higher than the net price charged any other purchaser who competes in the resale of respondent's products with the purchaser paying the higher price.

II

It is further ordered, That nothing herein contained shall prevent price differentials which make only due allowance for differences in the cost of manufacture, sale or delivery, resulting from the differing methods or quantities in which such products are sold or delivered to such purchasers or which are made in good faith to meet an equally low price of a competitor; nor shall anything herein contained prevent price changes from time to time where made in response to changing conditions affecting the market for or the marketability of the goods concerned, such as but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasonal goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned. *And it is further provided*, That all other defenses legally available to a charge of price discrimination under section 2(a) of the amended Clayton Act are not waived by this order.

III

It is further ordered, That in any enforcement action brought to enforce the provisions of this order, respondent shall assume the burden of proving all defenses described or referenced in Part II of this order.

IV

It is further ordered, That respondent notify the Commission at least thirty (30) days prior to any proposed change in corporate structure of respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation, which may affect compliance obligations arising out of the order.

V

It is further ordered, That respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner in which it has complied with this order and shall file such other reports as may, from time to time, be required to assure compliance with the terms and conditions of this order.

[Docket No. 9066]

FRITO-LAY, INC.

ANALYSIS OF PROVISIONALLY ACCEPTED CONSENT ORDER

The core of this order is contained in Paragraph I and prohibits Frito-Lay from selling its snack food products to a retail grocery store, market or similar establishment at a price higher than the price paid by a competitive store. The Frito-Lay products covered by the order are ready-to-eat when purchased and are delivered by Frito-Lay or its designee to the individual store reselling the products. Among the products included in the order are potato, corn and tortilla chips; fried pork rinds; cheese puffs; pretzels; popcorn; chip dips; nut meats; brownies; dried meat sticks; jerky; and certain crackers and cookies.

Paragraph II of the Order provides that Frito-Lay may charge different prices to competing customers if the differences are justified by meeting equally low prices of a competitor or by differences in cost or changing conditions affecting the market for or marketability of the goods. Examples of such changing conditions are deterioration of perishable goods, distress sales under court process and close out sales in the goods conditions are deterioration of perishfies that Frito-Lay does not waive any defense otherwise legally available to a charge of price discrimination.

Paragraph III of the order provides that Frito-Lay shall have the burden of proving any defense it may raise to an action brought to enforce the provisions of the order.

Paragraphs IV and V are standard to Commission consent orders. Paragraph IV requires Frito-Lay to notify the Commission thirty days prior to any proposed change in corporate structure which may affect Frito-Lay's compliance obligations. Paragraph V requires a written report within 60 days demonstrating the manner in which Frito-Lay has complied with the terms of the order and such other compliance reports as are required to assure compliance with its terms.

The order furthers competition among domestic retail purchasers of Frito-Lay snack foods by offering smaller retail stores the opportunity to purchase products at prices proportionately equal to those of the larger stores.

JOHN F. DUGAN,
Acting Secretary.

[FR Doc.77-11249 Filed 4-18-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77F-0064]

DOW CHEMICAL U.S.A.

Filing of Petition for Food Additive

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Dow Chemical U.S.A. has filed a petition (FAP 6B3233) proposing that the food additive regulations be amended to provide for the safe use of polypropylene glycol as a plasticizer for styrene plastics intended to contact food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-472-5690).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B-3233) has been filed by Dow Chemical U.S.A., Midland, Mich. 48640, proposing that § 178.3740 *Plasticizers in polymeric substances* (21 CFR 178.3740, formerly § 121.2511 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the safe use of polypropylene glycol as a plasticizer for styrene plastics intended to contact food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 8, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-11141 Filed 4-18-77;8:45 am]

[Docket No. 77G-0075]

LEVER BROTHERS CO., INC.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Lever Brothers Co., Inc., has filed a petition (GRASP 760085) proposing affirmation that use of L-lysine monohydrochloride and DL-methionine as flavor components for filled cheese products is generally recognized as safe (GRAS).

DATES: Comments by June 20, 1977.

