5. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
		Within:		Surveillance approach			
165°-270°	270°-360°	10 miles	1400	T-dn	300-1	300-1	200-½
000°-360°	360°-165°	20 miles	2000	C-dn	400-1	500-1	500-1½
000°-360°	360°-165°	20-30 miles	2200	S-dn-9/27#	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Radar site (MGM RAPCON) located on Maxwell AFB. All bearings and distances are from radar antenna with sector azimuths progressing clockwise. Radar control must provide 3-mile horizontal or 1000' vertical separation from following towers: 1142'—16.8 miles NNE; 1484'—21.7 miles S.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, Runway 9: Turn right, climb to 2000' on R 127°, MGM VOR within 15 miles. Runway 27: Climb to 2000' on W crs, MGM ILS, or when directed by ATC, climb to 2000' on crs of 273° from MGM LOM within 15 miles.

NOTES: Radar control will not descend aircraft below 2000' on final approach to Runway 27 until 7 miles from approach end of runway.

CAUTION NOTE: Night operation Runways 15-33 not authorized due lack of obstruction and runway lights.

#400-¾ authorized with operative HIRL, except for 4-engine turbojets.

#400-½ authorized with operative AL's on Runway 9, except for 4-engine turbojets.

City, Montgomery; State, Ala.; Airport name, Donnelly Field; Elev., 221'; Fac. Class., and Ident., Montgomery RAPCON; Procedure No. 1, Amdt. 3; Eff. date, 12 Aug. 67; Sup. Amdt. No. 1, Amdt. 2; Dated, 17 Apr. 65

045°-230°	230°-045°	25 miles	*2000	Surveillance approach			
230°-045°	045°-230°	10 miles	*2200	T-dn$	300-1	300-1	200-½
230°-045°	045°-230°	15 miles	2500	C-dn-12R, 30L, 21.#	400-1	500-1	500-1½
230°-045°	045°-230°	25 miles	3000	C-dn-3	500-1	500-1	500-1½
				S-dn-12R, 30L, 21.**#	400-1	400-1	400-1
				S-dn-3**	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Bearings are from radar antenna site with sector azimuths progressing clockwise.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, Runways 12R and 21: Climb to 3000' via SAT, R 158° within 20 miles. Runways 3 and 30L: Climb to 3300' on R 353°, SAT VOR within 20 miles.

*Radar control must provide 1000' vertical or 3-mile horizontal separation from the following obstructions: Towers, 2049'—19 miles SE; 1241'—5 miles SSE; 1199'—10 miles SE; 1107'—3.5 miles SE; 1230'—7.5 miles S; 1326'—6.8 miles WSW; 1402'—6.5 miles S of airport.

**400-½ authorized Runway 12R and 500-½ authorized Runway 3 with operative AL's, except for 4-engine turbojets.

**400-¾ authorized for Runways 21 and 30L with operative HIRL, except for 4-engine turbojets.

$RVR 2400' authorized Runways 3 and 12R.

#Radar control must restrict descent to 1400' until aircraft is SE of 1120' water tower located 2.1 miles W of approach end of Runway 12R, and must restrict descent to 1400' until aircraft is NW of 1107' tower located 3.5 miles SE of approach end of Runway 30L.

City, San Antonio; State, Tex.; Airport name, San Antonio International; Elev., 808'; Fac. Class., and Ident., San Antonio Radar; Procedure No. 1, Amdt. 11; Eff. date, 12 Aug. 67; Sup. Amdt. No. 1, Amdt. 10; Dated, 10 June 67

				Surveillance approach			
				T-dn%	500-1	500-1	500-1
				C-dn	1400-1	1400-1	1400-1½
				A-dn	1000-2	1000-2	1000-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished, turn left, climb to 4000' direct GEG VOR.

%Takeoffs all runways: Climb visually over airport to 2400', thence direct GEG VOR, cross GEG VOR for direction of flight northeastbound, V2N—3900'; eastbound, V2—4200'; southeastbound, V28—4700'.

MSA within 25 miles of GEG Radar: 000°-090°—7100'; 090°-180°—6300'; 180°-270°—4100'; 270°-360°—5500'.

City, Spokane; State, Wash.; Airport name, Felts Field; Elev., 1955'; Fac. Class., and Ident., Fairchild RAPCON; Procedure No. 1, Amdt. Orig.; Eff. date, 12 Aug. 67

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601 of the Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on July 6, 1967.

JAMES F. RUDOLPH,
Acting Director, Flight Standards Service.

[F.R. Doc. 67-8052; Filed, July 20, 1967; 8:45 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Definition of Exchange

On May 11, 1967, the Securities and Exchange Commission published notice (Investment Company Act Release No. 4950) in the FEDERAL REGISTER on May 18, 1967 (32 F.R. 7398), that it had under consideration the adoption of Rule 11a–1 under the Investment Company Act of 1940 ("Act") (§ 270.11a–1, Chapter II, Title 17 of the Code of Federal Regulations) and invited all interested persons to submit their views and comments upon the proposal. No comments were received. The Commission, after due consideration, has determined to adopt Rule 11a–1 (§ 270.11a–1) in the form set forth below.

Section 11(a) of the Act provides that it is unlawful for a registered open-end company or its principal underwriter to make an offer to any holder of the company's securities to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the Commission by rules, regulations or approval of a specific transaction permits the exchange to be made on such other basis. Accordingly, Section 11(a) (of the Act) contemplates that the Commission may adopt rules and regulations relating to offers of exchange to be made on a basis other than relative net asset values. Section 38(a) of the Act authorizes the Commission to make rules and regulations "as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in this title, including rules and regulations defining accounting, technical, and trade terms used in this title."

