

**138-001**

**Why require the submission of documentation of the initial audit and one full audit cycle when the TSMS certificate verifies TSMS compliance?**

The requirement to submit reports for an initial audit and one full audit cycle of 3-years is for those individuals wishing to show full compliance with either ISM or an alternate Safety Management System scheme as permitted under 46 CFR [§138.225\(b\)](#). A company using an SMS scheme accepted under §138.225(a) will not need to get a TSMS certificate. In the case of ISM, the Document of Compliance and Safety Management Certificate would serve in place of a TSMS Certificate. A company using an alternate TSMS approved under §138.225(b) will need to obtain a TSMS Certificate from a TPO. For more information see [CG-CVC Policy Letter 17-02](#), Use of Existing SMS to Obtain an Initial COI Under subchapter-M.

**Received June 2016**

**Answered 14 November 2016, updated 07 October 2020**

**138-002**

**What must a TPO do before issuing a TSMS Certificate?**

Prior to issuance of the company's TSMS Certificate, a TPO must review the TSMS to verify compliance with the requirements of 46 CFR [§138.220](#) and conduct a Management Audit as described in 46 CFR [§138.315\(a\)](#). The TPO is not required to visit individual vessels before issuing the TSMS certificate.

**Received 19 August 2016**

**Answered 19 October 2016, updated 07 October 2020**

**138-003**

**The requirement for internal auditors to have no responsibility for the development or implementation of the TSMS is unclear, unnecessarily restrictive, and differs from the ISM approach. Does it apply to both internal management and vessel auditors?**

The intent of 46 CFR [§138.310\(d\)\(3\)](#), which states that the internal auditor may not be a person involved in the implementation of the TSMS, is to meet the desired objectivity of a third-party organization. The Coast Guard amended §138.310(d)(4) in the Final Rule to include qualifying language from ISM code 12.4, stating that the auditor must be independent of the procedures being audited, unless this is impracticable due to the size and the nature of the organization. Thus, very small organizations may potentially use someone from within their organization to perform the audit.

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**Answered 22 November 2016, updated 07 October 2020**

**138-004 & 006**

**(1) Must the TSMS address the means to be used to submit external audit results electronically if they are being submitted by the TPO conducting the external audit?**

**(2) Section (c) seems to have been written for a situation whereby an “operating company” would be submitting electronic records of their external audit reports.**

**Does the USCG want TPOs to submit their client’s external audit reports? If so what are the requirements to do this electronically? How will this be communicated to TPOs?**

(1) Yes. For those seeking to submit external audit records or results to the Coast Guard electronically, the TSMS must address the means to be used to make electronic submissions. As discussed in the preamble to the regulation, column 1 of page [40035](#), the Coast Guard will accept electronically transmitted external audit records so long as the means used allows the Coast Guard to reliably verify the person making the submission and the authenticity of the external audit records.

(2) Assuming “Section (c)” is in reference to [§138.505\(c\)](#), it does not specify an “operating company” for the submittal of electronic records of external audit reports. Yes, §138.505(a) and (b) specify that the TPO conducting the external audit should submit final reports from the external management and vessel audits respectively to the Coast Guard within 30 days of an audit. There is no requirement to submit audit reports electronically; a company’s TSMS should address the method for submitting audit results.

**Received June 2016**

**Answered 11 April 2017, updated 07 October 2020**

## 138-005

### What are the key differences between the “audit” and “survey” requirements for towing vessels covered by Subchapter M of Chapter I of 46 CFR?

There are significant requirements for both audits and surveys throughout Subchapter M. Most survey requirements are contained in [Part 137](#) (Vessel Compliance) and most audit requirements are found in Part 138 (TSMS), with specific definitions for audit and survey provided in Part 136 ([§136.110](#)). All concerned parties should review Subchapter M closely to consider the details for “internal” versus “external” audits and surveys.

Some of the highlights of the audit programs are as follows:

1. Management and vessel audits requirements in the rule are specifically intended to verify the effectiveness of the TSMS, for those companies utilizing the TSMS option.
2. Internal management audits must be conducted annually ([§138.310](#)).
3. External audits must be conducted prior to the issuance and renewal of the TSMS certificate.
4. A mid-period external audit is required for management ([§138.315](#)).
5. An external audit for all vessels covered by the TSMS certificate must be completed during the validity of the certificate. ([§138.315](#))
6. An internal audit may be conducted by an entity outside the organization being audited. However, only a USCG-approved third party organization (TPO) can conduct an external audit.
7. External management and vessel audit results must be submitted to the USCG ([§138.505](#)).

