Texas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that Texas' application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised.

Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses 40 CFR 272 for codification of the decision to authorize Texas' program and for incorporation by reference of those provisions of Texas' statutes and regulations that EPA will enforce under Section 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR 272, Subpart E, until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(A), 6926, 6974(b).

Dated: March 21, 1994.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 94–8735 Filed 4–11–94; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 190, 192, 193, and 195

RIN 2137–AB71

[Docket No. PS–126; Amdts. 190–5, 192–72, 193–9, 195–50]

Passage of Instrumented Internal Inspection Devices

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

ACTION: Final rule.

SUMMARY: This final rule amends the gas, hazardous liquid and carbon dioxide pipeline safety regulations to require that certain new and replacement pipelines be designed and constructed to accommodate the passage of instrumented internal inspection devices (smart pigs). This action was taken in response to a mandate in the Pipeline Safety Reauthorization Act of 1988. The intended effect of these amended regulations is to improve the safety of gas, hazardous liquid and carbon dioxide pipelines by permitting their inspection by "smart pigs" using the latest technology for detecting and recording abnormalities in the pipe wall.

EFFECTIVE DATE: The effective date of this final rule is May 12, 1994.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366–2036 regarding the subject matter of this amendment or the Docket Unit, (202) 366–5046 regarding copies of this amendment or other material in the docket.

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

RSPA published a Notice of Proposed Rulemaking (NPRM) on November 20, 1992 (57 FR 54745) proposing that new and replacement gas transmission lines and new and replacement hazardous liquid pipelines and carbon dioxide pipelines be designed and constructed to accommodate the passage of instrumented internal inspection devices. However, the rules would not apply to specific installations for which such design and construction would be impracticable. In addition, the NPRM proposed a procedure for operators seeking an administrative ruling on any rule in parts 192, 193 and 195 in which the administrator is authorized to make a finding or approval.

The NPRM was issued in response to Congressional mandates in sections 108(b) and 207(b) of the Pipeline Safety Reauthorization Act of 1988 (hereinafter "Reauthorization Act") (Pub. L. 100–561; Oct. 31, 1988). Section 108(b) of the Reauthorization Act amended section 3 of the Natural Gas Pipeline Safety Act of 1968 (NGPSA) by adding subsection (g), "Instrumented Internal Inspection Devices" (49 app. U.S.C. 1672). This new subsection requires the Secretary of Transportation to establish regulations requiring that:

> (1) The design and construction of new [gas] transmission facilities, and (2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities, be carried out, to the extent practicable, in a manner so as to accommodate the passage through such transmission facilities of instrumented internal inspection devices (commonly referred to as "smart pigs").

Section 207(b) of the Reauthorization Act amended section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 app. U.S.C. 2002) to require that DOT establish similar regulations with respect to pipeline facilities subject to the HLPSA.

Future Rulemaking Involving Smart Pigs

The Pipeline Safety Act of 1992 (hereinafter "PLSA of 1992") (Pub. L. 102–508; Oct. 24, 1992) in sections 103 and 203 amended the NGPSA and the HLPSA, respectively, by requiring the Secretary of Transportation to issue regulations that require the periodic inspection of gas transmission facilities and hazardous liquid pipelines in high-density population areas, and hazardous liquid pipelines in environmentally sensitive areas or crossing navigable waterways. In response to these mandates, RSPA will issue an NPRM proposing to prescribe the circumstances, if any, under which such inspections would be conducted with smart pigs. In those circumstances under which an inspection by a smart pig would not be required, RSPA is mandated to require the use of an inspection method that is at least as effective as the use of smart pigs in providing for the safety of the pipeline.

Regulations

In the NPRM, RSPA proposed to require all future new and replacement gas transmission lines subject to 49 CFR part 192 and hazardous liquid and carbon dioxide pipelines subject to 49 CFR part 195 to be designed and constructed to accommodate the passage of smart pigs, except where impracticable. For the purposes of this rulemaking, RSPA proposed that it would be impracticable to require the accommodation of smart pigs under the following categories of piping: Manifolds, station piping (such as compressor stations, pump stations, metering stations or regulator stations), cross-overs, and fittings providing branch line junctures (such as tees and other lateral connections). Additionally, the NPRM proposed to allow pipeline operators to petition (minimum 90 days in advance) the Administrator, in a particular case, for a finding that design or construction to accommodate a smart pig would be impracticable.

