

considered accepted "independent laboratories". For some classes of equipment, such as PFDs for recreational boats, the Coast Guard uses laboratories not only to test and inspect equipment, but also to perform other functions related to approval, such as standards development and design review. The Coast Guard refers to these laboratories as "recognized independent laboratories". Recognized independent laboratories must enter into a memorandum of understanding (MOU) with the Coast Guard as discussed later in this preamble.

Subpart 159.010 would be revised to incorporate requirements for "recognized" laboratories, which are currently addressed in 46 CFR 2.75-30. The Coast Guard intends to eventually have all of the requirements for independent laboratories in one place, and to limit the types of acceptances to just two, instead of the present three (accepted, listed, and recognized). Under the proposed revisions, laboratories would be "accepted" for testing equipment under 46 CFR subchapter Q. For certain items of equipment, particularly items with high production volumes, the Coast Guard would use accepted laboratories that are also "recognized" to perform certain approval functions on behalf of the Coast Guard. These functions would be specified in a Memorandum of Understanding (MOU) between each laboratory and the Coast Guard.

The Coast Guard and UL have signed the first such MOU, which covers testing and approval of PFDs. The Coast Guard wishes to implement this MOU for the approval of inflatable PFDs for recreational boats, as well as for the approval of other PFDs for which UL is already recognized. The MOU has been placed in the docket for this project and is available for inspection and copying. The UL MOU also can be obtained by writing to Commandant (G-MVI), U.S. Coast Guard, 2100 Second Street, S.W. Washington, DC, 20593-0001, or by sending a request via electronic mail to "s.wehr/g-m18@cgsmtm.comdt.uscg.mil".

Note that the NPRM does not propose to remove or revise 46 CFR 2.75-25 covering recognized laboratories for portable fire extinguishers. UL, Factory Mutual, and Underwriters Laboratories of Canada are all recognized for testing and approval of various types of portable fire extinguishers at present.

The proposed revisions to subpart 159.010 regarding recognized laboratories are described in the following paragraphs:

(a) Section 159.010-1 would be revised to indicate that recognized

laboratories are covered in Subpart 159.010.

(b) Section 159.010-9 would be completely revised to contain a description of the required contents of an MOU, the requirements for laboratories that desire to enter into MOUs with the Coast Guard in order to become recognized laboratories, and information on how to obtain copies of existing MOUs and related information. This section proposes to require, as part of the MOU, comparison testing with other recognized laboratories for those items of equipment, such as PFDs, where subjective testing is involved. Because PFDs require testing with human subjects, the way the tests are run can significantly affect the results. Therefore, the Coast Guard is considering ways to make sure that recognized laboratories achieve comparable results. As drafted, the rule would simply require each laboratory to conduct comparison testing as directed by the Coast Guard, no more often than once every six months. Comments are requested on any or all of the following alternatives for assuring comparability of determinations and test results:

(1) Laboratories could be required to retain test PFDs for at least six months after testing is completed. The Coast Guard could call for these devices at any time before they are discarded, and provide them to another recognized laboratory or laboratory seeking recognition for testing. The second laboratory's results should be comparable to those of the first laboratory. If they are not, the Coast Guard would conduct an analysis to determine why the results are different and how to resolve the differences.

(2) The Coast Guard is considering including a provision in the MOU in which the recognized laboratory would agree to participate in an annual workshop. At such a workshop, laboratories could share information regarding methods used during approval testing. The Coast Guard expects that laboratories would take turns hosting workshops, and that test personnel from all recognized laboratories would attend. Problems identified by the Coast Guard, manufacturers, and the laboratories could be addressed at these workshops, and the various methods of conducting tests could be compared. Results could be compared using different types of test equipment and techniques.

(3) The Coast Guard also seeks to ensure that all recognized laboratories performing approval procedures consider not only the needs of manufacturers, but the needs of PFD users and potential accident victims as

well. The Coast Guard seeks to ensure that laboratories appropriately consider the needs of PFD users while providing uniform approval testing services. The Coast Guard specifically seeks comments regarding incentives that could be established to encourage laboratories to maintain the proper balance between the needs of boaters and manufacturers.

(c) Sections 159.010-17, 159.010-19, and 159.010-21 would be revised to cover MOUs and recognized laboratories.

(d) Finally, revisions are proposed in several subparts of part 160 covering PFDs, to remove information that would be redundant or obsolete, as a result of the proposed changes to subpart 159.010 on recognized laboratories. The revisions would affect subparts 160.047, 160.048, 160.049, 160.052, 160.060, 160.064, and 160.077.

Commercial Vessels

Although the inflatable PFDs approved under the rules in the IFR are intended for recreational boats, the Coast Guard is considering permitting them to be used on certain small commercial vessels. Uninspected commercial vessels under 12.1 m (40 ft) in length, not carrying passengers, may presently carry the same types of PFDs used on recreational boats. The regulations for these vessels are in 46 CFR subchapter C. In addition, small passenger vessels inspected under 46 CFR subchapter T, may carry recreational boat PFDs as additional equipment for the optional use of passengers, who want to wear PFDs while underway. Under the IFR, inflatable PFDs for recreational boats will be required to be marked "NOT APPROVED FOR USE ON COMMERCIAL VESSELS." If, as a result of comments, the Coast Guard decides to permit the limited use of these devices on commercial vessels, the requirement for the marking will be removed.

Incorporation by Reference

The following material would be incorporated by reference in 33 CFR 181.4: Underwriters Laboratories Standard UL 1123, Marine Buoyant Devices, February 17, 1995; and Underwriters Laboratories Standard UL 1180, Fully Inflatable Recreational Personal Flotation Devices, edition 1, May 15, 1995. The following material would be incorporated by reference in 46 CFR 159.001-2: International Maritime Organization Resolution A.739(18), Guidelines for the Authorization of Organizations Acting on Behalf of the Administration,