

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 10th day of November 2010.

Elliott S. Kushner,
*Certifying Officer, Division of Trade
 Adjustment Assistance.*

[FR Doc. 2010-29098 Filed 11-17-10; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2010-0013]

TUV Rheinland PTL, LLC; Application for Recognition

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

ACTION: Notice.

SUMMARY: This notice announces the application of TUV Rheinland PTL, LLC, for recognition as a Nationally Recognized Testing Laboratory, and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit information or comments, or a request for an extension of the time to comment, on or before December 20, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

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-2010-0013, 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-2010-0013). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be

made available online at <http://www.regulations.gov>.

Docket: To read or download submissions or other material in the docket (*e.g.*, exhibits listed below), 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 on or before December 20, 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 Nationally Recognized Testing Laboratory (NRTL) Program, go to <http://www.osha.gov>, and select "N" in the site index.

SUPPLEMENTARY INFORMATION:

I. Notice of Application for Recognition

The Occupational Safety and Health Administration (OSHA) is providing notice that TUV Rheinland PTL, LLC, (TUVPTL) applied for recognition as a NRTL. (*See Ex. 2—TUVPTL recognition application dated 7/29/2008.*)¹ The application covers testing and certification of the equipment or materials, and use of the supplemental programs, listed below.

OSHA recognition of a 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

¹ A number of documents, or information within documents, described in this **Federal Register** notice are the applicant's internal, detailed procedures or contain other confidential business or trade-secret information. These documents and information, designated by an "NA" at the end of, or within, the sentence or paragraph describing them, are not available to the public.

government authority. As a result of recognition, employers may use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a 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 OSHA's 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 has/have the technical capability to perform the product 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 product testing and certification.

II. General Background on the Application

In its application, TUVPTL lists the current address of the laboratory facility covered by the application as: TUV Rheinland PTL, 2210 South Roosevelt Street, Tempe, Arizona 85282. According to public information (<http://www.tuvptl.com/tuv-ptl-history.html>), TUVPTL states that it is a testing and certification laboratory for photovoltaic products, and a leading test organization for photovoltaic technology. Arizona State University (ASU) established the organization in 1992, as the Photovoltaic Testing Laboratory (PTL). The TUVPTL Web site states that the PTL was instrumental in the development of many major standards concerning photovoltaic products. It was part of ASU until becoming an affiliate of TUV Rheinland Group.

TUV Rheinland North America, Inc., (TUVRNA), a currently recognized NRTL, submitted an application, dated July 29, 2008, to expand its recognition to include TUVPTL as a recognized site.

(See Ex. 2.) In response to OSHA's request for clarification, TUVRNA amended its application to provide additional technical details, and then provided further details in a later update. (See Ex. 3—TUVPTL amended application dated 5/29/2009.) OSHA's NRTL Program staff performed an on-site assessment of TUVPTL's facility in January 2010. Based on this assessment, TUVPTL revised its application to seek recognition as a NRTL, thus superseding the July 2008 expansion application by TUVRNA. (See Ex. 4—TUVPTL revised application dated 1/29/2010.) This revised application incorporated the bulk of the amended application. The OSHA staff recommended recognition of TUVPTL in their on-site review report of the assessment. (See Ex. 5—OSHA on-site review report on TUVPTL.)

Due to its close affiliation with TUVRNA, the applicant will use many TUVRNA operational and quality-control procedures for operating as a NRTL. For example, TUVPTL's NRTL quality-control system will follow that used by TUVRNA: QP100001—Product Certification Quality Manual (Ex. 3; see document designated QP100001). Through its application information (see Ex. 2), TUVPTL represents that it maintains the experience, expertise, personnel, organization, equipment, and facilities suitable for accreditation as an OSHA NRTL. It also states that it meets or will meet the requirements for recognition defined in 29 CFR 1910.7.

