

§ 95.035 Reasonable cause for directing a chemical test.

(a) Only a law enforcement officer or a marine employer may direct an individual operating a vessel to undergo a chemical test when reasonable cause exists. Reasonable cause exists when:

(1) The individual was directly involved in the occurrence of a marine casualty as defined in Chapter 61 of Title 46, United States Code, or

(2) The individual is suspected of being in violation of the standards in §§ 95.020 or 95.025.

(b) When an individual is directed to undergo a chemical test, the individual to be tested must be informed of that fact and directed to undergo a test as soon as is practicable.

(c) When practicable, a marine employer should base a determination of the existence of reasonable cause, under paragraph (a)(2) of this section, on observation by two persons.

[CGD 84-099, FR 47532, Dec. 14, 1987; CGD 84-099, 53 FR 13117, Apr. 1, 1988]

§ 95.040 Refusal to submit to testing.

(a) If an individual refuses to submit to or cooperate in the administration of a timely chemical test when directed by a law enforcement officer based on reasonable cause, evidence of the refusal is admissible in evidence in any administrative proceeding and the individual will be presumed to be under the influence of alcohol or a dangerous drug.

(b) If an individual refuses to submit to or cooperate in the administration of a timely chemical test when directed by the marine employer based on reasonable cause, evidence of the refusal is admissible in evidence in any administrative proceeding.

[CGD 84-099, 52 FR 47532, Dec. 14, 1987, as amended by USCG-1998-4593, 66 FR 1862, Jan. 10, 2001]

§ 95.045 General operating rules for vessels inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code.

While on board a vessel inspected, or subject to inspection, under Chapter 33 of Title 46 United States Code, a crewmember (including a licensed indi-

vidual), pilot, or watchstander not a regular member of the crew:

(a) Shall not perform or attempt to perform any scheduled duties within four hours of consuming any alcohol;

(b) Shall not be intoxicated at any time;

(c) Shall not consume any intoxicant while on watch or duty; and

(d) May consume a legal non-prescription or prescription drug provided the drug does not cause the individual to be intoxicated.

§ 95.050 Responsibility for compliance.

(a) The marine employer shall exercise due diligence to assure compliance with the applicable provisions of this part.

(b) If the marine employer has reason to believe that an individual is intoxicated, the marine employer shall not allow that individual to stand watch or perform other duties.

PART 96—RULES FOR THE SAFE OPERATION OF VESSELS AND SAFETY MANAGEMENT SYSTEMS**Subpart A—General**

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AUTHORITY: 46 U.S.C. 3201 *et. seq.*; 46 U.S.C. 3103; 46 U.S.C. 3316, 33 U.S.C. 1231; 49 CFR 1.45, 49 CFR 1.46.

SOURCE: CGD 95-073, 62 FR 67506, Dec. 24, 1997, unless otherwise noted.

Subpart A—General

§ 96.100 Purpose.

This subpart implements Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS), 1974, International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code), as required by 46 U.S.C. Chapter 32.

NOTE: Chapter IX of SOLAS is available from the International Maritime Organization, Publication Section, 4 Albert Embankment, London, SE1 75R, United Kingdom,

33 CFR Ch. I (7-1-05 Edition)

Telex 23588. Please include document reference number "IMO-190E" in your request.

§ 96.110 Who does this subpart apply to?

This subpart applies to you if—

- (a) You are a responsible person who owns a U.S. vessel(s) and must comply with Chapter IX of SOLAS;
- (b) You are a responsible person who owns a U.S. vessel(s) that is not required to comply with Chapter IX of SOLAS, but requests application of this subpart;
- (c) You are a responsible person who owns a foreign vessel(s) engaged on a foreign voyage, bound for ports or places under the jurisdiction of the U.S., which must comply with Chapter IX of SOLAS; or
- (d) You are a recognized organization applying for authorization to act on behalf of the U.S. to conduct safety management audits and issue international convention certificates.

§ 96.120 Definitions.

(a) Unless otherwise stated in this section, the definitions in Chapter IX, Regulation 1 of the International Convention for the Safety of Life at Sea (SOLAS) apply to this part.

(b) As used in this part—

Administration means the Government of the State whose flag the ship is entitled to fly.

Authorized Organization Acting on behalf of the U.S. means an organization that is recognized by the Commandant of the U.S. Coast Guard under the minimum standards of subparts A and B of 46 CFR part 8, and has been authorized under this section to conduct certain actions and certifications on behalf of the United States.

Captain of the Port (COTP) means the U.S. Coast Guard officer as described in 33 CFR 6.01-3, commanding a Captain of the Port zone described in 33 CFR part 3, or that person's authorized representative.

Commandant means the Commandant, U.S. Coast Guard.

Company means the owner of a vessel, or any other organization or person such as the manager or the bareboat charterer of a vessel, who has assumed the responsibility for operation of the vessel from the shipowner and who on