



U.S. Department of Transportation
**Pipeline and Hazardous Materials
Safety Administration**

1200 New Jersey Ave, S.E.
Washington, D.C. 20590

MAY - 2 2011

Ms. Ronda Louderman
Alta Mesa Services, LP
15415 Katy Freeway, Suite 800
Houston, TX 77094

Dear Ms. Louderman:

In an August 2, 2010, letter to the Pipeline and Hazardous Materials Safety Administration (PHMSA), you asked for an interpretation of 49 CFR 192.612, the regulation that establishes the underwater inspection and reburial requirements for shallow-water pipelines in the Gulf of Mexico (GOM) and its inlets. Specifically, you asked whether: (a) an operator had to perform an underwater inspection prior to the issuance of 69 FR 48406 (Aug. 10, 2004), the final rule that imposed the requirements that are currently codified in § 192.612; (b) an operator must determine the interval for performing these inspections based on documentation of engineering methodology as opposed to historical data and other performance factors; and (c) your company, Alta Mesa Services, LP (AMS), can be subject to an enforcement action for committing an alleged violation of § 192.612 under certain specified terms and conditions.

Background

In December 1991, the Research and Special Programs Administration (RSPA) issued a final rule on the underwater inspection and reburial of certain shallow-water natural gas pipelines in the GOM and its inlets (i.e., those pipelines located in waters less than 15 feet (4.6 meters) deep as measured from mean low water, 49 CFR 192.3), 56 FR 63764 (Dec. 5, 1991); *see* Pub. L. 101-599 (Nov. 16, 1990). That final rule required that these pipelines be inspected after October 3, 1989, and before November 16, 1992, and that additional actions be taken upon discovery of exposure on the seabed or a condition that would constitute a hazard to navigation.

In August 2004, RSPA amended those requirements (69 FR 48400; Aug. 10, 2004). That final rule required each operator to have written procedures in effect by August 10, 2005, for (1) identifying shallow-water pipelines in the GOM and its inlets that could be exposed or present a hazard to navigation, (2) conducting appropriate periodic inspections of those pipelines, and (3) ensuring their prompt reporting, marking and reburial. These are the requirements that are currently codified in § 192.612, the regulation that forms the basis for your request for interpretation.

Analysis

Your first question is whether an operator had to perform an inspection of shallow-water pipelines in the GOM and its inlets prior to the effective date of the requirements that are currently codified in § 192.612. As noted above, the December 1991 final rule required that an underwater inspection be performed after October 3, 1989, and before November 16, 1992.¹ The August 2004 final rule further required that each operator have written procedures in effect by August 10, 2005, for identifying those shallow-water pipelines that might be exposed on the seabed floor or constitute a hazard to navigation, and conducting appropriate periodic underwater inspections. Accordingly, operators had an obligation to inspect these pipelines under both the December 1991 and August 2004 final rules.

Your next question is whether the interval for inspecting shallow-water pipelines in the GOM and its inlets must be based on documentation of engineering methodology as opposed to historical data and other performance factors. An operator must demonstrate, through the use of a risk-based analysis and adequate supporting documentation, that it has chosen an “appropriate” interval for performing these periodic inspections. Such an analysis should include consideration of all relevant factors (e.g., the construction methods used and initial burial depth, the prevailing soil characteristics and erosion rates and the effects of hurricanes, waves, tidal forces, and vessel traffic).²

Your final question is whether AMS can be subject to an enforcement action for committing an alleged violation of § 192.612 under certain specified terms and conditions. In this case, the State of Texas is certified to regulate the intrastate natural gas pipelines within its jurisdiction,³ including “all pipeline facilities originating in Texas waters (three marine leagues and all bay areas),”⁴ and has adopted the requirements of § 192.612.⁵ As your pipeline is regulated under these authorities, PHMSA will not comment on whether AMS can, or should, be subject to an

¹ According to the information provided to PHMSA, AMS was the operator of a pipeline subject to the requirements of § 192.612 at the time of the December 1991 final rule. Therefore, your company should have performed an underwater inspection of that pipeline within the applicable timeframes.

² An example of a proposed risk analysis for pipeline burial inspections, developed by the Texas Transportation Institute, is included in the docket for the August 2004 final rule.

³ A State that has an approved certification or agreement and standards that are consistent with the minimum Federal requirements may regulate the intrastate pipelines within its jurisdiction. 49 U.S.C. §§ 60104(d), 60105, 60106. A State may also inspect interstate pipelines with PHMSA’s consent, but may not adopt or apply any of its own safety regulations to those facilities. 49 U.S.C. §§ 60104(c), 60106(b).

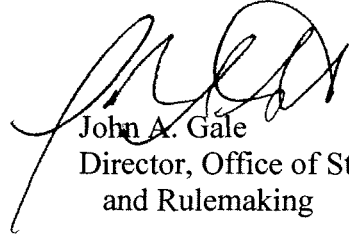
⁴ Tex. Admin. Code tit. 16, § 8.1(a)(1)(D).

⁵ *Id.* at (b)(1).

enforcement action for violating the periodic underwater inspection requirements for shallow-water pipelines in the GOM and its inlets.⁶

I hope that this information is helpful to you. If I can be of further assistance, please contact me at 202-366-4046.

Sincerely,



John A. Gale
Director, Office of Standards
and Rulemaking

⁶ 49 U.S.C. § 60105 (stating that “the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards and practices are regulated by a State authority . . . that submits to the Secretary annually a certification for the facilities and transportation that complies with subsections (b) and (c) of this section.”).

The Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety provides written clarifications of the Regulations (49 CFR Parts 190-199) in the form of interpretation letters. These letters reflect the agency's current application of the regulations to the specific facts presented by the person requesting the clarification. Interpretations do not create legally-enforceable rights or obligations and are provided to help the public understand how to comply with the regulations.



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August 2, 2010

Mr. John A. Gale
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Washington, DC 20590

Dear Mr. Gale,

Alta Mesa Services, LP (AMS) respectfully requests some clarification on the regulation for 49 CFR Part 192.612, Underwater Inspection and Reburial of Pipelines in the Gulf of Mexico and its inlets.

Currently, the rule states that the written procedure had to be in place by August 10, 2005, and periodically the inspections were to be performed.

Is there any guidance on this that requires that (a) a baseline or initial inspection had to be performed prior to or upon the inception of the final rule; (b) that documentation of engineering methodology is required to be used and documented vs historical and performance factors for the inspection interval; and (c) even if this pipeline system would have been in operation under AMS as of August 10, 2005, can a notice of violation or alleged violation be issued for not performing this inspection **4 months prior** to August 10, 2010 for a 5 year interval schedule?

Your assistance with this is greatly appreciated.

Sincerely,

Ronda Louderman
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