Today, I am appearing before you on behalf of Mr. Peter B. Bensinger, our Administrator, who is presently out of the country on official travel.

Appearing with me are Mr. Robert J. Rosthal, Deputy Chief Counsel; Mr. Kenneth A. Durrin, Acting Director of our Office of Compliance and Regulatory Affairs; and Mr. Ernest A. Carabillo, Jr., Chief of our Regulatory Support Division.

The Controlled Substances Act creates a partnership between the Attorney General and the Secretary of Health, Education, and Welfare.

The Attorney General is empowered to place a drug under control of the act, to remove a drug from control or to move a drug from one schedule to another schedule. To exercise this power, however, the Attorney General must have the concurrence of the Secretary that the contemplated action is medically and scientifically correct. The law states that the recommendations of the Secretary on medical and scientific matters are "binding" on the Attorney General and if the Secretary recommends that a drug not be controlled, the Attorney General cannot control it.

As the subcommittee has requested, I will briefly outline how that partnership has worked in the area of stimulant drugs.

The Controlled Substances Act, as it related to the stimulants, represented a congressional compromise under which Congress originally placed liquid injectable methamphetamine "speed" in schedule II and the amphetamine and methamphetamine in schedule III. However, it was clearly understood by the managers of the legislation for the House and the Senate that "proceedings will be initiated—by the Attorney General—involving a number of drugs containing amphetamines after the legislation has become law."

DEA's predecessor agency began a study of the abuse potential and actual abuse of the amphetamines and methamphetamine then in schedule III and in February 1971, forward the results of its study to HEW. In April, HEW agreed that the amphetamines and methamphetamine belong in schedule II and on May 25, 1971, we proposed in the Federal Register that the rescheduling take place. Thirty days were given for objections by interested parties.

Three major manufacturers filed objections: (1) Smith, Kline & French Laboratories requested a hearing on the transfer of its product, Eskatrol; (2) Mission Pharmacal Co. requested a hearing on the transfer of its product, Fetamin; (3) Pennwalt Corp. requested a hearing on the transfer of its product, Biphetamine.

On July 7, 1971, all amphetamines and methamphetamine, with the exception of the three drugs for which hearings had been requested, were ordered transferred from schedule III to schedule II. As to these three, application of the order was reserved pending a review of each drug and subsequent administrative hearings. Our review began with service of a subpena on Smith, Kline & French which in effect called for every piece of relevant information the company possessed on Eskatrol. Subsequent to that service, SKF, Mission, and Pennwalt withdrew their objections and requests for hearings and by Federal Register notice of August 19, 1971, their drugs joined the other amphetamines in schedule II.