

Proposed Rules

Federal Register

Vol. 55, No. 2

Wednesday, January 3, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 243

RIN 1010-AB37

Serving of Official Correspondence Issued by the Royalty Management Program

October 16, 1989.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: The Minerals Management Service (MMS) is proposing to amend its Royalty Management Program (RMP) regulations at 30 CFR part 243 to add a new provision delineating how official correspondence is to be served. Official correspondence includes orders and decisions served to lessees, lease operators, reporters and payors on Federal and Indian leases, and to refiners participating in the Government's Royalty-in-Kind (RIK) program. This rulemaking would: (1) Establish an "address of record" to which official correspondence will be sent, and (2) define the "date of service," whether the document was physically or constructively delivered. The date of service established in accordance with this rule also would be the beginning date of the 30-day period in 30 CFR part 290 for the filing of an appeal relative to an order or decision.

DATE: Written comments must be received on or before March 5, 1990.

ADDRESS: Written comments may be mailed to Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25185, Mail Stop 882, Denver, Colorado 80225. Attention: Dennis C. Whitcomb.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432, (FTS) 328-3432.

SUPPLEMENTARY INFORMATION: The principal author of this rule is Marvin Shaver of the Rules and Procedures Branch, Royalty Management Program, Minerals Management Service, Lakewood, Colorado.

I. Background

Title 30 CFR part 290 allows any party to a case adversely affected by a final order or decision issued by an MMS official to file a notice of appeal to the Director, MMS, within 30 days from the date of service of that order or decision. The MMS does not currently have regulations which delineate how service of official correspondence issued by its RMP is effectuated. The MMS uses as the date of service the date that the document is received by any person at the address to which the document was delivered. Receipt generally is evidenced by a return receipt card from the U.S. Postal Service. Therefore, appeals of orders or decisions that MMS receives more than 30 days after the addressee receives the order or decision are routinely rejected as untimely.

The MMS also does not have any regulations for its RMP specifying to what addressee official correspondence should be delivered. To date, MMS has used the address maintained in its files, which is often a company address. On December 13, 1988, a decision was issued by the Interior Board of Land Appeals (IBLA) that reversed a December 18, 1986, decision by the Director, MMS, that an appeal had not been timely filed and therefore would not be considered. *Coastal Oil and Gas Corporation (Coastal)*, 106 IBLA 90 (1988). The IBLA decision was based on the fact that Coastal had previously provided written notification to MMS that notices should be sent to a specific individual in the company. The MMS sent the order to Coastal, but not to the attention of the specified individual as directed. The order took several days to reach the specified individual after it was received by Coastal. Although over 30 days had passed between the date that Coastal received the MMS order and the date that MMS received the appeal, the specified individual had filed the notice of appeal within 30 days from the date of his personal receipt of the order. Therefore, in the absence of MMS regulations governing the serving of orders or decisions, the IBLA ruled that the appeal had been filed timely and

consequently reversed the Director's decision.

The IBLA decided:

In the absence of regulations specifically delineating how service of an invoice by MMS is effectuated, a payor engaged in a business relationship with MMS may specify a particular office or official to whom bills for collection should be directed. Service of an MMS bill for collection is not perfected until receipt by the official previously designated by the payor as the official to whom such notices should be directed.

To implement the IBLA decision, MMS is proposing regulations to specify how service of official correspondence, issued by its RMP is to be effectuated.

II. Discussion

(a) Addressee of Record

Most companies that do business with MMS have designated different offices within their companies to contact depending on the subject matter involved, such as for reporting of royalties; reporting of production, matters dealing with audits and inspections; or the payment of royalties, rentals, bonuses, or other amounts owed to the Government. In addition to lessees, lease operators, reporters, and payors on Federal and Indian energy and mineral resource leases (i.e., oil, gas, geothermal resources or solid minerals), MMS has business relationships with refiners participating in the Government's RIK program. Each of these offices has a different name and address. Consequently, MMS must maintain many different data bases of names and addresses.

Under these proposed regulations, an "addressee of record" must be established to which the document is to be delivered. The MMS is proposing in a new § 243.4 that official correspondence can be served either by personally delivering the document to the established addressee of record, or by sending the document to that individual by certified or registered mail, return receipt requested, to the established addressee of record.

Because of the many different offices and addresses involved, as explained above, MMS is proposing that a distinct or separate addressee of record be established depending on the subject matter involved. It would be the responsibility of that addressee to ensure that, once received, the

document is routed to the proper official within the company, if different, and that any appeal is filed within 30 days of receipt of an order or decision. The MMS proposes the following addressees of record.

(1) For serving official correspondence on refiners participating in the RIK program, MMS proposes that the addressee of record be the name and address identified in the executed royalty oil sale contract for administrative correspondence, or the most recent addressee that was specified in writing by the refiner for billing purposes. The refiner must notify MMS in writing of all addressee changes.