Advisory Committees

The Technical Pipeline Safety Standards Committee (TPSSC) and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) have been established by statute to evaluate pipeline safety regulations. The TPSSC and the THLPSSC met in joint session in Washington, DC on August 3, 1993, and considered the NPRM. Both committees accepted the NPRM as feasible, reasonable, and practicable with the incorporation of several changes. RSPA's disposition of the advisory committees' recommendations are discussed below.

Discussion of Comments

RSPA received public comments on the proposed rule change from 48 pipeline operators, seven pipeline-related associations, three state/Federal agencies, and one consulting engineer. The following discussion explains how RSPA considered the advisory committees' positions and the public comments on the proposed regulations in developing the final rule.

Low Stress Pipelines

Twenty-three commenters indicated that the rule should except pipelines in which the internal operating pressure results in low stress in the pipe wall. Many commenters argued that since gas transmission lines are not subject to certain pipeline safety regulations (§§ 192.609, 192.711 & 192.713) if they operate at or below 40 percent of the specified minimum yield strength (SMYS), that this rule should similarly not apply to these same transmission lines. The TPSSC also recommended that piping operating at a stress level of 40 percent of SMYS or less be excepted.

While RSPA understands this position, it does not agree that it justifies exception of gas transmission lines based solely on their low hoop stress at maximum operating pressure. Pipelines operating at lower stress levels are as susceptible to corrosion and other types of damage, identifiable by smart pigs, as pipelines operating at higher stress. In addition, the Reauthorization Act mandate to require certain new and replacement pipelines to be designed and constructed to accommodate the passage of smart pigs limits RSPA's discretion only to situations that make such design and construction impracticable. RSPA finds that an exception from the requirements adopted in this rule for pipelines operating at or below 40% SMYS is not appropriate, because the pipe wall stress does not, within the terms of the Reauthorization Act, affect the practicability of designing and constructing a line to accommodate passage of smart pigs.

Short Lengths

Eighteen commenters recommended that the rule except new or replacement pipelines based on their short lengths. Some commenters recommended excepting replacement pipelines depending on whether the adjoining portions of the pipeline are piggable. One of these commenters reasoned that unless the adjoining portion of pipeline can accommodate the passage of instrumented internal inspection devices, there can be no added benefit from making a replacement section piggable because the pipeline overall will still contain restrictions prohibiting inspection by smart pigs.

Nine commenters recommended exception of minimum lengths that ranged from 2000 feet to 5 miles. A gas transmission line operator recommended that the minimum excepted length should be the distance between compressor stations (40 to 60 miles), to exclude the necessity to replace non-full opening valves on short replacement sections. Four commenters suggested that the minimum excepted length should be determined by RSPA.

The disparity of the commenters' recommendations illustrates that there is no generally accepted rationale for determining the minimum length, if any, of pipe that should be excepted. Moreover, RSPA does not agree that the rule should except replacement pipelines based on either the length of the replaced section of pipeline or on whether the adjoining portion of pipeline can accommodate passage of instrumented internal inspection devices.

The plain objective of the statutory mandate is to make both short and long pipelines that are not now piggable from end to end, piggable in time through replacements. Therefore, the final rule does not include these exceptions. However, operators wishing to except short length pipelines may want to petition the Administrator under the procedures set out in the new § 190.9.

Non-Steel Pipelines

Five commenters recommended that the rule apply only to steel pipelines. One commenter argued that current internal inspection devices cannot monitor non-ferrous pipelines for stress corrosion. The commenter contends that no benefit derives from the running of smart pigs on these lines, and therefore it would be unreasonable to require operators to make them piggable.

Another commenter contended that, although some polyethylene gas pipelines are by DOT definition transmission lines, there are no smart pigs (except camera pigs) that are designed for use in plastic pipe.

RSPA does not agree that the rule should except non-steel pipelines. It is true that smart pigs cannot presently monitor non-steel pipelines for as many defects or anomalies as are detectable in steel pipelines. However, smart pigs can currently detect some physical defects in non-steel pipelines; i.e. dents, change in internal diameter, ovality, misalignment of joints, and change in position of the pipe. Moreover, by making new and replacement plastic pipelines piggable, they will be able to accommodate new smart pig technology as it is developed. Nonetheless, all the exceptions in this rule applicable to steel pipelines are also applicable to non-steel pipelines.

Small Diameter Pipelines

Twenty-four commenters recommended that the rule except the smaller diameter pipelines. Some reasoned that commercially available smart pig technology is limited to the larger pipe sizes. Consequently, for those sizes of pipe for which there are no commercially available smart pigs, designing and constructing pipelines to pass smart pigs would be impracticable.

