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AUTHORIZATION FOR CERTIFICATION

GP - 3. Contract for NSF Certification

Prior to authorization for Certification, the Company and NSF shall execute a contract provided by NSF. A separate contract for services is required for each subsidiary or division of a Company requesting a separate Official Listing. If a Company seeks Certification of a Product under more than one NSF Certification program, NSF may require separate contracts for each program, at the discretion of the applicable Certification programs.

Rationale: Clarification added regarding Companies that may seek Certification of a Product under more than one NSF program. Also addresses an ANSI accreditation audit request.

GP - 8. Use of the Mark for Products Shown in the Official Listing

The Company shall represent as Certified, by use of the Mark or otherwise, only Products that are in full compliance with all applicable NSF requirements, and only after the Product has been Certified by NSF. The Company shall place the Mark only on Products with a trade designation or model designation shown in the Official Listing.

The NSF Product marking shall not directly or indirectly represent, imply, or claim an NSF Certification for an end use application for which it is not Certified by NSF.

When a Certified Product is sold in combination with any non-Certified product or component, the Company shall clearly indicate on the Product that the non-Certified product or component has not been evaluated to the respective Standard.

Rationale: To clarify that Product Marking shall allow for differentiation between NSF and non-NSF certified claims. Also clarifies that non-certified products co-packaged with a Certified product need to be identified.

GP - 15. Private Labeling of Certified Products

A Company shall be authorized to label Certified Products with another name and trade designation under one of the following provisions:

- The original Company's name, ~~address~~, and trade designation shall also be included on the product marking, label or data plate of the private labeled Product, and in any advertising literature (no separate contract or charges are required); or

- The Company shall include the name and trade designation of the private labeled Product in its Official Listing and the original Company's name shall be included on the product marking, label or data plate of the private labeled Product (no separate contract or charges required); or
- The Company shall Certify and private label the Product as "Another Name For" the Company (a separate contract and fees are required). A separate Listing shall be issued as "Another Name For" the Company.

Rationale: To clarify requirements, and to provide a link to the original company when only the product is available for reference.

AUDIT

GP - 16. Requirement and Purpose of Audits

An onsite audit of all facilities and production locations of the Company may be required before Certification is authorized, and one or more unannounced audits may be conducted each calendar year. However, NSF reserves the right to conduct announced or unannounced audits as needed to monitor for compliance with all NSF requirements.

A Company that is Certified for electrical safety shall receive an initial audit prior to product certification. A Company that is Certified for electrical safety shall have ~~one visit each quarter~~ two (2) unannounced visits per year to comply with NSF and the OSHA Nationally Recognized Testing Laboratory program. The number of annual safety inspections may be increased to four (4) or more per year if the safety concerns mentioned in the OSHA NRTL Program Policies, Procedures, and Guidelines, directive number CPL 01-00-003, Appendix C, Section III, Part A, exists and if the manufacturer cannot consistently demonstrate ongoing effective quality management and control programs in meeting the safety requirements. Facilities having production schedules that do not permit the manufacture of Certified Products through the entire year may receive fewer audits based on their production schedule.

At the election of NSF, subcontract auditors may be used in lieu of NSF staff auditors.

Reason: OSHA has issued a policy change effective January 2, 2001 to allow only two (2) inspections per year. This and other related requirements can be found in OSHA's NRTL Program Policies, Procedures, and Guidelines, directive number CPL 01-00-003, Appendix C, Section III, Part A. Excerpts of applicable section are noted below:

NRTL Follow-up Inspections at Manufacturing Facilities - An NRTL must provide, to the extent needed for a particular product it has certified, inspection of "the run of production of such items at factories for product evaluation purposes to assure conformance with the test standards." As part of complying with this requirement, an NRTL must physically inspect each manufacturing facility of products it has certified to ensure that the manufacturer continues to produce these products as certified by the NRTL. The NRTL must inspect each such facility and each product it has certified at the minimum frequencies specified below. The NRTL must use qualified personnel or representatives to perform each inspection and, when appropriate, must perform

unannounced inspections or give minimal notice. Inspections must involve an actual visit to the facility and not just a review of product plans, photographs, or similar items. Inspections at non-manufacturing facilities, if properly controlled, may supplement but cannot replace the minimum number of inspections for manufacturing facilities required in this policy. [For purposes of this policy, manufacturing facility is an establishment used for fabricating or assembling a product (model or item) covered under the NRTL's agreement for certification services. A facility that primarily distributes products, such as a "single point distribution" site, or that makes final, but minimal, assembly of products is not a manufacturing facility. Also, for purposes of this policy, the terms inspect and inspection refer to an audit of a manufacturing facility by the NRTL.]

