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<sup>1</sup> Any request for confidential treatment, including the factual and legal basis for the request, must accompany the comment and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest.

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<sup>3</sup> In 1993, the Commission explained that “[t]he Fuel Rating Rule . . . applies to all present and future alternative liquid automotive fuels.” 58 FR 41355, 41358 (Aug. 3, 1993).

<sup>4</sup> Though EISA’s definition of “biodiesel” refers to the registration requirements for fuels and fuel additives under “this section,” there are no such registration requirements in section 205 of EISA nor are there any in the FTC’s Fuel Rating Rule (16 CFR Part 306). Accordingly, we assume the phrase “this section” in EISA’s definition of “biodiesel” is intended to refer to the Environmental Protection Agency’s (“EPA’s”) registration requirements for fuels and fuel additives (40 CFR Part 79 “Registration of Fuels and Fuel Additives”) issued pursuant to 42 U.S.C. § 7545. Those requirements constitute EPA’s regulatory program for the registration of motor vehicle diesel fuel (including biodiesel), motor vehicle gasoline, and their additives. Therefore the definition of “biodiesel” in the proposed Rule references the requirements of 40 CFR Part 79.

<sup>5</sup> ASTM D6751 is titled: “Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels.”

<sup>6</sup> See [http://www1.eere.energy.gov/biomass/renewable\\_diesel.html](http://www1.eere.energy.gov/biomass/renewable_diesel.html) (2002 estimate) and [http://www.biodiesel.org/pdf\\_files/fuelfactsheets/Biodiesel\\_Sales\\_Graph.pdf](http://www.biodiesel.org/pdf_files/fuelfactsheets/Biodiesel_Sales_Graph.pdf) (2006 estimate).

<sup>7</sup> EISA defines “biomass-based diesel” by referencing the definition of the term “biodiesel” provided in Section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. § 13220(f)). The definition reads: “a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under [42 U.S.C. § 7545],” and “3.0438.556 0 TD-0-0.0029 Tpoult TDfatthat mpoult TDwastes, at moent-0.002ET222j5.48 m272j5.48 ISBT estimate222j8.44

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<sup>11</sup> It is the responsibility of any entity rating biodiesel blends under Section 306.5 to determine the amount of biodiesel in the fuel it sells. This includes the need to account for biodiesel in any

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Therefore, a requirement for specific percentages appears to be warranted for this category of

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blend of biodiesel . . . . Although biodiesel (B100) can be used, blends of over 20% biodiesel with diesel fuel . . . should be evaluated on a case by case basis until further experience is available.”).

<sup>18</sup> Pantone Matching System. We are also proposing conforming changes to allow the use of non Pantone equivalents for other alternative fuels.

use a one-time letter of certification. Furthermore, the Commission expects that labeling of biodiesel fuel pumps will be consistent with practices in the fuel industry generally. The information collection burden, therefore, will be the same as that for other automotive fuels: five minutes per year for recordkeeping and 1/8th hour per year for disclosure.

Based on statistics provided by the National Biodiesel Board ("NBB"), the Commission estimates that there are approximately 200 producers of biodiesel, 2000 distributors of biodiesel, and 1500 retailers of biodiesel.<sup>19</sup> Conservatively assuming that each producer, distributor, and retailer of biodiesel is a distinct entity, and that each seller of biodiesel will spend five minutes per year complying with the proposed recordkeeping requirements and assuming that each retailer will spend 1/8th of an hour per year complying with the proposed disclosure requirements, the Commission estimates the incremental annual burden to be 309 hours for recordkeeping (1/12th of an hour per year times 3700 entities) and 188 hours (1/8th of an hour per year times 1,500 retailers). To ensure the accuracy of this burden estimate, however, the Commission seeks comment on the paperwork burden that the proposed requirements may impose to ensure that the Commission has not overlooked any additional burden.

