

DEPARTMENT OF LABOR**Occupational Safety and Health Administration**

[Docket No. NRTL-1-89]

**Intertek Testing Services NA, Inc. (ITS)
[Formerly Inchcape Testing Services NA, Inc. (ITS)]**

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice of requests for expansion of recognition as a Nationally Recognized Testing Laboratory, and preliminary findings. Notice of name change of Inchcape Testing Services NA, Inc.

SUMMARY: This notice announces the applications of Intertek Testing Services NA Inc. for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL), for laboratory facilities, under 29 CFR 1910.7, and presents the Agency's preliminary finding. In addition, the applicant has requested a change of name resulting from its acquisition by Charterhouse Development Capital Limited (Charterhouse).

DATES: The last date for interested parties to submit comments is October 7, 1997.

ADDRESSES: Send comments to: NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3653, 200 Constitution Avenue, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:**Notice of Application**

Notice is hereby given that Intertek Testing Services NA Inc. (ITS), has made application, pursuant to 29 CFR 1910.7, for expansion of its recognition as a Nationally Recognized Testing Laboratory for the laboratory sites listed below. The applicant also informed OSHA of a change of name to Intertek Testing Services NA Inc. (ITS). (Note that the abbreviation "ITS" will remain, as utilized under its previous owner, where its name was Inchcape Testing Services NA, Inc.). Previously, as ETL Testing Laboratories, Inc. (ETL), it made application pursuant to 29 CFR 1910.7, for recognition as a Nationally Recognized Testing Laboratory (see 54 FR 8411, 2/28/89), and was so

recognized (see 54 FR 37845, 9/13/89); made application for expansion of its recognition (see 55 FR 43229, 10/26/90), and was so recognized (see 55 FR 51971, 12/18/90; see also correction, 56 FR 2953, 1/25/91); made application for expansion of its recognition (see 57 FR 54422, 11/18/92), and was so recognized (see 58 FR 37749, 7/13/93; see also correction, 58 FR 47001, 9/3/93); applied for expansion of its recognition (see 61 FR 41659, 8/9/96), was so recognized, the document further including the name change from ETL Testing Laboratories, Inc. (ETL), to Inchcape Testing Services NA Inc. (ITS), and noting the voluntary termination of recognition of Dash, Straus & Goodhue (DS&G) (see 61 FR 59111, 11/20/96).

The addresses of the concerned laboratories are:

Inchcape Testing Services NA Inc., 530 Garcia Avenue, Pittsburg, California 94565;
Inchcape Testing Services NA Ltd., 211 Schoolhouse Street, Coquitlam, British Columbia, V3K 4X9 Canada;
Inchcape Testing Services Hong Kong Ltd., 2/F., Garment Centre, 576 Castle Peak Road, Kowloon, Hong Kong;
Inchcape Testing Services Taiwan Ltd., 14/F Huei Fung Building 27, Chung Shan North Road, Sec. 3, Taipei, Taiwan.

Expansion of Recognition

On August 24, 1994, Intertek Testing Services NA Inc., as "Inchcape", made individual applications for expansion of its recognition as a Nationally Recognized Testing Laboratory. The applications were for the recognition of additional sites, and included facilities located in Taipei, Taiwan (see Exhibit 25A), and Kowloon, Hong Kong (see Exhibit 25B). On-site investigations of these facilities had been carried out previously as part of a large-scale overseas investigation of sites requested for recognition by several other NRTLs. Survey Reports, dated December 15, 1994, of the investigation of the Taipei, Taiwan site [see Exhibit 25E(4)], and of the Kowloon, Hong Kong site, [see Exhibit 25E(3)], both carried out in September, 1993, were prepared. On April 3, 1996, ITS applied for an expansion of its recognition for yet other sites including two former Warnock Hersey sites, now owned by ITS, in Pittsburg, California and Coquitlam, British Columbia (see Exhibit 25D). The test standards requested for these two sites were: ASTM E152—Fire Test Method for Door Assemblies, and ASTM E163—Standard Method of Fire Tests of Window Assemblies, both of which are appropriate as stipulated in 29 CFR 1910.7(c)(4). In addition, ITS informed

OSHA of the official transfer of ownership of the Warnock Hersey, Inc., "WHI" Patent Office registered certification mark to ITS, which will be used by ITS to identify products certified at the two facilities and under the two test standards noted above (see Exhibit 25C).

Change of Name

OSHA was notified by letter, dated December 6, 1996, of a change in ownership of Inchcape Testing Services NA, Inc. (see Exhibit 25F). At the time, no change of corporate name was requested, although OSHA was informed that such a request would be made at a later date. Such a request for name change was made by letter dated April 14, 1997 (see Exhibit 25G). The requested name change was from Inchcape Testing Services NA, Inc. to Intertek Testing Services NA Inc. The abbreviation of the company name as "ITS" would continue to be used.

Preliminary Finding

The NRTL Program staff made an in-depth study of the details of ITS's original recognition and previous expansions of its recognition [as ETL Testing Laboratories, Inc. (ETL), and as "Inchcape"], the applications, and determined that ITS had the staff capability and the necessary equipment at the sites in question to conduct testing of products using, in the first instance, the previously recognized and, in the second instance, the proposed test standards. A Report of ITS's request for expansion of its recognition prepared by the Lead Assessor for the NRTL Program, dated February 26, 1997, was sent to the Program Director of the NRTL Program detailing his recommendations (see Exhibit 25E). The NRTL staff determined that seven of the eleven sites which had been requested by ITS for recognition would require an on-site investigation before a decision could be rendered. The remaining four sites were recommended for recognition based upon one or all of the following factors:

1. Previous on-site investigations.
2. Modification of the operating and control systems at the Cortland Corporate headquarters.
3. Audits carried out during the previous four years.

