



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# **OFFICE OF ENFORCEMENT, OFFICE OF NATURAL RESOURCES REVENUE**



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

**JAN 09 2012**

Memorandum

To: Greg Gould  
Director, Office of Natural Resources Revenue

From: Mary L. Kendall *Mary L. Kendall*  
Acting Inspector General

Subject: Evaluation Report – Office of Enforcement, Office of Natural Resources Revenue  
Report No. CR-EV-MMS-0002-2010

This memorandum transmits the findings of our evaluation of the Office of Enforcement (OE), Office of Natural Resources Revenue (ONRR). Our objective was to assess the efficiency of OE's process for obtaining compliance with royalty laws and regulations from companies operating on Federal and Indian lands.

Our evaluation discloses that OE does successfully obtain companies' compliance with laws and regulations, and that OE negotiates reasonable settlements when companies dispute the amount of royalties owed the Government. We believe, however, that OE can obtain more timely compliance if it promptly issues Notices of Noncompliance (NONC) and assesses civil penalties more often. In our report, we also address procedural changes that should enhance OE's efforts to collect additional revenues due the Federal Government. Our report contains seven recommendations to improve the efficiency of OE's enforcement process.

We provided OE with Notices of Potential Findings and Recommendations (NPFR) during our review, and received and considered OE's responses to those NPFRs in this report. OE agreed with our findings and recommendations and initiated actions to address several of our recommendations soon afterward, and even before receiving the NPFRs. In response to our draft report, ONRR concurred with all seven recommendations and plans to complete corrective actions by the fourth quarter of fiscal year 2012.

OE is currently implementing corrective actions that include improvements to management controls such as supervisory review of tracking reports to ensure for the timely issuance of NONCs, development of specialized forms to centralize the justification of civil penalty amounts and risk assessments in civil penalty and negotiation case files, and enhancements to their surety tracking database and procedures. ONRR will update OE's procedural manuals to incorporate all the improvements.

Our evaluation results and conclusions are based on data obtained from official OE files. Much of OE's performance, however, depends on the actions of other ONRR divisions and even outside agencies. OE cases could not move forward in many instances until those divisions

returned information or requests for action back to OE. We draw our conclusions based on the limited information from OE files and make recommendations that, if implemented, should improve the communication and cooperation between other ONRR divisions and OE.

Since ONRR's response included information on actions taken or planned to address the recommendations detailed in this report, target dates, and titles of the officials responsible for implementation, a response is not required.

Legislation, as amended, creating the Office of Inspector General requires that we inform Congress semiannually on all audit reports issued, actions taken to implement our recommendations, and unimplemented recommendations.

If you have any questions regarding this memorandum or the subject report, please do not hesitate to contact me at 202-208-5745.

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## Results in Brief

We evaluated the efficiency of the Office of Enforcement (OE), Office of Natural Resources Revenue (ONRR), process for obtaining compliance from lessees and operators that violate lease terms, regulations, or Federal law during the leasing and production of energy and mineral resources on Federal and Indian lands. We found that, in general, OE and others involved in the enforcement process do successfully obtain companies' compliance with laws and regulations, and that OE negotiates reasonable settlements when companies dispute the amount of royalties to be collected. ONRR has an opportunity, however, to improve the timeliness and efficiency of its compliance activities.

We found that ONRR is not always issuing Notices of Noncompliance (NONC) in a timely manner or assessing civil penalties as established in regulations after issuing NONCs. In addition, ONRR is not preparing risk assessment summaries required under its policies or fully justifying and documenting the assessed civil penalties in its case files. We also found needed improvements in protecting the Government's financial interests during processing and managing settlements and appeals. We determined the Government lost approximately \$586,000 in interest during the processing of five settlement agreements.

We make seven recommendations to improve the efficiency of ONRR's enforcement process and obtain more timely compliance through: 1) focused management and coordination among ONRR divisions during the NONC process, 2) strengthened procedures to ensure that NONCs are issued promptly and civil penalties are assessed and increased when companies do not timely comply, and 3) improved guidance to fully document civil penalty assessments and negotiated settlements and reduce the risk of lost interest or missing sureties during the settlement and appeal process. ONRR concurred with, and will implement, our recommendations by the fourth quarter of fiscal year (FY) 2012. See appendices 2 and 3.

