debt shall then be deducted from the bank's undivided profits then on hand.

(iii) *Surplus surplus.* State member banks are required to comply with state law provisions concerning the maintenance of surplus funds in addition to common capital. To the extent a bank has capital surplus in excess of that required under applicable state law, the bank has "surplus surplus." Only that portion of the surplus surplus that meets the following conditions may be transferred to the undivided profits account and be available for the payment of dividends:

(A) The bank's board of directors approves the transfer of funds from capital surplus to undivided profits; and

(B) The transfer has been approved by the Board. The bank must be able to demonstrate to the Board that the portion of the surplus surplus to be transferred came from the earnings of prior periods, excluding earnings transferred as a result of stock dividends. Requests for Board approval shall be submitted to the appropriate Federal Reserve Bank. The bank may consider the transfer to be approved if the Board or the Reserve Bank does not notify the bank within thirty days after the Reserve Bank's receipt of the notice that the transfer has been disapproved or that it is subject to continuing consideration.

(b) *Earnings limitations on payment of dividends.* A state member bank may not pay a dividend if the total of all dividends declared by the bank in any calendar year exceeds the total of its net profits for that year combined with its retained net profits of the preceding two calendar years, less any required transfers to surplus or to a fund for the retirement of any preferred stock, unless the bank has received the prior approval of the Board for the dividend under paragraph (b)(3) of this section.

(1) *Dividends on common and preferred stock.* The provisions of this paragraph (b) apply to the payment of dividends on both preferred and common stock.

(2) *Net profits.* "Net profits" shall be equal to the net income or loss as reported by a state member bank in its Reports of Condition and Income. When computing its "net profits" under this section, a bank should not add its provisions for loan and lease losses to, nor deduct net charge offs from, its reported net income.

(3) *Retained net profits.* Retained net profits of any period shall be equal to the net income or loss as reported in the Reports of Condition and Income less any common or preferred stock dividends declared or otherwise charged to the undivided profits of the period for which retained net profits are computed.

(4) *Approval of dividends.* A bank must request and receive the approval of the Board before declaring a dividend if the amount of all dividends (common and preferred), including the proposed dividend, declared by the bank in any calendar year exceeds the total of the bank's net profits of that year to date combined with its retained net profits of the preceding two calendar years, less any required transfers to surplus or a fund for the retirement of any preferred stock. Requests for the Board's approval shall be submitted to the appropriate Federal Reserve Bank.

(5) *Effective date and transition provisions.* (i) For the purpose of computing "net profits" pursuant to 12 U.S.C. 60, a state member bank must apply paragraph (b)(2) of this section no later than January 1, 1991. A bank may elect to use this paragraph (b)(2) of this section to calculate net profits for 1990, if it applies this provision on a full calendar year to date basis.

(ii) Whether a bank chooses to use paragraph (b)(2) of this section beginning as of January 1, 1990 or 1991, it may elect to apply the paragraph (b)(2) of this section to recalculate retained net profits for one or both of the prior two years.

(iii) Once a bank has elected to calculate net profits or retained net profits for a particular year applying the provisions of paragraph (b)(2) of this section, retained net profits and net profits for all subsequent periods in the calculation must also be calculated using paragraph (b)(2) of this section. If a state member bank has elected to use paragraph (b)(2) of this section for a particular year, the bank may not change the method of calculation used for that year during subsequent periods.

PART 250—MISCELLANEOUS INTERPRETATIONS

1. The authority citation for part 250 continues to read as follows:

Authority: 12 U.S.C. 248(i).

§§ 250.101, 250.102 and 250.103 [Redesignated as 208.125, 208.126 and 208.127]

2. Sections 250.101, 250.102, and 250.103 are redesignated as §§ 208.125, 208.126, and 208.127, respectively.

§ 250.104 [Removed]

3. Section 250.104 is removed.

By order of the Board of Governors of the Federal Reserve System, December 20, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-30191 Filed 12-24-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-155-AD; Amdt. 39-6850]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which requires modification of the number 3 left and right emergency exit doors. This amendment is prompted by reports of doors becoming jammed during attempted operation. This condition, if not corrected, could result in a reduced passenger evacuation capability during an emergency.

