

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Docket No. 78-SO-26]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area,
Hurtsboro, Ala.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will designate the Hurtsboro, Ala., transition area and will lower the base of controlled airspace in the vicinity of the Sehoy Airport (a private airport) from 1200 to 700 feet to accommodate Instrument Flight Rule (IFR) operations. A special use instrument approach procedure has been developed for the Sehoy Airport and is presently in use. The additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before June 30, 1978.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before June 30, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Hurtsboro, Ala., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Sehoy Airport.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Keith S. May, Office of Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (43 FR 440) of Part 71 of the Federal Aviation Administration Regulations (14 CFR Part 71) by adding the following:

HURTSBORO, ALABAMA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sehoy Airport (Lat. 32°13'12" N., Long. 85°28'05" W.).

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(e), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on April 19, 1978.

GEORGE R. LACAILLE,
Acting Director, Southern Region.
[FR Doc. 78-11459 Filed 4-26-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-RM-02]

TRANSITION AREAS AT GWINNER, NORTH DAKOTA

Withdrawal of Notice of Proposed Rulemaking
AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: The Federal Aviation Administration issued a Notice of Proposed Rulemaking on February 2, 1978, 43 FR 4437, for cancellation of transitional areas at Gwinner, N. Dak. This action was taken pursuant to notification by the owner of the Gwinner Non-Federal, Non-Directional Beacon (NDB) of his proposal to reclassify the navigational aid (NDB) to (VFR) use only and cancel the published instrument approach. Subsequent to the issuance of the NPRM, the sponsor decided to retain the current status of the navigational aid (NDB) and the published instrument approach procedures negating the necessity to cancel the controlled airspace. Consequently, the Notice of Proposed Rulemaking is hereby withdrawn.

DATE: Effective date: April 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph T. Taber, Airspace Specialist, Operations, Procedures and Airspace Branch (ARM-530), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colo. 80010; telephone 303-837-3937.

SUPPLEMENTARY INFORMATION:

HISTORY

On February 2, 1978 the Federal Aviation Administration published for comment a proposal to amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition areas at Gwinner, N. Dak. The owner of the Non-Federal, Non-Directional Beacon (NDB) at Gwinner, N. Dak. requested that the NDB be reclassified as a VFR navigational aid and the Instrument Approach Procedure be cancelled.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Subsequent to the issuance of the NPRM, the sponsor decided to retain the current status of the NDB and the published instrument approach procedure.

DRAFTING INFORMATION

The principal authors of this document are Mr. Joseph T. Taber, Air

Traffic Division, and Mr. Daniel J. Peterson, Office of the Regional Counsel, Rocky Mountain Region.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Aurora, Colo., on April 12, 1978.

M. M. MARTIN,
Director,
Rocky Mountain Region.

[FR Doc. 78-11461 Filed 4-26-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 369]

[Spec. Reg. Docket 31735, SPDR-62B;
SPDR-63B]

PROTECTION OF CHARTER PARTICIPANTS' FUNDS

Extension of Comment Period

APRIL 21, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: This notice extends for an additional 60 days the filing date for comments in a rulemaking proceeding that proposes a new part to the Board's Special Regulations establishing uniform procedures for the protection of charter participants' funds. The extension was requested by attorneys for the American Society of Travel Agents, Inc., (ASTA) and the Air Charter Tour Operators of America (ACTOA).

DATES: Comments by: June 30, 1978. Reply comments by: July 31, 1978. Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Comments should be sent to: Docket 31735, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Richard B. Dyson, Office of the General Counsel, Rules Division, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking SPDR-63 and SPDR-62, dated November 22, 1977 (42 FR 61408 and 42 FR 61420, December 2, 1977), the Board proposed amending its Special Regulations to establish a new scheme for the protection of charter participants'

funds. The proposed new Part 369 would require a depository escrow account and one of three forms of additional security agreements.

The deadline for filing comments in response to the notice, originally set for January 31, 1978 was extended until May 1, 1978 in SPDR-62A/SPDR-63a, dated January 19, 1978 (43 FR 3285, January 24, 1978), Docket 31735. The extension of time was granted upon the request of several charter operators and carriers, in order to allow additional time to collect data and to study the impact of the proposed rule on the charter industry and particularly on those operators who are small businesses.

The Board has now received letters from attorneys for ASTA and ACTOA, requesting an extension of an additional 60 days for the filing of comments. In support of the request they state that a further extension of time is required in view of significant recent changes in the charter industry. The petitioners state that time is needed to study the impact recent changes in charter regulations will have on the soundness of the proposed rules to protect charter participants' funds. In addition, they note that the extensive involvement of charterer associations in recent Board proceedings has been time-consuming and has diverted effort from the issues raised in SPDR-63 and SPDR-62, particularly from the development of sound alternatives to the Board's proposed rule.

Upon consideration of the above, the undersigned finds good cause to grant these requests for another extension of time for the preparation of views on the proposed rule. However, because of this extraordinary extension of time, totaling 150 days, it should be emphasized that no further extensions should be expected.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to June 30, 1978, and the time for filing reply comments is extended to July 31, 1978.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended 72 Stat. 743, 49 U.S.C. 1324).

SIMON J. ELLENBERG,
Associate General Counsel,
Rules Division.

[FR Doc. 78-11496 Filed 4-26-78; 8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION

[16 CFR Part 461]

CHILDREN'S ADVERTISING

Proposed Trade Regulation Rulemaking and
Public Hearing

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rulemaking will consider certain restrictions regarding television advertising directed towards children. This notice describes the procedures to be followed in this proceeding.