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# Introduction

We evaluated the Office of Enforcement (OE), Office of Natural Resources Revenue (ONRR), to determine whether OE obtained timely company compliance with Federal laws and regulations, and properly referred potential fraud cases to the Office of Inspector General (OIG). We found no evidence that OE did not refer potential fraud cases. ONRR does have an opportunity to improve the timeliness and efficiency of its compliance activities.

## Objective

Although the overall effectiveness and efficiency of the enforcement process involves many parties, our objective was to assess the efficiency of OE's processes for obtaining compliance from companies operating on Federal and Indian lands.

## Background

ONRR is responsible for the efficient, timely, and accurate collection and disbursement of \$9.5 billion (in 2010) in royalties and other revenues due the Government from the leasing and production of natural energy and mineral resources on Federal and Indian lands. OE supports ONRR's overall mission by securing industry compliance with ONRR regulations and orders.

The Federal Oil and Gas Royalty Management Act of 1982<sup>1</sup> (FOGRMA) provides for civil penalties when a person or company: 1) fails to comply with applicable laws or fails to take timely corrective action on noncompliance, or 2) knowingly or willfully commits a violation specified in FOGRMA.

OE can assess civil penalties when a person or company properly served a Notice of Noncompliance (NONC) fails to correct those violations by the deadline established in the NONC (referred to as the cure period). Unless ONRR divisions allow a longer period or grant an extension, a person or company is liable for a penalty of up to \$500 per violation, per day, starting 20 days after the violator receives a NONC. OE may increase this to \$5,000 per violation, per day, if the violation goes uncorrected for more than 40 days. Knowing or willful violations by persons or companies can have immediate penalties up to \$25,000 per violation per day, depending on the type of violation.

ONRR issues notices for two categories of violations – those that have a cure period (referred to as “curable”) and those that carry an assessment of a civil penalty, whether immediate or beginning after the expiration of the cure period. NONCs apply only to curable regulatory violations such as failure to: (1) submit reports or provide information requested for purposes other than audit, (2) unintentional failures to provide properly requested audit information, or (3)

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<sup>1</sup> 30 U.S.C. § 1719 Civil Penalties

inadvertent failure to timely pay royalties. Violators can avoid civil penalties for curable violations by taking the required action within 20 days (or longer as agreed to by ONRR) of a NONC's issue date. Violations that carry an immediate civil penalty include such actions as the knowing or willful underpayment or nonpayment of royalties, or false reporting.

Along with OE, program managers in two other divisions within ONRR – Financial and Program Management and Audit and Compliance Management – have been delegated the authority to issue NONCs. A Civil Penalty Notice is issued if the violator does not comply with the terms of the NONC during the cure period or if the violation carries an immediate civil penalty. Only OE can issue Civil Penalty Notices. OE refers cases for criminal investigation to the OIG's Office of Investigations when it identifies potential fraud.

OE has three branches: Enforcement Operations, Alternative Dispute Resolution, and Litigation Support.

### **Enforcement Operations Branch**

Enforcement Operations —

- works with program managers in the Financial and Program Management and Audit and Compliance Management divisions so that they can issue curable NONCs;
- issues NONCs for cases it initiates;
- issues NONCs for cases referred by the Bureau of Land Management (BLM), states, and tribes;
- assesses civil penalties when companies fail to comply with a NONC;
- issues Civil Penalty Notices for violations that carry immediate civil penalties or that are in noncompliance with NONCs; and
- refers potential criminal violations to OIG's Office of Investigations.

### **Alternative Dispute Resolution Branch**

Alternative Dispute Resolution<sup>2</sup> —

- gives lessees the opportunity to request settlement discussions for disputed royalties and civil penalties;
- receives settlement proposals;
- establishes negotiation teams; and
- gathers pertinent information from knowledgeable parties.

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<sup>2</sup>The Alternative Dispute Resolution Act of 1990 (5 U.S.C. § 571-583 (1994)) states that each agency shall adopt a policy to use alternative means of dispute resolution and case management. Additionally, the Royalty Simplification and Fairness Act of 1996 (30 U.S.C. § 1724(i)) granted the Secretary of the Interior discretion "to compromise and settle" royalty disputes. ONRR established its alternative dispute resolution program within OE in 1992.

