

issues. The compliance cost to firms currently in the industry is zero because the rule prohibits no current activity. Potential benefits include the wider use of the enzyme preparation because of reduced uncertainty concerning its regulatory status, and any resources saved by eliminating the need to prepare further petitions to affirm the GRAS status of this use of the enzyme preparation.

Finally, in compliance with the Regulatory Flexibility Act, FDA certifies that the final rule will not have a significant impact on a substantial number of small businesses. The compliance cost to small businesses currently in the industry is zero because no current activity is prohibited under the rule.

#### IX. Effective Date

As this rule recognizes an exemption from the food additive definition in the Federal Food, Drug, and Cosmetic Act, and from the approval requirements applicable to food additives, no delay in effective date is required by the Administrative Procedure Act (5 U.S.C. 553(d)). The rule will therefore be effective immediately (5 U.S.C. 553(d)(1)).

#### X. References

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

1. Lodder, J., *The Yeasts: A Taxonomic Study*, 2d ed., pp. 345–348, 1025–1027, North Holland Publishing Co., Amsterdam, 1970.

2. Rose, A. H., and J. S. Harrison, *The Yeasts, V 1, Biology of Yeasts*, p. 139, Academic Press, New York, 1969.

3. 21 CFR 184.1388.

4. "Monograph on Enzyme Preparations," in *Food Chemicals Codex*, 3d ed., National Academy Press, Washington, DC, pp. 107–110, 1981.

5. Schmidt, J. L., and J. Lenoir, "Contribution to the Study of Yeast Flora in Camembert Cheese. Its Development During Ripening," *Lait* 58 (577):355–370, 1978.

6. Kreger van Rij, N. J. W., "The Yeasts: A Taxonomic Study," pp. 233–234, North Holland Pub. Co., Amsterdam, 1970.

7. Lutwick, L. I., H. J. Phaff, and D. A. Stevens, "*Kluyveromyces fragilis* as an Opportunistic Fungal Pathogen in Man," *Sabouraudia* 18:69–73, 1980.

8. Yamazaki, M., and K. Komagata, "Asporogenous Yeasts and Their Supposed Ascosporeogenous States: An Electrophoretic Comparison of Enzymes," *Journal of General and Applied Microbiology*, 28:119–138, 1982.

9. Letter from H. J. Phaff, University of California, Davis, to W. C. Wernau, Pfizer, Inc., February 13, 1980.

10. Memorandum from T. J. McKay, FDA, to M. Custer, FDA, November 8, 1982.

11. Memorandum from C. B. Johnson, FDA, to N. Beru, FDA, February 2, 1994.

12. Memorandum from C. B. Johnson, FDA, to the Direct Additives Branch, FDA, December 6, 1988.

13. Holzschu, D. L. et al., "Evaluation of industrial yeast for pathogenicity," *Sabouraudia* 17:71–78, 1979.

14. Memorandum from P. Mislivec, FDA, to M. Custer, FDA, October 22, 1982.

15. Memorandum from J. M. Madden, FDA, to M. Peiperl, FDA, November 5, 1993.

16. Memorandum from A. N. Milbert, FDA, to V. Prunier, FDA, August 13, 1984.

17. Memorandum from J. Modderman, FDA, to V. Prunier, FDA, November 7, 1984.

#### List of Subjects in 21 CFR Part 184

Food ingredients, Incorporation by reference.

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 184 is amended as follows:

#### **PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE**

1. The authority citation for 21 CFR part 184 continues to read as follows:

Authority: Secs. 201, 402, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 371).

2. New § 184.1387 is added to subpart B to read as follows:

#### **§ 184.1387 Lactase enzyme preparation from *Candida pseudotropicalis*.**

(a) This enzyme preparation is derived from the nonpathogenic, nontoxicogenic yeast *C. pseudotropicalis*. It contains the enzyme lactase ( $\beta$ -D-galactoside galactohydrolase, EC 3.2.1.23), which converts lactose to glucose and galactose. It is prepared from yeast that has been grown by a pure culture fermentation process.

