

person was considered a dependent of the member or former member; and

(C) Is dependent on the member or former member for over one-half of the person's support; and

(D) Resides with the members or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation; and

(E) Is not a dependent of a member or former member as described in § 199.3 (b)(2).

Dated: December 15, 1997.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97-33111 Filed 12-22-97; 8:45 am]

BILLING CODE 5000-04-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Parts 62 and 66

[USCG 97 3112, CGD 97-018]

RIN 2115-AF45

#### Merger of the Uniform State Waterways Marking System With the United States Aids to Navigation System

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes a five year phased-in merger of the Uniform State Waterway Marking System with the United States Aids to Navigation System. This proposed merger would eliminate distinctions between these two systems and create safer, less confusing waterways.

**DATES:** Comments are requested by February 23, 1998.

**ADDRESSES:** You may mail comments to the Docket Management Facility, [USCG-97-3112], U.S. Department of Transportation, Room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001, or deliver them to room PL-401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL-401, located on the Plaza Level of the Nassif Building at the above address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone (202) 366-9329 or Dan Andrusiak, Short Range Aids to Navigation Division, USCG Headquarters, Telephone: (202) 267-0327.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Coast Guard encourages your participation in this rulemaking by the submission of written data, views, or arguments. Your comments should include your name and address, and identify this rulemaking [USCG-97-3112] and the specific section of this notice of proposed rulemaking to which each comment applies, along with the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgment of receipt of your comment, enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period and may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. You may request a public hearing by submitting a request to the address under **ADDRESSES**. The request should include the reasons a hearing would be beneficial. If the Coast Guard 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**.

##### Background and Purpose

The Uniform State Waterways Marking System (USWMS), 33 CFR 66.10, prescribes regulatory markers and aids to navigation that may mark navigable waters that the Commandant designates as state waters in accordance with 33 CFR 66.05-5. The USWMS may also mark the non-navigable internal waters of a state.

The United States Aids to Navigation System (USATONS), 33 CFR 62, prescribes regulatory markers and aids to navigation that mark navigable waters of the United States. Navigable waters, defined by 33 CFR 2.02-25, include territorial seas and internal waters that have been or can be used for interstate commerce, either by themselves or in connection with other waterways.

Section 66.10-1(b), allows the use of USATONS on state and non-navigable

internal waters, and many states already use the USATONS instead of the USWMS.

In 1992, the National Association of State Boating Law Administrators (NASBLA) passed a resolution requesting that the Coast Guard:

1. Change the meaning of the red and white striped buoy from the USWMS meaning of obstruction to the USATONS meaning of safewater;
2. Change the black USWMS buoy to the green USATONS buoy, and
3. Use a phased-in implementation period for these changes.

NASBLA requested these changes because they believe the current USWMS markings, which are different from the USATONS markings, confuse boaters and could cause casualties.

In 1993, NASBLA's Law Enforcement & Uniform Boating Laws Committee conducted a survey concerning the differences between the USWMS and the USATONS. The survey focused on the red and white striped buoy and the green versus black buoy. Of the 42 states that responded to the survey, 11 states indicated that they use the red and white striped buoy as defined by the USWMS, 15 states indicated that they use the USWMS's black buoy, and 35 states indicated that the USWMS should reflect the same characteristics as the USATONS.

On December 29, 1995, the Coast Guard published an advanced notice of proposed rulemaking (CGD 94-091) (60 FR 67345) to gauge public opinion toward conforming the USWMS with the USATONS. On March 27, 1996, a notice of proposed rulemaking was published (61 FR 13472) that, among other things, proposed eliminating the USWMS. The Coast Guard received adverse comments from ten states. Many of the comments stated concerns that elimination of the USWMS would eliminate regulatory markers and would cause the states to bear the costs of purchasing aids and revising boating manuals. As a result of these comments, the Coast Guard removed the proposal to eliminate the USWMS from the final rule. The Coast Guard then contacted the NASBLA and each state that commented and discussed their concerns.

Apart from the two distinctions explained above, a Coast Guard comparison of the USWMS and the USATONS showed that almost all of the requirements of the USWMS are contained in the USATONS. The differences between the two systems are:

1. The USWMS has the additional requirement of orange bands on regulatory buoys;

2. The USWMS allows for lights on mooring buoys whereas the USATONS is silent; and,

3. The USWMS uses the cardinal system of marking obstructions and the USATONS uses the lateral system of marking obstructions.