A. *Frequency of Inspections.* *An NRTL must perform a greater frequency of inspections at facilities where greater safety concerns exist regarding the manufacture of products certified by the NRTL. At a minimum, such concerns exist under any of the following situations:*

- 1. The products are intended for use in hazardous locations;*
- 2. The NRTL has evidence or suspects that the manufacturer has not been producing a product in conformance with the product safety requirements or maintaining appropriate controls over its production process at a facility;*
- 3. The facility is in a region where mislabeling or counterfeit labeling occurs frequently and there is a question about the manufacturer's ability to control and mark products correctly;*
- 4. The NRTL has evidence or suspects that the manufacturer is not using or controlling the NRTL's certification mark(s) correctly; or*
- 5. The NRTL has evidence or suspects that safety concerns exists concerning the products.*

The NRTL must perform these inspections to the extent needed to provide assurance that the product is manufactured as certified. In situations involving the above safety concerns, the NRTL must perform no fewer than four (4) inspections per year at these facilities.

An NRTL may perform the inspections less frequently at any facilities where the above safety concerns or similar situations do not exist. However, the manufacturer in such situations must consistently demonstrate ongoing quality management and control programs, and effectiveness in meeting the product safety requirements. In such cases, the NRTL must perform no fewer than two (2) inspections per year at these facilities.

GP - 18. Cooperation With NSF

Audit and sampling of Products by NSF is for the benefit of the Company as well as in the public interest. While engaged in the performance of these duties, NSF shall be given every assistance necessary, and shall have the right to examine all records bearing upon the duties and responsibilities of NSF or the Company with respect to compliance with NSF requirements. No NSF representative shall be required, nor authorized to make any agreements, waive any rights or privileges, or enter into any compromises as a condition of audit.

While in a Company's facility, NSF representatives shall comply with all applicable health and safety rules and be accompanied by authorized Company personnel. The Company shall notify NSF in advance of any health and safety equipment necessary for access to the Company's facility, or shall provide the necessary health and safety equipment for the NSF auditor's use during the audit, along with instructions for proper use.

NSF auditors may discontinue an audit at a site where their health and safety may be at risk, if they are subject to sexual harassment or discrimination, or the conduct of the Company staff hampers the completion of a valid audit. The Company may, at any time for any reason, require that an auditor of NSF leave the facilities of the Company. An auditor shall immediately notify executive management of the Company and NSF if an audit is to be discontinued. If an audit is terminated its status is "attempted."

Rationale: Additional statement clarifies the Company's responsibility in ensuring the facility audit can be completed without concerns about auditor safety.

GP - 27. Documentation Reports

NSF may require a Company to submit sufficient information to document that a Product (or family of Products) fully conforms with all applicable requirements for Certification (Documentation Report). ~~A Company shall submit sufficient information to NSF that documents that a Product (or family of Products) fully conforms with all applicable requirements for Certification (Documentation Report).~~ The Documentation Report shall be reviewed by NSF and, if acceptable, shall be Registered by NSF. A Registered copy shall be maintained by NSF and at each production location for use by NSF to verify that there are no changes to the Product. For Products with a Registered documentation report, periodic testings by NSF may not be required for continuing Certification. The Documentation Report shall not be copied or distributed by the Company without prior written authorization from NSF.

Rationale: Not all NSF Certification Programs require submission of Documentation Reports. Previous change from "may" to "shall" in 2002 was rationalized as editorial, but was not.

ADVERTISING

GP - 34. Use of the Mark by Certified Companies: Advertising, Packaging, and Literature

Use of a Mark on sales literature, technical publications, promotions, materials, packaging, catalogs, and in advertising of Certified Products is acceptable, provided the Company complies with the following:

- The Company shall code literature and packaging to indicate version date;
- The Company shall not directly or indirectly represent, advertise, imply, or claim that any of its non-Certified Products are Certified by NSF;
- The Company shall clearly indicate in advertising, packaging, and literature that any non-Certified product or component that is sold in combination with a Certified Product has not been evaluated to the respective Standard;
- The Company shall not directly or indirectly represent, advertise, imply, or claim that any Product is Certified for an end use application for which it is not Certified; and
- ~~Advertising Products as Certified by a party other than the Company is acceptable, provided the party complies with these requirements, and includes the name of the Company whose products are Certified and are being advertised, and the trade designation and/or model designation of the Certified Products, or includes specific instructions to obtain the name of the Company and the trade designation and/or model designation of the Certified Products.~~

Rationale: The intent of the added third bullet is to clarify that non-certified products co-packaged with a Certified product need to be identified in associated advertising, packaging or literature.

