and then not correcting it - even if the underlying "notice" of the error was a non-appealable agency email or communication or the errors were on leases other than the one for which ONRR gave notice. Due to the complexity in the ONRR reporting requirements, routine amendments occur over time, and some errors may occur. These types of errors should not be branded as the false, inaccurate, or misleading information that is subject to the highest level of civil penalty.
4. The Proposed Amendments define "submission of false, inaccurate, or misleading information," which can result in the same severe civil penalties if done knowingly or willfully, as providing data that you know or should have known was incorrect. As identified above, complexities in the ONRR valuation methodologies frequently require system upgrades and/or enhancements to process amendments and/or edits to incorrect reporting. We believe it is completely inappropriate to categorize such errors as the "submission of false, inaccurate, or misleading information."

5. The Proposed Amendments prevent the agency's internal Administrative Law Judge ("ALJ") from reviewing ONRR's decision to impose the civil penalty if the ALJ finds that the alleged factual basis exists. In addition, the Proposed Amendments limit the ALJ's ability to reduce an assessed penalty. Under the Proposed Amendments, the ALJ could only reduce the penalty by half the amount assessed.
6. The Proposed Amendments eliminate a lessee's option to seek a stay of penalty accrual pending administrative appeal of a civil penalty notice. Penalties will continue to accrue if a violation is not corrected, even if a company has requested a hearing.

For these reasons, and others that are fully discussed in the comments submitted by API, IPAA, WEA, and COPAS, Devon opposes the Proposed Amendments as currently drafted. Adopting these changes will not serve to "clarify and simplify" ONRR's existing civil penalty regulations; rather, the Proposed Amendments are well beyond the scope of FOGDRA and beyond the intent of Congress. The Proposed Amendments will create unnecessary complications and burdens, deprive federal payors of their legal rights, change well-accepted terms and definitions, and they are an extraordinary overreach of the ONRR's authority.

Thank you for your time and consideration regarding this important matter.

Sincerely,



Debbie Kelly
Director, Revenue Accounting