

(d) Under § 498.102(d), the Office of the Inspector General may impose a penalty of not more than \$5,000 for each violation resulting from insufficient notice relating to printed media regarding products or services provided free of charge by the Social Security Administration and a penalty of not more than \$25,000 for each violation in the case that such insufficient notice relates to a broadcast or telecast.

(e) For purposes of paragraphs (c) and (d) of this section, a violation is defined as—

(1) In the case of a mailed solicitation, advertisement, or other communication, each separate piece of mail which contains one or more program words, letters, symbols, or emblems or insufficient notice related to a determination under § 498.102(c) or (d); and

(2) In the case of a broadcast or telecast, each airing of a single commercial or solicitation related to a determination under § 498.102(c) or (d).

■ 6. Section 498.104 is revised to read as follows:

**§ 498.104 Amount of assessment.**

A person subject to a penalty determined under § 498.102(a) may be subject, in addition, to an assessment of not more than twice the amount of benefits or payments paid under title II, title VIII or title XVI of the Social Security Act as a result of the statement, representation, omission, or withheld disclosure of a material fact which was the basis for the penalty. A representative payee subject to a penalty determined under § 498.102(b) may be subject, in addition, to an assessment of not more than twice the amount of benefits or payments received by the representative payee for the use and benefit of another individual and converted to a use other than for the use and benefit of such other individual. An assessment is in lieu of damages sustained by the United States because of such statement, representation, omission, withheld disclosure of a material fact, or conversion, as referred to in § 498.102(a) and (b).

■ 7. Section 498.106 is amended by revising paragraphs (a) introductory text, (a)(1), and (b) introductory text to read as follows:

**§ 498.106 Determinations regarding the amount or scope of penalties and assessments.**

(a) In determining the amount or scope of any penalty and assessment, as applicable, in accordance with § 498.103(a) and (b) and 498.104, the Office of the Inspector General will take into account:

(1) The nature of the statements, representations, or actions referred to in § 498.102(a) and (b) and the circumstances under which they occurred;

\* \* \* \* \*

(b) In determining the amount of any penalty in accordance with § 498.103(c) and (d), the Office of the Inspector General will take into account—

\* \* \* \* \*

■ 8. Section 498.109 is amended by revising paragraph (a)(2) to read as follows:

**§ 498.109 Notice of proposed determination.**

(a) \* \* \*

(2) A description of the false statements, representations, other actions (as described in § 498.102(a) and (b)), and incidents, as applicable, with respect to which the penalty and assessment, as applicable, are proposed;

\* \* \* \* \*

■ 9. Section 498.114 is amended by revising paragraph (a) to read as follows:

**§ 498.114 Collateral estoppel.**

\* \* \* \* \*

(a) Is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or *nolo contendere*) of a Federal or State crime; and

\* \* \* \* \*

■ 10. Section 498.128 is amended by revising paragraphs (b), (c)(1), and (d)(1) to read as follows:

**§ 498.128 Collection of penalty and assessment.**

\* \* \* \* \*

(b) In cases brought under section 1129 of the Social Security Act, a penalty and assessment, as applicable, imposed under this part may be compromised by the Commissioner or his or her designee and may be recovered in a civil action brought in the United States District Court for the district where the violation occurred or where the respondent resides.

(c) \* \* \*

(1) Violations referred to in § 498.102(c) or (d) occurred; or

\* \* \* \* \*

(d) \* \* \*

(1) Monthly title II, title VIII, or title XVI payments, notwithstanding section 207 of the Social Security Act as made applicable to title XVI by section 1631(d)(1) of the Social Security Act;

\* \* \* \* \*

[FR Doc. 06-4594 Filed 5-16-06; 8:45 am]

BILLING CODE 4191-02-P

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Parts 6, 7, and 18**

RIN 1219-AB42

**Evaluation of International Electrotechnical Commission's Standards for Explosion-Proof Enclosures**

**AGENCY:** Mine Safety and Health Administration (MSHA), Labor.

**ACTION:** Final rule; equivalency determination.

**SUMMARY:** MSHA reviewed the requirements of the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres to determine if they are equivalent to the Agency's applicable product approval requirements or can be modified to provide at least the same degree of protection as those requirements. MSHA has determined that the IEC's standards for explosion-proof enclosures, with modifications, provide the same degree of protection as MSHA's applicable product approval requirements. Applicants may request that MSHA grant product approval for explosion-proof (flameproof) enclosures based on compliance with the IEC standards provided MSHA's specified list of modifications is also addressed in the submitted design.