Surveys are an examination of the material condition of the vessel. Key highlights of survey program requirements in Subchapter M include the following:

1. The scope of the vessel survey ([§137.220](#)) is significant, and the same regardless of which survey program (internal or external) is implemented.
2. Internal or external surveys of vessels are required annually.
3. A satisfactory survey report is considered objective evidence that the material condition of the vessel complies with Subchapter M. This evidence is required prior to the issuance or renewal of the Certificate of Inspection (COI)-([§§ 136.210](#) and [137.202](#)).
4. For the internal survey program, the TPO responsible for auditing the TSMS must be notified prior to any drydock/internal structural survey activities and may elect to attend the survey ([§137.315](#)).
5. For the external survey program, a TPO surveyor must attend the drydock.

For more information see the TPO Guide, [CG-CVC Policy Letter 17-04](#) and [CVC-WI-013](#), TV COI Inspections Under TSMS Option.

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**138-007**

**Will the Coast Guard accept the AWO's Responsible Carrier Program (RCP) as a TSMS? Are there any other plans that the Coast Guard is considering as equivalent to a TSMS in addition to the AWO's RCP program.**

Yes, the AWO's RCP is an accepted existing safety management system and may be considered as meeting the TSMS requirements per 46 CFR [§138.225\(b\)](#). To date, no other entities have submitted an existing safety management system for our consideration. See [CG-CVC Policy Letter 17-02, Change 2, Use Of Existing Safety Management Systems To Obtain An Initial Certificate Of Inspection Under 46 CFR Subchapter M](#).

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**Answered 31 August 2016, updated 07 October 2020**

**138-008**

**Why must a copy of the TSMS certificate be maintained on each towing vessel that is covered by the TSMS certificate?**

Towing vessels that are inspected under the TSMS option must carry onboard a copy of the TSMS certificate as objective evidence that the vessel is enrolled under the TSMS option in accordance with 46 CFR [§138.305](#).

**Received June 2016**

**Answered 28 December 2016, updated 07 October 2020**

**138-010**

**Why must vessels be selected for external audits, randomly, if all vessels covered by the TSMS certificate must be audited?**

46 CFR [§138.315\(b\)\(3\)](#) requires each vessel covered by a TSMS certificate to undergo an external audit at least once during the five year validity period of the certificate. The vessels must be selected randomly and distributed as evenly as possible. In the Preamble to the regulation, middle column of page [40034](#), we state that the purpose for requiring audits to be conducted randomly is to provide a risk based approach and maximum flexibility for ensuring continual compliance with this subchapter.

The flexibility provided in 46 CFR [§138.315\(b\)\(3\)](#) allows operators and TPOs the ability to schedule random audits through risk based targeting, or through other effective means, to verify that their individual management systems are functioning properly.

Random audits will be required following the 4 year COI phase-in period. See [CG-CVC Policy Letter 18-01](#), Guidance on the Audit Scheme for Vessels Using a TSMS Option.

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**Answered 17 January 2017, updated 07 October 2020**

**138-011**

**The Coast Guard should clarify that auditors are not required to witness training, including drills, unless it is necessary to verify TSMS effectiveness.**

Auditors are required to witness training and drills. This is discussed in the Preamble to the regulation, first column of page [40027](#), the auditor will focus on the operational performance of the crew to assess the competency in the performance of the assigned roles. For such an audit, the crew must be present and the vessel must be ready to demonstrate the performance upon request.

Both internal and external audits require that the auditor must be provided access to examine any requested documentation, question personnel, examine vessel equipment, witness system testing, and observe personnel training, including drills, as necessary to verify TSMS effectiveness, in accordance with §§ [138.405\(d\)](#) and [138.410\(c\)](#).

**Received June 2016**

**Answered 17 January 2017, updated 07 October 2020**

**138-012**

**The Coast Guard should clarify that external audits should not be delayed so that a Coast Guard representative can accompany the auditor.**

Per [§138.500\(b\)](#), the Coast Guard may require that a Coast Guard representative accompany the auditor. This would be on a case-by-case basis. We believe the 72-hour notification is a reasonable timeframe, and should not be considered delaying of an external audit if it is a planned occurrence.