Certain registered open-end investment companies have, since before the effective date of the Act, been issuing redeemable securities which, by their terms, mature or terminate, or are to be canceled at a specified date or after having been outstanding for a certain period of time. In addition, from time to time, inquiries have been received from other investment companies which have proposed to issue redeemable securities having termination provisions. At such termination date, or shortly thereafter, part or all of the proceeds of such terminated security may be used in payment of a redeemable security in the same company with a new termination date and with the imposition of a new sales load. In some instances, terminable redeemable securities may be repurchased by or on behalf of the issuer prior to their termination date and part or all of the proceeds of such repurchased securities similarly reinvested.

Rule 11a–1 (§ 270.11a–1) removes any previous uncertainty and makes clear that with respect to the proceeds of any terminable redeemable security issued after the effective date of the rule, the issuance of a new security under the circumstances discussed above will be considered an "exchange" within the meaning of that term as used in section 11 of the Act so as to preclude the imposition of a new sales load. The rule does not apply to the reinvestment of proceeds upon the repurchase, termination, retirement, or cancellation of any terminable redeemable security outstanding on the effective date of the rule or issued pursuant to a subscription agreement or other plan of acquisition in effect on such date.

Rule 11a–1 (§ 270.11a–1) defines the term "exchange" as used in section 11 of the Act to include, with certain exceptions, the issuance of any security by a registered investment company in an amount equal to the proceeds, or any portion of the proceeds, paid or payable to a security holder upon the repurchase by the company of an outstanding terminable redeemable security held by him, or upon the termination, retirement or cancellation of such a security in accordance with its terms. Such a security is not deemed to have been repurchased by the issuer, or terminated, retired, or canceled in accordance with its terms, if the issuer redeemed or repurchased the security and paid the redemption or repurchase price (1) upon presentation of the security for redemption or repurchase at the instance of its holder; (2) upon failure by the security holder to make prescribed payments; or (3) upon surrender of the security by the security holder pursuant to prescribed restrictions upon the security's transferability. In addition, an "exchange" is not deemed to have occurred if, following the repurchase of such a security by the issuer, or the termination, retirement, or cancellation of such a security in accordance with its terms, the proceeds are actually paid to the security holder by or on behalf of the issuer 7 days, and no sale and no offer (other than by way of exchange) of any security of the issuer is made by or on behalf of the issuer to the person to whom such proceeds were paid, within 60 days after such payment.

The Commission is today also issuing Investment Company Act Release No. 5025 adopting Rule 11b–1 (§ 270.11b–1) under the Investment Company Act of 1940 which is related hereto.

The text of Rule 11a–1 (§ 270.11a–1), adopted by the Commission pursuant to the authority granted to it in sections 11(a) and 38(a) of the Act, is as follows:

§ 270.11a–1 Definition of "exchange" for purposes of section 11 of the Act.

(a) For the purposes of section 11 of the Act, the term "exchange" as used therein shall include the issuance of any security by a registered investment company in an amount equal to the proceeds, or any portion of the proceeds, paid or payable—

(1) Upon the repurchase, by or at the instance of such issuer, of an outstanding security the terms of which provide for its termination, retirement or cancellation, or

(2) Upon the termination, retirement or cancellation of an outstanding security of such issuer in accordance with the terms thereof.

(b) A security shall not be deemed to have been repurchased by or at the instance of the issuer, or terminated, retired or canceled in accordance with the terms of the security if—

(1) The security was redeemed or repurchased at the instance of the holder; or

(2) A security holder's account was closed for failure to make payments as prescribed in the security or instruments pursuant to which the security was issued, and notice of intention to close the account was mailed to the security holder, and he had a reasonable time in which to meet the deficiency; or

(3) Sale of the security was restricted to a specified, limited group of persons and, in accordance with the terms of the security or the instruments pursuant to which the security was issued, upon its being transferred by the holder to a person not a member of the group eligible to purchase the security, the issuer required the surrender of the security and paid the redemption price thereof.

(c) The provisions of paragraph (a) of this section shall not apply if, following the repurchase of an outstanding security by or at the instance of the issuer or the termination, retirement or cancellation of an outstanding security in accordance with the terms thereof—

(1) The proceeds are actually paid to the security holder by or on behalf of the issuer within 7 days, and

(2) No sale and no offer (other than by way of exchange) of any security of the issuer is made by or on behalf of the issuer to the person to whom such proceeds were paid, within 60 days after such payment.

(d) The provisions of paragraph (a) of this section shall not apply to the repurchase, termination, retirement, or cancellation of a security outstanding on the effective date of this section or issued pursuant to a subscription agreement or other plan of acquisition in effect on such date.

(Secs. 11(a), 38(a), 54 Stat. 808, 841; 15 U.S.C. 80a–11(a), 80a–37)

The foregoing rule is declared effective August 12, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 12, 1967.

[F.R. Doc. 67–8454; Filed, July 20, 1967; 8:45 a.m.]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Definition of Class or Series of Securities Issued by the Same Company

On May 11, 1967, the Securities and Exchange Commission published notice

(Investment Company Act Release No. 4951) in the FEDERAL REGISTER on May 18, 1967 (32 F.R. 7399), that it had under consideration the adoption of Rule 11b–1 under the Investment Company Act of 1940 ("Act") (§ 270.11b–1, Chapter II, Title 17 of the Code of Federal Regulations) and invited all interested persons to submit their views and comments upon the proposal. No comments were received. The Commision, after due consideration, has determined to adopt Rule 11b–1 (§270.11b–1) in the form set forth below.

Section 11(a) of the Act provides that it is unlawful for a registered open-end company or its principal underwriter to make an offer to any holder of the company's securities to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the Commission by rules, regulations or approval of a specific transaction permits the exchange to be made on a different basis.

Section 11(b)(2) of the Act exempts from section 11(a) (of the Act) any offer made pursuant to the right of conversion, at the option of the security holder, from one class or series into another class or series of securities issued by the same company upon terms specified in the charter, certificate of incorporation, articles of association, bylaws, or trust indenture subject to which the securities to be converted were issued or to be issued.

