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Policy Letter 18-01, CH.2  
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To: Distribution

Subj: GUIDANCE ON THE AUDIT SCHEME FOR VESSELS USING A TOWING SAFETY  
MANAGEMENT SYSTEM (TSMS) OPTION

Ref: (a) Title 46, Code of Federal Regulations (CFR), Chapter I, Subchapter M

1. **PURPOSE**. This policy letter provides clarification, policy, and guidance to the Officer in Charge, Marine Inspection (OCMI), Towing Vessel National Center of Expertise (NCOE), Third Party Organizations (TPO), and the maritime industry on certain external audit requirements under reference (a). This policy letter expires on January 1, 2024.<sup>1</sup>
2. **DIRECTIVES AFFECTED**. This policy letter supersedes CVC Policy Letter 18-01, CH.1, issued on February 15, 2022. CVC Policy Letter 18-01, CH.1 is canceled.
3. **DISCUSSION**.
  - a. The Coast Guard is updating this policy letter to include additional guidance on the process by which a towing vessel owner or managing operator (hereinafter, "owner") can obtain an initial TSMS certificate and a Coast Guard Certificate of Inspection (COI) for vessels new to the TSMS program and the methodology by which TPOs are to comply with related requirements under reference (a) for issuing the TSMS certificate and conducting external vessel audits.
  - b. The TSMS option provides owners with the flexibility to tailor their safety management systems, while ensuring an overall level of safety. The verification of compliance with applicable regulations is confirmed through surveys and audits completed by a TPO. A TPO survey is an examination of the vessel and systems to verify compliance with applicable requirements. An audit is a systematic, independent, and documented examination to determine whether activities and related results comply with the TSMS or other approved safety management system.
  - c. The International Safety Management (ISM) Code is an internationally mandated Safety Management System (SMS) for vessels subject to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS). The ISM Code is an international framework that requires two scheduled audits during the period of validity of the Safety Management Certificate to ensure consistent application of the SMS on a vessel.

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<sup>1</sup> CG-CVC will monitor and evaluate the effectiveness of this policy letter and determine whether to adopt in the Mission Management System (MMS), extend the deadline, or sunset the provisions herein.

4. **ACTION.** The NCOE, OCMI, TPOs, and towing vessel owners should refer to this Policy Letter when discussing vessel audits needed to comply with Subchapter M requirements for a vessel using a TSMS Option.
5. **POLICY.**
- a. **Initial TSMS Certificate.**<sup>2</sup> Per 46 CFR § 138.115, owners that select the TSMS option must obtain a TSMS certificate issued under 46 CFR § 138.305 at least six months before obtaining a COI for any of their vessels covered under the TSMS certificate. There is no requirement for a TPO to verify that an owner has implemented a TSMS for at least six months before issuing the TSMS certificate. The effect of this requirement is on the vessel, not the owner. Vessel specific guidance is provided in subparagraph (b) below.
- 1) A TPO must conduct an external management audit of an owner prior to issuing the initial TSMS certificate.<sup>3</sup> An audit<sup>4</sup> should contain an examination of activities and related results that comply with the vessel's TSMS.<sup>5</sup> This does not explicitly require these activities<sup>6</sup> to exist within the TSMS at the time of an external audit for issuance of an initial TSMS certificate, but should be included in subsequent audits to determine compliance. The owner will be issued a TSMS certificate by a TPO when his or her organization is deemed in compliance with the TSMS requirements.<sup>7</sup> Therefore, TPOs may issue an initial TSMS Certificate to an owner after the TPO:
- (a) Verifies that the owner's TSMS meets the functional requirements and elements under 46 CFR § 138.215 and 46 CFR § 138.220, and
- (b) Completes an external management audit to verify that the necessary policies and procedures have been documented and implemented throughout the organization, shore-side and on relevant vessels, to ensure a functional TSMS. Implementation should include, at a minimum, the necessary policies, processes, and procedures are published, promulgated, and rendered mandatory.<sup>8</sup>
- b. **Initial COI for vessels under a new TSMS.** An owner must obtain a TSMS certificate issued under 46 CFR § 138.305 at least six months before obtaining a COI for any of their vessels covered under the TSMS certificate.<sup>9</sup> However, whether the owner has chosen the Coast Guard or TSMS option for inspection, the vessel must receive a statutory inspection for certification by the Coast Guard per 46 U.S.C. §§ 3301 and 3309 and 46 CFR § 136.212. Therefore, the OCMI

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<sup>2</sup> The word "initial" does not represent a type of certificate, rather denotes the first TSMS certificate issued to the owner.

<sup>3</sup> 46 CFR § 138.315(a)(1).

<sup>4</sup> Per 46 CFR § 136.110, an audit "means a systematic, independent, and documented examination to determine whether activities and related results comply with a vessel's TSMS, or with another applicable Safety Management System (SMS), and whether these planned arrangements are implemented suitably to achieve stated objectives. This examination includes a thorough review of appropriate reports, documents, records, and other objective evidence to verify compliance with applicable requirements."

