

2. Is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

##### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

##### 2012–13–10 PZL Swidnik S.A.:

Amendment 39–17112; Docket No. FAA–2012–0703; Directorate Identifier 2010–SW–019–AD.

##### (a) Applicability

This AD applies to PZL Swidnik S.A. (PZL) Model PZL W–3A helicopters with a generator air outlet collector, part number (P/N) GT40PCz8B; certificated in any category.

##### (b) Unsafe Condition

This AD defines the unsafe condition as rotation of the generator air outlet collector, which could lead to restricted cyclic control stick movement and subsequent loss of control of the helicopter.

##### (c) Effective Date

This AD becomes effective August 1, 2012.

##### (d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

##### (e) Required Action

Within 100 hours time-in-service, modify the generator air outlet collector attachments in accordance with Section II and Sketches 1 and 2 of PZL–Swidnik Service Bulletin No. BS–37–09–230, dated October 13, 2009.

##### (f) Special Flight Permits

Special flight permits will not be issued.

#### (g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Policy Group, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5110, email [gary.b.roach@faa.gov](mailto:gary.b.roach@faa.gov).

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

#### (h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD 2010–0017, dated January 29, 2010.

#### (i) Subject

Joint Aircraft Service Component (JASC) Code: 2420: AC Generation System.

#### (j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Transportation Equipment Factory PZL–Świdnik Service Bulletin No. BS–37–09–230, dated October 13, 2009, to do the actions required by this AD.

(ii) Reserved.

(3) For PZL service information identified in this AD, contact Transportation Equipment Factory PZL–Swidnik S.A., A1. Lotników Polskich 1, 21–045 Świdnik, Poland; telephone (+48 81) 468 09 01, 751 20 71; fax (+48 81) 468 09 19, 751 21 73; or at [www.pzl.swidnik.pl](http://www.pzl.swidnik.pl).

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(5) You may also view this service information 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).

Issued in Fort Worth, Texas, on July 2, 2012.

**Kim Smith,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2012–16939 Filed 7–16–12; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 177

[Docket No. FDA–2012–F–0031]

#### Indirect Food Additives: Polymers

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA or the Agency) is amending the food additive regulations to no longer provide for the use of polycarbonate (PC) resins in infant feeding bottles (baby bottles) and spill-proof cups, including their closures and lids, designed to help train babies and toddlers to drink from cups (sippy cups) because these uses have been abandoned. The action is in response to a petition filed by the American Chemistry Council.

**DATES:** This rule is effective July 17, 2012. Submit either electronic or written objections and requests for a hearing by August 16, 2012. See section VIII of this document for information on the filing of objections.

**ADDRESSES:** You may submit either electronic or written objections and requests for a hearing, identified by Docket No. FDA–2012–F–0031, by any of the following methods:

#### Electronic Submissions

Submit electronic objections in the following way:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

#### Written Submissions

Submit written objections in the following ways:

- FAX: 301–827–6870.
- Mail/Hand delivery/Courier (for paper or CD–ROM submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**Instructions:** All submissions received must include the Agency name and Docket No. FDA–2012–F–0031 for this rulemaking. All objections received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments, see the section VIII.

Objections in the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** For access to the docket to read background documents or

objections received, go to <http://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:**

Vanee Komolprasert, Center for Food Safety and Applied Nutrition (HFS-275), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 240-402-1217.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

In a notice published in the **Federal Register** of February 17, 2012 (77 FR 9608), FDA announced that a food additive petition (FAP 1B4783) had been filed by the American Chemistry Council (ACC), 700 Second St. NE., Washington, DC 20002. The petition proposed to amend the food additive regulations in § 177.1580 (21 CFR 177.1580) to no longer provide for the use of PC resins in baby bottles and sippy cups because these uses have been abandoned. PC resins are formed by the condensation of 4,4'-isopropylendiphenol (i.e., Bisphenol A (BPA)), and carbonyl chloride or diphenyl carbonate. PC resins may be safely used as articles or components of articles intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food, in accordance with the prescribed conditions of § 177.1580.