**DATES:** *Effective Date:* This final rule is effective May 17, 2006. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of May 17, 2006.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the technical content of the rule, contact David C. Chirdon, Chief Electrical Safety Division, Approval and Certification Center, MSHA, R.R. 1, Box 251 Industrial Park Road, Triadelphia, West Virginia 26059. Mr. Chirdon can be reached at [chirdon.david@dol.gov](mailto:chirdon.david@dol.gov) (e-mail), 304-547-2026 (voice), or 304-547-2044 (facsimile). For information concerning the rulemaking process, contact Patricia W. Silvey, Acting Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Arlington, Virginia 22209-3939. Ms. Silvey can be reached at (202) 693-9440.

MSHA maintains a listserve on the Agency's Web site that enables subscribers to receive e-mail notification when MSHA publishes rulemaking documents in the **Federal Register**.

To subscribe to the listserve, visit MSHA's Web site at <http://www.msha.gov/subscriptions/subscribe.aspx>. You may obtain copies of this final rule in an alternative format by accessing the Internet at <http://www.msha.gov/REGSINFO.HTM>. The document is also available by calling 202-693-9440.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On June 17, 2003, MSHA published a final rule, Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards (68 FR 36407). The final rule established alternate requirements for testing and evaluation of products that MSHA approve for use in gassy underground mines under 30 CFR parts 18, 19, 20, 22, 23, 27, 33, 35, and 36. The final rule permitted manufacturers seeking MSHA approval of their products to use an independent laboratory to test their products in accordance with Agency standards. The final rule also allowed manufacturers to test their products in accordance with non-MSHA standards once the Agency had determined that the non-MSHA standards were equivalent to MSHA's applicable product approval requirements or could be modified to provide at least the same level of protection. The final rule requires that MSHA publish in the **Federal Register** a listing of all equivalency determinations in 30 CFR part 6 and in the applicable approval parts of 30 CFR.

At the time the final rule was promulgated, 30 CFR part 7 already allowed an applicant or third party to test certain products to MSHA standards. Specifically, part 7 specified requirements for MSHA approval of applicant or third party testing and evaluation of equipment and materials for use in underground mines that do not involve subjective testing. Paragraph 7.10(b) required MSHA to publish our intent to review any non-MSHA product safety standard for equivalency in the **Federal Register** for the purpose of soliciting public input. In addition, paragraph 7.10(c) required MSHA to list our equivalency determinations in 30 CFR part 7.

On December 1, 2003, MSHA announced in the **Federal Register** (68 FR 67216) our intent to review the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres, Part 0, General Requirements (IEC 60079-0); Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" (IEC 60079-1); and Part 11, Intrinsic

Safety (IEC 60079-11). The **Federal Register** notice solicited comments concerning the Agency's intent to review the IEC standards.

MSHA has not yet completed a review of the IEC standard for Electrical Apparatus for Explosive Gas Atmospheres, Part 11, Intrinsic Safety (IEC 60079-11). Those results will be published separately at a later date.

The IEC is a worldwide organization for standardization comprising all national electrotechnical committees. The IEC promotes international cooperation concerning standardization in the electrical and electronic fields. To this end, the IEC publishes international standards in the fields of electricity, electronics, and related technologies. The IEC standards referenced in this notice are subparts of the IEC standards for hazardous location equipment.