This recommendation also applied to the request for the test standards to be used at Coquitlam, B. C. and the Pittsburg, CA locations.

Based upon a review of the completed application files, the on-site assessment reports, and the recommendations of the NRTL Program staff, the Assistant

Secretary has made a preliminary finding that the four Intertek Testing Services NA, Inc. facilities for which expansion of its recognition was requested can meet the requirements as prescribed in 29 CFR 1910.7.

All interested members of the public are invited to supply detailed reasons and evidence supporting or challenging the sufficiency of the applicant's having met the requirements for expansion of its recognition as a Nationally Recognized Testing Laboratory, as required by 29 CFR 1910.7 and Appendix A to 29 CFR 1910.7. Submission of pertinent written documents and exhibits shall be made no later than October 7, 1997, and must be addressed to the NRTL Recognition Program, Office of Variance Determination, Room N3653, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210. Copies of the ITS applications, the laboratory survey reports, the notification of change of ownership and name, and all submitted comments, as received (Docket No. NRTL-1-89), are available for inspection and duplication at the Docket Office, Room N2634, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address.

The Assistant Secretary's final decision on whether the applicant (Intertek Testing Services NA Inc.) satisfies the requirements for expansion of its recognition as an NRTL will be made on the basis of the entire record including the public submissions and any further proceedings that the Assistant Secretary may consider appropriate in accordance with Appendix A to Section 1910.7.

Signed at Washington, D.C. this 30th day of July 1997.

Greg Watchman,

Acting Assistant Secretary.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97-41; Exemption Application No. D-09988]

Class Exemption for Collective Investment Fund Conversion Transactions

AGENCY: Pension Welfare Benefits Administration, Department of Labor.

ACTION: Grant of class exemption.

SUMMARY: This document contains a final exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act or ERISA) and from certain taxes imposed by the Internal Revenue Code of 1986 (the Code). The exemption permits an employee benefit plan (the Client Plan) to purchase shares of a registered investment company (the Fund), the investment adviser for which is a bank (the Bank) or plan adviser (the Plan Adviser) registered under the Investment Advisers Act of 1940 (the Advisers Act), that also serves as a fiduciary of the Client Plan, in exchange for plan assets transferred in-kind to the Fund from a collective investment fund (the CIF) maintained by the Bank or Plan Adviser, in connection with a complete withdrawal of a Client Plan's assets from the CIF. The exemption affects participants and beneficiaries of the Client Plans that are involved in such transactions as well as the Bank or Plan Adviser and the Fund.

EFFECTIVE DATE: Section I of this exemption is effective for transactions occurring from October 1, 1988 until August 8, 1997. Section II of the exemption is effective for transactions occurring after August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady or Mr. E.F. Williams, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington, DC 20210 at (202) 219-8881 or (202) 219-8194, respectively, or Ms. Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, DC 20210 at (202) 219-4600, ext. 105. (These are not toll-free numbers.)

Paperwork Reduction Act Analysis

Pursuant to the Paperwork Reduction Act of 1995 (PRA 95), Pub. L. 104-13, 44 U.S.C. Chapter 35 and 5 CFR Part 1320, the information collection request (the ICR) in this class exemption was published for public comment on November 13, 1996 (61 FR 58224). No comments were received from the public regarding the ICR. However, as discussed below, because the Department of Labor (the Department) has modified the class exemption in response to suggestions by commenters, the estimated information collection burden has been adjusted (see **RESPONDENTS AND PROPOSED FREQUENCY OF RESPONSE** and **ESTIMATED ANNUAL BURDEN**, below). The Office of Management and Budget (OMB) has approved this ICR with the control number OMB 1210-

0104, which expires on July 31, 2000. Persons are not required to respond to this ICR unless it displays a currently valid OMB control number.

Respondents and Proposed Frequency of Response: Following the publication on November 13, 1996 of the notice of proposed exemption (61 FR 58224), based upon one of the comments received, the Department determined to modify the final exemption to include relief for certain non-Bank Plan Advisers. Consequently, the Department has recalculated estimates of the information collection burden in the final exemption. Based upon this recalculation, the Department staff estimates that approximately 75 parties will seek to take advantage of the class exemption in any given year. The respondents will be banks, non-bank advisers, and trust companies acting as fiduciaries of plans investing in collective investment funds maintained by such entities.

Estimated Annual Burden: The Department staff estimates the annual burden for preparing the materials required under the class exemption to be 1767 hours. The total annual burden cost (operating/maintenance) is estimated to be \$221,247.

SUPPLEMENTARY INFORMATION: On November 13, 1996, the Department published a notice in the **Federal Register** (61 FR 58224) of the pendency of a proposed class exemption from the restrictions of sections 406(a) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code.

The Department proposed the class exemption in response to an application dated March 28, 1995 which was submitted on behalf of Federated Investors (Federated) pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B, (55 FR 32836, August 10, 1990).¹

The notice of pendency gave interested persons an opportunity to comment or request a public hearing on the proposal. In this regard, the Department received four comments, one of which contained a request for a public hearing. Upon consideration of the record as a whole, the Department

¹ Section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996) generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

In the discussion of the exemption, references to specific provisions of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.