(b) The ingredient meets the general requirements and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d ed. (1981), pp. 107–110, which are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or may be examined at the Center for Food Safety and Applied Nutrition's Library, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitations other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme, as defined in § 170.3(o)(9) of this chapter, to convert lactose to glucose and galactose.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice. Current good manufacturing practice is limited to use of this ingredient to reduce the lactose content in milk and milk-derived food products where food standards do not preclude such use.

Dated: February 15, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–4629 Filed 2–28–96; 8:45 am]

BILLING CODE 4160–01–F

#### **DEPARTMENT OF JUSTICE**

#### **Office of the Attorney General**

#### **28 CFR Part 81**

[AG Order No. 2009–96]

RIN 1105–AA38

#### **Designation of Agencies To Receive and Investigate Reports Required Under the Victims of Child Abuse Act**

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This rule carries out the Attorney General's responsibilities under the child abuse reporting provisions of the Victims of Child Abuse Act of 1990 ("VCAA"). The VCAA requires persons engaged in certain specified professions and activities on federal lands or facilities to report incidents of child abuse to the appropriate federal, state, or local agency designated by the Attorney General. In order to facilitate effective reporting, the VCAA requires the Attorney General to "designate an agency" to receive and investigate such reports of child abuse. This rule sets forth the Attorney General's designations and certain other matters covered by the VCAA's reporting requirements.

**EFFECTIVE DATE:** This rule is effective April 1, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Terry R. Lord, Acting Chief, Child Exploitation and Obscenity Section, Criminal Division, Washington, D.C. 20530, (202) 514-5780.

**SUPPLEMENTARY INFORMATION:****I. Background**

The child abuse reporting provisions of the Victims of Child Abuse Act (VCAA) were enacted as section 226 of the Crime Control Act of 1990, Pub. L. No. 101-647, 104 Stat. 4806, *codified at* 42 U.S.C. 13001-13041, 3796aa-3796aa-8, and 18 U.S.C. 403, 2257, and 3509. As set forth at 42 U.S.C. 13031, the VCAA requires persons engaged in certain professional capacities or activities on federal lands or on federally operated facilities (as well as certain facilities covered by federal contracts) ("covered professional") to report incidents of child abuse to an agency designated by the Attorney General to receive and investigate such reports. On January 3, 1994, the Department of Justice published a proposed rule promulgating the Attorney General's designation of the agencies to receive and investigate these reports of child abuse (59 FR 37). Having received and considered comments submitted in response to the proposed rule, the Attorney General is now promulgating a final rule on this subject.

Under the provisions of 42 U.S.C. 13031(d), the Attorney General may designate non-federal agencies to receive and investigate the child abuse reports, provided that the designation is formalized by a written agreement. Under the rule, reports of child abuse made pursuant to 42 U.S.C. 13031 are to be submitted to the federal, state, tribal or local law enforcement or child protective services agency that currently has jurisdiction to investigate reports of child abuse or protect child abuse victims in the federal land area or facility in question. Where no agency currently qualifies for designation under the rule, the rule designates the Federal Bureau of Investigation ("FBI") to receive and investigate the reports of child abuse until another agency qualifies for such designation. If the child abuse reported by the covered professional pursuant to 42 U.S.C. 13031 occurred outside the federal area or facility in question, the designated agency receiving the report must forward the matter to the appropriate authority with jurisdiction over the potential offense. For example, a covered reporting professional may, while working on federal land or in a federally operated facility, learn of facts that give reason to suspect that a child

has suffered abuse *outside* the federal area in question. In such a circumstance, the covered professional would report the abuse in the same manner as if the abuse occurred within the federal area in question. The rule contemplates that the designated agency receiving the report will immediately forward the matter to the appropriate authority with jurisdiction outside the federal area in question.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule has not been reviewed by the Office of Management and Budget pursuant to Executive Order 12866. This rule does not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. This rule meets the applicable standards provided in sections 2(a) and 2(b) of Executive Order 12778. Notice of the proposed rule was published in the Federal Register on January 3, 1994, and comments were solicited (59 FR 37). A discussion of comments received pursuant to that notice follows.

