before DEA can issue Respondent a registration, and since California law does not allow the cultivation of marijuana for non-human consumption, DEA cannot grant Respondent's application. Therefore, Judge Bittner found that summary disposition is proper. It is well-suited that when no question of fact is involved, or when the material facts are agreed upon, a plenary, adversary administrative proceeding involving evidence and cross-examination of witnesses is not required. *Philip E. Kirk, M.D.,* 48 FR 32,887 (1983), *aff'd sub nom. Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984); *see also NLRB* v. *International Association of Bridge, Structural and Ornamental Ironworkers, AFL–CIO,* 549 F.2d 634 (9th Cir. 1977); *United States* v. *Consolidated Mines & Smelting Co.,* 44 F.2d 432 (9th Cir. 1971). As a result, Judge Bittner granted the Government's Motion for Summary Disposition and recommended that Respondent's application for registration to manufacture marijuana for non-human consumption be denied.

The Deputy Administrator agrees with Judge Bittner that if Respondent's application is for registration to manufacture marijuana for non-human consumption, then it would have to be denied because California does not allow the cultivation of marijuana for non-human consumption. However, the Deputy Administrator disagrees with Judge Bittner that the application that is the subject of these proceedings is seeking registration as a manufacturer of marijuana for non-human consumption. Judge Bittner found that pursuant to 21 CFR 1301.16(a), Respondent needed permission to amend its application if it is seeking registration for other than non-human consumption. Judge Bittner concluded that since there was no evidence that Respondent received permission to amend its application, the pending application is for registration to manufacture marijuana for non-human consumption.

The Deputy Administrator finds that 21 CFR 1301.16(a) also provides that ''[a]n application may be amended or withdrawn without permission of the Administrator at any time before the date on which the applicant receives an order to show cause. * * *'' Respondent's January 20, 1998 letter to the DEA investigator in San Francisco advised DEA that Respondent was seeking registration to allow it to rent space to medical marijuana patients to cultivate marijuana for their own use and then Respondent would use the mature stalks to make paper. The Order to Show Cause proposing to deny Respondent's application was not issued until April 7, 1998. While Respondent's January 20, 1998 letter did not specifically state that it was amending its application, that was clearly Respondent's intent. Therefore, since Respondent sent this letter to DEA prior to the April 7, 1998 issuance of the Order to Show Cause, Respondent did not need permission to amend its application for registration.

Nonetheless, the Deputy Administrator finds that Respondent's application for registration must be denied. Respondent currently proposes to rent space on its property to medical marijuana patients who would be the ones manufacturing the marijuana. The medical marijuana patients would agree that after harvesting the marijuana, they would leave the mature stalk, which is not considered a controlled substance, for Respondent to process into paper. However, 21 U.S.C. 822(a) states that ''[e]very person who manufactures or distributes any controlled substance * * *, or who proposes to engage in the manufacture or distribution of any controlled substance * * *, shall obtain annually a registration. * * *'' In addition, 21 U.S.C. 823(a) provides for the registration of applicants to manufacture Schedule I and II controlled substances. Under its current proposal, it is clear that Respondent will be renting space on its property to others, but it will not be the one manufacturing marijuana. Therefore, the Deputy Administrator concludes that since Respondent will not be manufacturing marijuana nor is it proposing to manufacture marijuana, its application to be a manufacturer of marijuana must be denied.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application dated January 21, 1997, submitted by the Church of the Living Tree, for registration as a manufacturer of marijuana, be, and it hereby is, denied. This order is effective January 16, 1999.

Dated: December 8, 1998.

Donnie R. Marshall,

Deputy Administrator.

[FR Doc. 98–33357 Filed 12–16–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Record Keeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

December 14, 1998.

The Department of Labor has submitted the following (see below) emergency processing public information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by December 23, 1998. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Departmental Clearance Officer, Todd Owen ({202} 219–5096, x.143). Comments and questions about the ICR listed below should be forwarded to Office Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316).

The Office of Management and Budget 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 response.

Agency: Employment and Training Administration.

Title: Planning Guidance and Instructions For Submission of the Strategic Five-Year State Plan For Title I of the Workforce Investment Act of 1998 (Workforce Investment Systems) and the Wagner-Peyser Act.

OMB Number: 1205–0NEW.

Frequency: One time—5 Year Strategic Plan Required.

Affected Public: State and Local Governments.

Number of Respondents: 59.

Estimated Time Per Respondent: 50 hours.

Total Burden Hours: 2950.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: Workforce Investment Act of 1998 (Public Law 105–220, August 7, 1998), Fund Management. Section 112(a) of the Workforce Investment Act requires the Governor of the State to submit a single State Plan to the Secretary to be eligible to receive an allocation under Section 127 or 132 or to receive financial assistance under the Wagner-Peyser Act. The State outlines a 5-year strategy for the statewide workforce investment system of the State that meets the requirements of Section 111 and 112 of the Act.

Todd Owen,

Departmental Clearance Officer.

