AUTHORITY: 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; Department of Homeland Security Delegation No. 0170.1 (75). Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.01 Applicability.

(a) This part (except as specifically limited by this section) applies to each self-propelled vessel of 1600 or more gross tons (except as provided in paragraphs (c) and (d) of this section, or for foreign vessels described in §164.02) when it is operating in the navigable waters of the United States except the St. Lawrence Seaway.

(b) Sections 164.70 through 164.82 of this part apply to each towing vessel of 12 meters (39.4 feet) or more in length operating in the navigable waters of the United States other than the St. Lawrence Seaway; except that a towing vessel is exempt from the requirements of §164.72 if it is—

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

(2) Used solely for assistance towing as defined by 46 CFR 10.103;

(3) Used solely for pollution response; or

(4) Any other vessel exempted by the Captain of the Port (COTP). The COTP, upon written request, may, in writing, exempt a vessel from §164.72 for a specified route if he or she decides that exempting it would not allow its unsafe navigation under anticipated conditions.

(c) Provisions of §§164.11(a)(2) and (c), 164.30, 164.33, and 164.46 do not apply to warships or other vessels owned, leased, or operated by the United States Government and used only in government noncommercial service when these vessels are equipped with electronic navigation systems that have met the applicable agency regulations regarding navigation safety.

(d) Provisions of §164.46 apply to some self-propelled vessels of less than 1600 gross tonnage.

[CGD 83–004, 49 FR 43466, Oct. 29, 1984, as amended by CGD 94–020, 61 FR 35072, July 3, 1996; USCG–2000–8300, 66 FR 21864, May 2, 2001; USCG–2003–14757, 68 FR 39367, July 1, 2003]

§ 164.02 Applicability exception for foreign vessels.

(a) Except as provided in §164.46(a)(2) of this part, including §§164.38 and 164.39, this part does not apply to vessels that:

(1) Are not destined for, or departing from, a port or place subject to the jurisdiction of the United States; and

(2) Are in:

(i) Innocent passage through the territorial sea of the United States; or

(ii) Transit through navigable waters of the United States which form a part of an international strait.

[CGD 77–063, 44 FR 66530, Nov. 19, 1979, as amended by CGD 79–148, 45 FR 54039, Aug. 14, 1980; USCG–2003–14757, 68 FR 39367, July 1, 2003; 68 FR 60569, Oct. 22, 2003]

§ 164.03 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER and the material must be available to the public. All approved material is available for inspection at the Office of Vessel Traffic

Management (G-MWV), Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* All approved material is available from the sources indicated in paragraph (b) of this section.

(b) The materials approved for incorporation by reference in this part and the sections affected are as follows:

American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005

API Specification 9A, Specification for Wire Rope, Section 3, Properties and Tests for Wire and Wire Rope, May 28, 1984 ..... 164.74

American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959

ASTM D4268–93, Standard Test Method for Testing Fiber Ropes 164.74

Cordage Institute, 350 Lincoln Street, Hingham, MA 02043

CIA–3, Standard Test Methods for Fiber Rope Including Standard Terminations, Revised, June 1980 ..... 164.74

International Electrotechnical Commission (IEC), 3, rue de Varemb, Geneva, Switzerland.

IEC 61993–2, Maritime navigation and radiocommunication equipment and systems—Automatic identification systems (AIS)—part 2: Class A shipborne equipment of the universal automatic identification system (AIS)—Operational and performance requirements, methods of test and required test results First edition, 2001–12 ..... 164.46

International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, U.K.

IMO Resolution A342(IX), Recommendation on Performance Standards for Automatic Pilots, adopted November 12, 1975 164.13

Resolution MSC.74(69), Annex 3, Recommendation on Performance Standards for a Universal Shipborne Automatic Identification System (AIS), adopted May 12, 1998 ..... 164.46

SN/Circ.227, Guidelines for the Installation of a Shipborne Automatic Identification System (AIS), dated January 6, 2003 ..... 164.46

SOLAS, International Convention for Safety of Life at Sea, 1974, and 1988 Protocol relating thereto, 2000 Amendments, effective January and July 2002, (SOLAS 2000 Amendments) 164.46

Conference resolution 1, Adoption of amendments to the Annex to the International Convention for the Safety of Life at Sea, 1974, and amendments to Chapter V of SOLAS 1974, adopted December 12, 2002 164.46

International Telecommunication Union Radiocommuni- cation Bureau (ITU-R), Place de Nations CH–1211 Geneva 20 Switzerland

(1) ITU-R Recommendation M.821, Optional Expansion of the Digital Selective-Calling System for Use in the Maritime Mobile Service, 1992 ..... 164.43

(2) ITU-R Recommendation M.825, Characteristics of a Transponder System Using Digital Selective-Calling Techniques for Use with Vessel Traffic Services and Ship-to-Ship Identification, 1992 ..... 164.43

