

Issued in Jamaica, N.Y., on December 31, 1975.

DUANE W. FREER,  
Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the Winchester, Va. Transition Area by adding the following to the description of the transition area: "within 2.5 miles each side of a 133° bearing from a point 39°08'17" N. 78°08'16" W. extending from said point to 11 miles southeast of said point."

[FR Doc.76-1282 Filed 1-15-76;8:45 am]

[Airspace Docket No. 75-CE-14]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Designation of Transition Area**

On Page 52051 of the FEDERAL REGISTER dated November 7, 1975, the Federal Aviation Administration published a notice of proposed rulemaking which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Washington, Iowa.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 GMT, March 25, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on December 22, 1975.

GEORGE R. LACAILLE,  
Acting Director, Central Region.

In § 71.181 (40 FR 441), the following transition area is added:

**WASHINGTON, IOWA**

That airspace extending upward from 700' above the surface within a 5-mile radius of the Washington Airport (latitude 41°16'00" N., longitude 91°41'00" W.); and that airspace 3 miles each side of the 141° bearing from Washington NDB (latitude 41°16'13" N., longitude 91°41'04" W.); extending from the 5-mile radius to a point 8.5 miles southeast of the NDB.

[FR Doc.76-1280 Filed 1-15-76;8:45 am]

[Airspace Docket No. 75-EA-46]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Designation of Transition Area**

On page 31248 of the FEDERAL REGISTER for July 25, 1975, the Federal Aviation

Administration published a proposed rule which would designate a Pineville, W. Va., Transition Area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 GMT March 25, 1976.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on December 30, 1975.

L. J. CARDINALI,  
Acting Director, Eastern Region.

Amend § 71.181 of Part 71, Federal Aviation Regulations by adding the Pineville, W. Va. 700-foot floor Transition Area as follows:

**PINEVILLE, W. VA.**

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center of Kee Field, Pineville, W. Va. (lat. 37°36'01" N., long. 81°33'59" W.); within an 8.5-mile radius of the center of the airport, extending clockwise from a 265° bearing to a 305° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 343° bearing from the airport; within a 14-mile radius of the center of the airport, extending clockwise from a 343° bearing to a 005° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 005° bearing to a 025° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 025° bearing to a 085° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 085° bearing to a 125° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 125° bearing to a 172° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 172° bearing to a 210° bearing from the airport; and within 3 miles each side of a 243° bearing from the Pineville, W. Va. radio beacon (lat. 37°36'11" N., long. 81°33'35" W.) extending from the radio beacon to 8.5 miles southwest of the radio beacon.

[FR Doc.76-1281 Filed 1-15-76;8:45 am]

[Airspace Docket No. 75-SO-136]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Designation of Transition Area**

On November 5, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 51481), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Tuskegee, Ala., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. There were no comments received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations

is amended, effective 0901 GMT, March 25, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the following transition area is added:

**TUSKEGEE, ALA.**

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Moton Field (Lat. 32°27'36" N., Long. 85°40'44" W.); within 3 miles each side of the Tuskegee VORTAC 018° radial, extending from the 6.5-mile radius area to 8.5 miles north of the VORTAC; excluding the portion within the Tallassee transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on January 6, 1976.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.76-1283 Filed 1-15-76;8:45 am]

[Airspace Docket No. 75-SO-137]

**PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS**

**Designation of Transition Area**

On October 28, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 50099), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Sturgis, Ky., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. There were no comments received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, March 25, 1976, as hereinafter set forth.

In § 71.181 (41 FR 440), the following transition area is added:

**STURGIS, KY.**

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Sturgis Municipal Airport (latitude 37°32'30" N., longitude 87°56'51" W.)

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on January 6, 1976.

PHILLIP M. SWATEK,  
Director, Southern Region.

[FR Doc.76-1284 Filed 1-15-76;8:45 am]

**Title 15—Commerce and Foreign Trade**  
**CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE**

**PART 929—KEY LARGO CORAL REEF MARINE SANCTUARY**

**Interim Regulations**

JANUARY 13, 1976.

On December 18, 1975, the Secretary of Commerce designated as a marine sanctuary an area of the Atlantic Ocean

adjacent to but excluding the State of Florida's John Pennekamp Coral Reef State Park. This ocean area is directly east of the city of Key Largo, Florida. The marine sanctuary boundary begins at the outer boundaries of the state park and extends seaward to about the 300 foot isobath. Included within the marine sanctuary area is the Key Largo Coral Reef Preserve.

The Key Largo Coral Reef Marine Sanctuary was designated pursuant to the authority of section 302(a) of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1052, Pub. L. 92-532, hereafter referred to as the Act).

