



U.S. Department
of Transportation

1200 New Jersey Avenue, SE
Washington, DC 20590

**Pipeline and Hazardous
Materials Safety Administration**

May 13, 2024

Mr. Jaime Hernandez
Director, Engineering Codes and Standards
Kinder Morgan Operation Support Group
1001 Louisiana Street
Houston, TX 77002

Dear Mr. Hernandez:

In a letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), dated February 8, 2023, you requested an interpretation of the Federal pipeline safety regulations in 49 Code of Federal Regulations (CFR) Part 192 with respect to the applicability of § 192.612 to your Tejas 520-200 30-inch diameter and Tejas 520-213 14-inch diameter pipelines (Tejas Pipelines) that cross the San Jacinto River.

You stated that on May 24, 2022, a tugboat had exposed the Tejas Pipelines. You investigated the incident and determined that the event was not reportable and was not a safety-related condition. In addition, you determined that the Tejas Pipelines do not fall within the applicability of § 192.612 for underwater inspection and reburial of pipelines in the Gulf of Mexico and its inlets.

On January 19, 2023, the Texas Railroad Commission (TRRC) informed you that TRRC believed the Tejas Pipelines fall within the scope of § 192.612. However, you asserted that the Tejas Pipelines do not fall within the scope of § 192.612 because they are not located within the Gulf of Mexico and its inlets for several reasons. First, you stated the location of the Tejas Pipelines is not an inlet to the Gulf of Mexico because it is separated from the Gulf of Mexico by multiple bodies of water, including the San Jacinto River, Tabbs Bay, Trinity Bay and Galveston Bay. Second, you stated that the location in question is not open directly to the sea because it is separated from the Gulf of Mexico by the bodies of water listed above, including Galveston Bay. In addition, you stated that Galveston Bay is the inlet to the Gulf of Mexico, not any bodies of water farther upstream. You also provided overview maps of the location of the Tejas Pipelines and requested an interpretation as to the applicability § 192.612 to the Tejas Pipelines.

Section 192.612 requires underwater inspection and reburial of pipelines in the Gulf of Mexico and its inlets. The Gulf of Mexico and its inlets are defined in § 192.3 to mean “the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (*excluding rivers, tidal marshes, lakes, and canals*) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters), as measured from the mean low water” (emphasis added). The Tejas Pipelines do not fall within the scope of § 192.612 because

according to the maps provided, they cross the San Jacinto River. Rivers are excluded from the definition of the Gulf of Mexico and its inlets.

For additional background and reference, PHMSA adopted § 192.612(a) in 1991 requiring each operator to conduct an underwater inspection of its pipelines in the Gulf of Mexico and its inlets.¹ As PHMSA explained at the time, the rule was in response to a number of significant pipeline accidents involving natural gas and hazardous liquid pipelines buried in shallow waters that were struck by fishing and other vessels. On July 24, 1987, a fishing vessel struck and ruptured an 8-inch diameter natural gas liquid pipeline while maneuvering in shallow waters resulting in the deaths of two crew members. The pipeline originally had been buried, but due to substantial erosion, the pipeline reportedly was exposed at the time of the incident. On October 3, 1989, a fishing vessel struck a gas transmission pipeline, resulting in the death of eleven of fourteen crew members. An investigation of the incident determined the pipeline had become exposed.

With that regulatory background in mind, the May 24, 2022, tugboat exposure suggests the Tejas Pipelines may potentially face similar exposure risks as pipelines in the Gulf of Mexico and its inlets. Therefore, while the Tejas Pipelines may not fall within the scope of § 192.612, the pipeline operator is responsible for safely operating its pipelines and for meeting other applicable 49 CFR Part 192 requirements to maintain pipeline safety PHMSA recommends you determine if the exposure poses a safety hazard, and if so, promptly take any actions necessary to ensure pipeline safety, including if appropriate, to notify the NRC, mark the location, and bury the pipeline so that exposure does not present a hazard.

¹ Inspection and Burial of Offshore Gas and Hazardous Liquid Pipelines, Final Rule, 56 FR 63764 (Dec. 5, 1991); Pipeline Safety: Periodic Underwater Inspections, Final Rule, 69 FR 48400 (Aug. 10, 2004).

In addition, PHMSA reminds you that § 192.613(a) and (b), which are applicable to all gas pipelines regulated under 49 CFR Part 192, require an operator to have and implement continuing surveillance procedures and take appropriate action to address, among other things, “unusual operating and maintenance conditions.” Further, 192.703(b) requires operators to replace, repair, or remove unsafe pipeline segments.” The location of this pipeline is in the waters of the “Houston Ship Channel.” Ships and barges travel through this area and a pipeline with inadequate soil cover and depth below the water’s bottom would likely be a condition requiring appropriate action or it may be unsafe.

