

employment on or after September 29, 2008, through November 5, 2011, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 4th day of February, 2010.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[Docket Nos. OSHA-2007-0041]

#### **FM Approvals: Application for Expansion of Recognition; Wyle Laboratories: Voluntary Modification of the Scope of Recognition; and Temporary Reinstatement of NFPA 72**

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the application of FM Approvals LLC (FM) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL), and presents the Agency's preliminary finding to grant this request. This preliminary finding does not constitute an interim or temporary approval of this application. This notice also announces a voluntary modification of the NRTL scope of recognition of Wyle Laboratories, Inc., and the temporary reinstatement of NFPA 72.

**DATES:** For the FM application, submit information or comments, or any request for extension of the time to comment, on or before March 17, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

The modification of the NRTL scope of recognition of Wyle Laboratories will become effective on March 2, 2010. The temporary reinstatement of NFPA 72 is retroactive to September 14, 2009 and will terminate on September 14, 2011. Do not submit comments or other responses regarding this modification or reinstatement.

**ADDRESSES:** Submit comments by any of the following methods:

*Electronically:* Submit comments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the

instructions online for making electronic submissions.

*Fax:* If submissions, including attachments, are no longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693-1648.

*Mail, hand delivery, express mail, or messenger or courier service:* Submit one copy of the comments to the OSHA Docket Office, Docket No. OSHA-2007-0041, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, NW., Washington, DC 20210. Deliveries (hand, express mail, and messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.-4:45 p.m., e.t.

*Instructions:* All submissions must include the Agency name and the OSHA docket number (i.e., OSHA-2007-0041). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these may be made available online at <http://www.regulations.gov>.

*Docket:* To read or download submissions or other material in the docket, go to <http://www.regulations.gov> or the OSHA Docket Office at the address above. All documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

*Extension of comment period:* Submit requests for an extension of the comment period for the FM application on or before March 17, 2010 to the 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 by fax to (202) 693-1644.

**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; telephone: (202) 693-2110. For information about the NRTL Program, go to <http://www.osha.gov>, and select "N" in the site index.

**SUPPLEMENTARY INFORMATION:** Electronic copies of this **Federal Register** notice are available at <http://www.regulations.gov>. This notice, as well as news releases and other information also are available

at OSHA's Web Page at <http://www.osha.gov>.

### I. Notice of Expansion Application

The Occupational Safety and Health Administration (OSHA) is providing notice that FM Approvals LLC (FM) applied for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). FM's expansion request covers the use of additional test standards.

OSHA recognition of an NRTL signifies that the organization meets the legal requirements specified in 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 approved by the NRTL to meet OSHA standards that require testing and certification.

The Agency processes applications by an NRTL for initial recognition, or for an 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. OSHA maintains an informational Web page for each NRTL that details its scope of recognition. These pages can be accessed from the Web site at <http://www.osha.gov/dts/otpca/nrtl/index.html>. Each NRTL's scope of recognition has three elements: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; (2) the recognized site(s) that have the technical capability to perform the testing and certification activities for test standards within the NRTL's scope; and (3) the supplemental program(s) that the NRTL may use, each of which allows the NRTL to rely on other parties to perform activities necessary for testing and certification.

The current address of the FM facilities (sites) recognized by OSHA are: FM Approvals, 1151 Boston-Providence Turnpike, Norwood, Massachusetts 02062, and FM Approvals, 743 Reynolds Road, West Gloucester, Rhode Island 02814.

*General Background on the Application*

FM submitted an application, dated July 18, 2007, to expand its recognition to include 31 additional test standards. The NRTL Program staff is deferring action on 20 of these standards pending resolution of technical issues. The staff determined that ten of the remaining 11 standards are "appropriate test standards" within the meaning of 29 CFR 1910.7(c). In connection with this request, NRTL Program staff did not perform an on-site review of FM's recognized sites. However, the staff analyzed other information pertinent to the request and determined that FM has the capabilities to perform the testing relating to the ten standards, which are listed below. As a result, the Agency would approve these ten test standards for the expansion.

FM seeks expansion of its recognition for testing and certification of products to the following test standards:<sup>1</sup>

- UL 153 Portable Electric Luminaires<sup>2</sup>
- UL 268A Smoke Detectors for Duct Application
- UL 484 Room Air Conditioners
- UL 521 Heat Detectors for Fire Protective Signaling Systems
- UL 1480 Speakers for Fire Alarm, Emergency, and Commercial and Professional Use
- UL 1638 Visual Signaling Appliances—Private Mode Emergency and General Utility Signaling
- FM 3210 Heat Detectors for Automatic Fire Alarm Signaling
- FM 7260 Electrostatic Finishing Equipment
- UL 61010A-1 Electrical Equipment for Laboratory Use; Part 1: General Requirements
- UL 61010B-1 Electrical Measuring and Test Equipment; Part 1: General Requirements

OSHA's recognition of FM, or any NRTL, for a 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).