Upon completion of negotiations, a final settlement agreement and a justification memorandum are prepared and sent to the ONRR Director for approval. When Indian trust issues are involved, the Assistant Secretary of Indian Affairs also receives a copy of the settlement agreement and memorandum. Once all parties sign the settlement agreement, its terms are implemented.

### **Litigation Support Branch**

Litigation Support —

- prepares claim support for the Government's interests in bankruptcy proceedings;
- responds to requests for documentation relating to appeals or litigation;
- refers outstanding debt, including unpaid civil penalties, to the U.S. Department of the Treasury for collection; and
- receives and maintains surety instruments during appeals of disputed royalties.

Sureties ensure that the Government will receive payment, including interest, should an appeal favor the Government. Sureties include bonds, letters of credit, or certificates of deposit submitted by companies to cover royalties (with interest) under appeal to ONRR. Companies may also self-bond if they can document adequate financial status to cover the royalties and interest.

When ONRR receives surety documents, Litigation Support's surety accountant verifies that the surety meets standards and securely stores it. The surety accountant is responsible for requiring companies to update their sureties annually with additional interest.



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# Findings and Recommendations

## Notices of Noncompliance and Civil Penalties

Although ONRR obtained compliance from companies to correct lease or regulatory violations, it did not always issue NONCs or assess civil penalties as authorized. ONRR resolved a majority of violations informally, with some cases taking more than a year to obtain companies' voluntary compliance. Even when ONRR issued NONCs, it allowed extended periods for compliance instead of assessing civil penalties within authorized timeframes. There are many reasons that an individual case might take time to resolve, but we believe that OE and other ONRR divisions could achieve more timely compliance through better coordination and management of NONC and civil penalty processes.

We reviewed 213 cases that Enforcement Operations closed and designated as "Compliance Achieved" from FY2007 through mid-January 2010. We categorized the cases as closed due to informal resolution, resolved after issuance of a NONC, and resolved after issuance of a NONC and assessment of civil penalties.

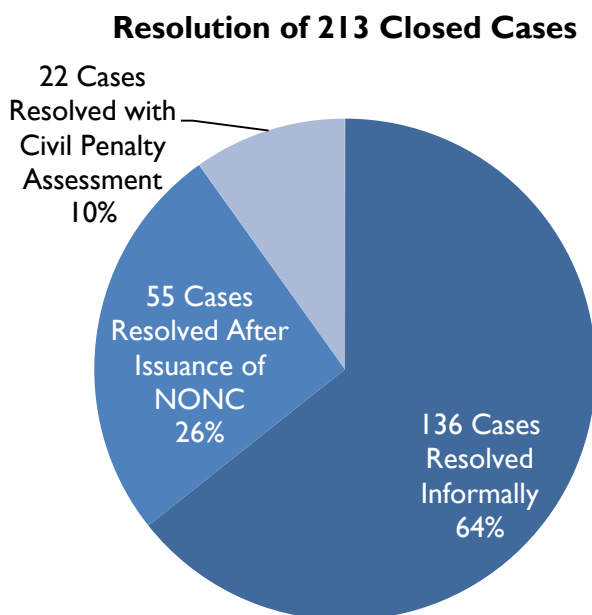


Figure I.

Our analysis showed:

- Sixty-four percent (136 cases) were informally resolved without issuing NONCs. These cases took from zero (i.e., same day) to 594 days to resolve.

- Twenty-six percent (55 cases) were resolved without a civil penalty after ONRR issued NONCs. After issuance of the NONC, these cases took from 7 to 1,624 days to be resolved.
- Ten percent (22 cases) were resolved after NONCs were issued and civil penalties were assessed totaling over \$1.4 million. Recognizing that civil penalty actions take much longer to resolve, the time it took to close these cases ranged from 85 days to 2,379 days – just over 6 ½ years.

During the course of our evaluation, ONRR management acknowledged that they could have issued more NONCs during the evaluation period. OE could not issue NONCs in every case. ONRR management stated that in prioritizing its use of resources, OE has traditionally focused on issuing NONCs and civil penalties for serious violations or repeat offenders. For minor or first violations, OE staff attempt informal resolution.

OE and its Enforcement Operations Branch do not have complete control over the NONC process. Program managers in Financial and Program Management and the Audit and Compliance Management divisions have delegated authority to issue NONCs. These NONCs are coordinated through Enforcement Operations to ensure legal sufficiency. The issuing division is responsible for routinely monitoring compliance and initiating additional enforcement actions when necessary. We found that Enforcement Operations has complete control over only a small percentage of cases.

