



[4335-30]

**DEPARTMENT OF THE INTERIOR**

**Office of Natural Resources Revenue**

**30 CFR Part 1218**

[Docket No. ONRR–2016–0003; DS63644000 DR2PS0000.CH7000 178D0102R2]

**RIN 1012-AA22**

**Repeal of Regulatory Amendment and Restoration of Former Regulatory Language Governing Service of Official Correspondence**

**AGENCY:** Office of the Secretary, Office of Natural Resources Revenue, Interior.

**ACTION:** Final rule.

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**SUMMARY:** The Office of Natural Resources Revenue (ONRR) is publishing this rule to repeal a 2013 direct final rule and restore the former regulatory language governing service of official correspondence.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For questions on procedural issues, contact Luis Aguilar, Regulatory Specialist, at (303) 231-3418 or by email to [luis.aguilar@onrr.gov](mailto:luis.aguilar@onrr.gov). For questions on technical issues, contact Bonnie Robson, Program Manager, Appeals & Regulations, by email to [bonnie.robson@onrr.gov](mailto:bonnie.robson@onrr.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Explanation of Amendments
- III. Procedural Matters

## I. Background

ONRR's "official correspondence" includes significant documents we send to industry, such as invoices, notices of audit, orders, and notices of enforcement. Historically, Department of the Interior (Department) regulations authorized ONRR to serve official correspondence by conventional means—U.S. mail, personal delivery, or private mailing service, such as FedEx or U.P.S. On August 23, 2013, ONRR published in the **Federal Register** a direct final rule amending its regulations on service of official correspondence (78 FR 52431). The 2013 direct final rule augmented the authorized methods of service to include electronic service, as long as the electronic service was secure and provided for a receipt.

The 2013 direct final rule provided for a 30-day public comment period. In the 2013 direct final rule, we stated that if we received significant adverse comment during that period, we would withdraw the rule. During the public comment period, we received significant adverse comments. We attempted to withdraw the 2013 direct final rule before it went into effect on October 22, but had insufficient time to do so due to the October 2013 government shutdown. Because the rule should have been withdrawn, we consider the rule legally defective, and we have not enforced it. We would withdraw the 2013 direct final rule now, but the time limit for withdrawal has expired. Instead, we are publishing this rule to repeal the defective 2013 direct final rule and restore the former regulatory language governing service of official correspondence.

Because this rule makes no changes to the legal obligations or rights of non-governmental entities, the Department finds that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective immediately upon publication in the **Federal Register** rather than 30 days after publication.

This is a final rulemaking with no request for comments. Under section 553(b), ONRR generally publishes a rule in a proposed form and solicits public comment on it before issuing the final rule. However, section 553(b)(3)(B) provides an exception to the public comment requirement if the agency finds good cause to omit advance notice and public participation. Good cause is shown when public comment is “impracticable, unnecessary, or contrary to the public interest.” We find that in this case, because we are simply restoring the former noncontroversial regulatory language, public comment is unnecessary.

## **II. Explanation of Amendments**

This rule repeals the direct final rule (78 FR 52431) and restores the former regulatory language governing service of official correspondence in sections 1218.540(a) and (d) of title 30 of the *Code of Federal Regulations* (CFR). This rule removes the language that currently appears in section 1218.540(a) allowing ONRR to serve official correspondence using any electronic method of delivery that provides for a receipt of delivery, or, if there is no receipt, the date of delivery otherwise documented. This rule also removes mention of electronic service from section 1218.540(d), which pertains to constructive service. This rule does not make any substantive changes to the regulations or requirements in section 1218.540(a) or (d). It simply restores the original procedures for ONRR’s service of official correspondence—removing the amendments made in the previously published direct final rule.

## **III. Procedural Matters**

### *1. Regulatory Planning and Review (Executive Orders 12866 and 13563)*

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in OMB will review all significant rules. OIRA has determined that this rule is not

significant. Also, this rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Executive Order 13563 reaffirms the principles of E.O. 12866, while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. Executive Order 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public, where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We developed this rule in a manner consistent with these requirements.

## *2. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for all rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). This rule will impact large and small entities but will not have a significant economic effect on either because this is a technical rule restoring the original service of official correspondence regulation language. Thus, the RFA does not apply to this rulemaking.