EFFECTIVE DATE: January 31, 1991.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Terrell W. Rees, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2785. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 757 series airplanes, which requires modification of the number 3 left and right emergency exit doors, was published in the **Federal Register** on September 14, 1990 (55 FR 37886).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to the two comments received.

One commenter requested that the proposed rule be withdrawn, because the commenter has developed and implemented a modification which is different from, and mutually incompatible with, the modification specified in the proposed rule. The Air Transport Association (ATA) of America, which forwarded this comment from one of its members, requested instead that this modification be considered as an optional requirement. The FAA does not agree that the proposed rule should be withdrawn, since numerous operators other than the commenter are affected by this rule. The FAA may consider the commenter's modification as an alternate means of compliance with this rule if it is submitted in accordance with paragraph B. of this rule.

The second commenter pointed out that 60 U.S. airplanes would be affected by the rule, rather than 59, as was specified in the economic impact paragraph in the preamble to the Notice. The FAA concurs, and has revised that paragraph, below. The applicability of the AD is not changed, however.

This commenter also noted that the referenced service bulletin calls for a total of 11 manhours, not 3 manhours, as was listed in the economic impact paragraph in the preamble to the Notice. The FAA does not concur. This 8-hour difference is identified in the service bulletin as that necessary to perform optional overhead panel modifications that are not required by this AD action. The rule is intended to require only the replacement of the door catch assembly support and an operational check, which the service bulletin indicates will take a total of 3 manhours. The rule has been revised, however, to clarify that the operational check must be performed once the replacement has been accomplished.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule, with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

There are approximately 113 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of required parts is estimated to be $95.20 per airplane (two modification kits per airplane at $47.60 per kit). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,912.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, 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. A copy of the draft evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 757 series airplanes, as listed in Boeing Service Bulletin 757-25-0061, Revision 2, dated June 29, 1989, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished.

To reduce the potential for reduced passenger evacuation capability during an emergency, accomplish the following:

A. Modify the number 3 left and right emergency exit doors by replacing the door catch assembly support and performing an operational check, in accordance with Boeing Service Bulletin 757-25-0061, Revision 1, dated June 9, 1988, or Revision 2, dated June 29, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective January 31, 1991.

Issued in Renton, Washington, on December 13, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-30123 Filed 12-24-90; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 438

Proprietary Vocational and Home Study Schools

AGENCY: Federal Trade Commission.

ACTION: Removal of regulation.

SUMMARY: The Federal Trade Commission has decided to remove part 438 from the Code of Federal Regulations. The Commission has taken this action because part 438, which comprises its Trade Regulation Rule on Proprietary Vocational and Home Study Schools, was vacated in its entirety on appeal, and because the Commission terminated any further action regarding the rule in 1988.

EFFECTIVE DATE: December 26, 1990.

FOR FURTHER INFORMATION CONTACT: Lawrence DeMille-Wagman, Office of the General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, DC (202) 326-2448.

SUPPLEMENTARY INFORMATION: On December 28, 1978, the Commission issued a Trade Regulation Rule on Proprietary Vocational and Home Study Schools. 43 FR 60796 (1978). In 1979, prior to its effective date, the rule was set aside and remanded to the Commission for further proceedings. *Katherine Gibbs School, Inc.* v. *FTC*, 612 F.2d 658 (2d Cir. 1979). In 1988, the Commission (with Commissioner Strenio dissenting) decided to take no further action regarding the rule and terminated the rulemaking. 53 FR 29482 (1988). The Commission believes that continued publication in the Code of Federal Regulations of a rule that has no effect could create confusion and involves needless expense. For these reasons, the Commission has decided to remove part 438.

List of Subjects in 16 CFR Part 438

Schools, Vocational education, Trade practices.

PART 438—[REMOVED]

The Commission, pursuant to its authority under Section 18 of the FTC Act, as amended, 15 U.S.C. 57a, amends chapter I of title 16 of the Code of Federal Regulations by removing part 438.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 90–30151 Filed 12–24–90; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 87F–0415]

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 by expanding the conditions of use of poly(*p*-methylstyrene) and rubber-modified poly(*p*-methylstyrene) in contact with food. This action is in response to a petition filed by Mobil Chemical Co.

