

Coast Guard, DHS

§ 159.005-5

46 CFR part or section where identified or described	Current OMB control No.
§ 159.007-11.13	1625-0035
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§ 164.019-15	1625-0035
§ 164.023-15	1625-0035

[49 FR 38121, Sept. 27, 1984, as amended by CGD 86-057, 51 FR 35220, Oct. 2, 1986; CGD 84-068, 58 FR 29492, May 20, 1993; USCG-2004-18884, 69 FR 58350, Sept. 30, 2004]

Subpart 159.005—Approval Procedures

§ 159.005-1 Purpose.

(a) This subpart contains the procedures by which the Coast Guard approves equipment and materials under other subparts of this subchapter that require—

- (1) Preapproval inspections and tests by an independent laboratory;
- (2) Preapproval inspections and tests by the manufacturer; or
- (3) No preapproval inspections or tests.

(b) [Reserved]

§ 159.005-3 Application for preapproval review.

(a) Each manufacturer of equipment or material who seeks Coast Guard approval under an applicable subpart must submit an application that meets §159.005-5 to the Commandant unless—

- (1) The subpart contains a list of independent laboratories;
- (2) The subpart does not require Coast Guard review prior to testing; and
- (3) The manufacturer meets the requirements of paragraph (b) of this section.

(b) If the applicable subpart contains a list of independent laboratories and does not specifically require preapproval review by the Coast Guard, the manufacturer may have the tests performed by a listed laboratory and submit the report required by §159.005-11 to the Commandant.

§ 159.005-5 Preapproval review: Contents of application.

(a) Each application must contain the following:

(1) The name and address of the manufacturer and the factory where the finished equipment or material is produced.

(2) One or more of the following as required by the applicable subpart:

- (i) Two sets of general plans of the equipment or material.
- (ii) Two sets of specifications of the equipment or material.
- (iii) A sample of the equipment or material accompanied by a written description of its components.

(3) A statement signed by the manufacturer or the manufacturer's representative, that an official representative of the Coast Guard is allowed access to the place of manufacture and to the place of test to verify the information submitted in the application or to witness tests.

(4) If the material submitted under paragraph (a)(2) of this section contains confidential commercial information that could cause substantial competitive harm if released to the public, a statement to the effect that the material is considered privileged and confidential under exemption (b)(4) of the Freedom of Information Act (5 U.S.C. 552), and that it should not be released to anyone other than the original submitter.

(b) If the equipment or material is required by the subpart to be inspected and tested by an independent laboratory, the application must contain the following additional information:

- (1) The name and address of a laboratory that meets §159.010-3(a) and that is selected by the manufacturer to perform or supervise the inspections and tests.
- (2) If the laboratory has not been accepted previously for inspecting and testing the manufacturer's equipment

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or material under the applicable subpart, the completed application under §159.010-5(a).

[44 FR 73043, Dec. 17, 1979, as amended by CGD 85-205, 62 FR 25545, May 9, 1997]

§ 159.005-7 Preapproval review: Coast Guard action.

(a) If approval inspections and tests are required under the applicable subpart, the Commandant takes the following action:

(1) If the Commandant determines from the application that the equipment or material appears to meet the design requirements of an applicable subpart or appears to have equivalent performance characteristics, and that the laboratory meets §159.010-3(a), the Commandant informs the manufacturer that the required approval inspections and tests may be conducted.

(2) If the Commandant determines from the application for approval that the equipment or material does not appear to meet the design requirements of an applicable subpart or does not appear to have equivalent performance characteristics, or that the laboratory does not meet §159.010-3(a), the Commandant informs the manufacturer of the reason why the equipment or material is not acceptable for approval inspections and tests or why the laboratory is not accepted.

(b) If no approval inspections or tests are required under the applicable subpart, the Commandant—

(1) Takes action in accordance with §159.005-13; or

(2) Informs the manufacturer of additional information required before action under §159.005-13 can be taken.

(c) An item of equipment or material that does not meet all of the requirements of this subchapter for design or performance may be approved by the Commandant if it has equivalent performance characteristics. The item has equivalent performance characteristics if the application and any approval tests prescribed by the Commandant, in place of or in addition to the approval tests required by this subchapter, demonstrate to the satisfaction of the Commandant that the item is at least as effective as one that

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meets the requirements of this subchapter.

[44 FR 73043, Dec. 17, 1979, as amended by CGD 85-205, 62 FR 25545, May 9, 1997]

§ 159.005-9 Approval inspections and tests.

(a) Each manufacturer of equipment or material that is required to be subjected to approval inspections and tests must—

(1) If the applicable subpart requires the equipment or material to be inspected or tested, have the approval inspections or tests performed;

(2) If the applicable subpart requires the equipment or material to be inspected or tested by an independent laboratory, insure that a laboratory accepted by the Commandant performs or supervises the approval inspections or tests;

(3) Bear all costs of the approval inspections and tests;

(4) If requested, advise the Commandant of the time, date, and place of each approval inspection or test, or both, before the inspection or test is performed; and

(5) After completion of the approval inspections and tests, submit to the Commandant—

(i) A test report that meets §159.005-11;

(ii) At least two sets of specifications of the material as inspected or tested or at least two sets of plans of the equipment as inspected or tested that meet §159.005-12; and

(iii) A description of the quality control procedures that will be in effect during the production of the equipment or material.

(b) [Reserved]

§ 159.005-11 Approval inspection or test report: Contents.

(a) Each approval inspection or test report must contain the following:

(1) The name of the manufacturer.

(2) If the inspections or tests are performed or supervised by an independent laboratory, the name and address of the laboratory.

(3) The trade name, product designation (such as model numbers), and a brief description of the equipment or material inspected or tested.