GP – XX. Use of the Mark by Parties other than the Certified Company: Advertising and Literature

Use of a Mark on sales literature, technical publications, promotions, materials, catalogs, and in advertising of Certified Products by a party other than the Company is acceptable, provided the party complies with the following:

- The party shall code literature to indicate version date;
- The party shall not directly or indirectly represent, advertise, imply, or claim that any of its non-Certified Products are Certified by NSF;
- The party shall not directly or indirectly represent, advertise, imply, or claim that any Product is Certified for an end use application for which it is not Certified; and
- The party includes the name of the Company whose products are Certified and are being advertised, and the trade designation and/or model designation of the Certified Products, or includes specific instructions to obtain the name of the Company and the trade designation and/or model designation of the Certified Products.

Parties other than the Company whose Product is Certified shall not apply the NSF Mark to a product or any product packaging.

GP - 45. Enforcement Action: Recall of Products

NSF may order the recall of Products from distribution if Products bear the Mark or are represented as Certified, but do not comply with all NSF requirements.

The Company shall furnish to NSF, or at the option of NSF, permit prompt and full access to:

- Its production records to determine quantity and dates of production, and marking (identification) on Products; and
- Its shipping records to identify customers receiving the Products, quantity and dates of shipment, and marking (identification) on Products.

The Company, at the request of NSF, shall in good faith draft a voluntary recall notice, acceptable to NSF, and promptly transmit the notice to each known purchaser and recipient of the Product. The Company shall provide satisfactory evidence to NSF that each customer received the recall notice.

The Company shall provide evidence satisfactory to NSF ~~that the recall notice was received by each customer, identify~~ regarding the quantity of Products returned from each customer, marking (identification) of the Products returned, and dates returned. The Company shall hold the inventory of returned Products for verification by NSF.

If the recall is incomplete or cannot be conducted, NSF may make public notice of the recall.

Rationale: Deleted redundant text.

APPEALS

GP - 50. Administrative Review

A Company, or any other party, directly affected by a decision or action of NSF related to Certification by NSF, including investigation of complaints, may request an administrative review. The request shall be in writing to the Secretariat, Certification Council of NSF, and **shall** state the reasons for requesting the review. The request shall be acknowledged within 10 calendar days of receipt, and shall state the name of the NSF staff person assigned to conduct the review, if the review is granted. **The assigned NSF staff person shall have had no direct involvement in the NSF action being reviewed.** NSF shall contact, inform and advise the Company impacted by the request if different from the party requesting the administrative review. NSF may, at its discretion, hold in abeyance any enforcement action against a Company until the administrative review has been conducted. A request for an administrative review shall not entitle the requesting party to be provided any information to which it is not otherwise entitled by applicable law, regulation, NSF policy, or NSF procedure. NSF shall, within 30 calendar days of receipt of the written request, inform the Company or the party in writing of the results of the review.

GP - 51. Formal Appeal Through an Appeals Officer

A Company, or any other party, directly affected by a decision or action of NSF related to Certification by NSF that has ~~requested and been granted~~ **completed an administrative review**, but that is not satisfied with the results of the administrative review, may request a formal appeal. **A formal appeal shall not be recognized (or acknowledged) until completion of an administrative review.** If the formal appeal directly impacts a Company that has not submitted the request, NSF shall request that the Company be involved in the formal appeal process.

- 1.) The request for formal appeal shall:
 - Be in writing to the President of NSF;
 - Be received at NSF within 30 calendar days of receipt of written notification by NSF of the results of the administrative review; and
 - Indicate reasons why the action **or the conclusion of the administrative review** is being disputed.

Along with the request, the appellant shall pay \$5,000.00 U.S. to NSF for NSF's fee for the formal appeal. If the decision of the President is for the appellant, NSF shall reimburse this payment to the appellant.