This notice discusses the four requirements for recognition (*i.e.*, capability, control procedures, independence, and creditable reports and complaint handling) below, along with examples that illustrate how TUVPTL meets each of these requirements. The applicant's summary addressing OSHA's evaluation criteria (see Detailed Application Information/Evaluation Criteria (DAI/EC) summary documents, Exs. 3 and 4) reference many, but not all, of the documents or processes described below in this notice.

Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material requiring listing, labeling, or acceptance by a NRTL, the NRTL 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 "Capability" section of the DAI/EC summary document (NA) shows that the applicant has security measures and detailed procedures in place to restrict or control access to its facility,

to areas within its facility, and to confidential information. This section states that TUVPTL's facility has equipment for monitoring, controlling, and recording environmental conditions during tests, and for handling test samples. It also states that the facility has adequate test areas and energy sources, and procedures for controlling incompatible activities. OSHA's on-site review report (Ex. 5, p. 2) confirmed this information concerning the facility, as well as its adequacy. TUVPTL provided a detailed list of its testing equipment (NA), and OSHA's on-site review (Ex. 5, p. 2) confirmed that this equipment is in place and adequate for the scope of testing requested.

The "Capability" section of the DAI/EC summary documents (NA) indicates that TUVPTL has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting, many laboratory activities. It also indicates that TUVPTL has detailed procedures for conducting testing, review, and evaluation, and for capturing the test data required by the standard for which it seeks recognition. OSHA's on-site review report (Ex. 5, p. 2) notes that TUVPTL currently is using these procedures for testing products for other NRTLs. Further, this section indicates that TUVPTL has detailed procedures for processing applications and developing new procedures.

The revised application (Ex. 4) indicates that TUVPTL has the necessary procedures to adequately address training or qualifying staff for particular technical tasks (NA). The revised application and OSHA's on-site review report (Ex. 5, p. 3) indicate that TUVPTL has the qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience. The revised application and OSHA's on-site review report (Ex. 5, p. 3) also provide evidence that TUVPTL has an adequate quality-control system in place.

Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material undergoing listing, labeling, or acceptance. These controls and services include 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 "Control Programs" section of the DAI/EC summary document shows that TUVPTL has the quality-control manual and detailed procedures to address the steps involved in listing and certifying products. TUVPTL will use the certification mark of its affiliate, TUVRNA, which is similar to an arrangement granted by OSHA to two other affiliated NRTLs. (See 67 FR 3737, January 25, 2002.) However, TUVPTL personnel must perform the final technical review, make the certification decision, and authorize the use of the mark. OSHA proposes to impose a condition to this effect. In addition, the "Control Programs" section shows that the applicant has certification procedures (NA), and that these procedures address authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities. This section indicates that procedures also exist for authorizing the use of the certification mark, and the actions taken when TUVPTL finds that the manufacturer is deviating from the certification requirements. Factory inspections will be a new activity for TUVPTL, and OSHA will need to review the effectiveness of TUVPTL's inspection program when it is in place. As a result, OSHA is proposing a condition to ensure that inspections are conducted properly, and at the frequency set forth in the applicable NRTL Program policy (see OSHA Instruction CPL 1-0.3, Appendix C, paragraph III.A).

Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. OSHA has a policy for the independence of NRTLs that specifies the criteria used for determining whether an organization meets the above requirement. (See OSHA Instruction CPL 1-0.3, Appendix C, paragraph V.) This policy contains a non-exhaustive list of relationships that would cause an organization to fail to meet the specified criteria.

The "Independence" section of the DAI/EC, and additional information submitted by TUVPTL (Ex. 4, section titled, "Information For Evaluating Compliance") shows that it has none of these relationships, or any other relationship that could subject it to undue influence when testing for product safety. TUVPTL's major owner is a subsidiary of the parent company of TUVRNA, the NRTL currently

recognized by OSHA. OSHA found no information about TUVRNA's ownership that would raise an issue of TUVPTL's non-compliance with the NRTL Program's independence policy.

