

(c) Recipients shall make reasonable and appropriate efforts to inform applicants who have been denied service about the complaint procedures set out in § 1621.4(b).

(d) A recipient shall not disclose to the Corporation or to any third party any documents maintained by the recipient regarding denials of assistance that would violate the attorney-client privilege or applicable rules of professional responsibility, without the express written consent of the applicants for service.

Dated: September 27, 1994.

Victor M. Fortuno,
General Counsel.

[FR Doc. 94-24276 Filed 9-29-94; 8:45 am]

BILLING CODE 7050-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

RIN 3137-AB71

[Docket No. PS-126; Notice 2]

Passage of Instrumented Internal Inspection Devices

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

ACTION: Notice of Proposed Rulemaking; Response to Petitions for Reconsideration.

SUMMARY: On April 12, 1994, RSPA published a final rule requiring that new and replaced pipeline facilities be constructed to accommodate inspection by instrumented internal inspection devices commonly known as "smart pigs." RSPA has received two petitions for reconsideration of that rule as it applies to gas pipelines. In response to those petitions, this notice proposes to modify the rule with respect to: Replacements in gas transmission lines located in less populated areas; and replacements in gas transmission lines located offshore. In addition, in order to allow completion of rulemaking on these proposals, this notice proposes limited extension of the compliance dates for certain current requirements. Finally, this document announces RSPA's decision with respect to other matters raised in the petitions.

DATES: Comments on the limited extension of the compliance dates for current requirements are due October 31, 1994. Comments on other modifications of the rule are due November 29, 1994. Commenters should submit as part of their written

comments all the material that is considered relevant to any statement of fact or argument made.

ADDRESSES: Comments may be mailed or hand delivered to the Dockets Unit [DHM-20], Room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590-0001. Telephone: (202) 366-5046. Comments should identify the Docket No. and Regulatory Identification Number (RIN) stated in the heading of this document; the original and two copies should be submitted. Persons wishing to receive confirmation of receipt of their comments should include a self addressed stamped envelope. Public Dockets may be reviewed and copied between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366-2036, Office of Pipeline Safety, regarding the subject matter of this notice, or Dockets Unit, (202) 366-5046 for copies of this notice or other materials in the docket.

SUPPLEMENTARY INFORMATION:

Background

RSPA published a final rule under Docket No. PS-126 (Amendments 190-5, 192-72, 193-9, and 195-50) requiring operators of gas, hazardous liquid and carbon dioxide pipelines to design and construct new pipelines and portions of pipelines on which replacements are made to accommodate the passage of smart pigs (59 FR 17275; April 12, 1994). Among the provisions for gas transmission lines, 49 CFR 192.150(a) requires that:

* * * 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.

The term "line section" was defined (in § 192.3) as 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. It was derived from a definition already in use for hazardous liquid and carbon dioxide pipelines (§ 195.2).

Several specific exceptions to the requirements in § 192.150(a) are provided, including one for offshore gas transmission lines less than 10 inches in nominal diameter that transport gas to onshore facilities. In addition, under § 192.150(b)(8) an operator may seek a specific exception to be based upon a

RSPA finding that it would be impracticable to design and construct a transmission line for the passage of smart pigs.

Requests for Stay and Petitions for Reconsideration

The Interstate Natural Gas Association of America (INGAA) filed a "Request for a Stay of the Effective Date [May 12, 1994] of the Final Rule; Passage of Instrumented Internal Inspection Devices" dated May 4, 1994. INGAA requests that RSPA stay until at least January 1, 1995, that provision of the final rule requiring a line section, as defined in 49 CFR § 192.3, to be modified to accommodate smart pigs whenever a line pipe, valve, fitting, or other line component is replaced in a line section. To support their request for a stay, INGAA notes that the 1994 summer replacement/rehabilitation work is in progress and that funds for modification of line sections have not been allocated by operators. INGAA also argues that there was procedural error in the rulemaking process.