Section 302(f) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. This section also provides that no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of Title III of the Act ("Marine Sanctuaries"); and that it can be carried out within the regulations promulgated under section 302(f).

The authority of the Secretary to administer the provisions of the Act has been delegated to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce (hereafter the Administrator, 39 FR 10255, March 19, 1974).

There are published herewith interim regulations relating to activities to be prohibited or permitted in the Sanctuary, and relating to the certification requirement described above. Comments upon these regulations are invited through February 20, 1976. Comments should be addressed to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Following the close of this comment period, any comments received will be reviewed. At the discretion of the Administrator, these interim regulations will be amended so as to reflect any such comments. The Administrator shall then publish final regulations in the FEDERAL REGISTER. As authorized by 5 U.S.C. 553(d) (3), these interim regulations are effective in order to protect the Sanctuary until final regulations become effective.

- Sec.
- 929.1 Authority.
- 929.2 Description of the Sanctuary.
- 929.3 Marine Sanctuary Management System.
- 929.4 Activities prohibited within the Sanctuary.
- 929.5 Penalties for Commission of Prohibited Acts.
- 929.6 Permitted activities.
- 929.7 Permit procedures and criteria.
- 929.8 Certification procedures.
- 929.9 Appeals of administrative action.

AUTHORITY: Secs. 302(f), 302(g) and 303 of the Act.

§ 929.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of the

Act. The following regulations are issued pursuant to the authorities of sections 302(f), 302(g) and 303 of the Act.

§ 929.2 Description of the Sanctuary.

The Sanctuary consists of a portion of the water column in the Atlantic Ocean beginning at approximately three miles east of the city of Key Largo, Florida. The coordinates for the marine sanctuary are: the point of beginning (POB) is geographic coordinates 25° (degrees), 19.45' (minutes) north latitude, 80° (degrees), 12.0' (minutes) west longitude, said point being the northeast boundary corner of John Pennekamp Coral Reef State Park. From said POB run thence southeasterly to geographic coordinates 25° (degrees), 16.2' (minutes) north latitude 80° (degrees), 8.7' (minutes) west longitude, said point also being on the 300 foot isobath, thence in a southwesterly direction to geographic coordinates 25° (degrees), 07.5' (minutes) north latitude 80° (degrees), 12.5' (minutes) west longitude, thence again run in a southwesterly direction to geographic coordinates 24° (degrees), 58.3' (minutes) north latitude, 80° (degrees), 19.8' (minutes) west longitude, thence leaving said 300 foot isobath run northwesterly to geographic coordinates 25° (degrees), 2.2' (minutes) north latitude, 80° (degrees), 25.25' (minutes) west longitude, said point being the southeast boundary corner of John Pennekamp Coral Reef State Park, thence in a northeasterly direction along said easterly boundary of said state part to the POB.

§ 929.3 Marine Sanctuary Management System.

(a) The National Oceanic and Atmospheric Administration (hereinafter referred to as NOAA) has the primary responsibility for the management of the Marine Sanctuary pursuant to the Act. NOAA's responsibilities under the Act require that the Office of Coastal Zone Management (OCZM) review, consider and approve any activities that take place in the Sanctuary pursuant to these rules and regulations.

(b) NOAA will be assisted in the administration of the marine sanctuary by the State of Florida's Department of Natural Resources, Division of Recreation and Parks pursuant to an agreement between the State of Florida and NOAA. Pursuant to this agreement, the State of Florida will endeavor to serve as the on site manager of the Sanctuary. The State of Florida will be assisted in its role as the on site manager by an advisory board consisting of representatives from the Department of Interior's National Park Service; the U.S. Coast Guard; the U.S. Department of Justice; NOAA's National Marine Fisheries Service; and the State of Florida's Division of Marine Resources, Florida's Division of Marine Law Enforcement, Florida's Department of Environmental Regulation; local citizen association, and Association of Dive Boat Captains.

§ 929.4 Activities Prohibited Within the Sanctuary.

Present and future uses of the Sanctuary include recreational boating and

fishing, snorkeling and scuba diving, commercial transport, fisheries activities and scientific endeavors. Those activities allowed within the marine sanctuary, however, will be subject to the following rules and regulations which are intended to provide for the maximum public use consistent with the primary purpose of the establishment of the Sanctuary. Except as may be permitted by the Administrator of NOAA, no person subject to the jurisdiction of the United States shall conduct, nor cause to be conducted, any of the following activities in the Sanctuary.

