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One commenter requested that the proposed rule be withdrawn, because the commenter has developed and implemented a modification which is different from, and mutually incompatible with, the modification specified in the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 The FAA does not agree that the proposed rule should be withdrawn, since numerous operators other than the commenter are affected by this rule.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.

§ 320.32 [Corrected]

In FR Doc. 90–26484 appearing at page 47034 in the **Federal Register** of Thursday, November 8, 1990, the following corrections are made:

On page 47038, in the 2d column, under § 320.32(a), 7th line, remove the comma after "organization" and in the 3d column, under § 320.32(c), 2d line, "scored" is corrected to read "stored".

Dated: December 19, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–30099 Filed 12–24–90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

Virginia Regulatory Program; Subsidence

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing approval of a proposed amendment to the Virginia Regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to changes in Virginia's rules governing subsidence at Sections VR 480–03–19.784.20(f)(2) and VR 480–03–19.817.121(c)(2). The proposed change is intended to require an operator to repair or compensate the owner for subsidence-caused material damage to structures without regard to liability limitations imposed by State law.

EFFECTIVE DATE: December 26, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P O Drawer 1216, Powell Valley Square Shopping Center, room 220, Big Stone Gap, Virginia 24219; Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background on the Virginia Program

The Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the Virginia program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 **Federal Register** (46 FR 61088–61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15 and 946.16.

II. Submission of Amendment

By letter dated September 12, 1990 (Administrative Record No. VA–761), Virginia submitted a proposed amendment consisting of amended sections VR 480–03–19.784.20(f)(2) and VR 480–03–19.817.121(c)(2).

OSM announced receipt of the proposed amendment in the October 4, 1990 **Federal Register** (55 FR 40678–40679), and in the same notice opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17 is the Director's finding concerning the proposed amendment.

1. VR 480–03–19.784.20 Subsidence Control Plan and VR 480–03–19.817.121 Subsidence Control.

Virginia is revising paragraph (f)(2) of VR 480–03–19.784.20 and paragraph (c)(2) of VR 480–03–19.817.121 by deleting the phrase "to the extent required under State law" from both rules. The revisions would remove any potential limitation of measures that could be taken to mitigate or remedy subsidence-related material damage to, or diminution in value, or reasonably foreseeable use of structures or facilities.

Since the proposal is consistent with the decision by U.S. District Court for the District of Columbia in *National Wildlife Federation* v. *Lujan* (Civil Actions 87–1051, 87–1814 and 88–2788, D.D.C. February 12, 1990), the Director finds the proposal no less stringent than sections 102(b) and 516(b)(1) of SMCRA.

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the October 4, 1990 **Federal Register** ended November 5, 1990. Public comments were received from the National Wildlife Federation and Friends of the Earth generally supporting the amendment and recommending that it be approved. The scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations of 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Virginia program. The U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Forest Service, U.S. Department of Labor, and Soil Conservation Service all responded to the request and generally supported the amendment or had no substantive comments.

V. Director's Decision

Based on the above finding, the Director is approving the program amendment as submitted on September 12, 1990. The Federal regulations at 30 CFR part 946 codifying decisions concerning the Virginia program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure existing requirements established by SMCRA and the Federal rules will be met by the State.