

CHAPTER 5 - NON COAST GUARD MAINTAINED AIDS

A. General.

1. There are categories of aids to navigation which are not maintained by the Coast Guard. These aids, in many areas of the navigable waters subject to federal jurisdiction, are maintained by various entities including other federal agencies, the States, other Armed Forces, private corporations and private individuals. These aids are not maintained by the Coast Guard because marking by the Coast Guard would:
 - a. Relieve the owner of a wreck, of his responsibility to warn others of its existence and location.
 - b. Place upon the Coast Guard the burden of marking structures or other hazards which have been established for the benefit of only the owner.
 - c. Require the expenditure of federal funds far exceeding the expected benefits that would be derived.
 - d. Benefit only a limited number of users.
2. 33 USC 409 requires that wrecks of vessels, constituting a hazard in the navigable waters of the United States, must be marked for the protection of marine traffic. The law requires that the owner of such a wreck mark it with a "buoy or beacon during the day and unless otherwise granted a waiver by the Commandant of the Coast Guard, a light."
3. No person, public body or instrumentality not under the control of the Commandant, exclusive of the Armed Forces, shall establish and maintain, discontinue, change or transfer ownership of any aid to maritime navigation, without first obtaining permission to do so from the Commandant.

B. Private Aids to Navigation.

1. Classification of Private Aids.
 - a. Private aids include both those which are legally required, and those which are merely desired by the owner. There are three classifications of private aids:
 - (1) Class I private aids are those aids to navigation on marine structures or other works which the owners are legally obligated to establish, maintain, and operate as prescribed by the Coast Guard. This obligation is contained in 33 CFR 64, 66, and 67.

- (a) The owner of a structure is required by law (14 USC 85, 33 CFR 64.21) to establish the aids to navigation required by the District Commander.
- (2) Class II private aids to navigation are those, exclusive of Class I aids, that are located in waters used by general navigation.
- (3) Class III private aids to navigation are those, exclusive of Class I aids and Class II aids, that are located in waters not ordinarily used by general navigation.
- b. Authorization for the establishment of a Class II or III private aid by the Coast Guard imposes no legal obligation that the aid actually be established and operated. It only specifies the location and operational characteristics of the aid for which the authorization was requested. Once the aid is established, however, the owner is legally obligated to maintain it in good working order and properly painted. The owner must also give the Coast Guard 30 days notice before discontinuing the aid in accordance with 33 CFR 66.01-25.
- c. All private aids must be approved by the appropriate District Commander before the aid is established.

2. District Administration of the Private Aids Program.

- a. Requests for authority to establish, discontinue or change private aids to navigation are made on forms CG-2554 and 4143. These forms are available in the CG-Forms library and the Internet. These forms, executed by the person, company, corporation, or municipality at whose expense the aid is to be maintained, are submitted to the appropriate District Commander who shall:
 - (1) Review the form for compliance with aids to navigation regulations; all applicable environmental regulations, including National Environmental Protection Act and Coastal Zone Management Act; accuracy of plotting; and correctness.
 - (2) Ensure that all positions are given by latitude and longitude as obtained from a GPS/DGPS receiver or from a licensed surveyor.
 - (3) In unusual situations, cases involving electronic aids, or examples not covered by directives, the application will be sent to Commandant (**CG-5413**) for approval.

- b. After determining the class of the aid/obstruction marking, the District Commander shall recommend to the National Ocean Service, through publication in the Local Notice to Mariners, for charting all permanent:
 - (1) Class I private aids.
 - (2) Class II fixed private aids.
 - (3) Class II floating private aids equivalent in size to, or larger than a 6NR/6CR.
 - (4) Class III private aids shall not be recommended for charting except in special circumstances.
- c. All private aids included in sub-paragraphs b(1), b(2), and b(3) above shall be reported in Local Notices to Mariners upon establishment, change or discontinuance.
- d. When a private aid is established that needs to be charted, it shall be listed in the Local Notice to Mariners in the same manner as a Federal aid, with the notation ("Private Aid" or in the case of a light house "Structure and Daymark Privately Maintained"). Refer to Chapter 13 for more detail.
- e. Markers which cause an obstruction to navigation, especially those in or adjacent to fairways or navigational channels, must be of appropriate size, shape, and color to warn traffic of their existence and purpose and shall be listed in the Light List.
- f. Small private aids which mark fishing reefs and race courses may be excluded from the Light List when:
 - (1) The fishing reefs do not cause an obstruction to navigation.
 - (2) The markers are not located in or adjacent to fairways, navigational channels, or traffic separation schemes customarily used by craft in approaching or leaving harbors.
- g. Previously charted private aids no longer meeting the requirements above will be removed from charts and the Light List.
- h. Aids submitted for removal from charts will be removed from the Light List and applicable charts. Removal of these private aids from the Light List requires notification in Local Notices to Mariners.

