

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**A. INTRODUCTION**

On October 19, 1996, the President signed into law the U.S. Coast Guard Authorization Act of 1996 (Public Law 104-324). Section 600 of this Act added Chapter 32 to Title 46 of the U.S. Code entitled "Management of Vessels." The powers of 46 U.S.C. Chapter 32 were delegated from the Secretary, Department of Transportation to the Commandant of the Coast Guard in 49 CFR §§1.46 (fff) and (ggg). Regulations to enforce these requirements were developed by the Coast Guard and made a part of 33 CFR part 96. The requirements for safety management systems are mandatory for all vessels engaged on a foreign voyage that call in U.S. ports or for all U.S. vessels engaged on a foreign voyage, and which:

- carry more than 12 passengers; or are
- 500 gross tons or more and are:
  - ◆ oil tankers;
  - ◆ chemical tankers;
  - ◆ gas carriers;
  - ◆ bulk freight vessels;
  - ◆ other freight vessels;
  - ◆ high speed craft; or
  - ◆ self-propelled mobile offshore drilling units (MODU)s.

Vessels which are on U.S. domestic routes or are engaged on foreign voyages but do not meet the above applicability may elect to receive voluntary ISM certification under this program and be certificated.

All U.S. requirements are consistent with the International Management Code for the Safe Operation of Ships and for Pollution Prevention, Chapter IX of SOLAS, short titled the "International Safety Management (ISM) Code."

**1. References**

- The International Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), Chapter IX of SOLAS.
- IMO Resolution A.788(19). Guidelines on Implementation of the International Safety Management Code (ISM) by Administrations
- NVIC 4-98, Port State Control Guidelines for the Enforcement of ISM Code.
- 46 U.S.C. § 3201 et. seq.
- 33 CFR part 96 - "Rules for the Safe Operation of Vessels and Safety Management Systems."
- 46 CFR, parts 2, 31, 71, 91, 107, 115, 126, 175,176, and 189.
- U.S. Coast Guard International Safety Management Code Job Aid for Marine Inspectors
- U.S. Coast Guard International Safety Management Code Job Aid for Small Passengers Vessels.

SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS

CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)

2. What is the International Safety Management (ISM) Code?

- a. On November 4, 1993, the International Maritime Organization (IMO) adopted resolution A.741(18), entitled "International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management [ISM] Code)." To further enhance the safety of ships and pollution prevention, the IMO amended the Convention for the Safety of Life at Sea (SOLAS), 1974, by adopting a new chapter, Chapter IX, Management for the safe operation of ships, making compliance with the requirements of the ISM Code mandatory. Copies of SOLAS Chapter IX and the ISM Code are provided in enclosure (2) to NVIC 4-98. Amplifying guidance on implementation of the requirements of SOLAS Chapter IX was provided by the IMO in the form of Resolution A.788(19), "Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations," which is provided in enclosure (3) to NVIC 04-98. 46 U.S.C. §3201 et. seq. required the development of U.S. regulations for U.S. vessel compliance consistent with the ISM Code.

3. Applicability

Compliance with the ISM Code (Chapter IX of SOLAS) and 33 CFR Part 96, will become mandatory on the following dates for U.S. and foreign vessels engaged on foreign voyages:

- a. On or after July 1, 1998 - for vessels carrying more than 12 passengers, including passenger high speed craft; or oil tankers, chemical tankers, gas carriers, bulk carriers, and freight high speed craft of 500 gross tons or more.
- b. On or after July 1, 2002 - for other freight vessels and self-propelled mobile offshore drilling units (MODU's) of 500 gross tons or more.
- c. The requirements of the ISM Code are not mandatory for:
  - a public vessel used for non-commercial purposes;
  - a barge;
  - a recreational vessel not engaged in commercial service;
  - a fishing vessel; or
  - a vessel operating on the Great Lakes or its tributary and connecting waters.

**NOTE:** For U.S. vessels, the public vessel exemption is defined in 46 U.S.C. §§2101 and 2109, and in 33 CFR §96.210(a) (5).

- d. Any U.S. vessel for which it is not mandatory to meet 33 CFR Part 96 may voluntarily meet safety management system (SMS) requirements and have their SMS certificated.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**4. U.S. Law vs. International Convention Definitions**

To maintain consistency with other U.S. shipping laws and regulations, the terms used to describe ship types in the U.S. law and regulations differ from those used in SOLAS Chapter IX and the ISM Code. However, the difference applies only to the terminology use; it does not affect the types of ships that must comply. Table 1 provides a cross reference between ship types used in U.S. law and those used in SOLAS Chapter IX.

<b>TABLE 1: TERMS USED IN U.S. LAW/REGULATION AND THEIR SOLAS EQUIVALENTS FOR THE ISM CODE</b>		
<b>Term used in U.S. law/regulations</b>	<b>Is Equivalent To (=)</b>	<b>Term used in SOLAS Chapter IX</b>
Vessel Transporting More Than 12 Passengers	➔	Passenger Ship
Tanker	➔	Oil Tanker, Chemical Tanker and Gas Carrier
Bulk Freight Vessel	➔	Bulk Carrier
Freight Vessel	➔	Cargo Ship

- a. Bulk Carrier Definition: In November 1997, the SOLAS Conference on the Safety of Bulk Carriers was held at the IMO's headquarters in London. At that conference a clarification of the definition of "bulk carriers" provided in SOLAS Chapter IX, Regulation 1.6 was established. This clarification has been adopted for use by the U.S. Coast Guard in determining which ships must meet the July 1, 1998, deadline for compliance with the ISM Code. Therefore, only those ships which meet any of the following three definitions will be considered a "bulk carrier" for purposes of compliance with the ISM Code. Other vessels, which carry bulk cargos, but do not meet one of the three definitions, must meet the second effective date of the ISM Code (1 July 2002) as required by 33 CFR Subpart 96.210.
- b. Typical cross sections of the types of ships listed below are provided in Figure 1.
  - (1) general bulk carrier - is a ship which is:
    - (a) constructed with a single deck;
    - (b) constructed with top-side tanks and hopper side tanks in cargo spaces; and
    - (c) intended primarily to carry dry cargo in bulk.

