

recognition as a Nationally Recognized Testing Laboratory. Pertinent written documents and exhibits must be received no later than the last date for comments (see **DATES** above), and submitted to the address provided above (see **ADDRESS**). Copies of the NTS application, amendments and supplements to the application, the on-site review report, and all submitted comments, as received, are available for inspection and duplication (under Docket No. NRTL-1-98) at the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant (NTS) satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with 29 CFR Section 1910.7, and Appendix A to that section.

Signed at Washington, D.C. this 18th day of August, 1998.

Charles N. Jeffress,

Assistant Secretary.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL-2-98]

NSF International, Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Notice.

SUMMARY: This notice announces the application of NSF International for recognition as an NRTL under 29 CFR 1910.7, and presents the Agency's preliminary finding.

DATES: Comments submitted by interested parties must be received no later than October 27, 1998.

ADDRESS: Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program at the above address, or phone (202) 219-7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

Notice is hereby given that NSF International (NSF) has applied to the Occupational Safety and Health Administration (OSHA), pursuant to 29 CFR 1910.7, for recognition as a Nationally Recognized Testing Laboratory (NRTL). The application covers testing and certification of the equipment or materials, and use of the programs and procedures, listed below.

The address of the laboratory covered by this application is: NSF International, 3475 Plymouth Road, Ann Arbor, Michigan 48105.

Background

According to the applicant, NSF International (NSF) is headquartered in Ann Arbor, Michigan, and was incorporated in that state in 1990. The applicant also states it has been a not-for-profit developer of test standards and a third party certifier for more than fifty years. The Bylaws of NSF state that it "shall be operated exclusively for charitable, educational, and scientific purposes and for the purpose of testing for public safety * * * as a nonprofit corporation." The Bylaws and other documentation submitted by NSF indicate that NSF develops "third-party consensus standards" covering the areas of safety, health, sanitation, and environment. The application further documents that NSF currently engages in conformity assessment activities connected with several certification programs that it operates in those areas.

NSF submitted an application for recognition, dated July 6, 1997 (see Exhibit 2A), and later submitted three amendments. On July 29, 1997, NSF amended its application to add two additional test standards to the proposed scope of recognition (see Exhibit 2B). On December 9 and 16, 1997, NSF amended its application to request additional programs and procedures, and to replace one test standard it previously requested (see Exhibits 2C and 2D).

The applicant submitted a number of documents in support of its application. These documents include its Corporate Quality Assurance Manual (CQAM) and its Laboratories Quality Assurance Manual (LQAM). The CQAM describes the overall quality system used at NSF, and includes an explanation and reference to the Standard Operating Procedures (SOPs), which "detail the actions necessary to accomplish a particular task." The LQAM provides detailed policies, processes, and steps for the activities performed by NSF's laboratories. The LQAM also references

the more specific SOPs. The CQAM and LQAM provide part of the overall framework that will govern many of the activities NSF would have to perform as an NRTL. NSF also submitted an example of an application and contract for its certification services, and the detailed Certification Policies that form part of this contract (see Exhibit 2E). These items are applicable to all products certified by NSF, and will be applicable to the certification of products for electrical safety.

In summary, NSF represents that it maintains the experience, expertise, personnel, organization, equipment, and facilities suitable for accreditation as an OSHA Nationally Recognized Testing Laboratory. It also contends that it meets or will meet the criteria of recognition defined in 29 CFR 1910.7.

The four primary criteria for recognition are presented below, along with examples that illustrate how NSF has met each of these criteria.

Capability

Section 1910.7(b)(1) states that for each specified item of equipment or material to be listed, labeled or accepted, the laboratory must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality control programs) to perform appropriate testing.

The LQAM provides overall descriptions of NSF's laboratories, and details facilities and equipment available in each of these laboratories. The applicant contends it has security measures in place to restrict or control access to its facility, to sections within its facility, and to confidential information. The LQAM contains a listing or references to listings of equipment available for each laboratory. It also addresses the maintenance program for equipment, the calibration procedures and frequency, and the types of records maintained for or supportive of many laboratory activities. NSF addresses testing, sample handling, sampling, and test methods in its CQAM or its LQAM. It also has documented the specific equipment it plans to use for testing to the standards it has requested for recognition.

In addition, NSF has submitted for OSHA review samples of the test procedures and evaluation it plans to use. However, the test standard information NSF has submitted indicates that many test procedures it plans to use are not yet in place. As a result, OSHA has not performed an actual evaluation of the specific testing, evaluation and reporting methods that

NSF will utilize in certifying to any of the requested test standards. Therefore, OSHA still needs to investigate how these methods will work when they are implemented.