- 2.) The request for formal appeal shall be acknowledged by NSF within 10 calendar days of receipt. NSF shall notify the Company directly impacted by the request for a formal appeal if different from the Company or party making the request. The request may be rejected if, in the opinion of the President of NSF, the **requesting** Company or the party **making the request** is not directly affected by the action. NSF may, at its discretion, hold in abeyance any enforcement action against a Company until a decision has been made in response to ~~this~~ **the formal** appeal.
- 3.) If the President determines that the appeal relates primarily to the language of an NSF Standard or **an** application or ~~an~~ interpretation thereof, and cannot be resolved to the satisfaction of the appellant by NSF staff, the President may

refer the appeal to the NSF Joint Committee with jurisdiction for the Standard (reference NSF Standards Development and Maintenance Policies).

- 4.) If the President determines that the appeal relates primarily to the language of an NSF Certification policy or an application or interpretation thereof, and cannot be resolved to the satisfaction of the appellant by NSF staff, the President may refer the appeal to the NSF Certification Council (reference NSF Certification Council Policies).
- 5.) If the appeal has not been referred to the Joint Committee or Certification Council and cannot be resolved by NSF staff to the satisfaction of the appellant, the President shall appoint an appeals officer. The appeals officer shall be from NSF staff and shall have had no direct involvement in the NSF action being appealed.
 - The appellant and NSF shall support their positions in writing to the President of NSF. The appellant and NSF shall send ~~three copies of~~ the written submittals to the President of NSF within 45 calendar days of receipt of NSF's acknowledgment of the formal appeal (electronic format is acceptable). Written submittals are limited to 50 pages, including appended referenced documentation. Supporting documentation, as appropriate, should be made a part of the written submittal, and may include notes, correspondence, memoranda, legal or technical opinions, Standards, policies, or any other items that bear on or relate to NSF's disputed decision, so long as the documents are not protected by confidentiality agreements that prohibit their disclosure.
 - If the formal appeal has a direct impact on a Company not requesting the formal appeal, the Company shall be provided the written submittals from the appellant and NSF, and shall be provided the opportunity to provide written response to NSF within 30 calendar days of receipt of the documents.
 - The President shall, within seven calendar days of receipt, distribute the written submittals to the appeals officer, the appellant and the NSF representative, and shall set a meeting date. Unless otherwise agreed to by both all parties, the meeting shall occur within 30 days of distribution of the written submittals.
 - The formal appeal meeting is not a legal hearing. Legal counsel shall not attend. Each party will be represented by one person only shall designate a single representative for the purposes of oral presentations. Legal counsel may not attend. Up to four representatives of each party will be permitted, inclusive of the respective presenter. There shall be no electronic recording or verbatim transcription of the proceedings unless agreed to in advance by both all parties.
 - Each party will be provided one hour for oral presentation. Questions by the appeals officer may follow. Each party will be provided 20 minutes for rebuttal.
 - The appeals officer shall provide a written recommendation to the President within 15 calendar days of the meeting.
 - The President's decision shall be transmitted in writing to both all parties within 30 calendar days of the meeting.

- NSF may, at its discretion, hold in abeyance any action required as a result of the formal appeal during the time prescribed in the policy for requesting a final appeal.

GP - 52. Final Appeal by a Panel

The appellant may request a final appeal by an appeals panel if it is not satisfied with the decision of the formal appeal. A final appeal shall not be recognized (or acknowledged) until completion of a formal appeal. If the formal appeal directly impacts a Company that has not submitted the request for the final appeal, NSF shall request that the Company be involved in the final appeal process.

- 1.) The request for final appeal shall:
 - Be ~~a written appeal~~ in writing to the President of NSF;
 - Be received at NSF within 30 calendar days of receipt of written notice of the President's decision of the formal appeal; and
 - Indicate the reasons why the decision of the formal appeal is being disputed.

Along with the request, the appellant shall pay \$10,000.00 U.S. to NSF for NSF's fee for the appeal. NSF shall compensate each appeals panel member \$1,000.00 U.S. and pay for the travel, housing, and meal expenses of the panel members to attend the meeting. If the decision of the President is for the appellant, NSF shall reimburse this payment, and the payment for the formal appeal, to the appellant.

- 2.) The request for the final appeal shall be acknowledged by NSF within 10 calendar days of receipt. NSF may, at its discretion, hold in abeyance any enforcement action against a Company until a decision has been made in response to this appeal.
- 3.) The final appeal shall be heard by a three-member appeals panel. The appeals panel shall be appointed by the Chair of the Certification Council from a list of acceptable candidates agreed to by ~~both all parties, including~~ and the Company impacted by the decision, if different from the ~~appellant, requestor of the final appeal~~.

