



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



Category	Domestic Inspection Program			
Title	U.S. Flag Interpretations on the ISM Code			
Serial	CVC-WI-004(3)	Orig. Date	16APR18	Rev. Date 13NOV23
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 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. 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-4) at FlagStateControl@uscg.mil who is responsible for implementing this guidance.</p>			
References:	<ul style="list-style-type: none"> a) Title 46 United States Code (U.S.C.) Chapter 32 – Management of Vessels b) 33 Code of Federal Regulations (CFR) part 96 – Rules for the Safe Operation of Vessels and Safety Management Systems c) The International Convention for the Safety of Life at Sea (SOLAS) Chapter IX Management for the Safe Operation of Ships d) The International Safety Management Code (ISM Code), IMO Resolution A.741(18) e) Revised Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations, IMO Resolution A.1118(30) f) The Code for Recognized Organizations (RO Code), adopted by IMO Resolutions MEPC.237(65) and MSC.349(92) g) Marine Safety: International Conventions, Treaties, Standards, and Regulations, COMDTINST M16000.74 (series) h) Marine Safety Manual (MSM) Volume III: Marine Industry Personnel, COMDTINST M16000.8 (series) i) Navigation and Vessel Inspection Circular (NVIC) 02-13, Change 1 – Guidance Implementing the Maritime Labour Convention (MLC) j) NVIC 5-99, Change 1 – Guidance Regarding Voluntary Compliance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention k) International Association of Classification Societies (IACS) Procedural Requirement No. 9 (IACS PR 9) – Procedural Requirements for ISM Code Certification l) IACS PR 10 – Procedure for the Selection, Training, Qualification and Authorization of Marine Management Systems Auditors m) IACS PR 17 – Reporting on Deficiencies Possibly Affecting the Implementation of the ISM Code on Board During Surveys 			

	n) IACS Recommendation No. 41 – Guidance for IACS Auditors to the ISM Code o) 46 U.S.C. § 10104(e)
Change Summary	<ul style="list-style-type: none"> • Adds policy and guidance to ensure compliance with reference (o). • Makes several minor changes to improve clarity. • Adds additional guidance for internal audits.

A. Purpose. This instruction provides guidance on the U.S. Flag Administration’s interpretations on the application and implementation of the ISM Code. Where no additional instructions or interpretations are provided, the ISM Code should be applied as written.

B. ISM Code and Associated References.

1. The 2018 edition of the ISM Code is the most recent version of the Code. It contains all amendments that entered into force through January 1, 2015, and is the edition of the code on which this instruction is based. This instruction should be considered in accordance with paragraph 1.2.3.2. of the ISM Code. In all cases, the most recent version of referenced guidance should be considered, recognizing that previous versions may have been revised or superseded.
2. Recognized Organizations (ROs) that are members of IACS should appropriately apply IACS Procedural Requirements in accordance with the IACS Quality Management System Requirements (IACS QMSR).¹ In addition, ROs should appropriately apply the provisions of IACS Recommendations, as appropriate and applicable.

C. Implementation. The ISM Code is implemented into U.S. law by 46 U.S.C. § 3201-3205 and regulations promulgated in 33 CFR part 96.

1. U.S. Flag Vessels Subject to the ISM Code²

- a. Vessels carrying more than 12 passengers, including passenger high speed craft engaged on foreign voyages.
- b. Oil tankers, chemical tankers, gas carriers, bulk carriers, and freight high speed craft of 500 Gross Tonnage ITC (GT ITC) (Gross Register Tonnage (GRT) if GT ITC not assigned) or more engaged on foreign voyages.
- c. Freight vessels and self-propelled MODUs of 500 GT ITC (GRT if GT ITC is not assigned) or more including Offshore Supply Vessels, Towing Vessels, and Oceanographic Research Vessels engaged on foreign voyages.
- d. All vessels enrolled in the Alternate Compliance Program (ACP) regardless of voyage type.³

2. U.S. Vessels Not Subject to the ISM Code⁴

- a. Public vessels used in non-commercial services.⁵
- b. Barges.
- c. Recreational vessels not engaged in commercial service.
- d. Fishing vessels.
- e. Vessels operating on the Great Lakes or its tributaries and connecting waters.

¹ IACS QSCS 4.2(ii).

² SOLAS IX/2, 33 CFR § 96.210(a), 46 CFR and COMDTINST 16000.74, MARINE SAFETY: INTERNATIONAL CONVENTIONS, TREATIES, STANDARDS, AND REGULATIONS (MSM INTERNATIONAL CONVENTIONS), Section E, Chapter 3.A.3.a.

³ Where the ISM Code is not applicable, compliance with the ISM Code remains a condition to participate in the ACP.

⁴ 33 CFR § 96.210(b) and MSM Vol. II, Section E, Chapter 3.A.3.b.

⁵ 46 U.S.C. § 2101(24), 46 U.S.C. § 2109, and 33 CFR § 96.210(b)(5).

3. Voluntary Compliance⁶

Companies and vessels not subject to the ISM Code may voluntarily comply with the ISM Code. An ISM Code certificate issued on a voluntary basis is called a Statement of Voluntary Compliance (SOVC). This term describes both the Document of Compliance (DOC) issued to the Company and the Safety Management Certificate (SMC) issued to the vessel(s). Issuance, maintenance, and revocation of the SOVC is administered in a manner identical to required ISM Code certificates. However, revocation of a SOVC will not restrict the operations of any voluntarily certificated vessel or company.

4. Delegation of ISM Verification⁷

46 U.S.C. § 3103 authorizes the Coast Guard to rely on reports, documents, and records of reliable persons as evidence of compliance with Subtitle II of 46 U.S.C., which contains the ISM Code for SMS standards. 33 CFR part 96, subpart D authorizes ROs to issue ISM Certificates and conduct audits on behalf of the Coast Guard. The list of ROs authorized to perform ISM Code functions is available on the Coast Guard's Classification Society Authorizations website via www.dco.uscg.mil, or via direct link by [clicking here](#).