**II. Evaluation of Abandonment**

Under section 409(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348(i)), FDA "shall by regulation prescribe the procedure by which regulations under the foregoing provisions of this section may be amended or repealed, and such procedure shall conform to the procedure provided in this section for the promulgation of such regulations." FDA's regulations specific to administrative actions for food additives provide as follows: "The Commissioner, on his own initiative or on the petition of any interested person, pursuant to part 10 of this chapter, may propose the issuance of a regulation amending or repealing a regulation pertaining to a food additive or granting or repealing an exception for such additive." (§ 171.130(a) (21 CFR 171.130(a))). These regulations further provide: "Any such petition shall include an assertion of facts, supported by data, showing that new information exists with respect to

the food additive or that new uses have been developed or old uses abandoned, that new data are available as to toxicity of the chemical, or that experience with the existing regulation or exemption may justify its amendment or appeal. New data shall be furnished in the form specified in §§ 171.1 and 171.100 for submitting petitions." (§ 171.130(b)). Under these regulations, a petitioner may propose that FDA amend a food additive regulation if the petitioner can demonstrate that there are "old uses abandoned" for the relevant food additive. Such abandonment must be complete for any intended uses in the U.S. market. While section 409 of the FD&C Act and § 171.130 also provide for amending or revoking a food additive regulation based on safety, an amendment or revocation based on abandonment is not based on safety, but is based on the fact that regulatory authorization is no longer necessary for the use of the food additive because that use has been permanently and completely abandoned.

Abandonment may be based on the abandonment of certain authorized food additive uses for a substance (e.g., if a substance is no longer used in certain product categories) or on the abandonment of all authorized food additive uses of a substance (e.g., if a substance is no longer being manufactured). If a petition seeks an amendment to a food additive regulation based on the abandonment of certain uses of the food additive, such uses must be adequately defined so that both the scope of the abandonment and any amendment to the food additive regulation are clear.

The ACC petition contained public information and information collected from companies that produce PC resins to support the claim that baby bottles and sippy cups manufactured from PC resins are no longer being introduced into the U.S. market and that manufacturers of baby bottles and sippy cups have abandoned the use of PC resins in making these products. Specifically, the petition contained the results of an industry poll showing that the PC resin manufacturers, which represent over 97 percent of worldwide PC resin production capacity, are no longer, to their knowledge, selling PC resins to be used in the manufacture of baby bottles and sippy cups intended for import into the United States or sale in the U.S. market.

**III. Comments on the Filing Notice**

The Agency provided 60 days for comments on the filing notice. FDA received six distinct comments from individuals and consumer groups (FDA

received seven comments total, but one represented a corrected version of a comment submitted earlier). Three of the six comments exclusively addressed the safety of BPA in food, two of the comments addressed both safety and abandonment, while one comment addressed only abandonment. While none of these comments included any information to indicate that the use of BPA-based PC resins in the manufacture of baby bottles and sippy cups has not been completely and permanently abandoned, or to indicate that these uses were not adequately defined, these comments raised six main issues, discussed further in this document.

*A. The Safety of BPA*

As indicated in the filing notice (77 FR 9608 at 9609), because the petition was based on an assertion of abandonment, the Agency did not request comments on the safety of the use of PC resins in baby bottles and sippy cups. Such safety information is not relevant to abandonment and, therefore, any comments addressing the safety of PC resins were not considered in the Agency's evaluation of this petition. Separate from FDA's consideration of this petition, FDA is actively assessing the safety of BPA (see 75 FR 17145, April 5, 2010; see also <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm064437.htm>).

*B. Whether the Subject Uses Are Adequately Defined*

**1. Baby Bottles**

(Comment 1) One comment stated that the Agency did not offer additional description or clarification of the term "baby bottles," which was defined by ACC as "infant feeding bottles." The comment stated that this definition failed to identify the full spectrum of beverage containers from which infants, toddlers, and children consume beverages.

(Response) The Agency has concluded that the term infant feeding bottle (baby bottle) adequately defines the specific use of PC resins that is the subject of the proposed action so that both the scope of the abandonment and this amendment to the food additive regulation are clear. FDA agrees that this term does not cover the full spectrum of beverage containers from which infants, toddlers, and children consume beverages. However, this spectrum of beverage containers was not the scope of the petition. Instead, the petition was limited to the use of PC resins in baby bottles and sippy cups. FDA concludes that the terms "baby bottle" and "infant feeding bottle" are generally recognized

by both the general public and the regulated industry and adequately define this use of PC resins addressed by the petition.

