

# How Narrow is “Narrow”?

## *NAVSAC recommends the Coast Guard develop navigation criteria.*

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In June 2010, the U.S. Navigation Safety Advisory Council (NAVSAC), the Coast Guard’s advisory council on the Rules of the Road, unanimously recommended to the Coast Guard that it formally designate those waters in the U.S. that will be subject to Inland Navigation Rule 9 as “narrow channels or fairways.”<sup>1</sup>

### **History**

The NAVSAC action comes partly in response to a recommendation by the U.S. National Transportation Safety Board (NTSB) to the Coast Guard following the NTSB’s investigation into a collision between two towing vessels on an inland waterway. The NTSB discovered that the vessel operators had come to conflicting conclusions as to whether the waters were a “narrow channel or fairway” for purposes of applying Rule 9.

The NTSB observed that it does “operators little good to learn months after an accident that a court has ruled that a particular portion of a waterway, under a particular set of circumstances, was or was not a ‘narrow channel’ under the rules, and that the narrow channel rule should or should not have been applied by the parties involved in the accident.”<sup>2</sup> The board recommended that the Coast Guard publish guidance to enable operators to determine when to apply the narrow channel rule.

The Commandant of the Coast Guard agreed with the NTSB in part, but responded that “[to] define a ‘narrow channel’ so as to apply to all situations would be virtually impossible. It is possible, however, that the factors to be considered in determining when to apply the rule can be bounded and broad guidance issued to mariners.”<sup>3</sup> After consideration by the Towing Safety Advisory Committee and the Rules of the Road Advi-

sory Council in the early 1980s, the matter was tabled for nearly three decades.

In the spring of 2009, the issue resurfaced before the Navigation Safety Advisory Council following waterway designations by several local Coast Guard commanders.

### **Whose Authority?**

For example, the Coast Guard’s captain of the port (COTP) for San Francisco designated the entire San Francisco Bay Region as a “Regulated Navigation Area.” The following provision was included in the regulations: “The master, pilot, or person directing the movement of a vessel within the Regulated Navigation Areas defined in paragraph (c) of this regulation shall comply with Rule 9 of the Inland Navigation Rules ...” The Coast Guard captains of the port for Los Angeles/Long Beach and San Diego later made similar determinations for certain waters within their respective jurisdictions, and at least one Coast Guard command on the Atlantic coast expressed an interest in designating narrow channels.

These designations raised questions regarding the Coast Guard’s policy and authority on narrow channel designations. Once this issue was raised, the Coast Guard asked NAVSAC to determine if there is a need to designate waters and waterways as narrow channels or fairways and, if so, to identify the criteria to be used in making the designations.

### **Rule 9 Working Group**

To address this, NAVSAC formed the Rule 9 Working Group, which met in June of 2009 and again in June of 2010 to examine the issues and present draft recommendations to the council for consideration.

The working group members noted that the Inland Navigation Rules include two “area-based” risk management rules:

- Rule 9, applicable to waters that constitute narrow channels or fairways,
- Rule 10, applicable to traffic separation schemes.

The members also observed the contrast between Rule 9, which leaves it to the mariners to determine when the rule applies, and Rule 10, which applies only when the waters have been designated a traffic separation scheme. They also noted that the rules do not define “narrow channel” or “fairway” or provide the mariner with criteria for determining which waterways fall within those terms.

The group’s conclusion: Rule 9 has the potential to be an important collision prevention rule, but its effectiveness is undermined, since it is often unclear to the mariner when the rule applies. The multi-factor Rule 9 analysis adopted by courts in collision cases is complicated, and the need for a case-by-case analysis of the relevant factors might well delay the mariners’ collision avoidance action.

There is also a risk that two (or more) approaching vessels will reach conflicting conclusions as to whether Rule 9 applies to a given situation, as the tow boat operators did in the collision investigated by the NTSB. The working group therefore concurred with the NTSB recommendation to the extent that it recommended that the Coast Guard take action to better enable

## RULE 9 Narrow Channels

(a) (i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(ii) Notwithstanding paragraph (a)(i) and Rule 14(a), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the

danger signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e) (i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing.

If in doubt she shall sound the danger signal prescribed in Rule 34(d).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

mariners to know when to apply the narrow channel rule.

Turning to the task presented by the Coast Guard, the working group unanimously concluded that the answer to the first question—should the Coast Guard designate narrow channels—is “yes.”

### Recommendation

To that end, the working group drafted a resolution to recommend that the Coast Guard exercise its authority to designate those waters and waterways that it determines are narrow channels or fairways.

However, rather than have the council compile a set of criteria for designating narrow channels or fairways throughout the nation’s 25,000 miles of waterways, the working group recommended that a process for designation, and the criteria to be applied in those designa-



tions, be developed jointly by the Coast Guard headquarters staff, regional Coast Guard districts, and local Coast Guard sector commanders, in conjunction with relevant federal, state, and public stakeholders.

NAVSAC unanimously adopted this resolution and recommended that the Commandant prepare appropriate directives to the Coast Guard district and sector commanders as well as guidance documents for other concerned stakeholders that will set out the process by which the criteria will be developed and the designations will be made.

Recognizing that designation of Rule 9 waters and waterways would be an ongoing process, the council further recommended that the Coast Guard make it clear in designating Rule 9 waters and waterways that the list of designated waters and waterways is not all-inclusive.