5. Flag State Compliance Monitoring

- a. In accordance with SOLAS I/6(d), the Coast Guard is ultimately responsible to guarantee the effectiveness of delegated functions performed on its behalf, including the SMS audits that have been 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.
- b. The Coast Guard will coordinate with ROs to develop, analyze, and monitor Key Performance Indicators (KPIs) with respect to the performance of statutory certification and services.⁸ The KPIs and related data should be provided to the Coast Guard in accordance with the RO Code and as specified in the agreement between the RO and the Coast Guard.
- c. In addition to routine assessment of SMSs during vessel inspections, and in accordance with 46 CFR § 8.130(a)(22), the Coast Guard will occasionally observe SMS audits performed by an RO in the following instances:
 - 1) As a matter of routine oversight;
 - 2) In cases when an SMS external audit was specifically ordered by the Coast Guard; or
 - 3) Where the circumstances are such that the SMS audit is likely to result in major non-conformities.
- d. As provided in respective RO agreements,⁹ the Coast Guard may conduct audits, assessments, and inspection activities independent of, or in conjunction with, SMS audit activities performed by an RO. This may include Vertical Contract Audits¹⁰ of the RO performed either by the Coast Guard or by the RO internally. Alternatively, the Coast Guard may assess RO performance through observing Accredited Certification Body (ACB) audits of the RO's Quality Management System (QMS) or by requesting the results of ACB audits from the RO.
- e. If the Coast Guard establishes objective evidence that ISM non-conformities may exist on a

⁶ 33 CFR § 96.110(b) and MSM INTERNATIONAL CONVENTIONS § E, Chapter 3.A.3.c.

⁷ The term "verification" is synonymous with "audit."

⁸ RO Code 6.1.2 and 46 C.F.R. § 8.130(a)(22)-(24).

⁹ 46 CFR § 8.130(a)(24).

¹⁰ See RO Code, part 2, subpart 1.8 and RO Code 6.3 [and CVC-WI-008\(series\) Vertical Contract Audits](#).

U.S. flag vessel, the Coast Guard may require an additional internal or external safety audit¹¹ and corrective action(s). Alternatively, the Coast Guard may coordinate with the RO to address the potential ineffectiveness or failure of the SMS via IACS PR-17. 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.

- f. For ROs that are members of IACS, *Notification(s) of Invalidation of ISM Certification* required under IACS PR-9, should be sent to Commandant (CG-CVC-4) at FlagStateControl@uscg.mil.
- g. If IACS PR-17 is invoked by the RO and subsequently validated by the RO responsible for issuing the SMC, the RO who issued the SMC is to provide immediate notification to Commandant (CG-CVC-4) FlagStateControl@uscg.mil as provided in the RO's agreement with the Coast Guard. The notification should include the relevant survey finding, Company point of contact responsible to perform the incident investigation or root cause analysis, and due date of response to the RO. The RO should provide a report of any corrective actions implemented as a result of PR- 17 to Commandant (CG-CVC-4).¹²
- h. In accordance with the agreement, the RO shall provide immediate notification to Commandant (CG-CVC-4) at FlagStateControl@uscg.mil in the event of a major non-conformity issued to a U.S. flag vessel or Company.
- i. The Coast Guard has exclusive authority to suspend or revoke ISM Certificates for U.S. flag vessels and companies and is compelled to do so in certain circumstances.¹³

D. National Guidance as it relates to the ISM Code

1. Part A - Implementation

a. **ISM Code Chapter 1 – General**

- 1) Companies should ensure that their SMS meets the objectives of the ISM Code and is structured in such a manner that different levels of management with the company, both ashore and onboard vessels, have the appropriate level of knowledge and awareness. The cornerstone of good safety management is commitment from the top of the company. In matters of safety and pollution prevention, it is the commitment, competence, attitudes, and motivation of individuals at all levels of the company that determine the result.
- 2) An SMS should support and encourage a “safety culture” to address issues of human error and human omissions while continually improving compliance with the applicable regulations. A “safety culture” is the sum of what an organization is and does in the pursuit of safety. A strong safety culture promotes an environment where all employees share the responsibility for safety in the workplace and the company has an established policy to protect employees from retribution for speaking up to prevent a hazardous occurrence.
- 3) Notwithstanding the objectives or functional requirements of an SMS provided in the Code, an effective SMS can be reduced to a simple philosophy: Say what you do, do what you say, and be able to prove it.
- 4) In accordance with 46 U.S.C. § 3203(a) and 33 CFR part 96, an SMS should include

¹¹ See [CVC-WI-003\(series\) USCG Oversight of Safety Management Systems on U.S. Flag Vessels](#).

¹² 33 CFR § 96.330(g) and (h). [CVC-WI-003\(series\)–USCG Oversight of Safety Management Systems on U.S. Flag Vessels](#).

¹³ 46 U.S.C. § 3203(c), 33 CFR §§ 96.330(g) and 96.340(g), and MSM INTERNATIONAL CONVENTIONS § E, Chapter 3.G.

provisions to ensure that applicable U.S. federal laws and regulatory requirements are incorporated and understood by personnel responsible for complying with them. Such laws and regulations include requirements for manning, watchkeeping, marine casualty reporting, post-casualty drug and alcohol testing, and reporting harassment, sexual harassment, and sexual assault.

