

**DATES:** Submit comments on or before February 11, 2000.

**ADDRESSES:** Send comments to Diane B. Hill, Program Analysis Officer, Office of Program Evaluation and Information Resources, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203-1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to [dhill@msha.gov](mailto:dhill@msha.gov), along with an original printed copy. Ms. Hill can be reached at (703) 235-1470 (voice) or (703) 235-1563 (facsimile).

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed information collection request can be obtained by contacting Diane B. Hill, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 719, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Ms. Hill can be reached at [dhill@msha.gov](mailto:dhill@msha.gov) (Internet E-mail), (703) 235-1470 (voice), or (703) 235-1563 (facsimile).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 206 of the Federal Mine Safety and Health Act of 1977 authorize the recordkeeping and reporting requirements implemented under 30 CFR 70.510 and 71.805—Noise Standards.

Each operator of a coal mine who has received a notice of violation for noise levels in excess of the permissible standard, is required to submit to MSHA for approval, a continuing, effective hearing conservation plan. This plan must contain methods of reducing environmental noise levels; provisions for personal protective devices to be available to affected miners; and provisions for pre-employment and periodic audiograms.

**II. Desired Focus of Comments**

MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**III. Current Actions**

MSHA seeks to continue the frequency of collection in order for the Agency to properly assess the effectiveness of the plan, and monitor the safety and health conditions in today's mining environment.

*Type of Review:* Extension.

*Agency:* Mine Safety and Health Administration.

*Title:* Hearing Conservation Plan.

*OMB Number:* 1219-0017.

*Affected Public:* Business or other.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response (hours)	Burden hours
70.510(b) (Plans) .....	11	Annually .....	11	6	66
	82	Annually .....	82	4	328
70.510(b)(iii) (audio tests) .....	11	Annually .....	55	1	55
	74	Biennially .....	185	1	185
71.805(b) (Plans) .....	12	Annually .....	12	6	72
	153	Annually .....	153	4	612
71.805(b)(iii) (audio tests) .....	12	Annually .....	60	1	60
	138	Biennially .....	345	1	345
Totals .....	235	.....	903	1.91	1,723

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintaining):* \$29,670.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of this information collection request; they will also become a matter of public record.

Dated: December 6, 1999.

**George M. Fesak,**

*Director, Program Evaluation and Information Resources.*

[FR Doc. 99-32196 Filed 12-10-99; 8:45 am]

**BILLING CODE 4510-43-M**

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**[Docket No. NRTL-1-99]**

**Curtis-Straus LLC., Application for Recognition**

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the application of Curtis-Straus LLC. for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of this application.

**DATES:** Comments submitted by interested parties must be received no later than February 11, 2000.

**ADDRESS:** Send comments concerning this notice to: Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, at the above address, or phone (202) 693-2110.

**SUPPLEMENTARY INFORMATION:**

**Notice of Application**

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Curtis-Straus LLC. (CSL) has applied for recognition as a Nationally

Recognized Testing Laboratory (NRTL) for testing and certification of the equipment or materials and using the site, listed below. CSL has also requested recognition to use certain supplemental programs. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this notice of the preliminary finding on an application.

The current address of the laboratory covered by this application is: Curtis-Straus LLC., 527 Great Road, Littleton, Massachusetts 01460.

### Background

According to the application, Curtis-Straus LLC. (CSL) is a limited liability company chartered in the Commonwealth of Massachusetts and was established in 1996. CSL states that it offers testing services in electrical safety and in a number of other areas. The applicant also states that its founders and managers have, in the aggregate, over thirty years of technical experience in these areas. The application indicates that CSL is privately owned.

CSL submitted an application for recognition, dated February 9, 1998 (see Exhibit 2A). In response to requests from OSHA for clarification and additional information, CSL amended its application in submissions dated June 24, 1998, and August 9, 1999 (see Exhibits 2B and 2C). Some documents in these submissions, and part of the original application, have been withheld from disclosure under Exemption 4 of the Freedom of Information Act (FOIA). Staff of the NRTL Program performed an on-site assessment (review) of the Littleton, Massachusetts, facility on October 26–29, 1998. In the on-site review report, the program staff recommended a “positive finding.”

Regarding the merits of the application, the applicant has presented documentation that describes how it will operate as an NRTL. However, it is an organization that, to date, has not operated a product certification program and CSL only recently developed the documents for the certification phase of its planned NRTL operations. Most of the detailed procedures the applicant plans to follow are contained in its Standard Operating Procedures Manual (SOPM), which is one of the documents that has been withheld from disclosure under FOIA.

