

**§ 25.707 Time limitation on claims.**

A claim may be settled only if presented within 90 days after it accrues unless good cause is shown for the delay.

**§ 25.709 Assessment limitation on claims.**

A claim is permitted in any amount; however, this subpart prohibits any assessment that exceeds one-half of one month's basic pay against the pay of any offender.

**Subpart H—Pollution Removal Damage Claims**

**AUTHORITY:** 33 U.S.C. 1321(j)(1)(A); 33 U.S.C. 1321(l); EO 11735, sec. 5 (a), (b)(3); 49 CFR 1.46(m).

**§ 25.801 Scope.**

This subpart prescribes the requirements for the administrative settlement of claims against the United States for damage to or loss of property resulting from containment or removal activities during Phase III or IV of the National Contingency Plan, under the Federal Water Pollution Control Act, as amended. 33 U.S.C. 1321.

**§ 25.803 Claims payable.**

A claim for damage to or loss of real or personal property is payable under this subpart if:

(a) Caused by the United States, its employees, agents or contractors during containment, countermeasures, cleanup, mitigation, and disposal activities under the National Contingency Plan; and

(b) In the exercise of care reasonable under the circumstances, the incident giving rise to the claim was necessary and the damage unavoidable.

**§ 25.805 Claims not payable.**

A claim is not payable under this subpart if it:

(a) Is for death or personal injury; or  
 (b) Arises out of activities to contain or remove a discharge of oil or other hazardous polluting substance from a United States or foreign public vessel or federally controlled facility.

**PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS**

Sec.

- 26.01 Purpose.
- 26.02 Definitions.
- 26.03 Radiotelephone required.
- 26.04 Use of the designated frequency.
- 26.05 Use of radiotelephone.
- 26.06 Maintenance of radiotelephone; failure of radiotelephone.
- 26.07 Communications.
- 26.08 Exemption procedures.
- 26.09 List of exemptions.

**AUTHORITY:** 14 U.S.C. 2; 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170; Rule 1, International Regulations for the Prevention of Collisions at Sea.

**SOURCE:** CGD 71–114R, 37 FR 12720, June 28, 1972, unless otherwise noted.

**§ 26.01 Purpose.**

(a) The purpose of this part is to implement the provisions of the Vessel Bridge-to-Bridge Radiotelephone Act. This part:

(1) Requires the use of the vessel bridge-to-bridge radiotelephone;

(2) Provides the Coast Guard's interpretation of the meaning of important terms in the Act;

(3) Prescribes the procedures for applying for an exemption from the Act and the regulations issued under the Act and a listing of exemptions.

(b) Nothing in this part relieves any person from the obligation of complying with the rules of the road and the applicable pilot rules.

**§ 26.02 Definitions.**

For the purpose of this part and interpreting the Act:

*Secretary* means the Secretary of the Department in which the Coast Guard is operating;

*Act* means the "Vessel Bridge-to-Bridge Radiotelephone Act", 33 U.S.C. sections 1201–1208;

*Length* is measured from end to end over the deck excluding sheer;

*Power-driven vessel* means any vessel propelled by machinery; and

*Towing vessel* means any commercial vessel engaged in towing another vessel astern, alongside, or by pushing ahead.

*Vessel Traffic Services (VTS)* means a service implemented under Part 161 of

## § 26.03

## 33 CFR Ch. I (7-1-03 Edition)

this chapter by the United States Coast Guard designed to improve the safety and efficiency of vessel traffic and to protect the environment. The VTS has the capability to interact with marine traffic and respond to traffic situations developing in the VTS area.

*Vessel Traffic Service Area* or *VTS Area* means the geographical area encompassing a specific VTS area of service as described in Part 161 of this chapter. This area of service may be subdivided into sectors for the purpose of allocating responsibility to individual Vessel Traffic Centers or to identify different operating requirements.

NOTE: Although regulatory jurisdiction is limited to the navigable waters of the United States, certain vessels will be encouraged or may be required, as a condition of port entry, to report beyond this area to facilitate traffic management within the VTS area.

(Rule 1, International Regulations for Preventing Collisions at Sea, 1972 (as rectified); EO 11964 (14 U.S.C. 2); 49 CFR 1.46(b))

[CGD 71-114R, 37 FR 12720, June 28, 1972, as amended by CGD 77-118a, 42 FR 35784, July 11, 1977; CGD 90-020, 59 FR 36322, July 15, 1994]

### § 26.03 Radiotelephone required.

(a) Unless an exemption is granted under § 26.09 and except as provided in paragraph (a)(4) of this section, this part applies to:

(1) Every power-driven vessel of 20 meters or over in length while navigating;

(2) Every vessel of 100 gross tons and upward carrying one or more passengers for hire while navigating;

(3) Every towing vessel of 26 feet or over in length while navigating; and

(4) Every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels except for an unmanned or intermittently manned floating plant under the control of a dredge.

