

**DEPARTMENT OF HEALTH AND  
HUMAN SERVICES  
Food and Drug Administration**

**21 CFR Part 131**

**Stabilizers and Emulsifiers in Lowfat  
Milk and Skim Milk**

*CFR Correction*

In title 21 of the Code of Federal Regulations, parts 100 to 169, revised as of April 1, 1996, make the following corrections:

1. On page 278, in § 131.135, the effective date was inadvertently removed. The omitted text should read as follows:

Effective Date Note: Paragraph (e)(1)(iv) of § 131.135 was revised at 45 FR 81737, Dec. 12, 1980, effective for compliance July 1, 1983. The effective date for compliance was stayed until further notice at 47 FR 11271, Mar. 16, 1982. Paragraph (e)(1)(iv) published at 42 FR 14360, Mar. 15, 1977, and set forth below is currently effective.

**§ 131.135 Lowfat milk.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iv) The phrase "protein fortified" or "fortified with protein" if the food contains not less than 10 percent milk derived nonfat solids.

\* \* \* \* \*

2. On page 282, in § 131.143, the effective date was inadvertently removed. The omitted text should read as follows:

Effective Date Note: Paragraph (e)(1)(iii) of § 131.143 was revised at 45 FR 81737, Dec. 12, 1980, effective date for compliance July 1, 1983. The effective date for compliance was stayed until further notice at 47 FR 11271, Mar. 16, 1982. Paragraph (e)(1)(iii) published at 42 FR 14360, Mar. 15, 1977, and set forth below is currently effective.

**§ 131.143 Skim milk.**

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) The phrase "protein fortified" or "fortified with protein" if the food contains not less than 10 percent milk derived nonfat solids.

\* \* \* \* \*

[FR Doc. 96-55565 Filed 9-12-96; 8:45 am]

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**DEPARTMENT OF JUSTICE**

**Immigration and Naturalization Service**

**28 CFR Part 0**

[INS No. 1791-96; AG Order No. 2055-96]

RIN 1115-AE50

**Agreements Promising Non-  
Deportation or Other Immigration  
Benefits**

**AGENCY:** Department of Justice.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** This interim rule requires Federal prosecutors, law enforcement agencies, and other officials to obtain written consent from the Immigration and Naturalization Service (Service) when entering into a plea agreement, cooperation agreement, or similar agreement promising an alien favorable treatment by the Service. This rule ensures that favorable treatment under the immigration laws is extended only after a full consideration of its effect on overall immigration enforcement, alleviates confusion over the authority to enforce the immigration laws, and prevents the Service from being bound by agreements undertaken without its knowledge and approval. The rule codifies a long-standing position of the Department of Justice.

**DATES:** This interim rule is effective October 15, 1996. Written comments must be submitted on or before November 12, 1996.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 "I" Street NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1791-96 on all correspondence. Comments are available for public inspection at the above address by calling (202) 514-3048 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Brad Glassman, Office of the General Counsel, Immigration and Naturalization Service, 425 "I" Street NW., Room 6100, Washington, DC 20536, telephone (202) 514-2895.

**SUPPLEMENTARY INFORMATION:** Considerable uncertainty has arisen as to whether plea agreements, cooperation agreements, and other agreements undertaken by agencies other than the Immigration and Naturalization Service (Service) may bind the Service in the exercise of its authority under the immigration laws. The Supreme Court has held that "anyone entering into an

agreement with the Government takes the risk of having accurately ascertained that he who purports to act for the Government stays within the bounds of his authority." *Federal Crop Ins. Corp. v. Merrill*, 332 U.S. 380, 384 (1947). Accordingly, the Eleventh Circuit has held that "officials at the INS may initiate deportation proceedings against a particular defendant without considering whether (a) \* \* \* U.S. Attorney has promised the defendant non-deportation as part of a plea agreement." *San Pedro v. United States*, 79 F.3d 1065, 1071 (11th Cir. 1996).

However, two United States Courts of Appeals have taken a different view, relying on common law agency principles to enforce a plea agreement and a cooperation agreement against the Service. *Margalli-Olvera v. INS*, 43 F.3d 345 (8th Cir. 1994) (plea agreement); *Thomas v. INS*, 35 F.3d 1332 (9th Cir. 1994) (cooperation agreement). This rule will clarify which components within the Department of Justice have authority to bind the Department in matters concerning the immigration laws. The consent requirement ensures that favorable treatment under the immigration laws is extended only after a full consideration of its effect on overall immigration enforcement, preserves the authority of the Service to enforce the immigration laws, and prevents the Service from being bound by agreements undertaken without its knowledge and approval. *Cf. Thomas*, 35 F.3d at 1341 ("If the Attorney General wished to limit the incidental authority of United States Attorneys [to bind the Service without its consent], she could easily do so with a section in the Code of Federal Regulations \* \* \*"). This rule codifies a long-standing position of the Department of Justice.

The Attorney General's implementation of this rule as an interim rule, with provision for post-promulgation public comment, is based upon the exception found at 5 U.S.C. 553(b)(3)(A) for "rulers of agency organization, procedure, or practice." The Attorney General certifies, in accordance with 5 U.S.C. 605(b) (1995), that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a "significant regulatory action" within the meaning of E.O. 12866, section 3(f), and accordingly has not been reviewed by the Office of Management and Budget. This rule is not considered to have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 28 CFR Part 0

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

Accordingly, part 0 of chapter I 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 part 0, subpart CC, a new § 0.197 is added to read as follows:

**§ 0.197 Agreements, in connection with criminal proceedings or investigations, promising non-deportation or other immigration benefits.**

The Immigration and Naturalization Service (Service) shall not be bound, in the exercise of its authority under the immigration laws, through plea agreements, cooperation agreements, or other agreements with or for the benefit of alien defendants, witnesses, or informants, or other aliens cooperating with the United States Government, except by the authorization of the Commissioner of the Service or the Commissioner's delegate. Both the agreement itself and the necessary authorization must be in writing to be effective, and the authorization shall be attached to the agreement.

Dated: September 9, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–23491 Filed 9–12–96; 8:45 am]

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**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 4044**

**Allocation of Assets in Single-Employer Plans; Interest Rate for Valuing Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in October 1996.

**EFFECTIVE DATE:** October 1, 1996.

**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 (202–326–4179 for TTY and TDD).

**SUPPLEMENTARY INFORMATION:** The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest rates and factors. These interest rates and factors are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest rates and factors are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest rates and factors for valuing benefits in plans with valuation dates during October 1996.

For annuity benefits, the interest rates will be 6.30 percent for the first 20 years following the valuation date and 4.75 percent thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.25 percent for the period during which benefits are in pay status, 4.50 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. The annuity and lump sum interest assumptions are unchanged from those in effect for September 1996.

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 rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during October 1996, the PBGC finds that good cause exists for making the rates and factors 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.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is hereby amended as follows:

**PART 4044—[AMENDED]**

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 36 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

Table I.—Annuity Valuations

[This table sets forth, for each indicated calendar month, the interest rates (denoted by  $i_1$ ,  $i_2$ , \* \* \*, and referred to generally as  $i$ ) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month	The values of $i_t$ are:					
	$i_t$	For t =	$i_t$	For t =	$i_t$	For t =
Oct. 1996	.0630	1–20	.0475	>20	N/A	N/A