ADDRESSES: Written comments to Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-472-4750).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1786 (21 U.S.C. 321(s), 348, 371 (a))) and the regulations for affirmation of GRAS status under § 170.35 (21 CFR 170.35, formerly § 121.40, prior to REGISTER of March 15, 1977 (42 FR recodification published in the FEDERAL 14302)), notice is given that a petition (GRASP 7G0085) has been filed by the

Lever Brothers Co., Inc. 45 River Rd., Edgewater, N.J. 07020 and placed on public display at the office of the Hearing Clerk, proposing affirmation that the use of L-lysine monohydrochloride and DL-methionine as flavor components in cheese flavor cocktails to be used for filled cheese products is generally recognized as safe (GRAS).

Any petition which meets the format requirements outlined in § 170.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before June 20, 1977, review the petition and/or file comments (in quadruplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated: April 8, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-11142 Filed 4-18-77;8:45 am]

[Docket No. 77G-0007]

SUGAR LO CO.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Sugar Lo Co. has filed a petition (GRASP 6G0077) proposing affirmation that the use of lactase enzyme, derived from *Saccharomyces (Kluyveromyces) lactis,* is generally recognized as safe (GRAS) for reducing the lactose content of milk.

DATES: Comments by June 20, 1977.

ADDRESSES: Written comments to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-472-4750).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 (21 U.S.C. 321(s), 348, 371 (a))) and the regulations for affirmation of GRAS status under § 170.35 (21 CFR 170.35, formerly § 121.40, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) notice is given that a petition (GRASP 6G0077) has been filed by Sugar Lo Co., 3540 Atlantic Ave., P.O. Box 1017, Atlantic City, N.J. 08404, and placed on public display at the office of the Hearing Clerk, proposing affirmation that the use of lactase enzyme, derived from *Saccharomyces (Kluyveromyces) lactis,* is generally recognized as safe (GRAS) for reducing the lactose content of milk.

Any petition which meets the format requirements outlined in § 170.35 is filed by the Food and Drug Administration. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before June 20, 1977, review the petition and/or file comments (in quadruplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Comments should include any available information that would be helpful in determining whether the substances is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, between the hours of 9 a.m. and 4 p.m. Monday through Friday.

Dated: April 8, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-11143 Filed 4-18-77;8:45 am]

[Docket No. 77N-0111]

MEDICAL DEVICE CLASSIFICATION PANELS

Request for Nominations for Nonvoting Representatives of Consumer and Industry Interests on Public Advisory Committees

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This document invites nominations for nonvoting consumer and industry representatives to serve on certain public advisory committees of the Bureau of Medical Devices and Diagnostic Products; the panels include those listed below. Nominations will be accepted for vacancies that currently exist and vacancies that will or may occur on the panels or subcommittees during the next 12 months.

DATE: Nominations by May 19, 1977.

ADDRESS: All nominations for consumer representatives must be submitted in writing to the Director, Office of Consumer Programs (HFG-1), Office of Professional and Consumer Programs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

All nominations for industry representatives must be submitted in writing to Robert S. Kennedy, Bureau of Medical Devices and Diagnostic Products (HFK-1), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

For Consumer Interests: Carolyn Wermeil, Office of Consumer Programs, at address given above, 301-443-5006. For Industry Interests: Robert S. Kennedy, at address given above, 301-427-7900.

SUPPLEMENTARY INFORMATION: Nominations are solicited, as indicated, for nonvoting members representing consumer and/or industry interests, for the following classification panels and their respective subcommittees:

