



- ▶ Choosing a Subchapter M Compliance option that is best for your company



## It's about the choices

One thing's for certain within the 46 CFR Subchapter M Final rule, towing vessel operators have several options for achieving compliance with the regulation.

It allows for choices with respect to how you'll obtain a COI for your vessels and how extensively you may involve third-party organizations as part of your compliance package. What's more, you don't have to apply one compliance approach fleet-wide.

You may decide which options best benefit your operation on a vessel-by-vessel basis. A high-level overview of the primary options may be illustrated as follows on the next page. Note that the two primary options are "USCG Annual Inspection" (aka Coast Guard Option) and "Audited Program" (aka Towing Safety Management System/TSMS Option).

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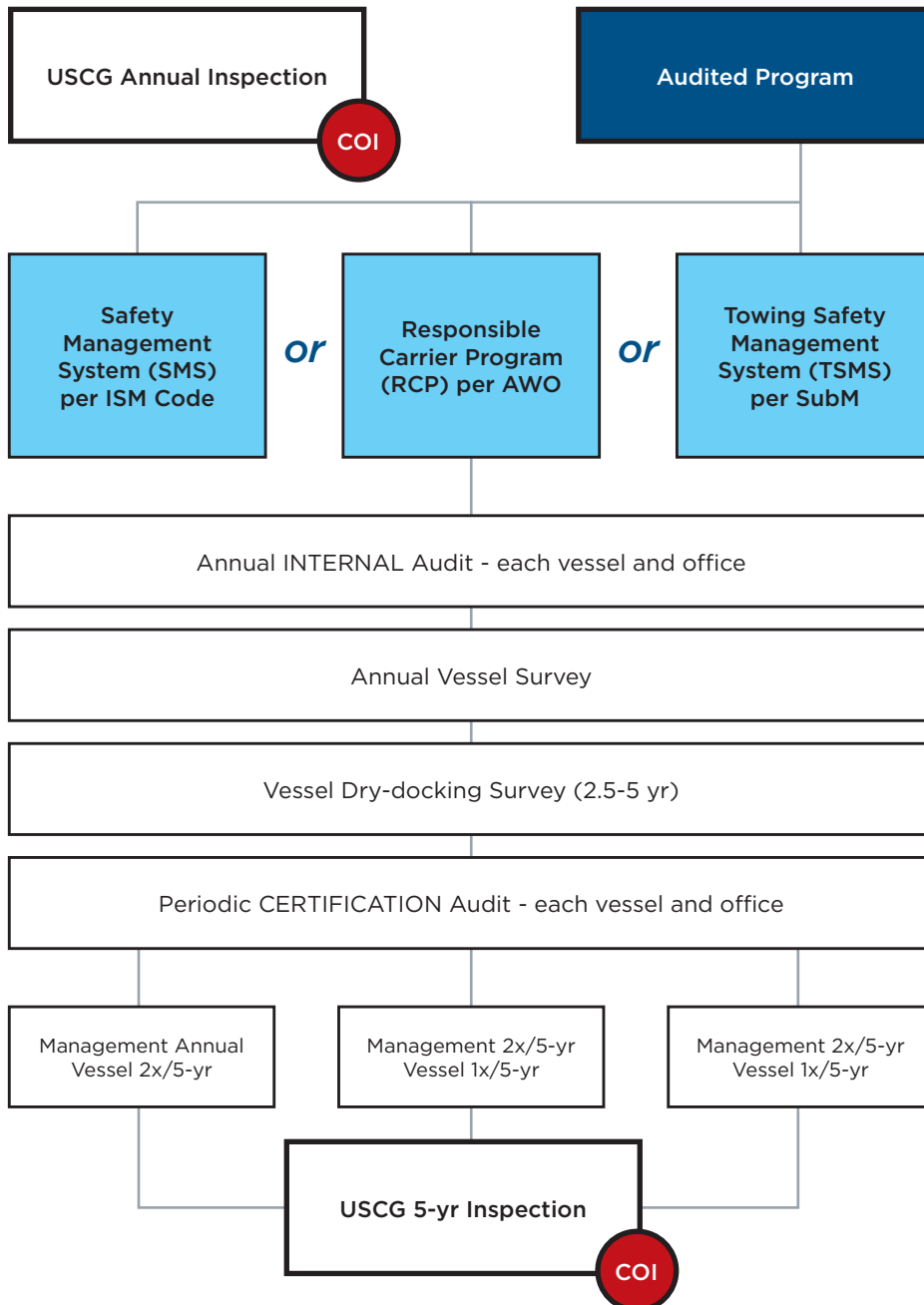
Unlike other Coast Guard regulations, Subchapter M is structured in a way that affords operators the discretion to choose options that align with their own interests in order to achieve compliance.

