



USCG Office of Commercial Vessel Compliance (CG-CVC)
Mission Management System (MMS) Work Instruction (WI)



Category	Domestic Inspection Program				
Title	USCG Oversight of Safety Management Systems on U.S. Flag Vessels				
Serial	CVC-WI-003(3)	Orig. Date	23MAR18	Rev. Date	3NOV20
Disclaimer:	<p>This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to nor does it impose legally-binding requirements on any part. 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. You can use an alternative approach 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) at FlagStateControl@uscg.mil who is responsible for implementing this guidance.</p>				
References:	<ul style="list-style-type: none"> (a) International Safety Management Code, ISM Code (b) Procedures for Port State Control, 2017, IMO Resolution A.1119(30) (c) 33 CFR Part 96 – Rules for the Safe Operation of Vessels and Safety Management Systems (d) Revised Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations, IMO Resolution A.1071(28) (e) Marine Safety Manual (MSM) Volume II, Section E (f) 46 CFR Part 138 – Towing Safety Management System (TSMS) (g) International Association of Classification Societies (IACS) Recommendation No. 41, Guidance for IACS Auditors to the ISM Code. 				
Change Summary	<p>The following is a list of major changes found in revision 2 and 3.</p> <ul style="list-style-type: none"> • Removed the requirement for a memorandum requesting an external DOC audit or external Towing Safety Management System (TSMS) certificate audit in sections 5.3 and 5.4. • Added email template in place of the formal memorandum. • Clarification of item E - <u>General Procedure for Evaluating Potential Non-Conformities and Corrective Action Options.</u> • Various updates to reflect CG-CVC-4, Flag State Control area of responsibility versus CG-CVC. • Corrected an error in the note in Enclosure 1 regarding Quality Cases. 				
Enclosures:	<ul style="list-style-type: none"> (1) Examples of technical, operational and documentation related deficiencies (2) Request for Document of Compliance (DOC) Verification Email Template 				

A. Purpose. This work instruction sets forth guidance for assessing the effectiveness of a company’s Safety Management System (SMS) on U.S. flag vessels through the following processes:

- Evaluation of materiel deficiencies for potential SMS process failures;
- Evaluation of SMS documentation (certificates, logs, maintenance records, etc.);
- Compliance options following objective evidence of an SMS failure; and
- Coast Guard oversight of SMS activities performed by Recognized Organizations (RO) and Third Party Organizations (TPO).

B. Action. Marine Inspectors (MI) and Investigating Officers (IO) that complete vessel inspections, examinations, or casualty investigations on U.S. flag vessels subject to the International Safety Management (ISM) Code as implemented by Title 33 CFR Part 96, including those vessels which comply on a voluntary basis (e.g. Military Sealift Command), should adhere to the guidance herein. For the purposes of this work instruction, a SMS, as defined under the ISM Code, is synonymous with a TSMS required under 46 CFR Part 138.¹

C. Background. The ISM Code requires that companies and their vessels establish a SMS to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment. Domestically, Congress implemented the ISM Code by legislation with the adoption of 46 U.S.C. § 3201, et seq., and the Coast Guard implemented those statutes through regulations promulgated in Title 33 Code of Federal Regulations (CFR) Subpart 96. In addition, the Coast Guard integrated SMSs into the regulatory and policy framework that guide multiple vessel inspection programs. Compliance with the ISM Code is required for all U.S.-flagged vessels enrolled in the Alternate Compliance Program (ACP), regardless of whether a vessel engages in an international voyage. TSMSs have likewise been integrated through regulations implemented under 46 U.S.C. § 3306 in 46 CFR Subchapter M.

D. Discussion. While the Coast Guard has authority to perform SMS audits and issue certificates, as a matter of policy, these functions are performed exclusively by ROs authorized by Commandant (see 33 CFR § 96.320(c)(3)). These ROs must meet specific requirements as specified in 46 CFR Part 8 and 33 CFR Part 96, Subpart D. Similarly, for towing vessels subject to a TSMS, a TPO issues a TSMS Certificate, conducts audits and surveys, and must meet specific requirements in 46 CFR Part 139. OCMI's do not normally perform RO, company, or vessel audits. However, OCMI's play a critical role in verifying the effectiveness of a SMS through routine inspection, examination, and investigation activities.

