

March 8, 1994

S.J. Streater, CSP  
Mobil Oil Corporation  
3225 Gallows Road  
Fairfax, VA 22037-0001

Dear Mr. Streater:

I am responding to your letter of January 4, 1994, to George W. Tenley, Jr. regarding the definition of a navigable river crossing under 49 CFR 195.412(b). Specifically, you asked whether a navigable waterway would include drainage type ditches that are normally dry but contain runoff during the periods of inclement weather.

Navigable waters or waterways include those waterways which have been designated as being navigable by the United States Coast Guard in 33 CFR Subpart 2.05-25(a). As defined by this section, navigable waters include:

1. Territorial seas of the United States;
2. Internal waters of the United States that are subject to tidal influence; and
3. Internal waters of the United States not subject to tidal influence that:
  - i. Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or
  - ii. A government or non-government body, having expertise in water improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

A drainage type ditch would not be considered a navigable waterway under 33 CFR subpart 2.05-25(a).

I hope that this response is satisfactory to address your needs. Please feel free to contact me if you have further questions.

Sincerely,

Cesar De Leon  
Director of Pipeline Safety  
Regulatory Programs