## VII. R F AÆ

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. §§ 601–612, requires an agency to provide an Initial Regulatory Flexibility Analysis ("IRFA") with a proposed rule and a Final Regulatory Flexibility Analysis ("FRFA") with the final rule, if any, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. §§ 603–605.

The FTC does not expect that the proposed amendments will have a significant economic impact on a substantial number of small entities. As explained in Section VI above, each

<sup>19</sup> Because the biodiesel industry is young, estimates of its size may not be as accurate as estimates of the size of more mature industries. Therefore, we have conservatively rounded up from the actual statistics provided by the NBB. In a document dated January 25, 2008, the NBB estimated a total of 171 producers of biodiesel and biodiesel blends. See [http://biodiesel.org/pdf\\_files/fuelfactsheets/Production\\_Capacity.pdf](http://biodiesel.org/pdf_files/fuelfactsheets/Production_Capacity.pdf). In addition, the NBB's website lists all known distributors (<http://www.biodiesel.org/buyingbiodiesel/distributors/showall.asp>) and retailers (<http://www.biodiesel.org/buyingbiodiesel/retailfuelingsites/showall.asp>) of biodiesel. As of February 4, 2008, the site listed approximately 1250 retailers and 1775 distributors of biodiesel and biodiesel blends.

entity in the biodiesel industry will spend, at most, five minutes per year complying with the proposed recordkeeping requirements and 1/8th of an hour per year complying with the disclosure requirements. Staff estimates the mean hourly wage for employees of producers, importers, and distributors of biodiesel fuels to be \$21.39,<sup>20</sup> and the mean hourly wage for employees of biodiesel retailers to be \$14.35.<sup>21</sup> Conservatively assuming that all biodiesel producers, distributors, and retailers are small entities, compliance with the recordkeeping requirements will cost producers and distributors \$1.61 per year (\$19.34 times 1/12th of an hour) and retailers \$1.20 (\$14.35 times 1/12th of an hour). In addition, under the same conservative assumptions, compliance with the proposed disclosure requirements will cost retailers \$1.79 (\$14.35 times 1/8th of an hour).

In addition, retailers will incur the cost of procuring and replacing fuel dispenser labels to comply with the disclosure requirements of the Rule. Staff has previously estimated that the price per automotive fuel label is about fifty cents and that the average automotive fuel retailer has 6 dispensers. Applying those estimates to the biodiesel fuel industry results in an initial cost to retailers of \$3.00 (6 pumps times \$0.50). In addition, staff has previously estimated the useful life of dispenser labels to range from 6 to 10 years. Assuming a useful life of 8 years, the mean of that range, and distributing the costs on a per-year basis, staff estimates the total annual replacement labeling cost to be \$0.06 (1/8 x \$0.50).

This document serves as notice to the Small Business Administration of the agency's certification of no effect. Nonetheless, the Commission has determined that it is appropriate to publish an IRFA in order to inquire into the impact of the proposed amendments on small entities. Therefore, the Commission has prepared the following analysis.

### A. Description of the reasons that action by the agency is being considered.

Section 205 of EISA (Pub. L. 110–140) requires the Commission to promulgate biodiesel labeling requirements.

<sup>20</sup> Bureau of Labor Statistics, 2006 Employment Statistics Survey, Annual Average Hourly Earnings for Oil and Gas Extraction Production workers.

<sup>21</sup> Bureau of Labor Statistics, May 2006 Occupational Employment Statistics Survey, "Correspondence Clerks," Table 1.

### B. Statement of the objectives of, and legal basis for, the proposed rule.

The Commission is proposing these amendments to implement Congressionally mandated labeling for biodiesel fuels.

### C. Description of and, where feasible, estimate of the number of small entities to which the proposed rule will apply.

We assume that all affected entities (200 producers of biodiesel, 2000 distributors of biodiesel, and 1200 retailers of biodiesel) are small businesses. The Commission invites comment and information on this issue.