(2) For operators of leases committed or to be committed to RIK contracts, MMS proposes that the addressee of record be the name and address reported by the operator on its most recent Form MMS-4071, Semiannual Report of RIK Oil Entitlements and Deliveries or the most recent address that was specified in writing by the operator. Operators are responsible for ensuring that their Form MMS-4071 addressees are current.

(3) For serving official correspondence on anyone required to report energy and mineral resources removed from Federal and Indian leases to the RMP Production Accounting and Auditing System (PAAS), MMS proposes that the addressee of record be the most recent name and address that MMS has in its records for the reporter. The MMS addressee for the reporter was initially obtained from the reporter during conversion to PAAS reporting or during subsequent contacts with the reporter. The reporter is responsible for notifying MMS of any addressee changes.

(4) For serving official correspondence concerning onshore Federal leases, MMS proposes that the addressee of record be the last addressee of record with the Bureau of Land Management. For Indian leases, MMS proposes that the addressee of record be the last address of record with the Bureau of Indian Affairs. For offshore lessees, MMS proposes that the addressee of record be the last addressee of record with MMS Offshore Minerals Management. The lessee is responsible for notifying the appropriate Government office of any addressee changes.

(5) For serving official correspondence in connection with audits of payor records, MMS proposes that the addressee of record be the name and address of the official(s) designated in writing by the company at the inception of the audit, or the most recent

addressee that was specified in writing by the payor.

(6) For serving official correspondence relating to reporting on the MMS "Report of Sales and Royalty Remittance" (Form MMS-2014 for oil, gas, and geothermal resources or Form MMS-4014 for solid minerals), MMS proposes that the addressee of record be the most recent name and address that was specified in writing by the payor. The payor is responsible for notifying MMS of any addressee changes. (See 30 CFR 210.52 and 210.202.)

(7) For serving official correspondence on payors reporting to the RMP Auditing and Financial System not identified above, MMS proposes that the addressee of record be the name and address for the payor identified on the most recent Payor Confirmation Report (Report No. ARR 290R) of a Payor Information Form (PIF) returned by MMS to the payor for the Federal or Indian lease. A PIF (Form MMS-4025 for oil and gas or Form MMS-4030 for solid minerals) must be filed with MMS within 30 days after the issuance of a new Federal or Indian lease or after a change to an existing Federal or Indian lease. (See 30 CFR 210.51 and 210.201 (1988).) The Payor Information Section of the PIF identifies the party responsible for payment obligations on the individual lease for which the PIF was filed. A Payor Confirmation Report of the information provided on the PIF is sent to the designated payor with a request that the payor confirm the information, including its addressee.

(b) Date of Service

Under the proposed § 243.4(c), the lessee, lease operator, payor, reporter, RIK refiner, or other party will be deemed to have been served with the official correspondence on the date that the document was received at the addressee of record, as evidenced by a signed receipt of any person at that address. It would be the responsibility of the addressee to ensure that the document is routed to the proper official within the company and that any appeal is filed within 30 days of receipt of an order or decision at the established "addressee of record."

In some cases, addressee may attempt to avoid service of official correspondence. Therefore, MMS is proposing in § 243.4(d) that official correspondence will be deemed to have been constructively served 5 days after the date that the document is mailed if delivery cannot be consummated at the address of record. This provision covers such situations as nondelivery because the addressee has moved without filing a forwarding address, the forwarding

order had expired, delivery was refused, or the document was unclaimed where attempt to deliver is substantiated by U.S. Postal Service authorities. A 5-day period from the date of mailing is proposed because it is MMS's opinion that the addressee should not have the ability to postpone service of official correspondence by not accepting delivery. Service under the proposed rule would be deemed to occur when received or 5 days after the date that the document is mailed if delivery cannot be consummated.

The purpose of the proposed § 243.4 is to establish regulatory procedures for establishing addressees of record and for service of official correspondence. Specific comments are solicited on the proposed basis for determining the addressee of record, including recommendations for an alternate source. Specifically, MMS would like comments on a proposal whereby each lessee would designate one address for service of all official correspondence from MMS. While this alternative would place more burden on addressees to ensure that the appropriate person in their organization is aware of the MMS action in order to take timely appeal action if desired, it would significantly reduce MMS's burden.

Comments are also solicited with respect to the proposed date of service, including the provisions in paragraph (d) for constructive service.

III. Procedural Matters

Public Comment Procedures

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed rule to the location identified in the ADDRESS section of this preamble. Comments must be received on or before the day specified in the DATE section of this preamble.

Executive Order 12291 and the Regulatory Flexibility Act

The Department has determined that this document is not a major rule under E.O. 12291 because there is no additional cost imposed on industry as a result of this action and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Executive Order 12630

The rule does not represent a governmental action capable of

interference with constitutionally protected property rights. Thus a Takings Implication Assessment need not be prepared pursuant to Executive Order 12830, "Government Action and Interference with Constitutionally Protected Property Rights."

