



Marine Safety Information Bulletin

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Coast Guard Policies to Address Sexual Assault and Sexual Harassment Prevention and Response on Vessels

The James M. Inhofe National Defense Authorization Act (NDAA) for the Fiscal Year 2023 created new vessel requirements under Title 46 of the United States Code (U.S.C.). These amendments to Title 46 enhance crew safety on certain commercial vessels and seek to eliminate sexual assault and sexual harassment within the maritime industry. The Coast Guard is currently reviewing these statutory requirements to determine whether further regulatory action is needed. While this review is conducted, the Coast Guard has released several policies to provide guidance on implementation of several of the new laws. The maritime industry should be aware of the changes highlighted below.

Display of Information in Crew Berthing Areas (46 U.S.C. § 11101). Crew resting areas must now prominently display details concerning company policies, how to report issues, and steps to respond to sexual assault and sexual harassment. The Coast Guard released CG-CVC Policy Letter 23-04 to provide initial guidance on the applicability and implementation of these requirements.

Surveillance Systems & Response Training (46 U.S.C. § 4901). Applicable vessels are now required to install and maintain video and audio surveillance systems and retain recordings for a specified time. In additions, vessel owners and employers are required to train crewmembers in responding to and reporting sexual assault and sexual harassment. The Coast Guard released CG-CVC Policy Letter 23-05 to provide initial guidance on the installation of surveillance requirements and other provisions to meet the mandatory deadlines.

Master Key Control Systems (46 U.S.C. § 3106). Applicable vessels are now required to establish master key control systems and related provisions for use of master keys. The Coast Guard released CG-CVC Policy Letter 23-06 to provide initial guidance on the installation and management of master key control systems and information retention.

Safety Management System (SMS) (46 U.S.C. § 3203). The statute on Safety Management Systems has been amended to require additional procedures and training related to sexual harassment and sexual assault. While certain aspects of this update are being reviewed and considered for regulatory amendments, the Coast Guard has updated CG-CVC-WI-004 – *Flag State Interpretations of the ISM Code*. Applicable companies and vessels are directed to include, among other things procedures to report and document instances of harassment, sexual harassment, and sexual assault in the SMS as required by 46 U.S.C. § 10104 (See [MSIB 01-23](#) for further information on reporting sexual misconduct on U.S. vessels). These procedures should be documented as soon as possible in the SMS. The Coast Guard is

mandated by law to act against a vessel's Safety Management Certificate (SMC) or a company's Document of Compliance (DOC) under certain conditions of non-compliance.

These policies are intended to assist vessel owners and operators in understanding and adhering to the new and modified provisions set out by the 2023 NDAA. It is imperative for industry stakeholders to familiarize themselves with these updates to ensure compliance with the mentioned sections of Title 46 of the United States Code. Please see the list of Policy Letters and Work Instructions on the Office of Commercial Vessel Compliance (CG-CVC) [website](#).

For further information on these policy documents, please email the Coast Guard's Office of Commercial Vessel Compliance (CG-CVC) at cgcvc@uscg.mil.

Frequently Asked Questions

This MSIB is updated with information on frequently asked questions relevant to the implementation of the policy letters and laws described above. The information below is organized by topic.

CVC Policy Letter 23-04: GUIDANCE ON STATUTORY INFORMATION REQUIREMENTS WITHIN ACCOMMODATION SPACES ON MERCHANT VESSELS

- ❖ **Question:** Policy Letter 23-04 makes reference to crew washing places regarding placement of posted notices for reporting procedures and resources, related company policies, retaliation and drug and alcohol usage. Is posting in the common areas of the accommodation house sufficient?

Response: The law states that information must be posted in each crew berthing area and in each required crew washing space. The law does not provide allowance for consolidating information into a single or few spaces and does not detail alternative arrangements. Vessels should be sure to post information in every space required by law.

- ❖ **Question:** Policy Letter 23-05 for surveillance systems makes reference to a statutory timeline for compliance. Why is there no compliance deadline mentioned in Policy Letter 23-04?

Response: The law for surveillance systems¹ on ships includes a deadline to install video and audio surveillance equipment no later than two (2) years after the enactment of the Coast Guard Authorization Act of 2022. This deadline is December 23rd, 2024. Neither the law mandating information requirements² nor the law mandating master key control systems³ provide a deadline for compliance beyond the enactment of the law. As a Federal regulatory agency, the Coast Guard cannot defer enforcement of a laws mandated by Congress.

- ❖ **Question:** Must a vessel post information in a shared washroom or the individual washrooms within cabins?