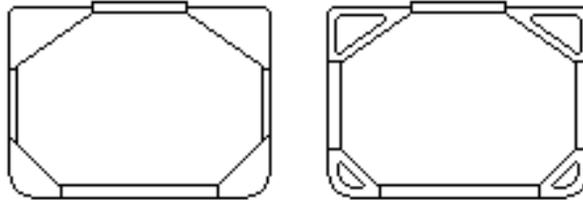
SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS

CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)

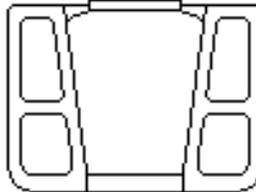
- (2) ore carrier - is a ship which is:
  - (a) a single deck ship;
  - (b) constructed with two longitudinal bulkheads;
  - (c) constructed with a double bottom throughout the cargo region; and
  - (d) intended for the carriage of ore cargoes.
  
- (3) combination carrier - a ship which is a tanker designed to carry oil or alternatively solid cargoes in bulk (SOLAS 74, Chapter II-2, regulation 3.27)

FIGURE 1: TYPICAL CROSS SECTIONS FOR THE THREE TYPES OF BULK CARRIERS UNDER THE ISM CODE

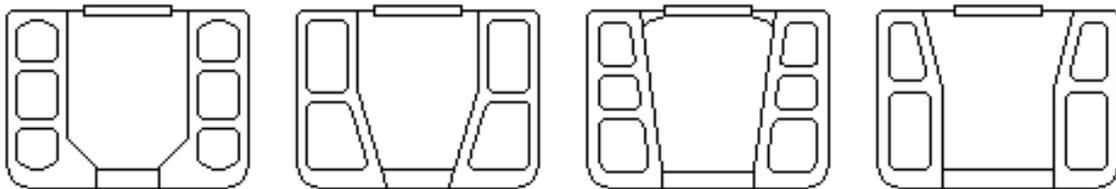
General Bulk Carrier



Ore Carrier



Combination Carrier



**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**B. DISCUSSION**

**1. Objectives**

The objectives of the ISM Code and the regulations contained in 33 CFR Part 96, are to ensure safety at sea, prevent the occurrence of human injury or loss of life, and avoid environmental and property damage. Specifically, the ISM Code seeks to address the issues of human error and human omissions. To accomplish its objectives, the ISM Code requires companies (or their designated representatives, such as vessel managers or bareboat charterers, who have formally assumed responsibility for vessel operations) to implement the SMS both in their shoreside management and aboard their vessels.

**2. Key elements** Key elements of the SMS include documented company procedures establishing:

- a. a company safety and environmental protection policy;
- b. instructions and procedures to ensure vessels are operated in accordance with relevant flag State and international regulations;
- c. defined levels of authority and lines of communication between, and among shore and vessel personnel;
- d. procedures for reporting accidents and non-conformities with the provisions of the ISM Code;
- e. procedures for preparing for and responding to emergencies; and
- f. procedures for internal audits and management reviews.

The implementation of a SMS requires a company to document its management procedures and policies to ensure that conditions, activities, and tasks, both ashore and on board the vessels, affecting safety and environmental protection, are planned, organized, executed, and checked in accordance with regulatory and company requirements. For many companies, this may be a relatively simple job of formalizing long established processes and placing the associated documents under a greater degree of control. For others, this process will be much more comprehensive. It may take from 12 to 18 months to develop and implement a SMS under even the best of conditions. The mandatory compliance dates noted in paragraph B are the dates by which companies are to have completed the process of implementation and certification of their SMS for their companies and vessels; they are not the dates on which to begin the process.

Controlling Authority:	G-MOC	Releasing Authority:	G-M	Revision Date:	21 May 00	Page	<b>E3 - 5</b>
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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

The SMS can, and should, also be used as an education tool to ensure that new U.S. federal authorities and requirements are incorporated and understood by personnel required to comply with them during their duties for the company of the vessel. With the amendment, supplement of, interpretations to, or revocation of federal requirements, the SMS can be used to illustrate/educate how these changes effect the management decisions of the vessels company. An example of this are U.S. authorities and federal regulations involving navigation procedures and protection of the marine environment. For example: The Coast Guard has worked closely with the National Marine Fisheries Service and its charter agency, the National Oceanographic and Atmospheric Administration (NOAA), to develop national programs to assist in protection of the Northern Right Whale by providing mariners operating directions for the whale's critical habitat areas on the east coast of the United States. Part of this effort is the publication of navigation warnings for the Northern Right Whale in Coast Guard Notices to Mariners and in the U.S. Coast Pilot publications covering critical habitat areas of the Northern Right Whale. These warnings include the requirements of 50 CFR parts 217 and 222 that establish Northern Right Whale avoidance measures for vessels and reporting criteria for whale strikes. Coast Guard navigation safety requirements for foreign and U.S. vessels are established in 33 CFR part 164. These regulations include requirements for vessels to have aboard the current edition of the U.S. Coast Pilot for the area in which vessels are operating. Compliance with the ISM Code requirements in this part means that companies that own and operate vessels will have in place the means to ensure that vessel Masters are aware of these requirements and educate them of these processes which will effect navigation procedures.

Other amendments to federal regulations due to changes in U.S. authorities or international conventions, can effect pollution prevention issues (EX: OPA 90, FWPCA, PTSA, PWSA, RCRA, etc....) or vessel safety requirement (SOLAS, MARPOL, etc....) or other environmental protection issues provided in the authority sections of all the MSM Volumes. These are areas where the safety management system can assist providing management direction to the vessel officers and crew, in understanding changes and extensions of their responsibilities for new requirements for safe operation, pollution prevention and protection of the environment. Finding that such updates or amendments are not part of a safety management system does not necessarily require actions by the Coast Guard. The vessel company or operating company can ensure actions in these situations by educating their employees and documenting corrective action for continuous improvement of the system.