### D. Projected reporting, recordkeeping, and other compliance requirements.

The proposed amendments make clear that the recordkeeping and certification requirements of the Fuel Rating Rule apply to biodiesel. Small entities potentially affected are producers, distributors, and retailers of biodiesel fuels. The Commission expects that the recordkeeping and certification tasks are done by industry members in the normal course of their business. Accordingly, we do not expect the proposed amendments to require any professional skills beyond those already employed by industry members.

### E. Other duplicative, overlapping, or conflicting federal rules.

The FTC has identified no other federal statutes, rules, or policies that conflict with the proposed amendments.

### F. Alternatives Considered.

The requirements proposed by the amendments are minimal and, as noted above, do not require creating any separate documents because covered parties may use documents already in use to certify a biodiesel fuel's rating. The Commission believes that the proposed amendments minimize what, if any, economic impact there is from the labeling requirements mandated by Sec. 205 of EISA.

## VIII. C F O P C T A

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 CFR 1.26(b)(4).

I . P R L  
L S F 16 CFR P 306

Energy conservation, Gasoline, Incorporation by reference, Labeling,

Reporting and recordkeeping requirements.

For the reasons set out above, the Commission proposes the following amendments to 16 CFR Part 306:

**PART 306 AUTOMOTIVE FUEL RATINGS, CERTIFICATION AND POSTING**

1. The authority citation for part 306 continues to read as follows:

A : 15 U.S.C. 2801 *et seq*; Pub. L. 110-140.

2. Section 306.0(i)(2) is revised to read as follows:

**306.0 Definitions.**

\* \* \* \* \*

(i) \* \* \*

(2) Alternative liquid automotive fuels, including, but not limited to:

(i) Methanol, denatured ethanol, and other alcohols;

(ii) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage, but not less than 70 percent, as determined by the Secretary of the United States Department of Energy, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels;

(iii) Liquefied natural gas;

(iv) Liquefied petroleum gas;

(v) Coal-derived liquid fuels;

(vi) Biodiesel;

(vii) Biomass-based diesel;

(viii) Biomass-based diesel blends containing more than 5 percent biomass-based diesel by volume; and

(ix) Biodiesel blends containing more than 5 percent biodiesel by volume.

\* \* \* \* \*

3. Section 306.0(i)(3) is added to read as follows:

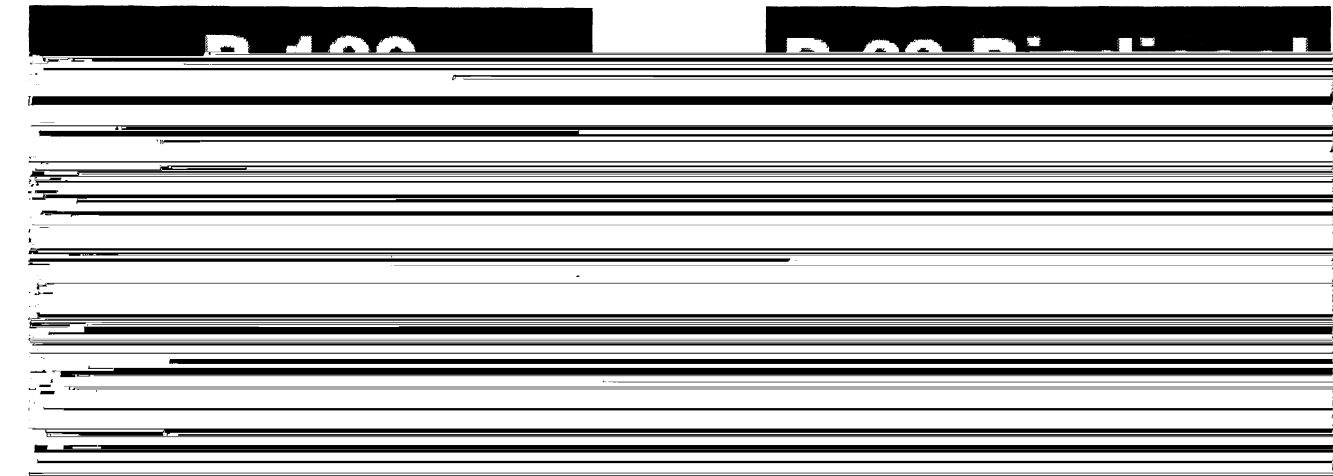
**§ 306.0 Definitions.**

\* \* \* \* \*

(i) \* \* \*

(3) Biodiesel blends that contain less than or equal to 5 percent biomass-based diesel or biodiesel by volume, and





By direction of the Commission.