¹ 46 U.S.C. § 4901

² 46 U.S.C. § 11101

³ 46 U.S.C. § 3106

Response: The law⁴ states that each crew berthing area and required washing spaces must be equipped with the required information. While the law also covers broader accommodation requirements and specific requirements for the size of washing spaces, it does not specify whether certain washing spaces would be exempt. However, the provision in this specific law that requires washing spaces does not require them for individual crew berthing areas. We advise the owners ensure that each berthing area is equipped with the required information (*Note: “Washing spaces” are required for merchant vessels having more than 10 seamen on deck*).

- ❖ **Question:** Referencing Policy Letter 23-04, crew berthing areas must be equipped with, among other things, vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage. Is this a requirement to print all policies and procedures and post them on the bulkheads, which could consist of hundreds of pages? Is a stateroom binder with directions on how to access these specific policies in the SMS sufficient?

Response: The law⁵ states vessels must equip spaces with information regarding vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol use. The law does not mandate that the policies themselves be posted. In our Policy Letter, we advise that “statements within the signage should be clear and concise and easy for all expected viewers to understand.”

- ❖ **Question:** Are restrooms considered washing spaces?

Response: Per the law,⁶ a vessel with more than 10 seamen must have at least one washing space. If a restroom serves to meet the washing space requirements, it would be required to be equipped with the required information. There are many different terms used within Title 46 to refer to spaces reserved for a vessel’s crew. This terminology is not always consistently used across various laws and regulations and may create confusion. However, the USCG encourages vessels to post information for the crew when a vessel is not constructed with a crew berth or wash space to ensure they are consistently informed on policies and procedures for reporting sexual misconduct.

- ❖ **Question:** If a vessel has no accommodation spaces, is a vessel exempt from the requirements?

Response: The law⁷ does not create specific exemptions based on the vessel’s configuration. Information must be posted in all areas required by law.

- ❖ **Question:** If a vessel has received tonnage measurement under requirement for both the regulatory measurement (i.e., “GRT”) and convention measurement (i.e., “ITC”), what measurement should be used to determine applicability?

Response: The Coast Guard advises that applicability be determined using regulatory measurement under 46 U.S. Code (U.S.C.) Chapter 145. The Coast Guard has not prescribed the use of alternative or convention measurement for this requirement. In short, the vessel’s Gross Regulatory Tonnage (GRT) should be used to determine applicability.

⁴ 46 U.S.C. § 11101

⁵ *Ibid*

⁶ *Ibid*

⁷ *Ibid*

CVC Policy Letter 23-05: GUIDANCE ON SURVEILLANCE REQUIREMENTS FOR CERTAIN COMMERCIAL VESSELS THAT DO NOT CARRY PASSENGERS

❖ **Question:** Our company currently intends to manage surveillance with shoreside personnel. Would doing so alleviate the need to train the ship's crew?

Response: Limiting training to only shoreside personnel cannot conceivably meet the requirements in 46 U.S.C. § 4901. The law states that “all individuals employed by the owner or employer for the purpose of responding to incidents of sexual assault or sexual harassment” must receive the required training. This training includes not only the retention of audio and visual records, but other evidence. The training also must include “applicable Federal, State, Tribal, and local laws and regulations regarding sexual assault and sexual harassment investigations and **reporting** [*emphasis added*] requirements.” Limiting required training to only those shoreside staff is not consistent with statutory requirements as vessel's master is considered a “responsible entity” and required law⁸ to report incidents and various crewmembers may have to preserve other evidence.

❖ **Question:** Will the Coast Guard publish regulations on the technical requirements and standards for audio and visual surveillance equipment?

Response: The Coast Guard continues to review the law⁹ mandating surveillance systems on vessels to determine whether regulations are appropriate. In the meantime, CVC Policy Letter 23-05 provides general guidance on the overall quality of the system. While the law does not mandate performance thresholds, the viewer of the video footage should be able to identify persons and their actions in all ambient lighting conditions anywhere in the covered space. The listener of the audio recordings should be able to discern conversations and words spoken in all foreseeable noise conditions.

❖ **Question:** Does the ‘next drydocking’ term mean ‘out of water’ or next survey date?

Response: The law requires the installation of video and audio surveillance equipment aboard applicable vessels not later than December 23, 2024,¹⁰ or during the next scheduled drydock, whichever is later. The term “next scheduled drydock” is used without distinction of survey. We advise that owners ensure compliance with the requirements at the next scheduled drydocking (i.e., vessel out of the water) of the vessel if that scheduled drydocking is beyond two years from the date of enactment. Otherwise, compliance is mandated on December 23rd, 2024, which is two years from enactment.

❖ **Question:** Can the required video cameras be motion activated?

Response: We advise against motion activated cameras. As stated in CVC Policy Letter 23-05, we advise that video and audio recordings be continuous and without interruption.

⁸ 46 U.S.C. § 10104

⁹ 46 U.S.C. § 4901

¹⁰ 46 U.S.C. § 4901(c)(1)

❖ **Question:** The law¹¹ states that all records of audio and visual surveillance must be retained for not less than one year after the footage is obtained. The law also states that any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than five years from the date of the alleged incident. What do we do if a person alleges an incident that is more than one year before the date reported?

