

**§ 96.100**

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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.

EDITORIAL NOTE: Nomenclature changes to part 96 appear at 75 FR 36281, June 25, 2010.

**§ 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, 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 assuming responsibility has agreed to take over all the duties and responsibilities imposed by this part or the ISM Code.

*Designated person* means a person or persons designated in writing by the responsible person who monitors the safety management system of the company and vessel and has:

- (1) Direct access to communicate with the highest levels of the company and with all management levels ashore and aboard the company's vessel(s);
- (2) Responsibility to monitor the safety and environmental aspects of the operation of each vessel; and
- (3) Responsibility to ensure there are adequate support and shore-based resources for vessel(s) operations.

*Document of Compliance* means a certificate issued to a company or responsible person that complies with the requirements of this part or the ISM Code.

*International Safety Management (ISM) Code* means the International Management Code for the Safe Operation of Ships and Pollution Prevention, Chapter IX of the Annex to the International Convention for the Safety of Life at Sea (SOLAS), 1974.

*Non-conformity* means an observed situation where objective evidence indicates the non-fulfillment of a specified requirement.

*Major non-conformity* means an identifiable deviation which poses a serious threat to personnel or vessel safety or a serious risk to the environment and requires immediate corrective action; in addition, the lack of effective and systematic implementation of a re-

quirement of the ISM Code is also considered a major non-conformity.

*Objective Evidence* means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified.

*Officer In Charge, Marine Inspection (OCMI)* means the U.S. Coast Guard officer as described in 46 CFR 1.01-15(b), in charge of an inspection zone described in 33 CFR part 3, or that person's authorized representative.

*Recognized organization* means an organization which has applied and been recognized by the Commandant of the Coast Guard to meet the minimum standards of 46 CFR part 8, subparts A and B.

*Responsible person* means—

- (1) The owner of a vessel to whom this part applies, or
- (2) Any other person that—
  - (i) has assumed the responsibility from the owner for operation of the vessel to which this part applies; and
  - (ii) agreed to assume, with respect to the vessel, responsibility for complying with all the requirements of this part.
- (3) A responsible person may be a company, firm, corporation, association, partnership or individual.

*Safety management audit* means a systematic and independent examination to determine whether the safety management system activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives.

*Safety Management Certificate* means a document issued to a vessel which signifies that the responsible person or its company, and the vessel's shipboard management operate in accordance with the approved safety management system.

*Safety Management System* means a structured and documented system enabling Company and vessel personnel to effectively implement the responsible person's safety and environmental protection policies.

*SOLAS* means the International Convention for the Safety of Life at Sea, 1974, as amended.

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*Vessel engaged on a foreign voyage* means a vessel to which this part applies that is—

(1) Arriving at a place under the jurisdiction of the United States from a place in a foreign country;

(2) Making a voyage between places outside the United States; or

(3) Departing from a place under the jurisdiction of the United States for a place in a foreign country.

### § 96.130 Incorporation by reference.

(a) The Director of the Federal Register approves certain material that is incorporated by reference into this subpart under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of the change in the FEDERAL REGISTER and the material must be available to the public. You may inspect all material at the U.S. Coast Guard, Office of Design and Engineering Standards (CG-521), 2100 2nd St. SW., Stop 7126, Washington, DC 20593-7126, or at the National Archives and Records Administration (NARA), and receive it from the source listed in paragraph (b) of this section. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) The material approved for incorporation by reference in this subpart and the sections affected are as follows:

*American National Standards Institute (ANSI)*—  
11 West 42nd St., New York, NY 10036.

ANSI/ASQC Q9001-1994, Quality Systems—  
Model for Quality Assurance in Design,  
Development, Production, Installation,  
and Servicing, 1994—96.430

*International Maritime Organization IMO*—4  
Albert Embankment, London, SE1 7SR,  
United Kingdom.

Resolution A.741(18), International Man-  
agement Code for the Safe Operation of  
Ships and for Pollution Prevention, No-  
vember 4, 1993—96.220, 96.370

Resolution A.788 (19), Guidelines on Imple-  
mentation of the International Safety  
Management (ISM) Code by Administra-  
tions, November 23, 1995—96.320, 96.440

Resolution A.739(18), Guidelines for the Au-  
thorization of Organizations Acting on

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Behalf of the Administration, November  
4, 1993—96.440

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amended at 69 FR 18803, Apr. 9, 2004]

### Subpart B—Company and Vessel Safety Management Systems

#### § 96.200 Purpose.

This subpart establishes the minimum standards that the safety management system of a company and its U.S. flag vessel(s) must meet for certification to comply with the requirements of 46 U.S.C. 3201-3205 and Chapter IX of SOLAS, 1974. It also permits companies with U.S. flag vessels that are not required to comply with this part to voluntarily develop safety management systems which can be certificated to standards consistent with Chapter IX of SOLAS.

#### § 96.210 Who does this subpart apply to?

(a) This subpart applies—

(1) To a responsible person who owns or operates a U.S. vessel(s) engaged on a foreign voyage which meet the conditions of paragraph (a)(2) of this section;

(2) To all U.S. vessels engaged on a foreign voyage that are—

(i) A vessel transporting more than 12 passengers; or

(ii) A tanker, a bulk freight vessel, a freight vessel or a self-propelled mobile offshore drilling unit (MODU) of 500 gross tons or more; and

(3) To all foreign vessels engaged on a foreign voyage, bound for ports or places under the jurisdiction of the U.S., and subject to Chapter IX of SOLAS.

(b) This subpart does not apply to—

(1) A barge;

(2) A recreational vessel not engaged in commercial service;

(3) A fishing vessel;

(4) A vessel operating only on the Great Lakes or its tributary and connecting waters; or

(5) A public vessel, which includes a U.S. vessel of the National Defense Reserve Fleet owned by the U.S. Maritime Administration and operated in non-commercial service.

(c) Any responsible person and their company who owns and operates a U.S. flag vessel(s) which does not meet the