

§ 76.256 Access services.

(d) For public access programming, such system shall prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and obscene or indecent matter, and shall establish rules to this effect as well as rules requiring first-come nondiscriminatory access, and rules permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

(2) For educational access programming, such system shall prohibit the presentation of: any advertising material designed to promote the sale of commercial products or services (including advertising by or on behalf of candidates for public office); lottery information; and obscene or indecent matter, and shall establish rules to this effect including a rule permitting public inspection of a complete record of the names and addresses of all persons or groups requesting access time. Such a record shall be retained for a period of two years.

(3) For leased access programming, such system shall prohibit the presentation of: lottery information; and obscene or indecent matter and shall establish rules to this effect; and other rules requiring first-come, nondiscriminatory access, sponsorship identification (see § 76.221), specifying an appropriate rate schedule and permitting public inspection of a complete record of the names and addresses of all persons or groups requesting time. Such a record shall be retained for a period of two years.

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Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER D—PIPELINE SAFETY

[Docket No. OESO-36, Amtt. No. 25]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE; MINIMUM FEDERAL SAFETY STANDARDS

Caulked Bell and Spigot Joints

This amendment to Part 192 revises § 192.753(a) which requires that cast-iron caulked bell and spigot joints subject to pressures of 25 psig or more must be sealed with mechanical leak clamps. This revision establishes performance standards for the use of other sealing methods and materials that provide a level of safety at least equal to that provided by mechanical leak clamps in sealing cast-iron bell and spigot joints. The performance standards are (1) flexibility in the joint, (2) permanent chemical or mechanical bonding of the sealant with the pipe, and (3) compliance with the

strength, environmental, and chemical compatibility requirements of §§ 192.63 and 192.143.

The Materials Transportation Bureau (MTB) issued Notice 75-6 (40 FR 52855, November 13, 1975) proposing this amendment on the basis of a petition from Miller Pipeline Corporation dated July 8, 1974, and a waiver from § 192.753 granted by the Ohio Public Utilities Commission. Both the petition and the waiver were supported by extensive test data collected from foreign and domestic sources on the Avonseal process. Because other sealing methods are also in use, the standards proposed in the Notice were intended to have broad application and allow the use of any sealing method which can serve as a safe alternative to mechanical leak clamps. Interested persons were invited to participate in the rulemaking by submitting written data, views, and arguments by December 29, 1975.

Seventeen persons filed written comments to Notice 75-6 in response to the invitation to participate. Fourteen of these favored adoption of the revised rule, as proposed, and three others favored adoption with certain minor changes.

It was suggested by one commenter that the final rule should allow the use of a sealant which bonds with either the cylindrical surface of the pipe adjacent to the bell or the bell surface. MTB believes this suggestion would add flexibility to the rule and permit the use of improved techniques and methods. Therefore, in the final rule, § 192.753(a)(2)(ii) is changed to require permanent bonding with the bell and spigot metal surfaces or the adjacent metal surfaces of the pipe.

Another commenter proposed that each operator using a sealing method other than mechanical leak clamps be required to submit supporting data on the method as a means of verifying compliance with the performance standards. MTB has not adopted this comment, preferring to establish general standards for performance to obviate the need for MTB approval of any particular method. Each operator is responsible under the law for ensuring that the performance objectives are met. Approvals would only appear as MTB endorsements of proprietary items. Further, if needed for enforcement purposes, MTB is empowered to obtain from operators any information which relates to determining compliance.

Also, in response to a commenter's suggestion, for clarity the words "material or device" are used in the final rule to refer to a sealing method which may serve as an alternative to mechanical leak clamps.

REPORT OF THE TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, requires that all proposed standards and amendments to such standards pertaining to gas pipelines be submitted to the Committee and

that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each proposal." The proposed amendment to § 192.753 was submitted to the Committee as Item A-1 in a list of three proposed amendments.

On April 16, 1976, the Committee filed the following favorable report:

"This communication is the official report of the Technical Pipeline Safety Standards Committee concerning the Committee's action on three amendments to 49 CFR Part 192 proposed by the Office of Pipeline Safety Operations and other matters which the Committee decided should be brought to the attention of the Department of Transportation.

The following described actions were taken by the Committee at a meeting held in New Orleans, Louisiana, on March 30, 31, 1976.

