

term is "Reference Daily Intake." Reference Daily Intakes are values established by FDA for use in nutrition labeling. Most RDIs are based on the National Academy of Science's Recommended Daily Allowances. In the final rule, FDA inadvertently used the term "recommended" instead of "reference" to describe daily intake. Therefore, FDA is replacing the term "Recommended Daily Intake" in § 172.380(c) and (d) with "Reference Daily Intake." Finally, in § 172.380(d), FDA used the term "fruit drink." Under § 102.33 (21 CFR 102.33), the common or usual name of the product is fruit juice drink. To be consistent with § 102.33, FDA is replacing the term "fruit drink" with "fruit juice drink" in § 172.380(d).

#### VII. Environmental Effects

When FAP 2A4734 was filed, it contained a claim of categorical exclusion under 21 CFR 25.32(k). The agency reviewed this claim and found it to be warranted for the petitioned action. As a result, the agency stated in the notice of filing for FAP 2A4734 that neither an environmental assessment nor an environmental impact statement was required. The agency has concluded that the modifications to the regulation in response to the objections as well as the corrections that are being made to the regulation by this document will not change the agency's previous determination that the categorical exclusion in 25.32(k) is warranted.

#### VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

#### IX. Objections

Any person who will be adversely affected by this amendment to the regulation may at any time file with the Division of Dockets Management (see **ADDRESSES**) written or electronic objections. Each objection shall be separately numbered, and each numbered objection shall specify with 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 shall be submitted and shall 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.

#### X. References

The following reference has 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 Folmer, Division of Petition Review, Chemistry Review Group, to Kidwell, Division of Petition Review, June 19, 2003.

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

Food additives, Reporting and recordkeeping requirements.

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

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended to read as follows:

■ 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 172.380 is amended by revising the introductory text and paragraphs (c) and (d) to read as follows:

#### § 172.380 Vitamin D<sub>3</sub>.

Vitamin D<sub>3</sub> may be used safely in foods as a nutrient supplement defined under § 170.3(o)(20) of this chapter in accordance with the following prescribed conditions:

\* \* \* \* \*

(c) Vitamin D<sub>3</sub> may be added, at levels not to exceed 100 International Units (IU) per 240 milliliters (mL) to 100 percent fruit juices, as defined under § 170.3(n)(35) of this chapter, excluding fruit juices that are specially formulated or processed for infants, that are fortified with greater than or equal to 33 percent of the Reference Daily Intake (RDI) of calcium per 240 mL.

(d) Vitamin D<sub>3</sub> may be added, at levels not to exceed 100 IU per 240 mL to fruit juice drinks, as defined under

§ 170.3(n)(35) of this chapter, excluding fruit juice drinks that are specially formulated or processed for infants, that are fortified with greater than or equal to 10 percent of the RDI of calcium per 240 mL.

Dated: June 13, 2005.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 05-12322 Filed 6-21-05; 8:45 am]

**BILLING CODE 4160-01-S**

## NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

### 28 CFR Part 901

[NCPPC 110]

#### Fingerprint Submission Requirements

**AGENCY:** National Crime Prevention and Privacy Compact Council.

**ACTION:** Final rule.

**SUMMARY:** The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact) Act of 1998, is finalizing a rule amending part 901, which codified the Compact Council's interpretation of the Compact's fingerprint-submission requirements as it relates to the use of the Interstate Identification Index (III) for noncriminal justice record checks during an emergency situation when the health and safety of a specified group may be endangered.

**DATES:** *Effective Date:* This final rule is effective on June 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna M. Uzzell, Compact Council Chairman, P.O. Box 1489, Tallahassee, FL 32302, telephone number (850) 410-7100.

**SUPPLEMENTARY INFORMATION:** This document finalizes the Compact Council's proposed amendments to part 901 published in the **Federal Register** on December 5, 2003, (68 FR 67991). The Compact Council received no written comments on the proposed amendments and is finalizing the amended rule as proposed except for minor edits and clarifications.

#### Background

The Compact provides that "Subjects fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes." See 42 U.S.C. 14616, Article V(a). The Compact Council recognizes the extreme reliability of fingerprint-based identifications and requires that fingerprints be submitted contemporaneously with search

requests whenever feasible. However, in promulgating the Fingerprint Submission Requirements Rule (28 CFR part 901, published May 21, 2001), the Council acknowledged that exigent circumstances may exist where time is a critical factor in decision making and the immediate fingerprinting of the subject is not feasible. In such emergency circumstances, the Council interprets the Compact to permit preliminary name-based searches of the III System for noncriminal justice purposes provided that fingerprints are submitted within a time frame specified by the Council. This procedure allows immediate access to criminal history record information during exigent circumstances followed by fingerprint submissions.