Device classification panel	Approximate date representative needed	
	Industry	Consumer
1. Anesthesiology:		Nov. 30, 1977.
a. Gas Scavenging Systems Subcommittee.	Immediately.	Do.
b. Gas Anesthesia Machines Subcommittee.	do	Immediately.
c. Breathing Machines for Medical Use Subcommittee.	do	Do.
2. Cardiovascular, a. Implants Subcommittee.	do	June 30, 1977.
3. Clinical chemistry	Feb. 28, 1978.	
4. Clinical toxicology	do	
5. Dental, a. Oral Implants Subcommittee.		Immediately.
6. Ear, nose and throat		May 31, 1977.
7. Gastroenterological and Urological Panel:	Dec. 31, 1977.	
a. Dialysis Devices Subcommittee.		Immediately.
b. GU Implants Subcommittee.		Do.
c. High Frequency Surgical Devices Subcommittee.		Do.
d. Endoscopes/Surgical Devices Subcommittee.		Do.
8. General and Plastic Surgery, a. Plastic and Reconstructive Surgery Devices Subcommittee.		Do.
9. Hematology	Feb. 28, 1978.	
10. Immunology	do	
11. Microbiology	do	
12. Neurological, a. Neurostimulation Subcommittee.	Aug. 31, 1977.	Immediately.
13. Obstetrical and Gynecological, a. Conception Control Devices Subcommittee.	Dec. 31, 1977	
14. Ophthalmic		Aug. 31, 1977.
15. Orthopedic	June 30, 1977.	
16. Physical Medicine, a. Orthotic and Prosthetic Subcommittee.	Aug. 31, 1977.	Aug. 31, 1977.
17. Radiology	Feb. 1, 1978.	Feb. 1, 1978.

The function of the committees and subcommittees listed above is to review and evaluate available data concerning the safety and effectiveness of devices currently in use and advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the stand-

ards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption for certain devices from the application of portions of the Medical Device Amendments of 1976 (Pub. L. 94-295); advise on the necessity to ban a device; and respond to requests from FDA to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that each medical device classification panel shall include as nonvoting members, one representative of consumer interests and one representative of interests of the device manufacturing industry. The Commissioner has decided that each of the subcommittees identified in this notice shall also have a representative of consumer interests and a representative of industry interests.

Any interested person may nominate one or more qualified persons as a nonvoting member of a particular advisory committee or subcommittee identified in this notice, to represent consumer interests. Any organization in the medical device manufacturing industry ("industry interests") wishing to participate in the selection of an appropriate nonvoting member of a particular committee or subcommittee may nominate one or more qualified persons to represent industry interests.

Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of an advisory committee, and appears to have no conflict of interest. If a nominee is interested only in a particular advisory committee or subcommittee, the nomination shall so state. If a nominee is interested in becoming a member of any advisory committee or subcommittee, the nomination shall so state. A complete curriculum vitae of each nominee shall be included.

Regarding nominations for members representing consumer interests, after the time for receipt of nomination has expired, the curriculum vitae for each of the nominees will be sent to interested consumer organizations and to any other person submitting a nomination, together with a ballot that must be filled out and returned to the Office of Professional and Consumer Programs, at the address given above, within 30 days. The selection of the consumer representatives will be determined from the ballots submitted, pursuant to provisions of § 14.84 (21 CFR 14.84 formerly § 2.332, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Regarding nominations for members representing the interests of the device manufacturing industry, after the time for receiving nominations has expired, a letter shall be sent to each organization that has made a nomination, attaching a complete list of all such organizations and the nominees, stating that it is the responsibility of each organization to consult with the others in selecting a single nonvoting member representing industry interests for that particular committee within 30 days after receipt of the letter.

This notice is issued under the Federal Advisory Committee Act (86 Stat. 770-776 (5 U.S.C. App. 1)) and Part 14 (21 CFR Part 14, formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), relating to advisory committees.

Dated: April 13, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner, for Compliance.

[FR Doc.77-11251 Filed 4-18-77;8:45 am]

[Docket No. 77N-0112]

MEDICAL DEVICE CLASSIFICATION PANELS

Request for Nominations for Voting Members on Advisory Committees

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This document invites nominations for voting members to serve on certain public advisory committees of the Bureau of Medical Devices and Diagnostic Products; the panels include those listed below. Nominations will be accepted for vacancies that currently exist and vacancies that will or may occur on the panels during the next 12 months.