RSPA does not agree that the rule should include a blanket exception for all small diameter pipelines. In recent years we have seen the increasing miniaturization of electro-mechanical components in equipment used in smart pigs and we expect the trend to continue.

RSPA understands that where no commercially available technology exists to inspect a particular pipe size by smart pigs, the pipeline operator would lack sufficient technical information to establish the design and construction criteria, e.g. minimum internal pipe diameter and minimum pipe bend radius, essential for passage of smart pigs. Therefore, the final rule has been written to apply only to pipeline diameters for which there is a commercially available smart pig at the time the new or replacement pipeline is designed. At the time of preparation of this document, RSPA finds that 4 inches is the minimum nominal pipe size for which smart pigs are commercially available.

Gas Transmission Lines Operated in Conjunction With Distribution Systems

Twelve commenters recommended that the rule except lines classified as transmission lines because their hoop stress is 20 percent or more of SMYS, that operate in conjunction with gas distribution systems. They reasoned that, typically, these lines have components and configurations that impede passage of instrumented internal inspection devices.

Some commenters reasoned that many of these transmission lines are the sole gas supply to large gas distribution systems. So, inspection of these lines by instrumented internal inspection devices could, if problems develop while running the inspection device, disrupt customer service.

RSPA does not agree that the rule should provide an exception for gas transmission lines that are operated in conjunction with distribution systems (except as discussed under the heading "Gas transmission lines in crowded underground locations"). First, although such lines may have configurations or components that impede inspection by smart pigs, the commenters did not provide information to substantiate the contention that these conditions are impracticable to avoid on new or replacement lines. RSPA believes it is practicable to design and construct new and replacement transmission lines operated in conjunction with distribution systems to accommodate passage of smart pigs. Second, potential service disruption (from stuck smart pigs) on single feed transmission lines will not be a factor on lines that are properly designed, constructed and maintained to accommodate smart pigs. Also, to further reduce the possibility of the smart pig becoming stuck, prior runs can be scheduled, with cleaning and caliper pigs, during periods of minimal load requirements. Third, the use of smart pigs to monitor the integrity of single feed transmission lines can detect problems before they can affect the reliability of the gas supply to the customers.

Gas Transmission Lines in Crowded Underground Locations

Twelve commenters recommended that RSPA except gas transmission lines located in certain urban areas. Most of them pointed out that utility locations underneath city streets in downtown urban areas are typically overcrowded. Physical constraints from other utilities and the structural boundary of available space make the design and construction of replacement pipelines to accommodate smart pigs impracticable. For example, many underground utility locations lack sufficient clearance between existing utilities to allow the replacement of existing short radius elbows with longer radius elbows (which consume more space) to permit passage of smart pigs. Nonetheless, a commenter from a state with few large cities suggested that internal inspection devices should only be required for pipelines located in Class 3 or 4 locations and in environmentally sensitive areas.

While gas transmission lines operated in conjunction with distribution systems are generally covered under this rule, RSPA agrees that the rule should provide an exception whenever gas transmission lines operated in conjunction with distribution systems are located in certain congested urban areas. RSPA believes it is impracticable to design and construct these particular transmission lines, considering the arguments presented above, to accommodate passage of smart pigs when there exist physical constraints, not associated with the pipe itself, which are beyond an operator's control. Furthermore, RSPA understands that underground utility areas in Class 4 locations are typically overcrowded and unable to accommodate the pipeline configurations needed for the accommodation of smart pigs. So, in the final rule, § 192.150(b)(6) excepts gas transmission lines that are: Operated in conjunction with a gas distribution system and installed in Class 4 locations. However, gas transmission lines, not operated in conjunction with a gas distribution system are not excepted because these lines generally pose greater risks, typically transporting gas at higher pressures.

Gas, Oil and Carbon Dioxide Storage Facilities

Twelve commenters recommended that the rule except gas transmission lines which are part of injection/withdrawal systems at gas storage facilities. Commenters said these gas storage facilities have small diameter piping configured in a grid-like pattern that would not permit the passage of smart pigs. The TPSSC likewise recommended that storage facilities be excepted. Similarly, one commenter urged an exception of delivery/withdrawal piping associated with hazardous liquid storage in breakout tanks, due to the short lengths, short radius bends and other tank farm piping configurations which are unable to accommodate the passage of smart pigs. The THLPSSC also recommended that tank farm piping be excepted from compliance with this rule.

