

February 9, 1993

Mr. Barry K. Cosey
Executive Director
Independent Oil & Gas Association
of Pennsylvania (IOGA)
116 Pine Street
Harrisburg, PA 17101

Dear Mr. Cosey:

I am writing in response to your letter of January 27, 1992, concerning the application of the recently published interim final rule on response plans for onshore oil pipelines (58 FR 244; January 5, 1993; adopting Part 194, Title 49, Code of Federal Regulations). Specifically, you request a clarification on the applicability of the interim final rule concerning lines you describe as "flowlines which connect oil wells to tank batteries and which are not primarily utilized for the transportation of crude oil."

Under Executive Order 12777, and delegations of authorities under that order from the Secretary of Transportation to the Administrator of the Research and Special Programs Administration (RSPA) (58 FR 6193; January 27, 1993), the requirements for spill response planning by operators of on-shore pipeline facilities (including the submission of plans to RSPA) only apply to transportation-related facilities. We have reviewed the application of Part 194 to the pipeline facilities you have described, and have determined that Part 194 does not apply to those facilities because they are not transportation-related. This opinion is consistent with the terms of a Memorandum of Understanding between the Department of Transportation and the Environmental Protection Agency (EPA) (36 FR 24080; December 18, 1971), which was executed to assure effective implementation of the Federal Water Pollution Act (which the Oil Pollution Act (OPA) of 1990 amends). Under the terms of that Memorandum, we consider the lines at issue to be "non-transportation related" facilities and not subject to the Department's regulations. You should note, however, that these lines may be subject to OPA requirements the EPA may adopt.

I trust that this information is responsive to your request. If you have further questions about this or other matters, please let me know.

Sincerely,

Cesar De Leon
Director Regulatory Programs
Office of Pipeline Safety