

## SUBCHAPTER Q—EQUIPMENT, CONSTRUCTION, AND MATERIALS: SPECIFICATIONS AND APPROVAL

### PARTS 156–158 [RESERVED]

### PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

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AUTHORITY: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46; Section 159.001-9 also issued under the authority of 44 U.S.C. 3507.

SOURCE: CGD 76-048, 44 FR 73043, Dec. 17, 1979, unless otherwise noted.

EFFECTIVE DATE NOTE: Amendments to part 159 were published at 89 FR 76701, Sept. 18, 2024, effective Oct. 18, 2024.

#### Subpart 159.001—General

##### § 159.001-1 Purpose.

(a) This part contains the procedures for the approval of equipment and materials when that equipment or material is inspected or tested by an independent laboratory or by the manufacturer of the equipment or material.

(b) The regulations in this subchapter (parts 159 through 164) have preemptive effect over State or local regulations in the same field.

[CGD 76-048, 44 FR 73043, Dec. 17, 1979, as amended by USCG-2012-0196, 81 FR 48273, July 22, 2016]

##### § 159.001-2 Right of appeal.

Any person directly affected by a decision or action taken under this subchapter, by or on behalf of the Coast

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Guard, may appeal to the Deputy for Operations Policy and Capabilities (CG-DCO-D) as provided in §1.03-15 of this chapter.

[CGD 93-055, 61 FR 13927, Mar. 28, 1996, as amended by CGD 96-041, 61 FR 50733, Sept. 27, 1996; USCG-2009-0702, 74 FR 49236, Sept. 25, 2009; USCG-2012-0832, 77 FR 59785, Oct. 1, 2012]

### § 159.001-3 Definitions.

As used in this part:

*Classification society* means an organization involved in the inspection of ships and ship equipment, and which, as determined by the Commandant, meets the standards in IMO Resolution A.739(18).

*Independent laboratory* means an organization which meets the standards for acceptance in §159.010-3 of this part, and which is accepted by the Coast Guard for performing certain tests and inspections. In addition to commercial testing laboratories, the Commandant may also accept classification societies and agencies of governments that are involved in the inspection and testing of marine safety equipment that meet the requirements of §159.010-3.

*Marine Equipment Directive (MarED)* means the European Community Council Directive 96/98/EC of December 20, 1996 on marine equipment, as amended.

*Memorandum of Understanding (MOU)* is an agreement between the Coast Guard and a laboratory that specifies the approval functions a recognized independent laboratory performs for the Coast Guard and the recognized independent laboratory's working arrangements with the Coast Guard.

*Mutual Recognition Agreement (MRA)* means an agreement between the United States and other Maritime Administrations or organized associations, such as the European Community and the European Free Trade Association that specifies equipment approval and monitoring processes through which parties of the MRA agree to approve equipment on behalf of all parties. An MRA allows reciprocal approval and acceptance of equipment between all parties.

*Recognized independent laboratory* means an independent laboratory which meets the standards of §159.010-3, and is accepted by the Coast Guard to perform certain equipment approval

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functions on behalf of the Coast Guard, as described in a Memorandum of Understanding signed by the laboratory and the Coast Guard in accordance with §159.010-7(b).

[CGD 93-055, 61 FR 13927, Mar. 28, 1996, as amended by USCG-2012-0196, 81 FR 48273, July 22, 2016]

### § 159.001-4 Incorporation by reference.

(a) Certain material is incorporated by reference into this part 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 at the U.S. Coast Guard, Office of Design and Engineering Standards (CG-ENG-4), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593-7509, 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) Publishing, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, <http://www.imo.org>.

(1) Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, November 22, 1993, IBR approved for §159.001-3.

(2) [Reserved]

(c) International Organization for Standardization, ISO Central Secretariat BIBC II, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, +41 22 749 01 11, <http://www.iso.org>.

(1) ISO/IEC 17025:2005(E), International Standard: General requirements for the competence of testing and calibration laboratories, Second edition, 15 May 2005 ("ISO/IEC 17025"), IBR approved for §159.010-3(a).

(2) [Reserved]

[USCG-2012-0196, 81 FR 48273, July 22, 2016]

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### § 159.001–5 Correspondence and applications.

