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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 66

[USCG-2000-7466]

RIN 1625-AA55 [Formerly 2115-AF98]

Allowing Alternatives to Incandescent Lights, and Establishing Standards for New Lights, in Private Aids to Navigation

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard removes the requirement to use only tungsten-incandescent-light sources for private aids to navigation (PATONs) and establishes more-specific performance standards for all lights in PATONs. These measures enable private industry and owners of PATONs to take advantage of recent changes in lighting technology—specifically allow owners of PATONs to use lanterns based on the technology of light-emitting diodes (LEDs), which may reduce the consumption of power and simplify the maintenance of PATONs. The more-specific performance standards will make the rules for PATONs equivalent to those for Federal aids to navigation.

DATES: This final rule is effective March 8, 2004.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2000-7466 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this

docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call Dan Andrusiak, Office of Aids to Navigation, at Coast Guard Headquarters, telephone 202-267-0327. If you have questions on viewing the docket, call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202-366-0271.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 4, 2000, the Coast Guard published a direct final rule (DFR) [65 FR 59124] under the same docket number as the one borne by this final rule: USCG-2000-7466. We published that rule as a DFR because we expected that the public would readily embrace it; however, we received an adverse comment. Because of this, we withdrew the DFR [66 FR 8 (January 2, 2001)] so our engineers could analyze and respond to the comment. Not only did they follow the commenter's advice to make performance standards for LEDs more specific; they also recommended to the Marine Safety Council (now the Marine Safety and Security Council), our policy-setting body, the standardizing of all rules related to lights used as private aids to navigation (PATONs).

On June 24, 2002, we published a notice of proposed rulemaking entitled *Allowing Alternative Source to Incandescent Light in Private Aids to Navigation in the Federal Register* (67 FR 42512). We received three letters commenting on the proposed rule. No public hearing was requested and none was held.

Background

The Marine Safety Council, as it then was, recommended this rulemaking to provide owners of PATONs with more options for selecting equipment. This rule may reduce lifecycle cost, reduce the consumption of power, and simplify the maintenance of PATONs by allowing the use of lighting technologies other than those based on tungsten-incandescent light sources.

Discussion of Comments and Changes

We received three comments on this rule as proposed. The first commenter stated support for allowing alternatives

to incandescent lights in private aids to navigation, but opined that the rule was deficient since it would not require the owners of such lights to maintain them.

Our response: We agree that maintenance requirements are essential, but we disagree that PATON owners do not have a requirement to maintain them. Existing 33 CFR 66.01-20 requires that all classes of private aids to navigation be maintained in proper operating condition and § 66.01-45 makes it clear that only those authorized to maintain PATONs may do so.

To assist owners in maintaining PATONs, we have required manufacturers to provide each purchaser a data sheet that accompanies the PATON equipment at the time of sale with the following information: the recommended service life of the optic, light source, and batteries. They must also indicate a replacement interval to ensure that the equipment meets the minimum requirements in case of degradation of the light or lens.

The commenter also stated that replacement bulbs, particularly tungsten-filament ones, are very expensive and that because of this some owners might replace the specialty-type base of the original light with an Edison-screw-type base and use household bulbs.

Our response: This final rule requires each owner, under "application procedure," to document his or her aid's make, model, advertised intensity, and lamp source. The Coast Guard will maintain this information in a database that will help Coast Guard inspectors verify that the proper equipment is installed.

The second commenter pointed out that, in addition to applying to private aids to navigation in 33 CFR part 66, the standards also apply to lights used on artificial islands and fixed structures regulated under 33 CFR part 67 by the requirements of 33 CFR 67.01-1(b). The commenter urged the Coast Guard to establish a luminous-intensity standard in eventual 33 CFR 66.01-11(a)(3) for any light required to have a nominal range of 5 nautical miles.

Our response: We agree that all requirements under 33 CFR part 67 regarding the light signals supersede the requirements under 33 CFR part 66. However, to be consistent with the operational ranges, we are adding requirements for a 5-nautical-mile light