

Coast Guard, DHS

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(d) A statement of what the companies and vessels must do to have their safety management systems transferred to another organization authorized to act on behalf of the U.S.

§ 96.495 How can I appeal a decision made by an authorized organization?

(a) A responsible person may appeal a decision made by an authorized organization by mailing or delivering to the organization a written request for reconsideration. Within 30 days of receiving your request, the authorized organization must rule on it and send you a written response. They must also send a copy of their response to the Commandant (CG-CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593-7501.

(b) If you are not satisfied with the organization's decision, you may appeal directly to Commandant (CG-CVC). You must make your appeal in writing, including any documentation and evidence you wish to be considered. You may ask Commandant (CG-CVC) to stay the effect of the appealed decision while it is under review.

(c) The Commandant (CG-CVC) will make a decision on your appeal and send you a response in writing. That decision will be the final Coast Guard action on your request.

[CGD 95-073, 62 FR 67506, Dec. 24, 1997, as amended by USCG-2011-0257, 76 FR 31836, June 2, 2011]

PART 97—RULES FOR THE SAFE OPERATION OF VESSELS, STOWAGE AND SECURING OF CARGOES

Subpart A—Cargo Securing Manuals

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Subpart B [Reserved]

AUTHORITY: 46 U.S.C. 2103, 3306; E.O. 12234; Department of Homeland Security Delegation No. 0170.1(92)(a) and (b).

SOURCE: USCG-2000-7080, 81 FR 28014, May 9, 2016, unless otherwise noted.

Subpart A—Cargo Securing Manuals

§ 97.100 Applicability—Electronic documentation.

(a) This subpart applies to—

(1) A self-propelled cargo vessel of 500 gross tons or more, on an international voyage, that must comply with Chapter VI/5.6 or Chapter VII/5 of the International Convention for the Safety of Life at Sea, 1974 as amended (SOLAS), that does not solely carry liquid or solid cargoes in bulk, and that is either a U.S.-flagged self-propelled cargo vessel, or a foreign-flagged self-propelled cargo vessel that is operating in waters subject to the jurisdiction of the United States;

(2) A U.S.-flagged self-propelled cargo vessel that chooses to have this subpart applied to it by submitting a cargo securing manual for approval in accordance with § 97.200(a)(3);

(3) A foreign-flagged self-propelled cargo vessel of 500 gross tons or more on an international voyage from a country that is not a signatory to SOLAS, that would otherwise be required to comply with Chapter VI/5.6 or Chapter VII/5 of SOLAS, that does not solely carry liquid or solid cargoes in bulk, and that is operating in waters subject to the jurisdiction of the United States; and

(4) Any organization applying to be selected as a cargo securing manual approval authority.

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(b) This subpart does not apply to a vessel owned by the Maritime Administration that is part of the Ready Reserve Force or the title of which is vested in the United States and which is used for public purposes only.

(c) Any manual, letter, request, appeal, or ruling required by this subpart may be provided or submitted in electronic form or in printed form.

§97.105 Definitions.

As used in this subpart—

Approval authority means a CSM approval authority, as that term is defined in this section.

Cargo means the goods or merchandise conveyed in a vessel, and includes, but is not limited to, cargo that can be measured as a “cargo unit” as that term is used in the International Maritime Organization’s Code of Safe Practice for Cargo Stowage and Securing, 2003 edition: “a vehicle, container, flat, pallet, portable tank, packaged unit, or any other entity, etc., and loading equipment, or any part thereof, which belongs to the ship but is not fixed to the ship . . .”; but it does not include other vessel equipment or the incidental personal possessions of persons on board the vessel.

Cargo safe access plan (CSAP) means a plan included in the cargo securing manual that provides detailed information on safe access for persons engaged in work connected with cargo stowage and securing on ships that are specifically designed and fitted for the purpose of carrying containers.

Cargo securing manual (CSM) means an electronic or printed manual developed to meet the requirements of SOLAS and this subpart and that is used by the master of a vessel to properly stow and secure cargoes on the vessel for which it is developed.

Cargo securing manual approval authority or *CSM approval authority* means an organization that meets the requirements of this subpart, and that the Commandant has authorized to conduct certain actions and issue electronic or printed approval letters 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.

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Commandant, except as otherwise specified, means the Chief, Office of Operating and Environmental Standards, whose address is Commandant (CG–OES), 2703 Martin Luther King, Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509 and whose telephone number is 202–372–1404.

Container means an article of transport equipment described in 49 CFR 450.3.