Section 11(a) of the Act, as noted above, contemplates that the Commission may adopt rules and regulations relating to offers of exchange made at other than net asset value. Section 38(a) of the Act authorizes the Commission to make rules and regulations "as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in this title, including rules and regulations defining accounting, technical, and trade terms used in this title."

The term "class or series of securities issued by the same company" used in section 11(b)(2) (of the Act) is not defined by any section of the Act. Related language is employed in section 18(f)(2) (of the Act). Section 18(f)(1) (of the Act), in relevant part, provides that it is unlawful for any registered open-end company to issue to the public any class of senior security or to sell any senior security of which it is the issuer, and section 18(f)(2) (of the Act) provides that the term " 'senior security' shall not, in the case of a registered open-end company include a class or classes or a number of series of preferred or special stock each of which is preferred over all other classes or series in respect of assets specifically allocated to that class or series." Accordingly, under the provisions of section 18(f) (of the Act), a registered open-end company cannot issue any senior convertible security to the public, with the exception of a security of the type described in section 18(f)(2) (of the Act).

The provisions of section 18(f)(2) (of the Act) relate to so-called "series companies," each of which maintains a series of separate differentiated pools of assets, in respect to each of which there is a class or series of securities outstanding which represents the exclusive and entire participation in the particular pool. Thus, section 18(f)(2) (of the Act) provides that each such class or series of securities must have a preference over all other classes or series of securities with respect to the particular pool of assets to which it relates.

The purpose of Rule 11b–1 (§ 270.11b–1) is to specify that the exemption provided by section 11(b)(2) (of the Act) is available only to the type of "series company" described in section 18(f)(2) (of the Act). Accordingly, Rule 11b–1 (§ 270.11b–1) defines the term "class or series of securities issued by the same company" as used in section 11(b)(2) (of the Act) to mean all securities issued by a registered open-end investment company which are preferred over all other classes or series in respect of assets specifically allocated to that class or series.

The Commission has issued today Investment Company Act Release No. 5024 adopting Rule 11a–1 (§ 270.11a–1) under the Investment Company Act of 1940 which is related hereto.

The text of Rule 11b–1 (270.11b–1) adopted by the Commission pursuant to the authority granted to it in sections 11(a) and 38(a) of the Act, is as follows:

§ 270.11b–1 Definition of "class or series of securities issued by the same company" for purposes of section 11(b)(2) of the Act.

For the purposes of subsection 11(b)(2) of the Act, the term "class or series of securities issued by the same company" shall mean any securities issued by a registered open-end investment company which are preferred over all other classes or series in respect of assets specifically allocated to that class or series.

(Secs. 11(a), 38(a), 54 Stat. 808, 841; 15 U.S.C. 80a–11(a), 80a–37)

The foregoing is declared effective August 12, 1967.

By the Commission.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

JULY 12, 1967.

[F.R. Doc. 67–8453; Filed, July 20, 1967; 8:45 a.m.]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER A—GENERAL

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

Miscellaneous Amendments

In the matter of amending the enforcement regulations (21 CFR Part 1) with respect to the requirements of the Fair Packaging and Labeling Act (Public Law 89–755) to (1) establish an exemption procedure for foods, drugs, and cosmetics, (2) set forth the requirements for label statements for foods, and (3) establish exemptions for foods:

In response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of March 17, 1967 (32 F.R. 4172), over 300 comments were submitted by Federal and State officials and by representatives of industry, and these comments have been duly considered. Also, the Committee on Laws and Regulations of the National Conference of Weights and Measures and the Executive Committee of the Association of Food and Drug Officials of the United States have been consulted on many provisions of the proposal since under section 12 of the Fair Packaging and Labeling Act the States, which have additional interests in this area of regulation, are precluded from imposing labeling laws that are less stringent than or require information different from the requirements of section 4 of that Act or regulations promulgated thereunder. Discussions of the proposal were also had with other Federal officials. On the basis of the information available to him from these and other sources, the Commissioner of Food and Drugs' decisions on those provisions of the proposal that elicited the largest volume of arguments are as follows:

1. The Commissioner is of the opinion that the exemption from bearing otherwise mandatory label information applicable (under certain circumstances) to outer containers or wrappers by the terms of the Federal Food, Drug, and Cosmetic Act should also be recognized in the regulations implementing the Fair Packaging and Labeling Act. Therefore, transparent wrappers or containers are, under stated conditions, exempt from bearing mandatory label information under the regulations set forth below. The State officials who addressed themselves to this issue are in agreement with this interpretation. Understandably, comments from industry strongly support this interpretation.

2. The Commissioner has accepted the recommendation of State officials that the proposed directions for computing the area of the principal display panel should be defined more explicitly. The statutory requirements for uniformity of type size in net quantity declarations preclude the adoption of suggestions from industry officials that the type size be established in relation to the area of the label.

3. In the matter of requiring particular food forms to be included in the statement of identity, there was no general consensus among State officials, and the Commissioner is not in agreement with the views of industry that this is an unnecessary specification. Neither is he persuaded that the statement of identity and declaration of net quantity belong elsewhere than on the principal display panel.

4. There is general agreement that the statutory requirement that the net

quantity shall be separately stated can be satisfied by a rule requiring a reasonable separation in relation to the type size of the net quantity statement. There is no general consensus on the issue of the uniform location of the net quantity statement, and the Commissioner cannot accept the recommendation found in a great many of the comments that the statement appear at the top or bottom of the label at the option of the manufacturer.

5. The proposed provision to exclude the weight of propellants in net weight declarations is not included in the following order because State and Federal officials commenting thereon were of the opinion that there is not presently available a generally accepted, practical method for determining such weight. It is the intention of the Commissioner to attempt to obtain agreement on an acceptable method among the interested regulatory officials.