A 60-day comment period was provided which closed on January 30, 2004. Comments were received from four (4) commenters. Two commenters suggested that MSHA should deem the IEC standards equivalent in their unmodified form and urged us to pursue participation in the international agreement between countries relative to the IEC standards known as the "IECEx Scheme." The goal of the IECEx Scheme is to facilitate international trade in electrical equipment intended for use in explosive atmospheres (Ex equipment) by eliminating the need for multiple national certifications while preserving an appropriate level of safety. Two commenters suggested additional standards for MSHA to consider reviewing for equivalency in the future. Because these comments are beyond the scope of this equivalency determination, the Agency will not address them here.

One commenter expressed concern over what it characterized as MSHA's intent to accept international approval standards as equivalent to U.S. standards for products used in coal mines. The commenter further expressed concern regarding the manner in which the standards would be tested and approved.

As we explained in the preamble to the 2003 final rule, Testing and Evaluation by Independent Laboratories and Non-MSHA Product Safety Standards (68 FR 36408), MSHA will only accept standards as equivalent after carefully evaluating the standards to ensure that they provide at least the same degree of protection as existing 30 CFR requirements. With respect to part 7 equivalency determinations, MSHA will also determine whether the testing and evaluation of the non-MSHA standard involves subjective analysis, because the requirements in part 7

apply to certain equipment and materials whose product testing and evaluation does not involve subjective analysis. Where deficiencies are noted in the subject standards, MSHA will add additional requirements to ensure that at least the same degree of protection is provided as in existing requirements.

Further, MSHA will review all test and evaluation results submitted by independent laboratories to ensure that all applicable requirements of the standard and any additional requirements that MSHA specifies have been met. If the testing methodology or evaluation results do not clearly demonstrate that a product meets the applicable requirements, MSHA will conduct an independent evaluation including additional or repeat testing. MSHA will also continue the post-approval product audit program to ensure compliance with the approved design.

In the December 1, 2003, **Federal Register** notice MSHA stipulated that at the conclusion of the evaluation, the Agency would publish the final determination in the **Federal Register**. The determination would be accompanied by a list of modifications, if they are deemed necessary to achieve equivalency. This notice contains MSHA's final determination after evaluating the IEC standards.

##### II. Discussion

MSHA's review of the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres, Part 0, General Requirements (IEC 60079-0, Fourth Edition, 2004-01); and Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" (IEC 60079-1, Fifth Edition, 2003-11) is completed. These two IEC standards together describe the overall requirements for design of flameproof enclosures. The IEC 60079-1, Flameproof Enclosures "d" document provides the specific technical design and testing requirements for explosion-proof enclosures while the IEC 60079-0, General Requirements document provides the general application and use specifications for all IEC Electrical Apparatus for Explosive Gas Atmosphere standards. Applicants may request that MSHA grant product approval for explosion-proof (flameproof) enclosures based on compliance with these IEC standards provided our specified list of modifications is also addressed in the submitted design.

*Equivalency Review Results for IEC 60079-0 and IEC 60079-1*

The equivalency review for the IEC standards concerning Electrical Apparatus for Explosive Gas Atmospheres, Part 0, General Requirements and Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" involved comparing them with MSHA's corresponding requirements for explosion-proof enclosures found in 30 CFR part 7—Testing by applicant or third party and part 18—Electric motor-driven mine equipment and accessories.

MSHA's technical review consisted of a detailed comparison of the IEC requirements for Group I (mining) enclosures to MSHA's requirements for explosion-proof enclosures. MSHA's requirements for explosion-proof enclosures are based on three principles. First, an enclosure shall be rugged in construction and suitable for use in mining applications. Second, it shall have a minimum structural yield pressure of at least 150 psig, without significant permanent distortion, and third, there shall be no visible luminous flames or ignitions of a combustible methane-air atmosphere surrounding the enclosure during explosion testing.

Part 7 specifies requirements for MSHA approval of applicant or third party testing and evaluation of equipment and materials for use in underground mines that do not involve subjective testing. In addition to our review for equivalency, MSHA reviewed the IEC requirements for testing and evaluation of Group I (mining) enclosures to determine that they do not involve subjective analyses. We determined that the testing and evaluation of equipment using the applicable IEC standards, including MSHA's specified list of modifications, does not involve subjective analyses.