DATES: Since scheduled vacancies occur on various dates throughout each year, no cutoff date is established for the receipt of nominations. But nominations should be received at least 90 days before the dates of scheduled vacancies for each year, as indicated in the list of the advisory committees given below under "Supplementary Information."

ADDRESS: All nominations for the voting members of the respective advisory committees must be sent to: Robert S. Kennedy, Bureau of Medical Devices and Diagnostic Products (HFK-1), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, Md. 20910.

FOR FURTHER INFORMATION CONTACT:

Kay A. Levin, at the address given above, 301-427-7076.

SUPPLEMENTARY INFORMATION: Nominations are solicited, as indicated, for voting members for the following advisory committees:

1. Anesthesiology Device Classification Panel: Vacancy, November 30.
2. Cardiovascular Device Classification Panel: Vacancy, June 30.
3. Clinical Chemistry Device Classification Panel: Vacancy, February 28.
4. Clinical Toxicology Device Classification Panel: Vacancy, February 28.
5. Dental Device Classification Panel: Vacancy, October 31.
6. Ear, Nose, and Throat Device Classification Panel: Vacancy, May 31.
7. Gastroenterological and Urological Device Classification Panel: Vacancy, December 31.
8. General and Plastic Surgery Device Classification Panel: Vacancy, May 31.
9. General Hospital and Personal Use Device Classification Panel: Vacancy, September 30.
10. Hematology Device Classification Panel: Vacancy, February 28.
11. Immunology Device Classification Panel: Vacancy, (not yet set).
12. Microbiology Device Classification Panel: Vacancy, February 28.
13. Neurological Device Classification Panel: Vacancy, August 31.
14. Obstetrical and Gynecological Device Classification Panel: Vacancy, December 31.
15. Ophthalmic Device Classification Panel: Vacancy, August 31.
16. Orthopedic Device Classification Panel: Vacancy, June 30.
17. Pathology Device Classification Panel: Vacancy, (not yet set).
18. Physical Medicine Device Classification Panel: Vacancy, August 31.
19. Radiological Device Classification Panel: Vacancy, January 31.

The function of the committees listed above is to review and evaluate available data concerning the safety and effectiveness of devices currently in use and advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; recommend assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption for certain devices from the application of portions of the Medical Device Amendments of 1976 (Pub. L. 94-295); advise on the necessity to ban a device; and respond to requests from FDA to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Persons nominated for membership shall have adequately diversified experience appropriate to the work of the committee in such fields as clinical and administrative medicine, engineering, biological and physical sciences, and other related professions. The nature of specialized training and experience necessary to qualify the nominee as an expert suitable for appointment may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 3 years.

Any interested person may nominate one or more qualified persons for membership on one or more of the advisory committees. Nominations shall state that the nominee is aware of the nomination,

is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by the Food and Drug Administration to provide detailed information concerning such matters as financial holdings, consultancies, and research grant and/or contracts, in order to permit evaluation of possible sources of conflict of interest.

This notice is issued under the Federal Advisory Committee Act (86 Stat. 770; Pub. L. 92-463) and 21 CFR Part 14 (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)), relating to advisory committees.

Dated: April 13, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-11250 Filed 4-18-77;8:45 am]

[FDA-225-72-2009]

INSPECTION AND GRADING OF FOOD PRODUCTS

Memorandum of Agreement With the Agricultural Marketing Service

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Food and Drug Administration has executed a memorandum of agreement with the Agricultural Marketing Service. The purpose of the agreement is to set forth cooperative working arrangements that are being followed or adopted in the inspection and grading of food products.

DATES: The agreement became effective June 25, 1975.

FOR FURTHER INFORMATION CONTACT:

Gary Dykstra, Compliance Coordination and Policy Staff (HFC-13), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3470.

