

§ 96.350

33 CFR Ch. I (7-1-01 Edition)

renewal of a Safety Management Certificate cannot be started unless the company which owns the vessel holds a valid Document of Compliance certificate.

(g) Only the Coast Guard may revoke a Safety Management Certificate from a U.S. vessel. The Safety Management Certificate will be revoked if—

(1) The vessel's responsible person has not completed an intermediate safety management audit required by paragraph (e)(2) of this section; or

(2) Major non-conformities are found in the vessel's safety management system during a safety management audit or other related survey or inspection being completed by the Coast Guard or the recognized organization chosen by the vessel's responsible person.

[CGD 95-073, 62 FR 67506, Dec. 24, 1997, as amended by USCG-1999-5832, 64 FR 34712, June 29, 1999]

§ 96.350 Interim Document of Compliance certificate: what is it and when can it be used?

(a) An Interim Document of Compliance certificate may be issued to help set up a company's safety management system when—

(1) A company is newly set up or in transition from an existing company into a new company; or

(2) A new type of vessel is added to an existing safety management system and Document of Compliance certificate for a company.

(b) A responsible person for a company operating a U.S. vessel(s) that meets the requirements of paragraph (a) of this section, may send a request to a recognized organization authorized to act on behalf of the U.S. to receive an Interim Document of Compliance certificate that is valid for a period up to 12 months. To be issued the Interim Document of Compliance certificate the vessel's company must—

(1) Demonstrate to an auditor that the company has a safety management system that meets § 96.230 of this part; and

(2) Provide a plan for full implementation of a safety management system within the period that the Interim Document of Compliance certificate is valid.

§ 96.360 Interim Safety Management Certificate: what is it and when can it be used?

(a) A responsible person may apply for an Interim Safety Management Certificate when—

(1) A responsible person takes delivery of a new U.S. vessel; or

(2) Takes responsibility for the management of a U.S. vessel which is new to the responsible person or their company.

(b) An Interim Safety Management Certificate is valid for 6 months. It may be issued to a U.S. vessel which meets the conditions of paragraph (a) of this section, when—

(1) The company's valid Document of Compliance certificate or Interim Document of Compliance certificate applies to that vessel type;

(2) The company's safety management system for the vessel includes the key elements of a safety management system, set out in § 96.220, applicable to this new type of vessel;

(3) The company's safety management system has been assessed during the safety management audit to issue the Document of Compliance certificate or demonstrated for the issuance of the Interim Document of Compliance certificate;

(4) The Master and senior officers of the vessel are familiar with the safety management system and the planned set up arrangements;

(5) Written documented instructions have been extracted from the safety management system and given to the vessel prior to sailing;

(6) The company plans an internal audit of the vessel within three months; and

(7) The relevant information from the safety management system is written in English, and in any other language understood by the vessel's personnel.

§ 96.370 What are the requirements for vessels of countries not party to Chapter IX of SOLAS?

(a) Each foreign vessel which carries more than 12 passengers, or is a tanker, bulk freight vessel, freight vessel, or self-propelled mobile offshore drilling unit of 500 gross tons or more, operated in U.S. waters, under the authority of a

country not a party to Chapter IX of SOLAS must—

(1) Have on board valid documentation showing that the vessel's company has a safety management system which was audited and assessed, consistent with the International Safety Management Code of IMO Resolution A.741(18);

(2) Have on board valid documentation from a vessel's Flag Administration showing that the vessel's safety management system was audited and assessed to be consistent with the International Safety Management Code of IMO Resolution A.741(18); or

(3) Show that evidence of compliance was issued by either a government that is party to SOLAS or an organization recognized to act on behalf of the vessel's Flag Administration.

(b) Evidence of compliance must contain all of the information in, and have substantially the same format as a—

(1) Document of Compliance certificate; and

(2) Safety Management Certificate.

(c) Failure to comply with this section will subject the vessel to the compliance and enforcement procedures of §96.380 of this part.

§96.380 How will the Coast Guard handle compliance and enforcement of these regulations?

(a) While operating in waters under the jurisdiction of the United States, the Coast Guard may board a vessel to determine that—

(1) Valid copies of the company's Document of Compliance certificate and Safety Management Certificate are on board, or evidence of the same for vessels from countries not party to Chapter IX of SOLAS; and

(2) The vessel's crew or shore-based personnel are following the procedures and policies of the safety management system while operating the vessel or transferring cargoes.

(b) A foreign vessel that does not comply with these regulations, or one on which the vessel's condition or use of its safety management system do not substantially agree with the particulars of the Document of Compliance certificate, Safety Management Certificate or other required evidence

of compliance, may be detained by order of the COTP or OCMI. This may occur at the port or terminal where the violation is found until, in the opinion of the detaining authority, the vessel can go to sea without presenting an unreasonable threat of harm to the port, the marine environment, the vessel or its crew. The detention order may allow the vessel to go to another area of the port, if needed, rather than stay at the place where the violation was found.

(c) If any vessel that must comply with this part or with the ISM Code does not have a Safety Management Certificate and a copy of its company's Document of Compliance certificate on board, a vessel owner, charterer, managing operator, agent, Master, or any other individual in charge of the vessel that is subject to this part, may be liable for a civil penalty under 46 U.S.C. 3318. For foreign vessels, the Coast Guard may request the Secretary of the Treasury to withhold or revoke the clearance required by 46 U.S.C. App. 91. The Coast Guard may ask the Secretary to permit the vessel's departure after the bond or other surety is filed.

§96.390 When will the Coast Guard deny entry into a U.S. port?

(a) Except for a foreign vessel entering U.S. waters under force majeure, no vessel shall enter any port or terminal of the U.S. without a safety management system that has been properly certificated to this subpart or to the requirements of Chapter IX of SOLAS if—

(1) It is engaged on a foreign voyage; and

(2) It is carrying more than 12 passengers, or a tanker, bulk freight vessel, freight vessel, or self-propelled mobile offshore drilling unit of 500 gross tons or more.

(b) The cognizant COTP will deny entry of a vessel into a port or terminal under the authority of 46 U.S.C. 3204(c), to any vessel that does not meet the requirements of paragraph (a) of this section.