For the purpose of the equivalency review, MSHA organized the technical requirements for both the IEC standards being evaluated and MSHA's requirements according to certain features that were considered common to the design, construction, testing and evaluation of all explosion-proof enclosures. Technical requirements for features such as mechanical strength, flamepaths, lead entrances, and performance testing (including explosion tests and static pressure tests) were used as the basis for comparing the standards. Other factors such as insulating materials, electrical clearances, voltage limitations, and grounding methods were not addressed because these items are not considered

part of the enclosure certification activities we currently perform.

Specific details of MSHA's findings of the Agency's equivalency review can be obtained from <http://www.msha.gov/Part6SingleSource/Part6SingleSource.asp> or by contacting the Electrical Safety Division, Approval and Certification Center, MSHA, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059, [chirdon.david@dol.gov](mailto:chirdon.david@dol.gov) (e-mail), 304-547-2026 (voice), or 304-547-2044 (facsimile).

Based on MSHA's review, the Agency determined that the IEC standards could be modified to provide at least the same degree of protection as existing requirements. Thus explosion-proof enclosures that are designed and tested according to IEC Standards IEC 60079-0 (Fourth Edition, 2004-01) and IEC 60079-1 (Fifth Edition, 2003-11) may be submitted for MSHA product approval subject to the modification set out in the regulatory text below.

#### *Section-by-Section Discussion*

This final rule adds § 6.30, MSHA listing of equivalent non-MSHA product safety standards, which lists non-MSHA product safety standards MSHA have evaluated and determined to provide at least the same degree of protection with or without modifications. Subparagraph 6.30(a) specifies the IEC product safety standards reviewed for equivalency to MSHA's explosion-proof enclosure standards and references sections 7.10(c)(1) and 18.6(a)(3)(i) for a list of the required modifications.

Section 7.10, MSHA acceptance of equivalent non-MSHA product safety standards, is amended by revising paragraph (c) to include subparagraph (1) listing the specific product safety standard and (1)(i) through (1)(ix) specifying required modifications to provide the same degree of protection as MSHA requirements.

Subparagraph (a)(3) of § 18.6, Applications, is amended to include subparagraph (i) and subparagraphs (i)(A) through (i)(I). Subparagraph (i) lists the specific IEC product safety standards and subparagraphs (i)(A) through (i)(I) specify the modifications to the IEC standards required to provide the same degree of protection as MSHA requirements.

#### **List of Subjects in 30 CFR Parts 6, 7, and 18**

Incorporation by Reference, Mine Safety and Health, Reporting and Recordkeeping Requirements, Research.

Dated: May 3, 2006.

**David G. Dye,**

*Acting Assistant Secretary for Mine Safety and Health.*

■ For the reasons set out in the preamble, chapter I of title 30 of the Code of Federal Regulations is amended as follows:

#### **PART 6—TESTING AND EVALUATION BY INDEPENDENT LABORATORIES AND NON-MSHA PRODUCT SAFETY STANDARDS**

■ 1. The authority for part 6 continues to read as follows:

**Authority:** 30 U.S.C. 957.

■ 2. Add § 6.30 to read as follows:

##### **§ 6.30 MSHA listing of equivalent non-MSHA product safety standards.**

MSHA evaluated the following non-MSHA product safety standards and determined that they provide at least the same degree of protection as current MSHA requirements with or without modifications as indicated:

(a) The International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres, Part 0, General Requirements (IEC 60079-0, Fourth Edition, 2004-01) and Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" (IEC 60079-1, Fifth Edition, 2003-11) must be modified in order to provide at least the same degree of protection as MSHA explosion-proof enclosure requirements included in parts 7 and 18 of this chapter. Refer to §§ 7.10(c)(1) and 18.6(a)(3)(i) for a list of the required modifications. The IEC standards may be inspected at MSHA's Electrical Safety Division, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059 and may be purchased from International Electrical Commission, Central Office 3, rue de Varembe, P.O. Box 131, CH-1211 GENEVA 20, Switzerland.