Container vessel means a vessel specifically designed and fitted for the purpose of carrying containers.

International voyage means a voyage between a port or place in one country (or its possessions) and a port or place in another country.

§97.110 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved material is available for inspection by contacting Mr. Ken Smith of the Coast Guard’s Vessel and Facility Operating Standards Division, Commandant (CG–OES–2); telephone 202–372–1413, email Ken.A.Smith@uscg.mil, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). 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.

(b) *International Maritime Organization (IMO), Publications Section*, 4 Albert Embankment, London, SE1 7SR, United Kingdom, +44(0)20 7735 7611, <http://www.imo.org>.

(1) MSC.1/Circ.1352, Amendments to the Code of Safe Practice for Cargo Stowage and Securing (CSS Code), June 30, 2010 (Maritime Safety Committee Circular), IBR approved for §97.120(b).

(2) MSC.1/Circ. 1353/Rev.1, Revised Guidelines for the Preparation of the Cargo Securing Manual, December 15, 2014 (Maritime Safety Committee Circular), IBR approved for §97.120(a).

(3) Resolution A.739(18) (Res.A.739(18)), Guidelines for the Authorization of Organizations Acting on

Behalf of the Administration, November 22, 1993 (Assembly Resolution), IBR approved for §97.310(a).

§97.115 Reporting lost or jettisoned cargo.

(a) In the event a vessel loses or jettisons at sea any cargo described in paragraph (b) of this section, it must comply with the immediate notification requirements of 33 CFR 160.216, and if the cargo contains hazardous material as defined in paragraph (c) of this section, the vessel must also report it as soon as possible in accordance with 49 CFR 176.48.

(b) The cargo to which this section applies includes any container and any other cargo the loss or jettisoning of which could adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable waterway of the United States.

(c) As used in this section, “hazardous material” means a substance or material designated by the Secretary of Transportation as capable of posing an unreasonable risk to health, safety, and property when transported in commerce. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials as defined in 49 CFR 171.8, materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR part 173.

[USCG-2000-7080, 81 FR 28014, May 9, 2016; 81 FR 59136, Aug. 29, 2016]

§97.120 Cargo securing manuals.

(a) Any vessel to which this subpart applies must have a cargo securing manual (CSM) on board that has been approved by the government of the country whose flag the vessel is entitled to fly; and a CSM approved after June 30, 2010, must, at a minimum, meet the guidelines in MSC.1/Circ. 1353/Rev.1, (incorporated by reference, see 33 CFR 97.110).

(b) A container vessel with a keel laid on or after January 1, 2015, must include a cargo safe access plan that, at a minimum, meets the guidelines in MSC.1/Circ.1352, Annex 14, Guidance on Providing Safe Working Conditions for

Securing of Containers on Deck (incorporated by reference, see 33 CFR 97.110).

(c) While operating in waters under the jurisdiction of the United States, the Coast Guard may board any vessel to which this subpart applies to determine that the vessel has the document(s) required by paragraph (a) of this section on board. Any foreign-flagged vessel found not to be in compliance with paragraph (a) of this section may be detained by order of the Captain of the Port at the port or terminal where the noncompliance is found until the COTP determines that the vessel can go to sea without presenting an unreasonable threat of harm to the port, the marine environment, the vessel, or its crew.

§§ 97.121–97.199 [Reserved]

§ 97.200 Cargo securing manual (CSM) approval for U.S.-flagged vessels on international voyages.

(a) Owners of U.S.-flagged vessels on international voyages must have Cargo Securing Manuals (CSMs) approved in accordance with this part.

(1) An applicant for CSM approval may be the owner or operator of the vessel, or a person acting on the owner or operator’s behalf.

(2) The Commandant is responsible for overseeing and managing the review and approval of CSM approval authority applications and providing an up-to-date list of organizations authorized to act under this subpart, which is available at <http://www.uscg.mil/hq/cg5/cg522/cg5222>, or by requesting it in writing from the Commandant and enclosing a self-addressed, stamped envelope.

(3) The applicant must submit two dated copies of a CSM that meets the requirements of this subpart to a CSM approval authority for review and approval. If any amendments are submitted, they must be dated. The CSM must include a “change page” document to ensure continuous documentation of amendments made and the dates they were completed.

(4) The approval authority will retain one copy of the CSM for its records.