Figure 2 presents the sources for the 213 violations resolved by Enforcement Operations included in our review; it shows that only 10 percent of all cases originated at Enforcement Operations. Other sources from which cases originated include BLM, states, and Indian tribes.

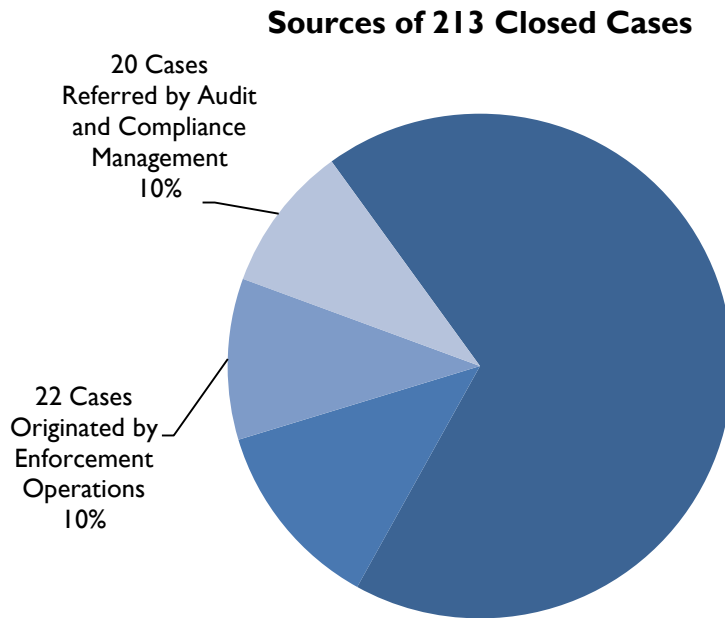


Figure 2.

As Figure 2 illustrates, the majority of cases originated from Financial and Program Management. We found several cases where the Financial Management Office within Financial and Program Management did not issue NONCs even after Enforcement Operations reviewed and approved their issuance. Some of these cases exceeded 180 days without a NONC.

After issuing NONCs, the delegated divisions are supposed to return continuing noncompliance cases to Enforcement Operations for civil penalty actions. We found that Enforcement Operations could not assess civil penalties in most of the cases where the cure periods had lapsed for NONCs issued by Financial and Program Management because the cases were never returned to Enforcement Operations. We noted that some companies received extensions from Financial and Program Management, but still did not resolve matters within the granted extension.

We believe that Enforcement Operations could have issued more NONCs and assessed more civil penalties for cases it originated. Only 22 of the 213 cases we reviewed were initiated by Enforcement Operations and therefore entirely under its control. Enforcement Operations only issued a NONC in one case, with an extension, yet it did not assess civil penalties even though resolution occurred 127 days past the NONC's issue date. Enforcement Operations did not issue NONCs for 20 cases that took longer than 180 days to resolve. We did note that Enforcement Operations delayed the NONC decision process for 11 of these 20 cases because it referred the cases to the OIG for possible criminal investigation.

In response to our Notice of Potential Findings and Recommendations, ONRR management stated that some delays in civil penalty assessments occur because of referrals to the U.S. Department of the Treasury, attempts to resolve NONCs through settlement, NONC recipients' requests for a hearing on the record, and referrals to the OIG. In addition, ONRR responded that the delay in issuing a civil penalty assessment does not result in less civil penalties collected. If the recipient of a NONC does not comply with the NONC, civil penalties are assessed beginning with the day after the recipient received the NONC until the date the company complies or the case is referred to Treasury.

Given the authorities to assess civil penalties and to increase penalties over time, we believe prompt enforcement action could have resulted in more timely compliance.

### **Recommendations**

1. Improve procedures and management controls to ensure that operating divisions with delegated NONC authority issue NONCs timely and return NONCs promptly back to OE for civil penalty assessment once the cure period has expired.
2. Strengthen procedures to ensure that NONCs are issued promptly, and that civil penalties are assessed and increased when companies do not comply timely.

