

Third-Party Programs to Assess Regulatory Compliance

Comments on Draft Report (DRAFT 9-12-12)

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After reviewing the report prepared by Ms. McAllister, there are a few factual errors that we would like to correct about OSHA's Nationally Recognized Testing Laboratory (NRTL) Program. Specifically:

Pg 33 Paragraph 3: The last sentence currently reads: " The NRTL then affixes a label..." . It should be changed to read "The NRTL then authorizes the manufacturer to affix a label..."

Pg 35 Paragraph 1: The sentence reads " Currently, 16 NRTLs are based in the United States, and three NRTLs are based in other countries" should be changed to read "Currently, 15 NRTLs are recognized by OSHA. Twelve are headquartered in the United States, and three are headquartered in other countries."

One additional comment came in yesterday afternoon that I wanted to share. While not specific to OSHA's NRTL Program, it is an area that OSHA has reviewed in great detail that we would like you to consider during your final edits.

On page 7, Paragraph 2 states:

"Importantly, conformity assessment requirements impose costs, and those costs are higher in systems that are more rigorous and independent. More complete and frequent conformity assessment adds rigor, but it also increases the cost to the party required to demonstrate conformity. Similarly, the involvement of a third party increases not just a system's independence, but also its cost."

There is no obvious source or basis for these statements, or the nature of the costs being described. We believe the report should not make such statements without having a proper basis or clarifying the nature of the costs. While we believe the report is only talking about the cost of conformity assessment to the party that directly pays for it; it is not addressing the regulatory costs for the agencies that regulate and monitor the CA system. In OSHA's review of SDoC, what we found was that those making claims that SDoC was cheaper than 3rd party systems had no credible evidence to support their claims, and they were not taking regulatory costs into consideration. In fact, we found that the regulatory costs of EU's SDoC system can be much greater for the than the costs of OSHA's NRTL Program, and the same would be true for other programs, if they were structured similar to ours. Details of our findings can be viewed at <http://www.regulations.gov/#!documentDetail;D=OSHA-2008-0032-0099>. The Final notice in this topic states "In the 2008 RFI, OSHA estimated that implementing an SDoC system in the U.S. could cost the Agency approximately \$360 million annually. In contrast, the current budget associated with operating the NRTL Program is approximately \$1 million per year. Based on this estimate, operating an effective SDoC program would require OSHA to incur substantial additional costs."