



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2016-0022]

Bay Area Compliance Laboratories Corp.: Application for Recognition

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

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Bay Area Compliance Laboratories Corp. for recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant this recognition.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments by any of the following methods:

1. **Electronically:** Submit comments and attachments electronically at <http://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.
2. **Facsimile:** If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693-1648.
3. **Regular or express mail, hand delivery, or messenger (courier) service:** Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA-2016-0022, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3653, Washington, DC 20210; telephone: (202) 693-2350 (TTY number: (877) 889-5627). Note that security procedures may result in significant delays

in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m. – 3:00 p.m., e.t.

4. Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA-2016-0022). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at <http://www.regulations.gov>. Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. 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 at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. Extension of comment period: Submit requests for an extension of the comment period on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, 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: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3647, Washington, DC 20210; telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3655, Washington, DC 20210; phone: (202) 693-2110 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that an NRTL test and certify certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, NRTLs must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment requirements, and manufacturers and vendors of products for which OSHA requires

certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition, and is not a delegation or grant of government authority. Recognition of an NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The Agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the Federal Register in processing an application. In the first notice, OSHA announces the application, provides its preliminary finding, and solicits comments on its preliminary findings. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition.

II. Notice of the Application for Recognition

OSHA is providing notice that Bay Area Compliance Laboratories Corp. (BACL) is applying for recognition as an NRTL. According to its application, BACL was incorporated in 1996 to provide product compliance testing services to customers in the areas of Product Safety, Electromagnetic Compatibility and Telecommunications, testing for Emissions, Immunity, Radio, Radio Frequency (RF) Exposure and Telecommunications. The non-profit, third-party, non-governmental accreditation body A2LA accredited BACL for UL 60950-1, the standard for which BACL requests NRTL recognition. In its application, BACL lists the current address of its headquarters as: Bay

Area Compliance Laboratories Corp., 1274 Anvilwood Avenue, Sunnyvale, California 94089.

OSHA recognizes each NRTL for a scope of recognition that includes the type of products the NRTL may test, with each type specified by its applicable test standard, and the recognized site(s) that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL’s scope of recognition. BACL applied for initial recognition as an NRTL on May 1, 2015, and revised its application on May 12, 2016. In its application and subsequent revision, BACL requested recognition for one test standard and one site (OSHA-2016-0022-0001 and 0002). The following sections set forth the requested scope of recognition included in BACL’s application.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standard found in BACL’s application for testing and certification of products under the NRTL Program.

Table 1
Proposed Appropriate Test Standard for Inclusion in
BACL’s NRTL Scope of Recognition

Test Standard	Test Standard Title
UL 60950-1	Information Technology Equipment-Safety-Part 1: General Requirement

The test standard listed above may be approved as a U.S. test standard by the American National Standards Institute (ANSI). However, for convenience, the Agency may use the designation of the standards-developing organization for the test 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

B. Sites Requested for Recognition

The current address of BACL's site included in its application for recognition as an NRTL is:

1. Bay Area Compliance Laboratories Corp., 1274 Anvilwood Avenue, Sunnyvale, California 94089.

The NRTL Program requires that the recognized site listed above has the capability to conduct the product testing in accordance with the appropriate test standard for the equipment or material being tested and certified.

III. Preliminary Finding on the Application for Recognition as an NRTL

OSHA's NRTL Program recognition process involves a thorough analysis of an NRTL applicant's policies and procedures, and a comprehensive on-site review of the applicant's testing and certification activities to ensure that the applicant meets the requirements of 29 CFR 1910.7. OSHA staff performed a detailed analysis of BACL's application packet and reviewed other pertinent information. OSHA staff also performed a comprehensive on-site assessment of BACL's testing facility, located at 1274 Anvilwood Avenue, Sunnyvale, California 94089, on May 9-11, 2016. An overview of OSHA's assessment of the four requirements for recognition (i.e., capability, control procedures, independence, and creditable reports and complaint handling) is provided below.

A. Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material to be listed, labeled, or accepted, 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. OSHA staff performed a detailed analysis of BACL's application packet and reviewed other pertinent information to assess its capabilities to perform test and certification activities. OSHA determined that BACL has demonstrated these capabilities through the following:

- The BACL facility has adequate test areas, energy sources, and procedures for controlling incompatible activities.
- BACL provided a detailed list of its testing equipment. Review of the application shows that the equipment listed is available and adequate for the standards for which it seeks recognition.
- BACL has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the test standards for which it seeks recognition.
- BACL has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- BACL has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- BACL has an adequate quality-control system in place to conduct internal audits, as well as track and resolve nonconformances.

OSHA's on-site assessment of BACL's facility confirmed the capabilities described in its application packet.

B. 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 to be listed, labeled, or accepted. 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. OSHA staff performed a detailed analysis of BACL's application packet and reviewed other pertinent information to assess its control procedures. OSHA determined that BACL has demonstrated these control procedures through the following:

- BACL has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- BACL has a registered certification mark.
- BACL has certification procedures to address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities.

OSHA's on-site assessment of BACL's facility confirmed the control procedures described in its application packet.

C. 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. OSHA staff performed a detailed analysis of BACL's application packet and reviewed other pertinent information to assess its independence. OSHA determined that BACL has demonstrated independence through the following:

- BACL is a privately-owned organization, and OSHA found no information regarding ownership that would qualify as a conflict under OSHA's independence policy.
- BACL shows that it has none of the relationships described above or any other relationship that could subject it to undue influence when testing for product safety.

D. Credible 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. The NRTL must also have procedures for handling complaints and disputes under a fair and reasonable system. OSHA staff performed a detailed analysis of BACL's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA determined that BACL has demonstrated these capabilities through the following.

- BACL has detailed procedures describing the content of the test reports, and other detailed procedures describing the preparation and approval of these reports.
- BACL has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

OSHA's on-site assessment of BACL's facility confirmed the credible reports and complaint handling described in its application packet.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessment, indicate that BACL can meet the requirements prescribed by 29 CFR 1910.7 for recognition as a Nationally Recognized Testing Laboratory for its site located in Sunnyvale, California. The OSHA staff, therefore, preliminarily recommended that the Assistant Secretary approve the application. This preliminary finding does not constitute an interim or temporary approval of BACL's application.

OSHA welcomes public comment as to whether BACL 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 submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 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 exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N-3653, 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-2016-0022.

OSHA staff will review all comments submitted to the docket in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary whether to grant BACL's application for recognition as an NRTL. The

Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary 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, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on December 12, 2016.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

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