(b) If the approval authority completes the review process and approves the CSM, the approval authority will

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provide a CSM approval letter on its letterhead, containing—

- (1) Date of CSM approval;
 - (2) A subject line reading: “APPROVAL OF CARGO SECURING MANUAL (AMENDMENT—if applicable) FOR THE M/V ___, OFFICIAL NUMBER ___”;
 - (3) The following statement: “This is to certify that the Cargo Securing Manual (Amendment—if applicable) dated ___ for the M/V ___, Official Number ___, has been approved on behalf of the United States. The Cargo Securing Manual (Amendment—if applicable) was reviewed for compliance with Maritime Safety Committee Circular 1353 (MSC.1/Circ. 1353/Rev.1) for content, and correctness of the calculations on which the approval is based. This approval letter is to be kept with the Cargo Securing Manual, as proof of compliance with regulations VI/5.6 and VII/5 of the 2004 amendments to the International Convention for the Safety of Life at Sea (SOLAS) 1974.”;
 - (4) Signature of the approval authority official responsible for review and approval of the CSM; and
 - (5) The approval authority’s seal or stamp.
- (c) If the approval authority completes the review process and disapproves the CSM, the approval authority will provide a letter on its letterhead, containing—
- (1) Date of CSM disapproval; and
 - (2) Explanation of why the CSM was disapproved and what the submitter must do to correct deficiencies.
 - (d) The submitter of a disapproved CSM may resubmit the CSM with amendments for further review, either to correct deficiencies noted by the approval authority or to expand the CSM to fully meet the requirements of this part.
 - (e) The original copy of the CSM approval letter must be kept with the approved CSM and its amendments, together with supporting documents and calculations used in granting the approval, on board the vessel for review by Coast Guard personnel upon request.

§ 97.205 Requirements for amending an approved cargo securing manual (CSM).

Resubmission and re-approval by a CSM approval authority are required after any of the following events occurs:

- (a) Reconfiguration of a vessel from one type of cargo carriage to another (*e.g.*, a general break-bulk cargo vessel reconfigured to a container or a roll-on/roll-off vessel).
- (b) Reconfiguration or replacement of 15 percent or more of the vessel’s fixed cargo securing or tie-down systems with different types of devices or systems.
- (c) Replacement of 15 percent or more of the vessel’s portable cargo securing devices, with different types of devices for securing the cargo not already used aboard the vessel (*e.g.*, wire lashings replaced with turnbuckles or chains).

§ 97.210 Appeals.

- (a) A vessel owner or operator, or person acting on their behalf, who disagrees with a decision of a CSM approval authority may submit a written appeal to the approval authority requesting reconsideration of information in dispute. Within 30 days of receiving the appeal, the approval authority must provide the submitter with a final written ruling on the request, with a copy to the Commandant.
- (b) A submitter who is dissatisfied with the approval authority’s final written ruling may appeal directly to the Commandant. The appeal must be made in writing and include the documentation and supporting evidence the submitter wants to be considered, and may ask the Commandant to stay the effect of the appealed decision while it is under review by the Commandant.
- (c) The Commandant will make a decision on the appeal and send a formal response to the submitter and a copy to the approval authority. The Commandant’s decision will constitute final agency action on the appeal request.

§§ 97.211–97.299 [Reserved]

§ 97.300 Authorized cargo securing manual (CSM) approval authorities.

The following organizations are authorized to act on behalf of the United States for the review and approval of CSMs:

(a) Any recognized classification society to which the Coast Guard has delegated issuance of a Cargo Ship Safety Equipment Certificate in accordance with 46 CFR 8.320(b)(4). A list of these organizations can be found at www.uscg.mil/hq/cg5/cg522/cg5222 in the “Summary of Authorizations” link.

(b) The National Cargo Bureau, Inc., 17 Battery Place, Suite 1232, New York, NY 10004-1110, 212-785-8300, <http://www.natcargo.org>.

§ 97.305 Requests for authorization to act as cargo securing manual (CSM) approval authority.

An organization seeking authorization as a CSM approval authority must make a request to the Commandant for authorization. The request must include, in writing, the items listed in this section or as otherwise specified by the Commandant.

(a) A certified copy of the organization’s certificate of incorporation or partnership on file with a U.S. State, including the name and address of the organization, with written statements or documents which show that—

(1) The organization’s owners, managers, and employees are free from influence or control by vessel shipbuilders, owners, operators, lessors, or other related commercial interests as evidenced by past and present business practices;

(2) The organization has demonstrated, through other related work, the capability to competently evaluate CSMs for completeness and sufficiency according to the requirements of SOLAS and this part;

(3) The organization has an acceptable degree of financial security, based on recent audits by certified public accountants over the last 5 years; and

(4) The organization maintains a corporate office in the United States that has adequate resources and staff to support all aspects of CSM review, approval, and recordkeeping.

