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Signed at Washington, DC this 15th day of November 2001.

**Terry Sullivan,**

*Acting Chief, Branch of, Construction Wage, Determinations.*

[FR Doc. 01-29139 Filed 11-21-01; 8:45 am]

**BILLING CODE 4510-27-M**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### Advisory Committee on Construction Safety and Health; Notice of Open Meeting

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

**ACTION:** Notice of a meeting of the Advisory Committee on Construction Safety and Health (ACCSH).

**SUMMARY:** OSHA is notifying the public that the Advisory Committee on Construction Safety and Health (ACCSH) will meet December 6, 2001, in Washington, DC. This meeting is open to the public.

**DATES, TIMES, LOCATION:** ACCSH will meet from 8 a.m. to 5 p.m., Thursday, December 6, at the Marriott Hotel, 1331 Pennsylvania Ave., NW., Washington, DC. ACCSH work groups will meet December 4-5 at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC. For further information on meetings of ACCSH work groups, please refer to the OSHA Web site at <http://www.osha.gov> or contact Jim

Boom at OSHA's Directorate of Construction, telephone (202) 693-1839.

**FOR FURTHER INFORMATION CONTACT:** Veneta Chatmon, OSHA Office of Public Affairs, Room N-3647, 200 Constitution Ave., NW, Washington, DC 20210, telephone (202) 693-1999.

**SUPPLEMENTARY INFORMATION:** ACCSH will meet December 6, 2001, in Washington, DC. This meeting is open to the public. The agenda for this meeting includes:

- Remarks by the Assistant Secretary for the Occupational Safety and Health Administration, John L. Henshaw
- Special Presentation—National Institute for Occupational Safety and Health
  - ACCSH Work Group updates
  - OSHA Training Institute—Distance Learning
    - Tower Erection—Update on North Carolina's Initiatives
    - World Trade Center—Update
    - Directorate of Construction report

An official record of the meeting will be available for public inspection at the OSHA Docket Office, Room N-2625, at the address above, telephone (202)-693-2350. All ACCSH meetings and those of its work groups are open to the public. Individuals needing special accommodation should contact Veneta Chatmon no later than November 30, 2001, at the above address.

Interested parties may submit written data, views or comments, preferably with 20 copies, to Veneta Chatmon, at the address listed above. OSHA will provide submissions received prior to the meeting to ACCSH members and will include each submission in the record of the meeting.

Attendees may also request to make an oral presentation by notifying Veneta Chatmon before the meeting. The request must state the amount of time desired, the interest represented by the presenter (e.g., the names of the business, trade association, government Agency) if any, and a brief outline of the presentation. The Chair of ACCSH may grant the request at his discretion and as time permits.

The following ACCSH work groups will meet in the Francis Perkins Building:

- Supart N—Cranes—8 a.m. to 5 p.m., Tuesday, December 4 in room N-4437 A&B and 8 a.m. to 5 p.m., Wednesday, December 5 in room S-4215 A&B.

For further information on meetings of ACCSH work groups, please refer to the OSHA Web site at <http://www.osha.gov> or contact Jim Boom at the telephone number listed above.

**Authority:** John L. Henshaw, Assistant Secretary of Labor for Occupational Safety

and Health, directed the preparation of this notice under the authority granted by section 7 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), and Secretary of Labor's Order No. 6-96 (62 FR 181).

Signed at Washington, DC on November 15, 2001.

**John L. Henshaw,**

*Assistant Secretary of Labor.*

[FR Doc. 01-29180 Filed 11-21-01; 8:45 am]

**BILLING CODE 4510-26-M**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket No. NRTL2-2001]

#### TUV America, Inc., Application for Recognition

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the application of TUV America, Inc., for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

**DATES:** Comments submitted by interested parties, or any request for extension of the time to comment, must be received no later than December 24, 2001.

**ADDRESSES:** Submit written comments concerning this notice to: Docket Office, Docket NRTL2-2001, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2350. Commenters may transmit written comments of 10 pages or less in length by facsimile to (202) 693-1648. Submit requests for extension concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, NW, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Room N3653 at the above address, or phone (202) 693-2110.

**SUPPLEMENTARY INFORMATION:**

## Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that TUV America, Inc. (TUVAM), has applied for recognition as a Nationally Recognized Testing Laboratory (NRTL). The scope of this recognition would include testing and certification of the equipment or materials (i.e., products), and include the sites, described later in this notice. TUVAM also seeks to use the supplemental programs also described later herein. The applicant's NRTL activities will be handled by its TUV Product Services division.

OSHA recognition of an NRTL signifies that the organization has met the legal requirements in § 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" 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-slc.gov/dts/otpca/nrtl/index.html>.