The four recognition requirements of 29 CFR 1910.7 are presented below,

along with examples that illustrate how CSL has met or plans to meet each of these requirements.

### Capability

Section 1910.7(b)(1) states that for each specified item of equipment or material to be listed, labeled or accepted, the laboratory 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 on-site review report indicates that CSL has adequate testing equipment and an adequate facility to perform the tests required under the test standards for which it seeks recognition. Security measures are in place to restrict or control access to their facility, and procedures exist on handling of test samples. The report also indicates that testing and processing procedures are in place, although some were in the process of review and update. CSL has only recently developed the testing procedures for the standards for which it seeks recognition. It utilizes outside calibration sources and has developed procedures for internal calibrations of certain equipment. The application indicates that CSL maintains records on testing equipment, which include information on repair, routine maintenance, and calibrations. The application and on-site review report address personnel qualifications and training, and identify CSL staff involved with product testing, along with a summary of their education and experience. Also, the report indicates that CSL personnel have adequate technical knowledge for the work they perform. Moreover, the review report indicates that the Quality System Manual (QSM) and SOPM are the primary documents for the CSL quality assurance activities. The application contains the procedures CSL will utilize for conducting the internal audits of its operations.

The application indicates that CSL has not tested products to all requirements of a test standard, and as already mentioned, CSL has just developed many of the procedures it will utilize to do such testing. Therefore, OSHA has not yet evaluated the actual use of the testing and reporting procedures that CSL will utilize for purposes of certifying to a complete test standard, and OSHA needs to investigate this aspect of CSL's operations when these procedures are in use. Accordingly, OSHA plans to include a condition in the recognition

notice to provide the Agency with the opportunity to make this evaluation.

### Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide certain controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. They include control 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 applicant has developed procedures and related documentation for initially qualifying a manufacturer under the CSL certification program and for performing the required follow-up inspections at a manufacturer's facility. CSL has stated in its SOPM that it will perform follow-up “factory inspections at least four times per year.” These inspections will be one part of the activities that the applicant will utilize in controlling its certification mark. In its application, CSL included evidence of its application for registration of its certification mark with the U.S. Trademark and Patent Office (USPTO). The USPTO has issued a notice of allowance for this mark.

According to the on-site review report, CSL has not had a product certification program prior to applying for recognition as an OSHA NRTL. Staff of the NRTL Program reviewed a number of documents during the on-site visit that described the approach CSL would take in operating its program. After the visit, CSL finalized more detailed procedures, previously mentioned, for qualification and follow-up inspection of the manufacturer. CSL also presented procedures to establish and modify a “listing” of products it has certified and to control its mark on these products. Since CSL has just developed its NRTL follow-up program, and has not listed or labeled any products under these procedures, OSHA has been unable to evaluate the actual use of CSL's product certification program. The condition, mentioned above, that OSHA plans to include would also provide the Agency with the opportunity to make this evaluation. In addition, OSHA is concerned about the adequacy of CSL's proposed procedures to control its certification mark. As a result, OSHA plans to impose another condition to ensure that CSL will adequately control its mark.

## Independence

Section 1910.7(b)(3) requires that the NRTL 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.

In its original application, CSL has stated that there is "no ownership of Curtis-Straus by (organizations that are) manufacturers or suppliers of products or components to be tested or certified." The applicant also states that none of its owners "works for, or has ownership of, or significant interest in" any such organization. More recently, CSL provided a more comprehensive statement of its independence from "suppliers" (i.e., a manufacturer or distributor) and "major users" (i.e., employers that make major use) of any products that must be certified by an NRTL. The applicant also states that its "conflict of interest policies are in place and . . . conflict of interest statements are signed by all personnel."

## Creditable Reports/Complaint Handling

Section 1910.7(b)(4) provides that an NRTL must maintain effective procedures for producing credible findings and reports that are objective and without bias, as well as for handling complaints and disputes under a fair and reasonable system.

As previously stated, CSL has only recently developed the procedures it will utilize in testing and certifying products. This includes the procedures for evaluating and reporting the findings for its initial or follow-up testing of products to ensure they conform to all requirements of a test standard. The applicant did include examples of the kind of reports it will generate. However, as in the case of the testing procedures, the evaluation and reporting procedures are new to CSL, and OSHA would need to evaluate them when the applicant uses them for its NRTL operations. Regarding the handling of complaints and disputes, the applicant's SOPM contains the details on how it will handle a complaint it receives from its clients or from the public.