Unless otherwise specified, all correspondence and applications in connection with approval and testing of equipment and materials must be addressed to: Commandant (CG–ENG–4), Attn: Lifesaving and Fire Safety Division, U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593-7509; telephone 202-372-1392 or fax 202-372-1924.

[USCG–2006–25697, 71 FR 55747, Sept. 25, 2006, as amended by : USCG–2009–0702, 74 FR 49236, Sept. 25, 2009; USCG–2012–0832, 77 FR 59785, Oct. 1, 2012; USCG–2013–0671, 78 FR 60156, Sept. 30, 2013]

EFFECTIVE DATE NOTE: Amendments to § 159.001–5 were published at 89 FR 76701, Sept. 18, 2024, effective Oct. 18, 2024.

### § 159.001–7 Substituted procedures.

(a) The Commandant may substitute the procedures in this part for the procedures in any other part of this subchapter. Each person known to be affected by the substitution shall be informed that the procedures in this part apply.

(b) [Reserved]

### § 159.001–9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

(a) *Purpose.* This section collects and displays the control numbers assigned to information collection and record-keeping requirements in this subchapter by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, (44 U.S.C. 3501 *et seq.*). The Coast Guard intends that this section comply with the requirements of 44 U.S.C. 3507(f) which requires that agencies display a current control number assigned by the Director of the OMB for each approved agency information collection requirement.

(b) *Display.*

46 CFR part or section where identified or described	Current OMB control No.
§ 159.007–11.13 .....	1625–0035
§ 160.002–5 .....	1625–0035
§ 160.047–5 .....	1625–0035
§ 160.048–5 .....	1625–0035
§ 160.050–5 .....	1625–0035
§ 160.052–7 .....	1625–0035
§ 160.053–4 .....	1625–0035

46 CFR part or section where identified or described	Current OMB control No.
§ 160.055–4 .....	1625–0035
§ 160.064–6 .....	1625–0035
§§ 161.001 through 161.010 .....	1625–0035
§ 161.171–15 .....	1625–0035
§ 161.171–23 .....	1625–0035
§§ 162.001 through 161.018 .....	1625–0035
§ 162.041 .....	1625–0035
§ 162.043 .....	1625–0035
§ 164.012–13 .....	1625–0035
§ 164.019–5 .....	1625–0035
§ 164.019–7 .....	1625–0035
§ 164.019–9 .....	1625–0035
§ 164.019–13 .....	1625–0035
§ 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 159.003—Approvals Under Mutual Recognition Agreements (MRA)

SOURCE: USCG–2012–0196, 81 FR 48273, July 22, 2016, unless otherwise noted.

#### § 159.003–1 Purpose.

This subpart contains the procedures for obtaining Coast Guard approval under a Mutual Recognition Agreement.

#### § 159.003–3 Acceptance of foreign approvals under a Mutual Recognition Agreement (MRA).

A Coast Guard approval issued by a foreign authority in accordance with the provisions of an effective MRA is acceptable for any application where the regulations in this chapter require Coast Guard approval.

#### § 159.003–5 Approval by the Coast Guard under a Mutual Recognition Agreement (MRA).

(a) Manufacturers must specify in writing that foreign approval under an MRA is requested.

(b) The Coast Guard Certificate of Approval will clearly identify as specified in the MRA that the product is approved to the foreign requirements under the MRA.

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### § 159.003-7 Multiple approval numbers.

A product will not be issued a Coast Guard approval number by the Coast Guard if it already holds a Coast Guard approval number issued by a foreign authority under a Mutual Recognition Agreement.

### § 159.003-9 Products covered by Mutual Recognition Agreements (MRAs).

A complete list of equipment and materials approved by the Coast Guard under an MRA, as well as detailed information on marking and identifying items approved by foreign authorities under an MRA, is available online at <http://cgmix.uscg.mil/Equipment/Default.aspx>.

## 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

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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 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]

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### § 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 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]

[CGD 76–048, 44 FR 73043, Dec. 17, 1979, as amended by USCG–2014–0688, 79 FR 58285, Sept. 29, 2014]

### § 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.

(4) The time, date, and place of each approval inspection and test.

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(5) The name and title of each person performing, supervising, and witnessing the approval inspections or tests.

(6) The performance data for each test required in the applicable subpart, including a description of each failure.

(7) A description or photographs of the procedures and apparatus used in the inspections or tests, or a reference to another document that contains an appropriate description or photographs.

