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Amendments to ONRR's Service of Official Correspondence -- RIN 1012-AA14

Comment On: ONRR-2013-0001-0001

Amendments to Service of Official Correspondence

Document: ONRR-2013-0001-DRAFT-0018

Comment from Karin Foster,

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General Comment

See attached file(s) This proposal is a significant amendment to the service of notice and legal documentation rules. This should not be a Final Direct Rule. This comment is an ADVERSE comment to the rule and as such, the ONRR must withdraw this rule as a final direct rule and repurpose it under the regular rule making provisions of the Administrative Procedures Act.

Attachments

IPANM ONRR notice rule comments 092313



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September 20, 2013

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Re: Response to Docket No. ONRR-2013-0001, RIN 1012-AA14, Direct Final Rule Amendments to ONRR's service of Official Correspondence.

On behalf of the 300 member companies of the Independent Petroleum Association of New Mexico, (IPANM), please accept this comment as ADVERSE to the proposed Direct Final Rule entitled "Amendments to the ONRR's Service of Office Correspondence" published on August 23, 2013 in the Federal Register at Vol. 78, p. *Pages 52431 - 52433* [FR DOC #: 2013-20634], (hereinafter, "The Rule").

IPANM is the primary Association in New Mexico representing the oil and gas producer. The production from our member companies represents over 80% of the oil and gas recovered in our state. The revenues from the oil and gas industry support nearly 50% of the state budget and 94% of the Land Grant Permanent Fund. According to the New Mexico Department of Finance, in FY 12, 50% of the oil production in the state was on federal lands. Similarly, 63% of the natural gas production in New Mexico is on federal lands. Thus, royalties from public lands are an important source of revenue to the state General Fund, amounting to royalties of

over \$403.2 million paid to the state in FY 12. The same agency has calculated that the taxable value of the oil and gas resource in New Mexico, at very conservative price estimate for oil and gas, is as high as \$11.2 billion.

General Comment to ONRR Direct Final Rule

The Rule proposes to add a new section to 30 C.F.R. §1218.540 to allow the ONRR to serve official correspondence by means of “any electronic method of delivery that keeps information secure and provides for receipt of delivery or, if there is no receipt, the date of delivery otherwise documented” §1218.540(a)(4). In addition, the Rule is amended to allow the agency to claim a document constructively served 7 days after the date of the electronic transmittal provided the agency has a receipt or other documentation that ONRR attempted electronic service.

Preliminarily, IPANM strongly objects to the Agency publishing this very major change as a “Direct Final Rule”. Direct Final Rules are those that relate to routine or uncontroversial matters. This proposed rule significantly amends service and formal notice requirements for the industry and significantly impacts operators. Members of IPANM have experienced difficulty with ONRR official notices being served by existing methods of service. Most recently, a “dear reporter” letter was sent from the agency with a date of August 8 stamped on the top, however, the producers did not receive the letter by USPS until September 6, 2013. In addition, the agency claims that it will update its records once a ONRR-4444 report is filed. However, most of our producers state that the agency still sends notices to the incorrect personnel or address years after filing the ONRR-4444. With the electronic delivery proposed in this rule, a company will be at risk of having deemed received official correspondence when the agency failed to update records, typed in an incorrect email address or emailed it to a terminated or reassigned employee.

Then there is the likely possibility of an email being captured in spam due to size limitations, or a hardware or software bug that might reject an official ONRR email.

Of primary concern to IPANM members would be the need to integrate their systems to the rule's proposed method of transmission, "Messageway" which has had its share of glitches. Smaller operators can not bear the cost of compromising their IT systems just to ensure that a random email from ONRR wont be caught in a spam filter.

IPANM also contests the Agency statement that the this direct final rule complies with the requirements of Executive Order 12988 as this rule does not eliminate ambiguity and may increase litigation. Further, this Rule does not meet the requirement of EO 12988 section 3(b)(2) mandating that the regulation is written in clear language.

There are some many additional questions with how the proposed Rule is intended to work. Clearly, this can not be a Direct Final Rule. IPANM would strongly urge the Agency to withdraw it and work with stakeholders within industry to create some acceptable and agreeable means of corresponding with industry.

Thank you.

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IPANM