If we can be of further assistance, please contact Tewabe Asebe at 202-366-5523.

Sincerely,

John A. Gale
Director, Office of Standards
and Rulemaking



[Delivery Method - via e-mail]

February 8, 2023
Office of Pipeline Safety (PHP-30)
PHMSA
U.S. Department of Transportation
1200 New Jersey Avenue SE., Washington, DC 20590-0001
Email: PHMSA.pipelinesafety@dot.gov

Re: Interpretation request for Part 192.612.

Pursuant to 49 CFR 190.11(b) Kinder Morgan Tejas Pipeline LLC (Tejas) is requesting a formal interpretation from the Pipeline and Hazardous Material Safety Administration (PHMSA) regarding the applicability of 192.612 for following Tejas pipelines:

- Tejas 520-200 30”
- Tejas 520-213 14”.

On May 24th, 2022 Tejas was notified that a tugboat had exposed both of the previously mentioned lines. Consequently, Tejas investigated the incident from a pipeline safety perspective. After careful consideration, it was determined that the event was not reportable from an incident nor Safety Related Condition (SRC) perspective. In addition, Tejas assessed the applicability of the lines in question under 192.612 *Underwater Inspection and Reburial of Pipeline in the Gulf of Mexico and its Inlets* and concluded that the aforementioned section of the code was not applicable.

Following conversations and correspondence with the Texas Railroad Commission (TRRC), on January 19, 2023, the TRRC alleging that the Tejas “had not reburied exposed pipelines in the Gulf of Mexico and its inlets after discovery to the specified depth” and “requesting that Kinder Morgan Tejas Pipeline obtain an interpretation from PHMSA on the specified pipeline location determining whether or not the pipeline location is within an inlet of the Gulf of Mexico.”

Accordingly, Tejas is submitting this request for interpretation to PHMSA. Tejas seeks concurrence from PHMSA that the lines in question are not in the Gulf of Mexico or its inlets for the following reasons:

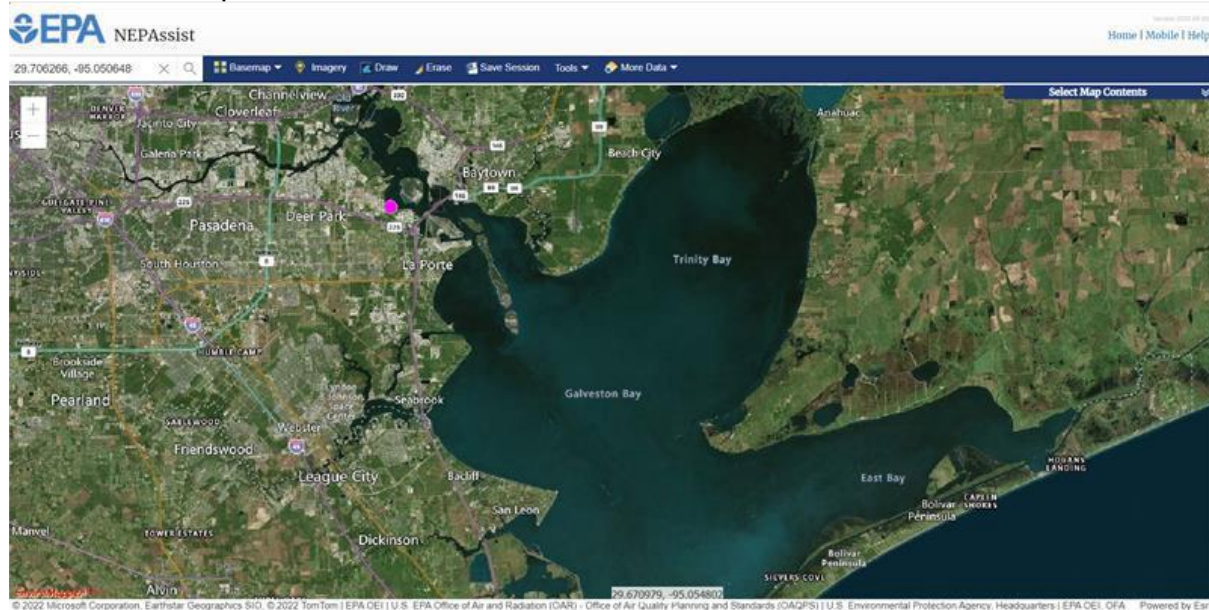
PHMSA and the TRRC define “Gulf of Mexico and its inlets” as:

Gulf of Mexico and its inlets means the waters from the mean high water mark of the coast of the Gulf of Mexico and its inlets open to the sea (excluding rivers, tidal marshes, lakes, and canals) seaward to include the territorial sea and Outer Continental Shelf to a depth of 15 feet (4.6 meters), as measured from the mean low water

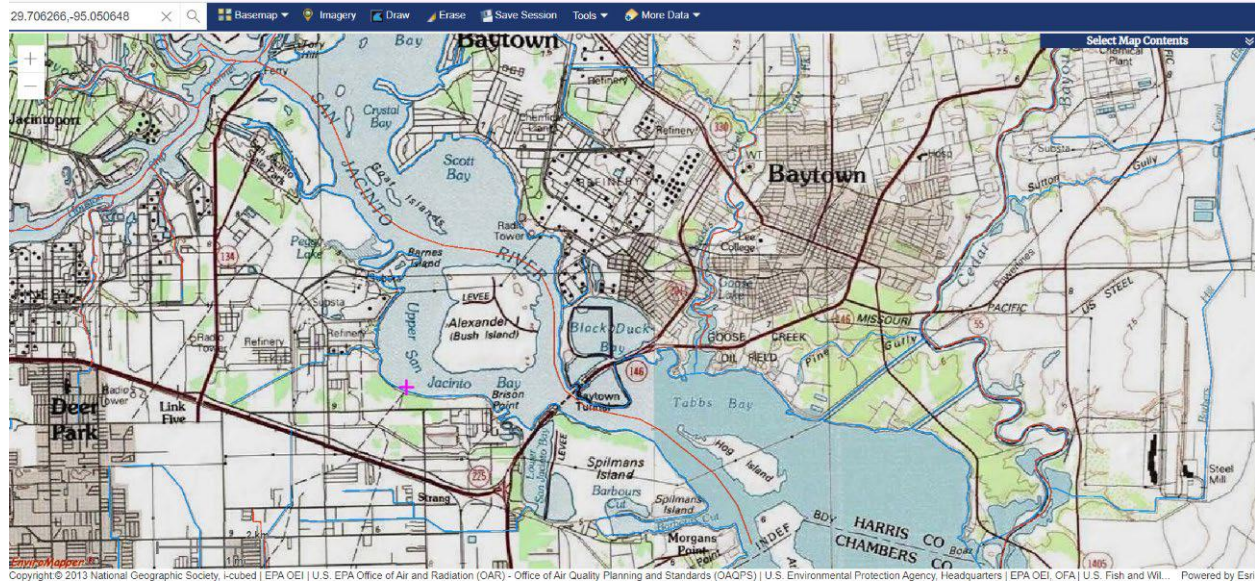
49 CFR §192. 3, adopted by reference in 16 TAC 8.1(b)(1).

Tejas 520-200 30” Line from Station 4 to I-45

The segment of this line in question is located at 29.706233, -95.050648 as depicted below with the pink dot:



A closer image shows that the location marked with the pink cross is part of the channel of the San Jacinto River and that the lower part of the river separates this area from Galveston Bay.



As you can see from the maps, the location in question does not meet the definition of “Gulf of Mexico and its inlets” for two reasons:

1. The location is not an “inlet” to the Gulf of Mexico and is separated from the Gulf of Mexico by multiple bodies of water, including the San Jacinto River, Tabbs Bay, Trinity Bay and Galveston Bay. Galveston Bay, and not the bodies of water upstream of it, is the “inlet” to the Gulf of Mexico.
2. As shown on the map, the location in question is not “open directly to the sea” because it is separated from the Gulf of Mexico by the bodies of water listed above including Galveston Bay.

Tejas’ conclusion that this location is not part of the “Gulf of Mexico and its inlets” is entirely consistent with the regulatory definition.

Tejas 520-213 Line Deer Park 14”

This line is in the same area as the line discussed above, running parallel to the 30” line and therefore, the same logic applies to this location. In addition, the 14” line is not in service and Tejas is in the process of abandoning that line.

Tejas strives to operate a safe pipeline system and to be in compliance with state and federal regulations. We respectfully request a formal interpretation as to whether the pipelines involved should be considered the Gulf and its inlets based on the location and the definition found in 49 CFR 192.3.

Should you have any further questions or require any clarification, please feel free to contact me at (713)-369-9443 or Jorge Lopez, Manager Engineering, at (713)-420-4675.

Sincerely,

A handwritten signature in blue ink that reads "Jaime Hernandez". The signature is written in a cursive, flowing style.

Jaime Hernandez

Director, Engineering –Codes and Standards

Kinder Morgan Operation Support Group

1001 Louisiana Street Houston, TX, 77002

[CC: safety@rrc.texas.gov](mailto:safety@rrc.texas.gov)