Response: The law¹² states that any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than five years. It is conceivable that a responsible entity may not become aware of an incident for one or more years after the incident occurred. Therefore, the audio and visual records may have been since removed consistent with statutory retention requirements.¹³ This question highlights the importance of policy, procedures, and training related to reporting sexual misconduct and preserving evidence.

CVC Policy Letter 23-06: GUIDANCE ON MASTER KEY CONTROL REQUIREMENTS ON MERCHANT VESSELS

❖ **Question:** If my vessel does not have a master key, am I exempt from the requirements?

Response: The law¹⁴ does not specifically exempt vessels that do not have a master key nor does the law make the overall requirements contingent upon having a master key. The Coast Guard advises that all applicable vessels have a documented system in place. The Coast Guard also advises that a “master key” generally refers to a single or multiple keys or electronic access device that enables access to multiple, if not all, secure spaces.

❖ **Question:** Do the master key control requirements only apply to staterooms or does they apply to any space that can be locked, such as storerooms, restrooms, the pilot house, machinery space, etc?

Response: The law¹⁵ makes no distinction regarding the types of spaces covered nor does it exempt certain spaces. The Coast Guard advises that a “master key” generally refers to a single or multiple keys or electronic access device that enables access to multiple, if not all, secure compartments, rooms, or areas on the vessel, especially staterooms, bathrooms, changing rooms, and any other space that when locked by individual occupants, are intended to be inaccessible to others without a master key.

❖ **Question:** Policy Letter 23-05 for surveillance systems makes reference to a statutory timeline for compliance. Why is there no compliance deadline mentioned in Policy Letter 23-06?

Response: The law for surveillance systems¹⁶ on ships includes a deadline to install video and audio surveillance equipment no later than two (2) years after the enactment of the Coast Guard Authorization Act of 2022. This deadline is December 23rd, 2024. Neither the law mandating

¹¹ 46 U.S.C. § 4901

¹² *Ibid*

¹³ 46 U.S.C. § 4901(f)

¹⁴ 46 U.S.C. § 3106

¹⁵ *Ibid*

¹⁶ 46 U.S.C. § 4901

information requirements¹⁷ nor the law mandating master key control systems¹⁸ provide a deadline for compliance beyond the enactment of the law. As a Federal regulatory agency, the Coast Guard cannot defer enforcement of a laws mandated by Congress.

- ❖ **Question:** Policy Letter 23-06 advises that rekeying may be necessary based on crew changes or potential compromises. Does the Coast Guard expect a company to rekey a vessel each time a key is lost or missing?

Response: The law¹⁹ does not specifically require rekeying, but rather states that the owner must ensure a vessel is equipped with a system that “provides controlled access to all copies of the vessel’s master key.” The Coast Guard advises that periodic rekeying **may** [*emphasis added*] be necessary based on crew changes or potential comprises. The decision to do so is up to the company as long as the system maintains controlled access to all copies of the vessel’s master key or keys.

- ❖ **Question:** Are vessels required to add locks to applicable spaces if they do not have locks?

Response: The law²⁰ does not mandate what rooms require keys, only that a master key control system is maintained. The Coast Guard advises that the objective of ensuring personal safety and security onboard vessels should be met. Vessels should consider safety of staterooms, bathrooms, changing rooms, and any other space occupied by individuals.

CVC-WI-004(3): Flag State Interpretations of the ISM Code

- ❖ **Question:** Page 10 of CVC-WI-004(3) lists “Statutory reporting and actions for incidents of harassment, sexual harassment, and sexual assault” as a risk that should be evaluated and included in a system of drills and exercises. What is the prescribed timeline for drills and exercises related to reporting sexual misconduct? Are they to be completed for each vessel or for the company?

- ❖ **Response:** “Statutory reporting and actions for incidents of harassment, sexual harassment, and sexual assault” is one (1) of 22 risks identified in CVC’s Work Instruction, titled “Flag State Interpretations of the ISM Code.” The company should establish a program of drills and exercises, as appropriate for each risk identified. The Coast Guard has not provided for mandated intervals beyond existing requirements in various regulatory subchapters and international conventions.

- ❖ **Questions:** Are these requirements applicable to vessels that voluntarily comply with the ISM Code and hold an SOVC?

Response: Yes, as described in CVC-WI-004 – *Flag State Interpretations of the ISM Code*, the issuance, maintenance, and revocation of the SOVC is administered in a manner identical to the required ISM Code certificates.

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¹⁷ 46 U.S.C. § 11101

¹⁸ 46 U.S.C. § 3106

¹⁹ *Ibid*

²⁰ *Ibid*