

and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”<sup>7</sup> Because these technical amendments adopted today merely corrects the inadvertent omission of paragraph (d) of rule 204-1, and make a technical, conforming amendment to rule 202(a)(1)-1, the Commission finds that publishing the amendment for comment is unnecessary.

Regarding rule 204-1, when the Commission proposed amendments to rule 204-1 in 1996, it did not propose to delete paragraph (d) of rule 204-1.<sup>8</sup> It thus appears unlikely that any commenter considered the deletion of paragraph (d) of rule 204-1 at any time during the comment period. Finally, if these changes to rule 204-1 were delayed to allow for notice and opportunity for comment, there may be confusion among advisers regarding whether an amendment to Form ADV would be considered a “report” for purposes of sections 204 and 207 of the Advisers Act.

Publication of a substantive rule not less than 30 days before its effective date is required by the APA except as otherwise provided by the agency for good cause.<sup>9</sup> For the same reasons as described above with respect to notice and opportunity for comment, the Commission finds that there is good cause for having these correcting amendments become effective on January 15, 1999.

#### List of Subjects in 17 CFR Part 275

Reporting and recordkeeping requirements, Securities.

#### PART 275—RULES AND REGULATIONS, INVESTMENT ADVISERS ACT OF 1940

Accordingly, 17 CFR part 275 is corrected by making the following correcting amendments:

1. The authority citation for part 275 continues to read in part as follows:

**Authority:** 15 U.S.C. 80b-2(a)(17), 80b-3, 80b-4, 80b-6(4), 80b-6a, 80b-11, unless otherwise noted.

\* \* \* \* \*

#### § 275.202 [Amended]

2. In § 275.202(a)(1)-1, following the word “section,” the reference to “205(2)” is corrected to read “205(a)(2)”.

3. In § 275.204-1, add paragraph (c) to read as follows:

#### § 275.204-1. Amendments to application for registration.

\* \* \* \* \*

(c) Every document required pursuant to this section shall constitute a “report” within the meaning of sections 204 and 207 of the Act [15 U.S.C. 80b-4, 80b-7].

By the Commission.

Dated: January 7, 1999.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-920 Filed 1-14-99; 8:45 am]

BILLING CODE 8010-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 175

[Docket No. 96F-0136]

#### Indirect Food Additives: Adhesives and Components of Coatings

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of silver chloride-coated titanium dioxide as a preservative in polymeric coatings for polyolefin films intended for use in contact with food. This action is in response to a petition filed by Johnson Matthey Chemicals.

**DATES:** The regulation is effective January 15, 1999; written objections and requests for a hearing by February 16, 1999.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1601, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

**SUPPLEMENTARY INFORMATION:** In a notice published in the *Federal Register* of May 10, 1996 (61 FR 21473), FDA announced that a food additive petition (FAP 6B4503) had been filed by Johnson Matthey Chemicals, c/o Technical Assessment Systems, Inc., The Flour Mill, 1000 Potomac St. NW., Washington, DC 20007. The petition proposed to amend the food additive regulations in § 175.320 *Resinous and polymeric coatings for polyolefin films* (21 CFR 175.320) to provide for the safe

use of silver chloride-coated titanium dioxide as a preservative in polymeric coatings for polyolefin films intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the additive is safe, (2) the food additive will have the intended technical effect, and (3) the regulations in § 175.320 should be amended as set forth below.

Silver chloride-coated titanium dioxide intended for use as a preservative in polymeric coatings for polyolefin films intended for use in contact with food is regulated under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348) as a food additive and not as a pesticide chemical under section 408 of the act (21 U.S.C. 346a). However, this intended use of silver chloride-coated titanium dioxide may nevertheless be subject to regulation as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Therefore, manufacturers intending to market food-contact articles containing silver chloride-coated titanium dioxide for this intended use should contact the Environmental Protection Agency to determine whether this use requires a pesticide registration under FIFRA.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

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.

Any person who will be adversely affected by this regulation may at any

<sup>7</sup> 5 U.S.C. 553(b).

<sup>8</sup> See Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1601 (Dec. 20, 1996) [61 FR 68480 (Dec. 27, 1996)].

<sup>9</sup> 5 U.S.C. 553(d).

time on or before February 16, 1999, file with the Dockets Management Branch (address above) written objections thereto. 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 Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

**List of Subjects in 21 CFR Part 175**

Adhesives, Food additives, Food packaging.  
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 175 is amended as follows:

**PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS**

1. The authority citation for 21 CFR part 175 continues to read as follows:

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

2. Section 175.320 is amended in the table in paragraph (b)(3) by adding entry "(iv)" to read as follows:

**§ 175.320 Resinous and polymeric coatings for polyolefin films.**

- \* \* \* \* \*
- (b) \* \* \*
- (3) \* \* \*

List of substances	Limitations
* * *	* * *
(iv) Preservatives: Silver chloride-coated titanium dioxide. ....	For use only as a preservative in latex emulsions at a level not to exceed 2.2 parts per million (based on silver ion concentration) in the dry coating.

\* \* \* \* \*  
Dated: January 7, 1999.

**L. Robert Lake,**  
*Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.*  
[FR Doc. 99-902 Filed 1-14-99; 8:45 am]  
BILLING CODE 4160-01-F

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 301**

[TD 8807]

RIN 1545-AW82

**Timely Mailing Treated as Timely Filing/Electronic Postmark**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains temporary and final regulations relating to timely mailing treated as timely filing and paying under section 7502. The temporary regulations generally reflect changes to the law made by the Internal Revenue Service Restructuring and Reform Act of 1998. The temporary regulations affect taxpayers that file

documents or make payments or deposits. The text of the temporary regulations is also set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

**DATES: Effective date:** These regulations are effective January 15, 1999.

**Applicability date:** For dates of applicability, see § 301.7502-1T(f)(3).

**FOR FURTHER INFORMATION CONTACT:** Charles A. Hall (202) 622-4940 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains amendments to the Regulations on Procedure and Administration (26 CFR part 301) under section 7502 relating to timely mailing treated as timely filing and paying. Section 7502(c)(2) was amended by section 2003(b) of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 725 (1998)), to authorize the Secretary to provide the extent to which the prima facie evidence of delivery and postmark date rules apply to electronic filing.

**Explanation of Provisions**

These temporary regulations add § 301.7502-1T(d) to provide that the date of an electronic postmark given by an authorized electronic return

transmitter will be deemed the filing date if the date of the electronic postmark is on or before the filing due date. It also permits the Commissioner to enter into an agreement with an electronic return transmitter or to prescribe in forms, instructions, or other appropriate guidance the procedures under which the electronic return transmitter is authorized to provide taxpayers with an electronic postmark to acknowledge the date and time that the electronic return transmitter received the electronically filed document.

An electronic return transmitter is defined for purposes of the regulation the same as in the revenue procedures governing the Electronic Filing Program, currently Rev. Proc. 98-50 (1998-38 I.R.B. 8 (September 21, 1998)), and the On-Line Filing Program, currently Rev. Proc. 98-51 (1998-38 I.R.B. 20 (September 21, 1998)). An electronic postmark is a record of the date and time that an authorized electronic return transmitter receives the transmission of the taxpayer's electronically filed document on its host system.

For tax year 1998, the rules on electronic postmarks are effective for income tax returns filed through electronic return transmitters authorized to provide an electronic postmark pursuant to an agreement under the