The test standards listed above may be approved as American National Standards by the American National

Standards Institute (ANSI). However, for clarity, 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 for information on whether a test standard is currently ANSI-approved.

*Preliminary Finding on the Application*

FM submitted an acceptable request for expansion of its recognition as an NRTL. Our review of the application file and other pertinent documents indicates that FM can meet the requirements, as prescribed by 29 CFR 1910.7, for an expansion of its recognition to include the additional test standards 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 FM meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comments should consist of pertinent written documents and exhibits. Should you need more time to comment, you must request it in writing, including reasons for the request. OSHA must receive your written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. We may deny a request for an extension if it is not adequately justified. You may obtain or review copies of FM's request and other pertinent documents, and all submitted comments, as received, by contacting the Docket Office, Room N-2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. Docket No. OSHA-2007-0041 contains all materials in the record concerning FM's application.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend whether to grant FM's expansion request. The Assistant Secretary will make the final decision on granting the request, 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**.

**II. Notice of Modification of Wyle's Recognition**

Wyle Laboratories, Inc., (WL) has requested a modification to its current

scope of recognition under the NRTL Program. This request, dated August 27, 2009, reduces the number of test standards in WL's current NRTL scope. Subsection II.D of Appendix A to 29 CFR 1910.7 provides that OSHA must inform the public of such a reduction in scope. Accordingly, effective today, OSHA is modifying WL's scope of recognition to eliminate the 38 test standards listed below. Wyle also requested removal of another test standard (UL 1262); however, OSHA removed it earlier from Wyle's scope of recognition.

- UL 8 Foam Fire Extinguishers
- UL 20 General-Use Snap Switches
- UL 92 Fire Extinguisher and Booster Hose
- UL 98 Enclosed and Dead-Front Switches
- UL 244A Solid-State Controls for Appliances
- UL 299 Dry Chemical Fire Extinguishers
- UL 363 Knife Switches
- UL 393 Indicating Pressure Gauges for Fire-Protection Service
- UL 444 Communications Cables
- UL 466 Electric Scales
- UL 497A Secondary Protectors for Communication Circuits
- UL 506 Specialty Transformers
- UL 626 2½ Gallon Stored-Pressure Water-Type Fire Extinguishers
- UL 711 Rating and Fire Testing of Fire Extinguishers
- UL 796 Printed-Wiring Boards
- UL 917 Clock-Operated Switches
- UL 1022 Line Isolated Monitors
- UL 1047 Isolated Power Systems Equipment
- UL 1053 Ground-Fault Sensing and Relaying Equipment
- UL 1054 Special-Use Switches
- UL 1058 Halogenated Agent Extinguishing System Units
- UL 1091 Butterfly Valves for Fire-Protection Service
- UL 1093 Halogenated Agent Fire Extinguishers
- UL 1254 Pre-Engineered Dry Chemical Extinguishing Systems Units
- UL 1411 Transformers and Motor Transformer for Use in Audio-, Radio-, and Television-Type Appliances
- UL 1412 Fusing Resistors and Temperature-Limited Resistors for Radio- and Television-Type Appliances
- UL 1416 Overcurrent and Overtemperature Protectors for Radio and Television-Type Appliances
- UL 1424 Cables for Power-Limited Fire-Protective-Signaling Circuits
- UL 1429 Pullout Switches

<sup>1</sup> The designations and titles of these test standards were current at the time of the preparation of this notice.

<sup>2</sup> FM requested recognition for UL 298—Portable Electric Hand Lamps, but this standard has been withdrawn and superseded by UL 153.