## **Justification for Civil Penalty Amounts**

Enforcement Operations' civil penalty case files did not always contain enough documentation for us to determine whether assessments were properly calculated and consistently applied. Enforcement Operations normally calculates civil penalties based on pre-set standards for each type of violation after considering factors such as the size of the company and if the company is a repeat offender. While Enforcement Operations rarely deviates from standard civil penalty amounts, its procedures do not contain specific guidance regarding the need for documentation to support and justify civil penalty assessments.

We reviewed 21 closed cases where Enforcement Operations assessed civil penalties and found no documents in the files supporting information used to determine the penalty amounts, such as the size of the company or whether or not they were repeat offenders. For example, in one case Enforcement Operations calculated the penalty by number of leases and, in another case, by number of wells. Both cases were violations for not reporting production and did not address the size of the company. In addition, Enforcement Operations based the civil penalty assessment in one of the cases on the number of wells, but then changed it to leases because the company only had three employees. These examples

indicate that assessments may vary for the same or similar violations without documented justification for any variance.

In response to our Notice of Potential Findings and Recommendations, ONRR recognized that the justifications are not always clear. To ensure that justifications are clear and readily accessible in the case files, ONRR plans to prepare a special form to document the bases for any standard rate departures, and to verify the justification through their peer review and the civil penalty signature processes.

#### **Recommendation**

3. Fully document the justification for civil penalty amounts.

## **Preliminary Risk Assessment Summaries and Minimum Settlement Amounts**

The Alternate Dispute Resolution Branch did not prepare preliminary risk assessment summaries as required by ONRR's Negotiated Agreement Manual.<sup>3</sup> Risk assessment summaries are narratives addressing various factors that affect the strength of the Government's position in negotiations. If updated as needed, the risk assessment summary indicates the Government's position throughout negotiations, thereby guiding the negotiation team.

The Manual states: "The level of risk dictates the degree to which the Department of the Interior is willing to negotiate a settlement of any particular issue." The Manual states the criteria used to assess risk throughout the resolution process.

The Chief, Office of Enforcement stated that the negotiation teams understand the risks in each case and that the information is available in the negotiation file. Further, she stated that it is unnecessary and too time consuming to prepare a formal summary. A risk assessment summary, however, can better inform management about the relative strength of the Government's negotiating position.

In addition, the Manual does not require the establishment of a minimum settlement amount prior to negotiations. We believe establishing a preliminary minimum settlement amount could help guide and justify the Government or tribes' negotiating position. It would also inform management of the minimum amount that the Government expects to collect, thereby setting a benchmark for comparison against final settlement amounts.

In response to our Notice of Potential Findings and Recommendations, ONRR said they plan on removing the requirement for the preliminary risk assessment

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<sup>3</sup> Negotiated Agreement Manual, Release I, Section 4.2.2 entitled "Prepare Preliminary Risk Assessment" January 1, 2007.

summary from the Manual, but require consolidation of risk information in one place in the case file. We believe that ONRR should continue to require preparation and documentation of the preliminary risk assessment summary, with a minimum settlement amount, in the case files. The summary is an efficiency tool that quickly summarizes the case, with the applicable risks, for the benefit of others not familiar with the case such as case file workers who may take over the case or ONRR supervisors.

### **Recommendations**

4. Prepare and document a preliminary risk assessment summary, as required by the Negotiated Agreement Manual, prior to entering into negotiations with companies.
5. Include instructions in the Negotiated Agreement Manual that a preliminary minimum settlement amount should be determined, with justification for that amount, and added to the preliminary risk assessment summary prior to negotiating a settlement amount.

## **Settlement Amounts and Interest**

The Alternate Dispute Resolution Branch did not account for interest accruals between the Agreement in Principle settlement date and the final settlement date as required by law. FOGSMA § 1721 (a) states: “In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments. . . .”<sup>4</sup>

In five settlement cases out of the nine we reviewed, we noted significant delays where the Government cumulatively lost approximately \$586,000 in interest accruals pending completion of the final settlement agreements. (See Figure 3.)

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<sup>4</sup> 30 U.S.C. § 1721 (a) Charge on late royalty payment or royalty payment deficiency

### Sample Settlement Cases

Case	Agreement In Principal Amount	Agreement In Principal Date	Settlement Agreement Date	Days of Lost Interest	Amount of Lost Interest
Case 1	\$150,000	10/3/06	2/27/08	512	\$17,540
Case 2	\$1,344,822	1/7/09	7/9/09	195	\$30,522
Case 3	\$179,000	3/14/07	9/25/07	195	\$3,845
Case 4	\$12,259,539	10/27/08	7/9/09	255	\$257,352
Case 5	\$3,500,000	12/19/06	11/30/07	346	\$276,544
Total Lost Interest					\$585,803

Figure 3.

