

[Docket No. C-1510]

PART 13—PROHIBITED TRADE PRACTICES**Youngstown Spectrum Corp. et al.**

Subpart—Advertising falsely or misleadingly; § 13.50 *Dealer or seller assistance*; § 13.60 *Earnings and profits*; § 13.105 *Individual's special selection or situation*. Subpart—Misrepresenting oneself and goods—Goods: § 13.1608 *Dealer or seller assistance*; § 13.1615 *Earnings and profits*; § 13.1663 *Individual's special selection or situation*. Subpart—Securing agents or representatives by misrepresentation; § 13.2130 *Earnings*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Youngstown Spectrum Corp. et al., Youngstown, Ohio, Docket C-1510, Mar. 24, 1969]

In the Matter of Youngstown Spectrum Corp., a Corporation, International Distribution Center, Inc., a Corporation, and Edward M. Gallagher, Individually and as an Officer of Said Corporations

Consent order requiring two affiliated Youngstown, Ohio, marketers of radio and television tube testing devices and supplies to cease using exaggerated earning claims, deceptive offers of assistance in obtaining profitable locations, and other misrepresentations to recruit franchised distribution of their products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Youngstown Spectrum Corp., a corporation, International Distribution Center, Inc., a corporation, and their officers, and Edward M. Gallagher, individually and as an officer of said corporations, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of radio or television tube testing devices or the tubes, supplies or equipment for use in connection therewith, or of any other products, or of any franchises or distributorships connected therewith, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

(1) Persons investing \$3,750 in respondents' said tube testing devices and the tubes, supplies or equipment for use in connection therewith, or the franchises or distributorships relating thereto, will earn a net income of \$100 to \$500 per month.

(2) Purchasers of respondents' products, franchises or distributorships will earn any stated or gross or net amount; or representing, in any manner, the past earnings of said purchasers unless in fact the past earnings represented are those of a substantial number of purchasers and accurately reflect the average earnings of these purchasers under circumstances similar to those of the purchaser

or prospective purchaser to whom the representation is made.

(3) Purchasers of respondents' products, franchises or distributorships must own an automobile, furnish references, have special qualities or be specially selected to qualify for purchase of respondents' products, franchises or distributorships: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that any represented qualification or requirements are in fact fully enforced as to each purchaser.

(4) The net profits from the operation of said business, franchises, or distributorships will be sufficient to return the investment of the purchaser within 1 year or within any other period of time: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that the said investment is usually and fully recovered by a substantial number of purchasers in the represented time under circumstances similar to those of the purchasers or prospective purchasers to whom the representation is made.

(5) Respondents, their agents, representatives or employees have conducted or have available a machine location survey or other potential business survey in the prospective purchasers trade area: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that a bona fide survey of the kind represented has in fact been conducted or is available.

(6) Respondents, their agents, representatives, or employees will obtain satisfactory or profitable locations for the machines purchased from them: *Provided, however*, That nothing herein shall be construed to prohibit respondents from truthfully and nondeceptively representing that they have obtained locations or assisted in obtaining locations if respondents clearly and conspicuously disclose, in immediate conjunction therewith, the average net or gross earnings realized by a substantial number of purchasers from machines in locations obtained by respondents or through their assistance under circumstances similar to those of the purchaser to whom the representation is made.

(7) Selling, soliciting or experience is not required of those investing in any product or business offered by respondents: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that selling, soliciting or experience is not required for the successful operation of such business.

(8) Respondents will repurchase or otherwise assist in the disposition of products, franchises or distributorships purchased from respondents.

(9) The purchasers' investment in the franchise, distributorship or articles of merchandise purchased from respondents is secure.

(10) Purchasers of respondents' products, franchises, or distributorships, are

granted exclusive territories within which their products may be placed for operation; or that sales will not be made to other persons in such territories: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted hereunder for respondents to establish that respondents do give an exclusive franchise or distributorship purchased from them.

It is further ordered, That the respondents shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, franchises, or distributorships and secure from each such salesman or other person a signed statement acknowledging receipt of said order.

It is further ordered, That the respondent corporations shall forthwith distribute a copy of this order to each of their operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Issued: March 24, 1969.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-4766; Filed, Apr. 22, 1969;
8:46 a.m.]

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

[File No. 206-9-1]

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT**Fiber Content of Special Types of Products; Time for Written Comments Extended and Effective Date Deferred**

On March 27, 1969 the Commission issued a notice of amendment of § 303.10 (Rule 10) of Part 303, rules and regulations under the Textile Fiber Products Identification Act, "Fiber Content of Special Types of Products" so as to add a new paragraph thereto designated as paragraph (c), and to provide for the manner and form of disclosing the required fiber content information of textile fibers which contain components combined at or prior to the time of initial extrusion which if separately extruded would fall within existing definitions of textile fibers as set forth in § 303.7 (Rule 7) of the regulations under the aforesaid Act. Such notice was published in the FEDERAL REGISTER on March 28, 1969, at 34 F.R. 5836.

