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

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Amendments to Service of Official Correspondence

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Comment from John Garrett,

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General Comment

Comments related to RIN 1012-AA14

Amendments to ONRR's Service of Official Correspondence

The Summary of the Rule Change:

This rule will update the Service of Official Correspondence regulations in title 30 of the Code of Federal Regulations (CFR) to allow 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.

Notwithstanding the ONRR's definition of constructive service:

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 7 days after the date that we mail or electronically transmit 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 or updating its Form ONRR-4444 as required under paragraph (b) of this section;

(2) The forwarding order has expired;

(3) The addressee of record has changed its email address without updating its Form ONRR-4444 as required under paragraph (b) of this section;

It is not clear from the proposed amendment whether the ONRR will completely discontinue notification via U.S. Mail service and rely entirely on notification via "email", but it would appear that this change of notification can and will be made.

Situations very likely will exist where companies that must abide by constantly changing ONRR rules, regulations, directives and decisions, and whose lack of compliance with said changing rules, regulations, directives and decisions may have catastrophically damaging financial impact upon the company will not be notified in a timely manner, or not be notified at all of official ONRR communications.

Specific situations might include:

- 1) Emails blocked by “spam filters”
- 2) Emails sent to blind addresses belonging to workers no longer in employ of the company.
- 3) Emails sent to employees on vacation or sabbatical.
- 4) As noted above, updating of Form ONRR-4444 has not occurred, or was not processed in a timely manner.
- 5) Emails hacked, hijacked, deleted or misrouted.

The definition of constructive service deems official correspondence as “constructively served” seven days after the date of the electronic transmission of the document. Under previous circumstances, such a definition of “timely service” would not pose an extreme problem. However, the ONRR has begun a regime of defining non-compliance with changes in rules, regulations, directives and decisions as “Knowing and Willful” with fines and penalties assessed as high as \$25,000 per day per violation. With this much at stake for the financial security of small, independent companies which must abide by ONRR rules and regulations at their peril, the proposed amendment to the Service of Official Correspondence regulations should be deemed unwise, unfair and impractical.