In its capacity as the Flag Administration under IMO instruments, the Coast Guard is ultimately responsible to guarantee the effectiveness of all delegated functions performed on its behalf, including those SMS verification functions delegated to ROs. The Coast Guard's oversight of SMSs occurs continually as part of routine vessel activities including flag state inspections, examinations, and investigations. An examination or inspection of a vessel is an opportunity to evaluate the effectiveness of the SMS. Although SMS oversight may not be the primary purpose of an examination, MIs should remain cognizant of the important role that an SMS has in preventing or mitigating deficiencies and casualties, and in implementing key changes as a result of lessons learned from the same.

E. General Procedure for Evaluating Potential Non-Conformities and Corrective Action Options².



1. INITIATING FACTOR(s) may include technical, operational, documentation-related deficiencies, and marine casualties³. Deficiencies discovered during the course of an inspection or examination and causal factors related to marine casualties should be evaluated to determine whether the SMS reasonably should have prevented or otherwise managed them. A key indicator of a functioning SMS is that non-conformities are identified, reported,

¹ SMS and RO will be herein synonymous with TSMS and TPO, respectively, unless specifically used otherwise.

² Not all initiating factors will result in established objective evidence. If the MI at any point does not have reason to continue to the next step in this process, they should record the initiating factor as a deficiency and return to the inspection or examination.

³ See Enclosure (1) for examples of technical, operational and documentation-related deficiencies

managed, analyzed, and corrected in a timely manner and in accordance with documented procedures.

Example: A MI discovers that a lifeboat engine is inoperable during the course of an annual exam on a U.S. flag container ship. The MI begins to assess the nature of the deficiency (this scenario continues to develop throughout this work instruction).

2. CLEAR GROUNDS means evidence that the ship, its equipment, or its crew does not substantially conform to the requirements of the relevant conventions; or that the master or crew members are not familiar with essential shipboard procedures relating to the safety of the ship or the prevention of pollution. Evidence of troublesome or problematic equipment, operations, materiel deficiencies, or the appearance of the crewmembers' inability to operate equipment correctly, is sufficient evidence to justify an expanded exam. While in this decision making phase, the MI must weigh the severity of the deficiency against the general impression of the vessel. The MI should be able to distinguish between deficiencies that result from normal operations (e.g., wear and tear, weather, operational environment) and those deficiencies that exist due to a potential failure of the owner or operator to effectively implement the SMS. Significant materiel deficiencies, serious lack of maintenance, or the crew's failure to follow safety procedures are key indicators the SMS may not be effectively implemented.
 - a. Examples of conditions that result in clear grounds for an expanded exam include, but are not limited to:
 - 1) Substandard materiel condition. Generally, a materiel condition may be regarded as substandard if the hull, machinery, equipment or operational safety, is substantially below the standards required by the applicable regulations. Examples include the following, either as a whole or individually:
 - The absence of equipment or arrangement required by regulations or rules of the particular inspection standard (e.g. for ACP, the international conventions, ACS rules and U.S. supplement);
 - Inoperability of required equipment;
 - Non-compliance of an arrangement with the relevant regulation or inspection standard; and/or
 - Substantial deterioration of the ship or its equipment.
 - 2) Improperly endorsed or expired statutory certificates;
 - 3) Lack of SMS documentation;
 - 4) Crewmembers with insufficient knowledge of their required duties under the SMS⁴;
 - 5) Serious, longstanding materiel deficiencies or systemic lack of preventative maintenance of critical equipment/systems as identified by the SMS; and/or preventative maintenance tracking system (NSE, AMOS, TM Master, Maximo, etc.).
 - b. In the case that a deficiency is disclosed at the outset on an inspection or exam, the MI should confirm that the condition was reported to the company's shore-based organization in accordance with the SMS and verify that suitable corrective actions, including adequate mitigation measures, are accounted for. In the case of serious deficiencies, verify that RO and Port State Control authorities, if applicable, were notified. Satisfactory documentation may be accepted as objective evidence of a functioning SMS even if materiel deficiencies are present.⁵

⁴ Additional information relating to "clear grounds" for potential manning violations is contained in MSM Vol. III, B1.F.

