553). (53 FR 12108, third column, first paragraph).

Thus, OSHA recognized that there were testing practices that might vary and differ among laboratories. OSHA also recognized that the compensating mechanisms and controls for each system and laboratory depends upon the confidence the laboratory has in the final result leading to use of the mark.

OSHA's review of the applications for renewal of recognition submitted by UL and FMRC have lead to the conclusion that it is appropriate to provide further clarification of acceptable NRTL procedures. In order for other NRTLs and future applicants to utilize these types of procedures, OSHA has provided specific criteria that will identify the critical elements of the various procedures. These criteria, as discussed earlier, were derived from the four elements that define an NRTL. By providing such criteria, an NRTL may tailor its methods and testing techniques to any procedure the NRTL would like to include.

The identification of criteria discussed in this document will provide guidance to applicants utilizing the various procedures, while still allowing the flexibility that was identified in the discussion of the regulation.

Clarification

The Occupational Safety and Health Administration is clarifying the types of testing and certification procedures which may meet the requirements for acceptance under section 1910.7.

The Agency has previously determined that an NRTL may, but is not obligated to, accept test data, component or product approvals, or other information or data from another NRTL, as long as it is satisfied with their appropriateness. The NRTL has the prerogative to retest or reapprove, as it deems necessary.

OSHA is aware that in addition to the procedures which were previously clearly understood to be acceptable, NRTLs also utilize procedures involving entities such as contractors, manufacturers, and other laboratories, for the performance of many of their functions. These other procedures are acceptable with certain controls in place. OSHA recognizes that to maintain credibility of these procedures, a higher level of expertise and controls by the NRTL will be required. Therefore, applicants for these will be assessed and audited by OSHA to more stringent guidelines. Generally, all acceptable procedures fall within one or more of the following.

1. The basic procedure where all product testing and evaluation is

- performed in-house by the NRTL that will certify the product
- 2. Acceptance of testing data from independent organizations, other than NRTLs
- 3. Acceptance of product evaluations from independent organizations, other than NRTLs
- 4. Acceptance of witnessed testing data
- 5. Acceptance of testing data from nonindependent organizations
- Acceptance of evaluation data from non-independent organizations (requiring NRTL review prior to marketing)
- Acceptance of continued certification following minor product modifications by the client
- 8. Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC-CB) Scheme
- Acceptance of services other than testing or evaluation performed by subcontractors or agents

Certain procedures are unacceptable. Included among these are manufacturer self-declaration, client self-certification, and other similar procedures that permit non-NRTLs to determine conformance with the product standard, i.e., certify the product.

A number of procedures encountered during on-site investigations by OSHA assessors have existed in one form or another prior to the existence of the NRTL program in 1988. Most of these procedures appear to have matured to a degree necessary to maintain product safety in the workplace and included controls necessary for conformity with NRTL program requirements.

This Notice discussed procedures and criteria to be utilized by OSHA assessors and auditors in evaluating each of them. OSHA will continue to closely monitor progress under these criteria and evaluate the effectiveness of the procedures.

The specific criteria utilized for evaluating the procedures of an applicant for recognition as a nationally recognized testing laboratory are based upon "national consensus standards and international guides".

Three basic principles, to assure that product certifications would provide necessary levels of safety, were derived from the rule.

These principles are as follows: (1) The NRTL shall be capable of performing all aspects of a product certification scheme on its own.

• The NRTL shall be recognized to perform the tests, evaluations, and other services before it can accept such services from other organizations.

- (2) Where the services of other organizations are used, the NRTL shall retain control of, and responsibility for, all aspects of the product certification scheme.
- The NRTL shall have procedures consistent with the appropriate national standards and international guides for granting, maintaining, and extending its qualification of an organization or service.
- The NRTL shall use assessors who met the competence requirements of the appropriate national standards and international guides to evaluate the organization.
- The NRTL shall ensure that all aspects of certification work performed by others—including participants, locations of testing, witnessing, and evaluations—are identified in the NRTL and client records and reports.
- (3) The NRTL shall ensure that each organization providing data, product evaluations, or other services to the NRTL is capable of doing so, and that the relationship between the NRTL and the organization does not compromise the NRTL's independence.
- The NRTL shall be able to demonstrate that each organization it employs is capable of providing data, product evaluations, or other services that meet, or exceed, the quality of those provided by the NRTL.
- The NRTL shall maintain reports of its assessments of such organizations; these assessments shall conform to appropriate national standards and international guides.
- The NRTL shall have a documented surveillance program to ensure continued compliance with the NRTL's qualification procedures; this surveillance program shall be consistent with the appropriate national standards and international guides.
- The NRTL shall not be economically affiliated with any of these outside organization.

Procedures and specific criteria for each, were then developed from the basic principles. These principles, wherever they are applicable, shall be an integral requirement of the following procedures.

1. The Basic Procuredure—All Product Testing and Evaluation is Performed In-House by NRTL That Will Certify the Product

This is the basic procedure utilized by an NRTL under conditions where it is feasible. The first and second basic principles are applicable to this procedure.