(b) [Reserved].

#### **PART 7—TESTING BY APPLICANT OR THIRD PARTY**

■ 3. The authority for part 7 continues to read as follows:

**Authority:** U.S.C. 957.

■ 4. Amend § 7.10 by revising paragraph (c) to read as follows:

##### **§ 7.10 MSHA acceptance of equivalent non-MSHA product safety standards.**

\* \* \* \* \*

(c) A listing of all equivalency determinations will be published in this

part 7. The listing will state whether MSHA accepts the non-MSHA product safety standards in their original form, or whether MSHA will require modifications to demonstrate equivalency. If modifications are required, they will be provided in the listing. MSHA will notify the public of each equivalency determination and will publish a summary of the basis for its determination. MSHA will provide equivalency determination reports to the public upon request to the Approval and Certification Center. MSHA has made the following equivalency determinations applicable to this part 7.

(1) MSHA will accept applications for motors under Subpart J designed and tested to the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas Atmospheres, Part 0, General Requirements (IEC 60079-0, Fourth Edition, 2004-01) and Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" (IEC 60079-1, Fifth Edition, 2003-11) (which are hereby incorporated by reference and made a part hereof) provided the modifications to the IEC standards specified in § 7.10(c)(1)(i) through (ix) are met. The Director of the **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The IEC standards may be inspected at MSHA's Electrical Safety Division, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). These IEC standards may be obtained from International Electrotechnical Commission, Central Office 3, rue de Varembé, P.O. Box 131, CH-1211 GENEVA 20, Switzerland.

(i) Enclosures associated with an electric motor assembly shall be made of metal and not have a compartment exceeding ten (10) feet in length. External surfaces of enclosures shall not exceed 150 °C (302 °F) in normal operation.

(ii) Enclosures shall be rugged in construction and should meet existing requirements for minimum bolt size and spacing and for minimum wall, cover, and flange thicknesses specified in paragraph(g)(19) of § 7.304 Technical requirements. Enclosure fasteners should be uniform in size and length, be provided at all corners, and be secured from loosening by lockwashers or

equivalent. An engineering analysis shall be provided for enclosure designs that deviate from the existing requirements. The analysis shall show that the proposed enclosure design meets or exceeds the mechanical strength of a comparable enclosure designed to 150 psig according to existing requirements, and that flamepath clearances in excess of existing requirements will not be produced at an internal pressure of 150 psig. This shall be verified by explosion testing the enclosure at a minimum of 150 psig.

(iii) Enclosures shall be designed to withstand a minimum pressure of at least 150 psig without leakage through any welds or castings, rupture of any part that affects explosion-proof integrity, clearances exceeding those permitted under existing requirements along flame-arresting paths, or permanent distortion exceeding 0.040-inch per linear foot.

(iv) Flamepath clearances, including clearances between fasteners and the holes through which they pass, shall not exceed those specified in existing requirements. No intentional gaps in flamepaths are permitted.

(v) The minimum lengths of the flame arresting paths, based on enclosure volume, shall conform to those specified in existing requirements to the nearest metric equivalent value (e.g., 12.5 mm, 19 mm, and 25 mm are considered equivalent to ½ inch, ¾ inch and 1 inch respectively for plane and cylindrical joints). The widths of any grooves for o-rings shall be deducted in measuring the widths of flame-arresting paths.

(vi) Gaskets shall not be used to form any part of a flame-arresting path. If o-rings are installed within a flamepath, the location of the o-rings shall meet existing requirements.

(vii) Cable entries into enclosures shall be of a type that utilizes either flame-resistant rope packing material or sealing rings (grommets). If plugs and mating receptacles are mounted to an enclosure wall, they shall be of explosion-proof construction. Insulated bushings or studs shall not be installed in the outside walls of enclosures. Lead entrances utilizing sealing compounds and flexible or rigid metallic conduit are not permitted.