DATES AND SCHEDULING: General written comments, exhibits, and requests to appear at a legislative hearing accompanied by verbatim statement, must be received on or before October 24, 1978. A legislative hearing will begin on November 6, 1978, in San Francisco. The hearing will continue on November 20, 1978, in Washington, D.C., ending by December 16, 1978. Proposed disputed issues of fact that are material and necessary to resolve at a disputed issues hearing, requests to cross-examine at a disputed issues hearing witnesses who appeared at the legislative hearing, and request to present oral rebuttal at a disputed issues hearing must be received on or before January 15, 1979. Disputed issues, if any, will be published February 27, 1979, and rulings of the Presiding Officer regarding request to present rebuttal statements and conduct cross-examination and regarding the designation of group representatives will be made shortly thereafter. Verbatim rebuttal statements for disputed issues hearing must be received in writing on or before March 29, 1979. A disputed issues hearing, if any, will begin April 2, 1979. Written rebuttal statements must be received within 20 days following the completion of the disputed issues hearing. A staff report will be released July 27, 1979. The Presiding Officer's report will be released September 12, 1979. Comments on reports will be received until October 12, 1979.

ADDRESS: All documents submitted in response to this notice should be submitted in five copies, when feasible, to Morton Needleman, Presiding Officer, Children's Advertising, Federal Trade Commission, Washington, D.C. 20580. These documents will be available for public inspection in Room 120, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue N.W., Washington, D.C. In addition, the verbatim statements of witnesses appearing for the San Francisco segment of the legislative hearing will be available for examination in Room 12470, Federal Building, 450 Golden Gate Avenue, San Francisco, Calif. The legislative hearing will commence November 6, 1978 at 9 a.m., in Room 12138, Federal Building, 450 Golden Gate Avenue, San Francisco, Calif. The hearing will continue at 9 a.m., November 20, 1978 in Room 332, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Ellis M. Ratner, Program Advisor for
Children's Advertising, Federal

Trade Commission, Washington, D.C. 20580, 202-724-1464; or Randall C. Ogg, Division of Advertising Practices, Federal Trade Commission, Washington, D.C. 20580, 202-724-1449.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., the provisions of Part I, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.7 et seq., and Section 553 of Subchapter II, Chapter 5, Title 5 of the United States Code (Administrative Procedure), has initiated a proceeding for the promulgation of a Trade Regulation Rule concerning Children's Advertising. Because the Commission has found that the public interest requires expeditious procedures for the rule, it has determined, pursuant to 16 CFR 1.20, to employ the procedures set forth in this notice for this proceeding.

These procedures are modeled after those adopted by the Environmental Protection Agency (EPA) to implement the Toxic Substances Control Act, 15 U.S.C. 2605, which contains a rulemaking provision virtually identical to the Commission's authority under Section 18 of the FTC Act. See 42 FR 61259 (1977). The EPA procedures as adapted by the Commission contemplate that all information relevant to the proposed rule will be submitted during the written comment period or at a legislative-type hearing. No participants will be allowed to cross-examine any other participants at the hearing but they may submit written questions to the Presiding Officer who, accompanied by a panel, may ask those or any other questions. If, after review of the record of that hearing and the written comments, the Commission determines that there are disputed issues of material fact that are necessary to resolve, a second hearing will be held to resolve only those issues. At this disputed issues hearing, cross-examination and the presentation of rebuttal witnesses may be allowed.

These procedures have received favorable comment by Senator Ribicoff's Committee on Governmental Affairs in its recent report on delay in the regulatory process which compared the EPA's implementation of its statute with our implementation of identical statutory language.¹

The EPA procedures were also discussed at oversight hearings last June before the House Subcommittee on

Consumer Protection and Finance. During those hearings Chairman Eckhardt observed:

For instance, if as in the case of the Federal Trade Commission process you invite, at an early stage, designation of areas for cross-examination, it seems to me that you rather invite a tedious, lengthy, detailed adversary process. Whereas, under (EPA's) proposed procedure in toxic substances, you don't designate issues until after you have gone through the legislative hearing and you have had the panel-type decision. You get a lot of steam blown off at the level which may lighten your load later. (H.R. Rep. No. 95-44, 95th Cong., 1st Sess. 28-29 (1977).)

The Commission believes this procedural experiment, which is designed to expedite this proceeding while affording interested persons all of their statutory rights, is necessary in view of need to explore expeditiously the health and other issues raised by this proceeding as well as generally to expedite the conduct of Commission rulemaking.

The Commission has also determined, pursuant to 16 CFR 1.20, to provide for designation of the presiding officer by the Chairman. The current and projected demands on the time of the existing ranks of presiding officers necessitated this departure from the normal procedure (see 16 CFR 1.13 calling for selection of the presiding officer by the Special Assistant Director for Rulemaking).

SECTION A.—THE PROPOSED RULE FOR CHILDREN'S ADVERTISING

The Commission's determination to commence this rulemaking proceeding arises from consideration of two petitions² for rulemaking concerning television advertising of sugared products to children. On April 6, 1977, the Commission received a petition from Action for Children's Television (ACT Petition)³ requesting the promulgation of a trade regulation rule prohib-

²A third petition for rulemaking was filed jointly by Consumers Union of America and Committee on Children's Television, Inc., on February 16, 1978. This petition raises many of the issues raised by the two previous petitions and requests that the Commission adopt a rule that (1) prohibits brand name advertising to preschoolers; (2) requires that advertisers to children aged 6 to 11 fund non-commercial informational advertisements; (3) requires advertisers to children to verify that their ads are not unfair or deceptive; and (4) mandates that if the Commission finds that this verification was unwarranted, the ad will be immediately removed from the air, and that counter-ads will be funded by the offending seller.

