

RULE 14 — AVOIDING CONTACT

A boat shall avoid contact with another boat if reasonably possible. However, a right-of-way boat, or one sailing within the room or mark-room to which she is entitled, need not act to avoid contact until it is clear that the other boat is not *keeping clear* or *giving room or mark-room*.

This is a very strong rule regarding contact. It talks to all boats in a race, including right-of-way boats, and tells them to avoid any contact whatsoever if reasonably possible. The intent of the rule is to minimize the amount of collisions that occur during a race, and particularly the intentional ones. Collisions can be dangerous, expensive, frustrating to all sailors and particularly intimidating to newcomers and novice sailors. They are not part of the sport.

When two or more boats converge, the possibility of contact exists. The rules clearly assign the right of way and the requirement to keep clear or to give room or mark-room in each situation where boats could hit. Furthermore, when one boat is required to keep clear, the other shouldn't do anything to make the situation more dangerous. Rule 14 makes it clear that the right-of-way boat or one entitled to room or mark-room can hold her course until it becomes "clear" that the other boat is not going to keep clear or give room or mark-room. At that moment, however, the right-of-way boat or one entitled to room must take action herself to avoid contact if reasonably possible. For instance, when a port-tack boat is crossing a starboard-tack boat, if S holds her course and hits P, with no attempt to avoid the contact, P has broken rules 10 (On Opposite Tacks) and 14, and S has broken rule 14 (see Case 123).

However, rule 43.1(c), Exoneration, states that a right-of-way boat or one sailing within the room or mark-room to which she is entitled is exonerated (freed from penalty) if the "contact does not cause "damage or injury." "Damage" is what a boat suffers; "injury" is what a person suffers (see Case 110). There-fore, if the contact causes no physical damage or injury to any boat or person, the right-of-way boat or the one sailing within the room or mark-room to which she is entitled can be found to have broken rule 14 but she is exonerated by rule 43.1(c) and cannot be penalized for breaking the rule (see rule 43.2, Exoneration).

On the other hand, if there is any damage or injury at all to **any** boat or person involved in the incident, no matter how slight, and regardless of whether the damage or injury has any effect on the speed or handling of the boat or whether the damage or injury was to the right-of-way boat, the right-of-way boat or the boat sailing within the *room* or *mark-room* to which she is entitled will be penalized if it was found that it was reasonably possible for them to have avoided the contact.

Note that if the keep-clear boat fails to avoid contact, she technically can be disqualified under this rule; however, this is a moot point because she will be disqualified under the Section A rule she broke, and a boat can only be disqualified once in a race. Likewise, if she took a penalty for breaking one or more rules in the incident, she cannot be further penalized under rule 64.2. See rule 64.2(a) (Penalties).

“If I’m involved in contact that causes damage or injury, can I take a Two-Penalty or Scoring Penalty (put up a yellow flag) to avoid disqualification?”



If there is just “damage,” then Yes! But if anyone got “injured” or if the damage was “serious,” then No! Rule 44.1 (Penalties at the Time of an Incident) permits a boat that may have broken any rule in Part 2 while *racing* to take a penalty at the time of the incident. The penalty is the Two-Turns Penalty unless the sailing instructions specify the use of some other penalty (rule 44.1). So if you are a right-of-way boat or an inside boat entitled to *mark-room* and you cause damage in an incident, you can quickly do two turns in the same direction including two tacks and gybes and continue in the race. If you are the keep-clear boat, you can also do two turns which absolves you of all Part 2 and rule 31 (Touching a Mark) rule breaches you may have committed in the incident (even if you broke more than one rule in the incident; see rules 44.1 and 64.2(a)).

There are two exceptions however. Rule 44.1(b) says, “*if the boat caused injury or serious damage or, despite taking a penalty, gained a significant advantage in the race or series by her breach her penalty shall be to retire.*” In other words, you can’t absolve yourself with a Two-Turns Penalty if anyone got injured in the incident or there was “serious” damage, or if you gained a significant advantage, despite taking a penalty, by breaking a *rule*.

See the explanation of rule 44 for a discussion on how to properly do a Two-Turns Penalty and what constitutes “serious damage” in chapter 12.