The current address of the facilities (sites) covered by this application are: TUV Product Services (TUVAM), 5 Cherry Hill Drive, Danvers, Massachusetts 01923, TUV Product Services (TUVAM), 10040 Mesa Rim Road, San Diego, California 92121, TUV Product Services (TUVAM), 1775 Old Highway 8 NW, Suite 104, New Brighton (Minneapolis), Minnesota 55112.

## Background

According to the application, TUV America, Inc., is a "privately held Massachusetts" corporation. At time of

application, the applicant was TUV Product Services, Inc., a wholly-owned subsidiary of TUVAM and also a "privately held Massachusetts" corporation, according to the application. However, TUVAM informed OSHA recently that TUV Product Services, Inc. (TPS), no longer exists as a separate legal entity but is now a division within TUVAM. As stated above, this division would handle TUVAM's NRTL activities. As a result, OSHA has primarily evaluated the testing and certification capabilities of this division and former separate entity.

The application states that TUV Product Services, Inc., was incorporated in 1990, and that it has "10 years of experience with [testing] medical, telecommunications, computing, industrial machinery and controls, software, consumer electronics, sporting, and appliance products." The applicant submitted information that traces its origins to German steam boiler inspection associations founded in the 1870's "to help regulate and supervise the safety of steam installations in the interest of public safety." TUV Product Services GmbH (TUVPSG), which is organizationally part of TUVAM's parent company, included similar information in its application for recognition. OSHA has already processed TUVPSG's application and granted it recognition on July 20, 2001 (see **Federal Register** notice: 66 FR 38032).

Although TUVAM and TUVPSG are affiliated, they have separate operations and are legally distinct, and their recognition would be separate. However, by their own arrangement, both organizations would utilize the same registered certification mark for purposes of their NRTL certifications. OSHA imposed a condition on TUVPSG regarding use of this mark and would impose a related condition on TUVAM, as described later in this notice.

The application showed that TUVAM was owned by TUV Sddeutschland and TUV Nord, both based in Germany. However, as mentioned in the March 16 notice for TUVPSG, recently TUV Sddeutschland became sole owner of TUVAM. Also, it provides testing and other technical services in a number of areas throughout the world. The on-site review report (see Exhibit 3) indicates that TUVAM "receives administrative and technical direction" from TUVPSG. Moreover, the report indicates that TUVAM owns and its TPS division operates laboratories at additional U.S. locations, i.e., sites not listed above. The application only covers the three sites listed above, of which the Danvers site is currently TUVAM's headquarters.

TPS and therefore TUVAM submitted an application for recognition, dated February 1, 1999 (see Exhibit 2). In response to a request from OSHA for clarification and additional information, TUVAM supplemented its application in a submission dated November 9, 1999 (see Exhibit 2-1). In addition, the applicant provided additional documents on April 28 and May 1, 2000. It also supplemented its application on May 9, 2001 (see Exhibit 2-2), clarifying the test standards it requests for recognition and the supplemental programs it wishes to use.

The applicant originally requested recognition for 18 test standards. However, the NRTL Program staff determined that 3 of these test standards are not "appropriate test standards," within the meaning of 29 CFR 1910.7(c). The staff makes such determinations in processing NRTL applications. Therefore, OSHA would recognize TUVAM for the 15 test standards listed below (see List of Test Standards).

Some documents in the November 9 submission, and virtually all of its documents in the original application, have been designated as "confidential" by the applicant. We follow provisions of 29 CFR part 70 in determining whether we can or must disclose application information. This part generally deals with procedures to process a request for disclosure under the Freedom of Information Act (FOIA). Under subpart B of this part 70, information designated as confidential by a business submitter may be afforded protection under Exemption 4 of the FOIA. This exemption protects commercial or financial information, the disclosure of which would cause substantial competitive harm to the submitter.

As part of our normal process for handling applications, OSHA requested that the applicant provide reasons for designating application documents as confidential, and specifically whether disclosure would cause it substantial competitive harm. The applicant provided the necessary justification in its response dated November 9, 1999 (see Exhibit 2-1). Generally, the applicant maintains the 4 levels of operational documentation mentioned in international quality standards. It generally considers its level 3 and 4 documents to be confidential or privileged, and so stated in revising the designations in its November 9 response. These documents are detailed internal procedures that explain more specifically how the applicant does or will operate.