- UL 1474 Adjustable Drop Nipples for Sprinkler Systems
- UL 1481 Power Supplies for Fire-Protective Signaling Systems
- UL 1486 Quick Opening Devices for Dry Pipe Valves for Fire-Protection Service
- UL 1557 Electrically Isolated Semiconductor Devices
- UL 1577 Optical Isolators
- UL 1682 Plugs, Receptacles and Cable Connectors, of the Pin and Sleeve Type
- UL 1876 Isolating Signal and Feedback Transformers for Use in Electronic Equipment
- UL 2006 Halon 1211 Recovery/Recharge Equipment
- UL 2111 Overheating Protection for Motors

### III. Temporary Reinstatement of NFPA 72

On September 14, 2009, OSHA published a notice (see 74 FR 47026) to modify the scopes of recognition (“scopes”) of several NRTLs because standards developing organizations (SDOs) withdrew a number of test standards from their catalog of published standards. Consequently, these NRTLs could no longer use the withdrawn test standards to certify selected products requiring certification under OSHA standards. In response to the SDOs’ action, OSHA’s 2009 **Federal Register** notice deleted the withdrawn standards from the scope of each affected NRTL, and added to the NRTL’s scopes any known replacement standard(s).

One of the withdrawn standards was ANSI/NFPA 72—Installation, Maintenance, and Use of Protective Signaling Systems. The National Fire Protection Association (NFPA) withdrew this test standard several years ago after integrating it into the National Fire Alarm and Signaling Code (NFASC), also designated NFPA 72. However, OSHA’s 2009 **Federal Register** notice did not list the NFASC document as a replacement for NFPA 72 because the NRTL Program requirements do not allow NRTLs to include general consensus codes or other similar standards in their scopes of recognition. Such standards do not meet the NRTL Program’s requirements for an “appropriate test standard,” i.e., the standards do not primarily specify testing requirements for particular types of products.

After OSHA deleted the NFPA 72 standard, several NRTLs contacted OSHA to request recognition for the NFASC. One NRTL informed OSHA that deleting the test standard so abruptly invalidated approvals for many

products. The NRTLs requested a two-year transition period to identify a comparable replacement test standard to use in certifying the affected products.

When OSHA determines that a comparable replacement test standard is not available, it may delay the effective date for deleting a withdrawn test standard from NRTLs’ scopes so the affected NRTLs can continue certifying products while identifying a comparable replacement standard. Accordingly, OSHA is temporarily reinstating NFPA 72 to the scopes of the affected NRTLs. The reinstatement period is retroactive to September 14, 2009, the date the standard was removed from these NRTLs’ scopes, and ends September 14, 2011. By September 14, 2010, each affected NRTL wishing to continue certifying the affected products must notify OSHA of the name(s) of comparable replacement test standard(s) the NRTL will use in place of NFPA 72. If not already in the NRTL’s scope, OSHA will add any such standard that is “appropriate,” provided the NRTL has the capability for the testing. By September 14, 2011, OSHA will remove NFPA 72 from all NRTLs’ scope, and these NRTLs must cease certifying products to NFPA 72, and certify products to the comparable replacement standard(s) in their scopes.

### IV. Authority and Signature

David Michaels, PhD, MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Sections 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655 and 657), Secretary of Labor’s Order No. 5–2007 (72 FR 31160), and 29 CFR part 1911.

Signed at Washington, DC, on February 22, 2010.

**David Michaels,**

*Assistant Secretary for Occupational Safety and Health.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA–W–71,388]

#### **Lucas-Smith Automotive, Inc.: Potosi, MO; Notice of Negative Determination Regarding Application for Reconsideration**

By application dated January 22, 2010, the petitioners requested

administrative reconsideration of the Department’s negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of Lucas-Smith Automotive, Inc., Potosi, Missouri (subject firm). The Notice of negative determination was signed on January 8, 2010. The Department’s Notice of determination was published in the **Federal Register** on February 16, 2010 (75 FR 7039). Workers of the subject firm are engaged in employment related to the sales and service of new and used automobiles.

*Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:*

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial investigation resulted in a denial based on the findings that imports of services like or directly competitive with the services provided by workers of the subject firm did not contribute to worker separations at the subject firm and that no shift in provision of the services to a foreign country occurred during the relevant period.

In the request for reconsideration, the petitioners alleged that the subject firm is either a supplier or downstream producer to a TAA-certified firm and a loss of business with this firm contributed importantly to worker separations at the subject firm.

For the Department to issue a secondary worker certification under Section 222(c) to workers of a downstream producer, the subject firm must perform additional, value-added production processes or services directly for a TAA-certified firm. For the Department to issue a secondary worker certification under Section 222(c) to workers of an upstream supplier, the subject firm must produce and supply directly to a TAA-certified firm component parts for articles, or services, used in the production of articles or in the supply of services, that were the basis for the customers’ certification and the certified firm received certification of eligibility for TAA as a primary impacted firm.

The investigation revealed that the workers of the subject firm were engaged in sales and services of new