

including investment-specific information; would it be possible to make a determination based on the results of applying the investment advice program to a sample set of the input data? (Commenters are requested to explain by reference to each of the five computer model characteristics described in section 408(g)(3)(B), summarized above.)

2. What types (e.g., technological, financial, other) and levels (e.g., educational, professional experience, professional certification) of expertise would be required to determine whether a computer model used in connection with an investment advice program satisfies the criteria described in ERISA section 408(g)(3)(B)? (Commenters are requested to explain by reference to each of the five computer model characteristics described in section 408(g)(3)(B), summarized above.)

3. With respect to currently-available computer models or programs for providing investment advice to plan participants or beneficiaries in the form of asset allocation portfolios comprised of plan investment options:³

a. What is the process for designing, developing and implementing the computer model/program? What parties are involved, and what are their roles? What hardware and software technologies are used to construct computer model investment advice programs? What direct economic costs are associated with the process for designing, developing and implementing the computer model/program?

b. What types of modifications are made to the computer model/program after use has begun? Why and how often are the modifications made (e.g., changes in methodology, technology, economy, marketplace, or plan), and how do the modifications affect the investment advice provided? What parties are involved in the modification process, and what are their roles? What direct economic costs may be associated with the modifications?

c. What economic costs and benefits are associated with the use of the computer model/program for providing investment advice, including changes in investment performance and in retirement wealth due to the provision of such advice? What are the indirect costs and benefits, such as impact on markets for financial services, including investment advice services, and impact on financial markets, including demand for and pricing of securities?

4. Would the responses to 3.a., 3.b., or 3.c. differ in the case of a computer model/investment advice program intended to satisfy the requirements of ERISA section 408(g)(3)(B)?

5. With respect to the Department's development of regulatory guidance, what special considerations, if any, should be made for small businesses or other small entities? Are there unique costs and benefits for small businesses or other small entities?

Model Form for Disclosure of Fees and Other Compensation

1. In general, what types of information relating to fees received by fiduciary advisers and their affiliates would be helpful to participants and beneficiaries in making their investment decisions?

2. What types of fees and compensation (including those provided by third parties) would be encompassed by ERISA section 408(g)(6)(A)(iii)? In relevant part, this provision refers to "all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property."

3. What challenges might be encountered in assembling and/or presenting the information on fees and compensation described in section 408(g)(6)(A)(iii) in a manner that is clear and understandable by the average plan participant? Are there any suggestions as to how these challenges can be addressed by the Department?

4. Is there a form or format for presenting information on fees and compensation described in section 408(g)(6)(A)(iii) (e.g., narrative, chart, combination of both) that might be particularly suitable in giving participants a clear and understandable description of the fees and compensation received by a fiduciary adviser or its affiliates? Is there an optimal time frame, relative to when the advice is provided, for providing this information to participants and beneficiaries? What impact, if any, will the receipt of a model form have on investment decisions made by participants and beneficiaries?

5. Persons that may qualify as "fiduciary advisers" are invited to provide forms that they currently use, or might use, to provide the kinds of fee and compensation information described above. As described in ERISA section 408(g)(11)(A), "fiduciary advisers" may include investment advisers registered under the Investment

Advisers Act of 1940, certain banks and similar financial institutions, insurance companies qualified to do business under the laws of a State, and brokers or dealers registered under the Securities Exchange Act of 1934. Commenters are reminded that submissions are made solely for the purpose of assisting the Department. Accordingly, no inferences should be drawn as to whether the forms submitted meet the standards for presentation described in ERISA section 408(g)(8)(A).

Signed at Washington, DC, this 28th day of November, 2006.

Bradford P. Campbell,

Acting Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL2-98]

NSF International; Expansion of Recognition

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

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of NSF International (NSF) as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of recognition becomes effective on December 4, 2006.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3655, Washington, DC 20210, or phone (202) 693-2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of NSF International (NSF) as a Nationally Recognized Testing Laboratory (NRTL). NSF's expansion covers the use of additional test standards. OSHA's current scope of recognition for NSF may be found in the following informational Web page: <http://www.osha.gov/dts/otpca/nrtl/nsf.html>.