RSPA agrees that because of piping configuration constraints associated with the storage facilities for gas, hazardous liquids and carbon dioxide it is generally impracticable for design and construction to accommodate passage of smart pigs. Therefore, § 192.150(b)(3) of the rule excepts piping associated with gas storage facilities, other than a continuous run of transmission line between a compression station and storage facilities, and § 195.120(b)(2) excepts piping associated with liquid storage facilities. Nonetheless, RSPA will be studying underground storage issues and, based on that work, may initiate rulemaking to address new safety measures that may be necessary.

Emergencies and Unforeseen Construction Problems

The NPRM proposed to exclude from the rule piping that the Administrator finds, upon petition by an operator, to be impracticable to design and construct to accommodate the passage of smart pigs. Eighteen commenters stated that many construction situations are under tight contractual or other time constraints that do not allow sufficient time to obtain a finding by the Administrator. For example, an operator may have to make immediate adjustments in the field because of the discovery of obstructions or other unforeseen problems. Thus, some commenters reasoned that while the Administrator would have at least 90 days to decide whether to grant a petition, most pipeline construction projects would not allow delays of a few days. A few commenters suggested that the operators should be permitted to accept the "burden of proof" when encountering an impracticability during construction and so inform RSPA.

Similarly, the TPSSC recommended that the test for impracticability be left up to the operator instead of petitioning the Administrator for a finding. The

Committee suggested the wording "and any other piping that the operator determines and documents would be impracticable to design and construct to accommodate the passage of an instrumented internal inspection device" be substituted for "the Administrator finds" in the exception of § 192.150(b) from the NPRM. Also, the TPSSC recommended that "emergency repairs" be added to the list of exceptions contained in § 192.150(b).

RSPA acknowledges that emergencies, construction time constraints, and unforeseen pipeline construction problems would not allow operators the time to petition for a finding of impracticability and wait for RSPA's response. Therefore, RSPA has added §§ 192.150(c) and 195.120(c) which permit an operator discovering an emergency, construction time constraint or other unforeseeable construction problem to make a provisional determination of impracticability. In such instances the operator must document the circumstances resulting in its impracticability determination. Within 30 days after discovering an emergency or a construction problem, the operator must petition under the new § 190.9, "Petitions for finding or approval" for a finding by the Administrator that design and construction to accommodate passage of internal inspection devices would be impracticable. If the petition is denied, the operator must modify the line section to allow passage of instrumented internal inspection devices, within 1 year after the date of the notice of denial.

Petitions for Finding or Approval

The NPRM proposed that § 190.9, "Petitions for finding or approval" be added to part 190 of this Chapter. Except as discussed above, commenters did not oppose the establishment of a procedure to allow an operator to petition the Administrator for an administrative ruling on any rule under parts 192, 193, and 195 in which the Administrator is authorized to make a finding or approval. Heretofore, a similar procedure in part 193 (§ 193.2015) applied only to petitions relating to LNG facilities.

In this rule, the § 190.9 has been revised to require operators of intrastate pipelines located in states, participating under section 5 of the NGPSA or section 205 of the HLPSA to direct their petitions to the state pipeline safety agency. The participating state agency will then make a recommendation to the Administrator as to the disposition of the petition.

Restraining Elements

Nine commenters objected to the proposed requirement to add restraining devices to all fittings providing branch line connections. Restraining elements are added when the outlet to the branch line could impede the passage of the smart pig. Many commenters argued that the addition of restraining elements to these fittings may inhibit cleaning of the branch lines by spheres or cleaning pigs. Other commenters pointed out that the use of restraining elements in the main line is unnecessary whenever the branch line has a significantly smaller diameter than the main line.

RSPA agrees that the rule should not require restraining elements where they are unnecessary or make impracticable other functions that are an essential and routine part of pipeline operations and maintenance. So, the rule does not include a requirement for installing restraining elements, but leaves their installation to the discretion of the operator.

Offshore Pipelines

Eleven commenters recommended that the rule except offshore pipelines. Several commenters based their recommendations on the fact that offshore pipeline networks are tied-in by "hot-tapped" or tee connections and these tie-ins are without restraining elements. This type of construction permits cleaning pigs or spheres, required for removal of materials (such as liquids from gas lines and wax from oil lines) that impede normal flow, to pass into laterals of ever increasing diameters.

The system design is contingent on the passage of these cleaning devices through the various laterals for final tie-in to the liquid trunk (main) lines and to the gas transmission lines. Then, these larger diameter lines transport the cleaning pigs to onshore facilities, for eventual retrieval.