OE's program manager stated that prepayments of the Agreement in Principle amount were now required for cases involving large-dollar Federal cases and Native Americans. In one recent case, a company made a \$25 million prepayment at OE's direction. The company thereby avoided additional accrued interest charges and the Government received its settlement amount before completion of the final settlement agreement. The manager, however, noted there was no written policy for this new prepayment requirement.

#### Recommendation

- Develop and implement written policies and procedures to: 1) instruct companies to prepay the Agreement in Principle amount by a date certain to avoid lost interest while the final settlement agreement is being processed and executed, and 2) require companies to make additional interest payments should they not make the full prepayment by the specified date.

### Sureties

Litigation Support has not always obtained sureties or updated sureties from companies appealing disputed royalties. Companies are required to increase their sureties annually to maintain 1 year's interest in advance.

From a listing of 188 active appeals, OE's surety accountant identified 102 appeals requiring sureties. Twenty-eight percent of these appeals did not have the required sureties.

We reviewed 33 sureties maintained by the surety accountant and found that 18 (55 percent) were not current, needing either to be updated with increased interest

or to be cancelled and returned to the owners. Ten of the 18 sureties were overdue for renewal. The surety accountant should have returned the remaining eight sureties to the companies since the associated appeals were settled.

These problems occurred because ONRR offices managing appeals did not notify OE when appeals were filed or when sureties were due. In addition, the surety accountant did not have a tracking system to identify when sureties were required, received, or due for updating. The accountant could only review the outstanding appeals, compare these to the list of sureties that included self-bonding companies, and then contact the responsible office to ask if a surety was still required. Without a tracking system, OE could only identify the need for a surety update by reviewing every surety file. This approach was time consuming, and resulted in the lapses we identified.

By November 2010, the surety accountant created a spreadsheet to sort surety information and track renewal dates. In addition, the accountant created a spreadsheet to track outstanding appeals to determine whether a surety is required for each appeal. ONRR agreed with our findings and recommendations in the Notice of Potential Findings and Recommendations. OE responded that it has implemented a procedure requiring the surety accountant to access the appeals database at the beginning of each month to check for new appeals that may require a surety.

#### **Recommendation**

7. Continue to improve the tracking system for sureties so that the surety accountant can easily identify that all sureties are received, and all updates are obtained timely.



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# Conclusion and Recommendations Summary

## Conclusion

ONRR gains compliance from companies that violate Federal laws or regulations, but cannot always do so in a timely manner because of its reliance on other ONRR divisions. ONRR can obtain more timely compliance with focused management and coordination among ONRR divisions during the NONC process. ONRR can also be more effective with strengthened procedures to ensure that NONCs are issued promptly, civil penalties are assessed and increased when companies do not comply timely, and the risk of lost interest or missing sureties is reduced during the settlement and appeal process. Should ONRR accept and implement our recommendations, we believe it would: 1) gain more timely compliance, 2) more effectively manage the settlement process, and 3) better protect Government interests during the settlement and appeal process.

ONRR responded to the findings and recommendations in our draft report on November 29, 2011. ONRR concurred with all seven recommendations and plans to complete corrective actions by the fourth quarter of FY2012. The responsible official is the Director of ONRR.

## Recommendations Summary

1. Improve procedures and management controls to ensure that operating divisions with delegated NONC authority issue NONCs timely and return NONCs promptly back to OE for civil penalty assessment once the cure period has expired.
2. Strengthen procedures to ensure that NONCs are issued promptly, and that civil penalties are assessed and increased when companies do not comply timely.
3. Fully document the justification for civil penalty amounts.
4. Prepare and document a preliminary risk assessment summary, as required by the Negotiated Agreement Manual, prior to entering into negotiations with companies.
5. Include instructions in the Negotiated Agreement Manual that a preliminary minimum settlement amount should be determined, with justification for that amount, and added to the preliminary risk assessment summary prior to negotiating a settlement amount.
6. Develop and implement written policies and procedures to: 1) instruct companies to prepay the Agreement in Principle amount by a date certain to avoid lost interest while the final settlement agreement is being processed and executed, and 2) require companies to make additional interest payments should they not make the full prepayment by the specified date.

