

2004, at 10 a.m. is rescheduled for Thursday, February 19, 2004, at 10 a.m. Written or electronically submitted public comments are due on February 13, 2004. Outlines of topics to be discussed at the public hearing must be received by February 11, 2004.

**ADDRESSES:** The public hearing is being held in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. Send submissions to: CC:PA:LPD:PR (REG-122379-02); Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-122379-02) Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, comments may be transmitted electronically via the Internet by submitting comments directly to the IRS Internet site at: <http://www.irs.gov/regs>.

**FOR FURTHER INFORMATION CONTACT:** Guy R. Traynor of the Publication and Regulations Branch, Associate Chief Counsel (Procedures & Administration), at (202) 622-3693 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking and notice of public hearing appearing in the **Federal Register** on Tuesday, December 30, 2003 (68 FR 75186), announced that a public hearing on proposed regulations relating to practice before the Internal Revenue Service, would be held on Wednesday, February 18, 2004, beginning at 10 a.m., in the auditorium of the Internal Revenue Building at 1111 Constitution Avenue NW., Washington, DC.

The date of the public hearing has changed. The hearing is scheduled for Thursday, February 19, 2004, beginning at 10 a.m., in the auditorium of the Internal Revenue Building at 1111 Constitution Avenue, NW., Washington, DC. Outlines of topics to be discussed at the public hearing must be received by February 11, 2004.

Dated: January 30, 2004.

**Richard S. Carro,**

*Senior Advisor to the General Counsel.*

[FR Doc. 04-2297 Filed 2-3-04; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 192 and 195

[Docket No. RSPA-98-4868 (gas), Notice 4; and RSPA-03-15864 (liquid), Notice 2]

#### Gas and Hazardous Liquid Gathering Lines

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Clarification of rulemaking intentions and extension of time for comments.

**SUMMARY:** RSPA's Office of Pipeline Safety (RSPA/OPS) recently held public meetings in Austin, Texas, and Anchorage, Alaska, to receive public comment on the definition of "gathering line" and on the regulation of certain rural gas and hazardous liquid gathering lines. RSPA/OPS also invited the public to submit written comments by January 17, 2004. RSPA/OPS's pipeline safety advisory committees will discuss these gathering line issues at a public meeting on February 3-5, 2004, at the Dulles Marriott Hotel, Dulles, Virginia. This notice clarifies RSPA/OPS's rulemaking approach to gathering lines regulation and explains the type of information RSPA/OPS is seeking. It also extends the deadline for written comments.

**DATES:** The revised deadline for submitting written comments is March 4, 2004. However, late-filed comments will be considered as far as practicable.

**ADDRESSES:** You may submit written comments directly to the dockets by any of the following methods:

- *Mail:* Dockets Facility, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., 20590-0001. Anyone wanting confirmation of mailed comments must include a self-addressed stamped postcard.

- *Hand delivery or courier:* Room PL-401, 400 Seventh Street, SW., Washington, DC. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

- *Web site:* Go to <http://dms.dot.gov>, click on "Comment/Submissions" and follow instructions at the site.

All written comments should identify the gas or liquid docket number and notice number stated in the heading of this notice.

*Docket access.* For copies of this notice or other material in the dockets, you may contact the Dockets Facility by phone (202-366-9329) or visit the facility at the above street address. For

Web access to the dockets to read and download filed material, go to <http://dms.dot.gov/search>. Then type in the last four digits of the gas or liquid docket number shown in the heading of this notice, and click on "Search."

*Privacy Act Information.* Anyone can search the electronic form of all comments filed in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the April 11, 2000 issue of the **Federal Register** (65 FR 19477) or go to <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** DeWitt Burdeaux by phone at 405-954-7220 or by e-mail at [dewitt\\_burdeaux@tsi.jccbi.gov](mailto:dewitt_burdeaux@tsi.jccbi.gov) regarding the subject matter of this notice.