## Standards

CSL seeks recognition for testing and certification of products to determine compliance with the following five (5) test standards, and OSHA has determined the standards are "appropriate," within the meaning of 29 CFR 1910.7(c):

ANSI/UL 1459 Telephone Equipment

ANSI/UL 1950 Information Technology Equipment Including Electrical Business Equipment  
UL 2601-1 Medical Electrical Equipment, Part 1: General Requirements for Safety  
UL 3101-1 Electrical Equipment for Laboratory Use; Part 1: General Requirements  
UL 3111-1 Electrical Measuring and Test Equipment, Part 1: General Requirements

The designations and titles of the above test standards were current at the time of the preparation of this notice.

## Programs and Procedures

Curtis-Straus also seeks to use the supplemental programs listed below, based upon the criteria detailed in the March 9, 1995 **Federal Register** notice (60 FR 12980, 3/9/95). This notice lists nine (9) programs and procedures (collectively, programs), eight of which (called supplemental programs) an NRTL may use to control and audit, but not actually to generate, the data relied upon for product certification. An NRTL's initial recognition always includes the first or basic program, which requires that all product testing and evaluation be performed in-house by the NRTL that will certify the product. The on-site review report indicates that CSL appears to meet the criteria for use of the following supplemental programs for which it has applied:

Program 8: Acceptance of product evaluations from organizations that function as part of the International Electrotechnical Commission Certification Body (IEC-CB) Scheme.

Program 9: Acceptance of services other than testing or evaluation performed by subcontractors or agents. (Limitation—recognition covers equipment calibration and maintenance services only.)

CSL does not plan to use Program 9 for purposes of conducting its follow-up inspections, which is permitted under this program. Accordingly, the Agency plans to include the limitation on the use of Program 9, shown above.

OSHA developed the program descriptions to limit how an NRTL may perform certain aspects of its work and to permit the activities covered under the programs only when the NRTL meets certain criteria. In this sense, they are special conditions that the Agency places on an NRTL's recognition. OSHA does not consider these programs in determining whether an NRTL meets the requirements for recognition under 29 CFR 1910.7. However, OSHA does

treat these programs as one of the three elements that defines an NRTL's scope of recognition.

CSL also sought recognition for two other programs, one of which it withdrew from consideration. OSHA is not granting recognition for the other program at this time. Under this program, an NRTL may use others in performing all the testing required for a test standard. However, CSL does not have experience in testing and certification to a complete standard, and may have less opportunity to develop the required experience if it uses others to do these activities. This experience is essential for its continued recognition as an NRTL. Finally, OSHA will need to review the actual implementation of certain key aspects of CSL's operations as an NRTL, which, as already noted, were not yet in place when OSHA performed its on-site review of CSL. As a result, CSL would have to apply in the future for use of any other programs.

## Conditions

OSHA has concerns about CSL because the Agency has not had the opportunity to evaluate the actual testing, evaluation, and reporting procedures, and use of the follow-up program, since these have not yet been implemented. Many of these procedures and practices will be new to CSL. Unless CSL meets a condition imposed by OSHA, it could not be recognized as an NRTL under 29 CFR 1910.7. As a result, OSHA plans to conditionally recognize CSL subject to a later assessment of the detailed procedures and practices once they are in place.

This approach is consistent with OSHA's past recognition of other organizations as NRTLs who, like CSL, were mainly experienced in testing products to specific customer or partial test standard requirements. OSHA indicated in the **Federal Register** notice for those recognitions that the procedures to be used were new to the organization (for example, see 56 FR 28581, 6/21/91; and 58 FR 15511, March 23, 1993). OSHA will require CSL to take steps to correct any deficiencies that OSHA may find during its initial follow-up review. If deficiencies are not corrected, then OSHA will commence its process to revoke the recognition of the NRTL.

In addition, OSHA has concerns about the CSL's ability to adequately control its certification mark. CSL plans to monitor use of its mark during its follow-up inspections and plans to monitor media to check for misuse of its mark. However, its procedures on authorizing its labels appear to present the opportunity for a manufacturer to

label, intentionally or not, products that are not covered under the listing agreement with CSL. Under its procedures, CSL gives a manufacturer general authorization to use the CSL mark or label on a product but does not appear to control the actual marking or labeling that the manufacturer would use on a lot or run of production, much less on a series of such runs of production.

