

Dated: February 17, 2005.

William J. Walker,

*Deputy Assistant Administrator, Office of
Diversion Control, Drug Enforcement
Administration.*

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket Nos. NRTL2-98, NRTL1-89]

NSF International, Expansion of Recognition; Application for Renewal of Recognition; Intertek Testing Services, NA, Interim Approval Subject to Review

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

ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the application of NSF International (NSF) for expansion of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7. This notice also announces NSF's Application for renewal of its recognition and presents the Agency's preliminary finding on the renewal. This preliminary finding does not constitute an interim or temporary approval of the renewal application.

In an unrelated matter, we are adding one test standard, NFPA 72, Installation, Maintenance, and Use of Protective Signaling Systems, to the scope of recognition of Intertek Testing Services, NA (ITSNA), on an interim basis, subject to review.

DATES: *Recognition:* The expansion of recognition becomes effective on February 28, 2005 and, unless modified in accordance with 29 CFR 1910.7, continues in effect while NSF remains recognized by OSHA as an NRTL.

Renewal: Comments on the renewal of recognition must be received no later than March 15, 2005. *Comments on Interim Approval:* Comments on the interim approval for test standard NFPA 72 must be received no later than March 15, 2005.

You may submit comments in response to the renewal application and the interim approval portions of this notice, or any request for extension of the time to comment, by (1) regular mail, (2) express or overnight delivery service, (3) hand delivery, (4) messenger service, or (5) FAX transmission (facsimile). Because of security-related problems there may be a significant

delay in the receipt of comments by regular mail. Comments (or any request for extension of the time to comment) must be submitted by the following dates:

Regular mail and express delivery service: Your comments must be postmarked by March 15, 2005.

Hand delivery and messenger service: Your comments must be received in the OSHA Docket Office by March 15, 2005. OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m.

Facsimile and electronic transmission: Your comments must be sent by March 15, 2005.

ADDRESSES: Regular mail, express delivery, hand-delivery, and messenger service: You must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. NRTL2-98 or Docket No. NRTL1-89 (as applicable), Room N-2625, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Please contact the OSHA Docket Office at (202) 693-2350 for information about security procedures concerning the delivery of materials by express delivery, hand delivery and messenger service.

Facsimile: If your comments, including any attachments, are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693-1648. You must include the docket number of this notice, Docket No. NRTL2-98 or Docket No. NRTL1-89 (as applicable), in your comments.

Internet access to comments and submissions: OSHA will place comments and submissions in response to this notice on the OSHA Web page <http://www.osha.gov>. Accordingly, OSHA cautions you about submitting information of a personal nature (e.g., social security number, date of birth). There may be a lag time between when comments and submissions are received and when they are placed on the Webpage. Please contact the OSHA Docket Office at (202) 693-2350 for information about materials not available through the OSHA Webpage and for assistance in using the Webpage to locate docket submissions. Comments and submissions will also be available for inspection and copying at the OSHA Docket Office at the address above.

Extension of Comment Period: Submit requests for extensions 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. Or fax to (202) 693-1644.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, 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, DC 20210, or phone (202) 693-2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision on the Expansion of Recognition

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 an additional test standard and two supplemental programs. OSHA's current scope of recognition for NSF may be found in the following informational Web page: <http://www.osha.gov/dts/otpc/nrtl/nsf.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" 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 an application. These notices set forth the NRTL's scope of recognition or modifications of this scope.

NSF submitted an application, dated October 8, 2003 (see Exhibit 14), to expand its recognition to include one additional test standard. Prior to submitting this application, NSF submitted another application, dated July 31, 2003 (see exhibit 15) to include several additional programs within its current scope of recognition. The NRTL Program staff performed an on-site review (assessment) of NSF's NRTL facilities and in the on-site review

report, dated November 21, 2003 (see Exhibit 16), the program staff recommended a "positive finding," which means a positive recommendation on the recognition to the Assistant Secretary.

OSHA published the notice of its preliminary findings on the expansion request in the **Federal Register** on May 5, 2004 (69 FR 25144). The notice requested submission of any public comments by May 20, 2004. OSHA did not receive any comments pertaining to the application. However, the Agency deferred processing of the final notice for the expansion due to certain findings from a recent OSHA audit of the NRTL. These findings have been satisfactorily resolved permitting this notice to be processed.

The previous notice published by OSHA for NSF's recognition covered an expansion of recognition, which became effective on April 3, 2003 (68 FR 16311).

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

Final Decision and Order on the Expansion

The NRTL Program staff has examined the applications, the assessor's reports, and other pertinent information. Based upon this examination and the assessor's recommendation, OSHA finds that NSF International has met the requirements of 29 CFR 1910.7 for expansion of its recognition. The expansion covers the test standard listed below and the use of the additional supplementary Programs 2 and 5, subject to the limitations and conditions, also listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of NSF, subject to these limitations and conditions.

Limitation

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

UL 61010A-1 Electrical Equipment For Laboratory Use; Part 1: General Requirements

The designation and title of the above test standard was current at the time of the preparation of the notice of the preliminary finding.