<sup>5</sup> 46 CFR § 136.110.

<sup>6</sup> The Coast Guard interprets "activity" to mean the act of performing a procedure, not the procedure itself.

<sup>7</sup> 46 CFR § 138.305(a).

<sup>8</sup> See 46 CFR § 138.410.

<sup>9</sup> See 46 CFR § 138.115.

may issue a COI to a vessel under a new TSMS prior to the six-month requirement in 46 CFR § 138.115 with certain conditions and following the below guidance.

- 1) **COI Issuance.** For vessels subject to 46 CFR § 138.115, the OCMI may issue a COI to a vessel in substantial compliance with material, equipment, and operational requirements and monitor progress towards full implementation of the TSMS. The process by which the OCMI may ensure substantial compliance is as follows:
    - (a) The owner must submit an “Application for Inspection” via Form CG-3750 within three months of inspection, and the owner must notify the OCMI if they intend to use the TSMS option and provide additional information to facilitate Coast Guard certification to include a copy of the TSMS certificate and survey report in accordance with 46 CFR § 137.202.<sup>10</sup> The owner should further notify the OCMI that they request inspection for certification ahead of the six-month TSMS requirement in 46 CFR § 138.115.
    - (b) The OCMI will review all necessary vessel and owner information and may request from the cognizant TPO additional information to establish objective evidence of compliance and determine whether an inspection for certification is appropriate based on the circumstances of the case.
    - (c) The OCMI will conduct an inspection for certification. Upon verification that the vessel is in substantial compliance with material, equipment, manning, and operational requirements, the OCMI will issue a COI. The OCMI may issue the COI with a TSMS endorsement and a CG-835V (Code 705)<sup>11,12</sup> requirement with a compliance date six months from issuance. The CG-835V must state:

*Vessel is inspected under CG option until the requirement of 46 CFR § 138.115 is satisfied. Provide objective evidence of TSMS implementation for six months from the date of the COI. Failure to complete this requirement will result in removal of the TSMS endorsement from the vessel’s COI, suspension of vessel operations, or COI revocation, as determined by the OCMI.*
  - 2) If the vessel fails to satisfy the CG-835V requirement, the OCMI must determine the owner’s intention for the vessel and either revert the vessel’s COI to the Coast Guard inspection option under 46 CFR § 137.200, suspend operations until the requirements of reference (a) and any other relevant deficiencies are satisfied, or revoke the COI.
- c. **External audit for initial Certificate of Inspection (COI) under the TSMS option.** Vessels under a TSMS that have been owned or operated for six months or more prior to receiving an initial COI must complete a satisfactory external audit prior to the Coast Guard issuing a COI.<sup>13</sup> Vessels under a TSMS that have been owned or operated for fewer than six months prior to receiving an initial COI must complete a satisfactory external audit within six months of the

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<sup>10</sup> 46 CFR § 136.210.

<sup>11</sup> OCMI should not issue a “work list item” under this provision.

<sup>12</sup> The vessel should continue to follow all policies, processes, and procedures under the TSMS to document objective evidence of activities under the TSMS.

<sup>13</sup> 46 CFR § 138.315(b)(1).

Coast Guard issuing a COI.<sup>14</sup> The requirements of 46 CFR § 138.315(b)(1) and § 138.315(b)(2) are intended to determine whether a vessel must receive an external vessel audit prior to receiving a COI or within six months of receiving a COI, respectively.

1) **Delayed Audit.** For vessels subject to 46 CFR § 138.315(b)(1), the OCMI may issue a COI to a vessel in substantial compliance with material, equipment, and operational requirements and monitor progress towards full implementation of the TSMS and verify compliance upon completion of the first mandatory external audit six months after issuance of the initial COI. The process by which the OCMI may ensure substantial compliance is as follows:

- (a) Per 46 CFR § 136.210, the owner must submit an “Application for Inspection” via CG Form-3750 within three months of inspection. Additionally, under this regulation, the owner must notify the OCMI if they intend to use the TSMS option and provide additional information to facilitate Coast Guard certification. The owner should further notify the OCMI that they request inspection for certification and cannot meet the external audit requirement under 46 CFR § 138.315(b)(1).
- (b) The OCMI will review all necessary vessel and owner information, and may request from the cognizant TPO additional information to establish objective evidence of compliance, and determine whether an inspection for certification is appropriate based on the circumstances of the case.
- (c) The OCMI will conduct an inspection for certification. Upon verification that the vessel is in substantial compliance with material, equipment, manning, and operational requirements, the OCMI will issue the COI and CG-835V (Code 705)<sup>15</sup> requirement with a compliance date six months from issuance. The CG-835V must state:  
*Provide objective evidence of a satisfactory external audit conducted by the cognizant third-party organization within six months of issuance of the initial COI. Failure to complete and provide evidence of this audit will result in the vessel being reverted to the Coast Guard Inspection Option, suspension of vessel operations, or COI revocation, as determined by the OCMI.*
- (d) If the vessel fails to satisfy the CG-835V requirement, the OCMI must determine the owner’s intentions for the vessel and either revert the vessel to the Coast Guard inspection option under 46 CFR § 137.200, suspend operations until the requirements of reference (a) and any other relevant deficiencies are satisfied, or revoke the COI.