7. Continue to improve the tracking system for sureties so that the surety accountant can easily identify that all sureties are received, and all updates are obtained timely.

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# Appendix I: Scope and Methodology

## Scope

Our scope included cases closed by the Office of Enforcement (OE), Office of Natural Resources Revenue, for the period from FY2007 through January 2010.

## Methodology

We conducted this evaluation in accordance with “Quality Standards for Inspections” issued by the Council of Inspectors General on Integrity and Efficiency. We believe that the work we performed provides a reasonable basis for our conclusions and recommendations.

We performed all of our work in OE’s Lakewood, CO office.

We reviewed OE’s compliance files, including civil penalties. We also reviewed case files for negotiated settlements.

We interviewed officials from OE Enforcement Operations, Alternative Dispute Resolution, and Litigation Support branches. We obtained and reviewed applicable Federal laws and regulations, and OE procedures.

*Limitation.* Our work focused primarily on processes within, and data from OE. Much of OE’s performance depends on the actions of other ONRR divisions, outside agencies (including the Bureau of Land Management, states, and Indian tribes), and regulated industry. We did not examine processes in other divisions and agencies, or collect data from industry other than what was already included in OE official records.

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## **Appendix 2: Bureau's Response**

The Office of Natural Resources Revenue's response to the draft report follows on page 17.



# United States Department of the Interior

## OFFICE OF NATURAL RESOURCES REVENUE

Washington, DC 20240

NOV 29 2011

### Memorandum

To: Acting Inspector General

From: Gregory J. Gould  
Director

Subject: Response to Draft Evaluation Report *Office of Enforcement, Office of Natural Resources Revenue* (CR-EV-MMS-0002-2010)

Thank you for the opportunity to review the Office of Inspector General's (OIG) draft evaluation report (Report) on the Office of Enforcement, Office of Natural Resources Revenue (ONRR). We concur with the seven recommendations contained in the Report. Thank you also for noting in the Report that ONRR successfully obtains companies' compliance with laws and regulations and negotiates reasonable settlements when companies dispute the amount of royalties owed the Government. We are already addressing many of the issues highlighted in the Report as part of ongoing initiatives to improve the efficiency of ONRR's enforcement process.

The attached document provides ONRR's response to each recommendation contained in the Report and identifies planned corrective actions, target dates, and the responsible official.

We appreciate the OIG's insight and recommendations to improve ONRR's processes for obtaining compliance with royalty laws and regulations from companies operating on Federal and Indian lands. If you have any questions about this response, please contact Gwenna Zacchini, ONRR Audit Liaison, at (303) 231-3513.

Attachment

**Office of Inspector General Inspection Draft Evaluation Report: Office of Enforcement,  
Office of Natural Resources Revenue (Report No. CR-EV-MMS-0002-2010)**

**Recommendation 1:** *Improve procedures and management controls to ensure that operating divisions with delegated NONC authority issue NONCs timely and return NONCs promptly back to OE for civil penalty assessment once the cure period has expired.*

**Response:** Concur.

The Office of Natural Resources Revenue (ONRR) currently has management controls and procedures in place to ensure that operating divisions with delegated Notice of Noncompliance (NONC) authority use correct methods to issue and process NONCs timely. For example, if an operator does not comply within 45 days with an Order to Report (OTR) issued by ONRR's Production Reporting and Verification (PRV) organization, and there are no special circumstances, PRV sends an NONC to the operator and notifies the Office of Enforcement (OE) that the NONC has been issued. The NONC gives the operator 20 days to comply. If the operator does not comply with the NONC, PRV forwards it to OE for civil penalty assessment. PRV also has a tracking system in place to track the issuance of OTRs and NONCs.

Additionally, after PRV notifies OE that it has issued an NONC, OE tracks when the NONC 20-day cure period has expired. Within approximately two weeks of the expiration of the 20 days, OE requests that PRV provide a statement on the extent of compliance with the NONC. If compliance was adequate, OE closes the case. If not, OE begins its investigation of the facts, and, if appropriate, computes and issues a civil penalty.