- i. Any private aid to navigation that is published in the Light List will be entered into I-ATONIS.
- j. In conjunction with the district review of federal aids to navigation specified in Chapter 3, charted private aids will also be reviewed to identify those with changed classification.
- k. Queries regarding private aids should be directed to the District Commander. All correspondence between the Coast Guard and the maintainer of private aids should normally be through the District Commander.
- l. All approved private aid permits that are not acted on within one year of the approval are nullified. If the private aid is established within one year the permit is valid until discontinued or changed as outlined in this chapter.
- m. All private aids not maintained and repaired, are susceptible to prosecution under 14 USC 83. Proceedings under 14 USC 83 should be instituted only in cases of persistent neglect or refusal to comply with regulations.
- n. Coast Guard units discovering unauthorized private aids shall make every effort to identify the persons responsible for their establishment. A report shall be made to the District Commander describing the unauthorized aid and the action taken to ascertain the owner. The report shall include the name and address of the owner, if known. Auxiliary units discovering such aids shall report them to the District Commander who will ascertain ownership. The District Commander's action will then depend on the circumstances of the individual case. If the owner makes reasonable effort to comply with regulations, the application should be processed without prejudice. Proceedings under 14 USC 83 should be instituted only in cases of persistent neglect or refusal to comply with the regulations.
- o. U.S. Army Corps of Engineers' Approval. As outlined in 33CFR66.01-30
 - (1) Before any private aid to navigation consisting of a fixed structure is placed in the navigable waters of the United States, authorization to erect such structure shall first be obtained from the District Engineer, U.S. Army Corps of Engineers in whose district the aid will be located.
 - (2) The application to establish any private aid to navigation consisting of a fixed structure shall show evidence of the required permit having been issued by the Corps of Engineers.

3. Inspection and Verification of Private Aids to Navigation.
- a. Private aids to navigation are authorized by the U.S. Coast Guard in accordance with law, and are to be maintained by, and at the expense of, the responsible parties. Inspections and verifications are to ensure that private aids are in compliance with the conditions of the private aid application.
 - (1) Inspection: An inspection is defined as Coast Guard personnel or Coast Guard Auxiliary performing a hands-on check of an aid to ensure the authorized hardware is installed as approved in the private aid application and that the aid is operating properly.
 - (2) Verification: A verification is a self-verification where the owner provides a written report to the Coast Guard stating that the aid is operating properly. It can also be Coast Guard or Coast Guard Auxiliary personnel viewing the aid from a distance and determining if the aid **operates** as advertised.
 - b. District Commanders shall ensure that all private aids to navigation in their areas of responsibility are inspected or verified on a periodic basis as outlined below.
 - (1) New Class I private aids should be verified by Coast Guard or Coast Guard Auxiliary personnel as soon after their establishment as possible.
 - (2) Class I private aids will be verified annually.
 - (3) Class II private aids will be verified every three years.
 - (4) Class III aids will be verified every five years.
 - (5) Districts should conduct spot check inspections **on a representative sample of** Class I private aids to ensure self-verifications are being properly conducted. Inspections should focus on those aids that are frequently discrepant or generate complaints. **Inspections/verifications by Coast Guard or Coast Guard Auxiliary members are not required for private aids except as noted in paragraph 5.B.3.b(1).**
 - c. When notification has been received that a private aid has been discontinued, the site should be inspected to ensure that the aid has been removed.
 - d. Report of inspections and verifications should be made on form CG – 5474 AUX or through an approved computer program. CG – 5474 AUX is available in the CG-Forms library.

- e. Inspections of private aids to navigation should, whenever possible, be made in the presence of the owner or the owner's agent. If present, the owner or agent shall be advised of any discrepancies noted. No repair, change, repositioning, or servicing of private aids is authorized by Coast Guard personnel; however, friendly advice is encouraged.

4. Use of the Coast Guard Auxiliary

- a. District Commanders are encouraged to use the Coast Guard Auxiliary for the verification or inspection of private aids to navigation to the extent that funds are available from current budgets.
- b. When using the Auxiliary, District Commanders shall ensure that Auxiliarists receive training and maintain qualifications necessary to carry out the mission.
- c. District Commanders are encouraged to use the Auxiliary to assist with the administration and review of private aid to navigation application forms and other duties that may arise from their verification/inspection of private aids.

C. State Aids to Navigation.

- 1. General. 33 CFR 66.05 permits the Commandant to designate navigable waters of the United States as "State Waters for private Aids to Navigation." These are waters not marked by the Federal government on which a State government may regulate the establishment, operation, and maintenance of marine aids to navigation. All private aids operated in "State Waters", whether owned or operated by a State, political subdivision thereof, or by individuals, corporations, or organizations are "State Aids to Navigation."
- 2. Action by District Commander.
 - a. District Commanders shall establish close liaison with the State officials having responsibility for enforcement of the boating laws of the states within the district's boundaries. They shall consult with State officials on any matters involving aids to navigation, particularly where the waters involved are contiguous to Federal waters. Those states which show interest in aids to navigation agreements shall be given the utmost cooperation and assistance.