~ Safety Management Systems, LLC



## Subchapter M (SubM) Compliance Options AT-A-GLANCE

 = Certificate of Inspection required for every vessel.



**Note:**

- Regardless of option, all programs based on supporting safety and pollution prevention. Each will be acceptable to USCG.

- May be operator's personnel or contractor.

- May be satisfied by classing vessel or obtaining Loadline Certificate. Survey may be performed by USCG approved Third-Party Organization (TPO) or operator's personnel.

- Auditor to be from TPO.



## Coast Guard Option

Under the Coast Guard option, the expectations are fairly straight-forward. You would engage with the Coast Guard to perform inspections on an annual basis in order to verify your ongoing compliance with Subchapter M.

The application and administration process is nothing new for inspected vessels, but there are some concerns that you should be aware of prior to choosing this option.

- You are not required to implement a Towing Safety Management System (TSMS), however, you are expected to demonstrate your vessel's conformance to operations within parameters set by regulation.
- Operations include navigation, towing and safe working practices that involve specific requirements and obligations for your vessel personnel. If you are not managing operations via a TSMS that would presumably include procedures and instructions, you will need to provide a means to ensure that your crewmembers are capable of demonstrating their consistent compliance with these requirements.
- You are still required to develop and implement a health and safety plan that covers a range of practices as specified by the regulation. Coast Guard inspectors will expect to see that your crewmembers are fully knowledgeable of the plan and may provide evidence of its use onboard.
- Coast Guard marine inspector staffing and related resources are limited to the extent that your vessel's operation may be compromised due to limited availability of inspectors. Under the regulation, an expired COI will result in tying up your vessel.
- As you are relying primarily on the Coast Guard to monitor and verify compliance on a frequent basis, you may not successfully anticipate deficiencies that may arise as part of the inspection program. Consistency with interpreting the regulations as they apply to your vessels amongst Coast Guard marine inspectors may vary and lead to unplanned expense and compromises to the continuity of your operations.

Inspections are coordinated by Coast Guard in order to ensure that over the 5-year lifespan of the COI, more rigorous inspections are supported for the initial, mid-term and renewal examinations. Each inspection includes an examination of vessel systems and structural components as well as a review of records and crewmember competence in performing drills and deploying lifesaving and firefighting equipment.



## TSMS Option

Under the TSMS Option, you have some substantial benefits and additional choices worth noting.

- If you have an existing safety management system, you may continue to use it in lieu of a TSMS as specified under Part 138. Existing systems will be acceptable to Coast Guard provided that they are based on the International Safety Management (ISM) Code or other appropriate standards such as the Responsible Carrier Program (RCP).
- Frequency of Coast Guard inspections is reduced from annual to once each five years.
- Annual and periodic dry-docking surveys may be performed by TPO or owner/operator personnel provided that a structured survey program is in-place.
- Selection of TPO that will perform external/certification audits of the safety management system is determined by owner/operator.
- Classification of vessel or obtaining a Load Line Certificate from a classification society will establish compliance with survey and structural standards.
- You provide the means for your crewmembers and shore-staff to comply with the regulations in a manner that is understandable to them and that may be consistently demonstrated during audits and inspections.

Further, the TSMS Option is being promoted actively by the Coast Guard for two main reasons:

- Challenges to Coast Guard marine inspector staffing levels.
- Recognition of the benefits of effective safety management within other maritime industry sectors.

While arrangements to support compliance vary under the two primary options in some substantial ways, they are more common in others. A general accounting of the considerations for both options may be summarized as follows.



Considerations	CG Option	TSMS Option
Towing Safety Management System and audit by third-party organization	X	✓
Coast Guard inspections	✓ annual	✓ 5-year
Annual and periodic dry-docking surveys	✓	✓
Health and Safety Plan within approx. 3 years of effective date of final rule	✓	✓
COI obtained for all vessels within 6 years of effective date of final rule	✓	✓
Compliance with 46 CFR Part 140 - Operations	✓	✓
Compliance with 46 CFR Parts 141-144 (equipment, systems and construction)	✓	✓

Choosing a compliance option should be based on a review of the facts and consideration of the objectives for your organization. The good news is, you may change your approach based on your experience as choosing one option does not preclude you from choosing the alternate in the future.



## About SMS

The leading U.S. professional maritime services group is bringing its expertise to the inland and intracoastal marine transportation industry. We understand vessel operations from onboard and ashore perspectives. Management systems have been our primary business since 1996 – we facilitate all phases of development and implementation. SMS HULL delivers a customized TSMS that is configured within Helm CONNECT to align with each client’s unique organizational and operational practices. SMS HULL includes a baseline package of onsite consulting resources to assess, configure and develop a TSMS that may also incorporate AWO Responsible Carrier Program requirements. SMS HULL additionally includes a client-specific TSMS implementation plan and options for enhanced consulting packages.

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