INGAA also filed a "Petition for Reconsideration of the Final Rule; Passage of Instrumented Internal Inspection Devices" dated May 10, 1994. INGAA asks that the definition of "line section" be deleted from 49 CFR § 192.3 and that all offshore gas transmission lines be exempt from the final rule. Issues raised by INGAA to support its request for deletion of "line section" are lack of authority to promulgate such a rule and procedural error. INGAA points to technical infeasibility and impracticability to support its request for exemption of offshore gas transmission lines.

The American Gas Association (AGA) filed a "Request for Administrative Stay of the May 12, 1994 effective date and Petition for Reconsideration of RSPA's Final Rule on Passage of Instrumented Internal Inspection Devices." Arguing that immediate implementation would harm public safety by diverting funds from other safety projects, AGA requests that RSPA immediately stay the effective date with respect to replacement of line sections. In addition, AGA requests that RSPA grant reconsideration of the final rule in order to address the costs, benefits, and practicability of the replacement requirement to modify the complete line section to accommodate smart pigs. To support this, AGA argues that RSPA failed to consider the standards for pipeline safety rules set out in 49 U.S.C. § 60102(b) (formerly section 3(a) of the Natural Gas Pipeline Safety Act); there was no opportunity for public comment on the definition of line section; the

Technical Pipeline Safety Standards Committee (TPSSC) was not given opportunity to review relevant provisions; and the final rule was not reviewed by the Office of Management and Budget (OMB).

The three documents submitted by INGAA and AGA are in the docket.

Stay of Compliance With Line Section Replacement

In its request to stay application of the line section replacement provision of the final rule, INGAA explained that "almost all decisions, to include funding, for pipeline replacement and rehabilitation are made at least a year preceding the summer work season * * * INGAA states that the one year lag time includes time required for "design work, obtaining bids for work, selecting contractors, ordering material, obtaining approval from FERC (Federal Energy Regulatory Commission), performing environmental analyses and obtaining Federal and State environmental and archaeological permits when necessary, and obtaining landowner approval for right-of-way work on their property." As a result, INGAA believes that it is "far too late to comply with a May 12, 1994, effective date to make 'line sections' piggable". AGA echoes this sentiment by stating that if the May 12, 1994, effective date of the final rule remains in place, "pipeline replacement projects currently in progress for 1994 would have to be canceled, since the administrative permits and plans for such projects were in place during the winter of 1993-94."

The concerns expressed by INGAA and AGA led RSPA to advise INGAA, AGA, and the American Petroleum Institute on May 12, 1994, that it was suspending enforcement, until further notice, of the final rule insofar as it requires making the entire line section accommodate smart pigs if the line pipe, valve, fitting or other component is replaced. The suspension did not effect the requirements that pipeline operators design and construct new onshore and offshore pipelines or the actual line pipe, valve, fitting or other line component being replaced to accommodate smart pigs. Furthermore, operators were encouraged to voluntarily modify any obstructions in the line section to accommodate smart pigs whenever any replacement is made.

This notice addresses INGAA's and AGA's request for a stay in a more formal manner. First, this notice proposes to extend the compliance date for replacements made in gas transmission pipelines to allow operators to continue replacing any line

pipe, valve, fitting or other line component (with a replacement that accommodates smart pigs) without requiring that any other obstructions in the line section be designed and constructed to accommodate smart pigs. As discussed below, RSPA is proposing to partially grant reconsideration of the final rule as it applies to replacements in gas transmission pipelines. At the same time, we are proposing to extend compliance dates to allow for completion of rulemaking on the reconsideration. Second, the suspension of enforcement with respect to gas transmission pipelines will remain in effect until February 2, 1995, or until RSPA finalizes action with respect to compliance dates, whichever is earlier.

Effect on Hazardous Liquid and Carbon Dioxide Pipelines

The petitions for reconsideration and requests for administrative stay received addressed only gas transmission pipelines. However, because of the possibility that the issues raised could be equally applicable to hazardous liquid and carbon dioxide pipelines, the suspension of enforcement applied equally to hazardous liquid and carbon dioxide pipelines.