There are two other owners, each owning less than 10% of TUVPTL. One owner is an individual, and OSHA found no information showing any affiliation with manufacturers, vendors, or major users of products requiring NRTL approval. The remaining owner is Arizona Technology Enterprises (AzTE), which has a Web page (http://www.azte.com/page/about_us/foundation) that states that it "was established in 2003 as a limited liability company whose sole member is the ASU Foundation. The ASU Foundation is an independent non-profit organization that acts as the principal agent through which gifts are made to benefit [ASU]." OSHA has found no information to indicate that a manufacturer, vendor, or major user of products requiring NRTL approval, or the major owners of these entities, has an ownership interest in the Foundation or ASU, with ASU being a non-profit, State-operated educational institution.

According to AzTE's Web page (http://www.azte.com/page/for_industry), "AzTE drives the transfer of discoveries and innovation from ASU's labs to the marketplace through technology partnering and the creation of new technology-based ventures." AzTE acts as the agent to license these technologies, and takes an equity stake in the companies that commercialize the technology. AzTE's Web page (<http://www.azte.com/page/portfolio>) shows that the vast majority of the technologies licensed in this manner do not involve the types of products for which OSHA requires NRTL approval. Companies may use materials and items developed from a few of these technologies (such as a sensor, electrode, or wafer) in manufacturing these types of products, but OSHA found only one product that AzTE licenses that requires NRTL approval. The entity to which AzTE licensed this product, a bacterial detection system, was Biosense International (Biosense). However, the State of Arizona Corporate Commission, which registered Biosense as a corporation, administratively dissolved Biosense on June 14, 2010, and Biosense remained administratively dissolved as of the date of this notice. The remainder of AzTE's equity stakes are minor, thus mitigating the undue influence that such companies could exert on TUVPTL should these companies sell or use products tested by TUVPTL.

To address future business ventures by AzTE, OSHA is imposing conditions

on TUVPTL to avoid any situation that could conflict with OSHA's NRTL independence requirement; OSHA would actively monitor TUVPTL's compliance with these conditions.

In summary, the information related to independence demonstrates that TUVPTL meets the independence requirement. Additionally, OSHA is imposing conditions on TUVPTL that will enable OSHA to monitor TUVPTL's compliance with the NRTL independence requirements in the future.

Creditable Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias, and for handling complaints and disputes under a fair and reasonable system. The "Report and Complaint Procedures" section of the DAI/EC summary document (NA) shows that the applicant has detailed procedures describing the content of the test reports, and other detailed procedures describing the preparation and approval of these reports. This section also shows that the applicant has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

Standard Requested for Recognition

TUVPTL seeks recognition for testing and certifying products to the following test standard:²

UL 1703 Flat-Plate Photovoltaic Modules and Panels

OSHA limits recognition of any NRTL for a particular test standard 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 for which OSHA does not require such testing and certification, an NRTL's scope of recognition does not include that product.

The American National Standards Institute (ANSI) may approve the test standard listed above as an American National Standard. However, for convenience, we may use the designation of the standards-developing organization for the standard instead of the ANSI designation. Under the NRTL Program's policy (*see* OSHA Instruction CPL 1-0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular

test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

Supplemental Programs

Should OSHA approve this application for NRTL recognition, it also will grant approval for TUVPTL to use the following supplemental program because TUVPTL uses outside parties to perform its equipment calibration and, therefore, must properly qualify these parties for this purpose following the criteria in the program:

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents

Additional Conditions

As noted above, a minor owner of TUVPTL, AzTE, may have an equity stake in companies that use technologies licensed by AzTE. In its present review, OSHA found that AzTE's ownership interest in these companies does not currently result in a conflict with OSHA's NRTL independence requirement; however, the possibility exists that AzTE could in the future acquire sufficient ownership in one of these companies to establish such a conflict or potential conflict should any of these companies sell, or become a major user of, the types of products that require NRTL approval. Thus, OSHA proposes to impose the following conditions to avoid conflicts or possible conflicts:

1. AzTE must comply with the following conditions during the period it has an ownership interest in TUVPTL or in any company that may subsequently purchase or replace TUVPTL, and understands that failure to comply with these conditions may result in OSHA revoking or imposing limits on TUVPTL's NRTL recognition:

a. Identify the total number of companies in which it has an ownership interest and, of this total, the number in which AzTE's interest in the total ownership of a company is 2% or less, and the number in which this interest in a company exceeds 2%.

b. Provide OSHA, annually and as requested, (i) an updated list of companies in which AzTE's ownership interests in a company exceeds 2% of the total ownership of the company, and (ii) for each of these companies, a description of its business purpose. AzTE also must state whether any of these companies manufactures, distributes, or sells a type of product shown on OSHA's Web page titled,

² The designation and title of this test standard was current at the time OSHA prepared this notice.

