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**Rules, Regulations, Orders**

**TITLE 9—ANIMALS AND ANIMAL PRODUCTS**

**BUREAU OF ANIMAL INDUSTRY**

[Amendment 14 to B. A. I. Order 276]

**REGULATIONS GOVERNING THE PREPARATION, SALE, BARTER, EXCHANGE, SHIPMENT, AND IMPORTATION OF VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS INTENDED FOR USE IN THE TREATMENT OF DOMESTIC ANIMALS**

**AMENDMENTS<sup>1</sup>**

**MARCH 1, 1939.**

Under authority of Section 2 of the Act of Congress approved February 2, 1903, entitled "An Act to enable the Secretary of Agriculture to more effectually suppress and prevent the spread of contagious and infectious diseases of live stock, and for other purposes" (32 Stat. 792; 21 U. S. C. 111), and of the Act of Congress approved March 4, 1913, entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1914" (37 Stat. 832-833; 21 U. S. C. 151-158), B. A. I. Order 276 (9 CFR Parts 101-121), embodying the regulations governing the preparations, sale, barter, exchange, shipment, and importation of viruses, serums, toxins, and analogous products intended for use in the treatment of domestic animals, effective on and after November 1, 1922, as amended, is hereby further amended as follows:

(a) By changing the title thereof to read: "Regulations Governing the Preparation, Sale, Barter, Exchange, Shipment, and Importation of Viruses, Serums, Toxins, and Analogous Products Intended for Use in the Treatment of Domestic Animals, and the Importation and Interstate Shipment of Organisms or Vectors".

<sup>1</sup> Amending 9 CFR 101.1 and adding 9 CFR Part 122.

(b) By amending Regulation 1, section 1, (9 CFR 101.1) thereof by adding thereto Paragraph 21 (t), reading:

SEC. 101.1 (t) (Par. 21) *Organisms or vectors.* All cultures or collections of organisms or viruses, or their derivatives, from a foreign country which may introduce or disseminate any contagious or infectious disease of animals and all experimental animals such as mice, pigeons, guinea pigs, rats, ferrets, rabbits, and the like, which have been treated or inoculated therewith, or which are diseased or infected with any disease or which have been exposed to any such infection. (Sec. 2, 32 Stat. 792; 21 U. S. C. 111; 37 Stat. 832-833; 21 U. S. C. 151-158)

(c) By adding Regulation 22 (9 CFR Part 122) thereto, reading:

**Part 122 (Regulation 22) Organisms or Vectors**

**Sec.**

- 122.1 Permits required.
- 122.2 Application for permits.

SEC. 122.1 (Sec. 1) *Permits required.* No organisms or vectors, as defined in Section 101.1 (t) (Regulation 1, section 1, paragraph 21) of this order, as hereby amended, shall be imported into the United States or transported from one State or Territory or the District of Columbia to another State or Territory or the District of Columbia, without a permit issued by the Secretary of Agriculture and in compliance with the terms thereof. (Sec. 2, 32 Stat. 792; 21 U. S. C. 111; 37 Stat. 832-833; 21 U. S. C. 151-158)

SEC. 122.2 (Sec. 2) *Application for permits.* The Secretary of Agriculture may issue, at his discretion a permit as specified in section 122.1 of this order, as hereby amended, when proper safeguards are set up to protect the public. Application for such a permit shall be made in advance of shipment and each permit shall specify the name and address of the consignee, the true name and character of each of the organisms or vectors involved, and the use to which each will be put. (Sec. 2, 32 Stat. 792;

**CONTENTS**

**RULES, REGULATIONS, ORDERS**

<b>TITLE 9—ANIMALS AND ANIMAL PRODUCTS:</b>	
Bureau of Animal Industry:	Page
Viruses, etc., amendment of regulations governing preparation, sale, etc.	1107
<b>TITLE 17—COMMODITY AND SECURITIES EXCHANGES:</b>	
<b>Securities and Exchange Commission:</b>	
Public Utility Holding Company Act of 1935:	
Adoption of revised Rule and form U-3A3-1	1108
Amendment of rules under Section 17 (c)	1108
<b>Securities Exchange Act of 1934:</b>	
Form X-17A-1	1110
Form X-17A-2	1110
Form X-17A-3	1110