**Received June 2016**

**Answered 11 April 2017, updated 07 October 2020**

**138-013**

**33 CFR §96.240 should be corrected, it is functionally inaccurate. The USCG should not further the requirement that audits (internal/external) and management review are inherently connected based on the ISM Code, the USCG should correct this verbiage in both CFR cites; the ISM Code clearly separates the two.**

**“1.4 Functional requirements for a Safety Management System;  
Every Company should develop, implement and maintain a Safety Management System which includes the following functional requirements:**

**.6 procedures for internal audits and management reviews.”**

**Most ISM Code compliant SMSs use the ISO 9001 (2008:5.6/2015:9.3) requirements for Management Review. These are much more extensive than simply reviewing audit reports.**

The Coast Guard does not agree that the requirements of [33 CFR §96.240\(g\)](#) or 46 CFR [§138.215\(h\)](#) requiring procedures and processes for management review of audit reports and correction of nonconformities are functionally inaccurate. Management’s involvement in audits extends beyond review, as discussed in [§138.220\(a\)\(2\)\(i\)](#), Procedures for conducting internal and external audits: “The TSMS must contain procedures for audits in accordance with §§ [138.310](#) and [138.315](#).”

As stated in the Preamble to the regulation, middle column of page [40031](#), “We believe the purpose, objectives, functional requirements, and elements presented in these four sections in [part 138, subpart B](#), succinctly establish reasons for, and the requirements and goals of, a safety management system. The Coast Guard incorporates these core elements to provide consistency with the ISM Code and to identify the elements that must be addressed when developing a TSMS.”

**Received June 2016**

**Answered 21 June 2017, updated 07 October 2020**

**138-014****Does an ISM vessel require a TSMS certificate? What is required of an ISM vessel under subchapter M?**

No. In accordance with 46 CFR [§138.225\(a\)](#), vessels which have implemented a safety management system (SMS) which is fully compliant with the ISM Code requirements of 33 CFR 96 will be deemed in compliance with the TSMS related requirements. In this case, in lieu of being issued a TSMS certificate by a TPO ([§138.305](#)), owners and managing operators may use their ISM Code Certificates, DOC and SMC, as objective evidence they comply with Subchapter M TSMS requirements. However, even vessels using the ISM Code as their SMS framework may need to update their SMS to be fully compliant with the requirements of Subchapter M to account for new requirements such as hull examinations and surveys.

This topic is also discussed in [CG-CVC Policy Letter 17-02, Use Of Existing Safety Management Systems To Obtain An Initial Certificate Of Inspection Under 46 CFR Subchapter M](#).

**Received 26 July 2016**

**Answered 21 June 2017, updated 07 October 2020**

**138-015****If AWO RCP is accepted as equivalent to ISM Code, what additional elements would need to be added to RCP to make it meet Subchapter M requirements for a TSMS?**

AWO's Responsible Carrier Program (RCP) has been accepted by the Coast Guard as an existing safety management system framework in accordance with 46 CFR [§138.225\(b\)](#). AWO is working to provide additional guidance to its members on how to achieve full compliance with the requirements of Subchapter M using RCP. Companies using RCP will still need to work with their TPO to ensure that the requirements for issuance of a TSMS certificate are met.

For additional information on this topic see [CG-CVC Policy Letter 17-02, Use Of Existing Safety Management Systems To Obtain An Initial Certificate Of Inspection Under 46 CFR Subchapter M](#).

**Received 28 July 2016**

**Answered 21 June 2017, updated 07 October 2020**

**138-018**

**Will the Coast Guard have a policy regarding whether a TSMS certificate can be issued if a vessel has non-conformities or do they have to wait until all are cleared?**

Since [46 CFR 138 Subparts B](#) and [C](#) address the requirements for issuance of a TSMS certificate; no further policy is required.

As per 46 CFR [§138.305](#), the TSMS certificate is issued to the owner or managing operator by a TPO when the organization is deemed to be in compliance with the TSMS requirements of [§138.215](#), which include procedures for reporting and correcting non-conformities. A COI is issued to a vessel by the Coast Guard. The application, scheduling and requirements for initial certification are discussed in [§136.210](#). Owners or managing operators must ensure that their towing vessels are issued a valid COI in accordance with the phase in-period discussed in [§136.202](#). For more information on COI phase-in, see [CG-CVC Policy Letter 17-03](#), COI Phase-in Period for Existing TVs Using the TSMS Option, and [CG-CVC Policy Letter 20-01](#), Sub-M Enforcement Posture for COI Phase-in Requirements.