RSPA has considered whether the reconsideration granted in this notice with respect to aspects of the final rule as they apply to gas transmission lines should be expanded to hazardous liquid and carbon dioxide pipelines. RSPA has decided not to expand the reconsideration to include hazardous liquid and carbon dioxide pipelines. First, there has been no request to do so. Second, hazardous liquid pipelines pose environmental risks generally unrelated to the population surrounding the pipelines. The relief proposed below with respect to gas transmission lines arise from the nature of those pipelines and their location with respect to population. Finally, based on data collected by RSPA (below) in 1989, approximately 41.7% of (136,359 miles) of natural gas transmission lines were not able to accommodate a smart pig for reasons other than lack of launchers or receivers, while only 10.5% (16,275 miles) of hazardous liquid pipelines were similarly not piggable.

Because RSPA is not proposing any changes in the final rule with respect to hazardous liquid and carbon dioxide pipelines, the suspension of enforcement with respect to those lines is immediately (insert date of publication of this NPRM) lifted and compliance will be enforced.

Replacements

A. Authority for Requirement

INGAA argues that RSPA lacks the authority to promulgate a rule requiring operators to modify line sections to accommodate smart pigs when portions of the sections are replaced. INGAA bases its argument on the assumption that the statutory authority for the rule is the change to the basic authorities for requiring modification of existing pipelines to accommodate smart pigs that was made by sections 103 and 203 of the Pipeline Safety Act of 1992 (P.L. 102-508, Oct. 24, 1992). That change authorizes RSPA to require changes to existing lines whose basic construction would accommodate a smart pig. The 1992 authority would allow RSPA to require the installation of launchers and receivers in lines that already can be smart "piggable" should the decision be made in a future rulemaking that the line must be so inspected. INGAA's assumption that RSPA was relying on this 1992 amendment in this rulemaking is incorrect.

The requirement in the final rule for replacement of the line section is based upon authority enacted in 1988 that now reads:

The Secretary shall prescribe minimum safety standards requiring that the design and construction of a new gas pipeline transmission facility or hazardous liquid pipeline facility, and the required replacement of an existing gas pipeline transmission facility, hazardous liquid pipeline facility, or equipment, be carried out, to the extent practicable, in a way that accommodates the passage through the facility of an instrumented internal inspection device (commonly referred to as a "smart pig").

49 U.S.C. 60102 (f). This section supports the final rule that requires any needed changes to the line section to accommodate smart pigs whenever one or more components must be replaced. A more narrow reading, one in which only the individual components must be made smart "piggable", would render the provision virtually meaningless. This is so because the factors that restrict "piggability" are often related to the geometry of the line (such as bends) rather than to an individual component (such as a valve). The use of valves that cannot accommodate smart pigs is largely in pipelines in which the geometry does not allow inspection by smart pigs. Thus a more narrow reading, in which only the single component being replaced must accommodate the internal inspection by smart pigs, would result in virtually no change in the "piggability" of existing pipelines.

Congress clearly intended that change in the "piggability" occur.

Accordingly, RSPA has the authority to issue the final rule. However, as discussed below, RSPA agrees that there may be instances in which the final rule requires that modifications be made to the entire line section which may not be feasible.

B. Scope of the Notice

AGA and INGAA argue that both the definition of "line section" and the mandatory modification of line sections were not included in the proposed rule, effectively precluding meaningful comment. AGA and INGAA claim that the notice of proposed rulemaking was so inadequate as to violate the requirement of the Administrative Procedure Act (APA) for notice and comment in the informal rulemaking process.

The notice proposed that each "replacement transmission line" (or, for hazardous liquid pipelines, each "replacement pipeline") be made to accommodate smart pigs. Much of the comment on the issue of replacement questioned the scope of the terms "replacement transmission lines" and "replacement lines." Commenters speculated about the end points of the segments of lines that had to be made to accommodate smart pigs when a replacement was required. Under the proposed language, any replacement in a transmission line could require modification of the entire line to accommodate smart pigs. AGA itself expressed concern that the proposed rule would be read to require altering an entire transmission line.

