

IPANM has provided comments and suggested edits to the OCD's proposed rule on administrative penalty. Below in numbered paragraphs are the overall issues that IPANM would like to see incorporated into the rule and below that are specific proposals made by IPANM. IPANM's comments and suggested changes to the rule can be viewed at the following link:

We ask members to consider writing their own letters to the OCD (must be received prior to the January 2, 2020 hearing) and/or make public comments at the hearing. It is especially useful if you can provide some individual detail as to why one or more of these issues is important to your company.

1. Penalties are a tool that can be used to ensure compliance but should not be mandatory:
 - Rule should be modified so that it does not appear that fines are mandatory.
 - No penalties are appropriate where the operator and the OCD agree upon a resolution and the operator complies with that agreement.
2. Double penalties for the same conduct are not effective or appropriate:
 - No penalties are appropriate where BLM has fined for the same violation.
 - If another agency besides BLM fines or penalizes an operator for a violation, any OCD fines should be credited by the amounts paid to that agency.
3. There should be policies in place that create transparency as to fine amounts and ensure that similarly situated operators with similar violations are treated in similar manner.
 - IPANM has proposed that the Rule include five tables: one setting out base penalties for various violations; three setting out factors that might result in increases in the base penalty, and a fifth that lists factors that should reduce the penalty.
 - Two of the factors that IPANM has suggested to reduce penalty may be important to IPANM members—low productivity wells should reduce penalties and smaller operators should pay smaller penalties.
4. A temporary cessation order that OCD seeks to extend beyond 30 days could cause an operator to lose a lease or other property rights under continuous drilling/operations clauses.
 - The hearing officer should be empowered to shorten the time frames for a hearing if the operator shows a good reason for doing so.

5. Operators should not be penalized for violations for periods of time that they were not aware of the violation.
 - The OCD can only impose daily penalties from the day the operator knew or reasonably should have known of the violation.
6. The proposed rule does not contain the provisions necessary to allow a district court to review the matters.
 - IPANM suggested technical legal amendments that will allow an aggrieved operator to seek district court review