³ACT is a non-profit corporation located in Massachusetts organized for the purpose of improving television programming directed to children. See ACT Petition at 2. The ACT Petition is on the public record and is available for public inspection in the Public Records Room of the Commission.

iting the advertising of candy products⁴ on television (a) where the dominant appeal of that advertising is to children, or (b) before 9:05 p.m., or (c) on programs where children make up at least half the audience. On April 26, 1977, the Commission received a petition from the Center for Science in the Public Interest (CSPI Petition)⁵ requesting the promulgation of a trade regulation rule prohibiting advertising on television of snack foods⁶ containing added sugar and requiring disclosures of amounts of added sugar in other food products with significant amounts of sugar⁷ as well as dental health risks associated with their consumption. The regulations proposed by CSPI would apply only during "children's programming."⁸

In support of the relief requested, each petition cites evidence relating to the enormous numbers of television advertisements for sugared products seen by children each year;⁹ the limited ability of young children—particularly pre-schoolers—to recognize "selling intent";¹⁰ the "believability" of commercial television messages;¹¹ and the tendency of these television advertisements for sugared products to promote unbalanced over-sugared diets which has led to pandemic levels of tooth decay in this country.¹² Both petitions cite the dangers to dental health occasioned by consumption of sugared products—particularly between meals—and review other medical evidence that consumption of sucrose—particularly if in excess—con-

⁴ACT does not define "candy products" and proposes that the American Dental Association or other appropriate body define the term so as to cover offenders. See ACT Petition at 50-51.

⁵CSPI is a non-profit organization located in Washington, D.C. which investigates and endeavors to solve problems related to food and the environment. See CSPI Petition at 2. That Petition is also on the public record and available for inspection.

⁶CSPI defines snack foods as those food products which are depicted in advertising as being eaten between or after meals rather than as part of a meal. CSPI Petition at 5.

⁷CSPI defines "significant" when employed in the context of "significant amount of added sugar content" as sugar constituting 10 percent or more of the caloric content of the food product in question. CSPI Petition at 6.

⁸CSPI defines "children's programming" as comprising those programs found on the basis of reputable viewer surveys to have an average audience consisting of 50 percent or more individuals under 12 years of age. CSPI Petition at 5.

⁹ACT Petition at 2-3; CSPI Petition at 13-14.

¹⁰ACT Petition at 15-16; CSPI Petition at 18-19.

¹¹ACT Petition at 20; CSPI Petition at 17-18.

¹²ACT Petition at 4-8; CSPI Petition at 12-15.

¹Senate Comm. on Governmental Affairs, Study on Federal Regulation, Vol. IV, 95th Cong., 1st Sess. 44 (concluding that a trial-type hearing is necessary only "if there were a clear conflict over an adjudicative fact.")

tributes to nutrition-related problems.¹³

Each petition concludes that television advertising of sugared products directed to children is both deceptive and unfair in violation of sections 5 and 12 of the Federal Trade Commission Act.¹⁴

To ensure that the petitions received full and fair consideration, the Division of Advertising Practices undertook a broad inquiry into the full range of factual and legal issues raised by the petitions. The staff has set forth the results of that investigation in a publicly available document entitled *Staff Report on Televised Advertising to Children*.¹⁵

The petitions raise, and the Report discusses, facts which suggest that the televised advertising of any product directed to young children who are too young to understand the selling purpose of, or otherwise comprehend or evaluate, commercials may be unfair and deceptive within the meaning of Section 5 of the Federal Trade Commission Act, requiring appropriate remedy.¹⁶ The Report also discloses facts which suggest that the current televised advertising of sugared products directed to older children may be unfair and deceptive, again requiring appropriate remedy.¹⁷

The staff Report sets forth the facts (Part III), applies the law to the facts (Part IV), examines jurisdictional and constitutional issues (Part V), discusses the advantages and disadvantages of five possible remedies, and recommends adoption of three of the five (Part VI).

The Commission has carefully and deliberately considered the staff report and recommendations. Based upon that report, the Commission believes that a comprehensive rulemaking proceeding addressing the problems posed by television advertising to children is necessary and appropriate.

The Commission has reviewed each of the remedies addressed by the staff. Each remedy has merit and each remedy may entail technical difficulties and drawbacks. For each proposed remedy there remain unanswered questions, the answers to which may alter the Commission's judgment as to their appropriateness.

¹³ACT Petition at 8-12; CSPI Petition at 4-10.

¹⁴ACT Petition at 43-49; CSPI Petition at 25-33.

¹⁵Copies of this report may be obtained by writing: Distribution and Duplication Branch, Federal Trade Commission Building, Room 128, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

¹⁶The staff Report defines this group ("young children") as children who are under the age of 8. The Commission seeks comments on the appropriateness of this age classification.

¹⁷The staff Report defines this group ("older children") as children between the ages of 8 and 12. The Commission seeks comments on the appropriateness of this age classification.

The staff's recommendation is one possible response to the need for a comprehensive remedial approach and the Commission desires that the "package" proposed by the staff receive serious consideration. Accordingly, the Commission invites comment on the advisability and manner of implementation of a rule which would include the following three elements:

(a) Ban all televised advertising for any product which is directed to, or seen by, audiences composed of a significant proportion of children who are too young to understand the selling purpose of or otherwise comprehend or evaluate the advertising;

(b) Ban televised advertising for sugared food products directed to, or seen by, audiences composed of a significant proportion of older children, the consumption of which products poses the most serious dental health risks;

(c) Require televised advertising for sugared food products not included in Paragraph (b), which is directed to, or seen by, audiences composed of a significant proportion of older children, to be balanced by nutritional and/or health disclosures funded by advertisers.

In addition, the Commission desires comment on the appropriateness and workability of the following alternative remedial approaches, as well as other possible remedies not contained in the foregoing list or discussed in the staff report:

1. Affirmative disclosures located in the body of advertisements for highly cariogenic products directed to children.

2. Affirmative disclosures and nutritional information contained in separate advertisements, funded by advertisers of highly cariogenic products advertised to children.

3. Limitations upon particular advertising messages used and/or techniques used to advertise to very young children, or to advertise highly cariogenic products to all children.

4. Limitations upon the number and frequency of advertisements directed at very young children; limitations upon the number and frequency of all advertisements of highly cariogenic products directed at all children.