Recommendations to narrow the terms for replacement used in the proposed rule by substituting the term "line section" came from comments to the proposed rule filed by a pipeline trade association and a pipeline operator. These two commenters favored the term because it was already defined in 49 CFR 195.2 and it clearly set out the length to be made to accommodate smart pigs. Other commenters suggested similar terms such as "replacement transmission section" (recommended by AGA), "segment", and "line segment". However, none of these terms was as clearly defined as "line section", and RSPA, on the basis of the comments, chose to adopt the more recognized term to clarify the intent of the rule. This solution to the concerns raised by the commenters is clearly within the scope of the broadly worded proposal.

Accordingly, RSPA provided an opportunity for meaningful comment, consistent with the APA.

C. Advisory Committee Review

Both petitioners complain that there was no opportunity for consideration by the Technical Pipeline Safety Standards Committee (TPSSC) of the requirement to modify replacement line sections to accommodate smart pigs because line section was not mentioned in the notice or in the summary of comments that was prepared by RSPA for the August 3, 1993 TPSSC meeting. Consistent with 49 U.S.C. 60115, RSPA presented the published Notice of Proposed Rulemaking to the TPSSC. In addition, RSPA passed out a draft summary of the comments. The TPSSC accepted the proposed rule as reasonable, feasible and practicable provided several changes were incorporated. Since the TPSSC reviews and advises on the proposed rule, it is understandable that the final rule may differ from the proposal considered or accepted by that committee. In this case, the final rule was drafted and published some eight months later. Although RSPA is required to consider the TPSSC's advice (but is not obligated to adopt any of the TPSSC's recommendations), several issues raised by the TPSSC were incorporated in the final rule.

Accordingly, RSPA considered the TPSSC recommendations in an appropriate manner.

D. Economic Impact

Both INGAA and AGA claim that RSPA failed to consider adequately the economic impact of the replacement aspect of the final rule. However, many of the changes RSPA incorporated into the final rule were done at least in part because of economic arguments advanced by commenters. For example, based on INGAA's and AGA's comments to the NPRM, RSPA incorporated the procedure to address unforeseen contingencies in replacements (§ 192.150(c)); a clear exception for gas gathering lines (§ 192.9); an exception for pipelines located in storage fields because of the small diameter piping configured in a grid-like pattern (§ 192.150(b)(3)); and an exception for transmission pipelines within a distribution system (§ 192.150(b)(6)). In addition, the definition of "line section" was developed in part to address AGA concerns that "pigging" a short segment is not economically feasible and that the proposed rule could be read to require modification of the entire transmission line. Each of these incorporated changes reduced the economic impact of the final rule.

INGAA points to the costs of obtaining needed approvals for

replacement projects from the Federal Energy Regulatory Commission (FERC), Federal and state environmental and archaeological agencies, and property owners. INGAA claims that some of these may take a year or more to obtain. To the extent that approvals are needed before work on the line can be done, the final rule provides for delays. In response to INGAA and AGA comments, § 192.150(c) sets out a procedure to allow an operator to delay required modifications to the line section for up to one year should situations such as delays in needed approvals occur. However, many replacements will not require approvals. For example, FERC regulation 18 CFR § 2.55 does not require prior approval whenever the replacement is less than \$6.6 million (1994 limit) and does not reduce service or change the capacity of the line. Certainly the replacement of certain obstructions such as reduced port valves and short radius bends will fall into this category and not require any approval from FERC.

Both INGAA and AGA argue that the requirement to modify other obstructions in the line section whenever a replacement is made will potentially increase the cost of compliance with the final rule to over \$100 million per year. However, very little cost data was provided to support the argument. Moreover, based on information now available about numbers of gas transmission lines that will not accommodate smart pigs and the estimated frequency with which operators must install replacements in lines, RSPA believes the costs to be substantially less. The economic evaluation prepared for the final rule was based on available data relating to costs and frequency of replacements made in gas transmission lines. That evaluation estimated costs at \$1.05 million per year. Now under the heading—Requests for Information from Commenters—this notice requests the operators to provide up-to-date information on the gas transmission lines that are the subject of this notice. Thus, gas operators and petitioners will have an opportunity to provide specific information on the length of affected lines that are currently unable to accommodate smart pigs (for reasons other than lack of launchers and receivers) and the extent of replacements made in recent years for reasons other than to accommodate smart pigs.

