

moving the point to the bell buoy, is moving the point the minimum distance it can be moved to achieve the goal of having the point marked by a buoy. The Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management under 5 U.S.C. 553(b)(B) for good cause accordingly finds that providing notice and opportunity for comment is unnecessary. Because this rule slightly increases the area of the affected zone, it relieves a restriction and under 5 U.S.C. 553(d)(1) is not subject to a 30-day delay in effective date.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 29, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart M—Monterey Bay National Marine Sanctuary

2. Appendix D to Subpart M of Part 922 is amended by revising paragraphs (1), (2), (3) and (4) to read as follows:

Appendix D to Subpart M of Part 922—Zones and Access Routes Within the Sanctuary Where the Operation of Motorized Personal Watercraft is Allowed

* * * * *

(1) The approximately one [1.0] NM² area off Pillar Point Harbor from harbor launch ramps, through harbor entrance to the northern boundary of Zone One bounded by (a) 37°29.6' N (flashing 5-second breakwater entrance light and horn located at the seaward end of the outer west breakwater), 122°29.1' W; (b) 37°28.9' N (bell buoy), 122°29.0' W; (c) 37°28.8' N, 122°28' W; and (d) 37°29.6' N, 122°28' W;

(2) The approximately five [5.0] NM² area off of Santa Cruz Small Craft Harbor from harbor launch ramps, through harbor entrance, and then along

a 100 yard wide access route southwest along a true bearing of approximately 196° (180° magnetic) to the whistle buoy at 36°56.3' N, 122°00.6' W. Zone Two is bounded by (a) 36°55' N, 122°02' W; (b) 36°55' N, 121°58' W; (c) 36°56.5' N, 121°58' W; and (d) 36°56.5' N, 122°02' W;

(3) The approximately six [6.0] NM² area off of Moss Landing Harbor from harbor launch ramps, through harbor entrance, and then along a 100 yard wide access route due west to the eastern boundary of Zone Three bounded by (a) 36°50' N, 121°49.3' W; (b) 36°50' N, 121°50.8' W; (c) 36°46.7' N, 121°50.8' W; (d) 36°46.7' N, 121°49' W; (e) 36°47.9' N (bell buoy), 121°48.1' W; and (f) 36°48.9' N, 121°48.2' W; and

(4) The approximately five [5.0] NM² area off of Monterey Harbor from harbor launch ramps to the seaward end of the U.S. Coast Guard Pier, and then along a 100 yard wide access route due north to the southern boundary of Zone Four bounded by (a) 36°38.7' N, 121°55.4' W; (b) 36°36.9' N, 121°52.5' W; (c) 36°38.3' N, 121°51.3' W; and (d) 36°40' N, 121°54.4' W.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 88F-0339]

Indirect Food Additives: Polymers

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 poly(oxy-1,2-ethanedioxydicarbonyl-2,6-naphthalenediylcarbonyl) as the basic resin in articles intended for use in contact with food. This action responds to a petition filed by the Eastman Chemical Co.

DATES: Effective April 4, 1996; written objections and requests for a hearing by May 6, 1996. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication listed in new § 177.1637(b)(2), effective April 4, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-

305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3094.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 26, 1988 (53 FR 43272), FDA announced that a food additive petition (FAP 8B4110) had been filed by the Eastman Kodak Co., Eastman Chemical Division, P.O. Box 511, Kingsport, TN 37662. The petition proposed to amend the food additive regulations in part 177 *Indirect Food Additives: Polymers* (21 CFR part 177) to provide for the safe use of poly(ethylene 2,6-naphthalene dicarboxylate) as a basic resin in articles or as a component of articles intended for single use or repeated use in contact with food.

Subsequent to the filing of the petition, the Eastman Kodak Co., Eastman Chemical Division, was reorganized to form Eastman Chemical Co., an independent corporation. As a result of this reorganization, FDA was informed that the Eastman Chemical Co. (same address) was the petitioner of record for this food additive petition.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use of the resin is safe and that the food additive regulations should be amended by adding new § 177.1637 as set forth below. The agency has also determined, with the petitioner's concurrence, that poly(oxy-1,2-ethanedioxydicarbonyl-2,6-naphthalenediylcarbonyl) is a more accurate and descriptive name for the resin that is the subject of the food additive petition. Therefore, FDA is using this name to identify the resin in the final rule.

In its review of this petition, the agency has also carefully considered the potential environmental effects of this action. In particular, the agency has considered the potential for effects on the management of municipal solid waste because this resin may replace other materials that are currently recycled. The petitioner provided the results of studies demonstrating that the resin can be recycled for use in food containers and submitted a recycling implementation plan for FDA's review. The agency is convinced that it is feasible for packaging made with this resin to be recovered from post-consumer waste and recycled, based upon the following factors: (1) The petitioner's recycling plan and stated

intention to recycle containers made with this resin; (2) the desirable barrier and heat-resistance properties of the resin (Ref. 1); (3) the high economic value of the resin (Ref. 2); and (4) recent steady increases in the recycling rates of many containers and packaging, which demonstrate that recycling has been accepted by both consumers and commercial interests as an important post-consumer waste management strategy (Ref. 3). However, the agency was concerned that unless articles made with the subject resin were distinctly marked to separate them from other plastic containers, the resin would not be recycled and might interfere with the recycling of plastic containers made with other resins. In response to this concern, the petitioner amended the petition to include a requirement that articles made with the resin be identified to facilitate collection and sorting.