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Controlling Authority:	G-MOC	Releasing Authority:	G-M	Revision Date:	21 May 00	Page	<b>E3 - 6</b>
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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**3. SMS Documents** The documents used to describe and implement the SMS may be referred to as the “Safety Management Manual.” However, companies are not required to keep the documentation in a manual form but may choose to maintain the documentation in the form they consider most effective. What is important is that in whatever form they choose to keep their SMS, the information in it must be readily available to all the persons who are required to understand and apply that system in the course of their normal duties both ashore and afloat. Companies are required to establish and maintain procedures for the control of their SMS documentation. These controls shall ensure that:

- a. valid documents are available at all relevant locations (including all vessels);
- b. changes to documents are reviewed and approved by authorized personnel; and,
- c. obsolete documents are promptly removed.

**4. SMS Certification Process** Certification of a SMS for a vessel requires two determinations to be made by the vessel’s flag State: 1) that the company responsible for the vessel has implemented a SMS that complies with the requirements of the ISM Code (33 CFR Part 96 for U.S. vessels); and 2) that the vessel is being operated in accordance with the approved SMS. The goal and purpose of any SMS can be reduced to this simple objective: “ say what you do, do what you have said and be able to prove it!” The goal of the ISM Code is to define a continuous process of communication, training, and actions that constantly maintains the vessel in a state of full compliance with safety and environmental protection regulations. The ISM Code does not prescribe the manner in which this must be done, rather it allows companies to define their own way of reaching that goal. There is no one right way to do this because each successful SMS must be built to fit the individual company culture, organization, service and work environment. What may work for one company may not work for another. Inspectors and auditors must therefore be vigilant for companies that attempt to buy a SMS that was designed for someone else or is a generic off-the-shelf program. A SMS that only exists to satisfy what the company sees as just another regulation, for yet another manual that will sit on the shelf, is not the spirit of the ISM Code. Certified auditors and vessel inspectors will quickly identify these short cut attempts to fulfill the intent of the ISM Code.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**5. SMS Audit Process**

Every initial ISM Code certification audit will be in two parts. First an external audit of the company's safety management system and onshore operations will be completed by an auditor from an authorized organization acting on behalf of the flag administration. Once completed, the company's vessel(s) will be audited on their use of the SMS. The company office audit always comes first because the overall use of the system defines the SMS for the company's personnel, whether they are shoreside or vessel-crew employees. When the company successfully completes its external certification audit, the company, or any person that has assumed or agreed to assume responsibility for operation of the vessel from the company, will be issued a Document of Compliance (DOC) certificate. The DOC must be issued to the company before auditors can proceed to audit vessels using the company's SMS. Each individual vessel that comes under the company DOC, and is found to be operating in accordance with a shipboard SMS that meets the required elements of the ISM Code, will be issued a Safety Management Certificate (SMC). The vessel's compliance with Chapter IX of SOLAS, the ISM Code, is always dependent on it being operated by a company holding a valid DOC. For this reason, a copy of both the company's DOC and the original of the vessel's SMC are required to be maintained onboard the vessel for viewing by flag-state inspectors or port-state boarding officers. IMO Resolution A.788(19) provides guidance on the requirements for the issuance of these certificates, including specific guidelines for the issuance of interim certificates.

**6. Document of Compliance (DOC) certificates and Safety Management Certificates (SMCs)**

Document of Compliance (DOC) certificates

- a. Document of Compliance (DOC) certificates. The DOC is issued to the company following an external audit of a company's SMS. The SMS must be in effect for a minimum of 3 months prior to the issuance of the initial DOC. The external audit determines whether the SMS complies with the requirements of the ISM Code or 33 CFR Part 96 and is effectively implemented and in use by the company's personnel. The DOC is valid for the types of vessels on which the company's initial verification audit is based. It should be issued for no more than 5 years (60 months) and is subject to annual verification audit within 3 months before or after each anniversary of the certificates issuance date. Many U.S. vessels are owned by non-maritime interests such as a bank or a larger parent corporation. Typically, these institutions do not take a direct hand in the operation of the vessel and their interest is confined to finance. Because of this limited involvement with the vessel's day-to-day operation, these companies do not want to be part of

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

the SMS. Section 3.1 of the ISM Code requires a company to designate in writing the person or company that will act for the company for the purpose of the SMS (this is most always the vessel's operating company). For companies that do take a direct and continuing hand in the day-to-day operation of a vessel, delegation of company status to another party would not be appropriate. Delegation is allowed by the ISM Code and 33 CFR Part 96, provided a letter of designation has been issued by the company of record to the flag administration designating the company for the SMS. For U.S. vessel(s), this company designation letter is maintained at Commandant (G-MOC), with a copy to the company. Inspectors should note that the company listed on the COI (XYZ Bank of Anywhere USA) might not always be the company listed on the DOC certificate.

Safety Management Certificates (SMCs)

- b. Safety Management Certificates (SMCs). The SMC is issued to a vessel following an initial verification audit that its SMS is in compliance with the requirements of the ISM Code and 33 CFR Part 96. The SMC cannot be issued unless the DOC of the company responsible for the operation of the vessel is valid, applicable to a vessel type listed on the DOC and acceptable to the flag administration of the vessel if issued by a different organization. If the DOC is issued by a different organization there should be a statement in the SMC acknowledging the acceptance of the DOC. The external audit must also show that the SMS has been effectively implemented by the vessel's personnel for a minimum of 3 months prior to the initial audit. The SMC is valid for 5 years and requires an intermediate external audit and endorsement on the back of the certificate between the second and third anniversary date of the issuance of the SMC.

**7. Interim Certificates**

Interim Document of Compliance (DOC) Certificate

- a. Interim Document of Compliance (DOC) Certificate. An interim DOC is valid for a period of no more than 12 months. It cannot be reissued after a 12 month period, nor can the date of validity be extended longer than 12 months from the issuance date of the interim DOC. It is expected that during the 12 month period of the validity of the interim certificate, the responsible person will ensure the necessary audits are completed and a final DOC can be issued to the company. This certificate may only be issued to facilitate implementation of the ISM Code when a company is newly established or when vessel types are added to an existing SMS and DOC. The interim DOC certificate should be issued only after the company has demonstrated that it has an SMS that, at a minimum, meets the objectives of Section 1.2.3 of the ISM code and SMS meeting the full requirements of the ISM Code within the period of validity of the interim DOC certificate. In short, this certificate is used to allow the company time to completely integrate its operations as a new company, or of a new vessel or new type of vessel, into its SMS capabilities.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