³ Commenters are reminded that, as described above, materials submitted in response to this request will be publicly available.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products "properly certified"¹ by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page for each NRTL, which details its scope of recognition. These pages can be accessed from our Web site at <http://www.osha.gov/dts/otpc/nrtl/index.html>.

NSF submitted an application, dated May 10, 2005, (see Exhibit 16-1) to expand its recognition to include 19 additional test standards. The NRTL then amended the original application to request two additional test standards (see Exhibit 16-2). The NRTL Program staff determined that each of these standards is an "appropriate test standard" within the meaning of 29 CFR 1910.7(c). However, one of these standards was already included in NSF's scope. Therefore, OSHA is approving 20 test standards for the expansion. In connection with this request, OSHA did not perform an on-site review of NSF's NRTL testing facilities. However, NRTL Program assessment staff reviewed information pertinent to the request and recommended that NSF's recognition be expanded to include the 20 additional test standards listed below (see Exhibit 16-3).

The preliminary notice announcing the expansion application was published in the **Federal Register** on

May 18, 2006 (71 FR 28886). Comments were requested by June 2, 2006, but no comments were received in response to this notice. OSHA is now proceeding with this final notice to grant NSF's expansion application.

The most recent application processed by OSHA for NSF covered its renewal of recognition, and the final notice granting this renewal was published on August 30, 2005 (70 FR 51371).

You may obtain or review copies of all public documents pertaining to the NSF application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-2625, Washington, DC, 20210. Docket No. NRTL2-98 contains all materials in the record concerning NSF's recognition.

The current address of the NSF facility already recognized by OSHA is: NSF International, 789 Dixboro Road, Ann Arbor, MI 48105.

Final Decision and Order

NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that NSF has met the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of NSF, subject to the following limitation and conditions.

Limitation

OSHA limits the expansion of NSF's recognition to testing and certification of products for demonstration of conformance to the test standards listed below. OSHA has determined that the standards meet the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c).

- UL 48 ... Electric Signs.
- UL 65 ... Wired Cabinets.
- UL 174 Household Electric Storage Tank Water Heaters.
- UL 250 Household Refrigerators and Freezers.
- UL 412 Refrigeration Unit Coolers.
- UL 430 Waste Disposers.
- UL 499 Electric Heating Appliances.
- UL 778 Motor-Operated Water Pumps.
- UL 858 Household Electric Ranges.
- UL 873 Temperature-Indicating and -Regulating Equipment.
- UL 979 Water Treatment Appliances.
- UL 1026 Electric Household Cooking and Food Serving Appliances.
- UL 1082 Household Electric Coffee Makers and Brewing-Type Appliances.

- UL 1083 Household Electric Skillets and Frying-Type Appliances.
- UL 1261 Electric Water Heaters for Pools and Tubs.
- UL 1598 Luminaires.
- UL 1889 Commercial Filters for Cooking Oil.
- UL 1951 Electric Plumbing Accessories.
- UL 2157 Electric Clothes Washing Machines and Extractors.
- UL 2158 Electric Clothes Dryers.

The designations and titles of the above test standards were current at the time of the preparation of the notice of the preliminary finding.

OSHA's recognition of NSF, or any NRTL, for a particular test standard is limited to equipment or materials (*i.e.*, products) for which OSHA standards require third-party testing and certification before use in the workplace. Consequently, if a test standard also covers any product(s) for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product(s).

Many UL test standards also are approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience, we use the designation of the standards developing organization for the standard as opposed to the ANSI designation. Under our procedures, any NRTL recognized for an ANSI-approved test standard may use either the latest proprietary version of the test standard or the latest ANSI version of that standard. You may contact ANSI to find out whether or not a test standard is currently ANSI-approved.