The notice of amendment provided that paragraph (c) of § 303.10 (Rule 10) would become effective 45 days after publication in the FEDERAL REGISTER. It was further provided that interested parties could submit written comments

within 20 days of the publication of paragraph (c) of § 303.10 (Rule 10) in the FEDERAL REGISTER but this should not affect the effective date unless the Commission should so order.

Upon the indication of certain interested parties of a desire for a further period for comments, the time for the submission of written views and comments in the matter is extended to May 15, 1969. The effective date of paragraph (c) of § 303.10 (Rule 10) of the rules and regulations under the Textile Fiber Products Identification Act is deferred until June 30, 1969.

Issued: April 18, 1969.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-4824; Filed, Apr. 22, 1969;
8:50 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 150—ORDERS OF THE COMMODITY EXCHANGE COMMISSION

Limits on Position and Daily Trading in Eggs for Future Delivery

On January 16, 1969, there was published in the FEDERAL REGISTER (34 F.R. 624) a notice of proposed amendment of § 150.5 of the Orders of the Commodity Exchange Commission promulgated under section 4a of the Commodity Exchange Act, as amended (7 U.S.C. 6a). That section proclaimed and fixed limits on the amount of trading under contracts of sale of eggs for future delivery on or subject to the rules of any contract market, which may be done by any person.

Interested persons were given until February 12, 1969, to request an oral hearing or to submit written statements on the proposed amendment. No such request or statement has been received and the proposed amendment is hereby adopted without change and is set forth below.

Paragraphs (a) and (b) of § 150.5 of the orders of the Commodity Exchange Commission, are amended to read as follows:

§ 150.5 Limits on position and daily trading in eggs for future delivery.

(a) *Position limit.* The limit on the maximum net long or net short position which any person may hold or control in eggs on or subject to the rules of any one contract market is 150 carlots in any one future or in all futures combined.

(b) *Daily trading limit.* The limit on the maximum amount of eggs which any person may buy, and on the maximum amount which any person may sell, on or subject to the rules of any one contract market during any one business day is 150 carlots in any one future or in all futures combined.

As set forth in the notice of proposed rule making published on January 16, 1969, the purpose of this amendment is to eliminate a sliding scale of position and trading limits in eggs for the fall and winter delivery months, which was established in 1951, and which is now obsolete in light of the present marketing pattern of fresh eggs. The effect of this amendment is to raise such limits for such months. Accordingly, it is found upon good cause that this amendment should be made effective less than 30 days after the date of its publication in the FEDERAL REGISTER.

(September 21, 1922, c. 369, sec. 4a, as added June 15, 1936, c. 545, sec. 5, 49 Stat. 1492, amended July 24, 1956, c. 690, sec. 1, 70 Stat. 630, and amended February 19, 1968, Public Law 90-258, secs. 2-4, 82 Stat. 26, 27, 7 U.S.C. 6a)

This amendment shall become effective on publication in the FEDERAL REGISTER.

Issued: April 17, 1969.

COMMODITY EXCHANGE COMMISSION,

M. L. UPCHURCH,
Chairman designee for the
Secretary of Agriculture.

R. L. BORUM,
Member designee for the
Secretary of Commerce.

JOSEPH J. SAUNDERS,
Member designee for the
Attorney General.

[F.R. Doc. 69-4810; Filed, Apr. 22, 1969;
8:49 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart E—Listing of Color Additives for Drug Use Subject to Certification

[PHTHALOCYANINATO (2-)] COPPER; LISTING FOR DRUG USE SUBJECT TO CERTIFICATION

The Commissioner of Food and Drugs, based on a petition filed by Ethicon, Inc., Somerville, N.J. 08876, and other relevant material, finds that [phthalocyaninato(2-)] copper (identified below) is safe for use as a color for polypropylene sutures under the conditions prescribed in this order and that certification is necessary for the protection of the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c) (1), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c) (1), (d)) and under authority delegated to the Commissioner (21 CFR 2.120): It is ordered, That Part 8 be amended by adding § 8.4026 to Subpart E, as follows:

§ 8.4026 [Phthalocyaninato(2-)] copper.

(a) *Identity.* The color additive is [phthalocyaninato(2-)] copper having the structure shown in color index No. 74160.

(b) *Specifications.* [Phthalocyaninato(2-)] copper shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Volatile matter (135° C.), not more than 0.3 percent.

Salt content (as NaCl), not more than 0.3 percent.

Alcohol soluble matter, not more than 0.5 percent.

Organic chlorine, not more than 0.2 percent.

Aromatic amines, not more than 0.05 percent.

Lead (as Pb), not more than 40 parts per million.

Arsenic (as As), not more than 3 parts per million.

Mercury (as Hg), not more than 1 part per million.

Total color, not less than 98.5 percent.

(c) *Uses and restriction.* [Phthalocyaninato(2-)] copper may be safely used to color polypropylene sutures for use in general and ophthalmic surgery subject to the following restrictions:

(1) The quantity of the color additive does not exceed 0.5 percent by weight of the suture.