D S. C  
Secretary

[FR Doc. E8-4699 Filed 3-10-08; 8:45 am]

BILLING CODE 6751-01-S

## SOCIAL SECURITY ADMINISTRATION

### 20 CFR Parts 404 and 416

[Docket No. SSA 2008-0007]

RIN 0960-AG70

#### Representative Payment Under Titles II, VIII and XVI of the Social Security Act

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** We propose to amend our rules governing how we investigate representative payee applicants. Under these proposed rules, any payee who has previously satisfied the payee investigation process including a face-to-face interview and is currently serving as a payee, need not appear for another face-to-face interview when making a subsequent application to become a payee, unless we determine, within our discretion, that a new face-to-face interview is necessary. This change would streamline our representative payee application process, thereby allowing payee applicants to become qualified in a shorter timeframe when they have already been investigated. This should expedite the payment of benefits in certain representative payee situations. It will also reduce the burden to the public and reduce traffic in our field offices when a payee applicant has already satisfied the face-to-face interview required by law.

**DATES:** To be sure that we consider your comments, we must receive them no later than *May 12, 2008*.

**ADDRESSES:** You may submit comments by one of four methods—Internet, facsimile, regular mail, or hand-delivery. Please do not submit the same comments multiple times or by more than one method. Regardless of which of the following methods you choose, please state that your comments refer to Docket No. SSA-2008-0007 to ensure that we can associate your comments with the correct regulation:

1. Federal eRulemaking portal at <http://www.regulations.gov>. (This is the most expedient method for submitting your comments, and we strongly urge you to use it.) In the *Comment or Submission* section of the webpage, type “SSA-2008-0007”, select “Go”, and then click “Send a Comment or Submission.” The Federal eRulemaking portal issues you a tracking number when you submit a comment.

2. Telefax to (410) 966-2830.

3. Letter to the Commissioner of Social Security, P.O. Box 17703, Baltimore, Maryland 21235-7703.

4. Deliver your comments to the Office of Regulations, Social Security Administration, 922 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days.

All comments are posted on the Federal eRulemaking portal, although they may not appear for several days after receipt of the comment. You may also inspect the comments on regular business days by making arrangements with the contact person shown in this preamble.

*Caution:* Our policy for comments we receive from members of the public is to make them available for public viewing in their entirety on the Federal eRulemaking portal at <http://www.regulations.gov>. Therefore, you

should be careful to include in your comments only information that you wish to make publicly available on the Internet. We strongly urge you not to include any personal information, such as your Social Security number or medical information, in your comments.

**FOR FURTHER INFORMATION CONTACT:**

Jerome Albanese, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (404) 562-1024, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:**

**E F E V**

The electronic file of this document is available on the date of publication in the **F R** at <http://www.gpoaccess.gov/fr/index.html>.

**B F**

Under the authority of sections 205(j), 807 and 1631(a)(2) of the Social Security Act (the Act), we select a representative payee for certain persons eligible for Social Security benefits under title II of Act, special veteran’s benefits (SVBs) under title VIII of the Act, or supplemental security income under title XVI of the Act. We select a representative payee if we believe that payment through a payee rather than direct payment of benefits is in the interest of that beneficiary. Subpart U of part 404, subpart F of part 408, and subpart F of part 416 of our regulations explain the procedures that we follow in determining whether to make representative payment and in selecting a representative payee under the title II, VIII and XVI programs.