

522, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this regulation: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Jet route designations are published in paragraph 2004 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The jet route designation listed in this document will be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1, as follows:

Paragraph 2004—Jet Routes

* * * * *

J-522 [Revised]

From Brainerd, MN; Green Bay, WI; Traverse City, MI; Au Sable, MI; Toronto, ON, Canada; INT Toronto 096° and Rochester, NY, 300° radials; Rochester, NY; Hancock, NY; to Kingston, NY. The airspace within Canada is excluded.

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Issued in Washington, DC, on January 7, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99-996 Filed 1-14-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA-1780; File Nos. S7-31-96; S7-7-86]

RIN 3235-AH59

Technical Amendments Under the Investment Advisers Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Corrections to final regulations.

SUMMARY: The Commission is making technical corrections to rules 204-1 and 202(a)(1)-1 under the Investment Advisers Act of 1940 ("Advisers Act"). Rule 204-1 was published Thursday, May 22, 1997 (62 FR 28112), under the Investment Advisers Act of 1940 ("Advisers Act"). Rule 204-1 relates to the investment adviser application for registration with the Commission. Rule 202(a)(1)-1 was published on Wednesday, September 17, 1986 (51 FR 32906), under the Advisers Act. Rule 202(a)(1)-1 relates to certain transactions not deemed "assignments" for purposes of section 205 of the Advisers Act.

EFFECTIVE DATE: The rule corrections will become effective on January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey O. Himstreet, Attorney, at (202) 942-0533, Task Force on Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 5-6, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

A. Rule 204-1

Rule 204-1 sets forth the circumstances that require the filing of an amended investment adviser registration form. Last year, the Commission adopted amendments to

rule 204-1 to require that, among other things, an adviser file an amended Schedule I annually within 90 days of the end of the adviser's fiscal year.¹ In adopting that amendment and renumbering the provisions of the rule, paragraph (d) of rule 204-1 was inadvertently omitted from the rule.

Prior to effectiveness of the implementing rules, rule 204-1(d)² stated that every document required to be filed with the Commission pursuant to rule 204-1 shall constitute a "report" for purposes of sections 204³ and 207⁴ of the Advisers Act. This correction restores the language contained originally in paragraph (d) by placing this language in new paragraph (c) of rule 204-1.

B. Rule 202(a)(1)-1

Rule 202(a)(1)-1 provides that a transaction that does not result in a change of control or management of an adviser is "not an assignment for purposes of section 205(2) of the Act."⁵ In 1987, Congress amended and renumbered section 205 of the Advisers Act,⁶ and, as a result rule 202(a)(1)-1 contains an incorrect reference. The Commission is correcting this reference.

II. Certain Findings

Under the Administrative Procedure Act ("APA"), notice of proposed rulemaking is not required when the agency for good cause finds "that notice

¹ See Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)], at section II.L.1.

² 17 CFR 275.204-1(d) (1995).

³ 15 U.S.C. 80b-4. Section 204 requires SEC-registered advisers generally to "make and keep for prescribed periods" certain records, to furnish copies of those records as required by Commission rule, and to "make and disseminate such reports as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors." Section 204 also grants Commission representatives authority to inspect the records of SEC-registered advisers. *Id.*

⁴ 15 U.S.C. 80b-7. Section 207 makes it unlawful for any person willfully to make any untrue statement of a material fact or to omit to state any material fact required to be stated "in any registration application or report" filed with the Commission under section 203 or 204. *Id.*

⁵ 17 CFR 270.202(a)(1)-1. Section 205(2) prohibited certain advisers from entering into, extending, or renewing any advisory contract that allowed an assignment of the advisory contract without consent of the party to the contract. See Section 205 of the Advisers Act [15 U.S.C. 80b-5 (1985)].

⁶ 100 Pub. L. 181, 111 Stat. 1249 (Dec. 4, 1987) (codified in scattered sections of 15 U.S.C.). The amendments to section 205 and other sections of the federal securities laws also were part of a bill to extend authorization of appropriations to the Commission. *Id.* Congress also amended section 205 in 1996, among other reasons, to grant the Commission the ability to exempt any person or transaction from section 205(a)(1). Pub. L. No. 104-296, 110 Stat. 3416 (1996).

and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”⁷ 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 204-1.⁸ 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.⁹ 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.

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§ 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]

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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

⁷ 5 U.S.C. 553(b).

⁸ 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)].

⁹ 5 U.S.C. 553(d).