



Marine Safety Information Bulletin

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MSIB Number: 13-23, CH. 3
Date: December 23, 2024
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Coast Guard Policies to Address Sexual Assault and Sexual Harassment Prevention and Response on Vessels

The James M. Inhofe National Defense Authorization Act (NDAA) for the Fiscal Year 2023 included new requirements under Title 46 of the United States Code (U.S.C.) to enhance crew safety on certain commercial vessels and to prevent and respond to sexual misconduct, which includes sexual assault and sexual harassment, and harassment within the maritime industry. The Coast Guard has [released policies](#) to provide guidance on implementation of several of the new laws. The maritime industry should be aware of the changes highlighted below.

Master Key Control System (46 U.S.C. § 3106) and Display of Information in Crew Berthing Areas (46 U.S.C. § 11101). The Coast Guard is proposing to amend its regulations to implement 2023 legislation to prevent and address sexual abuse, including sexual assault and sexual harassment (SASH) in the maritime industry. To address SASH crimes and related offenses and to promote available resources for victims, the proposed rulemaking would make the following changes: (1) Require vessels to log certain information when accessing a controlled space; (2) require certain vessel owners to post information within accommodation spaces and berthing areas; and (3) require vessels subject to inspection under 46 U.S.C. 3301 to establish and maintain a master key control system. Information about the proposal to amend regulations may be found here [Unified Agenda](#).

Safety Management System (SMS) (46 U.S.C. § 10104(e) and 46 U.S.C. § 3203).¹ Companies and vessels should have documented policies and procedures within the SMS to ensure compliance with the reporting and after-action summary requirements of 46 U.S.C. § 10104 related to harassment, sexual harassment, and sexual assault.² These procedures should be documented as soon as possible in the SMS. The Coast Guard or Recognized Organizations (ROs) may conduct investigatory audits or other systematic reviews as required by 46 U.S.C. § 10104(e) and may suspend or revoke a Document of Compliance (DOC) or Safety Management Certificate (SMC) in accordance with 46 U.S.C. § 3203(c).

Surveillance Requirements & Response Training (46 U.S.C. § 4901). Applicable vessels are required to install and maintain video and audio surveillance equipment and retain recordings for a specified time. In addition, vessel owners and employers are required to train crewmembers in responding to and reporting sexual assault and sexual harassment. The Coast Guard released CG-CVC Policy Letter 23-05,

¹ The Coast Guard updated [CG-CVC-WI-004 – Flag State Interpretations of the ISM Code](#), which includes discussion on the requirements in 46 U.S.C. § 10104 and 46 U.S.C. § 3203.

² 46 U.S.C. § 10104(e) and 46 U.S.C. § 3203(a)(5).

Change 1, to provide guidance on the installation of surveillance requirements and other provisions to meet the mandatory deadlines.

These policies are intended to assist vessel owners and operators in understanding and adhering to the new and modified provisions set out by the 2023 NDAA. It is imperative for industry stakeholders to familiarize themselves with these updates to ensure compliance with the mentioned sections of Title 46 of the United States Code. Please see the list of Policy Letters and Work Instructions on the Office of Commercial Vessel Compliance (CG-CVC) [website](#). See MSIB 01-23 for further information on reporting sexual misconduct on U.S. vessels.

For further information on these policy documents, please email the Coast Guard's Office of Commercial Vessel Compliance (CG-CVC) at flagstatecontrol@uscg.mil.

Frequently Asked Questions

DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a regulation. It is not intended to, nor does it impose legally binding requirements on any party. It represents the Coast Guard's current thinking on this topic and may assist industry, mariners, and the public, as well as other federal and state regulators, in applying statutory and regulatory requirements. You can use an alternative approach for complying with these requirements if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach (you are not required to do so), you may contact the Coast Guard Office of Commercial Vessel Compliance at the email listed above.

This MSIB is updated with information on frequently asked questions relevant to the implementation of the policy letters and laws described above. The information below is organized by topic.

CVC Policy Letter 23-05, Change 1: GUIDANCE ON SURVEILLANCE REQUIREMENTS FOR CERTAIN COMMERCIAL VESSELS THAT DO NOT CARRY PASSENGERS

❖ **Question:** Our company currently intends to manage surveillance with shoreside personnel. Would doing so alleviate the need to train the ship's crew?

Response: Limiting training to only shoreside personnel **would not** meet the requirements in 46 U.S.C. § 4901. The statute states that “all individuals employed by the owner or employer for the purpose of responding to incidents of sexual assault or sexual harassment” must receive the required training. This training includes not only the retention of audio and visual records, but other evidence. The training also must include “applicable Federal, State, Tribal, and local laws and regulations regarding sexual assault and sexual harassment investigations and **reporting** requirements.”³ Limiting required training to only those shoreside staff is not consistent with statutory requirements as a vessel's master is considered a “responsible entity” who is required by 46 U.S.C. § 10104 to report incidents. In addition, various crewmembers may have to preserve other evidence.

³ 46 U.S.C. § 4901(g)(2)

- ❖ **Question:** Will the Coast Guard publish regulations on the technical requirements and standards for audio and visual surveillance equipment?

Response: The Coast Guard may develop regulations, as appropriate, to further clarify these requirements. Any regulatory projects would be listed on the [Unified Agenda](#).

- ❖ **Question:** Does the “next drydocking” term mean “out of water” or “next survey date?”