#### SUPPLEMENTARY INFORMATION:

##### Background

Because of disagreements over the meaning of gas "gathering line" in 49 CFR part 192, RSPA/OPS has twice proposed to redefine the term. The first proposal was withdrawn (43 FR 42773; September, 1978), and the second (56 FR 48505; September 25, 1991) remains open. In reaction to unfavorable comments on these proposals, RSPA/OPS delayed final action pending the collection and consideration of further information on the gas "gathering line" issue. In contrast, RSPA/OPS has had little difficulty applying the definition of petroleum "gathering line" in 49 CFR part 195.

Following the second proposal to define gas "gathering line," Congress directed DOT to define "gathering line" for both gas and hazardous liquid pipelines, and, "if appropriate," define as "regulated gathering line" those rural gathering lines that, because of specific physical characteristics, should be regulated (49 U.S.C. 60101(b)). In furtherance of the open rulemaking proposal and the congressional directives, RSPA/OPS held an internet discussion that focused on a definition offered by the Gas Processors Association (GPA) (Docket No. RSPA-98-4868; 64 FR 12147; March 11, 1999).

However, follow-up action stalled because RSPA/OPS and its associated state pipeline safety agencies were concerned that physical pipeline features referenced in the GPA definition were changeable. As a stopgap, while deliberating on a suitable alternative to the 1991 proposal, RSPA/OPS published an advisory bulletin reminding pipeline operators that we would continue to define gas gathering

based on historical interpretations and court precedents until further notice (67 FR 64447; October 18, 2002).

### Public Meetings

In late 2003, RSPA/OPS held public meetings in Austin, Texas, and Anchorage, Alaska, to seek additional public comments on how to respond to the congressional directives on gathering lines. Notices of the meetings were published in the **Federal Register** on November 5, 2003 (68 FR 62555) and December 1, 2003 (68 FR 67129). During these meetings, RSPA/OPS suggested an approach to determining which segments of rural gathering lines should be regulated. The approach, which we used in a consent order issued to Hanley & Bird, Inc., a Pennsylvania Gas Production and Gathering Operator, is based on a density of five or more dwelling units per thousand linear feet of pipeline. The order may be viewed at <http://ops.dot.gov/regions/easterndoc/cpf130020.wpd>.

RSPA/OPS suggested this approach to generate public comments on how to define "regulated gathering line," not to describe a planned course of action. In addition, we hoped the suggestion would result in comments on the level of regulation appropriate to the characteristics and perceived risk of gathering lines in inhabited areas.

After the public meetings, we became concerned that the issues listed in the meeting notices may have caused confusion about what information we are seeking. To promote informed public participation in resolving the issues and in the advisory committee meetings, we decided to publish this notice to clarify our regulatory intentions.

### Extension of Comment Period

So that interested persons may consider the clarifications, this notice extends the time for written comments from January 17, 2004, to March 4, 2004. Although we are grateful for the comments we have already received and the efforts made to meet the January 17, 2004, deadline, we hope the extension will encourage even more comments.

### Advisory Committee Meetings

Another opportunity for the public to comment on defining gas "gathering line" and "regulated gathering line" will occur February 3–5, 2004, at a meeting of RSPA/OPS's pipeline safety advisory committees at the Dulles Marriott Hotel, Dulles, Virginia. An announcement of the meeting was published in the December 31, 2003, issue of the **Federal Register** (68 FR 75727). The advisory committee docket,

RSPA–98–4407, is open for comments on all matters before the committees, including gathering line issues.

### Specific Requests for Comment

The public meeting notices called attention to seven gathering line issues we believe are important. They are repeated below, along with additional clarification. We hope this will provide the public with the information needed to comment on the important gathering line issues.

(1) The point where gas production ends and gas gathering begins.

*Clarification.* RSPA/OPS wants to adopt definitions of gas gathering line and gas production that together will serve to identify the beginning of a gas gathering line. We recognize that some state oil and gas commissions regulate gas production facilities for safety and operational purposes. RSPA/OPS does not wish to create any regulatory overlap, but seeks to develop a definition that leaves no gaps between oil and gas commission oversight and oversight by RSPA/OPS or its state partners. The end of production should be a fixed asset, one that is easy to identify and not easy to change.