Item A-1 of the agenda was a proposal by OESO to revise Section 192.753, Caulked bell and spigot joints, to permit use of sealing techniques other than mechanical leak clamps on cast iron bell and spigot joints operated at 25 psig or more.

By a vote (12 affirmative—1 negative) the Committee found that the \* \* \* (proposed revision of) § 192.753(a) is technically feasible, reasonable and practicable.

Throughout the body of this report the OESO proposals which were accepted by the Committee as technically feasible, reasonable and practicable were those proposals contained in the agenda submitted to the Committee and do not necessarily conform to the proposals contained in the Notice of Proposed Rulemaking which appeared in the FEDERAL REGISTER.

The minority views of Mr. A. W. Peabody, member of the Committee, are as follows:

"I have reviewed the committee report which you distributed under date of April 1. Although I have no problem with any of the actions which were taken during the March meetings, I do wish to point out one item which OESO might wish to consider for editorial change.

The item in question is § 192.753(a)(2)(ii) which reads "Permanently bonds, either chemically or mechanically or both, with the pipe or bell and spigot metal surfaces; and" My problem is the underlined words. The intent of the words should not, I am sure, permit a choice between bonding to the pipe and bonding to the bell and spigot. The bell and spigot are specific parts of a piece of cast-iron pipe and it is essential that these two items be sealed at the joint between the two. By leaving the wording as it is, the inference might be that one could provide a bond chemically or mechanically or both with the cast-iron pipe in general which of course is not the intent of the section.

Various wordings would correct the situation. One way would be to leave out the words "pipe or" which would return the wording to that contained in the original notice issued by OESO. Another solution would be to have the reading " \* \* \* with both bell and spigot metal surfaces;" or " \* \* \* with the metal surfaces of both the bell and the spigot;"

As I recall, I brought this to the attention of the Committee during our meeting but we did not reach the point of taking any action. Actually, as I indicated above, I believe that this could be readily handled on an editorial basis.

Effective date. Section 3(e) of the Natural Gas Pipeline Safety Act of 1968

requires that standards and amendments thereto prescribed under the Act be effective 30 days after the date of issuance unless the Secretary determines good cause exists for an earlier or later effective date as a result of the period reasonably necessary for compliance. Accordingly, the revised § 192.753(a) will become effective 30 days after issuance, on July 4, 1976.

In consideration of the foregoing, § 192.753(a) is revised to read as follows:

§ 192.753 Caulked bell and spigot joints.

(a) Each cast-iron caulked bell and spigot joint that is subject to pressures of 25 psig or more must be sealed with:

- (1) A mechanical leak clamp; or
- (2) A material or device which—
  - (i) Does not reduce the flexibility of the joint;

(ii) Permanently bonds, either chemically or mechanically, or both, with the bell and spigot metal surfaces or adjacent pipe metal surfaces; and

(iii) Seals and bonds in a manner that meets the strength, environmental, and chemical compatibility requirements of §§ 192.53 (a) and (b) and 192.143.

(Sec. 3, Pub. L. 90-481, 82 Stat. 721, 49 USC 1672; 40 FR 43901, 49 CFR 1.53.)

Issued in Washington, D.C. on June 4, 1976.

JAMES T. CURTIS, Jr.,  
Director,

Materials Transportation Bureau.

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Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—MARINE MAMMALS

Incidental Taking in the Course of Commercial Fishing Operations

On December 5, 1975, the National Marine Fisheries Service (the Service) promulgated amendments to regulations then in effect at 50 CFR 216.24 governing the incidental taking of marine mammals in the course of commercial fishing operations, pursuant to the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407. The amendments were intended to be effective during the 1976 fishing season, and reflected the latest developments in the Service's program of reduction in porpoise mortalities occurring incidentally to commercial tuna purse seining. Subsequently, on December 20, 1975, a general permit was issued to the American Tunaboat Association to conduct fishing operations involving porpoise during 1976.

As a result of a legal action brought against the Service by the Committee for Humane Legislation and other private groups, these regulations, and the general permit and certificates of inclusion issued thereunder were declared void as contrary to law by Judge Charles R. Richey of the United States District Court for the District of Columbia on

May 11, 1976. Judge Richey stayed the effective date of his order until May 31, 1976, but declared that subsequent to that date no fishing in association with marine mammals in the manner permitted by the regulations, the general permit, and certificates of inclusion could be carried on without the Service having first made certain findings with respect to existing porpoise populations, the optimum sustainable population of each species of porpoise, and the effects of proposed takings on them, deemed by the Court to be required by the Act. Additionally, the Court found that the Service had erred in not stating, as a condition of the general permit, the numbers of animals that were permitted to be killed pursuant thereto.

