2B116 Vibration Test Systems, Equipment and Components Therefor, as Follows (See List of Items Controlled)

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

a. Vibration test systems employing feedback or closed loop techniques and incorporating a digital controller, capable of vibrating a system at an acceleration equal to or greater than 10 g rms between 20 Hz to 2,000 Hz and imparting forces equal to or greater than 50 kN (11,250 lbs.), measured ''bare table'';

b. Digital controllers, combined with specially designed vibration test ''software'', with a real-time bandwidth greater than 5 kHz and designed for use with vibration test systems described in 2B116.a;

c. Vibration thrusters (shaker units), with or without associated amplifiers, capable of imparting a force equal to or greater than 50 kN (11,250 lbs.), measured 'bare table', and usable in vibration test systems described in 2B116.a;

d. Test piece support structures and electronic units designed to combine multiple shaker units into a complete shaker system capable of providing an effective combined force equal to or greater than 50 kN, measured 'bare table', and usable in vibration test systems described in 2B116.a.

Technical Note: 'bare table' means a flat table, or surface, with no fixture or fitting.

■ 16. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles, and Related Equipment, Export Control Classification Number (ECCN) 9A106 is amended by revising the ''items'' paragraph in the List of Items Controlled section, to read as follows:

9A106 Systems or Components, Other Than Those Controlled by 9A006, Usable in ''Missiles'', as Follows (see List of Items Controlled), and Specially Designed for Liquid Rocket Propulsion Systems

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

a. Ablative liners for thrust or combustion chambers;

b. Rocket nozzles;

c. Thrust vector control sub-systems;

Technical Note: Examples of methods of achieving thrust vector control controlled by 9A106.c includes:

1. Flexible nozzle;
2. Fluid or secondary gas injection;
3. Movable engine or nozzle;
4. Deflection of exhaust gas steam (jet vanes or probes); or
5. Thrust tabs.

d. Liquid and slurry propellant (including oxidizers) control systems, and specially designed components therefor, designed or modified to operate in vibration environments greater than 10 g rms between 20 Hz and 2000 Hz.

Note: The only servo valves and pumps controlled by 9A106.d, are the following:

a. Servo valves designed for flow rates equal to or greater than 24 liters per minute, at an absolute pressure equal to or greater than 7 MPa, that have an actuator response time of less than 100 ms;

b. Pumps, for liquid propellants, with shaft speeds equal to or greater than 8,000 rpm or with discharge pressures equal to or greater than 7 MPa.

e. Flight control servo valves designed or modified for use in ''missiles'' and designed or modified to operate in a vibration environment greater than 10g rms over the entire range between 20Hz and 2 kHz.

■ 17. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9A107 is amended by revising the Heading, to read as follows:

9A107 Solid Propellant Rocket Engines, Usable in Rockets With a Range Capability of 300 Km or Greater, Other Than Those Controlled by 9A007, Having Total Impulse Capacity Equal to or Greater Than 8.41×10^5 Ns, but less than 1.1×10^6 (These Items are Subject to the Export Licensing Authority of the U.S. Department of State, Directorate of Defense Trade Controls. See 22 CFR part 121.)

* * * * *

■ 18. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9B106 is amended by revising the ''items'' paragraph of the List of Items Controlled section, to read as follows:

9B106 Environmental Chambers and Anechoic Chambers, as Follows (see List of Items Controlled)

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

a. Environmental chambers capable of simulating all of the following flight conditions:

a.1. Vibration environments equal to or greater than 10 g rms, measured ''bare table'', between 20 Hz and 2,000 Hz imparting forces equal to or greater than 5 kN; and

a.2. Any of the following:

a.2.a. Altitude equal to or greater than 15,000 m; or

a.2.b. Temperature range of at least 223 K (−50° C) to 398 K (+125° C);

Technical Note: Item 9B106.a describes systems that are capable of generating a vibration environment with a single wave (*e.g.*, a sine wave) and systems capable of generating a broad band random vibration (*i.e.*, power spectrum).

b. Environmental chambers capable of simulating all of the following flight conditions:

b.1. Acoustic environments at an overall sound pressure level of 140 dB or greater (referenced to 2×10^{-5} N/m^2) or with a total rated acoustic power output of 4kW or greater; and

b.2. Any of the following:

b.2.a. Altitude equal to or greater than 15,000 m; or

b.2.b. Temperature range of at least 223K (−50° C) to 398 K (+125° C).