(2) The point where gas gathering ends and gas transmission or distribution begins.

*Clarification.* We are seeking to develop a definition of gas gathering line that clearly identifies the endpoint of the line. The definition should be broad enough to apply to widely varying gathering system configurations, yet be simple enough to allow consistent application by regulators and pipeline operators.

(3) In defining "regulated gathering line," whether we should consider factors besides those specified by Congress. For example, should we consider population density (by census or house count), or, for hazardous liquid lines, potential for environmental damage.

*Clarification.* Congress specified factors that must be considered in defining "regulated gathering line," or in deciding which rural gathering lines should be regulated. These factors are "location, length of line from the well site, operating pressure, throughput, and composition of the gas or hazardous liquid." We are seeking comment on which, if any, additional factors should be considered. For example, we believe a high concentration of hydrogen sulfide (H<sub>2</sub>S) is an important factor, and would like comments on ways to provide public safety in case of H<sub>2</sub>S releases from gathering lines. RSPA/OPS is considering several alternatives for the definition of gas gathering. The first is

the Hanley & Bird approach described above. We are seeking comments on whether dwelling density would be an appropriate way to define regulated segments, and, if so, what the density should be in relation to pipeline length. We are also seeking comment on whether a corridor approach, such as the class location approach in § 192.5, would be appropriate, and, if so, whether the corridor width should differ according to pipe hoop stress, such as 20% or 30% of specified minimum yield strength (SMYS). We are considering the type of location that could be impacted by a release of gas at points along a pipeline. We would like comments on how to calculate the risk zone of a gas gathering line, or impact area of a release, such as Part 192 requires for gas transmission lines in high consequence areas.

(4) Whether Part 195 should apply to rural gathering lines that operate at more than 20 percent of SMYS, or that could adversely affect an "unusually sensitive area" as defined in § 195.6?

(**Note:** certain crude oil gathering lines are, by law, exempt from safety regulation.)

*Clarification.* Should "regulated gathering line" include rural petroleum gathering lines that operate at more than 20 percent of SMYS, or that could adversely affect an "unusually sensitive area" as defined in § 195.6? If so, should Part 195 apply in its entirety to these lines?

(5) If you recommend safety regulations for rural gas or hazardous liquid gathering lines, to which rural lines would the regulations apply and why, approximately how many miles would be covered by the regulations, and what would be the estimated cost per mile of complying with the regulations?

*Clarification.* If you support regulation of rural gathering lines, we are interested in your justification for regulation, or why you think they need safety regulation. If you want to regulate only some rural gathering lines, we would like to know your rationale for deciding which rural gathering lines RSPA/OPS should regulate.

(6) The approximate mileage of rural gathering lines not now covered by Part 195.

*Clarification.* Not required.

(7) Whether safety regulations for gas or hazardous liquid rural gathering lines operating at low stress (e.g., 20 percent or less of SMYS) or a specified pressure for plastic lines should be fewer and possibly less stringent than regulations for other rural gathering lines?

*Clarification.* We are considering a tiered approach to regulation in which

increasing portions of Part 192 or Part 195 would apply to pipelines depending on their risk to the public or the environment. If you think this would be a reasonable approach, we would like comments on which regulations should apply to different risk levels. If you think hoop stress should define risk, we would like comment on which regulations should apply according to different stress levels. For plastic pipe, we are interested in views on what the risk levels should be and how the regulations should vary and, if pressure were to define risk, what the pressure should be.

#### Other Considerations

*Non-rural gathering lines.* Under Parts 192 and 195, onshore gathering lines are considered rural—and unregulated—if they lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area, such as a subdivision, a business or shopping center, or community development. Conversely, some gathering lines or portions of lines that are inside these limits—and now regulated—are similar to rural lines in that they are not in, or close to, inhabited areas. Should the risk-based approach to regulating rural gathering lines also apply to the regulation of non-rural gathering lines? If so, assuming population density was the risk-based approach, what reduction in currently regulated mileage might result from particular density levels? What would be the associated savings in cost of compliance?