An operator of offshore gas systems said that because of the many subsea tie-ins to pipelines of larger diameter, smart pigs will require some type of elaborate receiving device or physically disconnecting/lifting the pipeline; either of which would be very expensive. Other commenters advised that smart pigs cannot be launched or received subsea. An offshore operator said that new offshore platforms typically connect new platforms to an existing subsea network. Connections to an existing subsea pipeline are "hot-tapped" or are extensions to existing laterals. This operator summed up his recommendations by saying that it is impractical to design for the passage of smart pigs through these connections and it is certainly impractical to install subsea traps.

Commenters also stated that because of space limitations on the offshore platforms, the pipelines (risers) which have been routed up onto the platforms have been designed and constructed with short radius bends and other fittings that are only adequate for the launching of cleaning pigs or spheres. These commenters argue that the construction of the risers with long-sweeping bends on the sea floor and on the platform, and the installation of the longer launchers and receivers required to accommodate smart pigs, would be impracticable. For many of the same reasons, both the TPSSC and the THLPSSC recommended that offshore pipelines be excepted from the rule.

RSPA acknowledges that many subsea pipelines have been designed and constructed without restraining bars on branch line connections, because they would prohibit the passage of cleaning pigs and spheres. This design allows cleaning pigs and spheres to pass through the network of subsea laterals and ultimately into larger transmission or trunk (main) lines that transport gas or liquids to shore facilities.

It is also apparent to RSPA, that designers of offshore platforms seldom anticipated the space required to accommodate facilities necessary for the operation of smart pigs. Moreover, RSPA accepts that smart pigs cannot be launched or received subsea. However, RSPA does not agree with the commenters or the two advisory committees that all gas and liquid offshore pipelines should be fully excepted from this rule.

For pipelines subject to part 195, the current § 195.120 requires that each component of a main line system, other than manifolds, that change direction within the pipeline system must have a radius of turn that readily allows the passage of pipeline scrapers, spheres, and internal inspection equipment. This requirement for main line components to readily allow the passage of smart pigs through changes of direction has been in effect since 1970, when offshore liquid lines became subject to part 195.

Part 192 has applied to offshore gas lines since 1971. In accordance with the requirements of section 108(b) of the Reauthorization Act, RSPA sees the need for certain new and replacement offshore gas transmission lines and risers from these lines to be designed and constructed to allow passage of smart pigs.

Accordingly, in §§ 192.150(b)(7) and 195.120(b)(6), while the rule has not excepted all offshore lines and related

facilities, it has excepted offshore lines which are not gas transmission lines or liquid main lines 10 inches or greater in nominal diameter that transport these commodities to onshore facilities. RSPA limited the accommodation of smart pigs to these larger gas transmission and liquid main lines because we find, for the reasons expressed by the commenters, that the unique design and construction of the excepted offshore pipeline systems makes them generally impracticable for the passage of smart pigs.

When the rulemaking mandated by the PLSA of 1992 discussed under the heading—Future Rulemaking Involving Smart Pigs—is issued, RSPA may prescribe the circumstances for inspection with smart pigs. Such circumstances, if included in any final rule, may require the need for offshore platforms that contain risers, to also accommodate launchers and (where appropriate) receivers for the passage of smart pigs.

Above Ground Pipelines

Three commenters recommended that RSPA except above ground pipelines because operators can inspect these pipelines visually.

RSPA finds that regardless of whether an operator can visually inspect a line above ground is irrelevant to the practicability of design and construction of pipelines to accommodate passage of smart pigs. Furthermore, smart pigs are capable of detecting internal defects that cannot be discovered by a visual inspection of the outside surface of a pipeline. Moreover, above ground pipelines are required to be externally coated and coating materials usually preclude visual inspection of the outside surface. So, this recommendation was not adopted.

Clarification of the Term "Replacement"

Thirteen commenters recommended that the terms "replacement transmission line" and "replacement pipeline" be clarified to indicate the portion of an existing line that must be modified to accommodate smart pigs when replacements are made for other reasons.

A gas pipeline operator recommended that the meaning of the term "replacement transmission line" be limited to the pipe and components such as valves, bends, and fittings which are added to or replaced in an existing transmission line. Another gas pipeline operator expressed support for regulations stating that replacement pipeline facilities could not be constructed which would further restrict the passage of a smart pig. RSPA cannot accept the first commenter's recommendations because if "replacement" is limited to a replaced valve, a joint of pipe, or other component, then pipelines with restrictive components, such as elbows and tight radius field bends (which when properly maintained never need replacement) would never be piggable. Also RSPA cannot accept the second commenter's position because it appears to mean that the operator need only to make the replacement no more restrictive than it was prior to it being replaced. The clear intent of the congressional mandate is to improve an existing pipeline's piggability.