ONRR will take the following actions to further improve its existing management controls and procedures:

- PRV will run a report from the tracking system on the 15<sup>th</sup> day of each month. The responsible PRV supervisor will review the report to ensure NONCs are issued timely for OTRs that are past due.
- OE will update the OMB Circular A-123, Management's Responsibility for Internal Control (A-123) Enforcement Operations Processes to reflect these cross-division processes.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR

**Recommendation 2:** *Strengthen procedures to ensure that NONCs are issued promptly, and that civil penalties are assessed and increased when companies do not comply timely.*

**Response:** Concur.

As discussed above, PRV currently has a system in place to track the issuance of the OTRs and NONCs and ensure compliance with the 45-day and 20-day timeframes as described in our response to recommendation 1. We will continue to enforce the timely issuance of OTRs and NONCs by implementing the review of the tracking system report described in our response to recommendation 1. Also, as discussed above, OE has a system in place to track when NONCs



are issued and whether companies have complied to ensure that civil penalties are assessed and increased as necessary. Additionally, OE will continue to timely assess and increase civil penalties by implementing the A-123 Enforcement Operations processes as described in our response to recommendation 1.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR

**Recommendation 3:** *Fully document the justification for civil penalty amounts.*

**Response:** Concur.

While ONRR believes recent cases resulting in civil penalties contain such justifications, the justification elements (violation type, company size, selected penalty rate, and justifications for departure) are located throughout the case file on the dates those elements were developed rather than contained in one document. Accordingly, OE will develop a special form to document the justification for civil penalty amounts in one location within case folders.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR

**Recommendation 4:** *Prepare and document a preliminary risk assessment summary, as required by the Negotiated Agreement Manual, prior to entering into negotiations with companies.*

**Response:** Concur.

The OE will develop a form called the “Risk Assessment Summary” that, at a minimum, will contain fields for 1) the date OE prepares the summary, 2) a summary of the case, 3) a description of the applicable risks, and 4) a minimum settlement amount with justification. OE will complete the form prior to entering into negotiations and retain the form in the case file.

Additionally, OE will amend the Negotiated Agreement Manual to describe the form and the new procedures for completing it.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR

**Recommendation 5:** *Include instructions in the Negotiated Agreement Manual that a preliminary minimum settlement amount should be determined, with justification for that amount, and added to the preliminary risk assessment summary prior to negotiating a settlement amount.*

**Response:** Concur.

As addressed in our response to recommendation 4, ONRR will develop a “Risk Assessment Summary” prior to negotiating a settlement amount. OE will use this form to document the preliminary minimum settlement amount and update the minimum settlement amount as appropriate.

Additionally, OE will amend the Negotiated Agreement Manual to correctly describe the form and the new procedures for completing it.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR

**Recommendation 6:** *Develop and implement written policies and procedures to: 1) instruct companies to prepay the Agreement in Principle amount by a date certain to avoid lost interest while the final settlement agreement is being processed and executed, and 2) require companies to make additional interest payments should they not make the full prepayment by the specified date.*

**Response:** Concur.

The ONRR has policies and procedures in place that require companies to prepay the Agreement in Principle amount by a date certain while the final settlement agreement is being processed and executed, and to pay interest on the Agreement in Principle if they do not. OE will review these policies and procedures to ensure that they are comprehensive and integrate them into the Negotiated Agreements Manual.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR

**Recommendation 7:** *Continue to improve the tracking system for sureties so that the surety accountant can easily identify that all sureties are received, and all updates are obtained timely.*

**Response:** Concur.

The ONRR has enhanced its process for tracking of sureties by updating the A-123 Surety Process and developing a process for the ONRR Surety Accountant to timely refer cases when a lessee fails to post a bond to Enforcement Operations for issuance of a NONC. Additionally, OE will improve the Surety Database to better monitor active surety cases. These improvements will serve as a strong framework for the ONRR Surety accountant to ensure receipt of all sureties and timely updates.

Target Date: Fourth Quarter FY 2012

Responsible Official: Gregory J. Gould, Director, ONRR



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## Appendix 3: Status of Recommendations

In response to our draft report, ONRR concurred with all seven of our recommendations and agreed to implement them. ONRR provided corrective action plans and an action official for each recommendation (See Appendix 2). Therefore, we consider all seven recommendations resolved but not implemented.

Recommendations	Status	Action Required
I, 2, 3, 4, 5, 6, and 7	Resolved, not implemented	The recommendations will be referred to the Assistant Secretary Policy, Management and Budget for tracking of implementation.

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