(a) *Removal or destruction of natural features and marine life.* (1) No person shall destroy, injure, harmfully disturb or remove beach sand, gravel or minerals, corals, sea feathers and fans, shells and shellfish (except lobster, crawfish and stone crab), starfishes or other marine invertebrates, seaweeds, grasses, or any soil, rock, artifact, stone or other material. Nor shall any person have possession of any of the above listed items within the boundaries of the Sanctuary regardless of their place of extraction.

(2) No person shall cut, carve, injure, mutilate, move or displace or break off any bottom formation of growth.

(3) No rope, wire anchor, or other object shall be attached to any coral, rock or other formation.

(b) *Dredging, filling, excavating and building activities.* (1) No dredging, excavating or filling operations of any kind are to be carried out within the boundaries of the Sanctuary. No materials of any sort may be deposited in or on the waters of the sanctuary.

(2) No structure of any kind, whether permanent or temporary, may be constructed or built.

(3) No public service facility may be constructed or extended into, upon or across the Sanctuary, with the exception of marking and mooring buoys or stations.

(c) *Discharge of refuse and polluting substances.* No person shall discharge or deposit any waste materials into the waters of the Sanctuary. Specifically prohibited are wastes, acids, oil liquid wastes or other deleterious chemicals, bottles, broken glass, paper, boxes, dirt, rubbish, garbage, refuse, human waste or other foreign substances.

(d) *Archaeological and historic substances.* No person shall willfully destroy, molest, deface, remove, displace or tamper with an archaeological or historical resource or cargo pertaining to submerged wrecks within the boundaries of the Sanctuary.

(e) *Markers.* No person shall willfully mark, deface or damage in any way, or displace, remove or tamper with any signs, notices or placards, whether temporary or permanent, or with any monuments, stakes, posts or other boundary markers installed by the sanctuary manager or markers placed for the purpose of lobster pot fishing.

(f) *Fishing.* (1) Sport and commercial fishing is allowed in the Sanctuary with hook and line for the purpose of taking surface, mid-water or bottom fishes. Furthermore, the taking of crawfish, spiny

lobster and stone crab with traps is allowed for commercial purposes. All traps shall be marked, color coded and numbered at all times.

(2) Fishes normally resident in the coral formations (often categorized as tropical fishes which are of minimal sport and food value, and are usually brightly colored and thus used for aquaria purposes) and which live in a direct interrelationship with the corals, may not be caught or collected, except inadvertently by hook and line.

(3) The use of poisons, electric charges and similar methods for the taking of fish is prohibited.

(4) Some portions of the Sanctuary may be set aside as control areas for research to assist in managing the sanctuary. Those areas designated by the sanctuary manager will be closed to fishing. No more than 20 percent of the Sanctuary may be closed at any given time for this purpose.

(g) *Scuba diving and skin diving activities.* (1) Diving for underwater observation and photography is allowed and encouraged in the Sanctuary as a compatible and desirable use.

(2) Divers are prohibited from handling coral formations, standing on coral formations or otherwise disturbing the corals within the boundaries of the Sanctuary.

(h) *Operation of watercraft.* (1) All watercraft shall be operated in accordance with applicable Federal rules and regulations. The following additional constraints will also be imposed within the boundaries of the sanctuary.

(2) No watercraft should be operated in such a manner as to strike or otherwise cause damage to the natural features of the marine sanctuary.

(3) Except in case of emergency situation where life and property may be endangered, no anchor should be cast or dragged in such a way as to damage any coral reef formations. Anchors shall be dropped on sand flats off the reefs and placed so as not to drift into the coral formations.

(4) No watercraft should be operated at greater than 4 miles per hour or in such a manner to create a wake in the vicinity of divers, sightseeing boats or fishermen, with the exception of law enforcement officials while in the performance of their duties.

(5) All watercraft from which diving operations are being conducted shall fly in a conspicuous manner, the red and white "divers down" flag.

(6) No boat under power shall approach closer than 100 yards to a boat displaying the diving flag except at a minimum speed of 4 miles per hour. Divers shall stay within 100 yards of their diving flag.

(7) Boats anchored or proceeding at slow speeds for fishing or observation shall be approached or passed at such slow speed that the wake of the approaching or passing boat does not disturb the fishing or observation boats.

(8) Watercraft must use mooring buoys, stations or anchoring areas when such facilities and areas have been designated and are available.

(i) *Photography.* (1) Photography, both surface and underwater, without involving the installation of special settings or structures is encouraged.

(2) No person shall take still or motion pictures, either commercial or private, involving the use of special settings or structures that would be likely to interface with either the coral or the use and enjoyment of the Sanctuary by other persons.

(j) *Advertising or publicity.* No person shall erect or cause to be erected any signs, slogans or markers within the Sanctuary.