A pipeline operator and a pipeline related association, recommended that the word "pipeline" be replaced with "line section" defined in § 195.2. A gas pipeline association urged that "replacement transmission line" be changed to "replacement transmission section" to clearly indicate that only the portion of line replaced must accommodate the passage of smart pigs. Another pipeline related association interpreted "replacement" to mean either: (1) Replacement of the entire line, or (2) replacement of the line segment between two logical points (e.g. compressor stations). A gas pipeline operator also believed the term "segment" is appropriate because it is frequently used in part 192 and it recognizes that pipelines are segmented for different regulatory purposes. A gas transmission operator felt that the definition of "replacement line" should exempt the replacement of partial segments of existing gas pipelines within a valve section that are replaced because of class change or regular maintenance work because of construction restraints. A gas distribution operator stated that if the proposal was intended to apply to the replaced or relocated section only, then that limitation should be in the final rule.

The Congressional mandate requires the gradual elimination of restrictions in existing gas transmission lines and existing hazardous liquid and carbon dioxide lines in a manner that will eventually make the lines piggable. Operators are only required to remove the restrictions when replacements are made on the pipeline. On those occasions, the economic burden of the upgrading is reduced because crews and equipment will be on the site and that portion of the pipeline will need to be out of service. Six of the commenters appear to have considered the favorable economics when they recommended that the upgrading for piggability cover the "line segment" or "line section". While "line segment" is frequently used in the gas regulations it is not defined, although it's used similarly to "line section" (one commenter suggested it was the distance between two logical points e.g. compressor stations).

Therefore, in consideration of the comments "line section" is used in place of the term "replacement transmission line" in part 192, and "line section" is used in place of the term "replacement pipeline" in part 195, as those terms are used in the NPRM. "Line section," as added to part 192 is similar to "line section" as it is defined in § 195.2.

In part 195, "line section" is currently defined in § 195.2 to mean a continuous run of pipe between adjacent pressure pump stations, between a pressure pump station and terminal or breakout tanks, between a pressure pump station and a block valve, or between adjacent block valves. Now, in part 192 "line section" is defined in § 192.3 to mean a continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves.

Accordingly, §§ 192.150(a) and 195.120(a) have been revised to clarify that when a replacement is made of line pipe, line valve, line fitting, or other line component in an existing pipeline, covered by this rule, the complete line section must be made to accommodate smart pigs.

Also, RSPA has modified the final rule in response to the comment from the gas transmission operator that felt replacements of certain partial segments within an existing valve section that are replaced because of MAOP class change or regular maintenance work requirements, should be excepted because of construction constraints. Although, the construction restraints were not specified, RSPA has addressed construction type problems with the procedure set out in §§ 192.150(c) and 195.120(c).

Launchers and Receivers

Several commenters agreed with statements in the NPRM that installation of pig traps should not be required by this rulemaking, but should be left to the discretion of pipeline operators. Also, a commenter agreed with the statement in the NPRM that operators should determine where pig traps are to be permanently located based on individual operating circumstances. A gas pipeline operator said that in a practical sense, it would be more cost effective to add launchers and receivers

at the time of construction rather than after the transmission line is in service (which could again require the line to be taken out of service). The National Transportation Safety Board urged RSPA to revise its proposal so that facilities for entering and removing smart pigs are required on all pipelines capable of being traversed by such equipment. However, RSPA believes that revising the NPRM for this purpose would delay the regulatory effect of this rulemaking and the requirement may be included in a future rulemaking.

In the final rule, as in the NPRM, RSPA has not included requirements for launchers or receivers. However, when the rulemaking mandated by the PLSA of 1992 is issued, RSPA may prescribe the circumstances for inspection with smart pigs. Such circumstances, if included in any final rule, may require facilities for launching or receiving smart pigs. In the meantime, RSPA urges pipeline operators to consider the economic advantages of voluntarily installing facilities, at the time of construction or replacement of pipelines, for launching and receiving smart pigs.

Exemption of Gathering Lines

Several commenters urged clarification of the exception for gas gathering lines in the proposed § 192.9.

In light of the comments, RSPA agrees that clarification is needed. Therefore, the exception, of the new § 192.150, has been retained and the current exception, as provided in § 192.1, has been referenced in the revised § 192.9.

Moreover, in §§ 192.150(b)(7) and 195.120(b)(6), RSPA has excepted offshore pipelines other than gas transmission or liquid main lines, 10 inches or larger, that transport gas or liquids to onshore facilities. Liquid gathering lines, which are defined in § 195.2, are included in this exception.