Interim Safety  
Management  
Certificate (SMC)  
Interim Safety  
Management  
Certificate (SMC)

- b. Interim Safety Management Certificate (SMC). An interim SMC is valid for a period of no more than 6 months and may be only issued to new vessels on delivery or when a company takes responsibility for an existing vessel which is new to the company. The interim SMC should only be issued when the vessels flag administration, or recognized organization acting on its behalf, has verified the following:
- (1) The responsible company's DOC, or interim DOC, is relevant to that type of vessel;
  - (2) The SMS includes key elements of the ISM Code and has been assessed during the audit for issuance of the responsible company's DOC or demonstrated for issuance of the responsible company's interim DOC;
  - (3) The master and relevant senior officers are familiar with the SMS and the plans for its implementation;
  - (4) Instructions or procedures identified as essential are provided to the vessel crew prior to sailing;
  - (5) The responsible company has confirmed an audit date for the vessel within 3 months; and
  - (6) The relevant information for the SMS is in a working language or languages understood by the vessel's crew.

An Interim SMC can be extended up to an additional 6 months from the date of expiration in exceptional circumstances which must receive specific approval from the flag administration. For US vessels this must be approved by Commandant (G-MOC)

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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**C. COAST GUARD ENFORCEMENT**

Coast Guard ISM Code enforcement policy is divided into two major areas. The first area of responsibility is for U.S. flag vessels mandated to comply with the ISM Code. The Coast Guard is the flag administration agency for the implementation and enforcement of the ISM Code on U. S. Vessels. The Coast Guard administers this responsibility through a delegation to recognized and authorized organizations. The remainder of this chapter will address the US vessel program. The second area of responsibility is verification of ISM Code compliance on foreign vessels entering U.S. ports. Detailed guidelines for enforcement of the ISM Code on foreign vessels subject to the U.S. Port State Control program are contained in NVIC 4-98. This NVIC contains all of the applicable IMO guideline documents for the ISM Code. Therefore, a through review of this chapter, the NVIC and 33 CFR Part 96 is recommended to all enforcement personnel. All policy discussion from this point forward applies only to U.S. flag vessels.

- 1. Jurisdiction - Flag State** - Applicability of the ISM Code to U.S. vessels by service and route is specified in the applicable subchapter of title 46 CFR. If ISM certification is required, specific certification shall be in accordance with the provisions of 33 CFR Part 96 and Chapter IX of SOLAS. OCMI's will not perform ISM Code audits or issue ISM Code certificates. These functions are performed on U.S. vessels exclusively by organizations recognized and authorized by Commandant in writing to act on behalf of the U.S. These organizations must meet specific requirements contained in 46 CFR Part 8 and 33 CFR Part 96, Subpart D.

**2. General Guidelines for Enforcement on U.S. Vessels**

- a. To obtain certification, as defined in 33 CFR Part 96, the company required to be ISM Code certified under SOLAS, shall be advised by the OCMI to select one of the organizations authorized by the Commandant, to issue certificates. A list of organizations shall be presented to the responsible person the time the OMCI advises them. An up to date list is maintained by Commandant (G-MSE) who can be contacted if questions arise regarding the authorization of an organization by the Coast Guard.
- b. All requests by responsible parties for safety management system certification waivers or extensions, or equivalence for compliance with the requirements of 33 CFR Part 96 (the ISM Code), shall be forwarded to Commandant (G-MOC) for final decision. However, these requests should be routed through the authorized ISM Code certification organization contracted by the company. The organization will provide their recommendation for approval or denial and forward the request to G-MOC.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

- c. Commandant G-MOC and G-MO-1 will administer a program of oversight for authorized organizations. Working with OCMI's they will ensure that ISM Code audits and certification are carried out in accordance with the provisions of law, regulation, international convention and written agreement between the Coast Guard and the authorized organization.
- d. Several authorized organizations may be selected to act on behalf of the Coast Guard for issuance of ISM Code certification. The checklists and guidelines contained in NVIC 4-98 for foreign vessels will prove a useful tool to marine inspectors checking ISM Code safety management system compliance. In addition, a job aid (quick reference guide) has been developed for inspectors as a way of acquiring a general knowledge of ISM Code requirements. This job aid will be maintained by the Marine Inspection and Investigation School (t-mii) at RTC Yorktown and included as part of the marine inspector course.
- e. Vessel that do not have a master: On a U.S. certificated vessel which is manned by a "Person-In-Charge," in the place of a master (most likely a barge) , the person-in charge is responsible for all of the duties and functions required of a master by the ISM Code and the vessel's safety management system.

**3. Legal and Regulatory Authority for U.S. Vessels**

Legal authority for enforcing the ISM Code on U.S. vessels is contained in title 46 U.S.C. §3203. Regulations for the applicability and implementation of the ISM Code are contained in 33 CFR 96, subparts A, B and C. In addition, individual vessel subchapters in title 46 CFR contain reference to the safety management system requirements for specific vessel types.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**4. Voluntary Compliance by the U.S. Domestic Fleet**

As previously discussed in the introduction to this chapter, U.S. vessels engaged on foreign voyages and subject to SOLAS must comply with the ISM Code on the dates prescribed for the vessel's service or design. The Coast Guard has sponsored a program of voluntary compliance prior to the implementation dates for the ISM Code to encourage early certification of vessels that will ultimately require mandatory compliance. This program is described in NVIC 2-94. A process for the transition from voluntary certificates to mandatory certificates is described later in this chapter. However, there is an entire group of U.S. vessels that are not subject to SOLAS and, therefore, not required to comply with the ISM Code. The Coast Guard seeks to encourage voluntary compliance with the safety management system requirements of the ISM Code to the maximum extent possible for these vessels. Vessels in this category may be those engaged only on domestic voyages or may be government owned non-commercial vessels operated by the U.S. Navy's Military Sealift Command or the U.S. Maritime Administration Ready Reserve Force. The companies of these vessels are encouraged to seek voluntary certification under the ISM Code and should follow the guidelines established for mandatory compliance. It is recommended that companies voluntarily complying with the ISM Code use the services of the organizations recognized and authorized by the Coast Guard for mandatory certification. Although this may seem restrictive, this will allow the Coast Guard to provide a focused program of oversight which will benefit all certificate customers of these authorized organizations. Companies that voluntarily comply should fulfill the normal requirements of the ISM Code in order to be certified except to accommodate military sealift vessels in reduced operating status or engaged in unique missions. ISM Code certificates on these vessels shall be called a Statement of Voluntary Compliance (SOVC). This term shall be used to describe both the DOC issued to the parent organization and the SMC issued to the vessel(s). Issuance and revocation of the SOVC will be administered in a manner identical to required ISM Code certificates. However, revocation of a SOVC will not restrict the ability of any voluntarily certificated vessel to operate.