SUPPLEMENTARY INFORMATION: Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697) stating that future memoranda of understanding and agreements between FDA and others would be published in the FEDERAL REGISTER, the Commissioner of Food and Drugs is issuing the following memorandum of agreement:

MEMORANDUM OF AGREEMENT BETWEEN THE AGRICULTURAL MARKETING SERVICE AND THE FOOD AND DRUG ADMINISTRATION CONCERNING THE INSPECTION AND GRADING OF FOOD PRODUCTS [1]

The Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare is charged with the enforcement of the Federal Food, Drug, and Cosmetic Act. In fulfilling its responsibilities under the Act, FDA's activities are directed toward the protection of the public health of the nation by insuring that foods are safe and wholesome and that products are honestly and informatively labeled. This is accomplished by inspecting the processing and distribution of foods and examining samples thereof to assure compliance with the Act. FDA also promulgates under the Act mandatory standards of identity, quality, and fill of container for food products after appropriate notices and hearings.

The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture, under the authority of the Agricultural Marketing Act of 1946, carries out certain voluntary service functions designed to aid in the efficient marketing of agricultural products. These include the development of commercial grade standards and specifications for foods, and furnishing inspection and grading services, including the issuance of certificates of quality and/or condition, to producers, processors, shippers, buyers, or other interested parties. The major purpose is to assist producers in preparing better quality of wholesome products and to provide objective information by means of official certification concerning the grade, quality, or condition of a product which will be of maximum assistance to all interested parties engaged in marketing functions.

The two agencies have certain related objectives in carrying out their respective regulatory and service activities. Therefore, it is believed desirable from the standpoint of public interest to set forth in this Memorandum of Agreement the working arrangements which are being followed or adopted in the interest of each agency discharging as effectively as possible its responsibilities related to inspection and standardization activities for food products.

The Agricultural Marketing Service will:

1. Supply to FDA, headquarters, a complete list of all food processing and packing plants which are operating under AMS continuous or other resident-type inspection or grading contracts. This list will set forth the type of service provided and the food products involved. AMS will immediately advise the appropriate FDA field office of those plants subject to withdrawal or suspension of service, termination of contract or denial of inspection services because of sanitation or other current good manufacturing practice deficiencies.

2. Investigate any report from FDA to the effect that a processor or packer operating under contract with AMS has not corrected objectionable conditiones found to exist by FDA, and will take action in accordance with AMS regulations and contracts.

3. Decline to inspect or grade samples of products which have been seized by FDA, or which are known to be involved in formal FDA actions. This does not preclude reinspection of legally authorized samples by AMS if the FDA seizure or other actions involved products which had previously been inspected or graded by AMS.

4. Decline to assign a U.S. grade or permit the use of Government official marks or other approved identification on a food product which is considered adulterated under the Federal Food, Drug, and Cosmetic Act, of such type and/or in such amounts so as to result in the food product being subject to regulatory action by FDA or is otherwise found to be not suitable for grade assignment. AMS will make such examinations and tests as are reasonably feasible for those materials and substances that would be likely to contaminate the product.

5. Report to the appropriate FDA field office information on any lot of produce which, upon inspection, AMS declines to assign a grade unless such product is so reconditioned as to comply with FDA requirements and/or qualify for grade assignment, or is segregated and disposed of for nonfood use or otherwise lawfully shipped or sold.

6. Furnish FDA headquarters on request, with any pertinent information concerning the grade or quality determination relative to specific lots of products inspected or graded by AMS that have been proceeded against or are being considered for action by FDA.

7. Report on the inspection certificate any pertinent codes or other marks that will serve to identify the specific goods which are inspected or graded.

8. Inform FDA headquarters whenever it has information that an employee or USDA-licensed inspector is to be or has been subpoenaed as a witness at judicial proceedings involving FDA action and advise FDA of the nature of his proposed testimony.

The Food and Drug Administration will:

1. Recognize that the AMS service provided in connection with the voluntary contract inspection of fruit and vegetable processing establishments contributes to protection of consumers and aids FDA in enforcement of pertinent statutes. The AMS inspection service will not diminish FDA authority to inspect but should minimize FDA inspections in establishments under AMS contract inspection. In this regard AMS inspectors will routinely advise contract establishments of pertinent FDA requirements, advise them on how to comply and provide advice on compliance. AMS inspectors may not act as FDA inspectors but their inspections and consultations with FDA should reduce the necessity for FDA inspections.