6. The type sizes proposed for the net quantity declaration have produced the greatest number of comments. Most of the writers suggested that the sizes proposed be replaced by the type size specifications adopted by the National Conference of Weights and Measures. The type sizes required by the following order are not those of the National Conference, but the Commissioner has good cause to believe that the sizes ordered are reasonable.

7. Proposed § 1.8b(q) is revised and calls for the net quantity statement to express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice will be recognized. At a later date the Commissioner will propose an amendment to § 1.8b(q) to specify a means whereby industry and State and Federal Government may make a definitive determination whether any variation is reasonable or unreasonable.

8. Proposed § 1.10(d), dealing with quantitative declaration of certain ingredients, has been revised in response to requests for greater specificity.

Therefore, based on consideration of the comments received, the above-mentioned consultations, and other relevant information, the Commissioner concludes that the proposed amendments should be issued, with changes and additions, as set forth below. Accordingly, pursuant to the provisions of the Fair Packaging and Labeling Act (secs. 4, 6, 80 Stat. 1297, 1299, 1300; 15 U.S.C. 1453, 1455) and the authority provided in the Federal Food, Drug, and Cosmetic Act (secs. 403 (e), (f), (i), 502(b), 602(b), 701, 52 Stat. 1047, 1050, 1054, 1055, as amended; 21 U.S.C. 343 (e), (f), (i), 352(b), 362(b), 371), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120): *It is ordered*, That Part 1 be amended:

1. By changing the part heading to read as set forth above.

2. By revising § 1.1 to read as follows:

§ 1.1 General.

(a) The provisions of regulations promulgated under the Federal Food, Drug, and Cosmetic Act with respect to the doing of any act shall be applicable also to the causing of such act to be done.

(b) The definitions and interpretations of terms contained in section 201 of the Federal Food, Drug, and Cosmetic Act shall be applicable also to such terms when used in regulations promulgated under that act.

(c) The definition of "package" in §1.1b and of "principal display panel" in § 1.7; and the substantive requirements pertaining to uniform location, lack of qualification, and separation of the net quantity declaration in § 1.8b(f), to type size requirements for net quantity declaration in § 1.8b(i), to initial statement of ounces in the dual declaration of net quantity in § 1.8b(j) and (m), to prohibition of certain supplemental net quantity statements in §1.8b(o), and to servings representations in § 1.8c are provided for solely by the Fair Packaging and Labeling Act and apply to certain consumer commodities defined in section 10 of that act. The other requirements of this part are provided for by both Fair Packaging and Labeling Act and the Federal Food, Drug, and Cosmetic Act or by the latter act solely, are enforceable under the provisions of section 303 of the Federal Food, Drug, and Cosmetic Act, and are not limited in their application by section 10 of the Fair Packaging and Labeling Act.

3. By adding new §§ 1.1a and 1.1b, and 1.1c, as follows:

§ 1.1a Foods, drugs, devices, and cosmetics; labeling; procedure for requesting variations and exemptions from required label statements.

Section 403(e) of the act (in this Part 1, the term "act" means the Federal Food, Drug, and Cosmetic Act) provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 403(i) of the act provides for the establishment by regulation of exemptions from the required declaration of ingredients where such declaration is impracticable, or results in deception or unfair competition. Section 502(b) of the act provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 602(b) of the act provides for the establishment by regulation of reasonable variations and exemptions for small packages from the required declaration of net quantity of contents. Section 5(b) of the Fair Packaging and Labeling Act provides for the establishment by regulation of exemptions from certain required declarations of net quantity of contents, identity of commodity, identity and location of manufacturer, packer, or distributor, and from declaration of net quantity of servings represented, based on a finding that full compliance with such required declarations is impracticable or not necessary for the adequate protection of consumers, and a further finding that the nature, form, or quantity of the packaged consumer commodity or other good and sufficient reasons justify such exemptions. The Commissioner, on his own initiative or on petition of an interested person, may propose such findings and an exemption. The procedure followed and the criteria used in acting upon exemption requests of interested persons are as follows:

(a) If the petitioner shows that he is an interested person and furnishes reasonable grounds for his proposal, the Commissioner shall publish the proposal in the FEDERAL REGISTER and afford opportunity for interested persons to comment on it. After a study of all the facts available and of the comments received, the Commissioner will act upon the proposal and publish an order, pursuant to section 701(e) of the act, to which objection may be taken by persons who would be adversely affected.

(b) Practical administration of the law requires that there be a substantial showing of merit before any proposal is published. In evaluating proposals submitted by petitioners for initiating actions, it will be the policy of the Food and Drug Administration to consider that reasonable grounds have been furnished when:

(1) The proposal includes or is accompanied by a statement of the facts that the petitioner asserts he can substantiate by evidence in the event the proceedings lead to a public hearing.

(2) The declared facts furnish substantial support of the proposal and warrant a conclusion that the proposal is reasonable.

(3) The proposal if adopted would not unduly impinge upon the consumer's right to information essential to efficient marketing and to the making of value comparisons and would not otherwise promote deception or unfair competition.

(4) Full compliance with the declarations required by law would be impracticable, deceptive, or otherwise unnecessary.

(c) Opportunity will be given to amend petitions regarded as inadequate.

(d) At any time prior to the issuance of an order acting on his proposal under section 701(e)(1) of the act, the petitioner may withdraw his petition without prejudice to a future filing. Notice of withdrawal of the petition and termination of the rulemaking proceeding will be published in the FEDERAL REGISTER.

(e) Established exemptions will be set forth in § 1.1c.

§ 1.1b Packages; definition; presence of mandatory label information.