⁵ Issuing a vessel requirement (deficiency), COTP Order, or Letter of Deviation (LOD) may be appropriate for a technical, operational and /or documentation related deficiency even if a SMS related deficiency is not warranted.

However, the absence of documentation, an insufficient corrective action plan, or failure to disclose issues may be indicative of an underlying condition affecting the implementation of the SMS and the MI should proceed with an expanded exam.

- c. If the MI has clear grounds for carrying out an expanded exam, the MI should immediately inform the Master of these grounds.

Example (cont.): The vessel has a Cargo Ship Safety Equipment Certificate (SLE) that appears to be valid and the Form E lists that a lifeboat is required. There is no documentation from the Coast Guard on board permitting the vessel to sail with an inoperable lifeboat (e.g. CG-835V, SOLAS Exemption, or other correspondence).

3. **EXPANDED EXAM** is a more detailed inspection performed after clear grounds have been established. While the expanded exam may broaden the scope and depth of items the MI may inspect, it may also include a review of maintenance schedules and records, training records and certifications, plans and procedures, and interviews that may be required by the SMS. It is important to note that an expanded exam is NOT an audit. It is an opportunity to confirm the elements of the company's SMS as they relate to the deficiencies, and that the Master and crew have a basic understanding of how the deficiencies relate to the SMS. Under the Coast Guard's authority as a Flag State, MIs may request to review any internal audit records, corrective action reports, or master's review documentation on U.S. flag vessels. This contrasts with the Coast Guard's authority as a Port State in which a Port State Control Officer (PSCO) may only verify that internal audits were completed, but may not examine the records and non-conformity reports.

Technical and/or operational-related deficiencies found during the expanded exam should be, individually or collectively, considered by the MI, using their professional judgement, to indicate that either:

- They do not show a failure, or lack of effectiveness, of the implementation of the ISM Code; or
- There is a failure, or lack of effectiveness, of the implementation of the ISM Code; or
- There is a serious failure, or lack of effectiveness, of the implementation of the ISM Code.

Example (cont.): The MI conducts a more detailed inspection and examines the related maintenance records for the lifeboat. The vessel's captain states that the 3/M is responsible for checking the lifesaving appliances so the MI decides to interview the 3/M and asks the following questions:

- *What is the Company's procedure for testing lifeboats?*
- *Was the inoperative lifeboat engine previously identified and what corrective actions are being undertaken?*
- *Were SMS procedures followed for reporting and documenting this non-conformity?*
- *When was the last operational test and inspection carried out? Documentation?*
- *How often is an operational test and inspection required? Documentation?*
- *Who carried out the last operational test and inspection? Documentation?*
- *How often is maintenance required? SMS Procedure?*
- *Does the SMS address lifesaving equipment?*
- *When was the last maintenance carried out? Documentation?*
- *Who conducted the maintenance? Documentation?*
- *Are any qualifications or certifications required related to the maintenance?*

4. **OBJECTIVE EVIDENCE** means quantitative or qualitative information, such as records or statements of fact, which is based on observation, measurement, or test that can be verified. A deficiency may be related to a non-conformity; however, deficiencies and non-conformities remain distinctly different and result from different processes. An inspection or survey may result in a deficiency, while an audit, focused on processes, may result in a non-conformity. A deficiency should not be labeled as a “non-conformity” until an external SMS verification has been completed and the RO verifies the deficiency is related to an SMS non-conformity. Once the MI establishes objective evidence, they should stop the expanded exam and continue the inspection or examination. It is not the intent for a MI to establish the root cause of a deficiency or to conduct a process verification. Rather, the intent is for the MI to recognize potential non-conformities to be followed-up during a subsequent audit.