OSHA has evaluated the applicant's designations and determined that

disclosure of certain documents in the original application, and all or a portion of the documents in the November 9, April 28, and May 1 supplements to the application described above, could potentially give to prospective or current competitors knowledge that could cause the applicant substantial competitive harm. Therefore, under the provisions of 29 CFR part 70, those documents could be withheld from disclosure under Exemption 4 of the Freedom of Information Act (FOIA). Accordingly, we are not making them available for public review and have not included those documents in the public docket for the application, which we further describe later in this notice. OSHA has previously withheld from disclosure similar such documents in response to FOIA requests received concerning documents submitted by other NRTLs.

Staff of the NRTL Program performed an on-site review (assessment) of the Danvers, Massachusetts, facility on October 23–26, 2000. The staff performed the reviews of the sites at San Diego and New Brighton on December 4–8, 2000. In the on-site review report (see Exhibit 3), the program staff recommended a “positive finding,” signifying that the applicant appears to meet the requirements for recognition in 29 CFR 1910.7.

Regarding the merits of the application, the applicant has presented detailed documentation that describes how it currently performs its testing and certification activities. The policies, procedures, work instructions, methods, and other practices described in this documentation would be used in its operations as an NRTL. Where appropriate, it has supplemented or modified the policies and procedures to conform to OSHA’s requirements for an NRTL under 29 CFR 1910.7.

TUVAM currently performs product testing and certification activities, primarily for purposes of showing conformity to European based testing standards, such as EN and IEC standards, as indicated in the review report. It provided forms it uses when performing tests required under EN 60950. One of the test standards for which it requests recognition is UL 1950, which is equivalent to EN60950 but includes the US deviations. TUVAM has also performed testing to US-based test standards, such as UL 1950. As part of its current certification activities, it conducts initial and follow-up inspections at manufacturers’ facilities, one facet of the activities that NRTLs recognized by OSHA must perform. It also authorizes the use of certification marks, another aspect of the work that

NRTLs must perform. For purposes of its certifications under OSHA’s NRTL Program, TUVAM will utilize a US certification mark. At the time of preparation of this notice, the registration of this mark is still pending. As already mentioned, both TUVAM and TUVPSG would utilize the same registered certification mark for purposes of their NRTL certifications.

The four recognition requirements of 29 CFR 1910.7 are presented below, along with an explanation illustrating how TUVAM has met or plans to meet each of these requirements.

#### 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 application and on-site review report indicate that TUVAM has adequate testing equipment and adequate facilities to perform the tests required under the test standards for which it seeks recognition. Security measures are in place to restrict or control access to their facility, and procedures exist for handling test samples. The application and report also indicate that testing and processing procedures are in place, and the application describes the program for the development of new testing procedures. The applicant submitted a listing and examples of specific test methods that it currently uses and would utilize for its proposed NRTL testing activities.

It utilizes outside calibration sources and does not intend to perform internal calibrations of equipment used for its NRTL testing activities. The application indicates that TUVAM maintains records on testing equipment, which include information on repair, routine maintenance, and calibrations. The application and on-site review report address personnel qualifications and training, and identify the applicant’s staff involved with product testing, along with a summary of their education and experience. Also, the report indicates that TUVAM personnel have adequate technical knowledge for the work they perform. Moreover, the review report describes the applicant’s quality assurance program, which is explained in more detail in its Integrated Management System (IMS) manual. Finally, the applicant performs internal system and internal technical

audits of its operations on a regular basis.

#### 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 applicant has procedures and related documentation for initially qualifying a manufacturer and for performing the required follow-up inspections at a manufacturer’s facility. In its procedures, TUVAM identifies criteria it will use to determine the frequency for performing these follow-up factory inspections. It has adopted the criteria detailed in OSHA policies for NRTLs, which specify that NRTLs perform no fewer than four (4) inspections per year at certain facilities and no fewer than two (2) inspections per year under certain conditions. The factory inspections would be one part of the activities that the applicant will utilize in controlling its certification mark. In its application, TUVAM included evidence of its application for registration of a TUV certification mark with the U.S. Patent and Trademark Office (USPTO). As previously mentioned, this mark is still pending approval by the USPTO.

The applicant has procedures for control and issuance of product certifications. According to the review report, TPS “has been involved in a certification program for over ten years.” As indicated in the report, the TPS Certification Body has been recently established under the TPS division but will operate in a manner consistent with the applicant’s current certification practices, under which a Technical Certifier issues the formal product certification. As stated in the report, only those certifiers that are “[TPS] employees and reside at one of the recognized sites will be authorized to certify” a product for purposes of TUVAM’s NRTL operations. The applicant maintains a detailed database of the product certifications, which would serve as its listing record. The application contains policies and terms and conditions to address control of a certification mark, and the procedures for such control are integral to more detailed procedures that the applicant uses for processing its certification

certificates. For purposes of OSHA's NRTL Program, control by the NRTL of its certification mark is uppermost in importance and procedures for such control must ensure that the NRTL's registered mark is applied to those products that the NRTL has certified. Such control must be proactive and not just reactive. TUVAM's control of a US registered certification mark under the type of certification process required in OSHA's NRTL Program regulations will be a new activity for the applicant, and we propose to include a condition related to this control.