The preamble to the regulation, middle column of page [40023](#), discusses when non-conformities can impact the validity of a TSMS certificate or COI, and states: “Non-conformities or major nonconformities found during surveys or audits do not automatically invalidate the TSMS or the COI. However, deficiencies or non-conformities that are egregious could result in the OCMI removing the COI from the vessel. Ultimately, the status of the COI is determined by the OCMI. Based on the extent of the deficiencies or nonconformities found during an inspection, survey, or audit, the OCMI has various opportunities to work with the company to bring the vessel into compliance without suspending or revoking the TSMS certificate as specified in §138.305.”

For additional discussion on obtaining a TSMS certificate and an initial COI, see [CG-CVC Policy Letter 17-02, Use Of Existing Safety Management Systems To Obtain An Initial Certificate Of Inspection Under 46 CFR Subchapter M](#).

**Received 22 August 2016**

**Answered 21 June 2017, updated 07 October 2020**

**138-019**

**Who does the TSMS certificate get issued to if the owner is not the operator?**

Response: In accordance with 46 CFR [§138.220\(a\)\(1\)](#), the TSMS must define the responsibilities and authorities of the management organization. This should include who is responsible for maintaining TSMS certificates on file at the owner or managing operator’s shore side office and making them available for review at the request of the Coast Guard, as per 46 CFR [§138.305](#). This is also who should complete and submit the application for COI, [CG-3752](#), “Application for Inspection of U.S. Vessel.”

**Received 22 August 2016**

**Answered 18 May 2017, updated 07 October 2020**



**138-020**

**Will deficiencies identified as part of the TSMS show up on PSIX?**

No. Only deficiencies identified during a CG inspection will show up on PSIX. This includes inspections for certification, which will occur once every five years, all marine casualties, and may also include *major non-conformities* or an *unsafe condition* as per the definitions provided in [§136.110](#).

Deficiencies identified by a vessel's TPO will be documented by the TPO in accordance with the vessel's TSMS. Deficiencies identified when both the TPO and Coast Guard are present will be documented by the TPO in accordance with the vessel's TSMS, with the exception of an inspection for certification.

TPO procedures and company TSMS must address how to document and resolve non-conformities identified during audits and surveys. As long as Companies take corrective actions as required by their TSMS to rectify the non-conformity, they will not be entered into the MISLE system. See [CG-CVC Policy Letter 17-10, Deficiency Recording And Reporting For Vessels Using A Towing Safety Management System \(TSMS\) Option](#).

**Received 28 August 2016**

**Answered 28 December 2016, updated: 07 October 2020**

### 138-021

**(1) If the Vessel Audits performed by TPOs need to be on randomly selected vessels, does that mean that 100% of the company's vessels need to be in compliance (fully qualify for a COI) by July of 2019?**

**(2) Do 100% of the vessels need to be in compliance (fully qualify for COI) by July of 2018 on the date the regulations become effective?**

**(3) Do 100% of the vessels need to be fully compliant in order for the company to get its TSMS certificate from the TPO regardless of the date of regulatory compliance requirements due to the random selection clause?**

(1) By July of 2019, 25% of a towing vessel fleet is required to have a COI. Random audits will not be required until after the phase-in period (July 20, 2022). Refer to [CG-CVC Policy Letter 18-01, Guidance On The Audit Scheme For Vessels Using A Towing Safety Management System \(TSMS\) Option](#).

(2) An existing towing vessel subject to Subchapter M will remain subject to Coast Guard regulations applicable to the vessel on July 19, 2016 (subchapter C) until either July 20, 2018 or the date the vessel obtains a COI, whichever date is earlier. On and after that date, all existing towing vessels subject to subchapter M must be compliant, regardless of the status of the vessels initial COI.

(3) No. Vessel audits and surveys are not required prior to issuance of the initial TSMS certificate. The owner or managing operator will be issued a TSMS certificate once an external management audit has been conducted by an auditor from a TPO, and the audit results have determined that his or her organization is in compliance with the TSMS requirements (§§ [138.305\(a\)](#) & [138.315\(a\)](#)).

For additional information on what a TSMS vessel must do prior to receiving its initial COI, see FAQ 137-021.