**5. ISM Code equivalence for certain Small Passenger Vessels**

The Coast Guard has established an equivalent to ISM Code compliance for small passenger vessels certificated under subchapter "T" of Title 46 CFR that must comply with the requirements of the ISM Code. These small passenger vessels, which carry more than 12 passengers on foreign voyages, must meet the limited operation requirements below to be eligible for this program.

- a. For a vessel's company to apply for equivalency under 46 CFR 175.450, a small passenger vessel's operation must be Coast Guard certificated to carry:
  - (1) no more than 150 total persons, or
  - (2) no more than 49 overnight passengers.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

- b. At the time of the ISM Code rulemaking in 1997, there were approximately 54 U.S. flag small passenger vessels eligible for this type of an equivalence. Because it was felt that ISM Code certification, in accordance with all of the requirements of 33 CFR Part 96, was too extensive for these vessels with limited company personnel, routes and operations, it was decided to allow an equivalent certification system more tailored to these vessels and companies.
- c. Regulations for implementing an equivalent safety management system onboard these small passenger vessels in lieu of the normal ISM Code certification are allowed by 46 CFR §175.540. This program of equivalent ISM Code compliance will be directly administered by the Coast Guard as part of the normal scheduled inspection for certification. These small passenger vessels and companies will not receive either a DOC certificate or a SMC instead the Certificate of Inspection (COI) of the vessel will be endorsed with a statement of equivalence to the ISM Code for the specified route. A "job aid" booklet and accompanying floppy disk has been produced by Commandant (G-MOC) to guide small passenger vessel companies through the process of developing their safety management system to that provide an equivalent level of safety for the purpose of the ISM Code. These job aids are intended only to be a guideline and the OCMI should ensure that these equivalent safety management systems have been customized to the vessel's and company's operations and procedures before completing an equivalency inspection of a safety management system.
- d. For a small passenger vessel company to apply for an equivalency under this requirement the company must apply in writing to the cognizant OCMI. The written request should relate how the vessel's operation meets the requirements for the equivalency, and a copy of the company's / vessel's safety management system documentation (manual) must be enclosed for initial review.
- e. When a U.S. small passenger vessel is allowed to participate in the safety management system equivalent program by the cognizant OCMI, and its system is inspected and approved by the Coast Guard, the vessel's COI shall be endorsed in the vessel operating details with the following statement: "The company's and vessel's safety management system meet the requirements of Chapter IX of SOLAS, through an equivalence program approved by the U.S. Coast Guard."

Controlling Authority:	G-MOC	Releasing Authority:	G-M	Revision Date:	21 May 00	Page	<b>E3 - 14</b>
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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

- f. If a small passenger vessel's company does not apply for an equivalence under 46 CFR 175 then it will be expected that the vessel's company will contract with an authorized organization acting on behalf of the U.S. to complete audits and certification of the company's and vessel's SMS. In these cases, Coast Guard inspectors shall note the issuance of the company's DOC and SMC by the authorized organization, during normal small passenger vessel COI inspections. If these international convention certificates, or an endorsement of equivalency to Chapter IX of SOLAS is not held by the vessel, the vessel COI may only be endorsed for a route involving domestic operations.
  
  - g. This equivalency program will be monitored by Commandant (G-MOC). Of the approximately 54 vessels able to apply for this program, their operations are normally limited to 5 U.S.- OCMI inspection zones (Portland, ME., San Juan, PR, Miami, FL., San Diego, CA., and Seattle, WA.). It is expected that these programs will be implemented and controlled locally by the OCMI due to the differences of vessel operation and local needs. If a port, other than ones named above, receives an application for such an equivalency from a new vessel company or a vessel moving its operation into a zone not already involved with this program, the local OCMI should contact Commandant (G-MOC) for direction and the issuance of copies of the Coast Guard's ISM Code job aid for use by the OCMI and the vessel's company.
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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**D. DELEGATION OF ISM CODE CERTIFICATION BY THE COAST GUARD TO RECOGNIZED ORGANIZATIONS**

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1. **Authority for Delegation** 46 U.S.C. 3103, provides authority to the Coast Guard to rely on reports, documents and records of other reliable persons as evidence of compliance with subtitle II of 46 U.S.C. (ISM Code for safety management system standards are contained in this subtitle). The ISM Code final rule on December 24, 1997, announced the Coast Guard's intention to delegate the function of ISM Code external audits and certifications of U.S. vessels to recognized/authorized organizations rather than perform ISM Code certification as a direct service using Coast Guard personnel (except as noted above for small passenger vessels).

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2. **Application Process** Recognizing and authorizing organizations to carry out ISM Code certification on behalf of the Coast Guard is the responsibility of Commandant (G-MSE), Office of Design and Engineering Standards. An organization can be recognized by applying in writing to Commandant (G-MSE) following the requirements for application provided by 46 CFR 8. After being recognized by the Coast Guard, an organization may apply for authorization to complete ISM Code external audits and certification for U.S. vessels as outlined in 33 CFR 96, subpart D. Once an organization is authorized to act on behalf of the Coast Guard it will be placed on a list of organizations available to U.S. vessels to complete actions for the Coast Guard. A list of these approved organizations is kept by Commandant (G-MSE).

