

Question 28.11

Topic: AETB Compliance

Question: Considering that to invalidate a Part 75 RATA for reasons related to ASTM D7036, it must be determined while the test team is still on site that there was no Qualified Individual overseeing or supervising the test, what recourse do State regulators have to enforce this and the other AETB requirements contained in ASTM D7036?

Answer: The Part 75 AETB requirements took effect on March 27, 2012 (see 76 FR 17318, March 28, 2011). Part 75, Appendix A, section 6.1.2, paragraph (e) states that if an observer discovers while a test team is still on site that any portion of a RATA was not overseen by an on-site Qualified Individual, that portion of the RATA is invalid. Section 6.1.2(f) states that, except as provided in paragraph (e), a Part 75 RATA cannot be invalidated as a result of failure of a stack test company to comply with ASTM D7036-04.

Therefore, if a RATA meets all other Part 75 requirements, it is still valid. It is important for the quality of RATA data that proper observation of tests continue, regardless of ASTM D7036. Although AETBs are not regulated under Part 75, to the extent an AETB was not actually accredited or was not conforming to ASTM D 7036 as of the time of testing and provided the Part 75 source with a false certification, regulators do have the option of referring the matter to federal prosecutors for possible action against the AETB under 18 U.S.C. 1001.

References:

History: First published in 2013 Manual