“I understand that if I’m the right-of-way boat, I can be penalized for causing any damage or injury at all; what constitutes ‘damage or injury?’”



Case 110 says that “‘Injury’ in the racing rules refers only to bodily injury to a person, and ‘damage’ is limited to physical damage to a boat or her equipment.” Case 19 offers an interpretation of the term “damage:” “It is not possible to define ‘damage’ comprehensively, but one current English dictionary says ‘harm...impairing the value or usefulness of something.’ This definition suggests questions to consider.

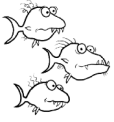
Examples are:

1. Was the current market value of any part of the boat, or of the boat as a whole, diminished?
2. Was any item of the boat or its equipment made less functional?”

In my opinion, a related question to number 1 above is, “Did the contact result in something needing to be repaired or replaced?”

Regarding “injury,” I think an “injury” is something that physically hurts a person more than just briefly, and that ordinarily affects the person’s ability to function normally and/or requires the person to be attended to at some point. A related question would be “Does the person need attending to; and/or is the effect on the person brief or longer lasting?”

Clearly, boats will have contact that will cause no damage or injury to either boat or crew. Examples will include two boats having light side-to-side contact on the starting line or while rounding a *mark*, or incidents where the crews fend off and the hulls never touch. On the other hand, there will be contact that clearly causes “damage or injury:” a hole or dent in the boat, a torn sail, a bent stanchion, a nick out of the rudder, a broken finger, etc. The hard calls will be the situations where the gel coat gets lightly scratched, the sailors hear the fiberglass “crunch” though there is no visible sign of “damage” or a crew member gets a temporary soreness from fending off, etc. Protest committees will need to exercise their best judgment in these situations. Notice that the judgment that “damage or injury” occurred is not a “fact found;” it is a conclusion based on the “facts found” and therefore subject to appeal.



“As I understand the rule, even if I’m involved in contact that causes damage or injury, but it was not reasonably possible for me to avoid the contact, I won’t be penalized under this rule; correct?”

Correct. The rule acknowledges that there may be times when it is simply not reasonably possible for a boat to avoid contact. However, this should not be viewed as a rationale for not making every effort to avoid collisions. Ultimately, whether or not it was reasonably possible to have avoided the contact will be decided by the protest committee.

The dictionary defines “reasonable” as “agreeable to reason; possessing sound judgment; not extreme or excessive.” In judging whether it was “reasonably possible” for a boat to have avoided contact, it is implicit, to me, that as two boats near each other, the right-of-way boat settles on a straight-line or compass course or risk breaking rule 16.1 (Changing Course); and the keep-clear boat begins to take avoiding action. However, when, in her judgment, the right-of-way boat has a reasonable apprehension that contact will occur if she continues to hold her course, she may change her course to avoid the collision (Case 50). Rule 14 reinforces this by telling right-of-way boats and boats sailing within the *room* or *mark-room* to which they are entitled that they need not act to avoid contact until it is “clear” that the other boat is not *keeping clear*.

Therefore, as boats approach each other, they must continually assess the situation in terms of “what are the probable chances that I may hit this other boat or vice versa?” This judgment should factor in:

- what the response(s) have been from the other boat,
- whether the other boat is keeping a good lookout,
- what the sailing conditions are like and how well a boat of the class involved maneuvers in such conditions,
- who the sailors in the other boat are, and
- is there anything at all peculiar about the way the other boat is being handled?

In judging whether it was “reasonably possible” for a boat to have avoided contact, I’d consider whether the contact could have been avoided given the sailors’ best attempts at avoiding or minimizing the impact of the collision, factoring in the amount of warning they had that a keep-clear boat might not *keep clear* or give *room* or *mark-room*, the time they had to consider what their best attempt might be, and the amount and difficulty of the boat and sail handling involved. Also factored in to a much lesser degree would be the competency of the sailors and the condition of their equipment and boat; i.e., their steering gear, cleats and so on. However, the rules do not make allowances for poor seamanship, and I would be hesitant to excuse a boat due to poor sailing skills or less than adequately functioning equipment. In other words, in my opinion, “reasonable” is defined in terms of what a competent, but not expert, sailor could be expected to do in a similar situation.

