ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the regulations covering facilities transferring oil or hazardous material in bulk. These revisions are intended to update and clarify the current regulations. The revisions should result in regulations that are more effective in providing a high level of safety and environmental protection.

DATES: Comments must be received on or before May 24, 1995.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 93-056), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jonathan C. Burton, Marine Environmental Protection Division, (202) 267–6714.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 93-056) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8 by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public

hearing by writing to the Marine Safety Council at the address under ADDRESSES. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are Lieutenant Jonathan C. Burton, Project Manager, Marine Environmental Protection Division and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

Until 1990, the regulations covering the transfer of products between vessels and facilities capable of transferring oil or hazardous materials in bulk to or from a vessel with a capacity of 250 barrels or more were contained in two different parts of the Code of Federal Regulations. Facilities transferring oil in bulk were covered by 33 CFR part 154, while those transferring hazardous materials in bulk were covered by 33 CFR part 126 (Handling of Explosives or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities). The Coast Guard consolidated and revised the provisions into part 154 (Facilities Transferring Oil or Hazardous Material in Bulk) in a final rule published on September 4, 1990 (55 FR 36252). Since that time, numerous comments have been received from Coast Guard personnel and industry about problems in working with part 154. Coast Guard personnel and industry advisory groups have provided numerous suggestions for improving part 154. In 1992, a Coast Guard task force, chartered as the result of a General Accounting Office report on the Coast Guard's facility inspection program, recommended a number of changes to 33 CFR part 154. Based on the task force's recommendations, the Coast Guard decided to initiate a rulemaking project to review all of 33 CFR part 154. A solicitation was sent to all Coast Guard Marine Safety Officers and Captains of the Ports asking for assistance in identifying problem areas. Every unit solicited responded with comments identifying changes to provisions that, if adopted, would greatly improve their facility oversight and enforcement operations, and thereby enhance industry's ability to comply with the regulations.

Discussion of Proposed Changes

Section 154.100 Applicability

There has been confusion regarding the applicability of the regulations in 33 CFR part 154. Particularly, there has been confusion over whether applicability is determined by the capacity of the facility or the capacity of the vessel. The proposed rule seeks to clarify that the total capacity of the vessel is the determining factor. Part 154 applies to facilities transferring oil or hazardous materials to vessels capable of carrying 250 barrels or more of oil or hazardous materials, or a combination of oil types, or hazardous materials, or both.

Also, a new paragraph is proposed to be added to the applicability section which would specify all of the requirements that are applicable to mobile transfer facilities. Both industry and Coast Guard personnel have indicated that such a provision would be helpful. Inclusion of this paragraph should eliminate confusion in determining which requirements are applicable to mobile facilities.

Included in the proposed list of requirements that would apply to mobile facilities are certain safety requirements found in § 154.735 that do not currently apply to mobile facilities. These include standards for access to the mobile facility by firefighting personnel, proper storage of hazardous material, sufficient fire extinguishers, rubbish containment, protective equipment, heating equipment placement, electrical wiring and three way warning signs. Additionally, this NPRM proposes to subject mobile facilities to the "person in charge requirements" of 33 CFR 154.710. Comments on the cost of applying these regulations to mobile facilities are requested.

Section 154.105 Definitions

A definition for "caretaker status", and revisions to the definitions of "facility", and "transfer" are proposed.

"Caretaker status" is proposed to be defined as a facility that is free of oil or hazardous material, certified as gas free and where specified piping has been blanked off and the letter of adequacy has been suspended by the COTP.

The proposed revisions to the definition of "facility" clarify that tank cleaning and stripping facilities, and floating docks or barges used as part of the transfer platform, are considered to be within the definition of facility. The proposed rule also makes it clear that barges and other floating structures used to support an intricate part of the facility's operation, such as piping for