

particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event 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 between 9 a.m. and 4 p.m., Monday through Friday.

#### IX. 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. Memorandum from D. Doell, Division of Petition Review, CFSAN, FDA to M. Honigfort, Division of Petition Review, CFSAN, FDA, June 14, 2005.

2. FDA, Inventory of Effective Food Contact Substance (FCS) Notifications, Food Contact Substance Notification Number 351 (<http://www.cfsan.fda.gov/~dms/opa-fcn.html>).

3. Environmental Protection Agency, Integrated Risk Information System: Nitrate (CASRN 14797-55-8) (<http://www.epa.gov/ncea/iris/subst/0076.htm>). (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**).

#### List of Subjects in 21 CFR Part 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

■ 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 172 is amended as follows:

#### PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

■ 1. The authority citation for 21 CFR part 172 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 342, 348, 371, 379e.

■ 2. Section 172.167 is added to subpart B to read as follows:

##### § 172.167 Silver nitrate and hydrogen peroxide solution.

An aqueous solution containing a mixture of silver nitrate and hydrogen peroxide may be safely used in accordance with the following prescribed conditions:

(a) The additive is used as an antimicrobial agent in bottled water.

(b) Hydrogen peroxide meets the specifications of the “Food Chemicals Codex,” 6th ed. (2008), pp. 463 and 464, which is incorporated by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from the United States Pharmacopeial Convention, 12601 Twinbrook Pkwy., Rockville, MD 20852 (Internet address <http://www.usp.org>). Copies may be examined at the Center for Food Safety and Applied Nutrition’s Library, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-2163, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) The amount of silver added will not exceed 17 micrograms per kilogram in the treated bottled water, and the amount of hydrogen peroxide will not exceed 23 milligrams per kilogram in the treated bottled water. Analyses for silver and hydrogen peroxide shall be conducted on samples of treated bottled water at the site of bottling, using samples of the water intended for treatment for the blank determination.

(d)(1) The amount of silver in the treated bottled water is determined using the method for silver designated in 21 CFR 165.110(b)(4)(iii)(G)(2)(i).

(2) The amount of hydrogen peroxide in the treated bottled water is determined using a Hydrogen Peroxide Test Kit from the HACH Co., or equivalent. The manual from the Hydrogen Peroxide Test Kit, Model HYP-1, Catalog Number 22917-00, 1991, is incorporated by reference. The Director of the Federal Register approves this incorporation by reference

in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the test kit manual from the HACH Co., P.O. Box 389, Loveland CO, 80359 (1-800-227-4224), Model HYP-1, Catalog Number 22917-00. Copies may be examined at the Center for Food Safety and Applied Nutrition’s Library, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301-436-2163, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030 or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(e) Substances generally recognized as safe in or on food may be used to stabilize the additive to ensure that the additive will perform its intended technical effect.

(f) The additive may not be added to bottled water that has been filtered or is intended to be filtered through a silver-containing water filter.

(g) Bottled water must meet the quality standards for bottled water in § 165.110(b)(2) through (b)(5) of this chapter, including the limits specified for total silver and nitrate, unless the water bears a label statement of substandard quality, as provided for under § 165.110(c) of this chapter.

Dated: March 12, 2009.

**Leslye M. Fraser,**

*Director, Office of Regulations and Policy,  
Center for Food Safety and Applied Nutrition.*  
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#### OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

##### 32 CFR Part 1702

#### Procedures Governing the Acceptance of Service of Process Upon the Office of the Director of National Intelligence and Its Employees in Their Official, Individual or Combined Official and Individual Capacities

**AGENCY:** Office of the Director of National Intelligence.

**ACTION:** Final rule.

**SUMMARY:** This final regulation governs the procedures the ODNI will follow for the acceptance of service of process upon the ODNI and its employees in their official, individual or combined official and individual capacities.

**DATES:** *Effective Date:* March 18, 2009.

**FOR FURTHER INFORMATION CONTACT:** Tricia Wellman, 703-275-2527.

**SUPPLEMENTARY INFORMATION:** The Office of the Director of National Intelligence (ODNI) was created by the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 118 Stat. 3638. The ODNI began operations on April 22, 2005, the day after the first Director of National Intelligence took office. This final regulation establishes the procedures for acceptance of service of process upon the ODNI and its employees.

The ODNI received no comments to its proposed regulation previously published on October 17, 2008 (73 FR 61771).

#### List of Subjects in 32 CFR Part 1702

Courts, Government employees.

■ Title 32 of the Code of Federal Regulations is amended by adding Part 1702 to read as follows:

#### PART 1702—PROCEDURES GOVERNING THE ACCEPTANCE OF SERVICE OF PROCESS

Sec.