The agency's regulation for this resin will contain a requirement that the manufacturers of articles made with the resin must mark or label these articles so that consumers and sorters will be able to recognize the articles easily and quickly as items to be recycled and collected separately. This requirement is intended to meet the agency's responsibility under section 101(b)(6) of the National Environmental Policy Act (42 U.S.C. 4331(b)(6)) to use its functions and programs to maximize the recycling of depletable resources. Depletable resources include those from which this resin is produced.

FDA recognizes that the requirement that poly(oxy-1,2-ethanediylloxycarbonyl-2,6-naphthalenediylcarbonyl) resin be marked for recycling may raise a question as to whether the recycled resin may be used in contact with food. Currently, FDA reviews recycling processes on a case-by-case basis to determine if the process will remove potential contaminants and produce a recycled resin that is suitably pure for food-contact use. When appropriate, the agency may limit the conditions of use of the recycled resin. The manufacturer of the recycled resin is notified by letter of the agency's determination regarding food-contact use of the recycled resin. In accordance with these procedures, FDA has evaluated studies submitted by Eastman Chemical Co. regarding its recycling process and is notifying Eastman Chemical Co. by letter that its proposed recycling process will produce poly(oxy-1,2-ethanediylloxycarbonyl-2,6-naphthalenediylcarbonyl) resin that is safe for use in contact with food. This determination will not require an

amendment to the food additive regulations.

FDA has concluded that this 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.

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 21 CFR 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.

Any person who will be adversely affected by this regulation may at any time on or before May 6, 1996, 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.

References

1. Ainsworth, S. J., "PET Resins Maintain Strong Growth Despite Market Challenges," *Chemical & Engineering News*, pp. 11-12, April 18, 1994.

2. Miller, C., "Saving the World for (From?) PEN," *Waste Age's Recycling Times*, vol. 7, No. 19: p. 15, September 19, 1995.

3. United States Environmental Protection Agency, *Characterization of Municipal Solid Waste in the United States*, 1994 update, EPA530-R-94-042, November 1994, Table 21, p. 70; document available from NTIS at telephone number 703-487-4650 with order number: PB 95-147690.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 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: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. New § 177.1637 is added to subpart B to read as follows:

§ 177.1637 Poly(oxy-1,2-ethanediylloxycarbonyl-2,6-naphthalenediylcarbonyl) resins.

Poly(oxy-1,2-ethanediylloxycarbonyl-2,6-naphthalenediylcarbonyl) resins identified in paragraph (a) of this section may be safely used as articles or components of articles intended for use in contact with food in accordance with the following conditions:

(a) *Identity*. For the purpose of this section, poly(oxy-1,2-ethanediylloxycarbonyl-2,6-naphthalenediylcarbonyl) resins (CAS Reg. No. 24968-11-4) are polymers formed by catalytic transesterification of 2,6-dimethylnaphthalene dicarboxylate with ethylene glycol followed by catalytic polycondensation.

(b) *Specifications*. (1) *Density*. The density of poly(oxy-1,2-ethanediylloxycarbonyl-2,6-naphthalenediylcarbonyl) resins shall be between 1.33 and 1.40 grams per cubic centimeter.

(2) *Inherent viscosity*. The finished food-contact article shall have a minimum inherent viscosity of 0.55 deciliter per gram in a solution of 0.1 gram of polymer in 100 milliliters of a 25/40/35 (weight/weight/weight) solution of *p*-chlorophenol/tetrachloroethane/phenol. The viscosity is determined by Eastman Chemical Co.'s method ECD-A-AC-G-V-1-5, "Determination of Dilute Solution Viscosity of Polyesters," dated May 31, 1988, which is incorporated by reference in accordance with 5 U.S.C.

552(a) and 1 CFR part 51. Copies are available from the Office of Premarket Approval, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 200 C St. SW., rm. 3321, Washington, DC, or at the Office of the Federal Register, 800 North Capitol St. NW., Washington, DC.

(c) *Extraction limitations.* A 0.5 millimeter (0.02 inch) thick sheet of resin when extracted with water at 121 °C (250 °F) for 2 hours shall yield total nonvolatile extractives not exceeding 2.0 micrograms per square inch of exposed resin surface.

(d) *Conditions of use.* The finished food contact article shall be:

(1) Used in contact only with food of Types I, II, IVB, VIA, VIB, VIIB, and VIII identified in Table 1 of § 176.170(c) of this chapter, under conditions of use A through H described in Table 2 of § 176.170(c) of this chapter; and with food of Types III, IVA, V, VIC, VIIA, and IX identified in Table 1 of § 176.170(c) of this chapter, under conditions of use C through H described in Table 2 of § 176.170(c) of this chapter; and

(2) Identified in a manner that will differentiate the article from articles made of other polymeric resins to facilitate collection and sorting.

Dated: March 28, 1996.

William K. Hubbard,
Associate Commissioner for Policy
Coordination.

[FR Doc. 96-8148 Filed 4-3-96; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International

Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS MILIUS (DDG 69) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: March 20, 1996.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS MILIUS (DDG 69) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, paragraph 3(c) pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is

based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding the following entry:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.—[Amended]

| Vessel | No. | Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction |
|------------|--------|---|
| | | |
| USS MILIUS | DDG 69 | 1.93 meters. |

3. Table Four, Paragraph 16 of § 706.2 is amended by adding the following entry:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.—[Amended]

| Vessel | No. | Obstruction angle relative ship's headings |
|------------|--------|--|
| | | |
| USS MILIUS | DDG 69 | 102.30 thru 112.50° |

4. Table Five of § 706.2 is amended by adding the following entry:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.—[Amended]

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