- 5) 46 U.S.C. § 10104 establishes mandatory reporting by a “responsible entity of a vessel”¹⁴ of any complaint or incident of harassment, sexual harassment, or sexual assault in violation of employer policy or law, of which such entity is made aware, and requirements for a company after-action summary. Under certain circumstances outlined in 46 U.S.C. § 3203, the Coast Guard is required to revoke an SMC and or DOC related to an audit conducted under 46 U.S.C. § 10104.
- 6) In accordance with 46 CFR § 175.540(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. Requests for determination of equivalency under this regulation shall be submitted to Commandant (CG- CVC-1) CG-CVC-1@uscg.mil via the cognizant OCMI in accordance with 46 CFR § 175.540 (a)-(c). An RO may not issue a DOC or SMC under these regulations until CG-CVC has made a determination of equivalency.

b. ISM Code Chapter 2 – Safety and Environmental Protection Policy:

- 1) A strong safety culture promotes an environment where all employees share the responsibility for safety in the workplace and the company has an established policy to protect employees from retribution for speaking up and preventing unsafe practices. Critical to the safety of the maritime workforce is a robust framework of laws, regulations, and company policies incorporated into the SMS to ensure incidents of harassment, sexual harassment, and sexual assault are reported to the Coast Guard. [*Note: reports of harassment, sexual harassment, and sexual assault can be made by calling the Coast Guard National Command Center at 202-372-2100 or via email at CGISTIPS@uscg.mil. If in immediate danger, call 9-1-1.*]¹⁵

Companies and vessels should have documented policies and procedures within the SMS to ensure compliance with the reporting and after-action summary requirements of 46 U.S.C. § 10104 related to harassment, sexual harassment, and sexual assault.¹⁶ The Coast Guard or ROs may conduct investigatory audits as required by 46 U.S.C. § 10104(e) and may suspend or revoke a Document of Compliance (DOC) or Safety Management Certificate (SMC) in accordance with 46 U.S.C. § 3203(c) if the Coast Guard determines: (1) the holder of the DOC or SMC knowingly, or repeatedly, failed to comply with section 10104; or (2) other failure of the safety management system resulted in the failure to comply with such section.

- 2) Documentation related to reports of harassment, sexual harassment, and sexual assault may contain Personal Identifying Information (PII). Auditors should validate company policies, processes, and procedures are effectively implemented. However, auditors should not receive or review actual reports or after-action summaries made pursuant to 46 U.S.C.

¹⁴ The term “responsible entity of a vessel” means “(1) the owner, master, or managing operator of a documented vessel engaged in commercial service; or (2) the employer of a seafarer on such a vessel. 46 U.S.C. § 10104(g).

¹⁵ 46 U.S.C. § 10104(b)(1)(A) and [Marine Safety Information Bulletin \(MSIB\) 01-23](#).

¹⁶ 46 U.S.C. § 10104(e) and 46 U.S.C. § 3203(a)(5).

§ 10104. If an auditor discovers or is made aware of a potential incident while onboard that has not been reported or may have not been previously reported, they should immediately notify a responsible entity¹⁷ and/or contact the local Coast Guard Sector Command Center or make a report via the number and email in the above paragraph.

c. ISM Code Chapter 3 – Company Responsibilities and Authority

- 1) Many U.S. vessels are owned by non-maritime interests that are not involved in the day-to-day operation of vessels. These interests generally delegate SMS responsibilities to an operating company. Pursuant to ISM Code 3.1, if the entity who is responsible for the operation of the ship is not the owner, the owner must report the full name and details of such entity to the Administration. For the U.S. Administration, this requirement may be satisfied by updating the Continuous Synopsis Record (CSR) as described in Marine Safety and Information Bulletin 09-21 (MSIB 09-21).
- 2) Responsibility for the operation of a U.S. ship may be restricted to citizens of the United States under 46 U.S.C. § 56101. If a foreign company is seeking issuance of a DOC, contact the Coast Guard Office of Commercial Vessel Compliance (CG-CVC) at CG-CVC-1@uscg.mil for a case-by-case determination of the foreign company's eligibility to receive a DOC.
- 3) It is not uncommon that certain functions, procedures and responsibilities are delegated from the Company to other entities (e.g., crewing agents). While the Coast Guard has no objection to this construct, any such relationship should be clearly documented in the SMS in accordance with ISM Code 3.2 along with any quality control provisions that the Company maintains to ensure conformity of subcontractors. Regardless of whether subcontractors are used to perform certain functions, the Company is always responsible for effective implementation of the SMS.¹⁸
- 4) The Company should specifically define the interrelated authorities of vessel and shoreside personnel.¹⁹ For example, while it is common for the Chief Engineer to be granted authority to extend certain equipment maintenance intervals for 30 to 60 days, any additional extension may require shoreside approval by the Company in accordance their SMS. Such relationships or decision matrices should be defined in the SMS.
- 5) Notwithstanding the overriding authority extended to the master under ISM Code 5.2, blanket statements that place all responsibility on the master in a manner that effectively abdicates the Company of its responsibilities to provide shoreside support are inconsistent with the ISM Code 6.1.3.

d. ISM Code Chapter 4 – Designated Person(s)

- 1) The elements contained in ISM Code (MSC-MEPC.7/Circ.6) on the qualifications, training, and experience necessary for undertaking the role of the Designated Person should be given due regard and incorporated into the SMS.
- 2) The Designated Person plays a key role in ensuring the effective implementation of an SMS. This is the person based ashore whose influence and responsibilities should significantly affect the development and implementation of a safety culture within the company. The Designated Person should verify and monitor all safety and pollution prevention activities in the operation of each ship. See the Revised Guidelines for the

¹⁷ 46 U.S.C. § 10104.

¹⁸ See ISM Code 3.2 and the *Revised Guidelines for the Operational Implementation of the ISM Code by Companies (MSC-MEPC.7/Circ.8)*.

¹⁹ ISM Code 6.1.3 and 33 CFR § 96.250.

Operational Implementation of the ISM Code by Companies (MSC-MEPC.7/Circ.8) for additional details.