(8) At least one photograph that shows an overall view of the equipment or material submitted for approval and other photographs that show—

(i) Design details; and  
(ii) Each occurrence of damage or deformation to the equipment or material that occurred during the approval tests.

(b) Each inspection or test report must bear an attestation that the inspections or tests were conducted as required by the applicable subpart and that the report contains no known errors, omissions, or false statements. The attestation must be signed by:

(1) The manufacturer or manufacturer's representative, if the inspection or tests are conducted by the manufacturer; or

(2) The chief officer of the laboratory, or the chief officer's representative, if the inspection or tests were conducted by an independent laboratory.

NOTE: A false representation on a report is a ground for suspension or withdrawal of approval of the equipment or material. A false representation is also punishable as a crime under 18 U.S.C. 1001.

## § 159.005-12 Plans.

(a) Each set of plans under § 159.005-9(a)(5)(ii) for equipment must include the following:

(1) An assembly drawing or general arrangement drawing.

(2) A description of each component of the equipment that includes the name, the manufacturer, and the part identification of each component in—

(i) A detail drawing;  
(ii) A bill of material or parts list; or  
(iii) A specification for that component.

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(3) A list of the drawings and specifications in the set of plans, including each revision, and the date of that list.

(4) If a manufacturer's instructions or manual is required in the applicable subpart, a copy of the instructions or manual.

(b) [Reserved]

## § 159.005-13 Equipment or material: Approval.

(a) If from analysis of the material and data required to be submitted under this subpart, the Commandant determines that the equipment or material meets the applicable subpart or has equivalent performance characteristics in accordance with § 159.005-7(c), the Commandant—

(1) Approves the equipment or material;

(2) Issues a certificate of approval to the manufacturer under § 2.75-5 of this chapter;

(3) Retains one set of approved plans and returns all others to the manufacturer; and

(4) Publishes a record of the approval in the Coast Guard Maritime Information Exchange (CGMIX). A listing of current and formerly approved equipment and materials may be found on the Internet at: <http://cgmix.uscg.mil/equipment>.

(b) If from analysis of the material and data submitted the Commandant determines that the equipment or material does not meet the applicable subpart, the Commandant informs the manufacturer of the reason why that equipment or material does not meet the subpart.

(c) If an independent laboratory performs the approval inspections or tests, the Commandant will notify the laboratory of the actions taken under paragraph (a) or (b) of this section, unless the manufacturer specifically requests that the laboratory not be notified.

[44 FR 73043, Dec. 17, 1979, as amended by CGD 93-055, 61 FR 13928, Mar. 28, 1996; CGD 85-205, 62 FR 25545, May 9, 1997; USCG-2015-0867, 80 FR 62470, Oct. 16, 2015]

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### **§ 159.005-15 Approval of equipment or material: Suspensions, withdrawals, and terminations.**

(a) The Commandant suspends an approval issued under this subchapter in accordance with § 2.75-40 of this chapter, withdraws an approval issued under this subchapter in accordance with § 2.75-50(a) of this chapter, and terminates an approval issued under this subchapter in accordance with § 2.75-50(b) of this chapter.

(b) [Reserved]

### **Subpart 159.007—Production Inspection and Tests of Approved Equipment and Materials**

#### **§ 159.007-1 Purpose.**

(a) This subpart contains the procedures under which production inspections and tests of approved equipment or materials are to be performed under this subchapter.

(b) [Reserved]

#### **§ 159.007-3 Production inspections and tests: Independent laboratory's procedures.**

(a) The manufacturer may follow an independent laboratory's procedures for production inspections and tests if those procedures—

(1) Meet or exceed the production inspection and test requirements of the applicable subpart or are equivalent to those inspections and tests;

(2) Include labeling or marking the equipment or material when the equipment or material meets the inspection and test procedures of the laboratory; and

(3) Are accepted by the Commandant under § 159.007-7(b).

(b) [Reserved]

#### **§ 159.007-5 Production inspections and tests: Application for acceptance.**

(a) If the applicable subpart requires production inspections and tests by an independent laboratory, the manufacturer must select a laboratory and submit an application for acceptance that meets § 159.010-5(a) unless the laboratory—

(1) Is listed in the subpart; or

(2) Is accepted by the Commandant for approval inspections and tests of

the equipment or material under § 159.005-7(a)(1).