Example (cont.): Following the interview with the 3/M, the MI notes that the lifeboat engine was first discovered to be inoperable during last week’s safety checks. The 3/M stated that he reported the situation to the C/M verbally but was too busy with cargo operations and did not fill out the non-conformity report as required by the company’s SMS. Since the company uses this system to centrally track vessel conditions, order necessary parts, and arrange for repair technicians, the inoperable engine was not repaired. At this point, the MI has objective evidence of a potential non-conformity with the SMS.

5. **COMPLIANCE OPTIONS**⁶

- a. The compliance options listed below are available to the OCMI to evaluate deficiencies indicative of SMS failures and drive the root cause analysis and corrective action process solely within the context of the ISM framework. Nothing limits the OCMI from using additional tools to compel compliance, including: increased frequency of inspection, appropriate enforcement options, and revocation of certificates. The following compliance actions may be required by the OCMI via a CG-835V:
- 1) **INTERNAL SMS AUDIT.** For technical or operational deficiencies that individually or collectively do not warrant the detention of the ship but indicate a failure, or lack of effectiveness, of the SMS, an “SMS Related” deficiency should be recorded on the CG-835V requiring an internal safety audit and corrective action within three months. However, it is not necessary to require an internal audit where the deficiency has been referred to the RO that issued the vessel’s Safety Management Certificate (SMC) in accordance with IACS Procedural Requirement 17 (IACS PR-17).
 - 2) **EXTERNAL SMC AUDIT.** If objective evidence indicates that the technical or operational-related deficiencies indicate a *serious* failure, or lack of effectiveness, of the implementation of the SMS, the vessel should be placed under Flag State Detention. Control actions “30 –Ship Detained” and an “SMS Related” deficiency should be recorded on the CG-835V requiring that an SMS external audit be carried out by the RO prior to this ship being released from her detention.

Note: The scope of the verification conducted by the RO may be limited if the potential non-conformities are limited to a subset of the company’s SMS. If potential non-conformities exist within multiple areas of the SMS, the scope of the verification shall be expanded.

⁶ See the Procedures for Port State Control, 2017; IMO Resolution A.1119 (30), as amended.

Note: Where a vessel has been detained and/or an external SMC Audit has been required by the Coast Guard, a notification should be sent to FlagStateControl@uscg.mil.

- 3) **EXTERNAL DOC AUDIT.** If objective evidence indicates that the technical or operational-related deficiencies indicate a serious failure, or lack of effectiveness, of the implementation of the SMS at the Company level, the OCMI should recommend to CG-CVC that an additional SMS external audit of the Company's shore-based organization (i.e., DOC audit) be conducted. The OCMI should not recommend an additional DOC audit until at least one external SMC audit has been carried out where the recorded non-conformities indicate that the SMS failures exist at the Company level. Enclosure (2) is an email template for requesting an additional SMS (DOC) verification of the Company. Requests shall be sent to FlagStateControl@uscg.mil. CG-CVC holds sole authority to revoke DOCs.

- 4) **46 CFR SUBCHAPTER M (TSMS OPTION – NON-ISM).** The OCMI should use the same procedures outlined above as it relates to internal and external vessel audits, understanding that TSMS vessels do not have a SMC. In this sense, the vessel's COI is equivalent to an SMC because its issuance is predicated upon effective implementation of a TSMS. At the Company level, the TSMS certificate is equivalent to a DOC issued under the ISM Code and 46 CFR. Part 96. The OCMI should use the process outlined above for external DOC audits to recommend an external management audit by the TPO of the Company. However, the OCMI should send an email to FlagStateControl@uscg.mil and the Towing Vessel NCOE at TVNCOE@uscg.mil explaining the deficiency(ies) including MISLE activity number and any other supporting information, so that both CG-CVC and TVNCOE are aware of the situation, can monitor the activity, and consider attending the TSMS audit. The TVNCOE, in coordination with CG-CVC, will make the determination whether to suspend or revoke a TSMS Certificate.