(b) A listing of the names of the organization’s principal executives, with titles, telephone, and telefax numbers.

(c) A written general description of the organization, covering the ownership, managerial structure, and organization components, including any directly affiliated organizations, and their functions utilized for supporting technical services.

(d) A written list of technical services the organization offers.

(e) A written general description of the geographical area the organization serves.

(f) A written general description of the clients the organization is serving, or intends to serve.

(g) A written general description of similar work performed by the organization in the past, noting the amount and extent of such work performed within the previous 3 years.

(h) A written listing of the names of full-time professional staff employed by the organization and available for technical review and approval of CSMs including—

(1) Naval architects and naval engineers, with copies of their professional credentials, college degrees, and specialized training certificates;

(2) Merchant mariners with Coast Guard-issued credentials, with a summary of their working experience on board cargo vessels (including vessel tonnage and types of cargo); and

(3) Written proof of staff competence to perform CSM review and approval, evidenced by detailed summaries of each individual’s experience (measured in months) during the past 5 years of evaluating maritime cargo securing systems. Experience summaries must be documented on company letterhead and endorsed by a company executive who has had direct observation of the individual and quality of his or her work product.

(j) A complete description of the organization’s internal quality control processes, including written standards used by the organization to ensure consistency in CSM review and approval procedures by qualified professionals.

(k) A description of the organization’s training program for assuring continued competency of professional employees performing CSM review and

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approval who are identified in the application.

(l) Evidence of financial stability over the past 5-year period, such as financial reports completed independently by certified public accountants.

(m) A list of five or more business references, including names, addresses, and telephone numbers of principal executives, who can attest to the organization's competence within the past 2 years.

(n) A statement to the Coast Guard that gives its officials permission to inspect the organization's facilities and records of CSM review and approval on behalf of the United States at any time with reasonable advance notice.

(o) Any additional information the organization deems to be pertinent.

§97.310 Criteria for authorization.

(a) The Commandant will evaluate the organization's request for authorization and supporting written materials, looking for evidence of—

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

(2) Ethical standards for managers and cargo securing manual (CSM) reviewers;

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

(4) Acceptable standards available for the organization's internal auditing and management review;

(5) Recordkeeping standards for CSM review and approval;

(6) Methods used to review and certify CSMs;

(7) Experience and knowledge demonstrating competency to evaluate CSMs for completeness and sufficiency according to the requirements of SOLAS;

(8) Methods for handling appeals; and

(9) Overall procedures consistent with Res.A.739(18), (incorporated by reference, see §97.110).

(b) After a favorable evaluation of the organization's request, the Commandant may arrange to visit the organization's corporate and port offices for an on-site evaluation of operations.

(c) When a request is approved, the organization and the Coast Guard will enter into the written agreement pro-

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vided for by 33 CFR 97.315. If the request is not approved, the Commandant will give the organization a written explanation, and the organization may resubmit its request if it corrects any noted deficiencies.

§97.315 Requirements for authorized approval organizations.

Approved organizations will enter into a written agreement with the Coast Guard that specifies—

(a) The period the authorization is valid;

(b) Which duties and responsibilities the organization may perform and what approval letters it may issue on behalf of the U.S.;

(c) Reports and information the organization must send to the Commandant;

(d) Actions the organization must take to renew the agreement when it expires; and

(e) Actions the organization must take if the Commandant revokes authorization pursuant to 33 CFR 97.320.

§97.320 Revocation of authorization.

The Commandant may revoke a cargo securing manual (CSM) approval authority's authorization and remove it from the list of CSM approval authorities if it fails to maintain acceptable standards. For the purposes of 46 CFR subpart 1.03, such a revocation would be treated as involving the recognition of a classification society and could be appealed pursuant to 46 CFR 1.03-15(h)(4). Upon revocation, the former approval authority must send written notice to each vessel owner whose CSM it approved. The notice must include the current list of CSM approval authorities and state—

(a) That its authorization as a CSM approval authority has been revoked;

(b) The Coast Guard's explanation for the revocation; and

(c) That the vessel's CSM remains valid as long as amendments have not been completed which require it to be re-approved pursuant to 33 CFR 97.200 or 97.205.

Subpart B [Reserved]