

collection. The part numbers are 33 CFR parts 66 and 67; the corresponding approval number from OMB is Control Number 1625-0011, which expires on July 31, 2005.

You need not respond to a collection of information unless it displays a currently valid OMB control number.

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this final rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531-1538] requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this final rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This final rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this final rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order, because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

We have considered the environmental impact of this final rule and concluded that preparation of an Environmental Impact Statement or Environmental Assessment is not necessary. This rule has been thoroughly reviewed by the Coast Guard, and the undersigned has determined it to be categorically excluded, under Categorical Exclusion 34(e), from further environmental documentation. This determination accords with Section 2.B.2 and Figure 2-1 of NEPA implementing procedures, COMDTINST M16475.1D.

### List of Subjects in 33 CFR Part 66

Navigation (water).

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 66 as follows:

### PART 66—PRIVATE AIDS TO NAVIGATION

■ 1. Revise the citation of authority for part 66 to read as follows:

**Authority:** 14 U.S.C. 83, 84, 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 66.01-5, revise the introductory text and paragraphs (a) and (f) to read as follows:

#### § 66.01-5 Application procedure.

To establish and maintain, discontinue, change, or transfer ownership of a private aid to navigation, you must apply to the Commander of the Coast Guard District in which the aid is or will be located. You can find

application form CG-2554 at <http://www.uscgboating.org/safety/aton/aids.htm> or you can request a paper copy by calling the Boating Safety Information line at (800) 368-5674. You must complete all parts of the form applicable to the aid concerned, and must forward the application to the District Commander. You must include the following information:

(a) The proposed position of the aid to navigation by two or more horizontal angles, bearings and distance from charted landmarks, or the latitude and longitude as determined by GPS or differential GPS. Attach a section of chart or sketch showing the proposed position.

\* \* \* \* \*

(f) For lights: The color, characteristic, range, effective intensity, height above water, and description of illuminating apparatus. Attach a copy of the manufacturer's data sheet to the application.

\* \* \* \* \*

■ 3. Revise § 66.01-10 to read as follows:

#### § 66.01-10 Characteristics.

The characteristics of a private aid to navigation must conform to those prescribed by the United States Aids to Navigation System set forth in subpart B of part 62 of this subchapter.

■ 4. Add § 66.01-11 to read as follows:

#### § 66.01-11 Lights.

(a) Except for range and sector lights, each light approved as a private aid to navigation must:

(1) Have at least the effective intensity required by this subpart omnidirectionally in the horizontal plane, except at the seams of its lens-mold.

(2) Have at least 50% of the effective intensity required by this subpart within  $\pm 2^\circ$  of the horizontal plane.

(3) Have a minimum effective intensity of at least 1 candela for a range of 1 nautical mile, 3 candelas for one of 2 nautical miles, 10 candelas for one of 3 nautical miles, and 54 candelas for one of 5 nautical miles. The District Commander may change the requirements for minimum intensity to account for local environmental conditions. For a flashing light this intensity is determined by the following formula:

$$I_e = G / (0.2 + t_2 - t_1)$$

Where:

$I_e$  = Effective intensity

$G$  = The integral of the instantaneous intensity of the flashed light with respect to time

$t_1$  = Time in seconds at the beginning of the flash