(viii) Unused lead entrances shall be closed with a metal plug that is secured by spot welding, brazing, or equivalent.

(ix) Special explosion tests are required for electric motor assemblies that share leads (electric conductors) through a common wall with another explosion-proof enclosure, such as a motor winding compartment and a

conduit box. These tests are required to determine the presence of any pressure piling conditions in either enclosure when one or more of the insulating barriers, sectionalizing terminals, or other isolating parts are sequentially removed from the common wall between the enclosures. Enclosures that exhibit pressures during these tests that exceed those specified in existing requirements must be provided with a warning tag. The durable warning tag must indicate that the insulating barriers, sectionalizing terminals, or other isolating parts be maintained in order to insure the explosion-proof integrity for either enclosure sharing a common wall. A warning tag is not required if the enclosures withstand a static pressure of twice the maximum value observed in the explosion tests.

(2) [Reserved]

\* \* \* \* \*

## PART 18—ELECTRIC MOTOR-DRIVEN MINE EQUIPMENT AND ACCESSORIES

■ 5. The authority for part 18 continues to read as follows:

**Authority:** 30 U.S.C. 957, 961.

■ 6. Amend § 18.6 by revising paragraph (a)(3) to read as follows:

### § 18.6 Applications.

(a) \* \* \*

(3) An applicant may request testing and evaluation to non-MSHA product safety standards which have been determined by MSHA to be equivalent, under § 6.20 of this chapter, to MSHA's product approval requirements under this part. A listing of all equivalency determinations will be published in 30 CFR part 6 and the applicable approval parts. The listing will state whether MSHA accepts the non-MSHA product safety standards in their original form, or whether MSHA will require modifications to demonstrate equivalency. If modifications are required, they will be provided in the listing. MSHA will notify the public of each equivalency determination and will publish a summary of the basis for its determination. MSHA will provide equivalency determination reports to the public upon request to the Approval and Certification Center. MSHA has made the following equivalency determinations applicable to this part 18.

(i) MSHA will accept applications for explosion-proof enclosures under part 18 designed and tested to the International Electrotechnical Commission's (IEC) standards for Electrical Apparatus for Explosive Gas

Atmospheres, Part 0, General Requirements (IEC 60079-0, Fourth Edition, 2004-01); and Part 1, Electrical Apparatus for Explosive Gas Atmospheres, Flameproof Enclosures "d" (IEC 60079-1, Fifth Edition, 2003-11) (which are hereby incorporated by reference and made a part hereof) provided the modifications to the IEC standards specified in § 18.6(a)(3)(i)(A) through (I) are met. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The IEC standards may be inspected at MSHA's Electrical Safety Division, Approval and Certification Center, R.R. 1, Box 251, Industrial Park Road, Triadelphia, West Virginia 26059 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html). These IEC standards may be obtained from International Electrical Commission, Central Office 3, rue de Varembe, P.O. Box 131, CH-1211 GENEVA 20, Switzerland.

(A) Enclosures shall be made of metal and not have a compartment exceeding ten (10) feet in length. Glass or polycarbonate materials shall be the only materials utilized in the construction of windows and lenses. External surfaces of enclosures shall not exceed 150 °C (302 °F) and internal surface temperatures of enclosures with polycarbonate windows and lenses shall not exceed 115 °C (240 °F), in normal operation. Other non-metallic materials for enclosures or parts of enclosures will be evaluated, on a case-by-case basis, under the new technology provisions in § 18.20(b) of this part.

(B) Enclosures shall be rugged in construction and should meet existing requirements for minimum bolt size and spacing and for minimum wall, cover, and flange thicknesses specified in paragraph (g)(19) of § 7.304 Technical requirements. Enclosure fasteners should be uniform in size and length, be provided at all corners, and be secured from loosening by lockwashers or equivalent. An engineering analysis shall be provided for enclosure designs that deviate from the existing requirements. The analysis shall show that the proposed enclosure design meets or exceeds the mechanical strength of a comparable enclosure designed to 150 psig according to existing requirements, and that flamepath clearances in excess of existing requirements will not be produced at an internal pressure of 150

psig. This shall be verified by explosion testing the enclosure at a minimum of 150 psig.

