

(i) Predicted winds of 74 miles per hour (mph) or more or a predicted storm surge of 8 feet or more for the Inner Harbor Navigation Canal;

(ii) Predicted winds of 111 mph or more and/or a predicted storm surge of 10.5 feet or more for the Harvey or Algiers Canals through post storm landfall, or other hurricane or tropical storm conditions as determined by the COTP; or

(iii) Other hurricane or tropical storm conditions expected to inflict significant damage to low lying and vulnerable shoreline areas, as determined by the COTP through National Weather Service/Hurricane Center weather predictions.

(2) In the event that a particularly dangerous storm is predicted to have winds or storm surge significantly exceeding the conditions specified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section, the COTP may begin enforcement 72 hours in advance of the predicted conditions.

(3) During enforcement:

(i) All floating vessels are prohibited from entering or remaining in the RNA except pending approval of a waiver request made in accordance with paragraph (d) of this section or as authorized by a waiver approved by the COTP in accordance with paragraph (d);

(ii) Transient vessels will not be permitted to seek safe haven in the RNA except in accordance with a pre-arranged agreement between the vessel and a facility within the RNA, or as authorized by a waiver approved by the COTP in accordance with paragraph (d) of this section.

(4) The COTP will announce enforcement periods through Marine Safety Information Bulletins and Safety Broadcast Notices to Mariners.

(d) *Waivers.* (1) Upon request of the vessel owner or operator, the COTP may waive any provision of paragraph (c) of this section, if the COTP finds that the vessel's proposed operation can be conducted safely under the terms of that waiver.

(2) A request for waiver must be in writing, except as provided by paragraph (d)(3) of this section, and must describe or provide:

(i) The reason for requesting the waiver;

(ii) The vessel's current operations;

(iii) The name of any intended mooring facility, the specific mooring location within that facility, and a list of vessels routinely engaged in business at that facility;

(iv) The vessel's proposed operation during the RNA enforcement period, including intended mooring arrangements that comply with 33 CFR 165.803 and the mooring facility's equipment for supporting those arrangements; and

(v) Contact information for the vessel owner or operator during the RNA enforcement period.

(3) Under unusual circumstances due to time constraints, such as the malfunction of a bridge or lock within the RNA, the person in charge of a vessel may orally request an immediate waiver from the COTP, but the vessel owner or operator must send written confirmation of the request, containing the information required by paragraph (d)(2) of this section, to the COTP within five days of the oral request.

(4) The COTP may condition approval of a waiver request on the vessel owner's or operator's taking measures additional to those proposed in the waiver request, and may terminate a waiver at any time, if the COTP deems it necessary to provide safety.

(e) *Penalties.* Failure to comply with this section may result in civil or criminal penalties pursuant to the Ports and Waterways Safety Act, 33 U.S.C. 1221 et seq.

(f) *Notice of enforcement.* The COTP will notify the maritime community of periods during which this regulated navigation area will be enforced by providing advance notice through a Marine Safety Information Bulletin and Safety Broadcast Notice to Mariners.

[USCG-2009-0139, 75 FR 32279, June 8, 2010]

#### NINTH COAST GUARD DISTRICT

#### **§ 165.T09-0073 Safety and Security Zones; Tall Ships Challenge 2010; Great Lakes; Cleveland, OH; Bay City, MI; Duluth, MN; Green Bay, WI; Sturgeon Bay, WI; Chicago, IL; Erie, PA.**

(a) *Definitions.* The following definitions apply to this section: *Navigation Rules* means the Navigation Rules,

International and Inland (*See*, 1972 COLREGS and 33 U.S.C. 2001 *et seq.*).

*Official Patrol* means those persons designated by Captain of the Port Buffalo, Detroit, Sault Ste. Marie, Duluth and Lake Michigan to monitor a Tall Ship safety and security zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone, and take other actions authorized by the cognizant Captain of the Port.

*Public Vessel* means vessels owned, chartered, or operated by the United States or by a State or political subdivision thereof.

*Tall Ship* means any sailing vessel participating in the Tall Ships Challenge 2010 in the Great Lakes. This includes, but is not limited to, the following: Sailing Vessel (S/V) AMISTAD, S/V APPELDORE IV, S/V APPELDORE V, HMS BOUNTY, S/V DENIS SULLIVAN, S/V EUROPA, S/V FAZISI, S/V FRIENDS OF GOOD WILL, S/V INLAND SEAS, S/V LAREVENANTE, S/V LYNX, S/V MADELINE, S/V FLAGSHIP NIAGARA, S/V PATHFINDER, S/V PLAYFAIR, S/V PRIDE OF BALTIMORE II, S/V ROALD AMUNDSEN, S/V RED WITCH, S/V ROTALISTE, S/V ROSEWAY, S/V UNICORN, S/V WELCOME, and S/V WINDY.

(b) *Location*. The following area is a safety and security zone: all navigable waters of the United States located in the Ninth Coast Guard District within a 100 yard radius of any Tall Ship.

(c) *Regulations*. (1) Entry into a safety and security zone described in paragraph (b) of this section is prohibited unless authorized by the cognizant Coast Guard Captain of the Port or the Official Patrol.

(2) Vessels may request permission to enter into a safety and security zone described in paragraph (b) of this section by contacting the Official Patrol on VHF channel 16.

(3) Any vessel operating within a safety and security zone established by this section must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the Captain of the Port or the on-scene Official Patrol. Any vessel or person allowed to enter a safety and security zone established by this section must still remain at least 25 yards

from any Tall Ship, unless authorized to come within such a distance pursuant to paragraph (c)(4) of this section or permitted to come within such a distance by the cognizant Captain of the Port, his or her designated representative, or the on-scene Official Patrol.

(4) Vessels are permitted to transit through the safety and security zone in waterways that do not provide adequate navigable waters greater than 100 yards from the Tall Ships. Vessels transiting such areas must operate at the minimum speed necessary to maintain a safe course while also maintaining the greatest possible distance away from the Tall Ships.

(d) *Effective period*. This rule is effective from 12:01 a.m. on Wednesday, June 23, 2010 through 12:01 a.m. on Monday September 13, 2010.

(e) *Navigation Rules*. The Navigation Rules must apply at all times within a Tall Ships safety and security zone.

(f) When a Tall Ship approaches within 25 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within the tall ship's safety and security zone unless ordered by or given permission from the cognizant Captain of the Port, his or her designated representative, or the on-scene official patrol to do otherwise.

EFFECTIVE DATE NOTE: By USCG-2010-0073, 75 FR 33508, June 14, 2010, temporary § 165.T09-0073 was added, effective from 12:01 a.m. on June 23, 2010 until 12:01 a.m. on Sept. 13, 2010.

**§ 165.T09-0124 Safety Zone; St. Louis River, Tallas Island, Duluth, MN.**

(a) *Location*. The following area is a temporary safety zone: near Tallas Island on the St. Louis River to include all waters contained within the zone located at 46°42.30 N 092°11.56 W and then run northeast to position; 46°42.53 N 092°11.30 W and then run northwest to position; 46°43.5 N 092°11.41 W and then run southwest to position; 46°42.37 N 092°12.11 W and then running southeast back to the starting point (NAD 83). The safety zone's boundary is approximately 3500 ft. by 1500 ft. on the long end, extending behind Tallas Island, and 3000 ft by 1500 ft on the short end, extending into open waters.