#### 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 stated, TUV Suddeutschland is currently the sole owner of TUVAM. In addition, the information reviewed by OSHA has not indicated that TUVAM has the kinds of relationships described in OSHA policy that would cause the applicant to fail to meet the independence requirement. This information shows that TUVAM does not own or control and is not owned or controlled by the kind of entities of concern to OSHA. In addition, OSHA's review of information on business activities and subsidiaries of TUVAM's parent company has not revealed any apparent conflicts of interest that could adversely influence the applicant's testing and certification activities. TUVAM has policies to protect against conflicts of interest by its employees.

#### Credible 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 applicant utilizes standardized formats for recording and reporting testing data and inspection data. It has procedures for evaluating and reporting the findings for testing and inspection activities to check conformance to all requirements of a test standard. The applicant provided examples of its test and inspection reporting forms.

Regarding the handling of complaints and disputes, the applicant's complaint and error management procedure provides the framework to handle complaints it receives from its clients or from the public or other interested

parties. It maintains a detailed database that it uses as part of its quality assurance activities, which provides for recording and tracking complaint information. According to the review report, "there have not been any complaints received concerning any of the certifications that have issued" through the date of the review.

#### Test Standards

TUVAM seeks recognition for testing and certification of products for demonstration of conformance to the 15 test standards listed below, and OSHA has determined the standards are "appropriate," within the meaning of 29 CFR 1910.7(c).

OSHA recognition of 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, an NRTL's scope of recognition excludes any product(s) falling within the scope of the test standard for which OSHA has no testing and certification requirements.

#### List of Test Standards

UL 45 Portable Electric Tools  
 UL 50 Enclosures for Electrical Equipment  
 UL 67 Panelboards  
 UL 73 Motor-Operated Appliances  
 UL 508 Industrial Control Equipment  
 UL 751 Vending Machines  
 UL 813 Commercial Audio Equipment  
 UL 1004 Electric Motors  
 UL 1012 Power Units Other Than Class 2  
 UL 1244 Electrical and Electronic Measuring and Testing Equipment  
 UL 1950 Technology Equipment Including Electrical Business Equipment  
 UL 2601-1 Medical Electrical Equipment, Part 1: General Requirements for Safety  
 UL 3101-1 Electrical Equipment for Laboratory Use; Part 1: General Requirements  
 UL 3111-1 Electrical Measuring and Test Equipment, Part 1: General Requirements  
 UL 6500 Audio/Video and Musical Instrument Apparatus for Household, Commercial, and Similar General Use

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

Many of the Underwriters Laboratories (UL) test standards listed above are also approved as American National Standards by the American National Standards Institute (ANSI). However, for convenience in compiling the list, we use the designation of the

standards developing organization (e.g., UL 1004) for the standard, as opposed to the ANSI designation (e.g., ANSI/UL 1004). Under our procedures, an 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, regardless of whether it is currently recognized for the proprietary or ANSI version. Contact ANSI or the ANSI web site (<http://www.ansi.org>) and click "NSSN" to find out whether or not a test standard is currently ANSI-approved.

#### Supplemental Programs

TUV America, Inc., also seeks to use the supplemental programs listed below, subject to the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). That notice lists nine (9) programs and procedures (collectively, programs), eight of which (called supplemental programs) an NRTL may use to control and audit, but not actually to generate, the data relied upon for product certification. An NRTL's initial recognition always includes 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 TUVAM appears to meet the criteria for use of the following supplemental programs for which it has applied:

- Program 2: Acceptance of testing data from independent organizations, other than NRTLs.
- Program 3: Acceptance of product evaluations from independent organizations, other than NRTLs.
- Program 4: Acceptance of witnessed testing data.
- Program 5: Acceptance of testing data from non-independent organizations.
- Program 6: Acceptance of evaluation data from non-independent organizations (requiring NRTL review prior to marketing).
- Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC-CB) Scheme.
- Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents.

OSHA developed these programs to limit how an NRTL may perform certain aspects of its work and to permit the activities covered under a program only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider

these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, these programs help to define the scope of that recognition.