Navigation Safety Advisory Council recommendations are not binding on the U.S. Coast Guard, but there is every reason to believe that the Coast Guard's national

program managers will act on this resolution and give the green light to its district and sector commanders to begin the process for waters under their jurisdiction.

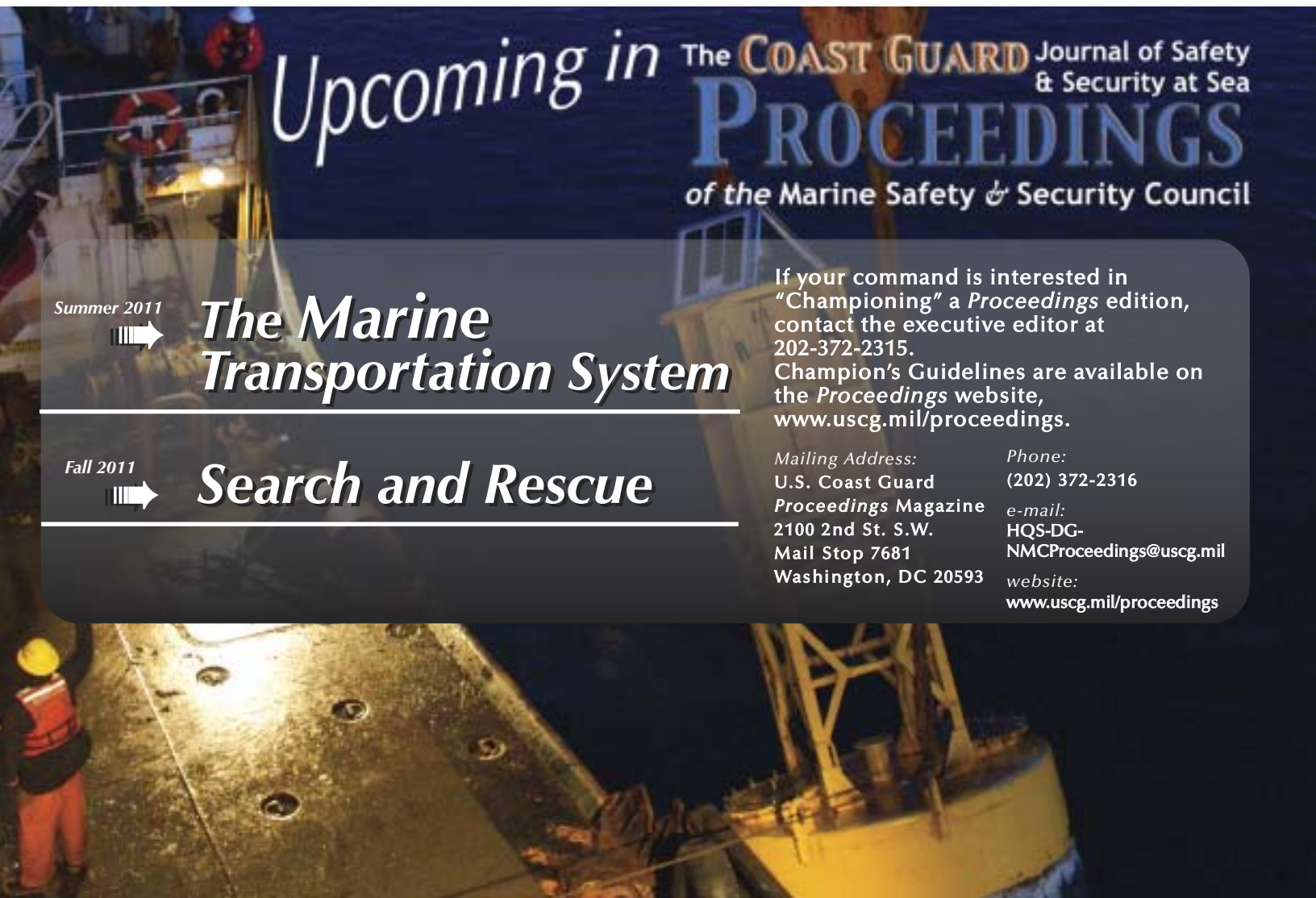
**About the author:**

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**Champion's Note:** The Coast Guard agrees that designating certain channels or waterways as "narrow channels" for the purposes of Rule 9 could enhance navigation safety. Formal guidance from the Navigation Standards Division will be forthcoming to begin the process of formally designating those waters subject to the Inland Navigation Rules that will be subject to Rule 9 as "narrow channels or fairways."

**Endnotes:**

- <sup>1</sup> At present, the resolution is limited to those waters that are subject to the inland navigation rules—those subject to local "special rules" authorized by COLREGS Rule 1(b). It does not address the application of Rule 9 to those U.S. waters governed by the 1972 COLREGS.
- <sup>2</sup> National Transportation Safety Board (NTSB), "Collision of the U.S. Towboat M/V *Bruce Brown* and Tow with the U.S. Towboat M/V *Fort Dearborn* and Tow, Mile 677.6, Ohio River, Dec. 9, 1981, Report NTSB-MAR-82-5 (Jun. 17, 1982)" (NTSB Recommendation M-82-32).
- <sup>3</sup> USCG response to National Transportation Safety Board Safety Recommendations M-82-32 through 34, June 30, 1982.



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