2. Invite the AMS inspector stationed at a plant which is operating under AMS inspection to accompany the FDA inspector during his inspection of such plant. The FDA inspector will point out or discuss with the AMS inspector any conditions noted which may result in violations of the Federal Food, Drug, and Cosmetic Act.

3. Request AMS headquarters for any pertinent information concerning the grade or quality determinations relative to specific lots of products that have been proceeded against or are being considered for action by FDA and are known or believed to have been inspected by AMS. FDA will take into consideration the results of AMS inspection certificates and other available data unless it has evidence that the product does not meet legal requirements as a food or has deteriorated to such an extent, subsequent to AMS inspection, as to make it unacceptable as food.

4. Immediately notify the appropriate AMS field office concerning the details of objectionable conditions whenever such conditions are found to exist in processing or packing plants where AMS is currently conducting inspection of products, or in other food plants, when FDA believes such information would be of value to AMS in its inspection and grading activities.

5. Whenever possible mark the claimant's samples of seized products in such a manner that AMS inspectors or graders will recognize such post-seizure samples.

6. Discuss with AMS headquarters the criteria used by FDA in order to provide the maximum assurance that AMS does not classify a food as acceptable which FDA would consider actionable under the Federal Food, Drug, and Cosmetic Act.

7. On request of AMS review labels, legends, stamps, and other official marks for products packed under the various inspec-

[1] This agreement does not apply to egg products, inspection of which is covered by the Egg Products Inspection Act, nor to grains, including rice, dry beans, peas, or lentils, which is covered by a separate memorandum of agreement between AMS and FDA.

tion services of AMS from the standpoint of possible conflict with the misbranding provisions of the Federal Food, Drug, and Cosmetic Act.

It is mutually agreed that: 1. Both agencies will maintain close working relations with each other, both in headquarters as well as in the field.

2. Proposed regulations by either agency establishing or amending any food products standard will be referred to the other agency for review and comment prior to issuance.

3. Both agencies will cooperate jointly and with industry in the improvement of sanitation and food handling practices in processing plants. Both agencies will mutually exchange data and cooperate in the development of sampling plans, methodology and guidelines for determining natural and unavoidable defects common to products inspected and graded by AMS.

4. Both agencies will work with industry toward greater efficiency in connection with improvement in coding methods.

5. Both agencies will cooperate in the handling of those cases of misbranding which also come under the provisions of the Perishable Agricultural Commodities Act of 1930, as amended.

6. Each agency will designate to the other a central contract point to which communications dealing with this agreement or matters affected thereby may be first referred for attention.

7. Nothing in this Agreement modifies other existing agreements, nor does it preclude entering into separate agreements setting forth procedures for special programs which can be handled more efficiently and expeditiously by such special agreement.

8. The provisions of this memorandum may be modified at any time by mutual agreement.

For the Agricultural Marketing Service:

Dated: June 25, 1975.

E. L. Peterson,
Administrator.

For the Food and Drug Administration:

Dated: June 9, 1975.

A. M. Schmidt,
Commissioner.

Effective date: This agreement became effective June 25, 1975 and supersedes the Memorandum of Understanding dated August 28, 1973.

Dated: April 13, 1977.

William F. Randolph,
Acting Associate Commissioner for Compliance.

[FR Doc.77-11252 Filed 4-18-77;8:45 am]

National Institutes of Health

DHEW COMMITTEE TO COORDINATE TOXICOLOGY AND RELATED PROGRAMS ON APPROACHES TO DETERMINING THE MUTAGENIC PROPERTIES OF CHEMICALS: RISK TO FUTURE GENERATIONS

Meeting

A meeting will be held to discuss the final report developed for the DHEW Committee to Coordinate Toxicology and Related Programs (composed wholly of fulltime employees of HEW). The document discusses and evaluates methods for determining the mutagenic properties of chemicals. To this end the meeting objective is to present the final report for comment prior to submission to the Assistant Secretary for Health, HEW. Comments received will be appended to the final document. Written comments will also be considered if received by May 27, 1977.

