

## § 161.3

reporting provisions and other information which may assist the mariner while in the VTS area.

[CGD 90-020, 59 FR 36324, July 15, 1994, as amended by CGE 97-023, 62 FR 33364, June 19, 1997; USCG-2003-14757, 68 FR 39364, July 1, 2003; USCG-1998-4399, 75 FR 66314, Oct. 28, 2010; USCG-2005-21869, 80 FR 5334, Jan. 30, 2015; 80 FR 17327, Apr. 1, 2015; USCG-2018-0874, 84 FR 30880, June 28, 2019]

### § 161.3 Applicability.

The provisions of this subpart shall apply to each VTS User and may also apply to any vessel while underway or at anchor on the navigable waters of the United States within a VTS area, to the extent the VTS considers necessary.

### § 161.4 Requirement to carry the rules.

Each VTS User shall carry on board and maintain for ready reference a copy of these rules.

NOTE 1 TO § 161.4: These rules are contained in the applicable U.S. Coast Pilot, the VTS User's Manual which may be obtained by contacting the appropriate VTS or downloaded from the Coast Guard Navigation Center website (<https://www.navcen.uscg.gov>).

[CGD 90-020, 59 FR 36324, July 15, 1994, as amended by USCG-2018-0874, 84 FR 30880, June 28, 2019]

### § 161.5 Deviations from the rules.

(a) Requests to deviate from any provision in this part, either for an extended period of time or if anticipated before the start of a transit, must be submitted in writing to the appropriate District Commander. Upon receipt of the written request, the District Commander may authorize a deviation if it is determined that such a deviation provides a level of safety equivalent to that provided by the required measure or is a maneuver considered necessary for safe navigation under the circumstances. An application for an authorized deviation must state the need and fully describe the proposed alternative to the required measure.

(b) Requests to deviate from any provision in this part due to circumstances that develop during a transit or immediately preceding a transit may be made to the appropriate VTC. Requests to deviate must be made as

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far in advance as practicable. Upon receipt of the request, the VTC may authorize a deviation if it is determined that, based on vessel handling characteristics, traffic density, radar contacts, environmental conditions and other relevant information, such a deviation provides a level of safety equivalent to that provided by the required measure or is a maneuver considered necessary for safe navigation under the circumstances.

[CGD 90-020, 59 FR 36324, July 15, 1994, as amended by USCG-2005-21531, 70 FR 36350, June 23, 2005; USCG-2005-21869, 80 FR 5334, Jan. 30, 2015; USCG-2018-0874, 84 FR 30880, June 28, 2019]

### § 161.6 Preemption.

The regulations in this part have preemptive impact over State laws or regulations on the same subject matter. The Coast Guard has determined, after considering the factors developed by the Supreme Court in *U.S. v. Locke*, 529 U.S. 89 (2000), that by enacting 46 U.S.C. Chapter 700 'Ports and Waterways Safety', Congress intended that Coast Guard regulations preempt State laws or regulations regarding vessel traffic services in United States ports and waterways.

[USCG-1998-4399, 75 FR 66314, Oct. 28, 2010, as amended by USCG-2020-0304, 85 FR 58280, Sept. 18, 2020]

## SERVICES, VTS MEASURES, AND OPERATING REQUIREMENTS

### § 161.10 Services.

To enhance navigation and vessel safety, and to protect the marine environment, a VTS may issue advisories, or respond to vessel requests for information, on reported conditions within the VTS area, such as:

- (a) Hazardous conditions or circumstances;
- (b) Vessel congestion;
- (c) Traffic density;
- (d) Environmental conditions;
- (e) Aids to navigation status;
- (f) Anticipated vessel encounters;
- (g) Another vessel's name, type, position, hazardous vessel operating conditions, if applicable, and intended navigation movements, as reported;
- (h) Temporary measures in effect;