

that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

## VII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. FDA memorandum from P. C. DeLeo, Division of Petition Review, to C. Johnston, Division of Petition Review, April 21, 2004.

2. FDA memorandum from D. E. Folmer, Division of Petition Review, to C. Johnston, Division of Petition Review, April 20, 2004.

3. FDA memorandum from D. E. Folmer, Division of Petition Review, to C. Johnston, Division of Petition Review, July 29, 2004.

## List of Subjects in 21 CFR Part 180

Food additives.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 180 is amended as follows:

## PART 180—FOOD ADDITIVES PERMITTED IN FOOD ON AN INTERIM BASIS OR IN CONTACT WITH FOOD PENDING ADDITIONAL STUDY

■ 1. The authority citation for 21 CFR part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 343, 348, 371; 42 U.S.C. 241.

■ 2. Section 180.25 is amended by adding paragraph (a)(3) to read as follows:

### § 180.25 Mannitol.

(a) \* \* \*

(3) A pure culture fermentation of sugars such as fructose, glucose, or maltose using the nonpathogenic, nontoxicogenic bacterium *Lactobacillus intermedium* (*fermentum*).

\* \* \* \* \*

Dated: October 27, 2004.

**Leslye M. Fraser,**

Director, Office of Regulations and Policy,  
Center for Food Safety and Applied Nutrition.

[FR Doc. 04-25243 Filed 11-12-04; 8:45 am]

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## DEPARTMENT OF JUSTICE

### 28 CFR Part 0

[AG Order No. 2738–2004]

### Delegations of Authority; Federal Bureau of Investigation

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** Recent consultations between criminal law enforcement investigative agencies and the Department of Justice have suggested the need to simplify and clarify the delegations of authority to the Federal Bureau of Investigation to investigate any criminal violations of law in certain foreign counterintelligence areas. This final rule changes the language of the delegations of authority to eliminate confusion about the scope of the delegation.

**EFFECTIVE DATE:** November 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Bruce C. Swartz, Deputy Assistant Attorney General, Criminal Division, United States Department of Justice, Washington, DC 20530 (202) 514-2333 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Attorney General has authority to investigate any violation of the criminal laws of the United States. 28 U.S.C. 533. As a general proposition, the Attorney General has delegated general investigative authority to the Federal Bureau of Investigation. 28 CFR 0.85(a). Recent consultations among investigative agencies have indicated that confusion has been created by the use of limiting language in the formal delegations of authority within the Department. The limitation of the Federal Bureau of Investigation's authority to the extent that investigative authority is assigned elsewhere was not intended as other than an internal management tool. The Department has determined that the limitation should be stated more clearly and applicable only when statute or other authority, such as an Executive Order or Attorney General delegation, assigns investigative authority exclusively to another agency or component. Accordingly, this final rule amends the language in 28 CFR part 0.

### Administrative Procedure Act

This rule relates to matters of agency management and personnel and, therefore, is exempt from the usual requirements of prior notice and comment and a 30-day delay in effective date. See 5 U.S.C. 553(a)(2) and (d). The rule only alters an internal delegation to the Federal Bureau of Investigation.

## Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department. Further, a Regulatory Flexibility Analysis is not required for this final rule because the Department was not required to publish a general notice of proposed rulemaking for this matter.

### Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, Regulatory Planning and Review, section 1(b), Principles of Regulation. This rule is limited to agency organization, management and personnel matters as described by Executive Order 12866, § 3(d)(3) and, therefore, is not a “regulation” or “rule” as defined by that Executive Order.

### Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform.

### Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, Federalism, the Department has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 804. This rule will not result in an

annual effect on the economy of \$100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a rule for purposes of the reporting requirement of 5 U.S.C. 801.

#### Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a “rule” as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### List of Subjects in 28 CFR Part 0

Authority delegations (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

■ Accordingly, chapter 1 of title 28 of the Code of Federal Regulations is amended as follows:

#### PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

■ 1. The authority citation for part 0 continues to read as follows:

**Authority:** 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519.

■ 2. In § 0.85, paragraph (a) is amended by removing “specifically” and adding in its place “exclusively,” and paragraph (d) is revised to read as follows:

#### § 0.85 General functions.

\* \* \* \* \*

(d) Carry out the Presidential directive of September 6, 1939, as reaffirmed by Presidential directives of January 8, 1943, July 24, 1950, and December 15, 1953, designating the Federal Bureau of Investigation to take charge of investigative work in matters relating to espionage, sabotage, subversive activities, and related matters, including investigating any potential violations of the Arms Export Control Act, the Export Administration Act, the Trading with the Enemy Act, or the International Emergency Economic Powers Act,

relating to any foreign counterintelligence matter.

\* \* \* \* \*

Dated: November 5, 2004.

**John Ashcroft,**

*Attorney General.*

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#### PENSION BENEFIT GUARANTY CORPORATION

#### 29 CFR Parts 4022 and 4044

##### Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation’s regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in December 2004. Interest assumptions are also published on the PBGC’s Web site (<http://www.pbgc.gov>).

**EFFECTIVE DATES:** December 1, 2004.

##### FOR FURTHER INFORMATION CONTACT:

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC’s regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) a set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part

4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during December 2004, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during December 2004, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology for valuation dates during December 2004.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 3.80 percent for the first 20 years following the valuation date and 5.00 percent thereafter. These interest assumptions are unchanged from those in effect for November 2004.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 2.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit’s placement in pay status. These interest assumptions are unchanged from those in effect for November 2004.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during December 2004, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a “significant regulatory action” under the criteria set forth in Executive Order 12866.