**Received 7 October 2016**

**Answered 11 April 2017, updated 07 October 2020**

### 138-022

**If the Vessel TPO audits must take place on a set schedule after the initial COI issuance, what exactly is the random selection accomplishing?**

The flexibility provided in 46 CFR [§138.315\(b\)\(3\)](#) allows operators and TPOs the ability to schedule random audits through risk based targeting, or through other effective means, to verify that their individual management systems are functioning properly. §138.315(b)(3) requires each vessel covered by a TSMS certificate to undergo an external audit at least once during the five year validity period of the certificate. The vessels must be selected randomly and distributed as evenly as possible.

In the Preamble to the regulation, middle column of page [40034](#), we state that the purpose for requiring audits to be conducted randomly is to provide a risk based approach and maximum flexibility for ensuring continual compliance with this subchapter.

**Received 7 October 2016**

**Answered 28 February 2017, updated 07 October 2020**

**138-024**

**Will the Coast Guard document deficiencies found while onboard inspected towing vessels utilizing a Third Party Organization and Towing Safety Management System, and if so, how?**

Documentation of deficiencies by the Coast Guard will depend on the type of inspection and presence of the vessel's TPO.

- Deficiencies identified by a vessel's TPO will be documented by the TPO in accordance with the vessel's TSMS.
- Deficiencies identified when both the TPO and Coast Guard are present will be documented by the TPO in accordance with the vessel's TSMS, with the exception of an inspection for certification.
- Deficiencies identified during an inspection for certification, which will occur once every five years, will be documented by the Coast Guard.
- The Coast Guard will document all marine casualties and may document *major non-conformities* or an *unsafe condition* as per the definitions provided in [§136.110](#).

Coast Guard inspectors will typically inspect TSMS vessels only once in five years, unless involved in a marine casualty. However, when deficiencies are found during those inspections, it may be indicative of a failed or failing system. To ensure effective oversight of vessels that utilize a TSMS and effective oversight of their Third Party Organizations (TPO), deficiencies issued to towing vessels during Coast Guard inspections must be documented and tracked. The CG-835V, Notice of Merchant Marine Inspection Requirements, is the method to document deficiencies identified during Coast Guard inspections onboard U.S. vessels. Marine Safety Manual Volume II, Section A, Chapter 3, requires all outstanding deficiencies issued on a CG-835V to be entered into MISLE.

Refer to [CG-CVC Policy Letter 17-10, Deficiency Recording and Reporting for Vessels Using a TSMS Option](#).

**Received November 2016**

**Answered 2 December 2016, updated 07 October 2020**

**138-025**

**If our company is already fully compliant with the ISM Code, must I still notify the local OCMI at least 72 hours prior to an external audit as per §138.500? If so do we need to commence doing this immediately or upon our tugs being issued a COI?**

A company operating subchapter M vessels must notify the cognizant OCMI 72 hours prior to conducting an external audit as per 46 CFR [§138.500\(a\)](#).

In addition, for an ISM audit, authorized organizations and Classification Societies are already required to notify Commandant (CG-CVC-4) at [FlagStateControl@uscg.mil](mailto:FlagStateControl@uscg.mil) prior to the performance of any ISM Code-related external audit for the issuance or verification of a company's DOC or vessel's SMC. This includes audits for an initial, renewal, intermediate, annual, or additional DOC or SMC. Notice of DOC audits should be made at least 14 days in advance. Notice of SMC audits should be made at least 7 days in advance. This information can be found in [CVC-WI 004](#), U.S. Flag Interpretations on the ISM Code; in the [Marine Safety Manual Volume II](#) Section E, Chapter 3, page E3-25; 33 CFR [§96.330\(e\)](#); and 46 CFR [§8.130\(a\)\(22\)](#).

**Received 14 November 2016**

**Answered 20 March 2017, updated 07 October 2020**

**138-026**

**Do ISM based SMS accepted as existing systems under §138.225(a) need to make amendments to incorporate changes brought about by Subchapter M, or does the statement "will be deemed to be in compliance with the TSMS-related requirements of this subchapter" alleviate them from this? For example, the existing ISM SMS may not discuss an internal survey program that is put in place as required by §137.210.**

This question is addressed by [CG-CVC Policy Letter 17-02](#), Use of Existing Safety Management Systems to Obtain an Initial Certificate of Inspection under 46 CFR Subchapter M.

