



September 20, 2013

To: Armand Southall

From: Alby Modiano, US Oil & Gas Association
Dan Naatz, IPAA
V. Bruce Thompson, AXPC
Kathleen M. Sgamma, Western Energy Alliance
Claire Mosley, Public Land Advocacy

Re: Regulation Identifier Number (RIN) 1012-AA14

The undersigned trade associations, on behalf of their members, hereby submit the following comments concerning the Direct Final Rule entitled "Amendments to ONRR's Service of Official Correspondence" which was published in Volume 78 of the Federal Register on August 23, 2013 (the "Rule").

Note that each of our associations represents significant segments and working participants in the domestic oil and natural gas industry. Together we represent companies of all sizes, from the largest international majors, to large independents, to small partnerships, individuals or small family owned business. Combined, the associations have a joint membership of nearly 14,000 individuals spread across not only across regions where there is ongoing exploration and production activity, but also from nearly all the other States, as well, because of depth of support and technical services associated with our industry. Significantly, the associations (USOGA, IPAA, AXPC, WEA and PLA) account for nearly ALL the oil and natural gas produced in the United States.

The Rule proposes to add a new method of service of all official correspondence in §1218.540(a)(f) as follows:

Any electronic method of delivery that keeps information secure and that provides for a receipt of delivery or, if there is no receipt, the date of delivery otherwise documented.

Furthermore, the Rule proposes modification to §1218.540(d) to add that official correspondence will be deemed to have been constructively served 7 days after the date the official correspondence was electronically transmitted including situations in which a receipt or other documentation that ONRR attempted electronic service.

The Trade Associations have significant concerns regarding this Rule and do not believe it should have been published as a Direct Final Rule. Direct Final Rules are those that relate to routine or uncontroversial matters. The Rule regarding electronic methods of service does not fit that category.

The Rule raises numerous questions regarding electronic methods of delivery. For example:

1. What types of electronic methods of delivery will be used? Will email be one of the electronic methods of delivery?
2. What types of electronic methods of delivery provide for a receipt?
3. How will information be kept secure?
4. How will alternative dates of delivery be documented if there is no receipt?
5. Will these be methods that all intended recipients, both large and small, will be able to access?
6. Will any hardware or software modifications be required in order for a particular recipient to be able to receive and access official correspondence including any associated documents?
7. How will a company know for sure what date the official correspondence will be deemed received?

Members of the trade associations have experienced difficulties with official notices being served by the existing methods of service. For example, some companies report that official notices are still being sent to old addresses and to people no longer with a company several years after Form ONRR-4444 has been updated. At least, however, if a company has moved and filed a forwarding address, there is a year to discover that the new address is not being recognized in the ONRR systems. With an electronic method of delivery, will a company risk being deemed to have received an official correspondence if it is sent to the email address of an employee who has resigned or been terminated? Will companies have to "scramble" to get an updated Form ONRR-4444 in immediately and, even if they do, how quickly will changes be made in ONRR's system? Is it possible that some official correspondence will be deemed received if the update cannot be sent in and corrections made in ONRR's records within 7 days?

Members also report difficulties accessing documents through messageway. In some cases it is necessary to get IT departments involved but not every company has an IT department that can be called upon to assist.

All companies have experienced problems with emails including emails which are sometimes caught by spam catchers because of the size of attachments, how attachments are named, or for other reasons. Email servers go down and email service companies get hacked. Not all email systems are compatible and not all email systems can accept large size documents or zip files.

There are significant consequences associated with official correspondence. For example, service of an Order to Report and Pay triggers a 30-day time for appeal. It is critical that companies know the details of how official correspondence will be served so that they can put the processes and procedures in place to make sure that any official correspondence that ONRR believes has been received, or deemed received, has actually been received by the Company. For example, none of the Form ONRR-4444 currently on file with ONRR were completed and submitted with electronic methods of delivery in mind. Depending upon the electronic methods of delivery, which might be used, companies may want to change information on their Form ONRR-4444s but without more information that decision cannot be made.¹

In sum, there are so many unanswered questions with the Rule, that companies cannot be confident that they will receive official correspondence. The Trade Associations, on behalf of their members, request that the Rule be withdrawn as a Direct Final Rule.



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Dan Naatz, VP Federal Resources



V. Bruce Thompson, President



Kathleen M. Sgamma,
VP of Government & Public Affairs



Claire Mosley, Executive Dir.

¹ The Trade Associations wanted to review Form ONRR-4444 in order to be able to elaborate on this point but the link on the ONRR website to this form has been broken as a result of recent system upgrades by ONRR. This is yet another reason why reliance on electronic methods of delivery for official correspondence is cause for *serious concern*.