The term "package" means any container or wrapping in which any food, drug, device, or cosmetic is enclosed for use in the delivery or display of such commodities to retail purchasers, but does not include:

(a) Shipping containers or wrappings used solely for the transportation of any such commodity in bulk or in quantity

to manufacturers, packers, processors, or wholesale or retail distributors;

(b) Shipping containers or outer wrappings used by retailers to ship or deliver any such commodity to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; or

(c) Containers subject to the provisions of the Act of August 3, 1912 (37 Stat. 250, as amended; 15 U.S.C. 234–236), the Act of August 31, 1916 (39 Stat. 673, as amended; 15 U.S.C. 251–256), or the Act of May 21, 1928 (45 Stat. 685, as amended; 15 U.S.C. 257–257i).

(d) Containers used for tray pack displays in retail establishments.

(e) Transparent wrappers or containers which do not bear written, printed, or graphic matter obscuring the label information required by this part.

A requirement contained in this part that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or information also appears on the outer container or wrapper of the retail package of the article, or, as stated in paragraph (e) of this section, such information is easily legible by virtue of the transparency of the outer wrapper or container. Where a consumer commodity is marketed in a multiunit retail package bearing the mandatory label information as required by this part and the unit containers are not intended to be sold separately, the net weight placement requirement of § 1.8b(f) applicable to such unit containers is waived if the units are in compliance with all the other requirements of this part.

§ 1.1c Exemptions from required label statements.

The following exemptions are granted from label statements required by this part:

(a) *Foods.* (1) While held for sale, a food shall be exempt from the required declaration of net quantity of contents specified in this part if said food is received in bulk containers at a retail establishment and is accurately weighed, measured, or counted either within the view of the purchaser or in compliance with the purchaser's order.

(2) Random food packages, as defined in § 1.8b(j) of this part, bearing labels declaring net weight, price per pound, and total price, shall be exempt from the type size, dual declaration, and placement requirements of § 1.8b, if the accurate statement of net weight is presented conspicuously on the principal display panel of the package.

(3) Individual serving-size packages of foods containing less than ½ ounce or less than ½ fluid ounce for use in restaurants, institutions, and passenger carriers, and not intended for sale at retail, shall be exempt from the required declaration of net quantity of contents specified in this part.

(4) Individually wrapped pieces of "penny candy" shall be exempt from the labeling requirements of this part when the container in which such candy is shipped is in conformance with the labeling requirements of this part. Similarly when individually wrapped pieces of candy of less than ½ ounce net weight per individual piece are sold in bags or boxes, such individual pieces shall be exempt from the required declaration of net quantity of contents specified in this part when the declaration on the bag or box meets the requirements of this part.

4. By revising § 1.2 to read as follows:

§ 1.2 Labeling; label; definitions.

(a) Labeling includes all written, printed, or graphic matter accompanying an article at any time while such article is in interstate commerce or held for sale after shipment or delivery in interstate commerce.

(b) "Label" means any display of written, printed, or graphic matter on the immediate container of any article, or any such matter affixed to any consumer commodity or affixed to or appearing upon a package containing any consumer commodity.

§ 1.5 [Redesignated]

5. By redesignating § 1.7 as § 1.15 and adding a new § 1.7, as follows:

§ 1.7 Food in package form; principal display panel.

The term "principal display panel" as it applies to food in package form and as used in this part, means the part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale. The principal display panel shall be large enough to accommodate all the mandatory label information required to be placed thereon by this part with clarity and conspicuousness and without obscuring design, vignettes, or crowding. Where packages bear alternate principal display panels, information required to be placed on the principal display panel shall be duplicated on each principal display panel. For the purpose of obtaining uniform type size in declaring the quantity of contents for all packages of substantially the same size, the term "area of the principal display panel" means the area of the side or surface that bears the principal display panel, which area shall be:

(a) In the case of a rectangular package where one entire side properly can be considered to be the principal display panel side, the product of the height times the width of that side;

(b) In the case of a cylindrical or nearly cylindrical container, 40 percent of the product of the height of the container times the circumference;

(c) In the case of any other shaped container, 40 percent of the total surface of the container.

In determining the area of the principal display panel, exclude flanges at tops and bottoms of cans and shoulders and necks of bottles or jars. In the case of cylindrical or nearly cylindrical containers, information required by this part to appear on the principal display panel shall appear within that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under customary conditions of display for retail sale.

6. By revising § 1.8 and adding new §§ 1.8a, 1.8b, and 1.8c, as follows:

§ 1.8 Food in package form, labeling; identity.

(a) The principal display panel of a food in package form shall bear as one of its principal features a statement of the identity of the commodity.

(b) Such statement of identity shall be in terms of:

(1) The name now or hereafter specified in or required by any applicable Federal law or regulation; or, in the absence thereof,

(2) The common or usual name of the food; or, in the absence thereof,

(3) An appropriately descriptive term, or when the nature of the food is obvious, a fanciful name commonly used by the public for such food.

(c) Where a food is marketed in various optional forms (whole, slices, diced, etc.), the particular form shall be considered to be a necessary part of the statement of identity and shall be declared in letters of a type size bearing a reasonable relation to the size of the letters forming the other components of the statement of identity; except that if the optional form is visible through the container or is depicted by an appropriate vignette, the particular form need not be included in the statement. This specification does not affect the required declarations of identity under definitions and standards for foods promulgated pursuant to section 401 of the act.

(d) This statement of identity shall be presented in bold type on the principal display panel, shall be in a size reasonably related to the most prominent printed matter on such panel, and shall be in lines generally parallel to the base on which the package rests as it is designed to be displayed.

§ 1.8a Food labeling; name and place of business of manufacturer, packer, or distributor.

(a) The label of a food in packaged form shall specify conspicuously the name and place of business of the manufacturer, packer, or distributor.