By adding to the USATONS the requirement for orange bands on regulatory buoys, by allowing lights on mooring buoys, and by allowing a phased-in implementation period for the marking of obstructions with the USATONS lateral system, the two systems could be merged. The Coast Guard proposes to make these changes to the USATONS, provide a five year phased-in implementation period, and merge the USWMS into the USATONS.

If, however, you think that a different phase-in period is necessary, please submit a comment (see **ADDRESSES**) explaining why a different phase-in period is necessary and a proposed length for this phase-in period.

#### **Discussion of Proposed Rule**

##### *Regulatory and Information Markers*

The USATONS provides a system for regulatory markers nearly identical to the USWMS. The only USWMS requirement not prescribed by the USATONS is that buoys have two horizontal orange bands, one just above the water line and one at the top of the buoy. The Coast Guard proposes to amend 33 CFR 62.33 to add the USWMS requirement of two horizontal orange bands to the USATONS.

##### *Channel Markers*

The USWMS black buoy would be replaced, via a phased-in process, with the green buoy required by the USATONS. The phase-in process would be linked to the aid's lifecycle to avoid unnecessary replacement costs to the states.

##### *Red-and-White Striped Buoy*

The meaning of the red-and-white striped buoy would change from the USWMS "do not pass between the buoy and the nearest shore" to the USATONS "safewater all around." Obstructions now marked with the USWMS red-and-white striped buoy could be marked, via a phase-in process, with the USATONS' sidemark prescribed in 33 CFR 62.25(b), or with an isolated danger mark prescribed in 33 CFR 62.29.

##### *Cardinal Marks*

In the USWMS, white buoys with a red top band mean that the mariner can pass safely south or west of the buoy, and white buoys with a black top band mean that the mariner can pass safely north or east of the buoy. The

USATONS does not contain cardinal marks, and areas presently marked with these USWMS aids could be replaced with the USATONS isolated danger mark prescribed in 33 CFR 62.29, or a side mark prescribed in 33 CFR 62.25(b).

##### *Mooring Buoys*

Unlike the USWMS, the USATONS is silent on prescribing lights on mooring buoys. The Coast Guard proposes to amend 33 CFR 62.35 to allow for slow flashing, white lights on mooring buoys.

##### *Numbers, Letters, or Words on Markers*

The guidance in the USATONS, 33 CFR 62.43 (a) & (b), is similar to that in the USWMS 33 CFR 66.10-25, so the merging of the two systems would not affect numbers, letters, or words on markers.

##### *Reflectors and Retroreflective Materials*

The USATONS guidance for the use of retroreflective material, 33 CFR 62.43(c), is less restrictive than the USWMS guidance found in 33 CFR 66.10-30, so the merger would not require a change in the use of reflectors or retroreflective material.

##### *Navigation Lights*

The USATONS requirements for the use of navigation lights, 33 CFR 62.45, is similar to that of the USWMS found in 33 CFR 66.10-35, so the merger would not affect the use of navigation lights.

##### *Size, Shape, Material, and Construction of Markers*

No specific guidance for size, shape, material and construction of markers exists in the USATONS. The USWMS wording on these items, found in 33 CFR 66.10-20, is not necessary and is not proposed for insertion into the USATONS.

##### *Ownership Identification*

The USWMS, in 33 CFR 66.10-40, allows for the discretionary use of ownership identification on aids to navigation. The USATONS does not prohibit use of ownership identification. Ownership identification, however, should not be placed on an aid in a way that would change the meaning of the aid to navigation. The Coast Guard proposes to add a section to the USATONS starting language to this effect.

##### *Changes to 33 CFR Subpart 66.05*

The merging of the USWMS with the USATONS would also require conforming editorial corrections to Subpart 66.05 entitled, "State Aids to

Navigation," to reflect the proposed changes.

##### *Changes to 33 CFR Subpart 66.10*

Sections 66.10-5, 66.10-10, 66.10-20, 66.10-25, 66.10-30, 66.10-40, and 66.10-45 are proposed for removal because the provisions of these sections are contained in the USATONS, or are proposed for insertion into the USATONS.

The only sections that will remain in subpart 66.10 will be the general section, the aids to navigation section, and that portion of the navigation lights section which refers to lights on cardinal marks. These sections may be used until the end of the five year implementation period.