SECTION B—INVITATION TO COMMENT

Any interested person may submit to Morton Needelman, Presiding Officer, Children's Advertising, Federal Trade Commission, Washington, D.C. 20580, data, views, or arguments on any issue of fact, law or policy which may have some bearing on the proposed rule. Such written comments will be accepted until October 24, 1978. To assure prompt consideration, comments should be identified as "Children's Advertising Rulemaking Comment".

SECTION C—GENERAL QUESTION AND ISSUES

While interested persons are invited to address any questions of fact, law or

policy which they feel may have bearing upon the proposed rule, listed below are several general questions and issues of fact about which the Commission particularly desires comment, in writing or orally at the legislative hearing.

ISSUES RELATED TO PARAGRAPH (a) OF STAFF PROPOSAL

1. Is there a specific age below which significant numbers of children are unable to understand the selling purpose of, or are otherwise unable to comprehend or evaluate, advertising? If so, what is that age?

2. Is televised advertising for any product directed to, or seen by, young children who are unable to understand its selling purpose, or are otherwise unable to comprehend or evaluate that advertising, unfair and/or deceptive within the meaning of Section 5 of the Federal Trade Commission Act? If so, is the remedy suggested in paragraph (a) of the Staff proposal appropriate?

3. How should the terms "directed to or seen by" be defined? For example, should restrictions be imposed when young children constitute a certain minimum percentage of the viewing audience? If so, what should that percentage be? Should the percentage vary with the time of day? Are there other feasible regulatory mechanisms by which to define the term "directed to or seen by"?

4. Will the proposed ban on televised advertising to young children adversely affect the quantity or quality of children's television programming? Are there considerations—economic, competitive, legal or otherwise—which would preclude or limit reductions in the quantity or quality of children's television programming? Is there any evidence which would assist the Commission to estimate the magnitude of the harm to very young children from exposure to advertising whose selling intent or content they may be unable to understand?

5. Are there alternatives to a ban on televised advertising to very young children that the Commission should consider? Comment on the propriety and feasibility of alternatives is invited.

ISSUES RELATED TO PARAGRAPHS (b) AND (c) OF STAFF PROPOSAL

6. Is there evidence which bears upon the proposition that advertising of certain highly sugared products to children causes increased tooth decay in children, by causing greater consumption of cariogenic products by children than would occur without the advertising? If so, how serious is the effect of such advertising, and what improvement in the incidence of tooth decay might be expected to result by limiting, eliminating, or requiring qualification of such advertising? Is there evidence to indicate that tele-

vised advertising of sugared products is more harmful to children than other forms of advertising, such as point of sales messages? Does this harm justify more stringent restrictions, including bans?

7. In a report prepared for the Food and Drug Administration, the Federation of American Societies for Experimental Biology stated that "Sucrose is among the most cariogenic substances. However, the magnitude of the effect is complex and depends on frequency of consumption, duration of exposure, the form in which the sucrose is fed and the nature of the other materials eaten with sucrose."¹⁸ What factors affect the cariogenicity of sucrose and what are their relative magnitudes?

8. Does between-meal consumption of sugared products have a sufficiently greater negative impact on dental health than consumption of sugared products at mealtime so as to justify more stringent regulation of television advertising of the former than the latter? If so, how should regulations be phrased so as to distinguish between the two classes of products?

9. What evidence is there that sugar consumption contributes to or acts as a potentiating factor with respect to non-dental health or nutrition-related problems, whether in childhood or in later life?

10. What is the nature and extent of the awareness of children at various ages of the impact on their dental health or nutrition of consumption of sugared products? Does this awareness vary with the product? What is the impact of advertising of sugared products on that awareness? Does the impact vary with the product?

11. How should the term "directed to or seen by" be defined with respect to the older group of children? For example, should television advertisements be presumed to be addressed to children when children constitute a majority of the audience viewing it? Are there any other definitions which are appropriate?

12. Should warnings or disclosures be presented to children in televised sugared snack food advertising? Should they include disclosure of sugar content or of dental health risks or other risks to health? How can information concerning possible harms arising out of sugar consumption be communicated most effectively to children? Should it be presented in the course of children's programming or at other times? Should food and nutritional-related television messages be directed to children and to parents? Can that information be presented most effectively within the advertising for the product itself, or elsewhere? Are there certain techniques or approaches, such as animation or make-

believe settings, which will ensure that such message are meaningful? How can messages be made appropriate for children of differing ages in the viewing audience?

13. Who should devise such messages? Should advertisers of products regulated by paragraph (c) prepare these disclosures? Or should they be prepared by other persons or organizations? Are there persons or organizations with expertise in the subject areas of dentistry, nutrition and medicine, as well as in communicating with children, who are interested in participating in a program designed to provide children with supplementary information concerning harms arising out of sugar consumption? How can the Commission ensure that such messages are professionally created and produced?

14. Will the remedies proposed in paragraphs (b) and (c)—a ban on advertising to children for certain sugared foods and balanced nutritional and health disclosures for certain other sugared foods—adversely affect the quality or quantity of children's television programming? Are there considerations—economic, competitive, legal or otherwise—which would preclude or limit reductions in the quantity or quality of children's televised programming?

15. Various remedies designed to undo harms arising out of television advertising of sugared products to children are identified and discussed at Part VI of the staff's *Report* to the Commission. Comment on the propriety and feasibility of each of these remedies, whether alone or in combination with others, is invited. In particular, we invite comment on whether there are certain categories of claims which, because of their special capacity to negatively influence children, should be prohibited in television advertising of sugared products to children. Such claims might include, for example, excessive promotions of the virtues of sugar or sweetness. We invite identification of others.