Paperwork Reduction Act of 1980

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

National Environmental Policy Act of 1969

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

List of Subjects in 30 CFR Part 243

Coal, Continental shelf, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Natural gas, Petroleum, Public lands-mineral resources.

Dated: November 28, 1989.

Scott Sewall,

Deputy Assistant Secretary—Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR part 243 is proposed to be amended as set forth below:

PART 243—APPEALS—ROYALTY MANAGEMENT PROGRAM

1. The authority citation for part 243 continues to read as follows:

Authority: R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; sec. 32, 41 Stat. 450, 30 U.S.C. 180; sec. 5, 44 Stat. 1058, 30 U.S.C. 285; sec. 10, 61 Stat. 915, 20 U.S.C. 359; sec. 5, 6, 67 Stat. 464, 485, 43 U.S.C. 1334, 1335; sec. 24, 84 Stat. 1573, 30 U.S.C. 1023, 30 U.S.C. 1701 et seq.

2. A new § 243.3 is added and reserved to subpart A.

3. A new § 243.4 is added to subpart A of part 243 to read as follows:

§ 243.4 Service of official correspondence.

(a) Official correspondence including orders and decisions, issued by the Royalty Management Program (RMP), may be served by delivering the document personally to the addressee of record established in paragraph (b) of this section or by sending the document certified or registered mail, return receipt requested, to the addressee of record established in paragraph (b) of this section.

(b) *Addressee of record.* (1) The addressee of record for refiners participating in the Government's Royalty-in-Kind (RIK) program is the name and address identified in the executive royalty oil sale contract for administrative correspondence or the most recent name and address that was identified in writing by the refiner/purchaser for billing purposes. The refiner must notify MMS in writing of all addressee changes, or if a different individual is to be specified.

(2) The addressee of record for operators of leases committed or to be committed to RIK contracts is the name and address reported by the operator on its most recent Form MMS-4071, Semiannual Report of RIK Oil Entitlements and Deliveries or the most recent address specified in writing by the operator. The operator is responsible for notifying MMS, in writing, of any addressee changes.

(3) The addressee of record for reporters energy and mineral resource production to the RMP Production Accounting and Auditing System is the most recent name and address obtained from the reporter. The reporter is responsible for notifying MMS, in writing, of any addressee changes.

(4) The addressee of record for Federal onshore lessees is the last name and address of record with the Bureau of Land Management. For Indian leases, the addressee of record is the last name and address of record with the Bureau of Indian Affairs. For offshore leases, the addressee of record is the last name and address of record with MMS Offshore Minerals Management. The lessee is responsible for notifying the appropriate Government office, in writing, of any addressee changes.

(5) The addressee of record in connection with audits of payor records is the name and address of the official(s) designated in writing by the company at the inception of the audit, or the most recent address that was specified in writing by the payor.

(6) The addressee of record for payors reporting on the MMS "Report of Sales and Royalty Remittance" (Form MMS-2014 for oil, gas, and geothermal resources or Form MMS-4014 for solid minerals) is the most recent address known by MMS or the most recent name and address specified in writing by the payor. The payor is responsible for notifying MMS, in writing, of any addressee changes.

(7) The addressee of record for serving official correspondence to payors reporting to the RMP Auditing and Financial System not identified above is the name and address for the payor identified or the most recent Payor

Confirmation Report (Report No. ARR 29OR) of a Payor Information Form returned by MMS to the payor for a Federal or Indian oil or gas lease (Form MMS-4025) or for a Federal or Indian solid mineral lease (Form MMS-4030). (See 30 CFR 210.51 and 210.201.)

(c) Except as provided in paragraph (d) of this section, official correspondence is considered served in the date that it is received at the addressee of record established in accordance with paragraph (b) of this section, as evidenced by a signed receipt of any person at that address.

(d) Official correspondence will also be deemed to have been constructively served 5 days after the date that the document is mailed if delivery cannot be consummated at the address of record established in accordance with paragraph (b) of this section.

[FR Doc. 90-60 Filed 1-2-90; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3702-3]

40 CFR Parts 141 and 143

National Primary and Secondary Drinking Water Regulations; Fluoride

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for information.

SUMMARY: In this notice, EPA is soliciting copies of any information that has a bearing on the current standards for fluoride in drinking water. The Agency is particularly interested in peer-reviewed scientific publications, published since January 1, 1985, dealing with the following topics as they relate to fluoride: (1) Possible adverse health effects (e.g., crippling skeletal fluorosis); (2) the incidence of objectionable dental fluorosis; (3) total exposure and (4) any studies concerning water treatment technology and costs, especially in smaller public water supplies that serve from 25 to 3,300 persons. EPA will review these studies and other information as part of its assessment of the current primary and secondary drinking water standards.

DATE: All material should be submitted by April 3, 1990.

ADDRESSES: Please send all responses to Lina Dargan, Criteria and Standards Division, Office of Drinking Water (WH-550D), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. EPA would appreciate