Part 901 authorizes state criminal history record repositories and the FBI, upon approval by the Compact Council, to grant access to the III System in emergency situations on a delayed fingerprint submission basis, predicated upon (1) a statute approved by the U.S. Attorney General pursuant to Public Law 92-544 or (2) a Federal statute or Executive Order. Access authorized by the rule shall adhere to (1) the Compact, (2) the Criminal Justice Information Services (CJIS) Security Policy, and (3) applicable state security policies. A State or Federal noncriminal justice agency granted access to the III pursuant to part 901 must also adhere to applicable State or Federal audit protocols.

Proposals requesting delayed fingerprint submission authority pursuant to this rule should be sent to the Compact Council Chairman at the address set out above. Such proposals should include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to the health or safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

Section 901.3(d) of the rule provides that other states or authorized Federal agencies may apply for delayed submission authority consistent with a Compact Council-approved proposal through application to the FBI Compact Officer, FBI CJIS Division, 1000 Custer Hollow Road, Module C3, Clarksburg, WV 26306. For example, a Florida proposal for delayed submission authority involving the emergency placement of children was approved by the Council and published as a notice in the September 19, 2003, **Federal Register**. States and Federal agencies seeking similar access may submit an

application to the FBI's Compact Officer rather than to the Council Chairman.

Subsequent to publication of part 901, states authorized to conduct name-based checks articulated varying interpretations of the fingerprint submission time frame requirement. In order to eliminate these disparate interpretations, the Compact Council is amending the rule to define "time frame" by adding a sentence at the end of Subsection 901.3(c).

Section 901.3 is also amended by adding paragraph (e) to clarify that part 901 is also applicable to Federal agencies authorized to access criminal history records pursuant to Federal statute or Executive Order for noncriminal justice purposes.

The FBI CJIS Division recently expanded its Audit Unit programs to include reviews of noncriminal justice agencies with direct access to the III System. The Council added Section 901.4 to address audits, identifying the State Compact Officer or the Chief Administrator of the Criminal History Record Repository in nonparty states as the responsible party to ensure that audits are conducted of approved state agencies. The responsible federal CJIS System Officer (formerly known as the Service Coordinator) will ensure that similar audits are conducted of authorized Federal agencies. The audit will verify adherence to the provisions of part 901 and the FBI CJIS Security Policy.

When the amended proposed Fingerprint Submission Requirements rule was published on December 5, 2003, section 901.5 addressed compliance and sanctions related to use of this rule only. Subsequent to publication of the proposed amendments, the Compact Council published a proposed rule entitled "Compact Council Procedures for Compliant Conduct and Responsible Use of the Interstate Identification Index (III) System for Noncriminal Justice Purposes" (Sanctions Rule) on February 17, 2005. The Sanctions Rule establishes procedures to be used in determining compliant conduct and responsible use of III System records for any noncriminal justice purpose, including the purpose addressed in the Fingerprint Submission Requirements rule. Therefore, section 901.5 is removed from this final rule.

#### **Administrative Procedures and Executive Orders**

##### *Administrative Procedure Act*

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact

(Compact) Act. (See Pub. L. 105-251.) The Compact Council, composed of 15 members including 11 State and local governmental representatives, is authorized to promulgate rules, procedures, and standards for the effective and proper use of the Interstate Identification Index (III) System for noncriminal justice purposes. The Compact mandates that such rules, procedures, or standards be published in the **Federal Register**. See 42 U.S.C. 14616, Articles II(4), VI(a)(1), and VI(e). This publication complies with those requirements.

##### *Executive Order 12866*

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

##### *Executive Order 13132*

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this Rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

##### *Executive Order 12988*

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

##### *Unfunded Mandates Reform Act*

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801-804) is not applicable to the Council's Rule because the Compact Council is not a "Federal agency" as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. See 5 U.S.C. 804.

**List of Subjects in 28 CFR Part 901**

Crime, Health, Privacy, Safety.

■ Accordingly, part 901 of title 28 of the Code of Federal Regulations is revised to read as follows:

**PART 901—FINGERPRINT SUBMISSION REQUIREMENTS**

Sec.