(b) If the manufacturer wants to follow the laboratory's procedures for production inspections and tests instead of meeting the Coast Guard procedures under this subchapter, the application must contain a description of those procedures.

#### **§ 159.007-7 Application for acceptance for production inspections and tests: Coast Guard action.**

(a) From the information submitted with the application, the Commandant determines whether or not the laboratory is accepted for production inspections and tests. The Commandant informs the manufacturer of the results of this determination, if the Commandant does not accept a laboratory, the reason for the disapproval will be given.

(b) From the description of the laboratory's procedures for production inspections and tests, the Commandant determines whether or not those procedures are accepted. The Commandant informs the manufacturer of the results of this determination. If the Commandant does not accept the laboratory's procedures, the reasons why they are not accepted will be given.

#### **§ 159.007-9 Production inspections and tests.**

(a) If the applicable subpart requires the production inspections and tests to be performed or supervised by an independent laboratory, the manufacturer shall insure that all required production inspections and tests are performed or supervised by an independent laboratory accepted by the Commandant.

(b) If the applicable subpart does not require an independent laboratory to perform the production inspections and tests, the manufacturer shall have those inspections and tests performed.

(c) Unless alternative procedures have been accepted by the Commandant under § 159.007-3 each production inspection and test must be performed or supervised in accordance with the applicable subpart.

(d) The manufacturer shall admit a Coast Guard inspector to any place

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where approved equipment is manufactured, for the purpose of verifying that the equipment is being manufactured in accordance with the approved plans and the requirements of this subchapter.

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

### **§ 159.007-11 Production inspections and tests: Yearly report.**

(a) When the manufacturer uses the production inspection and test procedures in an applicable subpart he must submit a yearly report. The report is not required when inspection and test procedures approved under § 159.007-3 are used.

(b) The report must include the following:

- (1) A list of all inspections and tests performed;
- (2) A summary of the results of each group of inspections or tests;
- (3) A detailed description of any test failures; and
- (4) A statement whether or not all required tests were performed.

### **§ 159.007-13 Production inspections and tests: Records.**

(a) The manufacturer must have a completed record with the following information for each production inspection and test:

- (1) The time, date and place of each inspection and test.
- (2) The name and title of each person performing, supervising and witnessing the inspections or tests.
- (3) The performance data for each test required in the applicable subpart, including a description of each failure.
- (4) A description or photographs of the procedures and apparatus used in the inspections or tests.

(b) The manufacturer must retain each record under this section for at least 60 months after the month in which the inspection or test was conducted.

(c) The records must be made available for examination by the Commandant upon request.

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### **Subpart 159.010—Independent Laboratory: Acceptance, Recognition, and Termination**

#### **§ 159.010-1 Purpose.**

This subpart contains the following:

(a) The standards and procedures under which the Coast Guard accepts an independent laboratory that a manufacturer proposes to use.

(b) The standards and procedures under which a laboratory is accepted as a recognized laboratory under applicable subparts.

(c) The circumstances under which the acceptance or recognition of a laboratory is terminated.

[CGD 93-055, 61 FR 13928, Mar. 28, 1996]

#### **§ 159.010-3 Independent laboratory: Standards for acceptance.**

(a) To be accepted by the Coast Guard as an independent laboratory, a laboratory must—

(1) Be engaged, as a regular part of its business, in performing inspections and tests that are the same as or similar to the inspections and tests required in the applicable subpart;

(2) Possess or have access to the apparatus, facilities, personnel, and calibrated instruments that are necessary to inspect and test the equipment or material under the applicable subpart. In addition, for testing conducted on or after July 1, 2012, on equipment subject to SOLAS requirements, they must have ISO/IEC 17025 (incorporated by reference, see § 159.001-4) accreditation from an accreditation body that is a full member of the International Laboratory Accreditation Cooperation (ILAC) or a recognized accreditation body by the National Cooperation for Laboratory Accreditation (NACLA);

(3) Not be owned or controlled by—

(i) The manufacturer of the equipment or material to be inspected or tested under this subchapter or any manufacturer of similar equipment or material;

(ii) A vendor of the equipment or material to be inspected or tested under this subchapter or a vendor of similar equipment or material; or

(iii) A supplier of materials to the manufacturer;



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(4) Not be dependent on Coast Guard acceptance under this subchapter to remain in business; and

(5) Not advertise or promote the manufacturer's equipment or material that the laboratory inspects and tests under this subchapter.