##### *General, Section 66.10-1*

This section will be revised to reflect the merger of the two systems, the five year implementation period, and to remove references to deleted sections.

##### *Aids to Navigation, Section 66.10-15*

This section provides information concerning the marking of channels and the cardinal system of marking, and as such will remain until the end of the phase-in period.

##### **Regulatory Evaluation**

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Merging the USWMS with the USATONS, via a phased-in implementation period, will not impose an increased monetary burden on the States currently using the USWMS. There is currently no price difference between aids with the USWMS markings and aids with USATONS markings. Further, because the replacement of the aid is linked to its lifecycle, purchase of a USATON aid is not required until the end of the USWMS aid's lifecycle, any additional costs are eliminated.

Consequently, the Coast Guard believes that this rulemaking will not impose any additional costs on the states. If, however, you believe that this proposal will have an economic impact,

please submit a comment (see **ADDRESSES**) explaining why you think this proposal will have economic impact, and explain any alternatives you believe would eliminate the economic impact of this proposal.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considers whether this proposal, if adopted, will have a significant impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The USWMS is a system that regulates state aids to navigation. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal would have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal would economically affect it.

### Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Mr. Dan Andrusiak, Short Range Aids to Navigation Division, USCG Headquarters, Telephone: (202) 267–0327.

### Collection of Information

This proposal contains no increase in collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

### Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Pursuant to 14 U.S.C. 85, the Coast

Guard, as delegated by the Secretary, Department of Transportation, has responsibility to create all regulations concerning aids to navigation for all waters subject to the jurisdiction of the United States. This proposal does not affect the states ability to prescribe regulations for its own internal non-navigable waters.

### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2.e(23), (34)(a), and (34)(i) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. Merging the USWMS with the USATONS would have no environmental implications. A Categorical Exclusion Determination is available in the rulemaking docket for inspection or copying where indicated under **ADDRESSES**.

### List of Subjects

#### 33 CFR Part 62

Navigation (water).

#### 33 CFR part 66

Intergovernmental relations, Navigation (water). For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR parts 62 and 66 as follows:

### PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

1. The authority citation for part 62 continues to read as follows:

**Authority:** 14 U.S.C. 85; 33 U.S.C. 1233; 43 U.S.C. 1333; 49 CFR 1.46.

#### § 62.1 [Amended]

2. In § 62.1, redesignate paragraph (b) as paragraph (b)(1), and add a paragraph (b)(2) to read as follows:

#### § 62.1 Purpose.

\* \* \* \* \*

(b) \* \* \*

(2) The regulations found in 33 CFR subpart 66.10 expire on [Insert date five years from the date of publication in the **Federal Register** of the final rule.], at which time the provisions of this part will apply.

\* \* \* \* \*

#### § 62.21 [Amended]

3. In § 62.21(a), add after the words “The navigable waters of the United States”, the words “, and non-navigable state waters after [Insert date 5 years from publication in the **Federal Register** of the final rule.]”

4. In § 62.33, redesignate the introductory text as paragraph (a),

redesignate existing paragraphs (a) through (d) as (a)(1) to (a)(4), and add a new paragraph (b) to read as follows:

#### § 62.33 Information and regulatory marks.

\* \* \* \* \*

(b) When a buoy is used as an information or regulatory mark it shall be white with two horizontal orange bands of international orange placed completely around the buoy circumference. One band shall be at the top of the buoy body, with a second band placed just above the waterline of the buoy so that both bands are clearly visible.

#### § 62.35 [Amended]

5. In § 62.35 add the following words to the end of the text: “Lighted mooring buoys may display a slow flashing white light.”

6. Add § 62.54 to Supart B to read as follows:

#### § 62.54 Ownership identification.

Ownership identification on private or state aids to navigation is permitted so long as it does not change or hinder an understanding of the meaning of the aid to navigation.

### PART 66—PRIVATE AIDS TO NAVIGATION

7. The authority citation for part 66 continues to read as follows:

**Authority:** 14 U.S.C. 83, 85; 43 U.S.C. 1333; 49 CFR 1.46.

#### § 66.01–10 [Amended]

8. In § 66.01–10 delete paragraph (b) and remove the paragraph designation (a).

9. Revise § 66.05–1 to read as follows:

#### § 66.05–1 Purpose.

The purpose of the regulations in this subpart is to prescribe the conditions under which state governments may regulate aids to navigation owned by state or local governments, or private parties. With the exception of the provisions of subpart 66.10, which are valid until [Insert date five years from date of publication in the **Federal Register** of the final rule.], aids to navigation must be in accordance with the United States Aids to Navigation System in part 62 of this subchapter.