**II. Summary of Comments and Department's Responses**

Comments on the proposed rule were received from a number of affected federal and state agencies. Set forth below is a summary of those comments and the Department's response to them. *Comments from the New Jersey Division of Youth and Family Services:*

1. A distinction should be made between child abuse offenses committed against children by caregivers and child assault offenses committed by other adults.

*Response:* Such a distinction is not contemplated or authorized by the underlying statutory requirement, 42 U.S.C. 13031. The statutory reporting requirement is not qualified by any distinction concerning the status of persons committing the abuse in question.

2. The list of "covered professionals" mandated to report child abuse or neglect should be expanded to include additional employees on federal land.

*Response:* This list cannot be expanded because to do so would exceed the scope permitted by the enabling statute. See 42 U.S.C. 13031(b). The statute specifically designates the mandated reporters by their profession or activity.

3. The proposed rule does not address the reporting of child abuse occurring off federal land or facilities, but which

becomes known to mandated reporters employed at those locations.

*Response:* The rule has been clarified to mandate that covered professionals report any incident of suspected child abuse as defined in the statute, regardless of where the abuse occurred. If the incident of suspected child abuse occurred outside the federal area or facility in question, the designated agency receiving the report must forward the matter to the appropriate authority with jurisdiction. *Comments from Family Advocacy Program, The Office of the Assistant Secretary of Defense:*

1. Federal "covered professionals" must be required to report incidents of abuse or neglect regardless of where the alleged abuse occurred.

*Response:* As indicated in response to comment 3 from the New Jersey Division of Youth and Family Services, the rule has been clarified as requested.

2. Amend Section 81.2 of the proposed rule so that the federal agencies or administrators on federal lands or federally operated or contracted facilities have "primary responsibility" for entering into a Memorandum of Understanding or other form of formal written agreement for the reporting of suspected cases of child abuse.

*Response:* The rule contemplates that the United States will take the lead in initiating the written agreements where needed.

3. Include a requirement that the FBI "closely coordinate" efforts with the local law enforcement or child protective services because the federal authorities do not have the authority to remove a child from the home to prevent further abuse.

*Response:* It is contemplated that the FBI will closely coordinate with local law enforcement and child protective services since federal authorities usually have no jurisdiction to remove a child from the home to prevent further abuse. *Comments from the Diplomatic Security Service, the United States Department of State:*

1. Indicate that reports of child abuse arising at the United States diplomatic and consular posts abroad should be made to the appropriate Special Agent or Regional Security Officer of the Department of State's Diplomatic Security Service.

*Response:* The requested amendment is not necessary because, under the current language of the proposed rule, the Diplomatic Security Service would constitute the "designated agency" to receive and investigate reports of child abuse under the circumstances described. Section 81.2 stipulates that "[r]eports of child abuse required by 42

U.S.C. 13031 shall be made to the local law enforcement agency or local child protective services agency that has jurisdiction to investigate reports of child abuse or to protect child abuse victims in the land area or facility in question." The Diplomatic Security Service would therefore be the "designated agency" in the circumstances described in this comment, inasmuch as Section 81.5 defines local law enforcement agency to include "the Federal \* \* \* law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse\* \* \*"

*Comments from the Office of Enforcement and Security Management, United States Department of Interior:*

1. Eliminate from the last sentence of section 81.2 the following: "\* \* \* or a Federal agency with jurisdiction for the area or facility in question," and omit the requirement for a formal written agreement with local law enforcement entities.

*Response:* The provisions of the enabling statute, 42 U.S.C. 13031, preclude adoption of the suggested amendment. We understand that the underlying concern behind the Department of Interior request is apprehension that an administratively crippling number of agreements would be needed in Bureau of Land Management ("BLM") areas. However, the Department does not interpret the term "federal lands" as used in 42 U.S.C. 13031 to include those lands held by the United States merely as a proprietor as distinguished from those lands over which the United States is empowered to exercise legislative jurisdiction. See generally *Adams v. United States*, 319 U.S. 312 (1943); *James v. Dravo Contracting Co.*, 302 U.S. 134, 139 (1937). It is our understanding that most land managed by BLM falls within the former category. Congress could not reasonably have intended to include such lands within the term "federal lands" as used in the Victims of Child Abuse statute. Therefore, the mandates of the rule and enabling legislation do not apply to such merely proprietary lands managed by BLM.