**Received 19 January 2017**

**Answered 17 September 2019, updated 07 October 2020**

**138-027**

**Do existing systems accepted under §138.225(b) and required to make modifications need to be modified and implemented prior to issuance of a TSMS Certificate to companies using that system? For example, RCP has been accepted but with requirements to modify the existing framework. Do RCP companies have to wait for AWO to amend the RCP in accordance with the acceptance letter, make changes to their proprietary SMS, implement the changes, and complete an external management audit prior to receiving a TSMS Certificate?**

RCP companies should work with their TPO to ensure that their TSMS is based on the current and approved version of the RCP. While an external management audit is required prior to issuance of a TSMS certificate in accordance with [§138.315\(a\)](#), the process and options for completing the initial external management audit and obtaining a Certificate of Inspection are discussed in detail in [CG-CVC Policy Letter 17-02, Use of Existing Safety Management Systems to Obtain an Initial Certificate of Inspection under 46 CFR Subchapter M.](#)

**Received 19 January 2017**

**Answered 13 September 2017, updated 07 October 2020**

**138-028**

**Can there be further clarification of internal auditor training requirements? §138.310 states that internal auditors must have ANSI/ISO/ASQ training in order to perform annual audits for a TSMS certificate. Would this be, for example, an internal group that audits the management system and not the company's vessels? Is §138.405 meant, for example, for internal auditors performing a vessel audit? It does not state any specific training requirements. Therefore, would a safety department be able to perform annual vessel audits, so long as the depth and breadth shows effectiveness and conformance to the company's TSMS? The way I currently interpret it, is that vessel internal auditors must not have any specific training prescribed by the USCG or Sub M? However, the Company TSMS would be able to spell out what qualifications/training would be sufficient for proper conduct of an internal audit?**

Yes. Internal audits may be conducted by company employees or by individuals, or groups, contracted by the company. To ensure that each individual performing an internal audit is familiar with basic auditing techniques all internal auditors, employed or contracted, are required to comply with the training requirements specified in [§138.310](#).

We disagree with the interpretation that vessel internal auditors do not have to complete specific auditing training and we interpret §138.310 as being applicable to both company and vessel internal auditors.

**Received 10 February 2016**

**Answered 27 March 2017, updated 07 October 2020**

**138-029**

**46 CFR Subchapter M is not specific about which TPO is to be used in most cases. Our interpretation of the regulation is that as a TPO we are responsible to verify the compliance of the company that we issue the TSMS Certificate for and the vessels listed (46 CFR §138.305(c)) that are operating “under” that TSMS Certificate (46 CFR §138.510(a)). We further interpret this responsibility for TSMS compliance to include verification of the survey and auditing programs of the TSMS Certificate holder and for this to be financially viable for the operator it cannot include TPO oversight of another TPO, so our conclusion is that we provide the TPO services for all entities covered by a TSMS Certificate we issue. Is this accurate and will the forthcoming TPO Guide (Enclosure 4 to Sub M NVIC) clarify this?**

In accordance with 46 CFR [§139.115\(a\)](#), Third Party Organizations (TPOs) may be approved to conduct audits of the Towing Safety Management System (TSMS) and vessels to which the TSMS applies, issue TSMS certificates, conduct surveys of towing vessels, and issue survey reports. Nothing in the regulations prohibit separate TPOs from issuing TSMS certificates and conducting surveys.

Recognized Classification Societies and Authorized Classification Societies under 46 CFR [§8.230](#) and [46 CFR part 8](#), may have reciprocal and co-operative agreements that explain their scope of cooperation in a mutual assistance by exclusive surveyors for the performance of surveys or audits on behalf of other Societies.

These issues can be further clarified during contractual agreements between the Third Party Organization and the towing vessel owner or managing operator.

The Coast Guard believes that adequate information exists in Subchapter M not to warrant further discussion in the TPO Guide.

**Received 14 February 2017**

**Answered 11 April 2017, updated 07 October 2020**

**138-030**

**§138-003 stipulates that smaller organizations may potentially use personnel associated with the procedures as internal auditors. What criteria are used to determine whether or not this would be allowed? This would reduce costs to smaller entities.**

Small organizations may use someone from within their organization to conduct internal audits in accordance with 46 CFR [§138.310\(d\)\(4\)](#). The company should clearly articulate and document why they are incapable of meeting the requirement for an independent auditor and how audits should be completed in conjunction with their TSMS and their Third Party Organization. However, in no case should an auditor audit their own work, and if this cannot be accomplished, the company must make alternate arrangements as necessary to achieve compliance. The purpose of Subchapter M, specifically in regards to using a TSMS, is not designed to reduce cost to a company, but to ensure continual improvement of the company’s Towing Safety Management System, thereby meeting regulatory compliance.

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**Answered 4 May 2017, updated 07 October 2020**