d. **Random External Vessel Audits under the TSMS Option.** An external audit of all vessels covered by a TSMS certificate must be conducted during the 5-year period of validity of the TSMS certificate.<sup>16</sup> The vessels must be selected randomly and distributed as evenly as possible. The purpose of this is to both promote a culture of continuous compliance and promote flexibility. The following applies to random external vessel audits:

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<sup>14</sup> 46 CFR § 138.315(b)(2).

<sup>15</sup> OCMI should not issue a “work list item” under this provision.

<sup>16</sup> 46 CFR § 138.315(b)(3).

- 1) Random External Vessel Audit. The following criteria should be used to ensure compliance with 46 CFR § 138.315:
  - (a) The vessel external audits are distributed as evenly as possible throughout the 5-year validity of the TSMS certificate,
  - (b) the vessels covered under the TSMS certificate are selected at random for a given external vessel audit, and
  - (c) each vessel covered under the TSMS certificate receives no less than one external vessel audit within the 5-year validity of the TSMS certificate.

The random audit program should be developed by the approved TPO issuing the TSMS Certificate. A TPO's random external vessel audit program must be distinctly different from an audit program with a fixed schedule for each vessel over the validity of the TSMS Certificate. The scheduling, random vessel selection, and audit notification process may occur upon issuance of the TSMS certificate, or anytime thereafter within the 5-year validity of the TSMS certificate. The audit should generally occur within 90 days before or after the scheduled date of the audit to ensure flexibility with operational constraints. There is no requirement for an external audit to be completed prior to the renewal of the COI.<sup>17</sup> During the COI inspection, the OCMI will verify that a random external vessel audit has been completed for the vessel within the current or previous 5-year validity of the TSMS certificate depending on the timing of the COI inspection in relation to TSMS certificate date. The COI renewal package should include objective evidence of conformity with the TSMS to include survey reports, internal audit reports and other supporting information.

- 2) Equivalency to Random External Vessel Audit. As an equivalent to meeting the requirements of the random external vessel requirement under 46 CFR § 138.315(b)(3), an owner or managing operator may request the TPO to perform two planned (i.e., non-random) audits during the 5-year validity of the TSMS certificate.<sup>18</sup> If this equivalency is used, the external audit should follow the audit scheme found in the ISM Code<sup>19</sup> as much as practicable, which is one planned external vessel audit conducted between the second and third anniversary date of the TSMS certificate with a second audit before the TSMS certificate renewal. This provision provides certainty to when vessels will be audited while still promoting a culture of continuous compliance. This alternative arrangement will be considered an equivalent level of safety under 46 CFR § 136.115 and must be documented in the TSMS applicable to the vessel.
- 3) Existing Safety Management System. A safety management system (SMS), which is fully compliant with the ISM Code requirements, implemented in 33 CFR part 96, will be deemed in compliance with TSMS-related requirements reference (a).<sup>20</sup> Additionally, other existing

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<sup>17</sup> 46 CFR § 138.315 applies to the 5-year validity of the TSMS certificate.

<sup>18</sup> This equivalency does not require specific OCMI or CVC-4 approval. Rather, it should be documented in the approved TSMS and should reference this policy letter.

<sup>19</sup> International Safety Management (ISM) Code under the International Safety of Life at Sea (SOLAS) Convention.

<sup>20</sup> Per 46 CFR § 138.225(a).

SMSs may be considered for acceptance as meeting the TSMS requirements of this part.<sup>21</sup>  
These provisions are subject to Coast Guard approval and documentation must be submitted to the local OCMI for review.<sup>22</sup>

6. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this policy letter and have been determined not to be applicable.
6. DISCLAIMER. This policy letter is neither a substitute for applicable legal requirements, nor a rule. It is not intended, nor does it impose legally binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, the public, and the Coast Guard, as well as other Federal and state regulators, in applying statutory and regulatory requirements. An alternative approach may be used for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) who is responsible for implementing this guidance.
7. QUESTIONS. Questions concerning this policy letter and guidance should be directed to Office of Commercial Vessel Compliance, COMDT (CG-CVC), Flag State Control Division at [FlagStateControl@uscg.mil](mailto:FlagStateControl@uscg.mil). This policy letter and other vessel inspection policy documents are posted on the CG-CVC website at [CG-CVC Policy Letters \(uscg.mil\)](https://uscg.mil/CG-CVC-Policy-Letters).

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<sup>21</sup> 46 CFR § 138.225(b).

<sup>22</sup> 46 CFR §§ 138.225(c) and 138.225(d).