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- (b) Wrongful taking; or
- (c) Riotous, violent, and reckless conduct or acts of depredation by an individual or group that evidences willfulness.

§ 25.705 Claims not payable.

A claim is not payable under this subpart if it:

- (a) Is for death or personal injury;
- (b) Results wholly or partly from the grossly negligent, or reckless act of the claimant, claimant's agent or employee;
- (c) Is a subrogated claim;
- (d) Is for damage to or loss of property owned by the United States or property of a Nonappropriated Fund Activity;
- (e) Results from negligence;
- (f) Is for indirect or remote damages;
- (g) Is for damage to or loss of property resulting from the act or omission of a member of the Coast Guard acting within the scope of the member's employment;
- (h) Extends to damage or loss that results from the owner's failure to mitigate damages; or
- (i) Has been paid by a third party.

§ 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

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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

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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;

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(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:

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

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

Territorial sea means all waters as defined in § 2.22(a)(1) of this chapter.

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 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 facili-

tate 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; USCG-2001-9044, 68 FR 42601, July 18, 2003]

§ 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):