

Coast Guard, DHS

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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.

Subpart D—Authorization of Recognized Organizations To Act on Behalf of the U.S.

§ 96.400 Purpose.

(a) This subpart establishes criteria and procedures for organizations recognized under 46 CFR part 8, subparts A and B, to be authorized by the Coast Guard to act on behalf of the U.S. The authorization is necessary in order for a recognized organization to perform safety management audits and certification functions delegated by the Coast Guard as described in this part.

(b) To receive an up-to-date list of recognized organizations authorized to act under this subpart, send a self-addressed, stamped envelope and written request to the Commandant (G-MSE), 2100 Second Street SW., Washington, DC 20593-0001.

§ 96.410 Who does this regulation apply to?

This subpart applies to all organizations recognized by the U.S. under 46 CFR part 8, subpart A and B, who wish to seek authorization to conduct safety management audits and issue relevant international safety certificates under the provisions of the ISM Code and voluntary certificates on behalf of the U.S.

§ 96.420 What authority may an organization ask for under this regulation?

(a) An organization may request authorization to conduct safety management audits and to issue the following certificates:

- (1) Safety Management Certificate;
- (2) Document of Compliance certificate;
- (3) Interim Safety Management Certificate; and

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(4) Interim Document of Compliance certificate.

(b) [Reserved]

§ 96.430 How does an organization submit a request to be authorized?

(a) A recognized organization must send a written request for authorization to the Commandant (G-MSE), Office of Design and Engineering Standards, 2100 Second Street SW, Washington, DC 20593-0001. The request must include the following:

(1) A statement describing what type of authorization the organization seeks;

(2) Documents showing that—

(i) The organization has an internal quality system with written policies, procedures and processes that meet the requirements in § 96.440 of this part for safety management auditing and certification; or

(ii) The organization has an internal quality system based on ANSI/ASQC C9001 for safety management auditing and certification; or

(iii) The organization has an equivalent internal quality standard system recognized by the Coast Guard to complete safety management audits and certification.

(3) A list of the organization's exclusive auditors qualified to complete safety management audits and their operational area; and

(4) A written statement that the procedures and records of the recognized organization regarding its actions involving safety management system audits and certification are available for review annually and at any time deemed necessary by the Coast Guard.

(b) If the organization is a foreign classification society that has been recognized under 46 CFR part 8, subparts A and B, and wishes to apply for authorization under this part, it must demonstrate the reciprocity required by 46 U.S.C. 3316 for ISM Code certification. The organization must provide, with its request for authorization an affidavit from the government of the country in which the classification society is headquartered. This affidavit must provide a list of authorized delegations by the flag state of the administration of the foreign classification society's country to the American Bu-

reau of Shipping, and indicate any conditions related to the delegated authority. If this affidavit is not received with a request for authorization from a foreign classification society, the request for authorization will be disapproved and returned by the Coast Guard.

(c) Upon the satisfactory completion of the Coast Guard's evaluation of a request for authorization, the organization will be visited for an evaluation as described in § 96.440(b) of this part.

§ 96.440 How will the Coast Guard decide whether to approve an organization's request to be authorized?

(a) First, the Coast Guard will evaluate the organization's request for authorization and supporting written materials, looking for evidence of the following—

(1) The organization's clear assignment of management duties;

(2) Ethical standards for managers and auditors;

(3) Procedures for auditor training, qualification, certification, and re-qualification that are consistent with recognized industry standards;

(4) Procedures for auditing safety management systems that are consistent with recognized industry standards and IMO Resolution A.788(19);

(5) Acceptable standards for internal auditing and management review;

(6) Record-keeping standards for safety management auditing and certification;

(7) Methods for reporting non-conformities and recording completion of remedial actions;

(8) Methods for certifying safety management systems;

(9) Methods for periodic and intermediate audits of safety management systems;

(10) Methods for renewal audits of safety management systems;

(11) Methods for handling appeals; and

(12) Overall procedures consistent with IMO Resolution A.739(18), "Guidelines for the Authorization of Organizations Acting on Behalf of the Administration."

(b) After a favorable evaluation of the organization's written request, the Coast Guard will arrange to visit the