The CQAM and LQAM cover personnel qualifications and training; other materials identify NSF staff that will be involved with the NRTL operations, along with a summary of their education and experience. OSHA's on-site review report indicates that NSF has sufficient personnel with education, training, technical knowledge, and experience to undertake the functions needed as an NRTL, and that NSF quality control, partially embodied in the CQAM and LQAM, is adequate.

Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide certain controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. They include control procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper use of identifying marks or labels.

The CQAM addresses the conformity assessment operations of NSF, including the steps involved in the listing and certification of products. NSF has submitted documentation showing it has a registered certification mark. In addition, the NSF's certification policies provide further details regarding the authorization of certifications, and audits of facilities. The audits apply to both the initial assessment or evaluation and the follow-up inspection of manufacturers' facilities. Further details are provided regarding the procedures for authorizing the use of the NSF mark, and the listings that NSF issues or revises in connection with its current certification programs. The on-site review report indicates that follow-up inspections will be performed by NSF four times a year. The certification policies, and corresponding detailed procedures, contain many elements that NSF will adapt for use in its NRTL operations. NSF has not yet certified or listed any products for which it requests recognition, and the follow-up inspection program it will use as an NRTL is a new program for NSF. Therefore, OSHA will need to evaluate this new program, and the actual certification and listing procedures when NSF uses them for its NRTL operations.

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers subject to the tested equipment requirements, and of any manufacturers or vendors of equipment or materials being tested for these purposes.

As previously mentioned, NSF's Bylaws indicate it is a "nonprofit corporation." The Bylaws also indicate NSF is a "nonstock, directorship basis" corporation and that "the Board of Directors shall establish policies and oversee management of the Corporation," and "elect Directors [and] * * * officers." In addition, the "Conflicts of Interest" section of the Bylaws contains self-disclosure and disqualification requirements for directors and officers in matters involving contracts and transactions in which they are "interested."

Creditable Reports/Complaint Handling

Section 1910.7(b)(4) provides that an NRTL must maintain effective procedures for producing credible findings and reports that are objective and without bias, as well as for handling complaints and disputes under a fair and reasonable system.

The LQAM references the test data sheets and other documents used to record test data, and indicates that results from tests are recorded in an information management system. The information in this system is then used to generate preliminary test reports that are reviewed and checked prior to being finalized. Specific referenced procedures are used for the direct measurement of data, and for the review and authorization of preliminary and final test reports. As for the handling of complaints and disputes, the CQAM and LQAM describe aspects of the NSF customer feedback systems, and contain references to the specific procedures that apply. In addition, the certification policies specifically address customer complaints, which could apply either to a user or a manufacturer of the products NSF certifies.

Standards

NSF seeks recognition for testing and certification of products to determine compliance with the following three (3) test standards, and OSHA has determined the standards are "appropriate," within the meaning of 29 CFR 1910.7(c):

ANSI/UL 197 Commercial Electric Cooking Appliances
ANSI/UL 471 Commercial Refrigerators and Freezers
ANSI/UL 921 Commercial Electric Dishwashers

Programs and Procedures

NSF has applied for three (3) supplemental programs and procedures, based upon the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs) that may be used by an NRTL to control and audit, but not actually to generate, the data relied upon for product certification. An applicant, when recognized as an NRTL, is automatically accredited for the first, or basic, program, which requires that all product testing and evaluation be performed in-house by the NRTL that will certify the product. The on-site review report indicates that NSF appears to meet the requirements for use of the following supplemental programs and procedures, for which it has applied:

1. Program 4: Acceptance of witnessed testing data.
2. Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC-CB) Scheme.
3. Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents.

Conditions

As described above, OSHA has concerns about NSF because it has not had the opportunity to evaluate the actual testing and reporting procedures, and use of the follow-up program, since these have not yet been implemented. Therefore, OSHA intends to impose the following condition in the final notice to officially recognize NSF as an NRTL. This condition applies solely to its operations as an NRTL and will be in addition to all other conditions that OSHA normally imposes in its recognition of an organization as an NRTL.

Within 30 days of certifying its first products under the NRTL Program, NSF will notify the OSHA NRTL Program Director so that OSHA may review NSF's implementation of procedures for testing and follow-up inspections of products covered within the scope of the above-listed test standards.

Preliminary Finding

NSF International has addressed the criteria that must be met for recognition as an NRTL, as summarized above. In addition, the OSHA has performed an on-site review of NSF's Ann Arbor, Michigan facility, on December 2-5, 1997, and investigated the processes, procedures, practices, and general operations used by the laboratory.

Discrepancies noted by the review team during the on-site review were addressed by NSF following the on-site evaluation and are included in the on-site review report (see Exhibit 3).

