

# Enforcement and Civil Penalties



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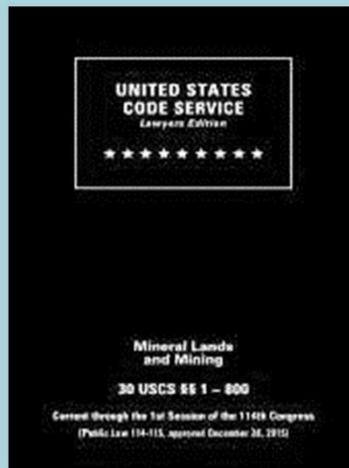
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# Where does ONRR get its authority?

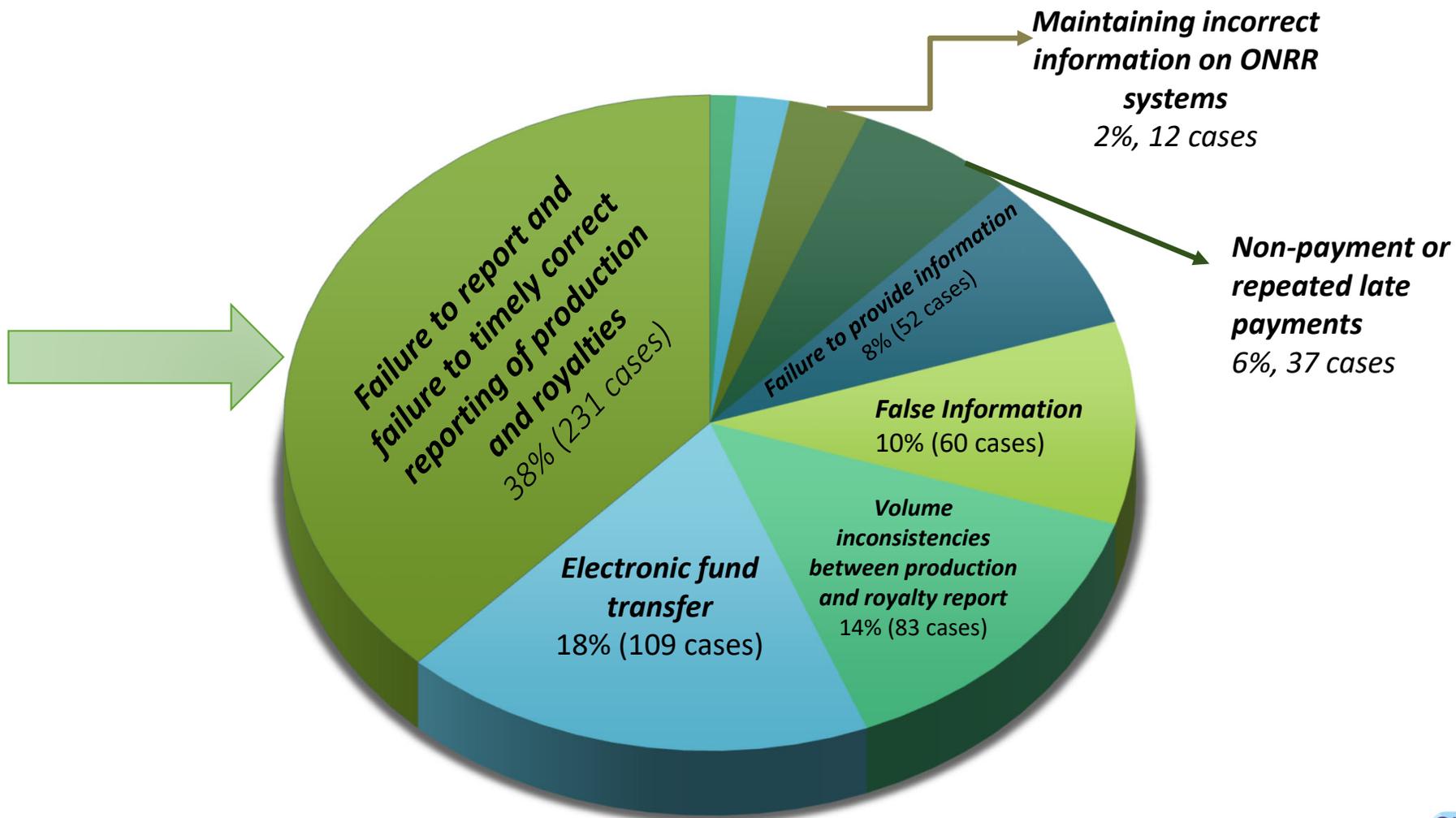


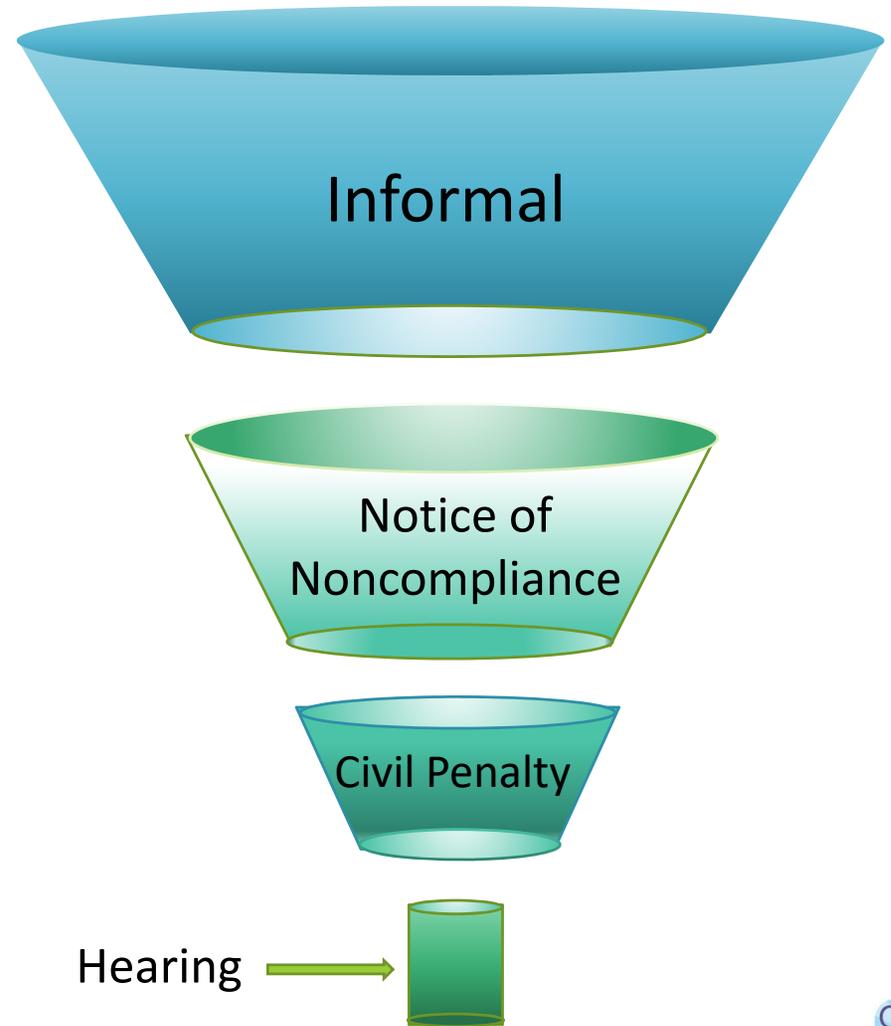
Federal Oil and Gas Royalty Management Act  
(as amended)



30 U.S.C 1719







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Home > Energy > Wyoming Court Upholds Oil and Gas Royalty Rule

## Wyoming Court Upholds Oil and Gas Royalty Rule

BY MAC TAYLOR ON AUGUST 9, 2018  
POSTED IN ENERGY

On August 6, 2018, the U.S. District Court in Wyoming upheld the vast majority of a Obama-era rule issued by the Department of Interior's Office of Natural Resources Revenue against a challenge by the American Petroleum Institute (API). The Rule related to enforcement of noncompliance and civil penalties for parties that are subject to the Federal Oil and Gas Royalty Management Act. API challenged the Rule, arguing that it is arbitrary and capricious and exceeded the agency's authority under law.

The Court disagreed, upholding the entirety of the Rule with the exception of provisions related to the agency's ability to seek penalties for a time period during which an administrative law judge had granted a stay of a penalty pending an administrative hearing.