[FR Doc. 98–33408 Filed 12–16–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–1–89]

Intertek Testing Services, NA, Inc., Applications for Renewal and Expansion of Recognition

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

ACTION: Notice.

SUMMARY: This notice announces: (1) the application of Intertek Testing Services, NA, Inc., for renewal of its recognition as a Nationally Recognized Testing Laboratory under 29 CFR 1910.7, and (2) the applications of Intertek Testing Services, NA, Inc., for expansion of its recognition to use additional standards, sites, and programs, and presents the Agency's preliminary finding. This preliminary finding does not constitute an interim or temporary approval of these applications.

DATES: Comments submitted by interested parties must be received no later than February 16, 1999.

ADDRESSES: 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, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities at the above address, or phone (202) 219–7056.

SUPPLEMENTARY INFORMATION:

Notice of Application

The Occupational Safety and Health Administration (OSHA) hereby gives notice that Intertek Testing Services, NA, Inc. (ITSNA) has applied for renewal and for expansion of its current recognition as a Nationally Recognized Testing Laboratory (NRTL). ITSNA's expansion request covers the use of additional test standards, sites, and 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 public notice of the preliminary finding on an application.

The renewal and expansion of recognition covered by this notice apply only to the administrative, testing, and certification facilities that are part of the ITSNA organization and operations as an NRTL. No part of the recognition will apply to any other part of ITSNA, or to any other legal entity, subsidiary, facility, operation, unit, division, or department of Intertek Testing Services Ltd. (ITSLtd), which encompasses ITSNA. The term ''ITSNA'' also represents the NRTL's predecessors ''ETL'' and/or ''InchcapeNA,'' as appropriate and as explained below.

The most recent notices published by OSHA for ITSNA's recognition covered an expansion for additional sites, which OSHA announced on August 8, 1997 (62 FR 42829) and granted on December 1, 1997 (62 FR 63562). The following is a chronology of the other **Federal Register** notices published by OSHA concerning the recognition of ITSNA, all of which involved an expansion of recognition for additional test standards: a request announced on October 26, 1990 (55 FR 43229) and granted on December 18, 1990 (55 FR 51971; see correction, 56 FR 2953 1/25/91); a request announced on November 18, 1992 (57 FR 54422) and granted on July 13, 1993 (58 FR 37749; see correction, 58 FR 47001, 9/3/93); and a request announced on August 9, 1996 (61 FR 41659) and granted on November 20, 1996 (61 FR 59111; see correction, 63 FR 1126, 1/8/98). The renewal will incorporate all recognitions granted to ITSNA through the date of publication of this preliminary finding.

The current address of the ITSNA testing facilities already recognized by OSHA are:

ITSNA Cortland, 3933 U.S. Route 11, Cortland, New York 13045

ITSNA Boxborough, 593 Massachusetts Avenue, Boxborough, Massachusetts 01719

ITSNA Atlanta, 4317-A Park Drive, Norcross, Georgia 30093

ITSNA San Francisco, 1365 Adams Court, Menlo Park, CA 94025

*ITSNA Pittsburg, 530 Garcia Avenue, Pittsburg, California 94565

*ITSNA Vancouver, 211 Schoolhouse Street, Coquitlam, British Columbia, V3K 4X9 Canada

ITSNA Hong Kong, 2/F., Garment Centre, 576 Castle Peak Road, Kowloon, Hong Kong

ITSNA Taiwan, 14/F Huei Fung Building, 27, Chung Shan North Road, Sec. 3, Taipei 10451, Taiwan

The current address of the ITSNA/ETL ''Certification'' office to be recognized as part of the renewal request is:

ITSNA Cortland Certification, 24 Groton Avenue, Cortland, New York 13045.

The current address of the additional ITSNA testing sites covered by the expansion requests are:

ITSNA Los Angeles, 27611 LaPaz Road, Suite C, Laguna Niguel, California 92677

ITSNA Minneapolis, 7435 Fourth Street North, Lake Elmo, Minnesota 55042

ITSNA Totowa, 40 Commerce Way, Unit B, Totowa, New Jersey 07512

*ITSNA Madison, 8431 Murphy Drive, Middleton, Wisconsin 53562

* One of the three sites permitted to authorize the use of the ''WHI'' certification mark.

General Background on the Applicant and Applications

ITSNA, as ''ETL,'' has submitted a request for the renewal, dated September 29, 1993 (see Exhibit 30A). It later submitted multiple requests to expand its recognition: applications for recognition of additional sites, dated August 24, 1994 (see Exhibits 30B, 30C, and 30D), and dated April 3, 1996 (see Exhibit 30E); requests for recognition to use additional test standards, dated April 25, 1997 and January 2, 1998 (see Exhibits 30F and 30H); and the request for recognition to use additional programs and procedures, dated November 20, 1997 (see Exhibit 30G). ITSNA submitted an application for another site that it subsequently withdrew.

When first recognized as an NRTL in 1989, the organization's name was ETL Testing Laboratories, Inc. (ETL). According to the preliminary **Federal Register** notice for the recognition (54 FR 8411), ETL was part of Inchcape