

PI-74-0107

April 4, 1974

Mr. Robert J. Evans, President
The Texas Pipe Line Company
P.O. Box 52332
Houston, TX 77052

Dear Mr. Evans:

This responds to your letter of March 12, 1974, asking whether all facilities of interstate or intrastate petroleum pipeline systems are "transportation-related" under a Memorandum of Understanding between the Secretary of Transportation and the Administrator of the Environmental Protection Agency (EPA) and thus not subject to 40 CFR Part 112.

We concur in the opinion of Thomas J. Charlton, P.E., Division of Oil and Hazardous Materials, EPA, stated in a letter to you dated March 21, 1974, that certain onshore and offshore facilities are described in the Memorandum of Understanding as "non-transportation-related" although they may be associated with a petroleum pipeline system. To the extent that those facilities are also "pipeline facilities" covered by 49 CFR Part 195, they are subject to both the safety regulations of Part 195 and the pollution prevention regulations administered by EPA in 40 CFR Part 112,

Likewise, "transportation-related facilities" may be subject to both the safety regulations of Part 195 and the pollution prevention regulations administered by the U.S. Coast Guard in 33 CFR Part 154.

The fact that certain facilities fall under the jurisdiction of the Department of Transportation (DOT) for safety purposes does not mean that jurisdiction over those facilities by EPA for purposes of pollution prevention is unwarranted. Notwithstanding safety jurisdiction, by Executive order both EPA and DOT were delegated regulatory responsibilities to prevent pollution under section 311(j) of the Federal Water Pollution Control Act, as amended. Each agency's responsibility respecting facilities described in the Memorandum of Understanding was administratively determined according to each facility's relationship to transportation. DOT safety jurisdiction over a facility was certainly considered in determining whether the facility is "transportation-related" but was not the controlling factor in the case of terminal storage facilities.

We realize that performance of certain requirements necessary for safety may also result in pollution prevention. Yet, it is doubtful that a shingle set of regulations such as 49 CFR Part 195 established with safety as the primary objective, would be sufficient to also protect against pollution in a comprehensive way.

We trust that our views on this matter are helpful to you.

Sincerely,
SIGNED
Joseph C. Caldwell
Director
Office of Pipeline Safety