*Compliance time.* In the public meetings, we discussed time lines for compliance. What would be the appropriate time for operators to achieve compliance? We have also considered establishing milestones for achieving compliance, including early compliance dates for easily implemented regulations, coupled with longer times for more complex regulations requiring greater capital expenditures. Does this appear to be an appropriate path and, if so, what should these times be and which categories of regulations should fall into which time frames?

**Authority:** 49 U.S.C. Chapter 601 and 49 CFR 1.53.

Issued in Washington, DC, on January 29, 2004.

**James K. O'Steen,**

*Deputy Associate Administrator for Pipeline Safety.*

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**BILLING CODE 4910-60-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 040130031-4031-01; I.D. 012704D]

RIN 0648-AR92

#### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Proposed Emergency Rule to Maintain an Area Access Program for the Atlantic Sea Scallop Fishery in Hudson Canyon

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed emergency rule; request for comments.

**SUMMARY:** This proposed emergency rule would implement measures to establish on March 1, 2004, the area access program for the Hudson Canyon Area, as proposed in Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP). These measures would be in place for 180 days or until such time that Amendment 10 can be implemented, which will be published later in the **Federal Register**. This action is necessary to avoid localized overfishing of sea scallops in the Hudson Canyon Area, and would help ensure that fishing mortality rates do not exceed the target thresholds established in the FMP.

**DATES:** Comments must be received no later than 5 p.m., eastern standard time, February 19, 2004.

**ADDRESSES:** Comments on this proposed emergency rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope "Comments - Emergency Rule to Maintain an Area Access Program for the Atlantic Sea Scallop Fishery in Hudson Canyon." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments will not be accepted if submitted via e-mail or Internet. Copies of the Draft Environmental Assessment (Draft EA) and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) and any other documents supporting this action are available from the Regional Office at the address specified here, and are accessible via the Internet at <http://www.nero.nmfs.gov/ro/doc/nero.html>.

#### FOR FURTHER INFORMATION CONTACT:

Peter W. Christopher, Fishery Policy Analyst, 978-281-9288, fax 978-281-9135, e-mail [peter.christopher@noaa.gov](mailto:peter.christopher@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Hudson Canyon Area (and the Virginia Beach Area) were first closed to sea scallop fishing in 1998 by the National Marine Fisheries Service (NOAA Fisheries) through an interim rule, enacted in consultation with the New England Fishery Management Council (Council) to protect an abundance of small scallops that would have been vulnerable to excessive mortality if left unprotected. On March 29, 1999, Amendment 7 to the Fishery Management Plan for the Atlantic Sea Scallop Fishery (FMP) extended the closures until March 1, 2001, to allow scallops within the areas to grow and spawn. Frameworks 14 and 15, implemented on May 1, 2001, and March 1, 2003, respectively, reopened the Hudson Canyon and Virginia Beach Areas to controlled scallop fishing because the area closures had provided sufficient time for the scallop resource within the areas to grow to a size suitable for harvest.

The regulations for the sea scallop fishery for the 2003 fishing year (March 1, 2003-February 29, 2004) include, among other measures, an area access program to govern the fishery within the Hudson Canyon Sea Scallop Access Area (Hudson Canyon Area). The program establishes an overall total allowable catch (TAC) for the area, limits the number of trips that can be taken into the area, establishes a scallop trip limit, and establishes a minimum number of days-at-sea (DAS) that will be deducted for each access trip from the vessel's DAS allocation. The Council adopted Amendment 10 to the FMP in September 2003, and submitted it for review by the Secretary of Commerce (Secretary) on December 19, 2003. Among the measures proposed in Amendment 10 is a continuation of an area access program for the Hudson Canyon Area, with some revisions to the program. Amendment 10 has been made available to the public for comment through March 15, 2004.

The Council's December 2003 submission of Amendment 10 means that it will not be possible to implement the action, if approved, by March 1, 2004. Thus, the existing Hudson Canyon area access program will expire at the end of the fishing year (February 29, 2004) and, on March 1, 2004, the Hudson Canyon Area will open to fishing without an area access program. Absent another regulatory action, the