

DO SAILING VESSELS ALWAYS HAVE THE RIGHT OF WAY OVER WASHINGTON STATE FERRIES?

By: Mark E. Ashley

Director Vessel Traffic Service Puget Sound, U. S. Coast Guard Sector Puget Sound

This question was recently received by Vessel Traffic Service (VTS) Puget Sound (also known as "Seattle Traffic") from a local sailing vessel operator who was inquisitive. With so many recreational vessels and Washington State Ferries operating on Puget Sound, the answer to this question is important to understand so that navigation safety can be enhanced in our local waters. I thanked him for having a desire to understand the Navigation Rules. **The short answer to this question is "no,"** but read on for a further understanding.

The International Regulations for Prevention of Collisions at Sea, often simply referred to as the COLREGS, are the part of the Navigation Rules that apply in the Puget Sound area. Rule 18 to the COLREGS describes Responsibilities Between Vessels and establishes a hierarchy based on comparative vessel maneuverability. Rule 18 applies to vessels in sight of one another (meaning not in restricted visibility). A power-driven vessel (e.g. Washington State Ferry) underway shall keep out of the way of a sailing vessel **"except where Rules 9, 10 and 13 otherwise require."** A sailing vessel is obligated to keep out of the way of a vessel engaged in fishing, a vessel restricted in her ability to maneuver, a vessel not under command, and avoid impeding the safe passage of a vessel constrained by her draft. As defined, a sailing vessel is under sail only if propelling machinery is not being used.

The exceptions to Rule 18 are found in Rules 9, 10 and 13.

- Rule 9 covers Narrow Channels. Narrow Channels are restricted waters where an increased risk of collision exists. There is some subjectivity in determining whether a waterway is defined as a "narrow channel" as technically speaking, none of the waters of Puget Sound have been designated as Narrow Channels by the Coast Guard District Commander. The attached article written by Craig H. Allen, University of Washington School of Law is particularly relevant to this discussion. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1469217 There are some waterways in the Salish Sea/Puget Sound area which meet the criteria to be defined as Narrow Channels (Rich Passage, Eagle Harbor, and Wasp Passage in the San Juan Islands, are among them and include frequent ferry operations), and would likely be determined by the courts to be Narrow Channels. Therefore, a body of water deep enough for navigation through an area otherwise not suitable, and marked by buoys or sometimes ranges, is typically determined to be a Narrow Channel. In addition to requiring all vessels to stay on the starboard side of a narrow channel, sailing vessels are obligated to not impede the passage of a vessel which can safely navigate only within a narrow channel. Basically this means that a Sailing Vessel must take early action to allow sufficient sea room for the safe passage of a ferry, and navigate in a manner to avoid the risk of collision.

- Rule 10 covers Traffic Separation Schemes (TSS) which are prevalent throughout Puget Sound and exist to provide order and predictability of commercial vessel flow into and out of our port. Since ferries do not normally follow a traffic lane, but typically cross them, this Rule does not present an exception to Rule 18. An understanding of Rule 10 is absolutely critical, however. Seemingly on a daily basis, VTS operators either observe or are made aware of violations of Rule 10(i) or (j) where a vessel following a traffic lane is impeded by a vessel engaged in fishing, a vessel of less than 20 meters in length, or a sailing vessel. All vessels navigating on Puget Sound must know the locations of the traffic lanes and avoid them if not using them. Vessels less than 20 meters in length and sailing vessels which impede the safe passage of a power-driven vessel following the traffic lanes has become one of the greatest problems affecting safe navigation on Puget Sound.
- Rule 13 covers Overtaking Situations. It is doubtful that this exception to Rule 18 would apply since it is highly unlikely that a sailing vessel would ever overtake a ferry underway.

Several other Navigation Rules apply as well. These include Rule 2 (Rule of Good Seamanship and the General Prudential Rule), Rule 5 (Lookout), Rule 6 (Safe Speed), Rule 7 (Risk of Collision) and Rule 8 (Action to Avoid Collision). All the Navigation Rules work together in an intricate way and a working knowledge of all of them is essential. All sailing vessel operators are required to navigate their vessels with the same care and vigilance that would be exercised by a prudent and professional seaman. Additionally, special circumstances may arise where departure from the rules may be warranted. Avoiding a situation where you would endanger yourself or have an argument with a ferry based on potentially imprudent or non-seamanlike actions should obviously be avoided. A proper lookout with added vigilance is necessary in the confined and congested waters of Puget Sound. The safe speed rule applies to all vessels including sailing vessels; factors to consider include traffic density, vessel maneuverability and the state of the wind and other navigational hazards. Determining Risk of Collision is directly related to standing a proper lookout and safe speed. Risk of collision shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change and the range is decreasing. Action to avoid collision is a strategic decision that should be made early to allow sufficient sea room for the safe passage of the other vessel.

Sailing Vessels often change their tack in the course of navigating; however, doing so in front of a ferry so as to assume a higher privileged status in accordance with Rule 18 would in effect violate Rule 2. Rule 18 does not give sailing vessels to right to endanger other vessels.

Additionally, recognizing that a ferry entering Eagle Harbor may be constrained by her draft depending on the tidal range and may need to navigate with particular caution should cause a sailing or other recreational vessel to keep clear and operate near the outer limits of the marked channel.

Knowing and applying the Navigation Rules is an important part of keeping our waterways safe and contributes toward limiting accidents and protecting the sensitive Puget Sound environment. Violations of the Navigation Rules carries a maximum \$5000 civil penalty per violation.

Sometimes a ferry may sound at least five short and rapid blasts on their whistle. This is known as the Danger signal and means that the ferry does not understand the actions or intentions of another vessel, or is in doubt whether sufficient action is being taken to avoid collision. If you are a sailing vessel operator and you hear this signal, chances are your actions (or inactions) have caused concern.

One other thing...a large passenger vessel security and safety zone has been established by 33 CFR 165.1317 within Puget Sound. This regulation applies to Washington State Ferries. The zone extends 500 yards around a moving ferry, and all vessels must operate at the minimum speed necessary to maintain a safe course (bare steerageway) and proceed as directed by the ferry master or on-scene Coast Guard patrol. No vessel or person is allowed within 100 yards of a ferry that is underway unless permission is granted by the ferry master or on-scene Coast Guard patrol. And finally, no vessel or person is allowed within 25 yards of a moored ferry. Although the Navigation Rules apply within a large passenger vessel security zone, a prudent sailing vessel operator will avoid encroaching on a large passenger vessel security and safety zone as far as is practicable.

The opinions and views expressed in this article are those of the author and do not necessarily represent the opinions or views of the U.S. Coast Guard, the Department of Homeland Security, or the United States.

Mark Ashley is a 1978 graduate of the U.S. Coast Guard Academy and a retired Coast Guard Captain. He served aboard six Coast Guard cutters during his career and commanded three including the 110-foot patrol boat CUTTYHUNK, the 210-foot Medium Endurance cutter VENTUROUS, and the 378-foot High Endurance cutter MELLON. In August 2007, he assumed his present duties as a civilian employee of the Coast Guard serving as the Director of the Puget Sound Vessel Traffic Service.