- b. If major non-conformities are discovered during the course of an SMC audit, the OCMI should withdraw the SMC. Once immediate corrective action has been taken and the major non-conformities have been downgraded, a short-term SMC⁷ should be issued for a period of three months. Prior to the expiration of the short-term SMC, an additional external audit shall be completed to verify the effectiveness of corrective actions. If satisfactory, a full-term SMC should be reinstated with an expiration date corresponding to the expiration date of the original certificate⁸.

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By direction

⁷ Short-term certificates are not "Interim Certificates." Rather, they are generally used for the purpose of initiating additional verifications at shortened intervals in order to check the effectiveness of corrective actions following non-conformities. See MSM Volume II, Section E.3.B.9 for additional information regarding short-term certificates.

⁸ See *Procedures Concerning Observed ISM Code Major Non-Conformities*, MSC/Circ.1059-MEPC/Circ.401.

Examples of Technical, Operational, Documentation and Other Deficiencies

Category	Examples
Technical Deficiencies	<ul style="list-style-type: none"> • Combination of deficiencies, that together indicates that the maintenance system is not effectively implemented. • Poor condition of structure, hull, main deck, closing appliances, railings, ladders. • Defective/missing fire-fighting and live saving appliances, oil pollution prevention equipment. • Leaks and oil in engineering spaces, pump-rooms etc. • Hazardous electrical conditions.
Operational Deficiencies	<ul style="list-style-type: none"> • Accidents and hazardous occurrences not reported to the company. • Crew not able to satisfactorily conduct practical demonstrations of shipboard operations, such as starting the fire pump, emergency generator, lifeboat engine, etc. • Crew not able to communicate effectively in the execution of their duties. • Inability of crew to perform satisfactorily mandated drills such as fire drills, LSA drills, pollution drills, etc.
Documentation Deficiencies	<ul style="list-style-type: none"> • Expired statutory certificates or certificates not endorsed as required. • Overdue surveys, overdue audits or overdue deficiencies/findings. • Emergency response plans and relevant manuals not available or inaccurate. • Entries for relevant drills in Log Book not completed in accordance with requirements. • Incorrect or missing entries on the Oil Record Book • Fire/Emergency Plan not up to date. <p><i>NOTE: Minor typing errors on statutory certificates should be recorded as a deficiency with the certificates, not an ISM-related deficiency. For certificates completed by an RO, depending on the severity of the errors, the OCMI may consider reviewing CVC-WI-005(series) <u>Request for Recognized Organization Internal Quality Management System Review – Quality Case</u> and forwarding a quality case, if warranted.</i></p>
Other Deficiencies	<ul style="list-style-type: none"> • Crew not complying with minimum safe manning • Masters, Officers, Persons in Charge and crew not certificates as required. • Serious deficiencies in respect to housekeeping and maintenance of galley, crew accommodation, and provision stores.

Email Template Format to be used:

Subj: REQUEST FOR [COMPANY NAME-IMO#] ADDITIONAL SMS VERIFICATION

- On [MONTH DD, 20YY], Marine Inspectors from my office conducted a [INSPECTION TYPE] on the [VESSEL NAME] [(O.N. or IMO #)] as documented in MISLE activity # [#####]. During the course of the attendance, objective evidence was discovered indicating potential failures and/or a lack of effective implementation of the Company's safety management system (SMS). Following an external Safety Management Certificate (SMC) verification of the vessel, which [was/was not] attended by a Coast Guard observer, [##] non-conformities and/or [##] observations were recorded indicating potential SMS failures within the Company's shore-based organization.
- The external SMC verification of the vessel was completed on [MONTH DD, YYYY] and the audit report is enclosed¹.
- It is recommended that an additional verification of the subject Company's shore-based organization be conducted by the RO or TPO.
- Additional details can be found in MISLE Activity # [##]

¹ Additional attachments may be added as necessary to include photos, additional survey reports, copy of 835V, etc.