CSL's authorization procedure and listing agreement contain provisions to prohibit a manufacturer's use of the mark on products that are not "identical to the sample" CSL has certified. However, such proscriptions do not ensure that CSL actually controls its mark on a given run of production. As mentioned, CSL does plan to perform after-the-fact monitoring of the manufacturer to check for misuse. Also, it will take appropriate action if it discovers misuse. However, its procedures do not appear effective in trying to initially prevent misuse of the mark and, to compound matters, its planned monitoring could be ineffective in detecting instances when misuse has occurred, especially considering that many thousands of products may be affected. Such misuse of labels may have serious consequences for workers who use products that they believe are safe, but which turn out to be unsafe and which CSL, although well intentioned in its procedures, cannot effectively detect. As a result, OSHA also plans to include a condition on CSL that it implement, as part of its system for authorization of the use of its mark on products, an effective method to ensure that only products it has certified carry this mark. If CSL does not meet this condition, it would not meet the requirement in 29 CFR 1910.7(b)(3), under which an NRTL must maintain adequate control programs, and could not be recognized as an NRTL.

Therefore, OSHA intends to impose the following conditions in the final notice to officially recognize CSL as an NRTL. These conditions apply solely to CSL'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.

1. Within 30 days of certifying its first products under the NRTL Program, CSL will notify the OSHA NRTL Program Director so that OSHA may review CSL's implementation of its procedures for testing and certification of products covered within the scope of the test standards listed above.

2. As part of its system of authorization or issuance of the use of its certification mark, CSL must establish, maintain, and utilize proper procedures that ensure its mark is applied only to the specific run(s) of production of the products that CSL has certified.

#### Preliminary Finding

Curtis-Straus LLC. (CSL) has addressed the requirements that must be met for recognition as an NRTL, as summarized above. In addition, the NRTL Program staff has performed an on-site review of CSL's Littleton, Massachusetts, facility and investigated the processes, procedures, practices, and general operations used by the laboratory. Discrepancies noted by the review staff during the on-site review were addressed by CSL following the on-site evaluation, as detailed above, and are included as an integral part of the on-site review report (see Exhibit 3).

Following a review of the complete application file and the on-site review report, the NRTL Program staff has concluded that the applicant can be granted recognition as a Nationally Recognized Testing Laboratory for the Littleton, Massachusetts, facility and for the five (5) test standards identified above, subject to the conditions and limitation described above. The recognition would also include the two programs listed above. The staff therefore recommended to the Assistant Secretary that the application be preliminarily approved.

Based upon the recommendation of the staff, the Assistant Secretary has made a preliminary finding that Curtis-Straus LLC. can meet the recognition requirements, as prescribed by 29 CFR 1910.7, for the 5 test standards and the facility noted above, with the conditions and limitation to be applied as noted.

OSHA welcomes public comments, in sufficient detail, as to whether Curtis-Straus LLC. has met the requirements of 29 CFR 1910.7 for the expansion of its recognition as a Nationally Recognized Testing Laboratory. Your comment should consist of pertinent written documents and exhibits. To consider it, OSHA must receive the comment at the address provided above (see **ADDRESS**), no later than the last date for comments (see **DATES** above). You may obtain or review copies of the CSL application, the on-site review report, and all submitted comments, as received, by contacting the Docket Office, Room N2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. You should refer to Docket No. NRTL-1-99, the

permanent record of public information on CSL's recognition.

The NRTL Program staff will review all timely comments and, after resolution of issues raised by these comments, will recommend whether to grant the CSL application for recognition. The Assistant Secretary will make the final decision on granting the 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**.

Signed at Washington, DC, this 3rd day of December, 1999.

**Charles N. Jeffress,**

*Assistant Secretary.*

[FR Doc. 99-32195 Filed 12-10-99; 8:45 am]

**BILLING CODE 4510-26-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-156]

### NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness; Meeting

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NAC Task Force on International Space Station Operational Readiness (IOR).

**DATES:** Wednesday, January 12, 2000, 11 a.m.-12 Noon. Central Standard Time.

**ADDRESSES:** NASA Johnson Space Center, 2101 NASA Road 1, Building 1, Room 257A, Houston, TX 77058.

**FOR FURTHER INFORMATION CONTACT:** Mr. Philip Cleary, Code IH, National Aeronautics and Space Administration, Washington, DC 20546-0001, 202/358-4461.

**SUPPLEMENTARY INFORMATION:** This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Review the results of the Task Force's October 1999 meetings with the Utin Advisory Expert Council.
- Review the results of the Task Force Working Group on International Space Station Software.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.