List of Subjects in 28 CFR Part 81

Child abuse, Federal buildings and facilities.

For the reasons set forth in the preamble, and by virtue of the authority vested in me as Attorney General, including 28 U.S.C. 509 and 510, 5 U.S.C. 301, and 42 U.S.C. 13031, and Public Law 101-647 (104 Stat. 4806), part 81 of chapter I of title 28 of the

Code of Federal Regulations is added as follows:

## **PART 81—CHILD ABUSE REPORTING DESIGNATIONS AND PROCEDURES**

Sec.

81.1 Purpose.

81.2 Submission of reports; designation of agencies to receive reports of child abuse.

81.3 Designation of Federal Bureau of Investigation.

81.4 Referral of reports where designated agency is not a law enforcement agency.

81.5 Definitions.

Authority: 28 U.S.C. 509, 510; 42 U.S.C. 13031.

### **§ 81.1 Purpose.**

The regulations in this part designate the agencies that are authorized to receive and investigate reports of child abuse under the provisions of section 226 of the Victims of Child Abuse Act of 1990, Public Law 101-647, 104 Stat. 4806, codified at 42 U.S.C. 13031.

### **§ 81.2 Submission of reports; designation of agencies to receive reports of child abuse.**

Reports of child abuse required by 42 U.S.C. 13031 shall be made to the local law enforcement agency or local child protective services agency that has jurisdiction to investigate reports of child abuse or to protect child abuse victims in the land area or facility in question. Such agencies are hereby respectively designated as the agencies to receive and investigate such reports, pursuant to 42 U.S.C. 13031(d), with respect to federal lands and federally operated or contracted facilities within their respective jurisdictions, provided that such agencies, if non-federal, enter into formal written agreements to do so with the Attorney General, her delegate, or a federal agency with jurisdiction for the area or facility in question. If the child abuse reported by the covered professional pursuant to 42 U.S.C. 13031 occurred outside the federal area or facility in question, the designated local law enforcement agency or local child protective services agency receiving the report shall immediately forward the matter to the appropriate authority with jurisdiction outside the federal area in question.

### **§ 81.3 Designation of Federal Bureau of Investigation.**

For federal lands, federally operated facilities, or federally contracted facilities where no agency qualifies for designation under § 81.2, the Federal Bureau of Investigation is hereby designated as the agency to receive and investigate reports of child abuse made pursuant to 42 U.S.C. 13031 until such

time as another agency qualifies as a designated agency under § 81.2.

### **§ 81.4 Referral of reports where the designated agency is not a law enforcement agency.**

Where a report of child abuse received by a designated agency that is not a law enforcement agency involves allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, that agency shall immediately report such occurrence to a law enforcement agency with authority to take emergency action to protect the child.

### **§ 81.5 Definitions.**

*Local child protective services agency* means that agency of the federal government, of a state, of a tribe or of a local government that has the primary responsibility for child protection within a particular portion of the federal lands, a particular federally operated facility, or a particular federally contracted facility in which children are cared for or reside.

*Local law enforcement agency* means that federal, state, tribal or local law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse occurring within a particular portion of the federal lands, a particular federally operated facility, or a particular federally contracted facility in which children are cared for or reside.

Dated: February 18, 1996.

Janet Reno,

*Attorney General.*

[FR Doc. 96-4651 Filed 2-28-96; 8:45 am]

BILLING CODE 4410-01-M

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[CA 71-10-7281a; FRL-5422-9]

### **Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District and Ventura County Air Pollution Control District**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the Mojave Desert Air Quality Management District (MDAQMD) and the Ventura County Air