

§ 175.540 Equivalents.[top](#)

(a) The Commandant may approve any arrangement, fitting, appliance, apparatus, equipment, calculation, information, or test, which provides a level of safety equivalent to that established by specific provisions of this subchapter. Requests for approval must be submitted to the Marine Safety Center via the cognizant OCMI. If necessary, the Marine Safety Center may require engineering evaluations and tests to demonstrate the equivalence of the substitute.

(b) The Commandant may accept compliance by a high speed craft with the provisions of the International Maritime Organization (IMO) "Code of Safety for High Speed Craft" as an equivalent to compliance with applicable requirements of this subchapter. Requests for a determination of equivalency for a particular vessel must be submitted to the Marine Safety Center via the cognizant OCMI.

(c) The Commandant may approve a novel lifesaving appliance or arrangement as an equivalent if it has performance characteristics at least equivalent to the appliance or arrangement required under this part, and:

(1) Is evaluated and tested under IMO Resolution A. 520(13), "Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-Saving Appliances and Arrangements"; or

(2) Has successfully undergone an evaluation and tests that are substantially equivalent to those recommendations.

(d) The Commandant may accept alternative compliance arrangements in lieu of specific provisions of the International Safety Management (ISM) Code (IMO Resolution A.741(18)) for the purpose of determining that an equivalent safety management system is in place on board a vessel. The Commandant will consider the size and corporate structure of a vessel's company when determining the acceptability of an equivalent system. Requests for determination of equivalency must be submitted to Commandant (G-MOC) via the cognizant OCMI.

[CGD 85-080, 61 FR 947, Jan. 10, 1996; 61 FR 24464, May 15, 1996, as amended by CGD 95-073, 62 FR 67515, Dec. 24, 1997]

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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.

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- 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."

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- 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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