Accordingly, RSPA finds that the cost of compliance with the final rule would not exceed \$100 million annually. In addition, the relief proposed in this

notice will further reduce the cost of compliance.

E. Executive Order 12866

AGA argues additionally that RSPA violated Executive Order (E.O.) 12866, titled "Regulatory Planning and Review," since "the costs of compliance with this rule could potentially reach over \$100 million annually" and the Office of Management and Budget (OMB) did not review the final rule. RSPA disagrees. In the first place, as already noted, RSPA believes the costs of the final rule to be well below \$100 million annually. Second, E.O. 12866 provides for OMB review of only "significant regulatory actions" unless OMB declines to review such a significant action. The procedure for determining that a regulatory action is not "significant" and for obtaining the concurrence of OMB with that determination is laid out in Section 6(a)(3)(A) of E.O. 12866 and "Guidance for Implementing E.O. 12866." The latter is a memorandum from Sally Katzen, Administrator for the Office of Information and Regulatory Affairs, OMB, to the heads of executive departments and agencies dated October 12, 1993. RSPA routinely follows this procedure by submitting lists of planned regulatory actions to OMB and obtaining its concurrence in designations of "significant" and "nonsignificant." OMB concurred in the designation of this final rule as "nonsignificant" on February 23, 1994. Finally, RSPA notes that E.O. 12866 is an internal management tool of Executive branch of the Federal Government and does not create any right to OMB review enforceable by any person against RSPA.

Accordingly, the final rule complies with the requirements of E.O. 12866 and OMB, as explained above.

F. Reasonableness

Petitioners argue that the final rule is unreasonable in requiring modification of line sections when single components are replaced. Petitioners assert that such modifications result in minimal benefits and excessive costs. RSPA believes that significant benefits can accrue from inspections with smart pigs. Both the Colonial Pipeline Company's and the Texas Eastern Pipeline Company's experiences with pipeline failures caused by outside force damage demonstrate the benefits of internally inspecting pipelines using smart pigs. The Colonial failure on March 28, 1993 resulted in the release of an estimated 408,000 gallons of petroleum into Sugarland Run Creek, a tributary of the Potomac River. The Texas Eastern

failure occurred on March 23, 1994 when a 36-inch gas transmission line exploded. The resulting fire leveled 128 condominium units in Edison, New Jersey and caused death, injury, and substantial property damage.

The failure in each case resulted from mechanical damage to the pipeline caused by external damage that occurred at an indeterminate time before the failure. Recent technological developments in smart pigs allow for internal inspections that identify dents, gouges, and other anomalies that could lead to failure on buried pipelines. Smart pig inspections done on each pipeline following these failures have resulted in the detection and removal of anomalies that could, over time, have led to additional failures.

In addition, smart pig inspections have long been used by pipeline operators concerned about corrosion.

In each of these cases, serious pipeline failures occurred in high density populated areas placing a significant portion of the population at risk. In each case, the "piggability" of the pipelines provided a more certain means to assure that similar incidents would not recur on those pipelines. Such "piggability" is the goal of the final rule. Requiring a pipeline operator to make necessary modifications in a line section whenever a replacement is made is not only reasonable, but also necessary for safety in high-density populated areas.

Accordingly, RSPA finds no reason to reconsider the final rule as it applies to replacements in line sections in Class 3 and 4 locations.

With respect to gas transmission pipelines in less populated areas, AGA argues that a requirement to modify the complete line section to accommodate smart pigs "will result in a risk to public safety by diverting limited funds for capital improvement projects—many of them safety related—to making pipelines accommodate smart pigs in rural areas where there would be little, if any, benefit to the public." After citing two examples of replacement projects that would have had large enormous increases under the line section modification requirement, AGA goes on to state that "this enormous increase in costs will result in the final rule having an economic impact of well over \$100 million annually for the industry." While RSPA does not accept these costs as typical for modifying the obstructions to smart pigs in most line sections, we see the need to reconsider the resulting benefits in less populated areas.