DATES: Effective December 26, 1990; objections by January 25, 1991.

ADDRESSES: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of February 9, 1988 (53 FR 3791), FDA announced that a food additive petition (FAP 8B4053) had been filed by Mobil Chemical Co., c/o 1150 17th St. NW., Washington, DC 20036, proposing that § 177.1635 *Poly(p-methylstyrene) and rubber-modified poly(p-methylstyrene)* (21 CFR 177.1635) of the food additive regulations be amended by deleting the conditions of use in paragraph (e), thereby authorizing the safe use of poly(*p*-methylstyrene) and rubber-modified poly(p-methylstyrene) in contact with all foods.

FDA has evaluated the data in the petition and other relevant material. The agency concludes on the basis of this evidence that the proposed food additive use is safe at temperatures not to exceed 100 °C (212 °F), and that 21 CFR 177.1635(e) be amended as set forth below.

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.

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.

Any person who will be adversely affected by this regulation may at any time on or before January 25, 1991 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 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 hearing 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 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: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 177.1635 is amended by revising paragraph (e) to read as follows:

§ 177.1635 Poly(p-methylstyrene) and rubber-modified poly(p-methylstyrene).

* * * * *

(e) *Conditions of use.* Poly(*p*-methylstyrene) basic polymers and rubber-modified poly(*p*-methylstyrene) basic polymers identified in paragraphs (a)(1) and (a)(2), respectively, of this section shall be used in contact with food only under conditions of use B through H set forth in Table 2 of § 176.170(c) of this chapter.

Dated: December 17, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90–30098 Filed 12–24–90; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 178

[Docket No. 89F-0396]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

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 di(*p*-tolylidene) sorbitol as a clarifying agent in propylene homopolymer and copolymers intended for use in contact with food. This action is in response to a petition filed by Milliken and Co.

DATES: Effective December 26, 1990; written objections and requests for a hearing by January 25, 1991.

ADDRESSES: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 10, 1989 (54 FR 41505), FDA announced that a food additive petition (FAP 9B4167) had been filed by Milliken and Co., c/o 1150 17th St. NW., Washington, DC 20036, proposing that § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) be amended to provide for the safe use of di(*p*-tolylidene) sorbitol as a clarifying agent in propylene homopolymer and copolymers intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use of the food additive in propylene homopolymer and copolymer is safe, and that the food additive regulations should be amended as set forth below.

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.

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.

Any person who will be adversely affected by this regulation may at any time on or before January 25, 1991, 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 178

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 of the Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 376).

2. Section 178.3295 is amended in the table by alphabetically adding a new entry under the headings "Substances" and "Limitations" to read as follows:

§ 178.3295 Clarifying agents for polymers.

* * * * *

Substances	Limitations
* *	* * *
Di(*p*-tolylidene) sorbitol (CAS Reg. No. 54686-97-4).	For use only as a clarifying agent at a level not to exceed 0.32 percent by weight in propylene homopolymer complying with § 177.1520(c) of this chapter, item 1.1, and in olefin copolymers complying with § 177.1520(c) of this chapter, item 3.1 (containing at least 85 weight percent of polymer units derived from propylene), in contact with all food types under conditions of use C through G described in Table 2 of § 176.170(c) of this chapter
* *	* * *

Dated: December 17, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-30097 Filed 12-24-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 320

[Docket No. 89N-0367]

Retention of Bioavailability and Bioequivalence Testing Samples; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Interim rule; opportunity for public comment; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that appeared in the Federal Register of November 8, 1990 (55 FR 47034), that issued interim regulations to amend its current bioavailability/bioequivalence regulations to require the retention for a specified period of reserve samples of the drug products used to conduct bioavailability or bioequivalence studies. This document corrects typographical errors.

EFFECTIVE DATE: November 8, 1990.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Watson, Center for Drug Evaluation and Research (HFD-360), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8038.