- 3) The Company should report the name of the Designated Person(s) to the cognizant OCMI. The report should include: the full name of the Designated Person(s); whether the person is primary contact or an alternate; a 24-hour phone number; and an email address. The OCMI will add this information to the emergency contact field in the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database. Any change to this information should be reported to the OCMI.

e. ISM Code Chapter 5 – Master's Responsibility and Authority

- 1) On a U.S.-certificated vessel manned by a Person-in-Charge (PIC), the PIC is responsible for all the duties and functions that the ISM Code and the vessel's SMS require of a Master.²⁰
- 2) The overriding authority granted to the master under ISM Code 5.2, does not absolve the Company of its responsibility to support the master as required under ISM Code 6.1.3.

f. ISM Code Chapter 6 – Resources and Personnel²¹

- 1) Under limited circumstances outlined in 46 CFR § 15.720, it may be authorized to replace a U.S. mariner with a foreign mariner on a U.S. flagged vessel. The U.S. has not entered into agreements with other state Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) that allows the endorsement of foreign certificates issued in accordance with STCW. ROs should confirm that U.S. vessels employing foreign credentialed mariners have the following endorsement on their Certificate of Inspection (COI):

WHEN OPERATING FROM A FOREIGN PORT, NOT ON U.S. WATERS, FOREIGN NATIONALS WITH VALID STCW CERTIFICATES, ISSUED BY A COUNTRY DEEMED BY THE IMO TO BE GIVING FULL AND COMPLETE EFFECT TO THE STCW CONVENTION, AS AMENDED, MAY SERVE AS AN OFFICER WITHOUT ADDITIONAL ENDORSEMENT, PROVIDED THE MASTER ADHERES TO TITLE 46, CODE OF FEDERAL REGULATIONS (CFR) § 15.720(D). THE MASTER OF THE VESSEL MUST BE A U.S. CITIZEN, DULY CERTIFICATED BY THE UNITED STATES.

THIS ENDORSEMENT ESTABLISHES CONFORMITY WITH THE SAFE MANNING REQUIREMENTS OF THE UNITED STATES PERTAINING TO 46 CFR § 15.720(B) IN FULL CONSIDERATION OF THE GUIDING PRINCIPLES FOR PORT STATE CONTROL (APPENDIX 11, IMO RESOLUTION 1052(27), AS REVISED).

- 2) During SMS audits, the RO should verify conformance with applicable national and international requirements by obtaining objective evidence that vessel is crewed with qualified, certificated, and medically fit mariners. At a minimum, ROs should verify the following:
 - a) Crew credentials, medical certificates, safe manning documentation, evidence of shipboard familiarization, safety training, work/rest records, and watch schedules.
 - b) Employment and service within the restrictions of a credential, as so required by law, or regulation under 46 CFR part 15, subpart D, should also be verified for crewmembers engaged in excess of the minimum safe manning requirements when permitted as "Additional Persons in Crew."

²⁰ 33 CFR § 96.120 and 33 CFR § 158.120.

²¹ MSM VOL. III, Part B, Chapter 5.

- c) During DOC audits, ROs should examine mariner records required to be maintained by the employer such as training procedures and the means for monitoring expiring credentials/certificates.²²
 - d) In cases where crewing has been outsourced to an agent, the RO should verify the Company's instructions and procedures to ensure that vessel operations comply with relevant international and flag state requirements.
- 3) The Company should ensure that each ship is appropriately manned in accordance with the *Principles of Minimum Safe Manning IMO Resolution A.1047(27)*. Company management has a responsibility²³ to ensure that the SMS provides proper guidance on the management of fatigue, its impact on safety, and the regulation of hours of work and rest. The SMS should encourage seafarers to alert their onboard managers should they be working, or be at risk of working, in non-conformance. The SMS should also provide clear guidance to masters on the actions to be taken in the event of significant non-conformance. Such action may include the suspension of operations until personnel are suitably rested in accordance with STCW A-VIII/1. The Company should also be aware of, and react to, planned, or expected periods of high intensity operations and ensure that staffing on board is adequate prior to the planned operations.
 - 4) Company training, hiring, manning procedures, watchkeeping arrangements, terms of employment, personnel record keeping, and reporting procedures must be consistent with the requirements of U.S. laws, regulations, and the applicable provisions of STCW. When developing and implementing an SMS, Companies are encouraged to reference the *Master's Field Guide to U.S. Vessel Manning* and *Safe Manning Verification Checksheet* in the Annex to MSM Vol. III.
 - 5) The U.S. has not ratified MLC 2006 but has implemented a voluntary compliance framework described in Navigation and Vessel Inspection Circular (NVIC) 02-13, Change 1. Companies that choose to voluntarily comply, should ensure that SMS procedures affecting resources and personnel are consistent with the relevant provisions of MLC 2006.

g. ISM Code 7 – Development of Plans for Shipboard Operations

- 1) Vessels equipped with vital system automation should incorporate provisions into the SMS to ensure automated systems are tested in accordance with the approved periodic safety test procedure (PSTP).²⁴
- 2) U.S. vessels are required to maintain a vessel response plan (VRP) under 33 CFR part 155. While a VRP is a separate plan, it should be appropriately referenced in the SMS.
- 3) Provisions to ensure that emergency lighting and power systems are tested in accordance with 46 CFR § 109.211 should be incorporated into the SMS.
- 4) The SMS should include a procedure to facilitate the safe launching and maneuvering of lifeboats as required by SOLAS III/19.3.3.3 and 19.3.3 considering the guidance provided in the *Measures to prevent accidents with lifeboats* (MSC.1/Circ.1206/Rev.1).
- 5) The SMS must include, as applicable, a list of all persons allowed to access and use the ship's master key and a logbook with information on all access and use of the vessel's

²² 46 CFR § 15.1107 and STCW I/14.

