

(c) Claims involving an adjustment for unused passenger transportation services;

(d) Claims against a civilian employee as a result of an erroneous payment or overpayment of pay;

(e) The authority delegated in § 25-1609(d) does not extend to the compromise, suspension or termination of actions to collect claims arising out of erroneous payments or overpayments of military pay and allowances.

§ 25.1613 Referral.

(a) The Chief Counsel may refer any claim to the Department of Justice or the General Accounting Office;

(b) The Chief, Claims and Litigation Division, Office of Chief Counsel may refer any claim to the Department of Justice or the General Accounting Office that does not exceed \$10,000;

(c) Any District Commander—  
(1) may refer a claim within his delegated authority to the appropriate United States Attorney provided collection action has been taken and the claim cannot be compromised, suspended, or terminated in accordance with 4 CFR Chapter II;

(2) refers any claim in excess of his delegated authority which cannot be collected in full to the Chief Counsel;

(d) Any other settlement authority who is unable to compromise, suspend, or terminate collection action of a claim refers the claim to the Chief Counsel.

**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 English language.
- 26.08 Exemption procedures.
- 26.09 List of exemptions.
- 26.10 Penalties.

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

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.A. sections 1201-1208;

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

"Navigable waters of the United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended," means those waters governed by the Navigation Rules for Harbors, Rivers, and Inland waters (33 U.S.C. sec. 151 et seq.), the Navigation Rules for Great Lakes and their Connecting and Tributary Waters (33 U.S.C. sec. 241 et seq.), and the Navigation Rules for Red River of the North and Rivers emptying into Gulf of Mexico and Tributaries (33 U.S.C. sec. 301 et seq.);

"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.

§ 26.03 Radiotelephone required.

(a) Unless an exemption is granted under § 26.09 and except as provided in subparagraph (4) of this paragraph, section 4 of the Act provides that—

(1) Every power-driven vessel of 300 gross tons and upward 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 navi-

gation of other vessels: *Provided*, That an unmanned or intermittently manned floating plant under the control of a dredge need not be required to have separate radiotelephone capability;

Shall have a radiotelephone 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, after consultation with other cognizant agencies, for the exchange of navigational information.

(b) The radiotelephone required by paragraph (a) of this section shall be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.

#### § 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.A. section 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.

**NOTE:** The Federal Communications Commission has designated the frequency 156.65 MHz for the use of bridge-to-bridge radiotelephone stations.

#### § 26.05 Use of radiotelephone.

Section 5 of the Act states—

(a) 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 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 contained herein shall be

interpreted as precluding the use of portable radiotelephone equipment to satisfy the requirements of this Act.

#### § 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 English language.

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.A. section 1204 unless he can speak the English language.

#### § 26.08 Exemption procedures.

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

(b) Each petition must be submitted in writing to U.S. Coast Guard (G-W), 400 Seventh Street SW., Washington, DC 20590, 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]

#### § 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 waters under the navigation rules for the Great Lakes and their connecting and tributary waters (33 U.S.C. 241 *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 1-7 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 74-304, 40 FR 19470, May 5, 1975]

§ 26.10 Penalties.

Section 9 of the Act states—

(a) Whoever, being the master or person in charge of a vessel subject to the Act, fails to enforce or comply with the Act or the regulations hereunder; or whoever, being designated by the master or person in charge of a vessel subject to the Act to pilot or direct the movement of a vessel fails to enforce or comply with the Act or the regulations hereunder—is liable to a civil penalty of not more than \$500 to be assessed by the Secretary.

(b) Every vessel navigated in violation of the Act or the regulations hereunder is liable to a civil penalty of not more than \$500 to be assessed by the Secretary, for which the vessel may be proceeded against in any District Court of the United States having jurisdiction.

(c) Any penalty assessed under this section may be remitted or mitigated by the Secretary, upon such terms as he may deem proper.

SUBCHAPTER B—MILITARY PERSONNEL

PART 33—APPOINTMENT OF CIVILIANS AS COMMISSIONED OFFICERS, CHIEF WARRANT OFFICERS, AND WARRANT OFFICERS

Subpart 33.01—Appointment of Professors

Sec.

- 33.01-1 Appointment as professor.
- 33.01-5 Rank and pay of professor.

Subpart 33.05—Appointments of Licensed Officers of the United States Merchant Marine as Commissioned Officers

- 33.05-1 Purpose.
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- 33.05-15 Written examinations.
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- 33.05-23 Appointments.
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Subpart 33.10—Physical Standards

- 33.10-1 General.
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Sec.

- 33.10-25 Extremities.
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- 33.10-39 Roentgenographic examination of chest.

Subpart 33.01—Appointment of Professors

AUTHORITY: The provisions of this Subpart 33.01 issued under secs. 92, 633, 63 Stat. 503, as amended, 545, secs. 188, 189, 63 Stat. 509; 14 U.S.C. 92, 633, 188, 189.

§ 33.01-1 Appointment as professor.

The President of the United States is authorized, by and with the advice and consent of the Senate, to appoint not to exceed five professors to the United States Coast Guard as heads of the departments of instruction at the Coast Guard Academy. An original appointment as professor not made from a civilian instructor or regular commissioned officer in the United States Coast Guard shall be a temporary appointment; but a professor so appointed, after completion of a satisfactory probationary period of 2 years, may be regularly appointed as professor to rank from the date of his original appointment.

[Chap. III, Regs., Nov. 1, 1923, as amended Dec. 1937 and Jan. 1938; redesignated at 13 F.R. 7303, Nov. 30, 1948]