Economic Impact

Nineteen commenters discussed the economic impact and the majority found fault with RSPA's assessment that the rule would add minimally to the average expense of pipeline design and construction.

As a result of information presented by the commenters, RSPA has excepted various categories of pipelines from the final rule. These exceptions are: Piping associated with storage facilities, other than gas transmission lines; piping sizes for which a smart pig is not commercially available; gas transmission lines, operated in conjunction with a distribution system, which are installed in Class 4 locations; and offshore pipelines other than certain gas transmission and liquid main lines. Additionally, operators are permitted to make a provisional determination of impracticability in instances of emergencies, construction time constraints or other unforeseeable construction problems that require immediate action. Other less urgent problems can be handled through the newly established procedure in § 190.9, "Petitions for finding or approval."

Accordingly, these exceptions together with others carried forward from the NPRM substantially reduce the cost of compliance with the rule. RSPA finds that the compliance costs will be minimal. A Regulatory Evaluation has been prepared and is available in the Docket.

Regulatory Notices and Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under 3(f) of Executive Order 12866 and, therefore, is not subject to review by the Office of Management and Budget. The rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979).

RSPA believes that the rule will add minimally to the average expense of pipeline design and construction. The information RSPA has collected for the study under section 304 of the Reauthorization Act shows that about 90 percent of hazardous liquid pipelines and 60 percent of gas transmission lines have been constructed to accommodate the passage of smart pigs. This information confirms RSPA's field experience that most operators are now constructing new and replacement gas transmission lines and hazardous liquid pipelines to accommodate smart pigs.

RSPA lacks detailed information about carbon dioxide pipelines which recently became subject to part 195. However, there are only about 10 such pipeline systems and we understand that they are not expected to grow in mileage or to require a significant amount of replacement in the near term. Thus, those pipelines should not be greatly affected by the revision of § 195.120.

Federalism Assessment

This final rule will not have substantial direct effects on the states, on the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612 (52 FR 41685; October 30, 1987), RSPA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

There are very few small entities that operate pipelines affected by this rulemaking. To the extent that any small entity is affected, the regulatory evaluation accompanying this rule shows that the costs are minimal. Based on these facts, I certify that under section 605 of the Regulatory Flexibility Act that this final regulation does not have a significant impact on a substantial number of small entities.

List of Subjects

49 CFR Part 190

Administrative practice and procedure, Penalties, Pipeline safety.

49 CFR Part 192

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Fire prevention, Pipeline safety, Reporting and recordkeeping requirements, Security measures.

49 CFR Part 195

Anhydrous Ammonia, Carbon dioxide, Petroleum, Pipeline safety, Reporting and recordkeeping requirements, Security measures.

In consideration of the foregoing, RSPA amends 49 CFR parts 190, 192, 193, and 195 as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 continues to read as follows:

Authority: 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009, and 2010; 49 CFR 1.53.

2. Section 190.9 is added to read as follows:

§ 190.9 Petitions for finding or approval.

(a) In circumstances where a rule contained in parts 192, 193 and 195 of this chapter authorizes the Administrator to make a finding or approval, an operator may petition the Administrator for such a finding or approval.

(b) Each petition must refer to the rule authorizing the action sought and contain information or arguments that justify the action. Unless otherwise specified, no public proceeding is held on a petition before it is granted or denied. After a petition is received, the Administrator or participating state agency notifies the petitioner of the

disposition of the petition or, if the request requires more extensive consideration or additional information or comments are requested and delay is expected, of the date by which action will be taken.

(1) For operators seeking a finding or approval involving intrastate pipeline transportation, petitions must be sent to: (i) The state agency certified to participate under section 5 of the NGPSA (49 U.S.C. 1674) or section 205 of the HLPSA (49 App. U.S.C. 2004); or

(ii) Where there is no state agency certified to participate, the Administrator, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

(2) For operators seeking a finding or approval involving interstate pipeline transportation, petitions must be sent to the Administrator, Research and Special Programs Administration, 400 7th Street SW., Washington, DC 20590.

(c) All petitions must be received at least 90 days prior to the date by which the operator requests the finding or approval to be made.

(d) The Administrator will make all findings or approvals of petitions initiated under this section. A participating state agency receiving petitions initiated under this section shall provide the Administrator a written recommendation as to the disposition of any petition received by them. Where the Administrator does not reverse or modify a recommendation made by a state agency within 10 business days of its receipt, the recommended disposition shall constitute the Administrator's decision on the petition.