901.1 Purpose and authority.

901.2 Interpretation of fingerprint submission requirements.

901.3 Approval of delayed fingerprint submission requests.

901.4 Audits.

**Authority:** 42 U.S.C. 14616.

**§ 901.1 Purpose and authority.**

The Compact Council is established pursuant to the National Crime Prevention and Privacy Compact (Compact), title 42, U.S.C., chapter 140, subchapter II, section 14616. The purpose of these provisions is to interpret the Compact, as it applies to the required submission of fingerprints, along with requests for Interstate Identification Index (III) records, by agencies authorized to access and receive criminal history records under Public Law 92–544, and to establish protocols and procedures applicable to the III and its use for noncriminal justice purposes.

**§ 901.2 Interpretation of fingerprint submission requirements.**

(a) Article V of the Compact requires the submission of fingerprints or other approved forms of positive identification with requests for criminal history record checks for noncriminal justice purposes. The requirement for the submission of fingerprints may be satisfied in two ways:

(1) The fingerprints should be submitted contemporaneously with the request for criminal history information, or

(2) For purposes approved by the Compact Council, a delayed submission of fingerprints may be permissible under exigent circumstances.

(b) A preliminary III name based check may be made pending the receipt of the delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks. Such access must be made pursuant to the security policy set forth by the state's Criminal Justice Information Services (CJIS) Systems Agency (formerly known as the Control Terminal Agency).

**§ 901.3 Approval of delayed fingerprint submission requests.**

(a) A state may, based upon exigent circumstances, apply for delayed submission of fingerprints supporting requests for III records by agencies authorized to access and receive criminal history records under Public Law 92–544. Such applications must be sent to the Compact Council Chairman and include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

(b) In evaluating requests for delayed submissions, the Compact Council must utilize the following criteria:

- (1) The risk to health and safety; and
- (2) The emergency nature of the request.

(c) Upon approval of the application by the Compact Council, the authorized agency may conduct a III name check pending submission of the fingerprints. The fingerprints must be submitted within the time frame specified by the Compact Council. For the purposes of this part, "time frame" means the number of days that elapse between the date on which the name search was conducted and the date on which the state repository either positively identifies the fingerprint subject or forwards the fingerprints to the FBI or the date a Federal agency forwards the fingerprints to the FBI.

(d) Once a specific proposal has been approved by the Compact Council, another state may apply for delayed fingerprint submission consistent with the approved proposal, provided that the state has a related Public Law 92–544 approved state statute, by submitting the application to the FBI Compact Officer, 1000 Custer Hollow Road, Module C–3, Clarksburg, WV 26306–0001.

(e) Part 901 is also applicable to any federal agency authorized to access criminal history records pursuant to Federal statute or Executive Order for noncriminal justice purposes.

**§ 901.4 Audits.**

(a) Audits of authorized State agencies that access the III System shall be conducted by the State's Compact Officer or, in the absence of a Compact Officer, the chief administrator for the criminal history record repository. The responsible Federal CJIS Systems Officer shall ensure that similar audits are conducted of authorized Federal agencies. Such audits shall be

conducted to verify adherence to the provisions of part 901 and the FBI's CJIS Security Policy.

(b) Authorized agencies shall cause to be collected an appropriate record of each instance of III System access through a manual or electronic log. The log shall be maintained for a minimum one-year period to facilitate the audits and compliance reviews. Such records shall be maintained in accordance with the CJIS Security Policy. (For information on this security policy, contact your CJIS Systems Officer.)

(c) The audit and compliance reviews must include mechanisms to determine whether fingerprints were submitted within the time frame specified by the Compact Council.

(d) In addition to the audits as stated above, the FBI CJIS Audit staff shall also conduct routine systematic compliance reviews of State repositories, Federal agencies, and as necessary other authorized III System user agencies.

Dated: May 12, 2005.

**Donna M. Uzzell,**

*Compact Council Chairman.*

[FR Doc. 05–12326 Filed 6–21–05; 8:45 am]

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**NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL****28 CFR Part 904**

[NCPPC 109]

**Criminal History Record Screening for Authorized Noncriminal Justice Purposes**

**AGENCY:** National Crime Prevention and Privacy Compact Council.

**ACTION:** Final rule.

**SUMMARY:** The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule to establish criminal history record screening standards for criminal history record information received from the Interstate Identification Index (III) for authorized noncriminal justice purposes.

**DATES:** This rule is effective on July 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna M. Uzzell, Compact Council Chairman, Florida Department of Law Enforcement, P. O. Box 1489, Tallahassee, FL 32302, telephone number (850) 410–7100.

**SUPPLEMENTARY INFORMATION:** This document finalizes the Compact Council rule proposed in the **Federal Register** on February 17, 2005. The