(b) [Reserved]

[CGD 76-048, 44 FR 73043, Dec. 17, 1979, as amended by USCG-2012-0196, 81 FR 48274, July 22, 2016]

### **§ 159.010-5 Independent laboratory: Application for acceptance.**

(a) Each application for acceptance of an organization as an independent laboratory must contain the following:

(1) The name and address of the organization.

(2) A list of the equipment or material that the organization would inspect, or test, or both, under this subchapter.

(3) A description of the organization's experience and its qualifications for conducting the inspections and tests required in the applicable subpart.

(4) A description of the apparatus and facilities available to the organization for conducting those inspections and tests.

(5) If instruments are used in the required tests and inspections, a description of the instrument calibration program applying to those instruments.

(6) The position titles of personnel who are to perform, supervise, or witness those inspections or tests, along with the training and experience required for personnel in those positions.

(7) A statement signed by the chief officer of the organization or the chief officer's representative, that an official representative of the Coast Guard is allowed access upon request to the place where tests and inspections take place, to verify the information submitted in the application, or to witness tests and inspections.

(b) Each application for acceptance as an independent laboratory that is not submitted by an agency of a state or another national government, or by a classification society, must also contain the following:

(1) The name and address of each subsidiary and division of the organization, or a statement that none are involved in the testing or manufacturing

of equipment approved under this subchapter.

(2) The name, title, address, and principal business activity of each of the organization's officers and directors, and the name, address, and principal business activity of each person, company, or corporation that owns at least three-percent interest in the organization or in a company or corporation that controls the organization.

[CGD 93-055, 61 FR 13928, Mar. 28, 1996]

### **§ 159.010-7 Recognized independent laboratory: Memorandum of Understanding.**

(a) Only laboratories that have entered into an MOU with the Coast Guard may perform the functions of a recognized laboratory under this chapter.

(b) An independent laboratory seeking to become a recognized independent laboratory must submit a signed MOU to the Commandant that includes—

(1) A statement of purpose;

(2) An identification and description of the parties involved;

(3) A description of the problem resolution and appeals processes;

(4) A description of the process for measuring effectiveness and efficiency of the program under the MOU;

(5) The effective date of the MOU and terms for its termination;

(6) A statement to the effect that the MOU is not an exclusive agreement between the recognized independent laboratory and the Coast Guard;

(7) An agreement to conduct comparison testing with other recognized laboratories as directed by the Coast Guard, no more often than twice each year, with the laboratory bearing the cost of sample acquisition and testing;

(8) A statement as to how the costs of implementing the MOU will be borne; and

(9) A description of each party's responsibilities for—

(i) Equipment review and approval;

(ii) Coast Guard oversight of the recognized independent laboratory's procedures and processes;

(iii) Coordination between the parties;

(iv) Developing and maintaining regulations and standards;

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(v) Handling review and approval of new and novel items not anticipated by existing regulations and standards;

(vi) Testing and inspection facilities and procedures;

(vii) Production quality control; and

(viii) Maintenance of records.

(c) The signature on the MOU required by paragraph (b) of this section must be that of the chief officer of the independent laboratory or the chief officer's representative. The Commandant or an authorized representative of the Commandant will review the MOU to ensure that it contains the information required by paragraph (b) of this section, and that the substantive provisions submitted in compliance with that paragraph are equivalent to those contained in other MOUs signed by the Commandant. If the Commandant determines that the MOU is acceptable and the independent laboratory is capable of carrying out the equipment approval functions identified in the MOU in accordance with all appropriate requirements, the Commandant or authorized representative may at his discretion sign the MOU. Where qualitative tests or determinations are required for approval or follow-up, provision must be made for conducting comparison tests with other recognized laboratories.

(d) Copies of MOUs signed by the Commandant in accordance with this part and of lists of independent laboratories which have been accepted as recognized laboratories but which have not yet been added to the lists included in this subchapter may be obtained at the address listed in § 159.001-5.

[CGD 93-055, 61 FR 13928, Mar. 28, 1996; 61 FR 15868, Apr. 9, 1996]

## § 159.010-11 Changes in the laboratory's qualifications.

(a) If any of the information submitted under § 159.010-5(a) changes, the laboratory shall notify the Commandant in writing of each change within 30 days after the change has occurred.