ADDITIONAL ISSUES

16. In light of the First Amendment protection afforded commercial speech, what considerations should be applied in deciding whether a ban on television advertising to very young children, or of certain sugared products, is constitutionally permissible? What basis, other than deception, can be used to justify a restriction or ban on commercial speech to children that is consistent with the First Amendment? Is advertising to young children deception solely because they are unable to appreciate the commercial nature of such messages? Do *Bates v. State Bar of Arizona*, 45 U.S.L.W. 4895 (U.S. June 27, 1977), and *Virginia State Board of Pharmacy v. Virginia*

Citizens Consumer Council, 425 U.S. 748 (1976), contemplate some form of misrepresentation, either by affirmative misstatement or omissions, before restrictions may be imposed? Assuming non-deceptive advertising to children is protected speech under the First Amendment, what considerations are relevant in determining whether a ban on TV advertising to young children constitutes a reasonable time, place or manner restriction?

SECTION D—LEGISLATIVE HEARING

A public, legislative-type hearing will begin on November 6, 1978, at 9 a.m., in Room 12138, at the Federal Building, 450 Golden Gate Avenue, San Francisco, Calif. The hearing will continue at 9 a.m., November 20, 1978, in Room 332, Federal Trade Commission, 6th and Pennsylvania Avenue NW, Washington, D.C. 20580. If you desire to present your views orally at this hearing, you must so advise the Presiding Officer, and furnish him with a verbatim copy of the statement you wish to read or summarize and an estimate of the time you will need, no later than October 24, 1978. Your request to appear must indicate whether you prefer to appear in San Francisco or Washington, D.C., and it must include a list containing any dates between November 6, 1978, and December 16, 1978, on which you could not be present to give your statement.

The Presiding Officer has the right to limit the number of witnesses to be heard if the orderly conduct of the hearing so requires. Although the Presiding Officer may change the deadlines established by this notice, they will not be extended and hearing dates will not be postponed unless hardship to participants can be demonstrated.

1. *Conduct of the legislative hearing.* The Presiding Officer appointed for this proceeding shall have all powers prescribed in 16 CFR 1.13(c), subject to the limitations described in this notice. He shall preside at the legislative hearing and may be accompanied by one or more members of the Commission and such experts, including Commission staff economists, as the Presiding Officer may designate to assist him. Any member of this panel may question any participant in the hearing on any subject relating to the rule. Interested persons may submit questions in writing for the President Officer to ask and he may, in his discretion, ask any question. Any person who appears at the legislative hearing may be required to appear at the disputed issues hearing for cross-examination.

2. *Instructions to participants—a. Presentation of your statement.* It will not be necessary for you to read your verbatim statement at the hearing. You may summarize your statement or simply appear to answer questions

¹⁸LSRO Report at 12.

with regard to the important aspects of that statement. No witness will be allowed more than 20 minutes to read or summarize his or her statement unless express approval is given in advance by the Presiding Officer.

b. *Use of exhibits.* Use of exhibits during oral presentations is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, they must be filed during the general comment period so they can be studied by other interested persons. Mark each of the documents with your name, and number them in sequence, e.g., Jones Exhibit 1.

c. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement a curriculum vitae, biographical sketch, resume, or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentation for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies must be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

d. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, as distinguished from simple references to previously published studies conducted by others, you must also present as an exhibit or exhibits in compliance with paragraph (a) above the following:

i. A complete report of the survey or other research study and the information and documents listed in (ii) through (v) if they are not included in that report.

ii. A description of the sampling procedures and selection process, including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

iii. Copies of all completed questionnaires or interview reports used in conducting the survey study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

iv. A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondent and a sample questionnaire or other data collection instrument.

v. A description of the statistical procedures used to analyze the data

and all data tables which underlie the results reported.

Other interested persons may wish to examine the questionnaires, data collection forms and any other underlying data not offered as exhibits and which serve as a basis for your testimony. The information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested persons or their counsel.

e. *Other information relevant to the rule.* Any person who seeks to present information either orally or in writing, shall also present any studies or surveys in the possession, custody or control of the person or the organization he represents or is otherwise compensated by in connection with this proceeding which support, contradict or otherwise pertain to the person's presentation. This need not include information submitted by any other person or information which is publicly available.

SECTION E—DISPUTED ISSUES HEARING

1. *Designation of issues and witnesses.* No later than January 15, 1979, any interested person may submit for purposes of a second hearing proposed disputed issues of fact that are material and necessary to resolve within the meaning of Section 18 of the FTC Act. If you are proposing disputed issues, you must identify your interest with respect to each issue. The issues must be ones of specific or adjudicative, in contrast to legislative, fact. See H.R. Rep. No. 93-1606, 93rd Cong., 2d Sess. 33 (1974) (Conference Report); Davis, *Administrative Law Treatise*, §§ 7.01-7.04 (1970 Supp.). Only those crucial issues about which a *bona fide* dispute (established on the written record or at the legislative hearing) exists should be proposed to the Commission. They are the types of issues that are generally susceptible to definitive resolution through cross-examination. It is therefore possible that few, or no issues will require designation. In any event, the Commission expects that substantially fewer issues will be designated than have been designated in most previous Commission rulemakings under Section 18 of the Federal Trade Commission Act. Because a disputed issues hearing may be unnecessary and in any event will be narrow in scope, interested persons wishing to ensure that their views are fully considered should make full submissions to the record during the initial comment period or at the legislative hearing.

If you want to cross-examine a person who has presented evidence on the record or to rebut evidence on the

record at a disputed issues hearing, you must specify the person to be cross-examined or the person who shall appear with the rebuttal presentation, the specific presentation to which the cross-examination or rebuttal will be addressed, and a proposed disputed issue to which the cross-examination or rebuttal relates. The Presiding Officer has the power to disallow any cross-examination or rebuttal presentation which is not directed to a disputed issue designated by the Commission or which is not appropriate and required for a full and true disclosure with respect to such an issue. No further presentations will be permitted at this hearing. The Presiding Officer may conduct any examination, including cross-examination, to which a person may be entitled.