Following a review of the application file and the on-site review report, the NRTL Program staff has concluded that the applicant can be granted recognition as a Nationally Recognized Testing Laboratory for the Ann Arbor, Michigan facility, subject to the condition described above. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that NSF International Ann Arbor, Michigan facility can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the 3 standards and the 3 programs described above with the condition to be applied as noted.

All interested members of the public are invited to supply detailed reasons and evidence as to whether NSF International has met the requirements of 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory. Pertinent written documents and exhibits must be received no later than the last date for comments (see **DATES** above), and submitted to the address provided above (see **ADDRESS**). Copies of the NSF application, amendments to the application and supporting documentation, the on-site review report, and all submitted comments, as received, are available for inspection and duplication (under Docket No. NRTL-2-98) at the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant (NSF) satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with 29 CFR Section 1910.7, and Appendix A to that section.

Signed at Washington, D.C. this 18th day of August, 1998.

Charles N. Jeffress,
Assistant Secretary.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL-2-90]

SGS U. S. Testing Company Inc., Renewal & Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the applications of SGS U.S. Testing Company Inc., under 29 CFR 1910.7, for renewal of its recognition as an NRTL, and for an expansion of its recognition to include an additional site and to use additional programs and procedures. When initially recognized, the organization was called U.S. Testing Company, Inc., California Division, and this notice formally reflects the name change to SGS U.S. Testing Company Inc.

EFFECTIVE DATE: This recognition will become effective on August 28, 1998 and will be valid until August 28, 2003, unless terminated or modified prior to that date, in accordance with 29 CFR 1910.7.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, NRTL Program, Office of Technical Programs and Coordination Activities, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, D.C. 20210, or phone (202) 219-7056.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

Notice is hereby given that the Occupational Safety and Health Administration (OSHA) has renewed and expanded the recognition of SGS U.S. Testing Company Inc. (SGS), as a Nationally Recognized Testing Laboratory (NRTL), pursuant to 29 CFR 1910.7. When first recognized as an NRTL, the organization's name was U.S. Testing Company, Inc., California Division. SGS informed OSHA of the change in name (see Exhibit 7B), and this notice reflects that change.

Regarding the renewal, SGS received its recognition as an NRTL on March 23, 1993 (see 58 FR 15509), for a period of five years ending March 23, 1998. Appendix A to 29 CFR 1910.7 stipulates that the period of recognition of an NRTL is five years and that an NRTL may renew its recognition by applying not less than nine months, nor more than one year, before the expiration date of its current recognition. SGS applied

for a renewal of its recognition on March 23, 1997 (see Exhibit 7C), within the time allotted, and retained its recognition pending OSHA's final decision in this renewal process.

Regarding the expansions, SGS requested recognition to use additional programs and procedures, and for the recognition of its facility (site) in Fairfield, New Jersey, which will become the headquarters of its NRTL operations (see Exhibits 7D-7F). The recognition of this site covers testing and certification to the test standards listed below in the section titled "Expansion of Recognition—Additional Facility," and use of the additional programs and procedures, also listed below.

The notice of the applications for renewal and expansion of recognition was published in the **Federal Register** (see 63 FR 27598, 5/19/98). The notice included a preliminary finding that SGS could meet the requirements in 29 CFR 1910.7 for renewal and expansion of its recognition, subject to certain conditions, and invited public comment on the applications by July 20, 1998.

Two comments were received in response to the notice that favored SGS' pending expansion (see Exhibits 9-1 and 9-2). The previous application of SGS, pursuant to 29 CFR 1910.7, covered its recognition as an NRTL (56 FR 10045, 3/23/92), which OSHA granted on the date noted above.

Copies of all documents (Docket No. NRTL-2-90) are available for inspection and duplication at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, D.C. 20210.

The address of the SGS site for the renewal of recognition is: SGS U.S. Testing Company Inc., 555 Telegraph Road, Los Angeles, California 90040. The address of the additional site for which SGS is recognized is: SGS U.S. Testing Company Inc., 291 Fairfield Avenue, Fairfield, New Jersey 07004.

Final Decision and Order

Based upon a preponderance of the evidence, the OSHA staff findings and recommendations, and the on-site review report, dated February 27, 1998 (see Exhibit 8), OSHA finds that SGS has met the requirements of 29 CFR 1910.7 for the renewal of recognition of its Los Angeles, California site for testing and certification to the 16 test standards listed under "Renewal of Recognition" below. OSHA also finds that SGS has met the requirements of 29 CFR 1910.7 for expansion of its recognition to include the Fairfield, New Jersey site, and the 2 additional