(b) The requirement for declaration of the name of the manufacturer, packer, or distributor shall be deemed to be satisfied, in the case of a corporation, only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(c) Where the food is not manufactured by the person whose name appears on the label, the name shall be qualified by a phrase that reveals the connection such person has with such food; such as, "Manufactured for and packed by _____," "Distributed by _____," or any other wording that expresses the facts.

(d) The statement of the place of business shall include the street address, city, State, and ZIP Code; however, the street address may be omitted if it is

shown in a current city directory or telephone directory.

(e) If a person manufactures, packs, or distributes a food at a place other than his principal place of business, the label may state the principal place of business in lieu of the actual place where such food was manufactured or packed or is to be distributed, unless such statement would be misleading.

§ 1.8b Food labeling; declaration of net quantity of contents; when exempt.

(a) The principal display panel of a food in package form shall bear a declaration of the net quantity of contents. This shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure. The statement shall be in terms of fluid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, or viscous, or a mixture or solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity that is customarily sold by dry measure. If there is a firmly established general consumer usage and trade custom of declaring the contents of a liquid by weight, or a solid, semisolid, or viscous product by fluid measure, it may be used. Whenever the Commissioner determines that an existing practice of declaring net quantity of contents by weight, measure, numerical count, or a combination in the case of a specific packaged food does not facilitate value comparisons by consumers and offers opportunity for consumer confusion, he will by regulation designate the appropriate term or terms to be used for such commodity.

(b) (1) Statements of weight shall be in terms of avoirdupois pound and ounce.

(2) Statements of fluid measure shall be in terms of the U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and shall:

(i) In the case of frozen food that is sold in the frozen state, express the volume at 32° F. (0° C.).

(ii) In the case of refrigerated food that is sold in the refrigerated state, express the volume at 40° F. (4° C.).

(iii) In the case of other foods, express the volume at 68° F. (20° C.).

(3) Statements of dry measure shall be in terms of the U.S. bushel of 2,150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof.

(c) When the declaration of quantity of contents by numerical count does not give adequate information as to the quantity of food in the package, it shall be combined with such statement of weight, measure, or size of the individual units of the foods as will provide such information.

(d) The declaration may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds; except that if there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places. A statement that includes small fractions of an ounce shall be deemed to permit smaller variations than one which does not include such fractions.

(e) The declaration shall be located on the principal display panel of the label, and with respect to packages bearing alternate principal panels it shall be duplicated on each principal display panel.

(f) The declaration shall appear as a distinct item on the principal display panel, shall be separated (by at least a space equal to the height of the lettering used in the declaration) from other printed label information appearing above or below the declaration and (by at least a space equal to twice the width of the letter "N" of the style of type used in the quantity of contents statement) from other printed label information appearing to the left or right of the declaration. It shall not include any term qualifying a unit of weight, measure, or count (such as "jumbo quart" and "full gallon") that tends to exaggerate the amount of the food in the container. It shall be placed on the principal display panel within the bottom 30 percent of the area of the label panel in lines generally parallel to the base on which the package rests as it is designed to be displayed: *Provided*, That on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the declaration of net quantity of contents meets the other requirements of this part.

(g) The declaration shall accurately reveal the quantity of food in the package exclusive of wrappers and other material packed therewith; provided that in the case of foods packed in containers designed to deliver the food under pressure, the declaration shall state the net quantity of the contents that will be expelled when the instructions for use as shown on the container are followed. The propellant is included in the net quantity declaration.

(h) The declaration shall appear in conspicuous and easily legible boldface print or type in distinct contrast (by typography, layout, color, embossing, or molding) to other matter on the package; except that a delaration of net quantity blown, embossed, or molded on a glass or plastic surface is permissible when all label information is so formed on the surface. Requirements of conspicuousness and legibility shall include the specifications that:

(1) The ratio of height to width (of the letter) shall not exceed a differential of 3 units to 1 unit (no more than 3 times as high as it is wide).

(2) Letter heights pertain to upper case or capital letters. When upper and lower case or all lower case letters are used, it is the lower case letter "o" or its equivalent that shall meet the minimum standards.

(3) When fractions are used, each component numeral shall meet one-half the minimum height standards.

(i) The declaration shall be in letters and numerals in a type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type specifications:

(1) Not less than 1/16 inch in height on packages the principal display panel of which has an area of 5 square inches or less.

(2) Not less than 1/8 inch in height on packages the principal display panel of which has an area of more than 5 but not more than 25 square inches.

(3) Not less than 3/16 inch in height on packages the principal display panel of which has an area of more than 25 but not more than 100 square inches.

(4) Not less than 1/4 inch in height on packages the principal display panel of which has an area of more than 100 square inches, except not less than 1/2 inch in height if the area is more than 400 square inches.

Where the declaration is blown, embossed, or molded on a glass or plastic surface rather than by printing, typing, or coloring, the lettering sizes specified in subparagraphs (1) through (4) of this paragraph shall be increased by 1/16 of an inch.

(j) On packages containing less than 4 pounds or 1 gallon and labeled in terms of weight or fluid measure:

(1) The declaration shall be expressed both in ounces, with identification by weight or by liquid measure and, if applicable (1 pound or 1 pint or more) followed in parentheses by a declaration in pounds for weight units, with any remainder in terms of ounces or common or decimal fractions of the pound (see examples set forth in paragraph (m) (1) and (2) of this section), or in the case of liquid measure, in the largest whole units (quarts, quarts and pints, or pints, as appropriate) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart (see examples in paragraph (m) (3) and (4) of this section).

(2) If the net quantity of contents declaration appears on a random package, that is a package which is one of a lot, shipment, or delivery of packages of the same consumer commodity with varying weights and with no fixed weight pattern, it may, when the net weight exceeds 1 pound, be expressed in terms of pounds and decimal fractions of the pound carried out to not more than two decimal places. When the net weight does not exceed 1 pound, the declaration on the random package may be in decimal fractions of the pound in lieu of ounces (see example in paragraph (m) (5) of this section).