(b) Every vessel, dredge, or floating plant described in paragraph (a) of this section must have a radiotelephone on board capable of operation from its navigational bridge, or in the case of a

dredge, from its main control station, and capable of transmitting and receiving on the frequency or frequencies within the 156-162 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission for the exchange of navigational information.

(c) The radiotelephone required by paragraph (b) of this section must be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States.

(d) The radiotelephone required by paragraph (b) of this section must be capable of transmitting and receiving on VHF FM channel 22A (157.1 MHz).

(e) While transiting any of the following waters, each vessel described in paragraph (a) of this section also must have on board a radiotelephone capable of transmitting and receiving on VHF FM channel 67 (156.375 MHz):

(1) The lower Mississippi River from the territorial sea boundary, and within either the Southwest Pass safety fairway or the South Pass safety fairway specified in 33 CFR 166.200, to mile 242.4 AHP (Above Head of Passes) near Baton Rouge;

(2) The Mississippi River-Gulf Outlet from the territorial sea boundary, and within the Mississippi River-Gulf outlet Safety Fairway specified in 33 CFR 166.200, to that channel's junction with the Inner Harbor Navigation Canal; and

(3) The full length of the Inner Harbor Navigation Canal from its junction with the Mississippi River to that canal's entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

(f) In addition to the radiotelephone required by paragraph (b) of this section, each vessel described in paragraph (a) of this section while transiting any waters within a Vessel Traffic Service Area, must have on board a radiotelephone capable of transmitting and receiving on the VTS designated frequency in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).

NOTE: A single VHF-FM radio capable of scanning or sequential monitoring (often referred to as "dual watch" capability) will not meet the requirements for two radios.

[CGD 91-046, 57 FR 14485, Apr. 21, 1992; 57 FR 21740, May 22, 1992, as amended by CGD 90-020, 59 FR 36322, July 15, 1994; CGD 95-033, 60 FR 28328, May 31, 1995; CGD 92-052, 61 FR 45325, Aug. 29, 1996; CGD-1999-6141, 64 FR 69635, Dec. 14, 1999; USCG-2003-14757, 68 FR 39364, July 1, 2003]

**§ 26.04 Use of the designated frequency.**

(a) No person may use the frequency designated by the Federal Communications Commission under section 8 of the Act, 33 U.S.C. 1207(a), to transmit any information other than information necessary for the safe navigation of vessels or necessary tests.

(b) Each person who is required to maintain a listening watch under section 5 of the Act shall, when necessary, transmit and confirm, on the designated frequency, the intentions of his vessel and any other information necessary for the safe navigation of vessels.

(c) Nothing in these regulations may be construed as prohibiting the use of the designated frequency to communicate with shore stations to obtain or furnish information necessary for the safe navigation of vessels.

(d) On the navigable waters of the United States, channel 13 (156.65 MHz) is the designated frequency required to be monitored in accordance with § 26.05(a) except that in the area prescribed in § 26.03(e), channel 67 (156.375 MHz) is the designated frequency.

(e) On those navigable waters of the United States within a VTS area, the designated VTS frequency is an additional designated frequency required to be monitored in accordance with § 26.05.

(85 Stat. 164; 33 U.S.C. 1201-1208; 49 CFR 1.46(m)(2))

[CGD 71-114R, 37 FR 12720, June 28, 1982, as amended by CGD 83-036, 48 FR 30107, June 30, 1983; CGD 91-046, 57 FR 14486, Apr. 21, 1992; 57 FR 21741, May 22, 1992; CGD 90-020, 59 FR 36323, July 15, 1994; CGD 95-033, 60 FR 28329, May 31, 1995]

**§ 26.05 Use of radiotelephone.**

Section 5 of the Act states that the radiotelephone required by this Act is for the exclusive use of the master or

person in charge of the vessel, or the person designated by the master or person in charge to pilot or direct the movement of the vessel, who shall maintain a listening watch on the designated frequency. Nothing herein shall be interpreted as precluding the use of portable radiotelephone equipment to satisfy the requirements of this act.

[CGD 93-072, 59 FR 39963, Aug. 5, 1994]

**§ 26.06 Maintenance of radiotelephone; failure of radiotelephone.**

Section 6 of the Act states:

(a) Whenever radiotelephone capability is required by this Act, a vessel's radiotelephone equipment shall be maintained in effective operating condition. If the radiotelephone equipment carried aboard a vessel ceases to operate, the master shall exercise due diligence to restore it or cause it to be restored to effective operating condition at the earliest practicable time. The failure of a vessel's radiotelephone equipment shall not, in itself, constitute a violation of this Act, nor shall it obligate the master of any vessel to moor or anchor his vessel; however, the loss of radiotelephone capability shall be given consideration in the navigation of the vessel.