(C) Enclosures shall be designed to withstand a minimum pressure of at least 150 psig without leakage through any welds or castings, rupture of any part that affects explosion-proof integrity, clearances exceeding those permitted under existing requirements along flame-arresting paths, or permanent distortion exceeding 0.040-inch per linear foot.

(D) Flamepath clearances, including clearances between fasteners and the holes through which they pass, shall not exceed those specified in existing requirements. No intentional gaps in flamepaths are permitted.

(E) The minimum lengths of the flame arresting paths, based on enclosure volume, shall conform to those specified in existing requirements to the nearest metric equivalent value (e.g., 12.5 mm, 19 mm, and 25 mm are considered equivalent to 1/2 inch, 3/4 inch and 1 inch respectively for plane and cylindrical joints). The widths of any grooves for o-rings shall be deducted in measuring the widths of flame-arresting paths.

(F) Gaskets shall not be used to form any part of a flame-arresting path. If o-rings are installed within a flamepath, the location of the o-rings shall meet existing requirements.

(G) Cable entries into enclosures shall be of a type that utilizes either flame-resistant rope packing material or sealing rings (grommets). If plugs and mating receptacles are mounted to an enclosure wall, they shall be of explosion-proof construction. Insulated bushings or studs shall not be installed in the outside walls of enclosures. Lead entrances utilizing sealing compounds and flexible or rigid metallic conduit are not permitted.

(H) Unused lead entrances shall be closed with a metal plug that is secured by spot welding, brazing, or equivalent.

(I) Special explosion tests are required for explosion-proof enclosures that share leads (electric conductors) through a common wall with another explosion-proof enclosure. These tests are required to determine the presence of pressure piling conditions in either enclosure when one or more of the insulating barriers, sectionalizing terminals, or other isolating parts are sequentially removed from the common wall between the enclosures. Enclosures that exhibit pressures during these tests that exceed those specified in existing requirements must be provided with a warning tag. The durable warning tag must indicate that the insulating barriers, sectionalizing terminals, or

other isolating parts be maintained in order to insure the explosion-proof integrity for either enclosure sharing a common wall. A warning tag is not required if the enclosures withstand a static pressure of twice the maximum value observed in the explosion tests.

(ii) [Reserved]

\* \* \* \* \*

[FR Doc. 06-4391 Filed 5-16-06; 8:45 am]

BILLING CODE 4510-43-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 1, 4, 6, 14, and 21

RIN 2900-AL10

#### Adjudication; Fiduciary Activities—Nomenclature Changes

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule; technical correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published a document in the **Federal Register** on July 17, 2002 (67 FR 46868), amending its adjudication and fiduciary regulations to update certain titles in parts 3 and 13. At that time, we failed to update parts 1, 4, 6, 14, and 21 to reflect the new titles. This document corrects those regulations by replacing the titles of Adjudication Division, Adjudication Officer, and Veterans Services Officer, with Veterans Service Center, and Veterans Service Center Manager. These nonsubstantive changes are made for clarity and accuracy.

**DATES:** *Effective Date:* May 17, 2006.

**FOR FURTHER INFORMATION CONTACT:** Trude Steele, Consultant, Compensation and Pension Service, Policy and Regulations Staff, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7210.

**SUPPLEMENTARY INFORMATION:** VA published a document in the **Federal Register** on July 17, 2002, at 67 FR 46868, amending 38 CFR parts 3 and 13 to reflect the reorganization of the Adjudication and Veterans Services Divisions into Veterans Service Centers and to reflect the elimination of the positions of the Adjudication Officer and the Veterans Services Officer and the creation of the position of the Veterans Service Center Manager. At that time, we failed to update parts 1, 4, 6, 14, and 21 to reflect the new position. This document simply updates parts 1, 4, 6, 14 and 21 to reflect the change.