■ 19. In Supplement No. 1 to part 774 (the Commerce Control List), Category 9—Propulsion Systems, Space Vehicles and Related Equipment, Export Control Classification Number (ECCN) 9B117 is amended by revising the Heading, and the ''items'' paragraph in the List of Items Controlled section, to read as follows:

9B117 Test Benches and Test Stands for Solid or Liquid Propellant Rockets, Motors or Rocket Engines, Having Either of the Following Characteristics (see List of Items Controlled)

* * * * *

List of Items Controlled

Unit: * * *
Related Controls: * * *
Related Definitions: * * *
Items:

a. The capacity to handle solid or liquid propellant rocket motors or rocket engines having a thrust greater than 90 kN; or

b. Capable of simultaneously measuring the three axial thrust components.

Dated: March 3, 2005.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 05–4626 Filed 3–9–05; 8:45 am]

BILLING CODE 3510–33–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

RIN 0960–AF90

Wage Credits for Veterans and Members of the Uniformed Services

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are amending our rules on wage credits for veterans and members of the uniformed services. The revisions are required by the Department of Defense Appropriations Act of 2002 and the Social Security Protection Act of 2004. The enactments changed a Social Security Act requirement providing deemed military wage credits for service as members of the uniformed services

on active duty or active duty for training beginning in 1957 (when that service was first covered for Social Security purposes on a contributory basis). The provisions provide for the termination of such deemed military wage credits effective with military wages earned after December 31, 2001. The wage credits will continue to be given for periods prior to calendar year 2002.

DATES: These regulations are effective March 10, 2005.

Electronic Version: The electronic file of this document is available on the date of publication in the **Federal Register** on the Internet site for the Government Printing Office, *http://www.gpoaccess.gov/fr/index.html*. It is also available on the Internet site for SSA (*i.e.*, Social Security Online) at *http://policy.ssa.gov/pnpublic.nsf/LawsRegs*.

FOR FURTHER INFORMATION CONTACT: Marylin Buster, Social Insurance Specialist, Office of Income Security Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–2490 or TTY (410) 966–5609. For information on eligibility, claiming benefits, or coverage of earnings, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION:

Background

Beginning in 1957, earnings of members of the uniformed services became covered for Social Security purposes. In 1968, Congress added a new section in the Social Security Act (section 229) providing for deemed military wage credits for active duty service and requiring Social Security to deem wage credits to the earnings record of uniformed service members when determining benefit entitlement and payment. Subsequently, the provision for the wage deeming program was made retroactive to 1957. The deemed military wage credits were granted in recognition that active service members did not get Social Security credit for the value of pay in kind such as food, shelter, and medical care, which is generally counted for other jobs covered under Social Security. However, due to the lower pay of service members, it was decided that it would be unfair to have the service members pay additional Federal Insurance Contributions Act (FICA) tax. The Trust Funds were to be reimbursed from general revenues on a current basis for the added cost of benefits, much the way the trust funds were reimbursed for gratuitous wage credits.

The amount of deemed military wage credits changed over the years. The last change in 1977, provided for the crediting of deemed military wages of $100 for every $300 of covered military wages up to a maximum of $1,200 in deemed military wage credits per year. This modification was due to the change to annual wage reporting from quarterly wage reporting.

In 1983, the method of financing deemed military wage credits changed by authorizing the General Fund of the Treasury to reimburse to the Trust Funds the amount of FICA tax (both employer and employee shares) that would have been paid on the deemed military wages had they been actual earnings. Before enactment of the 1983 amendments, the Social Security trust funds were reimbursed annually by Treasury (*i.e.*, general revenues), based on an amortization schedule, for the cost of additional Social Security benefits attributable to the deemed military wage credits for military service for the period after 1956. The 1983 amendments changed the financing structure so that the Trust funds are reimbursed for an amount equal to the Social Security taxes that would have been imposed annually if the deemed wage credits had been remuneration for employment.

Section 8134 of The Department of Defense Appropriations Act of 2002 (Pub. L. 107–117) modified the requirement of providing deemed military wage credits for service as members of the uniformed services on active duty or active duty for training beginning in 1957 (when that service was first covered for Social Security purposes on a contributory basis). With this modification, military wage credits will no longer be provided for military wages earned after December 31, 2001.

In 2004, a technical amendment in section 420 of Pub. L. 108–203, the Social Security Protection Act of 2004 amended section 229 of the Act to reflect section 8134 of Pub. L. 107–117 which ended the wage deeming program after 2001. The wage credits will continue to be given for periods prior to calendar year 2002. These qualifying periods of military service include active service during the World War II period September 16, 1940 through July 24, 1947, the post-World War II period July 25, 1947, through December 31, 1956, and members of the uniformed service on active duty after 1956 and before 2002.