(3) The declaration may appear in more than one line. The term "net weight" shall be used when stating the net quantity of contents in terms of weight. Use of the terms "net" or "net contents" in terms of fluid measure or

numerical count is optional. It is sufficient to distinguish avoirdupois ounce from fluid ounce through association of terms; for example, "Net wt. 6 oz." and "Net contents 6 fl. oz."

(k) On packages containing 4 pounds or 1 gallon or more and labeled in terms of weight or fluid measure, the declaration shall be expressed in pounds for weight units with any remainder in terms of ounces or common or decimal fraction of the pound, or in the case of fluid measure, it shall be expressed in the largest whole unit (gallons followed by common or decimal fraction of a gallon or by the next smaller whole unit or units (quarts, or quarts and pints)) with any remainder in terms of fluid ounces or common or decimal fractions of the pint or quart (see paragraph (m)(6) of this section).

(l) [Reserved]

(m) Examples:

(1) A declaration of 1½ pounds weight shall be expressed as "Net Wt. 24 oz. (1 lb., 8 oz.)" "Net Wt. 24 oz. (1.5 lb.)".

(2) A declaration of ¾ pound avoirdupois weight shall be expressed as "Net Wt. 12 oz."

(3) A declaration of 1 quart liquid measure shall be expressed as "Net 32 fl. oz. (1 qt.)".

(4) A declaration of 1¾ quarts liquid measure shall be expressed as "Net contents 56 fluid ounces (1 quart 1½ pints)" or as "Net 56 fluid oz. (1 qt. 1 pt. 8 oz.)," but not in terms of quart and ounce such as "Net 56 fluid oz. (1 quart 24 ounces)".

(5) On a random package, declaration of ¾ pound avoirdupois may be expressed as "Net Wt. .75 lb."

(6) A declaration of 2½ gallons liquid measure shall be expressed as "Net contents 2½ gallons," "Net contents 2.5 gallons," or "Net contents 2 gallons 2 quarts" and not as "2 gallons 4 pints".

(n) For quantities, the following abbreviations and none other may be employed (periods and plural forms are optional):

weight wt.	pint pt.
ounce oz.	quart qt.
pound lb.	fluid fl.
gallon gal.	

(o) Nothing in this section shall prohibit supplemental statements at locations other than the principal display panel(s) describing in nondeceptive terms the net quantity of contents: *Provided*, That such supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the food contained in the package; for example, "jumbo quart" and "full gallon". Dual or combination declarations of net quantity of contents as provided for in paragraphs (a), (c), and (j) of this section (for example, a combination of net weight plus numerical count, net weight plus dilution directions of a concentrate, etc.) are not regarded as supplemental net quantity statements and shall be located on the principal display panel.

(p) A separate statement of the net quantity of contents in terms of the metric system is not regarded as a supplemental statement and an accurate statement of the net quantity of contents in terms of the metric system of weight or measure may also appear on the principal display panel or on other panels.

(q) The declaration of net quantity of contents shall express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

§ 1.8c Food labeling; number of servings.

(a) The label of any package of a food which bears a representation as to the number of servings contained in such package shall bear in immediate conjunction with such statement, and in the same size type as is used for such statement, a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving; however, such statement may be expressed in terms that differ from the terms used in the required statement of net quantity of contents (for example, cupfuls, tablespoonfuls, etc.) when such differing term is common to cookery and describes a constant quantity. Such statement may not be misleading in any particular.

(b) If there exists a voluntary product standard promulgated pursuant to the procedures found in Part 10, Title 15, Code of Federal Regulations, by the Department of Commerce, quantitatively defining the meaning of the term "serving" with respect to a particular food, then any label representation as to the number of servings in such packaged food shall correspond with such quantitative definition. (Copies of published standards are available upon request from the National Bureau of Standards, Department of Commerce, Washington, D.C. 20234.)

7. By revising § 1.10 (d) and (e) and adding a new paragraph (h), as follows:

§ 1.10 Food; labeling; designation of ingredients.

* * * * *

(d) When the proportion of an ingredient or ingredients is material in the light of the representation that such ingredient was used in fabricating the food, the label shall contain a quantitative declaration of such ingredient(s). For example, a label designation of identity as "cottonseed oil and olive oil" for a mixture containing 80 percent or more of cottonseed oil would require a declaration of the percent of olive oil present. Similarly a representation by vignette or statement of identity that a breakfast syrup is made from a mixture of sugar syrup and maple sugar syrup would necessitate a quantitative declaration of the maple sugar syrup unless more than 20 percent maple sugar syrup is present.

(e) In the case of an assortment of different items of food, when variations in the items that make up different packages packed from such assortment normally occur in good packing practice and when such variations result in variations in the ingredients in different packages, such food shall be exempt from compliance with the requirements of clause (2) of section 403(i) of the act with respect to any ingredient that is not common to all packages. Such exemption, however, shall be on the condition that the label shall bear, in conjunction with the names of such ingredients as are common to all packages, a statement (in terms that are as informative as practicable and that are not misleading) indicating that other ingredients may be present.

* * * * *

(h) Ingredients shall be listed by common or usual name in order of decreasing predominance. The declaration shall be presented on any appropriate information panel in adequate type size, without obscuring design, vignettes, or crowding. The entire ingredient statement shall appear on a single panel of the label.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections adversely affected by the order and tions thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing, and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective (1) December 31, 1967, for all new packages, new label designs, and labels being reordered and (2) July 1, 1968, for all packages introduced into interstate commerce; except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Secs. 4, 6, 80 Stat. 1297, 1299, 1300, 15 U.S.C. 1453, 1455; secs. 403 (e), (f), (i), 502(b), 602 (b), 701, 52 Stat. 1047, 1050, 1054, 1055, as amended, 21 U.S.C. 343 (e), (f), (i), 352(b), 362(b), 371)

Dated: July 17, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-8457; Filed, July 20, 1967; 8:46 a.m.]