(2) The dyed suture shall conform in all respects to the requirements of The United States Pharmacopoeia.

(3) When the sutures are used for the purposes specified in their labeling, there is no migration of the color additive to the surrounding tissue.

Authorization for this use shall not be construed as waiving any of the requirements of section 505 of the act with respect to the drug (including any other sutures) in which it is used.

(d) *Labeling.* The label of the color additive shall conform to the requirements of § 8.32.

(e) *Certification.* All batches of [phthalocyaninato(2-)] copper shall be certified in accordance with regulations in Subpart A of this part.

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. 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 60 days from the date of its publication in the FEDERAL REGISTER, 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.

(Sec. 706(b), (c) (1), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c) (1), (d))

Dated: April 16, 1969.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 69-4779; Filed, Apr. 22, 1969;
8:46 a.m.]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

FOOD STARCH-MODIFIED

No comments were received in response to the notice published in the FEDERAL REGISTER of March 4, 1969 (34 F.R. 3748), proposing that § 121.1031 be amended to limit propylene chlorohydrin to not more than 5 parts per million in food starch-modified. The Commissioner of Food and Drugs concludes that the amendments should be adopted as set forth below.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409, 72 Stat. 1785 et seq.; 21 U.S.C. 348) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1031 is amended by revising the items "Propylene oxide * * *" in paragraph (e) and "Phosphorus oxychloride * * *" in paragraph (f) and by revising paragraph (g), as follows:

§ 121.1031 Food starch-modified.

(e) * * *

Limitation

Propylene oxide, not to exceed 25 percent.	Residual propylene chlorohydrin not more than 5 parts per million in food starch-modified.
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(f) * * *

Limitation

Phosphorus oxychloride, not to exceed 0.1 percent, and propylene oxide, not to exceed 10 percent.	Residual propylene chlorohydrin not more than 5 parts per million in food starch-modified.
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(g) Food starch may be modified by treatment with one of the following:

Chlorine, as sodium hypochlorite, not to exceed 0.055 pound of chlorine per pound of dry starch; 0.45 percent of active oxygen obtained from hydrogen peroxide; and propylene oxide, not to exceed 25 percent.	Residual propylene chlorohydrin not more than 5 parts per million in food starch-modified.
Sodium hydroxide, not to exceed 1 percent.	

Limitation

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. 409, 72 Stat. 1785 et seq.; 21 U.S.C. 348)

Dated: April 16, 1969.

J. K. KIRK,
Associate Commissioner
for Compliance.

[F.R. Doc. 69-4806; Filed, Apr. 22, 1969;
8:49 a.m.]

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

Clarification

A number of sponsors of investigations with new drugs have indicated that the requirements in § 130.3(a) for the submission of a "Notice of Claimed Investigational Exemption for a New Drug" are not clear regarding the number of copies of informational material (labels and labeling) required. Accordingly, the regulation is amended below for clarification.

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052-53, as amended, 1055; 21 U.S.C. 355, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 130.3 *New drugs for investigational use in human beings; exemption from section 505(a)* is amended in paragraph (a) (2) by changing "A total of five copies" in the first sentence of item 7 of form FD 1571 to read "A copy (one in each of the three copies of the notice)".

This clarifying amendment is non-restrictive and noncontroversial in nature; therefore, notice and public pro-

cedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

(Secs. 505, 701(a), 52 Stat. 1052-53, as amended, 1055; 21 U.S.C. 355, 371(a))

Dated: April 16, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-4767; Filed, Apr. 22, 1969;
8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XVII—Office of Emergency Preparedness

PART 1711—FEDERAL DISASTER ASSISTANCE FOR PROJECTS UNDER CONSTRUCTION

Change in Approving Official

1. Section 1711.3(d) is amended to read as follows:

(d) The Regional Director shall, upon receipt of the request, direct an appropriate Federal agency to make an inspection at the site of the work, review available records, and provide an analysis of the claim and findings as to the work eligible under the Act. Upon receipt of the Federal agency analysis and findings, the Regional Director shall determine the amount of eligible work and approve the application not to exceed 50 percent of the cost thereof, or disapprove the application.

2. Sections 1711.3 (e) and (f), 1711.6, and 1711.24 are amended by deleting "Director" and inserting in lieu thereof "Regional Director."

3. Section 1711.3(g) is amended to read as follows:

(g) If a project application is disapproved by the Regional Director, the application shall be returned to the State with a statement of the reasons for such disapproval: *Provided*, That it may be resubmitted to the Regional Director with any additional pertinent information within 30 days of its return to the State: *And provided further*, That if again disapproved by the Regional Director it may be resubmitted within 30 days of such disapproval through the Regional Director for consideration by the Director with any further justification in writing.

4. **Effective date.** These amendments shall take effect on the date of publication with respect to applications thereafter filed.

Dated: April 17, 1969.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 69-4794; Filed, Apr. 22, 1969;
8:48 a.m.]