2. *Notice of disputed issues.* No later than February 27, 1979, the Commission shall publish a notice in the Federal Register designating any issues which it has determined to be disputed issues of fact that are material and necessary to resolve. The Commission may decide that some of those issues may appropriately be resolved by means of written rebuttal submissions only and will identify any such issues in the notice. Shortly thereafter, the Presiding Officer shall determine what cross-examination and oral rebuttal presentations will be allowed and shall identify groups of persons with the same or similar interests in the proceeding who will be required to choose a single representative for purposes of cross-examination. If a group is unable to select a representative, then the Presiding Officer may select a representative of each group provided that no person shall be denied the opportunity to cross-examine if she or he seeks to present substantial and relevant issues which will not be adequately presented by the group representative.

3. *Conduct of hearing.* A disputed issues hearing shall begin April 2, 1979. No later than March 29, 1979, persons who will make oral rebuttal presentations shall file with the presiding Officer a verbatim account of their presentations. This advance notice is required so that other interested persons can prepare for cross-examination if appropriate. The instructions of Section D (2) above apply equally with respect to rebuttal presentations in the disputed issues hearing.

SECTION F—POST-HEARING PROCEDURES

Interested persons will be afforded 20 days after the close of the disputed issues hearing to file written rebuttal submissions concerning disputed issues designated for the disputed issues hearing or disputed issues identified by the Commission on which only written rebuttal submissions will be re-

ceived. All such submissions must be based only upon identified, properly cited matters already in the record. The presiding Office will reject all submissions which are essentially additional written comments in contrast to rebuttal.

Not later than July 27, 1979, the staff shall release its report on the proceeding analyzing the record including the disputed issues, if any, and make its recommendations as to the form of the final rule. The Presiding Officer's report shall be released not later than September 12, 1979 and shall generally be confined to points of difference with the staff report. Post record comments, as described in § 1.13 (h) of the Commission's rules of practice, may be submitted until October 12, 1979.

SECTION G—RULEMAKING RECORD

In view of the substantial rulemaking records that have been established in prior trade regulation rulemaking proceedings (and the consequent difficulty in reviewing such records), the Commission urges all interested persons to consider the relevance of any material before placing it on the rulemaking record. While the Commission encourages comments on its proposed rule, the submission of material that is not generally probative of the issues posed by the proposed rule merely overburdens the rulemaking record and decreases its usefulness, both to those reviewing the record and to interested persons using it during the course of the proceeding. Readily available public material, such as books, articles, and journals should only be incorporated by reference in submissions for the record. The Commission's rulemaking staff has received similar instructions. Material that the staff has obtained during the course of its investigation prior to the initiation of the rulemaking proceeding that is not placed in the rulemaking record will be made available to the public, to the extent that it is considered to be non-exempt from disclosure under the Freedom of Information Act, 5 U.S.C. 552.

SECTION H—COMPENSATION FOR REPRESENTATION IN RULEMAKING PROCEEDINGS

Pursuant to Section 18 (h) of the FTC Act, funds may be available for reimbursement of public participation costs incurred in this proceeding to those who satisfy the requirements of § 1.17 of the Commission's rules. For further information regarding compensation contact Bonnie Naradzay, Special Assistant for Public Participation, Bureau of Consumer Production, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Washington D.C. 20580, 202-523-3391.

Issued: April 27, 1978.

By direction of the Commission.

CAROL M. THOMAS,
Secretary.

[FR DOC. 78-11323 Filed 4-26-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR 1115, 1116]

SUBSTANTIAL PRODUCT HAZARDS

Proposed Requirements, Policies, and Procedures

AGENCY: Consumer Product Safety Commission.

ACTION: Opportunity for oral presentation and additional comments on proposed regulation.

SUMMARY: On September 15, 1977, the Commission proposed for public comment a rule setting forth its interpretation of the requirements of section 15(b) of the Consumer Product Safety Act that manufacturers, importers, distributors, and retailers of consumer products immediately report to the Commission products that fail to comply with an applicable consumer product safety rule or contain a defect which could create a substantial product hazard. The proposed rule would clarify when a firm has obtained information which reasonable supports the conclusion that one of its products contains a reportable non-conformity with an applicable consumer product safety rule or a defect which could create a substantial product hazard. In addition, the proposed rule defines the information that must be supplied to the Commission as part of a report under section 15 and sets forth procedures and policies governing processing of reports and remedial action. The purpose of this notice is to announce that due to the number of comments received on this proposal and the importance and complexity of the issues raised, the Commission had decided to hold a limited public hearing to receive oral presentations and has decided to receive written comments specifically directed to the issues identified in this notice. Comments should not duplicate comments previously submitted.

DATES: (1) Those unable to appear at the public hearing may submit written comments on the specific issues identified in this notice by May 5, 1978. (2) There will be an opportunity for interested persons to orally present data, views, or arguments regarding these specific issues on May 5, 1978, at 9:30 a.m. in Room 390, Third Floor, Federal Building, Second Avenue, Seattle Wash. Oral presentations should not exceed ten (10) minutes. Those wishing to make oral presentations should

notify the Commission's Seattle area office 206-442-5276, by May 4, 1978. A written copy of the oral comments should be submitted to the Office of the Secretary of the Commission by May 12, 1978.

ADDRESS: Written comments should be submitted to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. All material which the Commission has that is relevant to this proposed regulation, including comments that have been or may be received regarding the proposed regulation, may be seen in and copies obtained from the Office of the Secretary, Consumer Product Safety Commission, Third Floor, 1111 18th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Eric Stone, Product Defect Correction Division, Consumer Product Safety Commission, Washington, D.C. 20207, 202-492-6608.