Accordingly, as discussed below, we are proposing to modify the final rule as

it applies to replacements in Class 1 and 2 locations.

Offshore Pipelines

INGAA requests that RSPA reconsider the final rule and except all new and replaced offshore transmission lines from compliance. INGAA argues that requiring offshore transmission lines to accommodate smart pigs is technically infeasible and impracticable and does not meet the special statutory criteria for pipeline safety standards. Those criteria, found in 49 U.S.C. 60102(b), require consideration of relevant available pipeline safety data, appropriateness of the standards for the particular type of pipeline transportation or facility, the reasonableness of the proposed standards, and the extent to which the standards will contribute to public safety and the protection of the environment.

To support its position, INGAA states generally that RSPA ignored technical material presented to show that offshore pipelines cannot be "smart pigged", including an assertion that most offshore gas pipelines are not constructed to accommodate smart pigs. RSPA disagrees strongly with this argument. The issue is not whether existing offshore lines can be "smart pigged" but whether new offshore transmission lines can be constructed or existing offshore gas transmission lines can be modified to accommodate smart pigs. RSPA considered technical material relating to problems such as tight bends, restrictive subsea connections, and limited space on platforms in deciding that they can be. No technical information has been submitted to RSPA that concludes that offshore gas transmission lines would be incapable of accommodating smart pigs if they are so designed and constructed. Their construction is not dissimilar from that of offshore hazardous liquid pipelines, many of which are already constructed in a manner that would accommodate smart pigs.

INGAA is incorrect in citing 1992 changes to the statutory authority as the basis for the final rule. As discussed above, that statutory change was not used to support the final rule. In addition, INGAA is incorrect that RSPA ignored recommendations of the TPSSC. As discussed above, RSPA is not obligated to adopt the recommendations of the advisory committee, only to consider them. Discussion of RSPA's consideration of those recommendations is included in the preamble to the final rule, but is commingled with the discussion of RSPA's response to commenters to the proposed rule. Furthermore, RSPA's consideration of

the criteria contained in 49 U.S.C. 60102(b), the technical data, and recommendations of the TPSSC resulted in the exception provided in the final rule for offshore gas transmission lines less than 10 inches in nominal diameter that transport gas to onshore facilities.

INGAA also points to the lack of population around offshore lines and the periodic cleaning of the gas transmission lines that removes condensates as justification for exception from the rules for these pipelines. The rationale is that offshore gas transmission lines do not pose either serious safety or environmental concerns justifying the cost of assuring that the lines can accommodate smart pigs. RSPA agrees that we may not have fully considered these factors in applying the rules to offshore gas transmission pipelines and accordingly propose a change to the final rule.

INGAA asserts that most offshore gas pipeline operators use cleaning pigs to periodically sweep condensate to onshore separation facilities. This keeps the offshore pipelines free from condensate and greatly reduces the environmental impact of an offshore leak by eliminating the risk of a condensate sheen. RSPA agrees that a leak in an offshore gas transmission line, that is free of significant accumulations of condensate, poses minimal risk to the natural environment.

As noted, RSPA agrees that the offshore gas pipelines do not pose the same safety risk as onshore pipelines. The offshore safety risk is to workers on platforms and to vessels. The latter risk is extremely remote absent the possibility of a collision between a vessel and an underwater pipeline. This possibility has been minimized by the issuance of § 192.612, which required operators to conduct underwater inspections in shallow waters in the Gulf of Mexico to determine whether they pose a risk to navigation and to rebury those pipelines. RSPA is working on a proposal addressing the need for similar periodic underwater inspections.