Case 87 addresses a situation where a *port-tack* boat (P) and a *starboard-tack* boat (S) are sailing upwind on a collision course. S expected that P would bear off and pass astern of her, but instead P “made no attempt to avoid S
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The decision reads, “P, as the keep-clear boat, failed to keep a lookout and to observe her primary duties to keep clear and avoid contact. She broke both rule 10 and rule 14. An important purpose of the rules of Part 2 is to avoid contact between boats. All boats, whether or not holding right of way, should keep a lookout, particularly when approaching a mark.

“When it became clear that P was not keeping clear, S was required by rule 14 to act to avoid contact with P (see rule 14)...S could have luffed and avoided contact with P. Such a change of course by S would have given P more room to keep clear and would not have broken rule 16.1. The contact caused damage. Therefore, S broke rule 14 and...must be penalized for having done so.” (See Appeal 52.)

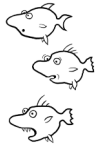
Case 27 is an illustration of when it was not reasonably possible for a boat to avoid contact. It involves two boats sailing upwind on *port tack* approaching the starboard-tack layline. “AS, a hull length to leeward and a hull length ahead of BP, tacked as soon as she reached the starboard-tack lay line. Almost immediately she was hit and damaged by BP travelling at about ten knots.” The Decision states, “When AS passed through head to wind, BP became the right-of-way boat under rule 13 and held right of way until AS assumed a close-hauled course on starboard tack. At that moment AS, having just acquired right of way under rule 10, was required by rule 15 to give BP room to keep clear.

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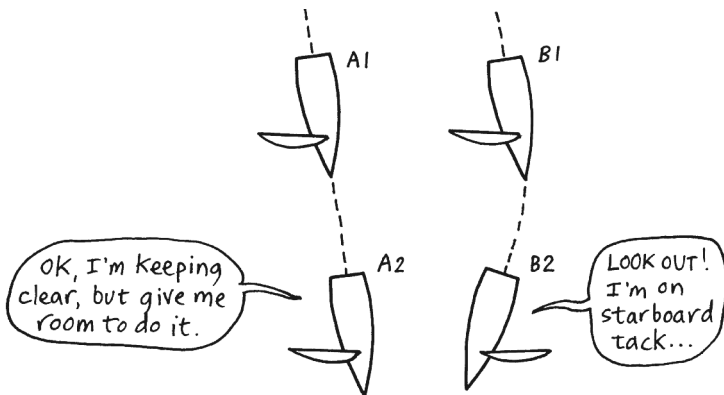
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In conclusion, to penalize a right-of-way boat or one sailing within the room or mark-room to which she is entitled under rule 14, two things must be decided. One, was the boat involved in contact that caused “damage or injury;” and two, was it “reasonably possible” for the boat to have avoided the contact? If either there was no “damage or injury,” or if it is decided that the boat couldn’t have reasonably avoided the contact, then the boat should not be penalized under rule 14. As a juror, I would have to be satisfied from the weight of the evidence submitted (in other words there is no onus) that a boat was negligent or had shown very poor judgment or seamanship before I penalized them. On the other hand, I expect jurors would not be very tolerant of situations where the right-of-way boat intentionally hits the keep-clear boat to prove the foul, causing any damage or injury as a result.

“If I’m on port tack, and a starboard-tacker hits me and causes damage or injury, and the damage or injury causes me to get a significantly worse score as a result, I realize that I have to take a Two-Turns Penalty because I was on port tack; but can I request redress because of the damage or injury?”



You can, but whether or not you receive it will depend on the facts found by the protest committee. Rule 62.1(b) (Redress) says that a boat is entitled to request redress when her “score or place in a race or series has been or may be, through no fault of her own, made significantly worse by... injury or physical damage because of the action of a boat that was breaking a rule of Part 2 and took an appropriate penalty or was penalized...”. In the hearing, the protest committee must first decide if S broke rule 14; and if so, whether the injury or physical damage itself made your score or place significantly worse (see



Case 110). Next it must decide if you contributed to the receiving of damage or injury. It may decide that you broke rule 14 as well because you misjudged the crossing and therefore failed to avoid the contact (see Case 123).