The Service appealed the order of the District Court, and requested a further stay of the order pending the disposition of this appeal. The request was initially denied, but the Service sought a stay of the order from the Court of Appeals for the District of Columbia Circuit. By affidavit submitted in conjunction with this request, on May 28, 1976, Robert W. Schoning, Director, NMFS, stated:

The District Court has indicated that the Agency, although acting in good faith, acted improperly in the issuance of the general permit without a specific limitation at the time of issuance. Therefore, if a stay of the order of the District Court is granted pending appeal, the Agency will forthwith impose a quota for the full 1976 season of 78,000 porpoises as the total number of porpoises which may be killed by the U.S. fleet in connection with commercial fishing for tuna by setting or porpoise. This figure represents:

(a) The best estimate of agency scientists as to the total kill of porpoise by U.S. fishermen this season within reasonable confidence limits;

(b) A substantial reduction from the 1975 total kill of 134,217, and as well from the 1974 kill of 97,800;

(c) A level of mortality well below the threshold (94,000) established by the Agency for 1976; and

(d) A level of mortality which will further assure that existing population stocks will not be diminished (agency scientists have previously indicated that, if up to 195,000 porpoises were killed annually, the rate of change in the existing populations would be low (plus or minus 2 percent)).

The Court of Appeals subsequently granted a stay of the District Court's order until further order by the Court of Appeals. In view of the opportunity to continue research efforts resulting from the Court's action, the Service is initiating efforts to increase the number of scientific observers placed aboard tuna purse seine vessels and to maintain the ongoing cooperative gear testing program on commercial vessels. Additionally, the Service intends to honor the commitment to establish a quota for the 1976 season made to the Court in the affidavit of May 28, 1976, cited above. In light of the fact that the regulations amended on December 5, 1975 remain in effect pursuant to the stay, the Service hereby amends § 216.24(d) (2) (i) (A) of these regulations so as to limit to

78,000 the porpoise that may be killed pursuant to the 1976 general permit (which also remains valid pending further judicial action). Since this amendment is prescribed under sanction of a Court of the United States, it is effective immediately, in accordance with the provisions of 5 U.S.C. § 553(d).

Dated: June 3, 1976.

ROBERT W. SCHONING,  
Director.

Accordingly, 50 CFR 216.24(d) (2) (i) (A) is amended to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

(d) \* \* \*

(2) Encircling gear; yellowfin tuna purse seining. (i) (A): A certificate holder may take marine mammals, so long as such taking is an incidental occurrence in the course of normal commercial fishing operations, except that no certificate holder shall encircle pure schools of striped dolphin (*Stenella coeruleoalba*). The number of all other stocks or species of marine mammals that may be killed by all certificate holders in the course of commercial fishing operations shall not exceed 78,000. The Director shall determine, on the basis of all evidence available to him, the date upon which this number will be reached or exceeded, and shall prohibit thereafter the encircling of any marine mammal by purse seine in the course of commercial fishing operations. Notice of the Director's determination shall be published in the FEDERAL REGISTER not less than 30 days prior to the date upon which the prohibition is to become effective.

[FR Doc.76-16994 Filed 6-10-76;8:45 am]

PART 245—OFFSHORE SHRIMP FISHERIES

Interim Regulations Adopted

On April 22, 1976, there were published in the FEDERAL REGISTER (41 FR 16805) interim regulations setting forth the requirements of issuing permits and the required receipt of said permits by officials of the Federative Republic of Brazil prior to commencement of fishing operations and amendments to various sections of the existing regulations. Interested persons were given the opportunity to submit, not later than May 24, 1976, data, views, and recommendations regarding the notice.

No comments have been received, and the interim regulations are hereby adopted as final regulations without change.

Effective date: June 11, 1976.

Signed at Washington, D.C., on June 7, 1976.

ROBERT W. SCHONING,  
Director, National Marine  
Fisheries Service.

[FR Doc.76-16983 Filed 6-10-76;8:45 am]