²³ 46 U.S.C. § 8104 and STCW VIII/1.

²⁴ 46 CFR §§ 61.40-6 and 61.40-10.

h. ISM Code 8 – Emergency Preparedness

- 1) The *Revised Guidelines for a structure of an integrated system of contingency planning for shipboard emergencies*, adopted by IMO Resolution A.1072(28) and should be considered when developing and implementing an SMS. ROs conducting SMS audits should consider the related provisions of IACS Recommendation #41.
- 2) The Company should specify in the SMS what methodology has been adopted for performing risk assessments. In addition, a Company should be able to show evidence that they have completed a risk assessment. If a Company has failed to adequately address a risk,²⁶ outright dismissed a risk without performing an assessment, or has identified a risk but has not established procedures to respond to the risk, an observation, non-conformity, or a major non-conformity should be documented. The level of finding should be dependent on the severity and likelihood of the risk being realized in the judgement of the attending auditor. The thoroughness and complexity of risk assessments may vary depending on the risk and the likelihood of it being realized given a specific operation. For example, evaluating the risk associated with “icing conditions” for a vessel that operates exclusively in the Gulf of Mexico is not likely, whereas a risk of “fire” is more likely and thus requires more thoughtful consideration in developing contingencies.
- 3) At a minimum the following risks should be evaluated and appropriate procedures established in response to the following:
 - a) Ships routing procedures related to heavy weather,
 - b) Structural/flooding/heavy weather damage (to include general damage control procedures; down flooding information; identification, location and operation of watertight and weathertight boundaries, including those that are remotely monitored, and the circumstances under which they should be opened or closed),
 - c) Icing conditions/ice operations (as applicable),
 - d) Fire (to include identification/operation of fire dampers and circumstances under which they should be opened or closed),
 - e) Propulsion failure,
 - f) Steering gear failure,
 - g) Electrical power failure,
 - h) Loss of communications with a vessel,
 - i) Automation or Dynamic Positioning (DP) failures,
 - j) Collision,
 - k) Grounding/stranding,
 - l) Abandon Ship (if a vessel is fitted with open lifeboats, the Company should consider whether any additional precautions should be taken to increase crew survivability),
 - m) Man Overboard,
 - n) Pollution,

²⁵ 46 U.S.C. § 3203(a)(6); 46 U.S.C. § 3106.

²⁶ ISM Code 1.2.2.2.

- o) Unlawful acts threatening the safety of the ship and security of passengers/crew,
 - p) Personnel accidents/injuries,
 - q) Sailing Short or loss of key personnel,
 - r) Cargo-related accidents/shifting of cargo,
 - s) Emergency assistance to other vessels,
 - t) Piracy/Terrorism/Cyber Attacks,
 - u) Helicopter/Rescue Operations, and
 - v) Statutory reporting and actions for incidents of harassment, sexual harassment, and sexual assault.
- 4) The Company should establish a program of drills and exercises, as appropriate for each risk identified as relevant to the Company and in accordance with the list above regardless of whether the specific drill or exercise is required by another international or domestic regulation.²⁷
- i. **ISM Code Chapter 9 – Reports and Analysis of Non-Conformities, Accidents and Hazardous Occurrences.**
- 1) The SMS should provide detailed procedures for reporting and analyzing non-conformities to prevent recurrence. The SMS should define the methodology used by the Company to perform the root cause analysis considering the relevant guidance contained in the *Guidance on Near Miss Reporting*, MSC-MEPC.7/Circ.7.²⁸
 - 2) When conducting SMS audits, ROs should look for objective evidence that the Company is fully analyzing non-conformities and implementing changes to prevent recurrence in accordance with their documented process.²⁹
 - 3) SMS Procedures.
 - a) Per ISM Code § 9.1, the SMS should include procedures to ensure that non-conformities, accidents, and hazardous situations are reported to the company. The Coast Guard interprets “non-conformities”³⁰ to include non-conformities of the SMS and any deficiencies related to any law, regulation, or international convention applicable to the vessel. The Coast Guard interprets “accidents” to include a marine casualty or accident and applicable requirements in accordance with 46 U.S.C. §§ 6101, 6301, and the regulations promulgated thereunder in 46 CFR part 4. The SMS should include procedures for reporting marine casualties to the Coast Guard per 46 CFR subpart 4.05. A “hazardous situation” is viewed as “any condition that may adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States.”³¹
 - b) These procedures and any other policy or procedure within the SMS may not prevent or dissuade individuals from directly contacting the U.S. Coast Guard or other federal,

²⁷ ISM Code 8.1.

²⁸ Nothing in the ISM Code, nor procedures established pursuant to the ISM Code, can conflict with domestic law and regulations relating to reporting requirements to the U.S. Government.

²⁹ ISM Code 9.

³⁰ See 46 CFR § 96.120 and ISM Code 1.1.9 and 1.1.10 for the definitions of “non-conformity” and “major non-conformity.”