#### 2. Sippy Cups

(Comment 2) The petition defined “sippy cup” as a spill-proof cup designed to help train babies to drink from cups. As stated in the filing notice (77 FR 9608 at 9609), for the purposes of this petition, FDA more specifically considers “sippy cup” to mean a spill-proof cup, including its closures and lids, designed to train babies or toddlers to drink from cups. FDA specifically requested comment on whether this use of PC resins is adequately defined. Two of the comments expressed the opinion that the term “sippy cup” is narrow or not inclusive of the different types of bottles and cups used by small children and toddlers, and defining sippy cups as cups that are spill-resistant would not cover the use of PC resins in toddler cups (such as drinking cups without a lid) that do not have this feature. One comment recommended that the term “designed for” be clarified to include both functionality (e.g., spill-resistant) and aesthetics (e.g., anything with cartoon characters) in order to cover a broader category of products. Another comment recommended that the definition of “sippy cup” be expanded to include all cups rated for the target age group. No comments stated that this particular use of PC resins was not adequately defined.

(Response) The Agency has determined that the functionality of a spill-resistant cup is the critical factor in defining the particular use of PC resins that the petition asserted has been permanently and completely abandoned. The petition asserted that the use of PC resins in spill-proof cups has been abandoned. Because the scope of the petition was limited to functionality, and did not address aesthetics, FDA concludes that the functionality of spill resistance is the defining feature of a “sippy cup” as contemplated by the petition, and about which FDA requested comment.

The Agency has concluded that the phrase “spill proof cups, including their closures and lids, designed to help train babies or toddlers to drink from cups (sippy cups)” adequately defines the specific use of PC resins that is the subject of the proposed action and is generally recognized by the regulated industry and the public. The comments that addressed the term “sippy cup” did not assert that this term is unclear to consumers or industry, or that this use of PC resins is not adequately defined; instead, the comments opined that any

action taken by FDA should address beverage containers used by children that are beyond the scope of these terms. FDA agrees that these terms do not cover the full spectrum of beverage containers from which infants, toddlers, and children consume beverages. However, this spectrum of beverage containers was not the scope of the petition. Instead, the petition was limited to specific uses of PC resins.

#### C. The Scope of the Uses of PC Resins Addressed by the Petition

(Comment 3) Two comments recommended that the scope of any action taken by FDA in response to ACC’s petition include other products that an infant or toddler may regularly put in its mouth (e.g., pacifiers, teethingers, tableware) or that may come in contact with breast milk (e.g., breast pump, pumping supplies, breast milk storage kits).

(Response) The Agency has concluded that it is not appropriate, in this amendment to the food additive regulations, to address any uses of PC resins beyond those specified in ACC’s petition, for the following reasons:

- The suggested products are beyond the scope of the uses as described in the petition, about which the petition provided detailed evidence, and about which FDA requested comment; and
- No comments received by FDA provided specific information to demonstrate that any additional uses of PC resins have been completely and permanently abandoned.

#### D. Whether the Subject Uses Have Been Abandoned

(Comment 4) One comment expressed the opinion that PC resins are still used worldwide in the manufacture of plastics products and, although the current manufacturers of sippy cups do not currently use these resins, a new producer may still choose to use these PC resins to make plastic products. Accordingly, the comment asserts that removing these uses of PC resins from the food additive regulations leaves the opportunity for these uses of BPA to go “unchecked.”

(Response) The Agency does not agree with this comment. First, the petition provided evidence that the use of PC resins in the manufacture of baby bottles and sippy cups has been permanently and completely abandoned, and FDA did not receive any comments demonstrating that these uses have not been abandoned. The comment addressed uses of PC resins that are beyond the scope of the petition and this action. A food is considered to be adulterated if it contains an unapproved

food additive (see section 409 of the FD&C Act). The amendment to § 177.1580 means that FDA’s regulations no longer provide for the use of PC resins in baby bottles and sippy cups.

#### E. Labeling of BPA Containing Materials

(Comment 5) One comment asserted that because FDA does not require that manufacturers identify the presence of BPA-containing materials in their labeling, the general public is defenseless to counter industry assertions about the abandonment (i.e., the general public has no way of knowing whether industry has in fact abandoned certain uses of BPA-containing materials or whether certain products contain BPA), and recommended that FDA require labeling of all food contact materials that contain BPA.

(Response) The petition did not request that FDA establish requirements for the labeling of products manufactured with BPA. Therefore, this comment is outside the scope of the action requested by the petition, and FDA did not consider this comment.