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SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS

CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)

**E. RECOGNITION, AUTHORIZATION AND OVERSIGHT OF AUTHORIZED ORGANIZATIONS ACTING ON BEHALF OF THE U.S.**

**1. Responsibilities of the Commandant (G-M) Staffs**

In the following paragraphs, Coast Guard responsibilities are described. This is provided to ensure understanding of the roles that each office of the Assistant Commandant of Marine Safety and Environmental Protection (G-M) will play regarding the enforcement and compliance of U.S. and foreign vessels with the ISM Code.

a. Commandant (G-MSE), Office of Design and Engineering Standards, shall:

- (1) Specify and interpret the detailed requirements contained in 46 CFR 8 and 33 CFR 96 for the process of granting recognition and authorization to organizations applying for Coast Guard delegation to complete ISM Code external auditing and issuing international certificates.
- (2) Revoke recognition or authorization to an organization acting upon the behalf of the U.S. in accordance with the regulations and provide guidance for the orderly transfer of company and vessel ISM Code certificates to another recognized and authorized organization, when needed.
- (3) Maintain and publish a list of authorized organizations who are authorized to conduct ISM Code auditing and certification on behalf of the Coast Guard. (available on the Coast Guard world wide web page)
- (4) Draft and execute with each recognized and authorized organization an agreement which specifies the duties and responsibilities for the performance of work an organization must complete under their authorization to act under the authority of the U.S.
  - (i) Included in all organization authorization agreements shall be the duties and responsibilities of both the Coast Guard and the recognized organization. The written agreement will specify reports that must be made to the Coast Guard, as well as ensure Coast Guard access to records and information. Information access is critical to facilitate oversight and includes all information of the authorized organization related to the delegation. This information shall include:
    - ISM Code certificates issued, to whom and the date of issuance;
    - Names and training/qualifications records of persons performing audits;
    - Names of companies and vessels undergoing ISM certification;
    - External audit reports and results.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

- (ii) Coast Guard access to information may be limited to U.S. flag vessels receiving either mandatory or voluntary certification. As the flag administration, the Coast Guard shall have on-site, as well as electronic access to records.
  
- b. Commandant (G-MOC), Office of Compliance, shall:
  - (1) Establish enforcement policies and procedures for implementation of the ISM Code.
  - (2) Establish and maintain policies and procedures for the effective oversight of organizations authorized to perform ISM Code audits and certification under the authority of the Coast Guard. (see paragraph F of this chapter)
  - (3) Work with G-MRP-3, G-W, G-MO-1 and the Inspection and Investigation School (t-mii), at RTC Yorktown to implement training and define qualifications for Coast Guard personnel with regard to ISM Code compliance and enforcement for U.S. and Port State Control programs.
  - (4) Conduct oversight reviews of recognized organization headquarters, regional and port offices, to ensure conformance with the requirements of the written authorization agreement between the recognized organization and the Coast Guard.
  - (5) Coordinate with Commandant (G-MO-1), District (m) officers, and OCMI's to ensure implementation of oversight, and provide feedback and corrective action to authorized organizations.
  - (6) Maintain a record of vessel company designation letters, where the legal-financial company of a U.S. vessel has designated another party be the company for the management of the vessel and its safety management system for the purpose of ISM Code certification.
  - (7) Coordinate with Commandant (G-MSE) on the review of applications for recognition or authorization to perform certification under the authority of the Coast Guard for ISM Code. Also advise G-MSE when evidence exists that an authorization should be revoked. Upon receipt of information of major non-conformities or other failures to follow Chapter IX of SOLAS or 33 CFR 96, take actions to direct the suspension or revocation of a U.S. vessel's SMC or its company's DOC with the local, cognizant OCMI.
  - (8) Act as final agency authority regarding the granting of equivalencies, appeals or other decisions regarding the certification of a U.S. vessel or its company and its safety management system.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

- c. Commandant (G-MO-1), Quality Assurance Staff, shall:
  - (1) Observe mandatory ISM Code audits of the DOC and SMC performed by recognized organizations on U.S. vessels and companies as part of an oversight program.
  - (2) Perform ISM Code compliance oversight onboard U.S. vessels enrolled in the Alternate Compliance Program during oversight visits for that program.
  - (3) Establish and maintain a system of measurement for the performance of authorized organizations for ISM Code certification.
  - (4) Supervise and coordinate assignment of OCMI personnel to perform ISM Code audit observations.
  
- d. Commandant (G-MRP-2), Human Resources Division, shall—
  - (1) Work with G-MOC, G-MO-1, G-W and the Inspection and Investigation School (t-mii), at RTC Yorktown to implement training and define qualifications for Coast Guard personnel with regard to ISM Code compliance and enforcement for U.S. and Port State Control programs.
  - (2) Maintain a data base of ISM code lead auditor course trained Coast Guard marine inspection personnel who may perform audit observations.

**2. Responsibilities of Authorized Organizations**

Organizations authorized to act on behalf of the U.S. regarding the external auditing and certification of U.S. vessels and their companies shall:

- a. Conduct ISM Code certification in accordance with the provisions of regulation, convention and their written agreement with the Coast Guard.
  
- b. Notify Commandant (G-MO-1) prior to the performance of any ISM Code related external audit for the issuance of a company's DOC or vessel's SMC. Freely accept the assignment of qualified Coast Guard observers to accompany their authorized organization personnel during any aspect of the ISM Code certification and audit process. (Training, qualification and rules of conduct are addressed later in this chapter).

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

- c. Notify Commandant (G-MOC) of all major non-conformities issued, or recommendations for suspension or revocation of any DOC or SMC issued under Coast Guard delegation.

Report all major non-conformities, or suspension or revocation of the SMC or DOC to:

- Authorized organizations that issue any statutory certificates to vessel
  - The Coast Guard in accordance with the written agreement.
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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**F. COAST GUARD'S ISM CODE OVERSIGHT ON U.S. VESSELS**

ISM Code compliance is unique because it is integral with nearly every other aspect of overall regulatory compliance. A basic tenant of any safety management system is that the system must be in constant compliance with safety and environmental protection requirements. Because of this, OCMI's will, in the course of routine material and human element inspections, also provide a means of measuring ISM Code compliance. Compliance confirmation can take several forms, the most basic of which is to simply verify that the vessel has a valid ISM Code SMC and copy of the company's DOC certificate. The next, and more complex, level is to identify links between any deficiencies noted during the course of routine inspections and the vessel's safety management system. This latter task requires that marine inspectors have a working knowledge of the ISM Code elements, as well as knowledge of the duties and training of shipboard personnel. To assist the marine inspector in making these judgments, a training course has been established at the Marine Inspection and Investigation School at RTC, Yorktown. In addition, an ISM Code job aid has been produced. The ISM Code job aid is not a substitute for policy, it is intended to provide a shorthand guide to familiarize the inspector with the ISM Code. The ISM Code job aid also provides a breakdown of the ISM Code's elements and the requirements for each element. All Coast Guard marine inspectors and vessel boarding officers should read and become familiar with the ISM Code, the job aid, NVIC 04-98 and this policy.