³¹ 33 CFR § 160.202. In accordance with 33 CFR 160.216, “[w]henver there is a hazardous condition either on board a vessel or caused by a vessel or its operation, the owner, agent, master, operator, or person in charge must immediately notify the nearest Coast Guard Sector Office . . . , and in addition submit any report required by 46 CFR 4.05–10.”

state, or local agency or department without prior notice to the company. Furthermore, per 46 U.S.C. § 2114 (Seaman’s Protection Act), a seaman may be protected when reporting maritime safety violations to the U.S. Coast Guard or other federal agencies.³²

j. ISM Code Chapter 10 - Maintenance of the Ship and Equipment

- 1) Objective evidence that the ship is not taking corrective action for long-standing deficiencies in accordance with preventive maintenance processes contained in the SMS, or evidence the Company has failed to address outstanding non-conformities reported by ship personnel, may be indicative of a major non-conformity.
- 2) The Company should ensure that the SMS contains clear guidance regarding the authority of shipboard or Company personnel to extend shipboard maintenance tasks.
- 3) The use of electronic maintenance systems (e.g., NSE Maximo, TM Master, etc.) should be described in the SMS. Such systems, if used, should be kept up to date and are considered reviewable by the RO and Flag Administration.³³
- 4) For operating Companies contracted to operate vessels owned by the Military Sealift Command (MSC), procedures should be developed to ensure that the SMS of the Company, particularly as it relates to shipboard maintenance, are sufficiently integrated with any contractual provisions related to shoreside support established by MSC (e.g., Casualty Report (CASREP) process).

k. ISM Code Chapter 11 - Documentation

- 1) The documents used to describe and implement the SMS may be referred to as the safety management manual. 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 (e.g., electronically). 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.³⁴ In addition, companies should establish and maintain procedures for the control of their SMS documentation.
- 2) Refer to the *Revised list of certificates and documents required by IMO to be carried on board ships* (FAL.2/Circ.127, MEPC.1/Circ.817 and MSC.1/Circ.1462).
- 3) For vessels enrolled in preventative maintenance or condition monitoring programs, where the survey of certain onboard equipment or machinery is “credited” based on technical analysis (lube oil, vibration, thermal imaging, etc.), the Company should ensure that all related documentation requirements are met as specified in the RO’s rules related to the particular notation or program (e.g., annual reports, list of equipment enrolled in the program, type of monitoring being performed, location of sensors, etc.).

l. ISM Code Chapter 12 - Company Verification, Review and Evaluation

- 1) The SMS should include procedures and processes for management review of company internal audit reports and correction of non-conformities that are reported by these or other

³² Under the Seaman’s Protection Act (SPA), persons are prohibited from retaliating against seamen for engaging in certain protected activities, including reporting maritime safety issues to the U.S. Coast Guard or any other federal agency. The Occupational Safety and Health Administration (OSHA) views and investigates SPA complaints. See *How to File a Whistleblower Complaint | Whistleblower Protection Program* (whistleblowers.gov).

³³ 33 CFR § 95.250(j) and ISM Code 19.

³⁴ 33 CFR § 96.250 and ISM Code 11.

reports.³⁵

- 2) Companies should manage internal audit process in accordance with ISM Code 12.1 to ensure completion within a 12-month period. Under exceptional circumstances, internal audits can be extended by three months. The next internal audit must still occur within 12 months of the original date, not the extended date. Companies must document the exceptional circumstances which caused the extension and make records available for review by the RO during SMC and DOC audits. Companies need not seek permission from the RO or Coast Guard to grant the three-month extension; however, the RO auditors should evaluate the circumstances to ensure compliance with the company's SMS and the ISM Code.
- 3) When an additional internal SMS audit or root cause analysis is requested by the Coast Guard,³⁶ the Company should send a copy of the resulting report and any corrective actions to the cognizant OCMI and the RO(s) responsible for issuing the ISM Certificates. Any necessary follow up regarding the implementation and effectiveness of corrective actions should be verified by the RO at the next regularly scheduled SMS verification and according to the timeline provided in IACS PR-9, *Procedural Requirements for ISM Code Certification*.

2. PART B – CERTIFICATION AND VERIFICATION

a. **ISM Code Chapter 13 - Certification and Periodical Verification**

- 1) Generally, SMS certifications and verifications should be performed in accordance with the provisions of the Code and IACS PR 9, *Procedural Requirements for ISM Code Certification*.
- 2) In accordance with MSC/Circ.762-MEPC/Circ.313 (*Guidance to companies operating multi-flagged fleets and supplementary guidelines to administrations*), a DOC issued under the authority of the United States of America may only cover U.S. flag vessels unless the foreign flag Administration authorizes issuance of an SMC under the U.S. DOC.³⁷ If other vessel types are added to the DOC, a satisfactory safety management audit is required to ensure that the Company had addressed any specific U.S. requirements that may be applicable to the new vessel type and to verify that these elements have been included in the SMS.³⁸
- 3) Multiple DOCs issued to a single company, by various ROs, for the same type of vessel are discouraged.³⁹ A company should only have one DOC for the same type of vessel to ensure that, in the event a DOC has been revoked for cause, the company cannot then rely on another DOC issued for essentially the same SMS but by a different RO. Similarly, multiple DOCs should not be issued to a single company, by various ROs, for different types of vessels because systematic non-conformities can be indicative of a flawed or ineffective SMS regardless of vessel type or DOC registrar.
- 4) The SMC cannot be issued unless the DOC for the Company responsible for the operation of the vessel is valid and the SMS is applicable to each vessel type listed on the DOC.⁴⁰ If the DOC and SMC are issued by different ROs, both ROs must be

³⁵ 33 CFR § 96.240(g).

³⁶ 33 CFR § 96.320(a)(3) and [CVC-WI-003\(series\)-USCG Oversight of Safety Management Systems on U.S. Flag Vessels](#).

³⁷ 33 CFR § 96.330(a).

³⁸ 33 CFR § 96.330(e).

³⁹ MSM INTERNATIONAL CONVENTIONS § E, Chapter 3, 6.a.8.

⁴⁰ 33 CFR 96.330(e).

authorized by the Commandant to perform ISM delegated functions.⁴¹ In accordance with SOLAS XI-1, the Continuous Synopsis Record (CSR) should be maintained and updated in accordance with Coast Guard's CSR Desk procedures.