## *3. Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million or more.

b. Will not cause a major increase in costs or prices for consumers; individual industries; Federal, State, local government agencies; or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States–based enterprises to compete with foreign–based enterprises.

This is only a technical rule restoring the original service of official correspondence regulation language.

#### *4. Unfunded Mandates Reform Act*

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than \$100 million per year. This rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. Therefore, we are not required to provide a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) requires because this is a technical rule.

#### *5. Takings (E.O. 12630)*

Under the criteria in section 2 of E.O. 12630, this rule does not have any significant takings implications. This rule will not impose conditions or limitations on the use of any private property. Therefore, this rule does not require a takings implication assessment.

#### *6. Federalism (E.O. 13132)*

Under the criteria in section 1 of E.O. 13132, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Therefore, as a technical rule, it does not require a Federalism summary impact statement.

#### *7. Civil Justice Reform (E.O. 12988)*

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

a. Meets the criteria of section 3(a), which requires that we review all regulations to eliminate errors and ambiguity and to write them to minimize litigation.

b. Meets the criteria of section 3(b)(2), which requires that we write all regulations in clear language using clear legal standards.

#### 8. *Consultation with Indian Tribal Governments (E.O. 13175)*

The Department strives to strengthen its government-to-government relationship with the Indian Tribes through a commitment to consultation with the Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. Under the Department's consultation policy and the criteria in E.O. 13175, we evaluated this technical rule and determined that it will have no substantial direct effects on Federally-recognized Indian Tribes and does not require consultation.

#### 9. *Paperwork Reduction Act*

This rule:

(a) Does not contain any new information collection requirements.

(b) Does not require a submission to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). See 5 CFR 1320.4(a)(2).

#### 10. *National Environmental Policy Act of 1969 (NEPA)*

This rule does not constitute a major Federal action, significantly affecting the quality of the human environment. We are not required to provide a detailed statement under NEPA because this rule qualifies for categorical exclusion under 43 CFR 46.210(i) in that this rule is “. . . of an administrative, financial, legal, technical, or procedural nature. . . .” We also have determined that this rule is not involved in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The procedural changes resulting from these

amendments have no consequences with respect to the physical environment. This rule will not alter in any material way natural resource exploration, production, or transportation.

#### *11. Effects on the Energy Supply (E.O. 13211)*

This rule is not a significant energy action under the definition in E.O. 13211 and, therefore, does not require a Statement of Energy Effects.

#### **List of Subjects in 30 CFR Part 1218**

Continental shelf, Electronic funds transfers, Geothermal energy, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Service of official correspondence.

#### **Gregory J. Gould**

*Director for Office of Natural Resources Revenue*

#### **Authority and Issuance**

For the reasons discussed in the preamble, ONRR amends 30 CFR part 1218 as set forth below:

#### **PART 1218—COLLECTION OF ROYALTIES, RENTALS, BONUSES, AND OTHER MONIES DUE THE FEDERAL GOVERNMENT**

- 1. The authority citation for part 1218 continues to read as follows:

**Authority:** 5 U.S.C. 301 *et seq.*, 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C. 3335, 3711, 3716-18, 3720A, 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

- 2. Amend § 1218.540 by:
  - a. Revising paragraphs (a)(2) and (3);

- b. Removing paragraph (a)(4); and
- c. Revising paragraph (d).

The revisions read as follows:

**§ 1218.540 How does ONRR serve official correspondence?**

\* \* \* \* \*

(a) \* \* \*

(2) Personal delivery made pursuant to the law of the State in which the service is effected;  
or

(3) Private mailing service (such as the United Parcel Service or Federal Express), with signature and date upon delivery acknowledging the addressee of record's receipt of the official correspondence document.

\* \* \* \* \*

(d) *Constructive service.* If we cannot make delivery to the addressee of record after making a reasonable effort, we deem official correspondence as constructively served seven days after the date when we mail the document. This provision covers situations such as those where no delivery occurs because:

- (1) The addressee of record has moved without filing a forwarding address;
- (2) The forwarding order has expired;
- (3) Delivery was expressly refused; or
- (4) The document was unclaimed and the attempt to deliver it is substantiated by:
  - (i) The U.S. Postal Service;
  - (ii) A private mailing service, as described in this section; or
  - (iii) The person who attempted to make delivery using some other method of service.