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- 1. When to Conduct ISM Code Oversight** Coast Guard oversight of ISM Code auditing or ISM code certification processes for U.S. company or vessel safety management systems will be coordinated through the authorized organization. Any examination of a vessel for any purpose is also an opportunity to judge the effectiveness of the SMS. Although ISM oversight will not be the primary purpose of the visit, inspectors should be alert to potential links between the deficiencies they find performing other inspections and whether those items should have been managed by the SMS. Oversight may also occasionally arise from investigations into vessel casualties, reports by vessel crewmembers, or at the direction of Commandant (G-MOC).

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- 2. Oversight of U.S. Vessels Enrolled in Alternate Compliance Program (ACP)** For U.S. vessels enrolled in the ACP inspectors should verify that a valid SMC and DOC is onboard the vessel. During routine ACP oversight examinations, or annual examinations associated with the issuance or endorsement of the COI, the OCMI's will spot check the overall physical condition of the vessel as well as perform a and human factors examination. Authorized organization's personnel conducting inspections under the ACP shall notify the cognizant OCMI and the organization authorized to issue the vessel's SMC of any significant material deficiency<sup>1</sup> that might effect the validity of the SMC. In accordance with ACP policy and instructions, the surveyor must contact the authorized organization that issued the SMC and/or DOC.

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<sup>1</sup> As defined in NVIC 2-95, Enclosure 3, Section B

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**3. Notification of Authorized Organization Issuing ISM Code Certificates**

Any time an authorized organization's surveyor notes significant material deficiencies, serious lack of maintenance to a vessel or its equipment, or failure to follow safety procedures by the crew, the potential or failure of the safety management system procedures should be analyzed. This may include instances of lack of routine maintenance for critical systems or equipment or material failures that have not been submitted as a corrective action request and that indicate a clear failure to follow maintenance or safety procedures by the crew. Information to make this type of determination may be collected by:

- a. Observing or interviewing the crew members responsible for the area of the safety management system where the deficient item was noted. Crew members should be knowledgeable about the responsibilities required of them by the safety management system procedures.
- b. Verifying that safety management system procedures are being carried out with regard to the area of deficiency.
- c. Verifying with the master or responsible crewmember what corrective action has been initiated under the safety management system and sighting evidence of this action. Failure to submit corrective action reports shall be noted and, depending upon the severity and number of instances, shall be reported to the SMC issuing organization. When these failures are found, the representative of the authorized organization acting on behalf of the U.S., must provide a report, orally or in writing, to the cognizant local OCMI. These reports should be made as soon as possible; oral or written reports (which can include emails) should be made within 48 hours.

**4. Coast Guard Actions for Non-Compliance with Safety Management System**

If it appears that any portion of the safety management system is not being followed, Coast Guard personnel may issue a CG-835 to the vessel's master requesting verification of compliance from the authorized organization that issued the vessel's SMC and, if the non-compliance is linked to shoreside operations, then also compliance from the authorized organization that issued the company's DOC. It is the master's responsibility to notify the organization issuing the SMC or the DOC. Depending on the severity of the deficiency, the OCMI may allow a reasonable period of time to satisfy the CG-835. In cases where the deficient item would restrict the vessel from sailing, the time allowed by the CG-835 for verification of the SMS should be proportionally short.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

5. **Observation of ISM Code Audits by Qualified Coast Guard Personnel** For the purpose of oversight, authorized organizations will allow the Coast Guard to assign qualified personnel to observe any aspect of the ISM Code audit or certification process. During observations, the Coast Guard personnel assigned will respect the authority of the lead auditor and shall not hamper the progress of the audit. Coast Guard personnel shall respect the proprietary nature of any personal or business information accessed through its observation of ISM Code certification audits and shall abide by the provisions of the Privacy Act with respect to that information. As a minimum, all Coast Guard personnel assigned to observe ISM audits shall have completed the ISM Code lead auditor training course at RTC Yorktown. If any material deficiencies are noted during the oversight observation period which effect a vessel's safety or operational capabilities, the lead auditor of the authorized organization must provide a written or oral report to the Coast Guard for action. This report is required no later than 48 hours after completion of the audit. Coast Guard observers to ISM Code review processes or external audits of safety management systems are participating for the purpose of oversight and review, both of the auditors actions and the proper completion of processes. The lead auditor is responsible for all actions on the part of the authorized organization in representing the U.S.
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**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**G. REVOCATION OF A DOC CERTIFICATE OR SMC BY THE COAST GUARD**

The authority to revoke DOC certificates and SMCs is held exclusively by the Coast Guard. Authorized organizations acting on behalf of the U.S. may provide information, reports or recommendations regarding revocation of these certificates at the request of the Coast Guard.

- 1. Authority and Grounds for Revocation of DOC**
- Commandant (G-MOC) has exclusive authority to revoke DOC certificates. Revocation of a DOC certificate shall be based on the finding that a company or responsible person has failed to complete actions to: continuously review and address corrective action reports from the company's or vessel's safety management system operation; correct or address major non-conformity(ies); or a recommendation for revocation of the DOC certificate by the authorizing organization acting on behalf of the U.S. It is not possible to provide a listing of each individual case which will require revocation of a DOC. Each situation will be different as responsible person's and company's safety management systems are customized to the needs of the specific operation of that company. It must be remembered that the revocation of a DOC certificate invalidates the SMCs for all vessels owned by the responsible person or operating under the company's safety management system. Such DOC certificate revocation actions will be documented in writing by Commandant (G-MOC) to the responsible person or company, with copies to the authorized organization which issued the DOC certificate, authorized all organization which issued SMCs under that DOC, and to cognizant OCMI(s) of certificated U.S. vessels which are owned by the responsible person or its managing company. The cognizant OCMI(s) for these affected vessels, will also be required to amend the vessel's COI(s) for domestic trading only, and accept return of any international convention certificates which will become invalid due to the restriction of the vessel's route.