The open meeting will be held on May 20, 1977, from 9:30 a.m. to adjournment, in Wilson Hall, Building 1, NIH, Bethesda, Maryland. Attendance by the public will be limited to space available; it is requested that individuals wishing to attend give advance notification in writing to:

Ms. Cecil Ellington, NIEHS, P.O. Box 12233, Research Triangle Park, N.C. 27709, 919-549-8411, ext. 3213, FTS 629-3213.

Dated: April 11, 1977.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-11440 Filed 4-18-77;8:45 am]

NATIONAL ARTHRITIS ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis Advisory Board in Wilson Hall, National Institutes of Health, Bethesda, Maryland, on May 4, 1977, beginning at 9 a.m.

In accordance with provisions set forth in Section 552b(c)(6), U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Board will be closed from 9 a.m. to 11 a.m. for the review, discussion, evaluation, and selection of a Chairman. The discussion will reveal personal information about individuals and will reflect on their qualifications and competence. Hence, the holding of these discussions in public would constitute a clearly unwarranted invasion of personal privacy.

This meeting will be open to the public from 11 a.m. to 5 p.m. to discuss administrative matters. Attendance by the public will be limited to space available.

Messrs. James N. Fordham or Leo F. Treacy, Office of Scientific and Technical Reports, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland 20014, 301-496-3583, will provide summaries of the meeting and rosters of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health.)

Dated: April 15, 1977.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-11441 Filed 4-18-77;8:45 am]

Office of the Secretary

ASSISTANT SECRETARY FOR HEALTH, ET AL.

Delegations of Authority

Notice is hereby given that effective March 29, 1977, the following delegations, with authority for redelegation, have been made under section 472 (42 U.S.C. 289*l*-1) and section 473 (42 U.S.C. 289*l*-2) of the Public Health Service Act, providing respectively for National Research Service Awards and for studies respecting biomedical and behavioral research personnel:

1. Delegation from the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health of the authorities vested in the Secretary under:

(a) Section 472 of the Public Health Service Act, as amended by Title II of Pub. L. 94-278, excluding the authority to promulgate regulations; and

(b) Section 473 of the Public Health Service Act, as amended by Title II of Pub. L. 94-278, excluding the authority to submit reports to Congress or its Committees.

2. Delegation from the Assistant Secretary for Health to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration of the authorities under sections 472 and 473 of the Public Health Service Act, which were delegated to the Assistant Secretary for Health, insofar as these authorities pertain to the functions assigned to be carried out within the Alcohol, Drug Abuse, and Mental Health Administration.

3. Delegation from the Assistant Secretary for Health to the Administrator, Health Resources Administration, of the authorities under sections 472 and 473 of the Public Health Service Act, which were delegated to the Assistant Secretary for Health, insofar as these authorities pertain to the functions assigned to be carried out within the Division of Nursing.

4. Delegation from the Assistant Secretary for Health to the Director, National Institutes of Health, of the authorities under sections 472 and 473 of the Public Health Service Act, which were delegated to the Assistant Secretary for Health, insofar as these authorities pertain to the functions assigned to be carried out within the National Institutes of Health.

Dated: March 29, 1977.

Joseph A. Califano, Jr.,
Secretary.

[FR Doc.77-11270 Filed 4-18-77;8:45 am]

FEDERAL INTERAGENCY DAY CARE REQUIREMENTS

Public Briefing

Status of Activities to Evaluate Appropriateness of the Federal Interagency Day Care Requirements (FIDCR).

TIME AND DATE: 10 A.M.—April 29, 1977.

PLACE: Auditorium, HEW North Building, 330 Independence Avenue SW., Washington, D.C.

SUBJECT: FIDCR Appropriateness Report.

STATUS: Open to public.

PERSON TO CONTACT:

William Prosser, 202-245-1808.

AGENDA: Introduction: Purpose and goals of briefing, status report on:

HEW's current activities to prepare appropriateness report.