(k) *Explosives and dangerous weapons.* (1) Distress signalling devices are considered necessary and proper for safe vessel operation. Knives are frequently used by fishermen and swimmers and are not classified as weapons for the purposes of these regulations.

(2) No person shall carry or possess, except while passing through the Sanctuary or for law enforcement purposes, firearms or weapons of any description. The use of air rifles, guns, bows and arrows, slings, spear guns, harpoons or other kinds of weapons potentially harmful to human safety, fish and wildlife and the reef structure is strictly prohibited within the Sanctuary except for law enforcement purposes.

(3) The use of explosives within the Sanctuary is prohibited. No person is allowed to possess explosives in the Sanctuary except while passing through the Sanctuary.

#### § 929.5 Penalties for Commission of Prohibited Acts.

(a) Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Details are set out in Subpart D of Part 922 (15 CFR Part 922) of this chapter (39 FR 23254, 23257, June 27, 1974). Subpart (D) is applicable to any instance of a violation of these regulations.

(1) The U.S. Coast Guard shall have the responsibility for surveillance and the enforcement of these regulations pursuant to 14 U.S.C. 89.

(2) The Sanctuary may be closed to public use in the event of emergency conditions endangering life or property. Certain areas may also be closed (but the total closed area shall not exceed 20 percent of the total Sanctuary at any one time) in order to (i) permit recovery of the living resources from overuse, or (ii) to provide for scientific research relating to protection and management. Public notice of closures will be made by informing the local news media.

(3) Accidents involving personal injury or damage to property in excess of \$100 shall be reported to the Sanctuary Manager as soon as possible by the person or persons involved.

#### § 929.6 Permitted Activities.

Any person or entity may conduct in the Sanctuary any activity listed under § 929.4 if: (a) Such activity is either (1) for the purpose of research related to the

resources of the Sanctuary, or (2) pertains to salvage or recovery operations; and (b) such person or entity is in possession of a valid permit issued by the Administrator of NOAA authorizing the conduct of such activity; except that, no permit is required for the conduct of any activity immediately and urgently necessary for the protection of life, property, or the environment.

#### § 929.7 Permit procedures and criteria.

(a) Any person or entity who wishes to conduct in the Sanctuary an activity for which a permit is authorized by § 929.6 (hereafter a permitted activity) may apply in writing to the Administrator for a permit to conduct such activity citing this section as the basis for the application. Such application should be made to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20230. Upon receipt of such application, the Administrator shall request, and such person or entity shall supply to the Administrator, such information and in such form as the Administrator may require to enable him to act upon the application.

(b) In considering whether to grant a permit for the conduct of a permitted activity for the purpose of research related to the resources of the Sanctuary, the Secretary shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the research method(s) envisioned to the purpose(s) of the research; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreational, esthetic or scientific information; (4) the end value of the research envisioned; and (5) such other matters as the Administrator deems appropriate.

(c) In considering whether to grant a permit for the conduct of a permitted activity in the Sanctuary in relation to an air or marine casualty, the Administrator shall consider such matters as (1) the fitness of the applicant to do the work envisioned; (2) the necessity of conducting such activity; (3) the appropriateness of any activity envisioned to the purpose of the entry into the Sanctuary; (4) the extent to which the conduct of any such activity may diminish the value of the Sanctuary as a source of recreational, esthetic or scientific information; and (5) such other matters as the Administrator deems appropriate.

(d) In considering any application submitted pursuant to this Section, the Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, as he deems appropriate.

(e) The Administrator may, in his discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as he deems appropriate, except that the Administrator shall attach to any permit granted for research related to the Sanctuary the condition that any information obtained in the research shall be made available to the

public. The Administrator may observe any activity permitted by this section; and/or may require the submission of one or more reports of the status or progress of such activity.

(f) A permit granted pursuant to this Section is nontransferable.

(g) The Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely, if, in his view, the permit holder (hereafter the Holder) has acted in violation of the terms of the permit; or the Administrator may do so for other good cause shown. Any such action shall be in writing to the Holder, and shall set forth the reason(s) for the action taken. Any Holder in relation to whom such action has been taken may appeal the action as provided in § 929.8.

§ 929.8 Certification procedures.

Any Federal agency which, as of the effective date of these regulations, already has permitted, licensed or otherwise authorized any prohibited activity in the Sanctuary shall notify the Administrator of this fact in writing. The writing shall include a reasonably detailed description of such activity, the person(s) involved, the beginning and ending dates of such permission, the reason(s) and purpose(s) for same, and a description of the total area affected. The Administrator shall then decide whether the continuation of the permitted activity, in whole or in part, or subject to such condition(s) as he may deem appropriate, is consistent with the purposes of Title III of the Act and can be carried out within these regulations. He shall inform the Federal agency of his decision in these regards, and the reason(s) therefor, in writing. The decision of the Secretary made pursuant to this section shall be final action for the purpose of the Administrative Procedure Act.