ITU-R Recommendation M.1371–1, Technical characteristics for a universal shipborne automatic identification system using time division multiple access in the VHF maritime mobile band, 1998–2001 ..... 164.46

Radio Technical Commission for Maritime Services, 655 Fifteenth Street, NW., Suite 300, Washington, DC 20005

(1) RTCM Paper 12–78/DO–100, Minimum Performance Standards, Loran C Receiving Equipment, 1977 ..... 164.41

(2) RTCM Paper 194–93/SC104–STD, RTCM Recommended Standards for Differential NAVSTAR GPS Service, Version 2.1, 1994 ..... 164.43

(3) RTCM Paper 71–95/SC112–STD, RTCM Recommended Standards for Marine Radar Equipment Installed on Ships of Less Than 300 Tons Gross Tonnage, Version 1.1, October 10, 1995 ..... 164.72

(4) RTCM Paper 191–93/SC112–X, RTCM Recommended Standards for Maritime Radar Equipment Installed on Ships of 300 Tons Gross Tonnage and Upwards, Version 1.2, December 20, 1993 ..... 164.72

[CGD 91–203, 58 FR 27632, May 10, 1993, as amended by CGD 83–043, 60 FR 24771, May 10, 1995; CGD 93–022, 60 FR 51734, Oct. 3, 1995; CGD 96–026, 61 FR 33669, June 28, 1996; CGD 94–020, 61 FR 35072, July 3, 1996; USCG–1999–5151, 64 FR 67176, Dec. 1, 1999; USCG–2002–12471, 67 FR 41333, June 18, 2002; USCG–2003–14757, 68 FR 39367, July 1, 2003; 68 FR 60569, Oct. 22, 2003; 69 FR 18803, Apr. 9, 2004; USCG–2004–18057, 69 FR 34926, June 23, 2004]

§ 164.11 Navigation under way: General.

The owner, master, or person in charge of each vessel underway shall ensure that:

(a) The wheelhouse is constantly manned by persons who:

(1) Direct and control the movement of the vessel; and

(2) Fix the vessel's position;

(b) Each person performing a duty described in paragraph (a) of this section is competent to perform that duty;

(c) The position of the vessel at each fix is plotted on a chart of the area and the person directing the movement of the vessel is informed of the vessel's position;

(d) Electronic and other navigational equipment, external fixed aids to navigation, geographic reference points, and hydrographic contours are used when fixing the vessel's position;

(e) Buoys alone are not used to fix the vessel's position;

NOTE: Buoys are aids to navigation placed in approximate positions to alert the mariner to hazards to navigation or to indicate the orientation of a channel. Buoys may not maintain an exact position because strong or varying currents, heavy seas, ice, and collisions with vessels can move or sink them or set them adrift. Although buoys may corroborate a position fixed by other means, buoys cannot be used to fix a position: however, if no other aids are available, buoys alone may be used to establish an estimated position.

(f) The danger of each closing visual or each closing radar contact is evaluated and the person directing the movement of the vessel knows the evaluation;

(g) Rudder orders are executed as given;

(h) Engine speed and direction orders are executed as given;

(i) Magnetic variation and deviation and gyrocompass errors are known and correctly applied by the person directing the movement of the vessel;

(j) A person whom he has determined is competent to steer the vessel is in the wheelhouse at all times;[1]

(k) If a pilot other than a member of the vessel's crew is employed, the pilot is informed of the draft, maneuvering characteristics, and peculiarities of the vessel and of any abnormal circumstances on the vessel that may affect its safe navigation.

(l) Current velocity and direction for the area to be transited are known by the person directing the movement of the vessel;

(m) Predicted set and drift are known by the person directing movement of the vessel;

(n) Tidal state for the area to be transited is known by the person directing movement of the vessel;

(o) The vessel's anchors are ready for letting go;

(p) The person directing the movement of the vessel sets the vessel's speed with consideration for:

(1) The prevailing visibility and weather conditions;

(2) The proximity of the vessel to fixed shore and marine structures;

(3) The tendency of the vessel underway to squat and suffer impairment of maneuverability when there is small underkeel clearance;

(4) The comparative proportions of the vessel and the channel;

(5) The density of marine traffic;

(6) The damage that might be caused by the vessel's wake;

(7) The strength and direction of the current; and

(8) Any local vessel speed limit;

(q) The tests required by §164.25 are made and recorded in the vessel's log; and

(r) The equipment required by this part is maintained in operable condition.

(s) Upon entering U.S. waters, the steering wheel or lever on the navigating bridge is operated to determine if the steering equipment is operating properly under manual control, unless the vessel has been steered under manual control from the navigating bridge within the preceding 2 hours, except

[1] See also 46 U.S.C. 8702(d), which requires an able seaman at the wheel on U.S. vessels of 100 gross tons or more in narrow or crowded waters during low visibility.