



BILLING CODE: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2019-0009]

DEKRA Certification Inc.: Application for Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

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

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of DEKRA Certification, Inc., for recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant this recognition. Additionally, OSHA proposes to modify the NRTL Program's List of Appropriate Test Standards to add two additional test standards.

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:

Electronically: You may submit comments and attachments electronically at: <https://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693-1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket

No. OSHA-2019-0009, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA-2019-0009). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at <https://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.

Docket: To read or download comments or other material in the docket, go to <https://www.regulations.gov> or the OSHA Docket Office at the above address. All documents in the docket (including this *Federal Register* notice) are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. 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.

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-3653, 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, 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, phone: (202) 693-2110 or email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA's workplace standards require that a 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, the 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 a 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 DEKRA Certification, Inc., (DEKRA) is applying for recognition as a NRTL. According to its public information (see <https://www.dekra-product-safety.com/en/about-dekra>) DEKRA states that it is an internationally accredited testing laboratory. In its application, DEKRA lists the current address of its headquarters as: DEKRA Certification, Inc., 405 Glenn Drive, Suite 12, Sterling, Virginia 20164. OSHA has determined preliminarily that DEKRA has the capability to perform as a NRTL as outlined in 29 CFR 1910.7.

Each NRTL's scope of recognition has two elements: (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) 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. DEKRA applied on December 8, 2016, for one recognized site (OSHA-2019-0009-0002). This application was amended on October 4, 2018, to add a new site as the company headquarters and requesting five supplemental programs within its scope of recognition (OSHA-2019-0009-0003). This

application was amended again on October 8, 2019 to request thirty-four test standards be included within its scope of recognition. On October 1, 2019, OSHA published an update to the NRTL Program Policies, Procedures and Guidelines Directive, CPL-01-004, which eliminates supplemental programs from the NRTL Program. With this update, OSHA will no longer recognize NRTL applicants for supplemental programs. The following sections set forth the requested scope of recognition included in DEKRA’s application.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standards found within DEKRA’s application for testing and certification of products under the NRTL Program.

Table 1
Proposed List of Appropriate Test Standards for Inclusion in
DEKRA’s NRTL Scope of Recognition

Test Standard	Test Standard Title
AAMI 60601-1	Medical Electrical Equipment - Part 1: General Requirements for Basic Safety and Essential Performance
UL 1012	Standard for Power Units Other Than Class 2
UL 1059	Standard for Terminal Blocks
UL 1203	Standard for Explosion-Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations
UL 121201	Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations
UL 1310	Standard for Class 2 Power Units
UL 153	Standard for Portable Electric Luminaires
UL 1598	Luminaires
UL 1778	Uninterruptible Power Systems
UL 2157	Electric Clothes Washing Machines and Extractors
UL 50	Enclosures for Electrical Equipment, Non-Environmental Considerations
UL 508A	Standard for Industrial Control Panels
UL 60065	Standard for Audio, Video and Similar Electronic Apparatus – Safety Requirements
UL 60079-0	Standard for Explosive Atmospheres – Part 0: Equipment – General Requirements

Test Standard	Test Standard Title
UL 60079-1	Standard for Explosive Atmospheres – Part 1: Equipment Protection by Flameproof Enclosures “d”
UL 60079-2	Standard for Explosive Atmospheres – Part 2: Equipment Protection by Pressurized Enclosure ‘p’
UL 60079-7	Standard for Explosive Atmospheres – Part 7: Equipment Protection by Increased Safety ‘e’
UL 60079-11	Explosive Atmospheres – Part 11: Equipment Protection by Intrinsic Safety “i”
UL 60079-15	Explosive Atmospheres – Part 15: Equipment Protection by Type of Protection ‘n’
UL 60079-18	Standard for Explosive Atmospheres – Part 18: Equipment Protection by Encapsulation ‘m’
UL 60079-26	Standard for Explosive Atmospheres – Part 26: Equipment with Equipment Protection Level (EPL) Gas
UL 60079-30-1*	Standard for Explosive Atmospheres – Part 30-1: Electrical Resistance Trace Heating – General and Testing Requirements
UL 60079-31	Explosive Atmospheres – Part 31: Equipment Dust Ignition Protection by Enclosure ‘t’
UL 60730-1*	Automatic Electrical Controls – Part 1: General Requirements
UL 60730-2-9	Standard for Automatic Electrical Controls – Part 2-9: Particular Requirements for Temperature Sensing Controls
UL 60950-1	Information Technology Equipment – Safety – Part 1: General Requirements
UL 60950-22	Information Technology Equipment – Safety – Part 22: Equipment to be Installed Outdoors
UL 61010-1	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use – Part 1: General Requirements
UL 61058-1	Switches for Appliances – Part 1: General Requirement
UL 62368-1	Audio/video, Information and Communication Technology Equipment – Part 1: Safety Requirements
UL 858	Standard for Household Electric Ranges
UL 858A	Safety-Related Solid-State Controls For Electric Ranges
UL 8750	Standard for Light Emitting Diode (LED) Equipment for Use in Lighting Products
UL 913	Standard for Intrinsically Safe Apparatus and Associated Apparatus for Use in Class I, II, III, Division 1, Hazardous (Classified) Locations