The case is American Petroleum Institute v. U.S. Department of the Interior et al., case number 17-CV-083-F in the U.S. District Court for the District of Wyoming.

- Court upheld rule
- One minor exception



# Concerns?



- ~~Sole gatekeeper for due process~~
- ~~Motion for summary judgement presumption~~
- ~~Limitation of administrative law judges authority to reduce civil penalty amounts~~
- ~~Ban on notice of noncompliance extensions~~



# So what changed?



- Codifies Office of Hearing and Appeals decisions
- Defines *knowing or willful* and new terms for enforcement actions
- Affirms that ONRR will not consider the royalty impact of violations in computing civil penalties
- Distinguishes *maintenance* of incorrect information from simple short-term failure to correct misreporting



Does *ONRR* pursue violations under the authority of the False Claims Act?

YES

NO



# How does enforcement calculate a civil penalty?

- Severity of the violation
- Size of company
- History of noncompliance



## Updated monetary amounts?



30 CFR § 1241.52(a)(2)

- \$1,220 — *max per violation, per day*

30 CFR § 1241.52(b)

- \$12,211 — *max per violation, per day*

30 CFR § 1241.60(b)(1)

- \$24,421 — *max per violation, per day*

30 CFR § 1241.60(b)(2)

- \$61,055 — *max per violation, per day*

