competitors because only they manufacture waterjet cutting systems with the most advanced and efficient controllers.

The relevant geographic market within which to analyze the likely effects of the proposed transaction is the United States. The draft complaint further alleges that new entry would not prevent or counteract the anticompetitive effects of this acquisition. New entrants and existing competitors are deterred by the risk of violating the OMAX patents from developing and producing competitive waterjet cutting systems. Developing an efficient controller that clearly works-around the potential reach of OMAX's patents would likely be an expensive and time-consuming process, with no guarantee of success.

The draft complaint also alleges that Flow's acquisition of OMAX, if consummated, may substantially lessen competition in the market for the development, manufacture, marketing, and sale of waterjet cutting systems in the United States in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by eliminating direct competition between Flow and OMAX and increasing the likelihood that Flow will unilaterally exercise market power.

IV. The Terms of the Consent Agreement

The proposed Consent Agreement will remedy the Commission's competitive concerns about the proposed acquisition. Under the terms of the proposed consent order, Flow must grant a royalty-free license to each competitor who seeks to license the two broad OMAX patents relating to controllers that Flow will acquire with its acquisition of OMAX.

Currently Flow and OMAX are each other's closest competitor because they each offer an efficient PC-based controller that compensates for the unique characteristics of how a waterjet cuts. OMAX's two patents make the development of such a controller substantially more expensive and risky. Requiring Flow to grant a royalty-free license to these patents will ensure that other firms are able to replace the competition that would otherwise have been eliminated by the proposed acquisition.

While Flow has two patents relating to controllers, its patents are significantly narrower in scope than the OMAX patents and, as a result, do not prevent current or future competitors from offering a viable waterjet cutting system. Current and future competitors will not need licenses to these narrow patents in order to compete effectively in this market. Other aspects of Flow's and OMAX's business, such as customer lists, brand names, key employees, or the other parts of waterjet cutting systems, are easily duplicated by current competitors or future entrants. Consequently, to restore the competition lost by Flow's acquisition of OMAX, the proposed consent order eliminates the entry barrier faced by current waterjet cutting system competitors and future entrants by giving them a royalty-free license to the OMAX patents.

V. Opportunity for Public Comment

The proposed consent order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed consent order and the comments received and will decide whether it should withdraw from the agreement or make the proposed consent order final.

By accepting the proposed consent order subject to final approval, the Commission anticipates that the competitive problems alleged in the complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed consent order, in order to aid the Commission in its determination of whether to make the proposed consent order final. This analysis is not intended to constitute an official interpretation of the proposed consent order nor is it intended to modify the terms of the proposed consent order in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E8–16506 Filed 7–18–08: 8:45 am]

BILLING CODE 6750–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Decision To Evaluate a Petition To Designate a Class of Employees at the Brookhaven National Laboratory, Upton, NY, to be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees at the Brookhaven National Laboratory, Upton, New York, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Brookhaven National Laboratory.

Location: Upton, New York.

Job Titles and/or Job Duties: All workers.

Period of Employment: January 1, 1947 through December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–800–CDC–INFO (1–800–232–4636) or directly at 1–513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: June 30, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–16606 Filed 7–18–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Kellex/Pierpont facility in Jersey City, New Jersey, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On May 30, 2008, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

All Atomic Weapons Employer (AWE) employees who worked at the Kellex/Pierpont facility in Jersey City, New Jersey, from January 1, 1943, through December 31, 1953, for a number of work days aggregating at least 250 work days occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on June 29, 2008, as provided for under 42 U.S.C. 7384l(14)(C). Hence, beginning on June 29, 2008, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–800–CDC-INFO (1–800–232–4636) or directly at 1–513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV*.

Dated: July 2, 2008.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. E8–16607 Filed 7–18–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3189–NC]

RIN 0938–AP36

Medicare Program; Evaluation Criteria and Standards for Quality Improvement Program Contracts (9th Scope of Work)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice with comment period.

SUMMARY: This notice with comment period describes the general criteria we intend to use to evaluate the efficiency and effectiveness of the Quality Improvement Organizations (QIOs) who will enter into contract with CMS under the 9th SOW on August 1, 2008. The evaluation of the QIOs' performance related to their Statement of Work (SOW) will be based on evaluation criteria specified within the themes, tasks, and subtasks set forth in the QIO's 9th SOW.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on August 20, 2008.

ADDRESSES: In commenting, please refer to file code CMS–3189–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically*. You may submit electronic comments on specific issues in this regulation to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' and enter the filecode to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3189–NC, P.O. Box 8016, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3189–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses.

a. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. (Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. 7500 Security Boulevard, Baltimore, MD 21244–1850. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Pamon (410) 786–9167.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Section 1153(h)(2) of the Act requires the Secretary to publish in the **Federal Register** the general criteria and standards that will be used to evaluate the efficient and effective performance of contract obligations by QIOs and to provide the opportunity for public comment with respect to such criteria and standards. This notice describes the general criteria that will be used to evaluate QIO performance under the 9th SOW contract beginning in August 2008.

II. Themes, Tasks, Subtasks Description

Under the 9th SOW, QIOs are responsible for completing the requirements for the following themes: Beneficiary Protection, Patient Safety, Prevention and Care Transitions. (Detailed information for each theme may be found in Sections C.6. and C.7. Theme Requirements of the 9th SOW posted at the *www.fedbizopps.gov* Web site. On the home page of the Web site, type ''QIO'' into ''Quick Search'' and click on ''GO'' to view the RFP under solicitation numbers ''9thSOWInStateQIOs–NAHC'' and ''CMS–2007–QIO9thSOW–NAHC'').

Beneficiary Protection (See Section C.6.1. of the 9th Statement of Work)

Beneficiary Protection activities will emphasize statutory and regulatory