- 5) There are no provisions to extend full term certificates in SOLAS IX or the ISM Code. In extenuating circumstances, Commandant (CG-CVC-4) may consider approving the RO to issue a short-term certificate.⁴²
- 6) For vessels reactivating following an out of service period, the scope of the ISM verification should be in accordance with IACS PR 9, Annex 6.
- 7) The scope of SMS verifications for vessels owned by the U.S. Maritime Administration (MARAD) or the MSC following a period of Reduced Operating Status (ROS) should be conducted in accordance with guidance provided in NVIC 5-99, Change 1, Enclosure (4).
- 8) SMS audits should be scheduled well in advance and within the time windows permitted by the ISM Code.⁴³ Failure to request timely audits may be cause for the Coast Guard to revoke the associated certificates.⁴⁴ Requests to complete required verifications outside permissible time windows must be approved by Commandant (CG-CVC-4), as provided by the agreement with the RO. The request should be sent to FlagStateControl@uscg.mil by the RO and accompanied by a statement from the DOC holder that provides justification for why the audit cannot be completed within the accepted time window.
- 9) Any elements incorporated into the SMS, regardless of whether they are requirements from government or academy contracts, obligatory undertakings, or voluntary initiatives, remain subject to regular audits. This applies even if these components are not explicitly mandated by law or regulations. In other words, any additions to an SMS, irrespective of their source or purpose, will be considered an integral part of the system and must be considered in any audit plan.

b. ISM Code Chapter 14 – Interim Certification

- 1) Issuance of Interim DOC
 - a) An interim DOC is valid for a period up to 12 months and cannot be extended.⁴⁵
 - b) During the 12-month period of the validity of the interim certificate, the Company should ensure that the necessary audits are completed so that the company can be issued a full-term DOC.
 - c) An interim DOC may only be issued to facilitate implementation of the ISM Code when a company is newly established or when new vessel types are added to an existing DOC.⁴⁶ The purpose of an interim DOC is to allow the company time to completely integrate its operations as a new company or to incorporate a new vessel or vessel type into its SMS.
 - d) The interim DOC certificate should be issued when the company has demonstrated that

⁴¹ 33 CFR 96.400(a).

⁴² Short-term certificates are not "Interim Certificates." Rather, they are generally used for 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.

⁴³ ISM Code 13.4, 13.8, and 13.11. NVIC 02-95 CH-3, encl. 3.

⁴⁴ 33 CFR 96.320(e)(2).

⁴⁵ ISM Code 14.1.

⁴⁶ 33 CFR 96.350(a).

it has an SMS that meets the objectives of Section 1.2.3 of the ISM Code (ISM Code, part 14). The Company's SMS is expected to meet the full requirements of the ISM Code within the period of validity of the interim DOC certificate.

e) The Company should operate on an interim DOC for at least 3 months before a full-term certificate may be issued.

2) Issuance of Interim SMC⁴⁷

a) An interim SMC may only be issued when the RO has verified that the Company has satisfied the requirements listed in ISM Code 14.1.

b) An interim SMC is valid for a period of no more than 6 months and may be issued to new ships on delivery; when a Company takes responsibility for an existing vessel that is new to the company; or when a ship changes flag.⁴⁸

c) An interim SMC may be extended up to an additional 6 months from the date of expiration in exceptional circumstances upon authorization from Commandant (CG-CVC-4).⁴⁹

c. **ISM Code Chapter 15 – Verification**

1) SMS Verifications performed by an RO should be performed in accordance with the guidance provided in IACS PR 9 and the *Guidelines on implementation of the International Safety Management (ISM) Code by Administrations* adopted by the Organization by Resolution A.1071(28).

d. **ISM Code Chapter 16 - Forms of Certificates.** No additional requirements or interpretations.

E. Instructions to the RO on SMS Audits and Verifications

1. IACS PR 9 should be referenced for preparing and implementing an audit plan. In preparing for the audit, the RO should ensure that the lead auditor has reviewed the relevant SMS documentation of the company or vessel on which the verification is to occur. The purpose of the audit should be to verify conformity with the provisions of the ISM Code and the SMS.
2. Prior to conducting any type of SMS audit on a U.S. flag vessel, ROs shall notify Commandant (CG-CVC-4) at FlagStateControl@uscg.mil prior to the performance of any ISM Code-related external audit for the issuance or verification. Company DOC audits should be made at least 14 days in advance. Notice of SMC audits should be made at least 7 days in advance. Commandant (CG-CVC-4) may coordinate with the Traveling Inspection Staff (CG-5P-TI) at USCGTravelers@uscg.mil to observe SMS audits performed by the RO. The notification should include the name and IMO number of the Company or vessel on which the verification/audit will be performed and contain a copy of the audit plan.
3. If objective evidence indicates that an RO has failed to satisfactorily perform a delegated function the Coast Guard may initiate a "Quality Case" against the RO. See the agreements between the Coast Guard and ROs (46 CFR § 8.130(a)(5)) and CVC-WI-005(series), *Quality Cases* for additional information.
4. The Coast Guard will occasionally observe SMS audits performed by an RO.⁵⁰ Coast Guard oversight of SMS audits serves a dual purpose: 1) to provide oversight of the RO; and 2) to provide oversight of the company or vessel being audited.

⁴⁷ MSM INTERNATIONAL CONVENTIONS § E, Chapter 3.

⁴⁸ 33 CFR 96.360(a).

⁴⁹ ISM Code 14.3.

⁵⁰ 46 U.S.C. § 3205 and 46 CFR part 8.

5. During SMS audits, the RO should ensure the vessel and company have policy and procedures to ensure compliance with 46 U.S.C. § 10104. ROs should sample such policies and procedures as part of the audit plan. Audit criteria may include, but should not be limited to, identification of key personnel, documented policy and procedures, record of required training, and interviews to determine knowledge of policy and procedures. Failure to have or properly implement such policy and procedures must be documented via a non-conformity and notification must be made to CG-CVC-4 via email at FlagStateControl@uscg.mil. A copy of the audit report and non-conformity should be sent with any notification.