**§ 26.07 Communications.**

No person may use the services of, and no person may serve as, a person required to maintain a listening watch under section 5 of the Act, 33 U.S.C. 1204, unless the person can communicate in the English language.

[CGD 90-020, 59 FR 36323, July 15, 1994, as amended by CGD 95-033, 60 FR 28329, May 31, 1995]

**§ 26.08 Exemption procedures.**

(a) The Commandant has redelegated to the Assistant Commandant for Marine Safety, Security and Environmental Protection, U.S. Coast Guard Headquarters, with the reservation that this authority shall not be further redelegated, the authority to grant exemptions from provisions of the Vessel Bridge-to-Bridge Radiotelephone Act and this part.

(b) Any person may petition for an exemption from any provision of the Act or this part;

(c) Each petition must be submitted in writing to U.S. Coast Guard, Marine Safety, Security and Environmental

**§ 26.09**

**33 CFR Ch. I (7-1-03 Edition)**

Protection, 2100 Second Street SW., Washington, DC 20593-0001, and must state:

(1) The provisions of the Act or this part from which an exemption is requested; and

(2) The reasons why marine navigation will not be adversely affected if the exemption is granted and if the exemption relates to a local communication system how that system would fully comply with the intent of the concept of the Act but would not conform in detail if the exemption is granted.

[CGD 71-114R, 37 FR 12720, June 28, 1972, as amended by CGD 73-256, 39 FR 9176, Mar. 8, 1974; CGD 88-052, 53 FR 25119, July 1, 1988; CGD 95-057, 60 FR 34150, June 30, 1995; CGD 96-026, 61 FR 33663, June 28, 1996; CGD 97-023, 62 FR 33362, June 19, 1997; USCG-2002-12471, 67 FR 41331, June 18, 2002]

**§ 26.09 List of exemptions.**

(a) All vessels navigating on those waters governed by the navigation rules for Great Lakes and their connecting and tributary waters (33 U.S.C. 241 et seq.) are exempt from the requirements of the Vessel Bridge-to-Bridge Radiotelephone Act and this part until May 6, 1975.

(b) Each vessel navigating on the Great Lakes as defined in the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) and to which the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201-1208) applies is exempt from the requirements in 33 U.S.C. 1203, 1204, and 1205 and the regulations under §§ 26.03, 26.04, 26.05, 26.06, and 26.07. Each of these vessels and each person to whom 33 U.S.C. 1208(a) applies must comply with Articles VII, X, XI, XII, XIII, XV, and XVI

and Technical Regulations 1-9 of "The Agreement Between the United States of America and Canada for Promotion of Safety on the Great Lakes by Means of Radio, 1973."

[CGD 72-223R, 37 FR 28633, Dec. 28, 1972, as amended by CGD 74-291, 39 FR 44980, Dec. 30, 1974; CGD 83-003, 48 FR 7442, Feb. 18, 1983; CGD 91-046, 57 FR 14486, Apr. 21, 1992]

**PART 27—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION**

Sec.

27.1 Applicability.

27.2 Effective date.

27.3 Penalty Adjustment Table.

AUTHORITY: Pub. L. 101-410, 104 Stat. 890 as amended by Pub. L. 104-134; 49 CFR 1.45, 1.46.

SOURCE: CGD 96-052, 62 FR 16700, Apr. 8, 1997, unless otherwise noted.

**§ 27.1 Applicability.**

This part applies to each statutory provision under the laws administered by the Coast Guard concerning the maximum civil monetary penalty which may be assessed in either civil judicial or administrative proceedings.

**§ 27.2 Effective date.**

The increased penalty amounts set forth in this rule apply to all violations under the applicable statutes and regulations which occur after May 7, 1997.

**§ 27.3 Penalty Adjustment Table.**

The adjusted statutory penalty provisions and their maximum applicable amounts are set out in Table 1. The last column of the table provides the newly effective maximum penalty amounts.

TABLE 1—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS \*

U.S. Code citation	Civil monetary penalty description	New maximum penalty amount
14 U.S.C. 88(c)	Saving Life and Property	5,500
14 U.S.C. 645(h)	Confidentiality of Medical Quality Assurance Records (first offense)	3,000
14 U.S.C. 645(h)	Confidentiality of Medical Quality Assurance Records (subsequent offense)	22,000
33 U.S.C. 471	Anchorage Ground/Harbor Regulations General	110
33 U.S.C. 474	Anchorage Ground/Harbor Regulations St. Mary's River	220
33 U.S.C. 495	Bridges/Failure to Comply with Regulations	1,100
33 U.S.C. 499	Bridges/Drawbridges	1,100
33 U.S.C. 502	Bridges/Failure to Alter Bridge Obstructing Navigation	1,100
33 U.S.C. 533	Bridges/Maintenance & Operation	1,100
33 U.S.C. 1208(a)	Bridge to Bridge Communication	550