#### Conditions

As already indicated, TUVAM and TUVPSG plan to utilize the same U.S. registered certification mark for purposes of their NRTL certifications. This is a new undertaking for the applicant and although it has procedures for controlling a certification mark, it still needs to further develop and refine the detailed procedures it will use to control this particular mark. As a result, OSHA would conditionally recognize TUVAM subject to an assessment of the detailed procedures and practices for controlling this mark once they are in place.

The US registered mark is the only one that OSHA would recognize for TUVAM. In addition, only the sites listed in this notice will be able to authorize use of this mark for the TUVAM product certifications under the NRTL Program. Conversely, no other TUVAM laboratories or locations may authorize the use of this mark for product certifications under the NRTL Program. To ensure the applicant and the public understand this fact, OSHA plans to impose a condition to this effect. A similar condition was proposed in the March 16 notice for TUVPSG, mentioned above.

As also noted, the applicant has just adopted procedures concerning the criteria for the frequency at which it will conduct factory follow-up inspections. Here, too, it needs to refine these procedures to effectively and properly implement the criteria. OSHA would have to review TUVAM's approach in implementing the criteria for the twice-per-year inspections before it begins to conduct inspections at this frequency. As a result, OSHA would conditionally recognize TUVAM subject to an assessment of the details of this approach once it is in place.

Imposing the proposed conditions is consistent with OSHA's past recognition of certain organizations as NRTLs that met the basic requirements but needed to further develop or refine their procedures (for example, see 63 FR 68306 12/10/1998; and 65 FR 26637, 05/08/2000). Given the applicant's current breadth of activities in testing and certification, OSHA is confident that TUVAM would develop and implement procedures and practices to appropriately perform the activities in the areas noted above.

Therefore, OSHA would impose the following conditions in the final notice

to officially recognize TUVAM as an NRTL. These conditions apply solely to TUVAM's operations as an NRTL and solely to those products that it certifies for purposes of enabling employers to meet OSHA product approval requirements. These conditions would be in addition to all other conditions that OSHA normally imposes in its recognition of an organization as an NRTL.

1. Within 30 days of certifying its first products under the NRTL Program, TUVAM will notify the OSHA NRTL Program Director so that OSHA may review TUVAM's implementation of its procedures for controlling its US registered certification mark in conjunction with use of this mark by TUV Product Services GmbH of Germany.

2. Only TUV America, Inc., or TUV Product Services GmbH may authorize the US registered certification mark currently owned by TUVAM, provided each one is recognized as an NRTL by OSHA. TUVAM may authorize the use of this mark, for purposes of its product certifications under the NRTL Program, only at the TUVAM sites recognized by OSHA.

3. Prior to conducting inspections of manufacturing facilities based on a frequency of twice per year, OSHA must review and accept the detailed procedures that TUVAM will utilize to determine when to use this frequency for such inspections.

#### Preliminary Finding

TUV America, Inc. (TUVAM) has addressed the requirements that must be met for recognition as an NRTL, as summarized above. In addition, the NRTL Program staff has performed on-site reviews (assessments) of TUVAM's facilities at Danvers, Massachusetts, San Diego, California, and New Brighton (Minneapolis), Minnesota and investigated the processes, procedures, practices, and general operations used by TUVAM. Discrepancies noted by the review staff were addressed by TUVAM following the on-site reviews, as detailed above, and are included as an integral part of the on-site review report (see Exhibit 3).

Following a review of the complete 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 3 sites and the 15 test standards described above, subject to the conditions noted. The staff, therefore, recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Agency has made a preliminary finding that TUV America, Inc., can meet the requirements, as prescribed by 29 CFR 1910.7, for recognition as a Nationally Recognized Testing Laboratory for the 3 sites and 15 test standards described above, subject to the conditions noted. This preliminary finding, however, does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether TUV America, Inc., has met the requirements of 29 CFR 1910.7 for its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESSES**) no later than the last date for comments (see **DATES** above). Should you need more time to comment, OSHA must receive your written request for extension at the address provided above (also see **ADDRESSES**) no later than the last date for comments (also see **DATES** above). You must include your reason(s) for any request for extension. OSHA will limit an extension to 30 days unless the requester justifies a longer period. We may deny a request for extension if it is frivolous or otherwise unwarranted. You may obtain or review copies of TUVAM's application, the additional submissions, the on-site review report, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL2-2001, the permanent record of public information on TUVAM's recognition application.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend whether to grant TUVAM's application for recognition. The Agency will make the final decision on granting the recognition and, in making this decision, may undertake other proceedings that are prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Signed at Washington, D.C. this 15th day of November, 2001.

**John L. Henshaw,**

*Assistant Secretary.*

[FR Doc. 01-29233 Filed 11-21-01; 8:45 am]

**BILLING CODE 4510-26-P**