

equipment occur at the frequency required by §164.25 and that the following inspections of gear occur before the vessel embarks on a voyage of more than 24 hours or when each new master or operator assumes command:

(1) *Navigational equipment.* Tests of onboard equipment as required by §164.25.

(2) *Terminal gear.* Visual inspection of tackle; of connections of bridle and towing pendant, if applicable; of chafing gear; and of the winch brake, if installed.

(c)(1) The voyage-planning requirements outlined in this section do not apply to you if your towing vessel is—

(i) Used solely for any of the following services or any combination of these services—

(A) Within a limited geographic area, such as a fleeting-area for barges or a commercial facility, and used for restricted service, such as making up or breaking up larger tows;

(B) For harbor-assist;

(C) For assistance towing as defined by 46 CFR 10.103;

(D) For response to emergency or pollution;

(ii) A public vessel that is both owned, or demise chartered, and operated by the United States Government or by a government of a foreign country; and that is not engaged in commercial service;

(iii) A foreign vessel engaged in innocent passage; or

(iv) Exempted by the Captain of the Port (COTP).

(2) If you think your towing vessel should be exempt from these voyage planning requirements for a specified route, you should submit a written request to the appropriate COTP. The COTP will provide you with a written response granting or denying your request.

(3) If any part of a towing vessel's intended voyage is seaward of the baseline (*i.e.*, the shoreward boundary) of the territorial sea of the U.S., then the owner, master, or operator of the vessel, employed to tow a barge or barges, must ensure that the voyage with the barge or barges is planned, taking into account all pertinent information before the vessel embarks on the voyage. The master must check the planned

route for proximity to hazards before the voyage begins. During a voyage, if a decision is made to deviate substantially from the planned route, then the master or mate must plan the new route before deviating from the planned route. The voyage plan must follow company policy and consider the following (related requirements noted in parentheses):

(i) Applicable information from nautical charts and publications (also see paragraph (b) of section 164.72), including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for the port of departure, all ports of call, and the destination;

(ii) Current and forecast weather, including visibility, wind, and sea state for the port of departure, all ports of call, and the destination (also see paragraphs (a)(7) of section 164.78 and (b) of section 164.82);

(iii) Data on tides and currents for the port of departure, all ports of call, and the destination, and the river stages and forecast, if appropriate;

(iv) Forward and after drafts of the barge or barges and under-keel and vertical clearances (air-gaps) for all bridges, ports, and berthing areas;

(v) Pre-departure checklists;

(vi) Calculated speed and estimated time of arrival at proposed waypoints;

(vii) Communication contacts at any Vessel Traffic Services, bridges, and facilities, and any port-specific requirements for VHF radio;

(viii) Any master's or operator's standing orders detailing closest points of approach, special conditions, and critical maneuvers; and

(ix) Whether the towing vessel has sufficient power to control the tow under all foreseeable circumstances.

[CGD 94-020, 61 FR 35075, July 3, 1996, as amended by USCG-2000-6931, 68 FR 22610, Apr. 29, 2003; 69 FR 34068, June 18, 2004]

#### **§ 164.82 Maintenance, failure, and reporting.**

(a) *Maintenance.* The owner, master, or operator of each towing vessel shall maintain operative the navigational-safety equipment required by §164.72.

(b) *Failure.* If any of the navigational-safety equipment required by §164.72 fails during a voyage, the owner, master, or operator of the towing vessel

shall exercise due diligence to repair it at the earliest practicable time. He or she shall enter its failure in the log or other record carried on board. The failure of equipment, in itself, does not constitute a violation of this rule; nor does it constitute unseaworthiness; nor does it obligate an owner, master, or operator to moor or anchor the vessel. However, the owner, master, or operator shall consider the state of the equipment—along with such factors as weather, visibility, traffic, and the dictates of good seamanship—in deciding whether it is safe for the vessel to proceed.

(c) *Reporting.* The owner, master, or operator of each towing vessel whose equipment is inoperative or otherwise impaired while the vessel is operating within a Vessel Traffic Service (VTS) Area shall report the fact as required by 33 CFR Table 161.18(a) row Q.

(d) *Deviation and authorization.* The owner, master, or operator of each towing vessel unable to repair within 96 hours an inoperative marine radar required by §164.72(a) shall so notify the Captain of the Port (COTP) and shall seek from the COTP both a deviation from the requirements of this section and an authorization for continued operation in the area to be transited. Failure of redundant navigational-safety equipment, including but not limited to failure of one of two installed radars, where each satisfies §164.72(a), does not necessitate either a deviation or an authorization.

(1) The initial notice and request for a deviation and an authorization may be spoken, but the request must also be written. The written request must explain why immediate repair is impracticable, and state when and by whom the repair will be made.

(2) The COTP, upon receiving even a spoken request, may grant a deviation and an authorization from any of the provisions of §§164.70 through 164.82 for a specified time if he or she decides that they would not impair the safe navigation of the vessel under anticipated conditions.

[CGD 94-020, 61 FR 35075, July 3, 1996, as amended by USCG-2020-0304, 85 FR 58280, Sept. 18, 2020]

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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#### FIRST COAST GUARD DISTRICT

- 165.T01-0134 Safety Zone; Falls Bridge Project, Blue Hill, ME.
- 165.T01-0575 Safety Zone; Boston Harbor's Improvement Dredging Project, Boston, MA.
- 165.T01-0606 Safety Zone; North Washington Street Bridge Replacement Project—Charles River, Boston, MA.
- 165.T01-0682 Safety Zone—North Hero-Grand Isle Bridge, Lake Champlain, VT.
- 165.100 Regulated Navigation Area: Navigable waters within the First Coast Guard District.
- 165.101 Kittery, Maine—regulated navigation area.
- 165.102 Security Zone: Walkers Point, Kennebunkport, ME.
- 165.103 Safety and Security Zones; LPG Vessel Transits in Portland, Maine, Captain of the Port Zone, Portsmouth Harbor, Portsmouth, New Hampshire.
- 165.104 Safety Zone: Vessel Launches, Bath Iron Works, Kennebec River, Bath, Maine.