F. Addressing Major Non-Conformities, Non-Conformities, and Observations

1. Major non-conformities, non-conformities, and observations should be issued by the RO according to the severity of the deviation in accordance with established IMO Code definitions.⁵¹
2. If major non-conformities are identified during an SMS audit, the Commandant (CG-CVC-4) should be promptly informed. Notifications of a major non-conformity should include the relevant details and/or audit report and be sent to FlagStateControl@uscg.mil.
3. Non-conformities and observations should be addressed by the Company and corrective actions taken within 3 months of issuance, in accordance with IACS PR 9. Should corrective actions require more than 3 months to implement, the RO should advise Commandant (CG-CVC-4) of the circumstances.
4. Major non-conformities should be addressed in accordance with the Procedures Concerning Observed ISM Code Major Non-Conformities, MSC/Circ.1059-MEPC/Circ.401, and may be modified by the agreement with the RO. The RO may downgrade a major non-conformity to a non-conformity once immediate corrective actions have been taken. In certain cases, Commandant (CG-CVC-4) may provide specific instructions or conditions under which a major non-conformity can be downgraded. A major non-conformity found on a vessel should be downgraded before the vessel sails. Where a major non-conformity against the DOC is downgraded to a non-conformity, the impact of the SMS failure should be taken into due consideration for any associated ships. At a minimum, at least one additional external audit should be carried out within three months of when the major non-conformity was downgraded to verify that effective actions are taken.
5. Following the downgrading of a major non-conformity against a DOC, the associated SMCs continue to remain in place without additional verification if no other major non-conformity remains unresolved. However, additional shipboard audits may also be carried out if deemed necessary by Commandant (CG-CVC-4).
6. Companies should accurately assess and mitigate risks when developing, implementing and continually improving the SMS.⁵² If the SMS does not address the methodology of risk assessment, the RO should issue an observation. Similarly, an RO should issue an observation if a company has failed to complete a risk assessment for one of the identified risks in paragraph 9.1.8.2. of this instruction and a non-conformity in instances when the Company has identified a risk but failed to provide a contingency plan.

G. Withdrawal of Certificates

1. Authority and Grounds for Revocation of the DOC

- a. Commandant (CG-CVC) has exclusive authority to revoke the DOC for U.S. companies.⁵³

⁵¹ Definitions of “major non-conformity,” “non-conformity,” and “observation” are found at ISM Code §§ 1.1.8, 1.1.9, and 1.1.10.

⁵² ISM Code 8 and the Revised Guidelines For a Structure of an Integrated System of Contingency Planning for Shipboard Emergencies, IMO Res. A.1072(28).

⁵³ 33 CFR §§ 96.330(g), 96.340(g).

- b. Following DOC revocation, Commandant (CG-CVC-4) will inform the Company and the RO that the DOC has been revoked via letter. If certain SMCs for the company have been issued by a different RO, they will also be informed.
- c. Following DOC revocation, all related SMCs will be considered invalid as subject to 33 CFR 96.340(3).
- d. Revocation of the DOC may be based on one of the following (not all inclusive):
 - 1) Failure to continuously review and address corrective action reports from the company's or vessel's SMS operation.
 - 2) Failure to correct or address one or more major non-conformities.
 - 3) Upon a recommendation from the RO for consistent failures of the SMS.
 - 4) Failure of the company to allow access to SMS documentation or records or deliberate obstruction of an audit or verification.
 - 5) Failure by a responsible entity to report sexual misconduct in accordance with reference (o).

A DOC may not be reinstated until the Company has completed a SMS audit in accordance with 33 C.F.R. § 96.330(h) and developed a detailed corrective action plan that is approved by the RO and Commandant (CG-CVC-4).

- e. When a company holds multiple DOCs from different ROs, the revocation of one DOC may provide sufficient cause to evaluate all other DOCs that share the same SMS.
- f. The Coast Guard must revoke a DOC if the holder of the DOC knowingly, or repeatedly, fails to comply with 46 U.S.C § 10104, or that another failure of the SMS resulted in the failure to comply with 46 U.S.C § 10104.⁵⁴

2. Authority and Grounds for Revocation of the SMC

- a. The cognizant OCMI may revoke the SMC for U.S. flag vessels.⁵³
- b. A U.S. vessel's SMC may be revoked on the authority of the cognizant OCMI or District Commander. Commandant (CG-CVC-4) should be informed of the impending revocation before any action is 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 SMS's of other vessels that are owned or operated by the same company to ensure that similar problems do not exist with these other vessels.
- c. The revocation of an SMC alone does not prohibit a U.S. vessel from operating in domestic trade, except for vessels enrolled in the ACP program⁵⁵ or Offshore Supply Vessels over 6,000 Gross Tons.⁵⁶ When an SMC is revoked, the cognizant OCMI will ensure that the vessel's COI is amended for domestic routes only.
- d. The Coast Guard must revoke a SMC if the holder of the SMC knowingly, or repeatedly, fails to comply with 46 U.S.C § 10104, or that another failure of the SMS resulted in the failure to comply with 46 U.S.C § 10104.⁵⁷

⁵⁴ 46 U.S.C. § 3203(c)(2).

⁵⁵ 46 CFR § 8.440(d).

⁵⁶ 46 CFR § 125.105.

⁵⁷ 46 U.S.C. § 3203(c)(1).

H. Appeals.

1. A person may appeal any decision made by an authorized organization in accordance with 33 CFR § 96.495. A person may appeal any decision by a Coast Guard Officer in Charge, Marine Inspection (OCMI) in accordance with 46 CFR § 1.03.

M. R. NEELAND
Captain, U.S. Coast Guard
Office of Commercial Vessel Compliance
By direction