Within 10 calendar days of receipt of the acknowledgment letter, each party shall submit, to the Secretariat of the Certification Council, a list of names of five candidates to serve on the appeals panel. The candidates shall have had no direct involvement with the action being appealed. The Secretariat of the Certification Council shall provide to each party a list of candidates for the appeals panel that shall include all members of the Certification Council (provided they have had no direct involvement with the action being appealed), ~~and~~ the names of the additional candidates submitted by the appellant, ~~and~~ NSF, and the Company impacted by the decision, if different from the ~~appellant~~. Each party shall within 10 calendar days of receipt of the list, ~~cross off delete~~ any names ~~to which~~ it objects to, and return the list to the Secretariat of the Certification Council. The appeals panel shall be appointed by the Chair of the Certification Council from the ~~marked-up~~ list of ~~remaining~~ candidates provided by each party. If any panel member declines the appointment, the Chair of the Certification Council shall appoint another panel member from the lists. ~~The Secretariat of the Certification Council shall notify all parties of the~~

composition of the appeals panel within 5 calendar days of completion of the appointments.

- 4.) Before the appeal may go forward, the appellant shall agree in writing to hold harmless, defend, and indemnify each member of the appeals panel for matters arising out of the appeals process.
- 5.) Each party shall prepare a written submittal supporting its position, but is limited to addressing the decision of the formal appeal or the issues in the written submittals presented in the formal appeal (electronic format is acceptable). New information supporting the issues presented in the formal appeal may be provided, but the appellant and NSF shall not raise any new issues. The Secretariat of the Certification Council shall receive five copies of the written submittals within 15 calendar days of the receipt of notification of the appointment of the appeals panel by all parties acknowledgment. Written submittals are limited to 10 pages maximum, including references and documentation, which shall be considered with the written submittals provided for the formal appeal. Supporting documentation, as appropriate, shall be made a part of the written submittal and may include notes, correspondence, memoranda, legal or technical opinions, Standards, policies, or any other items that bear on or relate to NSF's disputed decision, so long as the documents are not protected by confidentiality agreements that prohibit their disclosure.
- 6.) The Secretariat of the Certification Council shall, within seven calendar days of receipt, distribute the written submittals to both all parties and each member of the appeals panel, and set a meeting date. Unless otherwise agreed to by both all parties and the appeals panel members, the meeting shall occur within 30 days of distribution of the written submittals.
- 7.) The final appeal meeting is not a legal hearing, and may shall not involve legal counsel except with the advance agreement of both all parties. If agreed, each party may have legal counsel present, but the oral argument presentation shall not be made by the legal counsel. Each party shall be represented by one person only for purposes of the oral presentations and rebuttal. Up to four representatives of each party shall be permitted to attend, inclusive of the respective presenter and legal counsel. There shall be no electronic recording or verbatim transcription of the proceedings unless agreed to in advance by both all parties.
- 8.) Unless otherwise agreed to by both all parties, the Secretariat of the Certification Council shall provide administrative support to the appeals panel, and shall attend the meeting for the purpose of assuring proper conduct of the meeting. In this capacity, the Secretariat shall not be considered one of the representatives of NSF as it relates to the subject matter of the appeal, and the Secretariat shall not question any presenters, participate in discussions, or otherwise influence the decision of the panel.
- 9.) ~~If appeals panelists do not agree, the majority opinion shall be reported.~~ The appeals panel shall provide a written recommendation to the President, endorsed by at least two of the appeals panel members, within 15 days of the meeting.

Note: By intent, there is no chair of the appeals panel. ~~If there is a unanimous or majority recommendation,~~ The panel members shall agree upon one

member to write the opinion; however, the final recommendation shall be agreed to and signed by all concurring panel members.

- 10.) The President's decision shall be transmitted in writing to ~~both~~ **all** parties within 30 calendar days of the meeting. The appellant shall be advised that they have the option to pursue additional appeals of the decision through those accreditation bodies ~~that~~ **with which** NSF maintains **certification** accreditations.

GP - 53. Legal Action

The Company shall hold in abeyance any formal legal action against NSF until such time that all appeal mechanisms available have been exhausted.

Rationale: To clarify Appeals policies based on recent NSF experience in administering an appeal through all three levels. Proposed changes include clarification on the following:

- ***involvement of a Company directly impacted by the appeal, but who did not request the appeal;***
- ***timing of various steps in the process of appointing an appeals panel and distribution of written submittals;***
- ***editorial consistency between stages in the appeals processes.***