Explanation of Changes

We are revising §§ 404.1301, 404.1302, and 404.1341 to reflect the termination of automatic across-the-board wage credits effective with military wages earned after December 31, 2001. The wage credits will continue to be applied for periods prior to calendar year 2002.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

In the case of these final rules, we have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures. Good cause exists because these regulations merely conform our rules on deeming military wage credits to current law. The Agency has operated in accordance with the revised laws since January 2002. These regulations contain no substantive changes of interpretation. Therefore, opportunity for prior comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, these revisions conform our rules to current law and reflect our current practice. However, without these changes, our rules on military wage credits will conflict with current law and may mislead the public. Therefore, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866, as Amended by Executive Order 13258

We have consulted with the Office of Management and Budget (OMB) and determined that these final rules do not meet the criteria for a significant regulatory action under Executive Order 12866, as amended by Executive Order 13258. Thus, they were not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866, as amended by Executive Order 13258.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities under the criteria of the

Regulatory Flexibility Act, as amended, 5 U.S.C. 601, *et seq.* Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These final regulations will impose no additional information collection requirements requiring OMB clearance under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, survivors and disability insurance, Reporting and recordkeeping requirements, Social Security.

Dated: December 2, 2004.

Jo Anne B. Barnhart,

Commissioner of Social Security.

■ For the reasons stated in the preamble, we are amending subpart N of part 404 of Title 20 of the Code of Federal Regulations as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart N—[Amended]

■ 1. The authority citation for subpart N of part 404 continues to read as follows:

Authority: Secs. 205(a) and (p), 210(l) and (m), 215(h), 217, 229, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a) and (p), 410(l) and (m), 415(h), 417, 429, and 902(a)(5)).

§ 404.1301 [Amended]

■ 2. In § 404.1301, at the end of the fifth sentence in paragraph (a), add ''through 2001.''

§ 404.1302 [Amended]

■ 3. In § 404.1302, in the definition of ''Wage credit,'' the second sentence is revised by removing the words ''after 1956'' and adding in their place ''from 1957 through 2001.''

§ 404.1341 [Amended]

■ 4. In § 404.1341, in the first sentence of paragraph (a), remove the words ''after 1956'' and add in their place ''from 1957 through 2001'' and in paragraph (b)(1), remove the words ''after 1977'' and add in their place ''from 1978 through 2001.''

[FR Doc. 05–4638 Filed 3–9–05; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 862

[Docket No. 2005N–0067]

Medical Devices; Clinical Chemistry and Clinical Toxicology Devices; Drug Metabolizing Enzyme Genotyping System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is classifying drug metabolizing enzyme (DME) genotyping test systems into class II (special controls). The special control that will apply to the device is the guidance document entitled ''Class II Special Controls Guidance Document: Drug Metabolizing Enzyme Genotyping System.'' The agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice of availability of a guidance document that is the special control for this device.

DATES: This rule is effective April 11, 2005. The classification was effective December 23, 2004.

FOR FURTHER INFORMATION CONTACT: Courtney Harper, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 240–276–0443, ext. 159.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the act, to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously marketed devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of FDA's regulations.

Section 513(f)(2) of the act provides that any person who submits a premarket notification under section 510(k) of the act for a device that has not previously been classified may, within 30 days after receiving an order classifying the device in class III under section 513(f)(1), request FDA to classify the device under the criteria set forth in section 513(a)(1). FDA shall, within 60 days of receiving such a request, classify the device by written order. This classification shall be the initial classification of the device. Within 30 days after the issuance of an order classifying the device, FDA must publish a notice in the **Federal Register** announcing such classification (section 513(f)(2) of the act).

In accordance with section 513(f)(1) of the act, FDA issued a notice on December 17, 2004, classifying the Roche Amplichip CYP450 Test (2D6) in class III, because it was not substantially equivalent to a device that was introduced or delivered for introduction into interstate commerce for commercial distribution before May 28, 1976, or to a device that was subsequently reclassified into class I or class II. On December 20, 2004, Roche Molecular Systems, Inc., submitted a petition requesting classification of the Roche Amplichip CYP450 Test (2D6) under section 513(f)(2) of the act. The manufacturer recommended that the device be classified into class II.

In accordance with section 513(f)(2) of the act, FDA reviewed the petition in order to classify the device under the criteria for classification set forth in section 513(a)(1). Devices are to be classified into class II if general controls, by themselves, are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the petition, FDA determined that the Roche Amplichip CYP450 Test (2D6) can be classified in class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of safety and effectiveness of the device.

The device is assigned the generic name ''drug metabolizing enzyme genotyping system.'' It is identified as a device intended for use in testing deoxyribonucleic acid (DNA) extracted from clinical samples to identify the