The accident reports for offshore incidents received by RSPA indicate that risk to workers on platforms comes from gas leaks in the risers. The leaks are the result of condensate with corrosive agents that is likely to collect in the riser's elbows and cause internal corrosion. Also, external corrosion at the riser's "splash zone" is caused by the degradation of protective coatings from wave action. Both types of corrosion are detectable by smart pigs. However, as INGAA points out, modification of riser bends in order to

accommodate smart pigs is costly. RSPA notes that there are alternative techniques of inspecting these risers for corrosion that are generally more effective (and less costly) than use of smart pigs that survey the entire pipeline. These include divers, remotely operated vehicles carrying ultrasonic thickness devices, or specially equipped tethered smart pigs.

Furthermore, it is important to note the recommendation contained in a 1994 study of marine pipeline safety by the National Research Council of the National Academy of Sciences titled—Improving The Safety Of Marine Pipelines. The study, co-sponsored by the Minerals Management Services and RSPA, had input from persons in industry, academia, and state and federal government who are experts in their fields and knowledgeable about the marine pipeline environment, suggested that:

* * * marine pipelines already constructed be exempted from federal or state requirements for the use of currently available smart pigs for external or internal corrosion detection. New medium- to large-diameter pipelines running from platform to platform or platform to shore should be designed to accommodate smart pigs whenever reasonably practical.

Accordingly, RSPA denies INGAA's petition to except new offshore gas transmission lines. However, as discussed below, RSPA has reconsidered benefits associated with the offshore gas transmission lines and proposes to modify the requirement under § 192.150(b)(7) of the final rule with respect to replacements in these lines.

Proposed Rules

First, as discussed above in the section titled "Stay of compliance with line section replacement," RSPA proposes to extend to February 1, 1995, the compliance date with respect to replacements in gas transmission lines.

Second, RSPA proposes to modify § 192.150(b) to add a new exception for replacements in the line sections of existing gas transmission lines in Class 1 and 2 locations. This exception would be limited to those situations in which an operator, who wishes to avail itself of the exception, can demonstrate that modifying the line section to accommodate smart pigs is not feasible, and not needed for future safety.

The safety prong of this test requires consideration of the operating and maintenance history of the line section. RSPA expects that the operator will take into account such factors as the reason for the replacement, corrosion history, leak history, and the risk of outside

force damage. For example, if the replacement that triggers the application of § 192.150(a) is required because of corrosion and the line section has a history of corrosion problems, or if external damage from earth movement is a concern, future safety considerations may require the line section to accommodate smart pigs.

A decision that modifying a line section is not feasible might be based on the nature and costs of the modification. For example, if (other than the replacement) the only modification on the line section needed to accommodate smart pigs is to replace a reduced port valve, and that modification will allow internal inspection of the entire line section, then the operator might reasonably conclude that the modification is feasible. However, if modification of the line section would require the acquisition of costly new right-of-way to straighten bends, the operator might reasonably conclude that modification is not feasible.

In reconsidering the benefits and costs of modifying line sections in these less populated areas, we have considered that we expect to promulgate, in the near future, a final rule in Docket No. PS-101, Excavation Damage Prevention Programs for Gas and Hazardous Liquid and Carbon Dioxide Pipelines. The notice for this rulemaking (53 FR 24747; June 30, 1988) proposed to require gas pipeline operators to expand their damage prevention programs to cover rural areas. Any such requirement that is in the resulting final rule would increase the safety of gas pipelines in Class 1 and 2 locations from failures caused by dig-ins.

Finally, with respect to existing offshore gas transmission lines, RSPA proposes to allow operators who (1) use cleaning pigs to remove condensate in offshore transmission lines and (2) inspect platform risers for corrosion to avoid modification of the complete line section when a replacement is made. The regular removal of condensates reduces the likelihood of internal corrosion and of the negative environmental impact of a large sheen in the event of a significant leak. The regular inspection of risers for corrosion by any of the effective methods available provides the necessary assurance of safety for personnel working on the platform.