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

Utilization of Packages and Labels Not in Compliance With Labeling Requirements of Fair Packaging and Labeling Act

In the FEDERAL REGISTER of March 17, 1967 (32 F.R. 4172), the Food and Drug Administration proposed initial regulations in the implementation of the Fair Packaging and Labeling Act, and notice was given that when the Commissioner of Food and Drugs acted upon the proposal he would issue a statement of policy dealing with the orderly disposition of label stocks in inventory. In this issue of the FEDERAL REGISTER, the Commissioner has published an order acting upon the proposal of March 17, 1967, and accordingly said statement of policy is set forth below.

Therefore, under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055; 21 U.S.C. 371(a)) and by the Fair Packaging and Labeling Act (secs. 4, 6, 80 Stat. 1297, 1299, 1300; 15 U.S.C. 1453, 1455), and delegated by him to the Commissioner (21 CFR 2.120), Part 3 is amended by adding thereto the following new section:

§ 3.57 Stocks of packages and labels not complying with section 4 of the Fair Packaging and Labeling Act.

(a) Implementation of the Fair Packaging and Labeling Act (Public Law 89-755) will require changes in the labels of many foods, drugs, and cosmetics now on the market. The law does not contemplate a disruption of legitimate business practices nor destruction of all stocks of labels and packages rendered not-in-compliance by the effective date of the regulations promulgated pursuant to that Act. Section 6 of the Fair Packaging and Labeling Act provides that "no regulation adopted under this Act shall preclude the continued use of returnable or reusable glass containers for beverages in inventory or with the trade as of the effective date of this Act, nor shall any regulation under this Act preclude the orderly disposal of packages in inventory or with the trade as of the effective date of such regulation." Section 13 provides that the promulgating authority may by regulation postpone the effective date of the Fair Packaging and Labeling Act for an additional 12-month period for classes or types of consumer commodities.

(b) In the order published in the FEDERAL REGISTER of July 21, 1967, it is stated that the effective date of that initial order covering food labels under the Fair Packaging and Labeling Act shall be December 31, 1967, for all new food packages, new label designs, and labels being reordered, and shall be July 1, 1968, for all food packages and labels being introduced into interstate commerce. Extensions for stocks of packages and labels beyond July 1, 1968, will be considered on an individual case basis and are grantable for good cause shown. Good cause would necessarily include a showing that:

(1) The stocks are in compliance with the present terms of the Federal Food, Drug, and Cosmetic Act and the regulations thereunder;

(2) Due diligence was expended in devising and obtaining labels and packages in compliance with the new regulations insofar as the facilities of the label and package manufacturers permit; and

(3) The stocks did not result from a deliberate attempt to overstock.

(Secs. 4, 6, 80 Stat. 1297, 1299, 1300, 15 U.S.C. 1453, 1455; sec. 701(a), 52 Stat. 1055, 21 U.S.C. 371(a))

Dated: July 17, 1967.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

[F.R. Doc. 67-8463; Filed, July 20, 1967; 8:46 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 120—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Ammoniates

A petition (PP 6F0488) was filed with the Food and Drug Administration by the FMC Corp., Niagara Chemical Division, 100 Niagara Street, Middleport, N.Y. 14105, proposing the establishment of tolerances for residues of a fungicide that is a mixture of 5.2 parts by weight of ammoniates of [ethylenebis(dithiocarbamato)] zinc with 1 part by weight ethylenebis[dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides in or on the raw agricultural commodities cherries at 20 parts per million and apples, celery, cucumbers, melons, squash, and tomatoes at 7 parts per million.

Subsequently, the proposed tolerances regarding cherries, melons, and squash were withdrawn; the proposed tolerance regarding celery, cucumbers, and tomatoes was decreased to 5 parts per million; and a proposed tolerance of 5 parts per million for residues in or on cantaloups was added. Also, it was specified that the tolerances are to be calculated as zinc ethylenebisdithiocarbamate.

The Secretary of Agriculture has certified that this pesticide chemical is useful for the purposes for which tolerances are being established.

Based on consideration given the data submitted in the petition, and other relevant material, the Commissioner of Food and Drugs concludes that the tolerances established by this order will protect the public health. Therefore, by virtue of the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)) and delegated by him to the Commissioner (21 CFR 2.120), Part 120 is amended as follows:

1. Section 120.3(e)(3) is amended by alphabetically inserting in the list of pesticides a new item, as follows:

§ 120.3 Tolerances for related pesticide chemicals.

(e) * * *

(3) * * *

A mixture of 5.2 parts by weight of ammoniates of [ethylenebis (dithiocarbamato)] zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides.	

* * * * *

2. A new section is added to Subpart C as follows:

§ 120.217 Ammoniates of [ethylenebis(dithiocarbamato)] zinc and ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides; tolerances for residues.

Tolerances for residues of a fungicide that is a mixture of 5.2 parts by weight of ammoniates of [ethylenebis (dithiocarbamato)] zinc with 1 part by weight ethylenebis [dithiocarbamic acid] bimolecular and trimolecular cyclic anhydrosulfides and disulfides, calculated as zinc ethylenebisdithiocarbamate, in or on raw agricultural commodities are established as follows:

7 parts per million in or on apples.

5 parts per million in or on celery, cantaloups, cucumbers, tomatoes.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on the date of its publication in the FEDERAL REGISTER.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: July 13, 1967.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 67-8481; Filed, July 20, 1967; 8:48 a.m.]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

FURALTADONE

On the basis of new information, the Commissioner of Food and Drugs concludes that the food additive regulation