(b) If any change in the independent laboratory occurs which affects its performance under the MOU required under § 159.010-7, the laboratory shall notify the Commandant in writing within 30 days after the change occurs.

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The Commandant may terminate the MOU, or may require amendments or revisions.

[CGD 93-055, 61 FR 13929, Mar. 28, 1996]

## § 159.010-15 Contracting inspections and tests or transferrals to another laboratory or person.

(a) No independent laboratory may contract or transfer to another person or laboratory the performance or supervision of inspections or tests, or both, required under an applicable subpart for which it is accepted or listed unless—

(1) A request in writing regarding the contract or transfer is submitted to the Commandant before the contract is executed or the transfer is completed; and

(2) The Commandant notifies the laboratory in writing that the contract or the transfer is allowed.

(b) [Reserved]

## § 159.010-17 Termination of acceptance or recognition of an independent laboratory.

The acceptance or recognition of a laboratory terminates if the laboratory—

(a) Requests termination;

(b) Is no longer in business;

(c) Knowingly fails to perform or supervise an inspection or test, or both, as required in an applicable subpart;

(d) Knowingly attests to the lack of errors, omissions, or false statement of an approval test report that contains errors omissions, or false statements;

(e) Does not meet the requirements of § 159.010-3(a);

(f) Does not comply with § 159.010-11;

(g) Contracts or transfers the performance or supervision of required inspections or tests to another laboratory or person without the approval of the Commandant; or

(h) Fails to, or in the opinion of the Commandant is unable to, carry out its responsibilities under an MOU required by § 159.010-7.

[CGD 93-055, 61 FR 13929, Mar. 28, 1996]

**§ 159.010–19 Termination of acceptance or recognition: Procedure.**

(a) If the Coast Guard receives evidence of grounds for termination of acceptance or recognition of an independent laboratory under § 159.010–17, the Commandant will notify the laboratory that termination is under consideration. The laboratory may submit written comments to the Commandant within 21 days of receipt of the notification. The Commandant will take all timely written comments into account before taking final action in the matter, and in no case will the Commandant take final action until at least 30 days after the laboratory has received the notification. Any final action taken by the Commandant is final agency action on the matter.

(b) If a deficiency could materially affect the validity of an approval issued under an applicable subpart, the Commandant may temporarily suspend the acceptance of the laboratory and may direct the holder of the certificate of approval to cease claiming that the items tested or inspected by the laboratory are Coast Guard approved, pending a final decision in the matter.

[CGD 93–055, 61 FR 13929, Mar. 28, 1996]

**PART 160—LIFESAVING EQUIPMENT****Subpart 160.001—Life Preservers, General**

Sec.

- 160.001–1 Scope.
- 160.001–2 General characteristics of life preservers.
- 160.001–3 Procedure for approval.
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**Subpart 160.002—Life Preservers, Kapok, Adult and Child (Jacket Type), Models 3 and 5**

- 160.002–1 Incorporation by reference.
- 160.002–2 Size and models.
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- 160.002–5 Sampling, tests, and inspections.
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- 160.005–1 Incorporation by reference.
- 160.005–2 Size and model.
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- 160.005–7 Procedure for approval.

**Subpart 160.006—Life Preservers: Repairing**

- 160.006–2 Repairing.

**Subpart 160.010—Buoyant Apparatus for Merchant Vessels**

- 160.010–1 Incorporation by reference.
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- 160.010–3 Inflatable buoyant apparatus.
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**Subparts 160.011–160.015 [Reserved]****Subpart 160.016—Lamps, Safety, Flame, for Merchant Vessels**

- 160.016–1 Applicable specification.
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- 160.017–11 Materials.
- 160.017–13 Construction.
- 160.017–15 Performance.
- 160.017–17 Strength.
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**Subpart 160.021—Hand Red Flare Distress Signals**

- 160.021–1 Incorporation by reference.
- 160.021–2 Type.
- 160.021–3 Materials, workmanship, construction and performance requirements.
- 160.021–4 Approval and production tests.
- 160.021–5 Labeling and marking.
- 160.021–6 Container.
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**Subpart 160.022—Floating Orange Smoke Distress Signals (5 Minutes)**

- 160.022–1 Incorporation by reference.
- 160.022–2 Type.