#### F. The Amount of BPA Allowed in the Plastic Products

(Comment 6) One comment expressed the opinion that one way to determine if PC resins are not present in a plastic product is to measure the presence of BPA in the product. The comment suggested that, in addition to granting ACC’s petition, FDA should set a limit of the amount of BPA found in the other suggested plastic products to 0.1 parts per billion.

(Response) The petition did not request that FDA establish limits for the amount of BPA in certain products. Therefore, this comment is outside the scope of the action requested by the petition, and FDA did not consider this comment.

### IV. Conclusion

FDA reviewed the data and information in the petition and other available relevant material to evaluate whether the use of BPA-based PC resins in the manufacture of baby bottles and sippy cups has been completely and permanently abandoned. Based on the available information, the Agency concludes that these uses have been completely and permanently abandoned. Therefore, the regulations in 21 CFR part 177 should be amended as set forth in this document.

### V. Public Disclosure

In accordance with § 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 (see **FOR FURTHER INFORMATION CONTACT**). 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.

## VI. Environmental Impact

The Agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 1B4783 (77 FR 9608). No new information or comments have been received that would affect the Agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

## VII. 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.

## VIII. Objections

Any person who will be adversely affected by this regulation may file with the Division of Dockets Management (see **ADDRESSES**) either electronic or written objections by (see **DATES**). Each objection must be separately numbered, and each numbered objection must 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 must specifically so state. Failure to request a hearing for any particular objection constitutes a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested must 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 constitutes a waiver of the right to a hearing on the objection. It is only necessary to send one set of documents. Identify documents 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.

### List of Subjects in 21 CFR Part 177

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 177 is amended as follows:

### PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

■ 1. The authority citation for 21 CFR part 177 continues to read as follows:

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

■ 2. Section 177.1580 is amended by adding paragraph (d) to read as follows:

#### § 177.1580 Polycarbonate resins.

\* \* \* \* \*

(d) Polycarbonate resins may be used in accordance with this section except in infant feeding bottles (baby bottles) and spill-proof cups, including their closures and lids, designed to help train babies and toddlers to drink from cups (sippy cups).

Dated: July 12, 2012.

**Leslie Kux,**

*Assistant Commissioner for Policy.*

[FR Doc. 2012–17366 Filed 7–16–12; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Parts 100 and 165

[Docket Number USCG–2011–0551]

RIN 1625–AA00; 1625–AA08

#### Special Local Regulation and Safety Zone; America's Cup Sailing Events, San Francisco, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a special local regulation and a safety zone for sailing regattas that may be conducted on the waters of San Francisco Bay adjacent to the City of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island. This rule will regulate the on-water activities associated with the “2012 America's Cup World Series” regatta scheduled for August 21–26, 2012; and the “Louis Vuitton Cup,” “Red Bull Youth America's Cup,” and “America's Cup Finals Match” scheduled to occur in July, August, and September, 2013. These regulations are necessary to provide for the safety of life on the navigable waters immediately

prior to, during, and immediately after any regattas that may occur. The regulation will temporarily restrict vessel traffic in a portion of the San Francisco Bay, prohibit vessels not participating in the America's Cup sailing events from entering the designated race area, and create a temporary safety zone around racing vessels.

**DATES:** Section 100.T11–0551A is effective from August 21, 2012, until August 26, 2012. Section 100.T11–0551B is effective from July 4, 2013, until September 23, 2013. Section 165.T11–0551 is effective from August 21, 2012, until September 23, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket USCG–2011–0551. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant DeCarol Davis, U.S. Coast Guard Sector San Francisco, Waterways Management Division, U.S. Coast Guard; telephone (415) 399–7443, email [DeCarol.A.Davis@uscg.mil](mailto:DeCarol.A.Davis@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

### SUPPLEMENTARY INFORMATION:

#### Table of Acronyms

ACRM America's Cup Race Management  
CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
MEP Marine Event Permit  
NEPA National Environmental Policy Act  
NPRM Notice of Proposed Rulemaking  
NPS National Park Service  
VTS Vessel Traffic Service

#### A. Regulatory History and Information

On January 30, 2012, the Coast Guard published a notice of proposed rulemaking (NPRM) proposing regulations to protect public safety if the 34th America's Cup sailing races occur, as proposed, in 2012 and 2013 on San Francisco Bay. See 77 FR 4501. The Coast Guard provided a 90-day period for public comment on the proposed