“Type of Products Requiring NRTL Approval.”

c. Provide OSHA access (e.g., when auditing TUVPTL) to the record(s) or document(s) filed with the applicable legal authority (e.g., the Secretary of State or other State authority) describing AzTE’s ownership interest in those companies in which OSHA determines AzTE has an ownership interest exceeding 2% of the total ownership of the company.

d. Provide OSHA, annually and as requested, the names and affiliations of any of its directors who are not directors of the Arizona State University Foundation.

2. TUVPTL must comply with the following conditions while AzTE, or any other entity that manufactures, distributes, or sells a product tested by TUVPTL or is affiliated with such an entity,³ has an ownership interest in TUVPTL:

a. Not test or certify any product under the NRTL Program made or sold by a company owned in excess of 2% by AzTE. In addition, before testing or certifying any product for an NRTL client applicant, TUVPTL will follow detailed procedures, reviewed and found acceptable by OSHA, to determine that such a company did not make or sell the product.

b. Cease certifications related to the NRTL Program if the following criteria are met: (i) AzTE has more than a 10% ownership interest in a company; (ii) OSHA determines that such a company or one of its subsidiaries, affiliates, or significant owners, makes or sells a type of product for which OSHA requires NRTL approval (i.e., one currently shown in OSHA’s Web page titled, “Type of Products Requiring NRTL Approval”); and (iii) OSHA determines that the risk of actual or potential undue influence resulting from this ownership is not minor (see condition 2c below). If these criteria are met, and AzTE does not, within 60 days of OSHA’s request, take steps to reduce such ownership interests below 10% within 60 days, OSHA will initiate the process to revoke TUVPTL’s NRTL recognition.

c. For purposes of condition #2b above, TUVPTL must provide or make available, at OSHA’s request, information required by OSHA to determine whether a risk of actual or potential undue influence is not minor. This information may include, but is not limited to, a financial statement(s) or the annual report of the company owned by AzTE, and, if not included in the document(s) provided, a list of the types

of products sold or made by the company, and the overall percentage of the company’s total revenue derived from selling these products. If TUVPTL cannot or does not provide or make available this information at OSHA’s request, OSHA will be unable to determine whether the risk is minor, and, thus, will commence the process to revoke TUVPTL’s NRTL recognition.

d. To provide OSHA, either annually or upon request, TUVPTL’s overall client list, noting those clients that are NRTL clients and, for each such client, whether it is a company in which AzTE has more than a 10% ownership interest. Each list shall be in an electronic format, and shall include the information specified by OSHA. For example, this information may include the client’s name and address; the product name(s) and model number(s); the fees paid during the last calendar year by the client for testing and certifying its product(s); and the percentage of TUVPTL’s total revenue derived during the last calendar year from testing and certifying this/these product(s).

Additionally, as described above, while TUVPTL has testing, review, and evaluation procedures, OSHA could not review how TUVPTL fully implemented them because TUVPTL was not using them fully for testing and certifying products under the NRTL Program. In addition, as also described above, while TUVPTL has factory-inspection procedures, it currently does not conduct regular factory inspections. In this regard, TUVPTL only recently developed some components of these factory-inspection procedures. Therefore, OSHA also must review the effectiveness of TUVPTL’s factory-inspection program should OSHA grant NRTL recognition to TUVPTL, and do so within a reasonable period after granting recognition. Consequently, OSHA proposes to recognize TUVPTL conditionally, i.e., subject to a later determination of the effectiveness of these procedures. In addition, because TUVPTL will use the mark of its affiliate, OSHA is imposing a condition to ensure that TUVPTL personnel perform the critical steps involved in certification. Therefore, the following conditions also would apply should OSHA recognize TUVPTL under the NRTL Program:

3. Within 30 days of certifying its first products under the NRTL Program, TUVPTL will notify the OSHA NRTL Program Director of this activity so that OSHA may schedule its first audit of TUVPTL. At this first audit of TUVPTL, TUVPTL must demonstrate that it properly conducted testing, review,

evaluation, and factory inspections, and, for inspections, did so at the frequency set forth in the applicable NRTL Program policy.

4. Only TUVPTL personnel may perform the final technical review, make the final certification decision, and authorize use of the mark for those products TUVPTL certifies under the NRTL Program.

OSHA would include all of the conditions proposed above in the final notice should OSHA recognize TUVPTL as an NRTL. These conditions apply solely to TUVPTL’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.

Imposing these conditions is consistent with OSHA’s past recognition of several organizations as NRTLs that met the basic recognition requirements, but needed to further refine or implement their procedures (for example, see 63 FR 68306, 12/10/1998, and 65 FR 26637, 05/08/2000). Given the applicant’s current activities in testing and certification, OSHA is confident that TUVPTL will conform to the requirements for recognition noted above.

Preliminary Finding on the Application

TUVPTL submitted an acceptable application for recognition as an NRTL. OSHA’s review of the application file, and the results of the on-site review, indicate that TUVPTL can meet the requirements prescribed by 29 CFR 1910.7 for recognition to use the test standard listed above. This preliminary finding does not constitute an interim or temporary approval of the application. TUVPTL corrected the discrepancies noted by OSHA during the on-site review, and the on-site review report describes these corrections (Ex. 5).

Following examination of the application file and the on-site review report, the NRTL Program staff concluded that OSHA can grant the applicant recognition as an NRTL for its Tempe, Arizona facility, subject to the conditions described above. The staff, therefore, recommended preliminarily that the Assistant Secretary approve the application.

OSHA welcomes public comment as to whether TUVPTL meets the requirements of 29 CFR 1910.7 for recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must

³ Any condition that applies to AzTE also would apply to such an entity.

submit a request in writing, stating the reasons for the request. OSHA must receive the 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. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in TUVPTL's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N-2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at <http://www.regulations.gov> under Docket No. OSHA-2010-0013.

The NRTL Program staff will review all comments to the docket submitted in a timely manner, and, after addressing the issues raised by these comments, will recommend whether to grant NRTL recognition to TUVPTL. The Assistant Secretary will make the final decision on granting NRTL recognition, and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., 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. 4-2010 (75 FR 55355), and 29 CFR part 1911.

Signed at Washington, DC on this 15th day of November 2010.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2010-29127 Filed 11-17-10; 8:45 am]

BILLING CODE 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2010-0046]

QPS Evaluation Services Inc.; Application for Recognition

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

ACTION: Notice.

SUMMARY: This notice announces the application of QPS Evaluation Services Inc. for recognition as a Nationally Recognized Testing Laboratory, and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit information or comments, or a request for an extension of the time to comment, on or before December 20, 2010. All submissions must bear a postmark or provide other evidence of the submission date.

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-2010-0046, 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-2010-0046). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be made available online at <http://www.regulations.gov>.

Docket: To read or download submissions or other material in the docket (*e.g.*, exhibits listed below), 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 on or before December 20, 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:

I. Notice of Application for Recognition

The Occupational Safety and Health Administration (OSHA) is providing notice that QPS Evaluation Services Inc. (QPS) applied for recognition as a Nationally Recognized Testing Laboratory (NRTL). (*See* Ex. 2—QPS recognition application dated 1/27/2006.)¹ The application covers testing and certification of the equipment or materials, and use of the supplemental programs, listed below.

OSHA recognition of a 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 product testing and certification.

The Agency processes applications by a 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 OSHA's Web site at

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