10. In § 66.05–5, revise the section heading and paragraph (b) to read as follows:

#### § 66.05–5 Definitions.

\* \* \* \* \*

(b) The term *Uniform State Waterway Marking System* (USWMS) means the system of private aids to navigation which may be operated in State waters.

Subpart 66.10, which describes the USWMS, expires on [Insert date five years from the date of publication in the **Federal Register** of the final rule.].

\* \* \* \* \*

#### **§ 66.05–20(c)(3) [Amended]**

11. In § 66.05–20(c)(3) add to the beginning of the paragraph the words “If prior to [Insert date five years from the date of publication in the **Federal Register** of the final rule.],” and uncapitalized the word “Specification”.

12. Revise § 66.10–1 to read as follows:

#### **§ 66.10–1 General.**

(a) Until [Insert date five years from date of publication in the **Federal Register** of the final rule.], the Uniform State Waterway Marking System’s (USWMS) aids to navigation provisions for marking channels and obstructions may be used in those navigable waters of the U.S. that have been designated as state waters for private aids to navigation and in those internal waters that are non-navigable waters of the U.S. All other provisions for the use of regulatory markers and other aids to navigation shall be in accordance with the United States Aid to Navigation System, described in part 62 of this subchapter.

(b) The USATONS may be used in all U.S. waters under state jurisdiction, including non-navigable state waters.

#### **§ 66.10–5 [Removed]**

13. Remove § 66.10–5.

#### **§ 66.10–10 [Removed]**

14. Remove § 66.10–10.

#### **§ 66.10–20 [Removed]**

15. Remove § 66.10–20.

#### **§ 66.10–25 [Removed]**

16. Remove § 66.10–25.

#### **§ 66.10–30 [Removed]**

17. Remove § 66.10–30.

18. Revise § 66.10–35 to read as follows:

#### **§ 66.10–35 Navigation lights.**

(a) A red light shall only be used on a solid colored red buoy. A green light shall only be used on a solid colored black or a solid colored green buoy. White lights shall be used for all system buoy other buoys. When a light is used on a cardinal or a vertically stripped white and red buoy it shall always to quick flashing.

(b) [Reserved]

#### **§ 66.10–40 [Removed]**

18. Remove § 66.10–40.

#### **§ 66.10–45 [Removed]**

19. Remove § 66.10–45.

Dated: December 17, 1997.

**Ernest R. Riutta,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.*

[FR Doc. 97–33466 Filed 12–22–97; 8:45 am]

BILLING CODE 4910–14–M

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[IL158b; FRL–5900–4]

#### **Approval and Promulgation of Implementation Plan; Illinois**

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Proposed rule.

**SUMMARY:** The USEPA proposes to approve a revision to the Illinois State Implementation Plan (SIP) for the general conformity rules. The general conformity SIP revisions enable the State of Illinois to implement the Federal general conformity requirements in the nonattainment and maintenance areas at the State or local level in accordance with 40 CFR part 93, subpart B—Determining Conformity of General Federal Actions to State or Federal Implementation Plans.

**DATES:** Written comments on this proposed action must be received by January 22, 1998.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Copies of the request and the USEPA’s analysis are available for inspection at the following address: (Please telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 office.) USEPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

**FOR FURTHER INFORMATION CONTACT:** Patricia Morris (312) 353–8656.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 5, 1997.

**Michelle D. Jordan,**

*Acting Regional Administrator, Region V.*

[FR Doc. 97–33323 Filed 12–22–97; 8:45 am]

BILLING CODE 6560–50–P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[CA179–0052b; FRL–5911–3]

#### **Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from miscellaneous metal parts and products coating industry. The intended effect of proposing approval of Mojave Desert Air Quality Management District Rule 1115 is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules section of this **Federal Register**, the EPA is approving the state’s SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by January 22, 1998.

**ADDRESSES:** Written comments on this action should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule revisions and EPA’s evaluation report of each rule are available for public inspection at EPA’s Region 9 office during normal business hours. Copies of the submitted rule revision is also available for inspection at the following locations:

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392