Conditions

NSF must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to NSF's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If NSF has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the test standard developing organization of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

NSF must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, NSF agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL)

¹ Properly certified means, in part, that the product is labeled or marked with the NRTL's "registered" certification mark (*i.e.*, the mark the NRTL uses for its NRTL work) and that the product certification falls within the scope of recognition of the NRTL.

without clearly indicating the specific equipment or material to which this recognition is tied, or that its recognition is limited to certain products;

NSF must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

NSF will meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition; and

NSF will continue to meet the requirements for recognition in all areas where it has been recognized.

Edwin G. Foulke, Jr.,
Assistant Secretary.

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL3-92]

TUV Rheinland of North America, Inc.; Expansion of Recognition

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

ACTION: Notice.

SUMMARY: This notice announces the Occupational Safety and Health Administration's final decision expanding the recognition of TUV Rheinland of North America, Inc., (TUV) as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7.

DATES: The expansion of recognition becomes effective on December 4, 2006.

FOR FURTHER INFORMATION CONTACT: MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3653, Washington, DC 20210, or phone (202) 693-2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of TUV Rheinland of North America, Inc., (TUV) as a Nationally Recognized Testing Laboratory (NRTL). TUV's expansion covers the use of additional test standards. OSHA's current scope of

recognition for TUV may be found in the following informational Web page: <http://www.osha.gov/dts/otpca/nrtl/tuv.html>.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products "properly certified" ¹ by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition or for expansion or renewal of this recognition following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. We maintain an informational Web page that details the scope of recognition for each NRTL. These pages can be accessed from our Web site at <http://www.osha.gov/dts/otpca/nrtl/index.html>.

TUV submitted an application, dated December 20, 2004, (see Exhibit 32-1) to expand its recognition to include five additional test standards. The NRTL then amended the original application to request four additional test standards (see Exhibit 32-2). The NRTL Program staff determined that each of these standards is an "appropriate test standard" within the meaning of 29 CFR 1910.7(c). However, one standard was already included in TUV's scope. Therefore, OSHA is approving eight test standards for the expansion. In connection with this request, OSHA performed an on-site review of TUV's NRTL testing facility. The assessor reviewed information pertinent to the request and recommended expansion for the eight additional test standards (see Exhibit 32-3).

The preliminary notice announcing the expansion application was

¹ Properly certified means, in part, that the product is labeled or marked with the NRTL's "registered" certification mark (i.e., the mark the NRTL uses for its NRTL work) and that the product certification falls within the scope of recognition of the NRTL.

published in the **Federal Register** on July 24, 2006 (71 FR 41841). Comments were requested by August 8, 2006, but no comments were received in response to this notice. OSHA is now proceeding with this final notice to grant TUV's expansion application.

The most recent application processed by OSHA for TUV also covered an expansion of recognition, and the final notice granting this expansion was published on June 20, 2003 (68 FR 37030).

You may obtain or review copies of all public documents pertaining to the TUV application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-2625, Washington, DC 20210. Docket No. NRTL3-92 contains all materials in the record concerning TUV's recognition.

The current address of the TUV facility already recognized by OSHA is: TUV Rheinland of North America, Inc., 12 Commerce Road, Newton, CT 06470.

Final Decision and Order

NRTL Program staff has examined the application, the assessor's recommendation, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that TUV has met the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the limitation and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of TUV, subject to the following limitation and conditions.

Limitation

OSHA limits the expansion of TUV's recognition to testing and certification of products for demonstration of conformance to the test standards listed below. OSHA has determined that the standards meet the requirements for an appropriate test standard, within the meaning of 29 CFR 1910.7(c).

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| UL 943 | Ground-Fault Circuit-Interrupters. |
| UL 991 | Tests for Safety-Related Controls Employing Solid-State Devices. |
| UL 1047 | Isolated Power Systems Equipment. |
| UL 1363 | Relocatable Power Taps. |
| UL 1662 | Electric Chain Saws. |
| UL 1664 | Immersion-Detection Circuit-Interrupters. |
| UL 1741 | Inverters, Converters, Controllers and Interconnection System Equipment for Use With Distributed Energy Resources. |
| UL 1863 | Communications-Circuit Accessories. |

The designations and titles of the above test standards were current at the