Requests for Information From Commenters

The purpose of the questions posed below is to gather new or updated information relating to the issues in this rulemaking. Much of the data which RSPA has available were gathered in

order to meet the requirement for a congressionally-mandated study on the feasibility of requiring the use of smart pigs. To obtain information for this study, RSPA solicited information from interested parties through a Federal Register notice titled "Instrumented Internal Inspection Devices" (54 FR 20948; May 15, 1989). The data were summarized in Table 1 of the study titled "Instrumented Internal Inspection Devices (A Study Mandated By P.L. 100-561)," published November 1992. Table 1 indicated that 136,359 miles of gas transmission lines and 16,275 miles of hazardous liquid pipelines would not accommodate instrumented pigs for reasons not relating to the absence of launchers or receivers. Since this rulemaking only responds to petitions for reconsideration received from the two gas pipeline trade associations, updating of the mileage figures for hazardous liquid and carbon dioxide pipelines is not relevant.

RSPA invites interested persons to forward comments to the docket as directed under ADDRESSES that include up-to-date information on the following:

(1) What is the mileage, current to December 31, 1993, of the gas transmission lines that would not accommodate smart pigs for reasons other than lack of launchers and receivers?

(a) Indicate the mileage of onshore gas transmission lines affected by the final rule.

(b) Indicate the mileage of offshore gas transmission lines affected by the final rule.

(2) During the five calendar years, 1989 through 1993, what was the total length of replacements (actual length of replaced pipe, valves, fittings, or other line components), installed for reasons other than to accommodate smart pigs?

(a) Indicate the mileage of such replacements in onshore gas transmission lines affected by the final rule.

(b) Indicate the mileage of such replacements in offshore gas transmission lines affected by the final rule.

(3) When replacements are made in a gas transmission line affected by the final rule, are there alternatives to making the line section accommodate smart pigs that would ensure the entire transmission line would accommodate smart pigs in a reasonable number of years? Commenters are requested to support their alternatives with appropriate data.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed 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 notice is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034; February 26, 1979); because it does not impose additional requirements and has the effect of extending a compliance date. The original regulatory evaluation of the final rule has been modified because this proposed rule would reduce costs and is available for review in the docket for this notice.

Federalism Assessment

This proposed rule will not have substantial direct effects 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 notice 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 effect is minimal because it does not impose additional requirements and has the effect of extending a compliance date. Based on these facts, I certify that under section 605 of the Regulatory Flexibility Act that this proposed rule does not have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 192

Pipeline safety, Reporting and recording requirements. In consideration of the foregoing, RSPA proposes to amend title 49 of the Code of Federal Regulations part 192 as follows:

PART 192—[AMENDED]

1. The authority citation for part 192 is revised to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60110, 60113, 60118; 49 CFR 1.53.

2. In § 192.150, the introductory text of paragraph (b) is republished without change, paragraph (b)(8) would be

redesignated as paragraph (b)(9) and revised, paragraph (b)(7) would be redesignated as paragraph (b)(8) and revised, a new paragraphs (b)(7) and (d) would be added, to read as follows:

§ 192.150 Passage of Internal Inspection devices.

* * * * *
(b) This section does not apply to:
* * * * *

(7) Replacements in transmission lines in Class 1 or 2 locations (other than replaced line pipe, valve, fitting, or other line component) if the operator can demonstrate that modifying the line section to accommodate instrumented internal inspection devices:

(i) is not feasible; and
(ii) is not, based on an assessment of the operating and maintenance history of the line section, needed for future safety.

(8) Offshore transmission lines, other than new transmission lines 10¼ inches or greater in nominal diameter, if the operator can demonstrate:

(i) that cleaning pigs are regularly run to sweep condensate from the lines; and
(ii) that platform risers are regularly inspected for corrosion.

(9) 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.

* * * * *
(d) An operator replacing a line pipe, valve, fitting, or other line component in a transmission line in a Class 1 or 2 location need not comply, until February 2, 1995, with the requirement in paragraph (a) of this section that requires modification of the line section containing the component.

Issued in Washington, DC on September 23, 1994.

D.K. Sharma,

Administrator, Research and Special Programs Administration.

[FR Doc. 94-24080 Filed 9-29-94; 8:45 am]

BILLING CODE 4910-60-P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-49; Notice 04]

RIN [2127-AF43]

Federal Motor Vehicle Safety Standards for Electric Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).