

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****33 CFR Part 137****RIN 2105-AC01****Limit of Liability for Deepwater Ports****AGENCY:** Department of Transportation.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Department of Transportation proposes to establish a limit of liability for deepwater ports in general and for the Louisiana Offshore Oil Port (LOOP) specifically. These limits apply only to certain negligent oil spills for which a deepwater port would be entitled to limit its liability under section 1004 of the Oil Pollution Act of 1990 (OPA 90) (33 U.S.C. 2704). The proposed limits do not alter a deepwater port's unlimited liability for spills caused by gross negligence, willful misconduct, or violation of certain Federal regulations. LOOP is the only U.S. deepwater port in operation at this time; specific liability limits for other, future deepwater ports will be established through separate rulemakings as necessary.

DATES: Comments must be received on or before April 10, 1995.

ADDRESSES: Comments may be mailed to Docket 50112, Office of Documentary Services (C-55), U.S. Department of Transportation, PL-401, Northeast Corner, 400 Seventh Street, SW., Washington, DC 20590-0001. To expedite consideration of the Docket, please submit an original and five copies. Certain studies referenced in this notice may be ordered from the National Technical Information Service, Springfield, VA 22161; phone orders (703) 487-4650 (Visa, Mastercard and American Express accepted).

FOR FURTHER INFORMATION CONTACT: For general questions, contact Mr. Robert Stein, OST/P-13, at (202) 366-4846. For engineering questions, contact Mr. Thomas Jordan, U.S. Coast Guard OPA 90 Staff, at (202) 267-6751.

SUPPLEMENTARY INFORMATION:**Request for Comments**

This notice of proposed rulemaking (NPRM) presents three proposed options within a \$50 million to \$350 million range for LOOP's limit of liability. The Department of Transportation seeks public comment on the issue of limits of liability for deepwater ports in general and LOOP in particular. We have numbered specific discussion paragraphs throughout this NPRM and would appreciate it if commenters

would reference those numbers in their responses.

The Department plans no public hearing. Persons may request a public hearing by writing to the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If the Department determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Statutory Basis and Purpose

The purpose of this regulatory action is to establish an appropriate limit of liability for deepwater ports in accordance with section 1004 of OPA 90.

Section 1004 sets the limit of liability for deepwater ports at \$350 million. However, it also allows the limit to be adjusted to a lower amount as appropriate (but not less than \$50 million), subject to a study of the relative operational and environmental risks of transporting oil to the United States by deepwater ports compared to other ports.

The relative risk study, entitled the "Deepwater Ports Study," has been completed and forwarded to Congress. The study concluded that deepwater ports represent a lower operational and environmental risk for delivering crude oil to the United States than the three other common modes of crude oil delivery (direct vessel deliveries, lightering, and offshore mooring stations).

At present, the only deepwater port in operation in the United States is LOOP. However, other deepwater ports may be built in the future. Because there may be significant engineering and environmental differences between different deepwater ports, the Department has determined that it is necessary to review any deepwater port individually before setting its limit of liability within the statutory limits of \$50 million and \$350 million. Limits for other deepwater ports may be different from LOOP's limit.

Therefore, in accordance with its authority under section 1004(d)(2)(C) of OPA 90 (33 U.S.C. 2704(d)(2)(C)), and for reasons explained in this preamble, the Department proposes to establish an appropriate limit of liability for LOOP.

Background and Discussion of Proposed Regulations**1. Deepwater Ports**

A deepwater port is a man-made offshore marine terminal located in waters deep enough to accommodate

Very Large and Ultra Large Crude Carrier tankers (VLCCs and ULCCs) that are too large to enter the local mainland port. A deepwater port marine terminal generally consists of several tanker mooring buoys connected by seafloor pipelines to a nearby pumping platform. The pumping platform is connected by seafloor pipeline(s) to a mainland terminal. A tanker at a mooring buoy pumps its cargo oil to the pumping platform, which then pumps the oil ashore. The marine terminal complex typically contains operating stations, booster pumps, control valves and manifolds, crew accommodations (feeding and berthing), helicopter pad, radar and communication facilities, and on-site pollution response equipment.

Although there are several deepwater ports around the world, at the present time there is only one in the United States: the Louisiana Offshore Oil Port, located in the Gulf of Mexico approximately 18 miles off the Louisiana coast.

2. Louisiana Offshore Oil Port (LOOP)

The LOOP deepwater port has been in operation since May, 1981. The total LOOP complex consists of the offshore marine terminal (pumping platform, control platform, and three tanker mooring buoys with pipelines connecting to the pumping platform), the 21-mile offshore pipeline (connecting the marine terminal to a booster station on the beach), the 22-mile onshore pipeline (crossing Mississippi River delta bayous and marshes), an underground salt dome storage facility, and overland pipelines connecting LOOP to various other inland pipeline systems. As defined by the Deepwater Ports Act (Pub. L. 93-627), however, only LOOP's marine terminal (including operations at the terminal) and offshore pipeline are considered to be the actual deepwater port. Therefore, the onshore portions of the complex are not covered by this rulemaking.

LOOP is strictly a crude oil off-loading facility, receiving cargo oil from tankers and pumping it ashore to the Clovelly Dome storage facility. In 1992, crude oil deliveries to LOOP averaged 816,000 barrels per day, accounting for 15 percent of the total amount delivered by vessel to the United States for that year (excluding Alaskan crude oil deliveries).

In the 12 years that LOOP has been in operation a total of 894 barrels of oil have been spilled from the deepwater port portion of LOOP, the largest spill being 399 barrels (from data through December 31, 1992).