

(see 29 CFR 1910.307). A substantial number of tests of products intended for use in hazardous locations involves subjective analysis and have levels of complexity well beyond that required for tests of products meant for use only in ordinary locations.

An NRTL may accept testing conducted by a non-independent organization provided the following criteria are complied with, in addition to the requirements in Procedure 1, with the exception for the need to document the independence of the organization:

The NRTL shall establish procedures and maintain records which will demonstrate that the test data are unbiased.

The NRTL shall ensure that the organization providing the data is capable of conducting the tests and that the relationship between the NRTL and the organization does not compromise the NRTL's independence.

- The NRTL's qualification procedures shall establish a minimum time period for confidence-building. During this period the NRTL will witness tests and verify them by duplicate testing at the NRTL's facility.

- The NRTL's surveillance program shall include annual site evaluations, review of test packages, random samples and retests by the NRTL, and other controls outlined in the appropriate national standards and international guides.

6. Acceptance of Evaluation Data From Non-Independent Organizations (Requiring NRTL Review Prior To Marketing)

This type of procedure enables an organization to evaluate a product in which it has a vested interest. However, the product shall not be released to the market until the NRTL has reviewed and concurred with the evaluation.

An NRTL may accept product evaluations prepared by a nonindependent organization provided the following criteria are complied with:

Except for the requirement for independence, the specific program criteria in Procedures 1, 2, and 4 shall apply to product evaluations by non-independent organizations. The following additional program criteria shall also be required:

The NRTL shall retain control of, and responsibility for, all aspects of the product certification scheme.

- The NRTL shall establish and maintain records of procedure and product deficiencies identified, and the corrective actions taken by it and the organization.

- The NRTL shall establish and maintain a program to monitor and confirm the organization's evaluations.

- The NRTL shall assure that no product is released to the market until it has verified the organization's testing data and concurred with its evaluation of the product.

The NRTL shall assure that each organization providing data and evaluations is capable of performing these functions and that the relationship between the NRTL and the organization does not compromise the NRTL's independence.

- The NRTL shall establish and maintain records that demonstrate that the organization continues to be proficient in testing and evaluation.

- The NRTL shall demonstrate that the organization's laboratory has sustained the quality of its performance in testing before being considered for this program.

7. Acceptance of Continued Certification After Minor Product Modifications by the Manufacturer

This type of procedure would allow a manufacturer to make minor changes to a certified product, test and evaluate the change or changes, and continue to use the certification mark on the modified product.

With all the controls in place and a clear understanding of what a "minor" product modification encompasses, there should be no reason to consider this procedure as not falling within the scope of the NRTL program. A minor product modification is one which involves the use of an interchangeable component in a previously accepted product. Examples are the substitution of an equivalent switch from a different manufacturer, or the replacement of a motor with a comparable one of different horsepower.

An NRTL may accept minor product modifications from a manufacturer without requiring recertification provided the following criteria, as well as the criteria in Procedures 1, 2, 4, and 5 (except for the requirements for independence), are complied with:

The NRTL shall retain control of, and responsibility for, all aspects of the product certification scheme.

- The NRTL shall clearly define what is meant by "minor" modifications.

- The NRTL shall review each test and evaluation report for each product modification.

The NRTL shall assure that each manufacturer providing the test data and evaluation is capable of conducting the tests and making the product evaluations, and that the relationship between the NRTL and the organization

does not compromise the NRTL's independence.

- The NRTL shall demonstrate that the client has sustained the quality of its performance in both testing and product evaluation before being considered for this program.

8. Acceptance of Product Evaluations From Organizations That Function As Part of the International Electrotechnical Commission Certification Body (IEC-CB) Scheme

The IEC-CB scheme authorizes organizations accredited as certified bodies to exchange product test data and evaluation reports with each other.

An NRTL may accept product evaluations from organizations that are part of the IEC-CB scheme provided the following criteria are complied with:

The NRTL shall retain control of, and responsibility for, all aspects of the product certification scheme.

- The NRTL shall physically evaluate each product.

- The NRTL shall review each test and evaluation report and certificate of certification to determine that the correct nationally recognized standards has been used to test the product and, where applicable, that the US deviations have been properly applied.

- The NRTL shall have written procedures for the evaluation of products, and for the interpretation of any results.

- The NRTL shall establish records that demonstrate that the organizations furnishing test and evaluation reports continue to be competent. These records will include documentation to demonstrate that the organization understands the US deviations and has correctly applied them.

- The NRTL shall determine that the components used in the product are tested to a standard comparable to the appropriate nationally recognized standard.

- The NRTL shall determine that components used in the product have been certified through an appropriate regulatory authority's scheme, and that the scheme includes routine evaluation of the manufacturer's process.

9. Acceptance of Services (Other Than Testing or Evaluation) Performed by Subcontractors or Agents

Services under this heading include follow-up activities, calibration activities, and equipment maintenance accomplished by subcontractors or agents.

Although there do not appear to be any references in 29 CFR 1910.7 or in the preamble to the final rule that specifically address this issue, testing