Persons wishing to make oral presentations should contact: Mr. Lee Baxter at the Commission's Seattle area office, 206-442-5276.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 16, 1977, the Consumer Product Safety Commission (Commission) published in the FEDERAL REGISTER proposed regulations entitled "Substantial Product Hazards. Proposed Reporting Requirements for Manufacturers, Importers, Distributors, and Retailers of Products" under section 15(b) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2064(b)) and invited comments from the public (42 FR 46720). Section 15(b) of the Consumer Product Safety Act requires that every manufacturer, distributor, or retailer of a consumer product who obtains information which reasonably supports the conclusion that such product either fails to comply with an applicable consumer product safety rule, or contains a defect which could create a substantial product hazard, shall immediately inform the Commission, unless such manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of such defect or failure to comply. Section 15(a) defines a substantial product hazard as a failure to comply with an applicable consumer product safety rule or a product defect which because of the pattern of defect, the severity of the risk, the number of defective products, or other reasons, presents a substantial risk of injury to the consumer. Sections 15(c) and (d) set forth various actions that the Commission can take to eliminate a hazard, including ordering the firms in question to notify the public, and/or to repair, replace, or

refund the purchase price of the product. In addition, the Commission may seek to enjoin further sale or distribution of the product.

The proposed rule combines into one regulation many of the existing Commission policies and procedures under section 15(b), set forth in 16 CFR Parts 1115 and 1116. In addition, it clarifies the reporting requirements of section 15(b) by defining the term "defect," indicating the kinds of information that are reportable, and explaining when an obligation to report arises.

The Commission received 133 comments from consumer groups, manufacturers, importers, distributors, retailers, trade associations, private labelers, and others concerning various aspects of the proposed rule. Because a number of these comments indicate concern or confusion about basic provisions of the proposed rule, the Commission has determined that it is in the public interest to allow interested parties to make oral presentations on the specific issues framed by the Commission in a public hearing. Parties unable to make an oral presentation may submit written comments on these issues. The Commission asks that where possible, commenters should provide alternative language, economic data, and specific examples to support their arguments. The Commission believes that the additional comments on these issues will help it to formulate a fair and effective final rule. The Commission is considering issuing this rule as a substantive rather than an interpretative rule. The Commission asks that commenters evaluate the impact of each of the provisions for which comments are solicited with this possibility in mind. As a result, commenters may wish to address the impact that one of these provisions might have both if it is legislative or interpretative in nature.

ISSUES RAISED

From the comments already received, the Commission has identified the issues discussed below as those aspects of the proposal producing the greatest misunderstanding or controversy. The Commission is therefore seeking additional comments limited specifically to one or more of these issues. At the oral presentation, comments not addressing one or more of these issues may be ruled out of order.

The fact that the Commission is not seeking comment on all issues contained in the proposed regulations does not mean that the Commission has foreclosed all thought on issues for which comments are not being sought. Rather, it means that the Commission believes that adequate comments have already been received on the excluded issues.

1. The definition of defect as any aspect of a product which creates an

unnecessary risk of injury (proposed §1115.3(b)(3)).

The failure to include a definition of "defect" in the CPSA has created uncertainty for the Commission and those subject to the Act in determining when a report under section 15(b) is required. The Commission has viewed the legal concept of "defect" as having a meaning broader than the dictionary or common usage definition. In specific cases, the Commission or its staff has applied section 15(b) to consumer products manufactured exactly in accordance with specifications but posing a substantial risk of injury inherent in the design of the product. In another case, the staff believes that the failure to provide adequate installation instructions for an otherwise safety-designed and constructed consumer product creates a reportable "defect." The proposed definition of "defect" contained in §1115.3(b)(3) represents an effort to incorporate the Commission's broad interpretation of the word and provide guidance to parties subject to section 15(b). Numerous comments on the proposed definition were submitted, including statements that it is too broad, imprecise and subjective. Alternative approaches would be to have no definition at all or to describe the factors that the Commission includes in its concept of defect, including design, construction, packaging, etc. The Commission seeks comments on these alternatives and invites additional proposals.

2. A firm is deemed to have received information 5 days after an employee has received the information (proposed §1115.10(d)).

Proposed §1115.10(d) provides that a firm subject to section 15(b) is deemed to have received information within a reasonable time, but not more than 5 working days, within which the information has been received by an official or employee of the firm in the normal course of business. The proposal reflects Commission experience with firms that failed to provide adequate internal procedures for transmitting product safety information to the officer or employee responsible for reporting to the Commission. Commenters have objected to the Commission's selection of 5 working days as a maximum reasonable time. The Commission wishes to know from firms that have established internal procedures for transmitting product safety information and have delegated the reporting function, whether 5 days is a reasonable period of time. Please provide the reasons for the answer. Suggestions and discussions are invited on alternatives for meeting the Commission's concern.

3. The presumption that a product-related death or grievous bodily injury should be reported unless a firm has clear evidence that the death or injury

is not the result of a product defect or nonconformity with a consumer product safety rule (proposed §1115.11(a)).

The Commission views the reporting requirement of section 15(b) as one of the most important statutory mechanisms for safeguarding the public from injury from hazardous consumer products. Proposed §1115.11(a) establishes a presumption that firms have obtained information which reasonably supports the conclusion that a product fails to conform with an applicable consumer product safety rule or contains a defect which could create a substantial product hazard when it receives information that the product was involved in a death or grievous bodily injury, unless it has clear evidence that the injury was not caused by a nonconformity or defect. The Commission staff anticipates that if this section is adopted as a final regulation, firms learning of a death or grievous bodily injury will either utilize the period provided for investigation and evaluation (§1115.11(c)(1)) or will immediately notify the Commission (§1115.11(c)(2)). Many commenters oppose this presumption and predict that proposed §1115.11(a) will require firms to report a large volume of useless information on conforming or nondefective products because there is not an adequate opportunity for subject firms to assess the safety of the product or the accuracy of the accident report. They question whether the Commission will be able to assess the resulting defect reports. In addition, many express concern that the reporting of unverified information will increase the risk of private products liability suits against subject firms. In view of the controversy surrounding this proposal, the Commission invites new comments and alternative proposals to the provision that retain the basic idea that firms be encouraged to investigate serious accidents involving their products to determine if a substantial product hazard may be present.