§ 929.9 Appeals of Administrative Action.

(a) In any instance in which the Administrator, as regards a permit authorized by, or issued pursuant to, this part: (1) Denies a permit; (2) issues a permit embodying less authority than was requested; (3) conditions a permit in a manner unacceptable to the applicant; or (4) amends, suspends, or revokes a permit for a reason other than the violation of regulations issued under this part, the applicant or the permit holder, as the case may be (hereafter the Appellant), may appeal the Administrator's action to the Secretary of Commerce. In order to be considered by the Secretary, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefor, and shall be submitted within 30 days of the action(s) by the Administrator. The Appellant may request a hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Secretary may request, and if he does, the Appellant shall provide, such additional information and in such form as the Secretary may request in order to enable him to

act upon the appeal. If the Appellant has not requested a hearing, the Secretary shall decide the appeal upon (1) the basis of the criteria set out in § 929.7(b) or § 929.7(c), as appropriate, (2) information relative to the application on file in NOAA, (3) information provided by the Appellant, and (4) such other considerations as he deems appropriate. He shall notify the Appellant of his decision, and the reason(s) therefore, in writing within 30 days of the date of his receipt of the appeal.

(c) If the Appellant has requested a hearing, the Secretary shall grant an informal hearing before a Hearing Officer designated for that purpose by the Secretary after first giving notice of the time, place, and subject matter of the hearing in the FEDERAL REGISTER. Such hearing shall normally be held no later than 30 days following publication of the notice in the FEDERAL REGISTER. However, the Hearing Officer may extend the time for holding the hearing when deemed equitable. The Appellant and any interested person may appear personally or by counsel at the hearing, present evidence, cross-examine witnesses, offer argument and file a brief. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Secretary based upon the considerations outlined in paragraph (b) of this section and based upon the record made at the hearing.

(d) The Secretary may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Secretary shall notify the Appellant of his decision, and the reason(s) therefore, in writing within 15 days of his receipt of the recommended decision of the Hearing Officer. The Secretary's action, whether without or after a hearing, as the case may be, shall constitute final action for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this Section may be extended by the Secretary for good cause, either upon the Secretary's own motion and upon written notification to an Appellant stating the reason(s) therefore, or upon the written request of an Appellant to the Secretary stating the reason(s) therefore, except that no time limit may be extended more than 30 days.

T. P. GLEITER,  
Assistant Administrator  
for Administration.

[FR Doc.76-1379 Filed 1-15-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 8891-0]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Warner-Lambert Co.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or

properties of product or service; 13.170-10 Antiseptic, germicidal; 13.170-52 Medicinal, therapeutic, healthful, etc.; 13.170-70 Preventive or protective; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart—Corrective actions and/or requirements: § 13.-533 Corrective actions and/or requirements; 13.533-10 Corrective advertising. Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.-1740 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducement to purchase or deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Warner-Lambert Company a Corporation

Order requiring a Morris Plains, N.J., manufacturer and distributor of "Listerine" mouthwash preparation, among other things to cease misrepresenting the medicinal, therapeutic qualities, beneficial effects, and germicidal nature of its product. Respondent if further required to include a corrective advertising disclosure in its advertisements. The order dismisses the complaint allegation regarding the effects of "Listerine" on children who gargle with it twice a day.

The final order, including further order requiring report of compliance therewith, is as follows:<sup>1</sup>

FINAL ORDER

This matter having been heard by the Commission upon respondent's appeal from the Initial Decision; and

The Commission having considered the oral arguments of counsel, their briefs, and the whole record; and

The Commission, for reasons stated in the accompanying Opinion, having denied the appeal; accordingly

It is ordered, That, except to the extent that it is inconsistent with the Commission's Opinion, the Initial Decision of the Administrative Law Judge be, and it hereby is, adopted together with the Opinion accompanying this Order as the Commission's final findings of fact and conclusions of law in this matter;

It is further ordered, That the following order be, and it hereby is, entered:

PART I

It is ordered, That respondent Warner-Lambert Company, a corporation, its successors and assigns and respondent's officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the labeling, advertising, offering for sale, sale or distribution of Listerine or any other non-prescription drug product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

<sup>1</sup> Copies of the Complaint, Initial Decision, Opinion and Final Order, filed with the original document.