Additional Programs

NSF has applied to use supplemental programs 2 and 5, based upon the criteria detailed in OSHA's March 9, 1995 **Federal Register** notice on the NRTL programs (60 FR 12980). This notice lists nine (9) programs, eight of which (programs 2 through 9—called the 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 will always include 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. NSF's current scope already includes Programs 4, 8, and 9. OSHA's on-site review report on NSF's application for expansion indicates that NSF appears to meet the criteria for use of the following additional supplemental programs:

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 5: Acceptance of testing data from non-independent organizations.

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 facility 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) 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;

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

Notice of Renewal Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that NSF International (NSF) has applied for renewal of its recognition as a Nationally Recognized Testing Laboratory (NRTL). NSF's renewal requests covers its existing scope of recognition. OSHA's current scope of recognition for NSF, but not yet including the expansion in this current notice, may be found in the following informational Web page: <http://www.osha.gov/dts/otpca/nrtl/nsf.html>.

Application for Renewal of Recognition

NSF International (NSF) initially received OSHA recognition as a Nationally Recognized Testing Laboratory on December 10, 1998 (63 FR 68309) for a five-year period ending on December 10, 2003. 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. NRTLs submitting requests within this allotted time period retain their recognition during OSHA's renewal process. NSF has submitted a request, dated February 21, 2003 (see exhibit 14-1), to renew its recognition, within the allotted time period, and retains its recognition pending OSHA's final decision in this renewal process. NSF's existing scope of recognition consists of the facility listed above, and the test standards and supplemental programs listed below under *Renewal of Recognition*.

NSF seeks renewal of its recognition for the one site that OSHA currently includes within the NRTL's scope. NSF also seeks renewal of its recognition for testing and certification of products for demonstration of conformance to the following test standards, which OSHA has recognized for NSF and includes the expansion in this current notice.

UL 73 Motor-Operated Appliances
 UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances
 UL 197 Commercial Electric Cooking Appliance
 UL 399 Drinking-Water Coolers
 UL 466 Electric Scales
 UL 471 Commercial Refrigerators and Freezers
 UL 514B Fittings for Cable and Conduit

- UL 514C Nonmetallic Outlet Boxes, Flush-Device Boxes and Covers
- UL 514D Cover Plates for Flush-Mounted Wiring Devices
- UL 541 Refrigerated Vending Machines
- UL 563 Ice Makers
- UL 621 Ice Cream Makers
- UL 651 Schedule 40 and 80 PVC Conduit
- UL 651A Type EB and A Rigid PVC Conduit and HDPE Conduit
- UL 651B Continuous Length HDPE Conduit
- UL 749 Household [Electric] Dishwashers
- UL 751 Vending Machines
- UL 763 Motor-Operated Commercial Food Preparing Machines
- UL 921 Commercial Electric Dishwashers
- UL 982 Motor-Operated Household Food Preparing Machines
- UL 1081 Swimming Pool Pumps, Filters, and Chlorinators
- UL 1453 Electric Booster and Commercial Storage Tank Water Heaters
- UL 1563 Electric Spas, Equipment Assemblies, and Associated Equipment
- UL 1795 Hydromassage Bathtubs
- UL 1821 Thermoplastic Sprinkler Pipe and Fittings for Fire Protection
- UL 61010A-1 Electrical Equipment For Laboratory Use; Part 1: General Requirements

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

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.

Programs and Procedures

The renewal would include NSF's continued use of supplemental programs 2, 4, 5, 8, and 9, two of which

are being added to NSF's scope in this current notice.

Program 2: Acceptance of testing data from independent organizations, other than NRTLs.

Program 4: Acceptance of witnessed testing data.

Program 5: Acceptance of testing data from non-independent organizations.

Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrical 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.

Preliminary Finding on the Renewal

NSF has submitted an acceptable request for renewal of its recognition as an NRTL. Our review of the application file, the on-site review reports, and other pertinent documents, indicates that NSF can meet the requirements, as prescribed by 29 CFR 1910.7, for the renewal of the one site and the test standards and programs listed above. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comments, in sufficient detail, as to whether NSF has met the requirements of 29 CFR 1910.7 for the renewal of its recognition as a Nationally Recognized Testing Laboratory. Your comments should consist of pertinent written documents and exhibits. To consider a comment, OSHA must receive it 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 no later than the last date for comments. You must include your reason(s) for any request for extension. OSHA will limit any 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 NSF's requests, the on-site review report, other exhibits, 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. NRTL2-98, the permanent record of public information on NSF's recognition.

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

Interim Approval Subject to Review

Intertek Testing Services NA, Inc. (ITSNA), applied for expansion of its recognition, which OSHA approved on November 4, 2003 (68 FR 62479). One of the test standards (*See Exhibit 43 in Docket No. NRTL1-89*) that NSF requested was NFPA 72, Installation, Maintenance, and Use of Protective Signaling Systems. ITSNA has the necessary testing capability, but the standard was inadvertently excluded from the expansion. Therefore, OSHA is expanding the recognition of ITSNA to include this standard, but the Agency will provide interested parties an opportunity to comment since this standard was excluded in the notices that we published for the expansion. Comments submitted by interested parties must be received no later than March 15, 2005 at the address listed above. If we receive comments, OSHA will determine whether additional procedures are necessary.

Signed at Washington, DC this 18th day of February, 2005.

Jonathan L. Snare,

Acting Assistant Secretary.

[FR Doc. 05-3772 Filed 2-25-05; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Number 030-19478]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Maxim Technologies, Inc., St. Louis, MO

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.