- 2. Authority and Grounds for Revocation of SMC**
- SMCs for a U.S. vessel may be revoked on the authority of the cognizant OCMI or District Commander. Such actions should be discussed with Commandant (G-MOC) before being taken. This is to ensure that other OCMI(s) who are involved with U.S. vessels owned by the same responsible person are notified of such actions. These OCMI(s) may wish to review the safety management systems for other vessels under the same company to ensure that parallel problems are not occurring with these other vessels. The revocation of a SMC does not stop a U.S. vessel from operating in domestic trade. When an SMC is revoked, the cognizant OCMI will ensure that the vessel's COI is amended for domestic routes only and that other international convention certificates are invalidated or returned. Interim DOC certificates and Interim SMCs may be revoked by the Coast Guard as listed above.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**3. Revocation for Failure to Allow Access to Personnel or Records** Commandant (G-MOC) shall be notified immediately of any instance where a company or its vessel personnel have restricted, denied or otherwise impeded access by the Coast Guard or authorized organization personnel either during a scheduled audit or a safety management system verification. In cases where the obstruction by the company or its vessel personnel was deliberate, the company's DOC shall be revoked immediately Commandant (G-MOC). In such a case, the company or vessel involved in the revocation must reapply and undergo a complete recertification audit to regain its ISM Code certificates.

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**4. Appeal of Authorized Organizations Decisions Regarding ISM Code Certification** 33 CFR 96.495 provides the actions available to a responsible person who wishes to appeal any decision by an authorized organization regarding the auditing and certification of a company or vessel safety management system. The requirements of 46 CFR 1.03 are also available to be used to administratively process appeals to the Coast Guard from responsible persons.

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SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS

CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)

**H. CONVERSION OF VOLUNTARY CERTIFICATES ISSUED UNDER NVIC 2-94 FOR COMPANIES AND VESSELS THAT MUST MEET MANDATORY COMPLIANCE PRIOR TO 1 JULY 1998**

**Background:** To facilitate early compliance with the ISM code the Coast Guard authorized three organizations to conduct audits and issue voluntary ISM code compliance certificates to US vessels prior to publishing the regulations contained in 33 CFR Part 96. The three organizations performing voluntary certification prior to 24 December 1997 were: Det Norske Veritas (DNV), Lloyd's Register (LR) and the American Bureau of Shipping (ABS). When Title 46, U.S. Code 3316 was enacted to authorize the Coast Guard to permit recognized organizations to perform mandatory ISM Code certification on U.S. vessels the act also required that prior to granting authorization to a foreign classification society it must be established that the American Bureau of Shipping (ABS) has reciprocal access to vessels of the country where the foreign classification society is based. At the time of the drafting of this chapter neither LR nor DNV had received authorization to perform mandatory ISM Code certification on US vessels pending the resolution of reciprocal access issues for the ABS in both Norway, (where DNV is headquartered) and the United Kingdom (where LR is headquartered). As the ISM implementation date approaches it has become necessary to address the possibility that either or both of DNV and LR may not receive authorization before 1 July 1998. In order to ensure US vessel owners who achieved voluntary ISM certification with either DNV or LR has an ISM code certificate issued under the authorization of the Coast Guard prior to the 1 July 1998 implementation date for the ISM Code, it is necessary to provide a process to ensure the smooth transition of any voluntary ISM Code certificates issued by LR or DNV under Navigation and Vessel Inspection Circular (NVIC) 2-94 guidelines to mandatory certificates.

**Implementation:**

- 1. Authorized Organizations** Organizations that issued voluntary certificates and later receive mandatory ISM code certificate authorization from the Coast Guard may convert their voluntary certificates to mandatory certificates on a one for one basis. No special or additional audits need to be performed at the time of conversion, just a change of documents. Expiration dates shall remain the same as for the voluntary certificates.

**SECTION E: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS**

**CHAPTER 3: SAFETY MANAGEMENT SYSTEMS (SMS)**

**2. Voluntary Certificates issued by DNV or LR under NVIC 2-94** Voluntary Certificates issued by DNV or LR under NVIC 2-94 may to be converted to mandatory certificates issued by either the Coast Guard or ABS. Issuance of certificates by the Coast Guard will be based on a need to meet the impending mandatory implementation date of the ISM. All requests must be made by the vessel owners. If LR or DNV later receive authorization for issuance of mandatory ISM certificates then conversion may occur as in paragraph 1 above. Coast Guard issued ISM certificates will be issued without charge. Owners that elect to convert to certificates issued by an authorized organization will be subject to the fees of that organization for conversion services. Coast Guard issued ISM Code certificates will expire on the same date as the LR or DNV voluntary certificate. Coast Guard issued ISM Code certificates may not be renewed. Renewals must be performed by an organization which has received authorization from the Coast Guard. The Coast Guard will allow the authorized organization conducting the renewal of the Document of Compliance (DOC) to continue to honor Safety Management Certificates (SMC) issued by the Coast Guard until their expiration.

**3. Audits and Certificate Endorsement** Periodic audits required during the period of validity of Coast Guard certificates may be conducted by LR or DNV auditors accompanied by a Coast Guard observer(s). LR and DNV will notify the Coast Guard in advance of all audits so that a lead auditor trained Coast Guard marine inspector may be assigned to observe the audit. After completion of either a DOC annual audit or the intermediate audit for the SMC, the attending LR or DNV representative will provide a detailed summary of the audit findings and a recommended course of action for the certificate (e.g. Endorsement or revocation) to the cognizant Coast Guard Officer in Charge, Marine Inspection (OCMI). The OCMI's representative (in all likelihood the attending Coast Guard observer) may endorse the Coast Guard ISM Code certificate based on a favorable LR or DNV recommendation. Travel and per diem costs for OCMI personnel to observe audits held outside of the United States will be subject to mandatory reimbursement by the company to the Coast Guard. After completion of the audits LR and DNV will forward a copy of the audit reports to Coast Guard Headquarters, Vessel Compliance Division, (G-MOC).