*Represents the standards that OSHA proposes to add to the NRTL Program’s List of Appropriate Test Standards

III. Proposal to Add New Test Standards to the NRTL Program’s List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL Program’s list of appropriate test standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards by: (1) monitoring notifications issued by certain Standards Development Organizations; (2) reviewing applications by NRTLs or applicants seeking recognition to include new test standard in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add two new test standards to the NRTL Program’s list of appropriate test standards. Table 2, below, lists the test standards that are new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and proposes to include them in the NRTL Program’s list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

Table 2
Test Standards OSHA Is Proposing to Add to the NRTL Program’s
List of Appropriate Test Standards

Test Standard	Test Standard Title
UL 60079-30-1*	Standard for Explosive Atmospheres – Part 30-1: Electrical

Test Standard	Test Standard Title
	Resistance Trace Heating – General and Testing Requirements
UL 60730-1*	Automatic Electrical Controls – Part 1: General Requirements

The test standards listed above may be approved as U.S. test standards by the American National Standards Institute (ANSI). However, for convenience, the agency may use the designations of the standards-developing organization for the test standards instead of the ANSI designation. NRTL Program policy (see OSHA Instruction CPL 1-001-004, Chapter 2, Section VIII), establishes test standard approval criteria based on 29 CFR 1910.7(c).

B. Sites Requested for Recognition

The current addresses of the DEKRA’s sites included in its application for recognition as a NRTL are:

1. DEKRA Certification, Inc. 405 Glenn Drive, Suite 12, Sterling, Virginia 20164; and
2. DEKRA Certification B.V. Arnhem, Meander 1051, 6825 MJ Arnhem, Gelderland, Netherlands.

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

IV. Preliminary Finding on the Application for Recognition as a NRTL

OSHA’s NRTL Program recognition process involves a thorough analysis of a 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 DEKRA’s application packet and reviewed other pertinent information. OSHA staff also performed comprehensive on-site assessments of DEKRA’s testing facilities, at DEKRA Arnhem, Netherlands on July 11-13, 2018 and DEKRA Sterling, Virginia on October 30, 2018. An overview of OSHA’s assessment of the four

requirements for recognition (i.e., capability, control procedures, independence, and credible 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 DEKRA's application packet and reviewed other pertinent information to assess its capabilities to perform testing and certification activities. OSHA preliminarily determined that DEKRA has demonstrated these capabilities through the following:

- DEKRA's facilities have adequate test areas, energy sources, and procedures for controlling incompatible activities.
- DEKRA 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.
- DEKRA 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.
- DEKRA has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- DEKRA has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- DEKRA has an adequate quality-control system in place to conduct internal audits, as well as track and resolve nonconformances.

OSHA's on-site assessments of DEKRA's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. DEKRA addressed these issues sufficiently to meet the applicable NRTL requirements.

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 DEKRA's application packet and reviewed other pertinent information to assess its control procedures. OSHA preliminarily determined that DEKRA has demonstrated these capabilities through the following:

- DEKRA has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- DEKRA has a registered certification mark.
- DEKRA 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 DEKRA's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. DEKRA addressed these issues sufficiently to meet the applicable NRTL requirements.

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. The revised NRTL Program Policies, Procedures and Guidelines Directive, CPL 01-004-001, allows NRTLs to comply with the requirement in the NRTL Program regulation that NRTLs be “completely independent of employers subject to the tested equipment requirements, and of any manufacturers or vendors of equipment or materials being tested for these purposes” (29 CFR 1910.7(b)(3)) by meeting the minimum performance standards of Annex B of the NRTL Program directive CPL 01-004-001 with respect to impartiality. The revised policy focuses on the NRTL’s ability to effectively identify, eliminate and control any risk to its impartiality.

This policy requires the NRTL to identify risks to impartiality on an ongoing basis and when risks to impartiality are identified, the NRTL must demonstrate how it eliminates or minimizes such risks. OSHA staff performed a detailed analysis of DEKRA’s application packet and reviewed other pertinent information to assess its independence. OSHA preliminarily determined that DEKRA has demonstrated independence through the following:

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

- DEKRA has policies and procedures in place to identify risks to impartiality and when risks to impartiality are found, DEKRA has policies and procedures to eliminate or minimize such risks.

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 DEKRA's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA preliminarily determined that DEKRA has demonstrated these capabilities through the following:

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

OSHA's on-site assessments of DEKRA's facilities confirmed the capabilities described in its application packet. The assessors found some non-conformances with the requirements of 29 CFR 1910.7. DEKRA addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessments, indicate that DEKRA can meet the requirements prescribed by 29 CFR 1910.7 for recognition as a NRTL for its sites located in Sterling, Virginia and Arnhem, Netherlands.

OSHA's preliminary finding does not constitute an interim or temporary approval of DEKRA's application.

OSHA welcomes public comment as to whether DEKRA meets the requirements of 29 CFR 1910.7 for recognition as a 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, for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time 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-2019-0009.

OSHA staff will review all comments submitted to the docket in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health regarding DEKRA's application for recognition as a 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*.

V. Authority and Signature

Loren Sweatt, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, 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 March 18, 2020.

Loren Sweatt,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2020-06083 Filed: 3/23/2020 8:45 am; Publication Date: 3/24/2020]