Response: Title 46 U.S.C. § 4901(c)(1) requires the installation of video and audio surveillance equipment aboard applicable vessels not later than December 23, 2024 or during the next scheduled drydock, whichever is later. The term “next scheduled drydock” is used without distinction of survey. A vessel enrolled in UWILD and completing its “in the water” verification does not meet the term “drydocking”. We advise that owners ensure compliance with the requirements at the next scheduled drydocking (i.e., vessel out of the water) of the vessel if that scheduled drydocking is beyond two years from the date of enactment. Otherwise, compliance is mandated on December 23, 2024, which is two years from enactment.

Put another way, if a vessel has a scheduled drydock between December 23, 2022, and December 23, 2024, the vessel must comply by December 23, 2024. If no scheduled drydock occurred during this time, then the vessel must comply by the next drydock date after December 23, 2024.

- ❖ **Question:** Can the required video cameras be motion activated?

Response: The statute does not specify details about motion activated video cameras. The Coast Guard advises that video and audio surveillance be continuous in operation. However, as stated in [CVC Policy Letter 23-05, Change 1](#), for retention purposes, technology may be used to limit data storage to only recordings that capture human activity, whether through sound, movement, or both.

- ❖ **Question:** Per 46 U.S.C. § 4901(f), all records of audio and visual surveillance must be retained for not less than one year after the footage is obtained. The law also states that any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than five years from the date of the alleged incident. What do we do if an allegation is reported more than one year after the alleged incident date?

Response: In accordance with 46 U.S.C. § 4901(f), any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than five years. It is conceivable that a responsible entity may not become aware of an incident until after the one-year retention requirement. As such, the audio and visual records may have been removed.⁴ This question highlights the importance of policy, procedures, and training related to reporting sexual misconduct and preserving recordings.

- ❖ **Question:** Does CG-CVC Policy Letter 23-05, Change 1, apply to a non-vessel floating Outer Continental Shelf (OCS) facility (FOF)?

⁴ 46 U.S.C. § 4901(f).

Response: No. If the FOF has been issued a non-vessel determination by the OCMI, it has been determined not to be a vessel and does not apply.

- ❖ **Question:** Does the requirement to install surveillance systems also apply to foreign flagged vessels calling on the United States?

Response: Audio and video surveillance equipment requirements contained in 46 U.S.C. § 4901 apply to certain foreign vessels (with overnight accommodations for at least 10 individuals on board) that are directly engaged in OCS activities and operating on waters superjacent to the United States' OCS⁵ for no less than 72 hours.

- ❖ **Question:** Does the requirement to install surveillance systems also apply to foreign flagged vessels solely transiting the OCS?

Response: No. The vessels must be directly engaged in OCS activities as stated in the previous response.

- ❖ **Question:** Regarding 46 U.S.C. § 4901 foreign flagged vessel applicability, does this only apply if the mariners onboard are citizens of the United States?

Response: No. The citizenship of mariners onboard foreign flagged vessels is not listed under 46 U.S.C § 4901(b).

- ❖ **Question:** What is Subchapter M TPOs' role in confirming compliance with SASH surveillance system requirements?

Response: Although 46 CFR § 137.120(a) requires that owners and managing operators comply with applicable laws and regulations at all times, presently there is no requirement for TPOs to verify SASH surveillance system compliance during audits and surveys. For Subchapter M vessels certificated under TSMS Option and subject to the ISM Code, the RO will utilize CVC-WI-004(series) to verify compliance with SASH requirements.

- ❖ **Question:** What are the cyber security requirements for retained records of audio and video surveillance?

Response: We recommend for any cyber security concerns refer to [CVC-WI-027\(series\)](#) for Vessel Cyber Risk Management.

CVC-WI-004(3): Flag State Interpretations of the ISM Code

- ❖ **Question:** Page 10 of CVC-WI-004(3) lists “Statutory reporting and actions for incidents of harassment, sexual harassment, and sexual assault” as a risk that should be evaluated and included in a system of drills and exercises. What is the prescribed timeline for drills and exercises related to reporting sexual misconduct? Are they to be completed for each vessel or for the company?

⁵ As defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. § 1331(a))

Response: “Statutory reporting and actions for incidents of harassment, sexual harassment, and sexual assault” is one (1) of 22 risks identified in CVC’s Work Instruction, titled “Flag State Interpretations of the ISM Code.” The company should establish a program of drills and exercises, as appropriate for each risk identified. The Coast Guard has not provided for mandated intervals beyond existing requirements in various regulatory subchapters and international conventions

❖ **Question:** Are these requirements applicable to vessels that voluntarily comply with the ISM Code and hold a Statement of Voluntary Compliance (SOVC)?

Response: Yes, as described in [CVC-WI-004 – Flag State Interpretations of the ISM Code](#), the issuance, maintenance, and revocation of the SOVC is administered in a manner identical to the required ISM Code certificates.

❖ **Question:** Are Towing Safety Management System (TSMS) vessels exempt?

Response: TSMS vessels are not expressly exempt from 46 U.S.C. § 3203 and CVC-WI-004 (series). If a vessel meets the applicability criteria, it must comply with the requirements.

❖ **Question:** What is Subchapter M Third Party Organizations’ (TPOs’) role in SASH?

Response: Although 46 CFR § 137.120(a) requires that owners and managing operators comply with all other applicable laws and regulations, there is no requirement for TPOs to verify SASH prevention and response compliance during audits and surveys. For Subchapter M vessels certificated under TSMS Option and subject to the ISM Code, the RO will utilize CVC-WI-004(series) to verify compliance with SASH prevention and response requirements.

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