1702.1 Scope and purpose.

1702.2 Definitions.

1702.3 Procedures governing acceptance of service of process.

1702.4 Notification to Office of *General Counsel*.

1702.5 Interpretation

**Authority:** The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108–458, 118 Stat. 3638 (2004); National Security Act of 1947, as amended, 50 U.S.C. § 401 *et seq.*; Executive Order 12333, as amended.

##### § 1702.1 Scope and purpose.

This part sets forth the ODNI policy concerning service of process upon the ODNI and ODNI employees in their official, individual or combined official and individual capacities. This part is intended to ensure the orderly execution of ODNI affairs and is not intended to impede the legal process.

##### § 1702.2 Definitions.

For purposes of this part the following terms have the following meanings:

*DNI.* The Director of National Intelligence.

*General Counsel.* The ODNI's General Counsel, Acting General Counsel or Deputy General Counsel.

*ODNI.* The Office of the Director of National Intelligence and all of its components, including, but not limited to, the National Counterintelligence Executive, the National Counterterrorism Center, the National Counterproliferation Center, the Program Manager for the Information Sharing Environment, and all national

intelligence centers and program managers the DNI may establish.

*ODNI Employee.* Any current or former employee, contractor, independent contractor, assignee or detailee to the ODNI.

*OGC.* The Office of the General Counsel of the ODNI.

*Process.* A summons, complaint, subpoena or other document properly issued by or under the authority of, a federal, state, local or other government entity of competent jurisdiction.

##### § 1702.3 Procedures governing acceptance of service of process.

(a) Service of process upon the ODNI or an ODNI employee in the employee's official capacity.

(1) Personal service. Unless otherwise expressly authorized by the General Counsel, personal service of process upon the ODNI or an ODNI employee in the employee's official capacity, may be accepted only by an OGC attorney at ODNI Headquarters. The OGC attorney shall write or stamp "Service Accepted In Official Capacity Only" on the return of service form.

(2) Mail service. Where service of process by registered or certified mail is authorized by law, only an OGC attorney may accept such service of process upon the ODNI or an ODNI employee in the employee's official capacity, unless otherwise expressly authorized by the General Counsel. The OGC attorney shall write or stamp, "Service Accepted In Official Capacity Only," on the waiver of personal service form. Service of process by mail must be addressed to the Office of the Director of National Intelligence, Office of General Counsel, Washington, DC 20511, and the envelope must be conspicuously marked "Service of Process."

(b) Service of process upon an ODNI employee solely in the employee's individual capacity.

(1) *Generally.* ODNI employees will not be required to accept service of process in their purely individual capacity on ODNI facilities or premises.

(2) *Personal Service.* Subject to the sole discretion of the General Counsel, process servers generally will not be allowed to enter ODNI facilities or premises for the purpose of serving process upon an ODNI employee solely in the employee's individual capacity. Except for the DNI, the Principal Deputy Director of National Intelligence, and the Director of the Intelligence Staff, the OGC is not authorized to accept service of process on behalf of any ODNI employee in the employee's individual capacity.

(3) *Mail Service.* Unless otherwise expressly authorized by the General Counsel, ODNI employees are not authorized to accept or forward mailed service of process directed to another ODNI employee in that employee's individual capacity. Any such process will be returned to the sender via appropriate postal channels.

(c) Service of Process Upon an ODNI employee in a combined official and individual capacity. Unless otherwise expressly authorized by the General Counsel, service of process, in person or by mail, upon an ODNI employee in the employee's combined official and individual capacity, may be accepted only for the ODNI employee in the employee's official capacity by an OGC attorney at ODNI Headquarters. The OGC attorney shall write or stamp, "Service Accepted In Official Capacity Only," on the return of service form.

(d) Acceptance of service of process shall not constitute an admission or waiver with respect to jurisdiction, propriety of service, improper venue or any other defense in law or equity available under the laws or rules applicable to the service of process.

##### § 1702.4 Notification to Office of General Counsel.

An ODNI employee who receives or has reason to expect to receive, service of process in an official, individual or combined individual and official capacity in a matter that may involve testimony or the furnishing of documents that could reasonably be expected to involve ODNI interests, shall promptly notify the OGC ((703) 275–2527) prior to responding to the service in any manner, and if possible, before accepting service.

##### § 1702.5 Interpretation.

Any questions concerning interpretation of this regulation shall be referred to the Office of General Counsel for resolution.

**Corin R. Stone,**

*Acting General Counsel, Office of the Director of National Intelligence.*

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