



POSITION STATEMENT

TESTING RECIPROCITY BY NATIONALLY RECOGNIZED TESTING LABORATORIES (NRTLs)

*Adopted by the IEEE-USA
Board of Directors (16 Feb. 2018)*

IEEE-USA commends the work of Congress in passing the Occupational Safety and Health Act of 1970, which created the Occupational Safety and Health Administration (OSHA). Thereafter, OSHA issued proposed Rule 49 FR 8326 to establish equitable Nationally Recognized Testing Laboratories (NRTLs). IEEE-USA applauds the regulators' foresight to create a system where multiple NRTLs could be registered to expedite the testing process. Multiple NRTLs were intended to create competition among the labs, reducing costs and unnecessary testing delays (of product safety and other characteristics), while maintaining stringent guidelines for testing reliability, accuracy, and transparency.

However, OSHA's final Rule did not establish a method of enforcing competitiveness among NRTLs. With no means of enforcement, it is possible that some labs could operate as a monopoly, adversely affecting the ability of innovators, particularly Micro and Small to Medium Technology enterprises (SMTEs), to develop and rapidly introduce new products or systems in the U.S. and world markets.

IEEE-USA has received comments from IEEE's U.S. members about increased delays and costs associated with testing products, contrary to the Rule's intent. Under the present structure, NRTLs have been able to monopolize certain industry sectors and product categories rather than competing on price, performance or timely service delivery.

Such mandatory testing can often take up to a year to complete simply because of the backlog (typical lab time and review is one to a few weeks). Costs, with samples, can easily run into the six digits, making new innovations impossible for SMTEs. For example, in lifesaving medical products, testing something as simple as a packaging modification could run deep into the six figures. These expenses could prohibit SMTEs from pursuing advances in the U.S. and instead compel them to move production and operations to Europe. In addition, products often require multiple testing and certification steps. For example, if a product consists of multiple components, each component may require testing, as does the final assembled product.

The NRTL registration process must guarantee basic testing adequacy.

IEEE-USA urges Congress to enforce competitiveness among NRTLs to improve U.S. innovation, by implementing the following:

1. All qualified NRTLs should be clearly defined as equal and interchangeable, since a government organization oversees them to ensure that they are qualified to perform testing, as defined and verified by the registration process.
2. OSHA should have the authority and the means to enforce the equality and interchangeability of testing by registered NRTLs; assure acceptance by all parties; and prevent the additional costs U.S. manufacturers incur, if multiple NRTLs need to test their products.
3. Integrate labels indicating a recognized NRTL certification into one common certification label regardless of which NRTL performs the testing, so as to assure acceptability by all parties (other NRTLs, insurers, safety organizations, U.S. Government, industry, etc.) regardless of which NRTL does the testing. Specific NRTLs could be identified on the certification label as a minor feature of the label, or the specific NRTL identification could be a metatag or digital dot on or associated with the label.

Reducing the cost and delays associated with testing for product compliance with safety and other standards will help all U.S. manufacturers commercialize innovative products. The higher cost and delays resulting from the lack of competition between NRTLs is affecting U.S. manufacturers' ability to sell products to national and worldwide government organizations and private entities. Particularly, the current de-facto monopolies that still exist in the test laboratory industry severely affect the ability of Small to Medium Technology companies (SMTes) to compete with large established entities.

This statement was developed by the IEEE-USA Entrepreneurship Policy & Innovation Committee and represents the considered judgment of a group of U.S. IEEE members with expertise in the subject field. IEEE-USA advances the public good and promotes the careers and public policy interests of the over 180,000 engineering, computing and allied professionals who are U.S. members of the IEEE. The positions taken by IEEE-USA do not necessarily reflect the views of IEEE, or its other organizational units.

Background

As defined by OSHA, a Nationally Recognized Testing Laboratory (NRTL) is a private-sector organization that OSHA has recognized as meeting the legal requirements in 29 CFR 1910.7 to perform testing and certification of products using consensus based test standards. These requirements are:

- The capability to test and evaluate equipment for conformance with appropriate test standards;
- Adequate controls for the identification of certified products, conducting follow-up inspections of actual production;
- Complete independence from users (i.e., employers subject to the tested equipment requirements) and from any manufacturers or vendors of the certified products; and
- Effective procedures for producing its findings and for handling complaints and disputes

An organization must have the necessary capability both as a product safety-testing laboratory and as a product certification body to receive OSHA recognition as an NRTL.

The NRTLs registration process is such that any testing laboratory receiving registration is fully capable of providing the integrity and transparency of any test validating compliance with the standard it is testing. The lack of a mechanism to assure that all parties accept test results has resulted in product certification requiring testing by a specific NRTL and, in some cases, multiple testing. In some instances, a manufacturer using a component certified by one NRTL is required to achieve certification for the same component by a second NRTL that is testing the finished product. A NRTL's refusal to accept another NRTL's results creates a de-facto monopoly. Some government labs requiring product testing are able to specify the laboratory where the testing must be performed.