4. The listing of types of information which the Commission believes should be studied and evaluated to determine if there is an obligation to report; the allowance of a period, not to exceed 10 working days, to conduct such study and evaluation (proposed §1115.11(b)).

Proposed §1115.11(b) lists several types of information that a manufacturer, importer, distributor, or retailer should study and evaluate, absent a report of death or grievous bodily injury associated with a consumer product, to determine if there is an obligation to report under section 15(b). The purpose of the section is to be sure subject firms recognize that information which may trigger the reporting obligation may be obtained from sources other than a report of death or grievous bodily injury. For

example, consumer complaints may lead a manufacturer to conduct an engineering or laboratory analysis of the product. The results may, in turn, lead to design or quality control changes that remove a hazard from future production but do not remove the hazard from past production. Study of the type of information listed in proposed § 1115.11(b) is to be accomplished within a reasonable period of time, not to exceed 10 working days in accordance with proposed § 1115.11(c). The Commission is seeking comments on the § 1115.11(c) generally, and specifically on whether the allowance of 10 working days is a reasonable period of time and or whether a firm should be held to the conclusions that would be drawn from the data had it been properly analyzed. Interested parties are invited to comment on the reasonableness of these proposals.

5. The confidentiality and disclosure of information submitted to the Commission in a report under section 15 (proposed § 1115.13).

Proposed § 1115.13 provides that a person who submits information in a report under section 15 must submit with the report a written request (or indicate that such a request will be submitted within 10 working days) that the information be considered exempt from disclosure under the Freedom of Information Act, as amended (15 U.S.C. 552(b)), or the CPSA. The proposed section also describes CPSA section 6(b), which generally requires 30 days notification to manufacturers and private labelers before information is made public. Comments on this proposed section included suggestions that the Commission treat as confidential all information contained in the initial report, all information submitted until the Commission finds that the product contains a substantial product hazard, or all information submitted until the reporting party has been notified of a request for disclosure and has had an opportunity to object. At least one commenter suggested that in the event the Commission did not find that the product contained a substantial product hazard, the information should be returned to the party that submitted it. The Commission is seeking comments specifically on these proposals and generally on the confidentiality of information submitted to it.

PROCEDURES FOR ORAL AND WRITTEN COMMENTS: There will be an opportunity for interested persons to orally present data, views, or arguments on the aspects of the proposed regulation described in this notice on May 5, 1978 at 9:30 a.m. in the North Auditorium, Fourth Floor, Federal Building, 915 Second Avenue, Seattle, Wash. Those wishing to make oral presentations should notify the

Commission's Seattle area office, 206-442-5276 by May 4, 1978. In addition, a copy of the testimony, preferably in five (5) copies, is to be submitted to the Office of the Secretary by May 12, 1978. Oral presentations shall not exceed ten (10) minutes (unless extended by the Commission to compensate for time expended in responding to questions from the Commission) and shall be limited to the issues described above. Oral presentations shall not duplicate comments previously submitted during the comment period which ended on November 30, 1977. The Commission may rule out of order comments that are outside the scope of the public hearing or are repetitious. The Commission and its staff may ask questions of persons making presentations. Persons who cannot attend the public hearing may submit written comments on the issues described above by submitting them to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, preferably in five (5) copies, by May 5, 1978. Comments received after the date will be considered to the extent practicable.

The official transcript of the public meeting to hear oral presentations of data, views, or arguments, any written comments are received, and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3rd floor, 1111 18th Street NW., Washington, D.C. 20207.

Dated: April 24, 1978.

SADY DUNN,
Acting Secretary, Consumer
Product Safety Commission.

(FR Doc. 78-11479 Filed 4-26-78; 8:45 am)

[4910-62]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[41 CFR Part 12-60]

[OST Docket No. 19; Notice 78-2]

PROCUREMENT REGULATIONS

Contract Appeals Procedures

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Proposed rule.

SUMMARY: The Department of Transportation is proposing to revise the procedures of its Contract Appeals Board and also to amend the authority of the Board members. The proposed revisions to the Board's contract appeals procedures will bring them into substantial conformity with the Uniform Rules of Practice for Boards of Contract Appeals, as proposed by the National Conference of Boards of Contract Appeals Members.

DATES: Comments should be received by June 12, 1978.

ADDRESS: Comments should be submitted to Docket Clerk, OST Docket No. 19, Department of Transportation, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Gerson B. Kramer, Chairman, Department of Transportation Contract Appeals Board, Room 9126, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-4305.

SUPPLEMENTARY INFORMATION:

The revision will change the contract appeals procedures published in the *FEDERAL REGISTER*, May 27, 1967 (32 FR 7772), amended September 23, 1967 (32 FR 13411), re-issued March 4, 1972, (37 FR 4887), and again re-issued September 8, 1977, (42 FR 45176). The rules which the Department's Contract Appeals Board proposes to adopt have been adopted in major part by a majority of other boards of contract appeals in the executive establishment. Some changes from the Uniform Rules of Practice, as proposed by the National Conference of Boards of Contract Appeals Members, have been made to adapt procedures to the Board's existing organization. Among the major features incorporated in the proposed revisions are adoption of the Uniform Rules' optional accelerated procedure for small claims. The Department's proposal, however, would expand the dollar limits for this procedure to a larger number of small claims and a greater proportion of the Board's docket. The Board's existing conference hearing procedure has been deleted in favor of the expanded optional accelerated procedure for small claims. Also added are provisions for sanctions and summary dismissals by the Board for failure to comply with its orders; a new rule prohibiting ex parte communications; and a provision authorizing Board members to act for the Secretary in requesting subpoenas under 5 U.S.C. 304.

Adoption of the proposed procedural rules will make more uniform the procedural rules which contractors must follow when they appear before agency contract appeals boards and thus relieve them of the administrative burden of mastering differing procedural rules.

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Persons submitting comments should include their name and address and the specific section of the proposal to which the comment applies giving the basis for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.