PART 192—[AMENDED]

3. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

4. In § 192.3, the definition of *Secretary* is removed, and definitions of *Administrator* and *Line section* are added to read as follows:

§ 192.3 Definitions

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * * * *

Line section means a continuous run of transmission line between adjacent compressor stations, between a compressor station and storage facilities, between a compressor station and a block valve, or between adjacent block valves.

* * * * *

5. Section 192.9 is revised to read as follows:

§ 192.9 Gathering lines.

Except as provided in §§ 192.1 and 192.150, each operator of a gathering line must comply with the requirements of this part applicable to transmission lines.

6. Section 192.150 is added to read as follows:

§ 192.150 Passage of internal inspection devices.

(a) Except as provided in paragraphs (b) and (c) of this section, each new transmission line and each line section of a transmission line where the line pipe, valve, fitting, or other line component is replaced must be designed and constructed to accommodate the passage of instrumented internal inspection devices.

(b) This section does not apply to: (1) Manifolds;

(2) Station piping such as at compressor stations, meter stations, or regulator stations;

(3) Piping associated with storage facilities, other than a continuous run of transmission line between a compressor station and storage facilities;

(4) Cross-overs;

(5) Sizes of pipe for which an instrumented internal inspection device is not commercially available;

(6) Transmission lines, operated in conjunction with a distribution system which are installed in Class 4 locations;

(7) Offshore pipelines, other than transmission lines 10 inches or greater in nominal diameter, that transport gas to onshore facilities; and

(8) Other piping that, under § 190.9 of this chapter, the Administrator finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

(c) An operator encountering emergencies, construction time constraints or other unforeseen construction problems need not construct a new or replacement segment of a transmission line to meet paragraph (a) of this section, if the operator determines and documents why an impracticability prohibits compliance with paragraph (a) of this section. Within 30 days after discovering the emergency or construction problem the operator must petition, under § 190.9 of this chapter, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within 1 year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

PART 193—[AMENDED]

7. The authority citation for part 193 continues to read as follows:

Authority: 49 App. U.S.C. 1671 *et seq.*; and 49 CFR 1.53.

§ 193.2015 [Removed]

8. Section 193.2015 is removed and reserved.

PART 195—[AMENDED]

9. The authority citation for part 195 is revised to read as follows:

Authority: 49 App. U.S.C. 2002 and 2015; 49 CFR 1.53.

10. In § 195.2, the definition of *Secretary* is removed, and the definition of *Administrator* is added to read as follows:

§ 195.2 Definitions.

Administrator means the Administrator of the Research and Special Programs Administration or any person to whom authority in the matter concerned has been delegated by the Secretary of Transportation.

* * * * *

§§ 195.8, 195.56, 195.58, 195.106, 195.260 [Amended]

11. In §§ 195.8, 195.56(a), 195.58, 195.106(e), and 195.260(e), the term "Secretary" is removed and the term "Administrator" is added in its place.

12. Section 195.120 is revised to read as follows:

§ 195.120 Passage of internal inspection devices.

(a) Except as provided in paragraphs (b) and (c) of this section, each new pipeline and each line section of a pipeline where the line pipe, valve, fitting or other line component is replaced; must be designed and constructed to accommodate the passage of instrumented internal inspection devices.

(b) This section does not apply to:

(1) Manifolds;

(2) Station piping such as at pump stations, meter stations, or pressure reducing stations;

(3) Piping associated with tank farms and other storage facilities;

(4) Cross-overs;

(5) Sizes of pipe for which an instrumented internal inspection device is not commercially available;

(6) Offshore pipelines, other than main lines 10 inches or greater in nominal diameter, that transport liquids to onshore facilities; and

(7) Other piping that the Administrator under § 190.9 of this chapter, finds in a particular case would be impracticable to design and construct to accommodate the passage of instrumented internal inspection devices.

(c) An operator encountering emergencies, construction time constraints and other unforeseen construction problems need not construct a new or replacement segment of a pipeline to meet paragraph (a) of this section, if the operator determines and documents why an impracticability prohibits compliance with paragraph (a) of this section. Within 30 days after discovering the emergency or construction problem the operator must petition, under § 190.9 of this chapter, for approval that design and construction to accommodate passage of instrumented internal inspection devices would be impracticable. If the petition is denied, within 1 year after the date of the notice of the denial, the operator must modify that segment to allow passage of instrumented internal inspection devices.

Issued in Washington, DC on April 6, 1994.

Ana Sol Gutiérrez,

Acting Administrator, Research and Special Programs Administration.

[FR Doc. 94–8622 Filed 4–11–94; 8:45 am]

BILLING CODE 4910–60–P