**NOTICES**

<b>Department of Labor:</b>	
<b>Division of Public Contracts:</b>	
Proposed amendments of regulations relative to dealers in:	
Hay, grain or feed	1110
Machine tools	1111
Wholesale coal	1110
<b>Wage and Hour Division:</b>	
Lumber Industry, review of denial for partial exemption as seasonal industry	1111
<b>Securities and Exchange Commission:</b>	
Columbia Gas & Electric Corp., hearing	1113
Hartt, Jay Samuel, trustee of estate of Midland Utilities Co., order	1112
Massachusetts Utilities Associates, effectiveness of declarations	1112



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21 U. S. C. 111; 37 Stat. 832-833; 21 U. S. C. 151-158)

This amendment, which for purpose of identification is designated Amendment 14 to B. A. I. Order 276, shall be effective on and after March 15, 1939.

Done at Washington this 1st day of March 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 39-724; Filed, March 2, 1939; 12:07 p. m.]

#### TITLE 17—COMMODITY AND SECURITIES EXCHANGES SECURITIES AND EXCHANGE COMMISSION

##### PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

##### ADOPTION OF REVISED RULE U-3A3-1 AND FORM U-3A3-1

Acting pursuant to the authority granted by the Public Utility Holding Company Act of 1935, and particularly Sections 3 (a) (3), 3 (a) (4) and 12 (f) thereof, and finding such action appropriate in the public interest and in the interest of investors and consumers the Securities and Exchange Commission hereby rescinds Rule U-3A3-1 [Sec. 15.U-3A3-1] entitled "Exemption of Certain Banks" and Form U-3A3-1 [Sec. 17.U-3A3-1], designated "Adopted March 18, 1936", and adopts a revised Form U-3A3-1 [Sec. 17.U-3A3-1], designated "Adopted March 1, 1939," and Rule U-3A3-1 [Sec. 15.U-3A3-1], the Rule to read as follows:

SEC. 15.U-3A3-1 (*Rule U-3A3-1*). *Exemption of Certain Banks.* (a) The term "bank" as used in this Rule shall

mean (1) a banking institution organized under the laws of the United States, (2) a banking institution or trust company which is subject to regulation or examination under the laws of any State or of the District of Columbia and which is primarily engaged in the commercial banking business or in the business of exercising fiduciary powers, or both, or (3) a receiver, conservator, or other liquidating agent of any of the foregoing in his capacity as such. Other terms used in this Rule shall have the meaning indicated by item 6 of the Instructions to Form U-3A3-1 [Sec. 17.U-3A3-1], designated "Adopted March 1, 1939."

(b) Except as provided in paragraph (c) of this Rule, any bank which, by reason of the acquisition of securities solely in a fiduciary capacity, or as collateral, or in connection with liquidation of a bona fide debt, or in connection with a bona fide arrangement for the underwriting or distribution of securities, directly or indirectly owns, controls, or holds with power to vote, 10 percent or more of the outstanding voting securities of a public-utility company or holding company shall nevertheless be exempt from any obligation, duty or liability imposed by the Act upon such bank as a holding company:

*Provided, however,* that after January 1, 1941, the exemption in this rule shall not be applicable to a bank which before or after such date for a period exceeding two years has continuously been and thereafter remains, directly or indirectly, the beneficial owner of 10 per cent or more of the outstanding voting securities of a public-utility company or holding company, if after January 1, 1941—

(1) Such bank, or any person acting for or controlled by such bank, votes, by proxy or otherwise, for directors or upon any other matter any public-utility company or holding company securities owned by it for such period, except in favor of a matter which has been or will be the subject of a declaration or application filed with the Commission under the Act; or

(2) Such bank makes or, except after an order of the Commission, with notice and opportunity for hearing, renews any loan to such public-utility company or holding company or any associate company thereof, or enters into any other financial transaction with any such company; or

(3) Such bank receives deposits from such public-utility or holding company or any associate company thereof, or acts as trustee under any indenture to which any of such companies is a party, or as transfer agent for securities of any of such companies, or in any other manner as financial agent for any of such companies.

*However,* upon application by any bank and upon a showing that compliance by such bank with the condition in subparagraph (1) above would make it

unduly difficult to obtain a quorum of stockholders or would otherwise unduly obstruct the selection of management for such public-utility or holding company the Commission may by order grant an exemption from such condition. An application for such exemption may be filed before or after January 1, 1941.

(c) No bank shall be exempt from any obligation, duty or liability imposed by the Act upon such bank as a holding company unless the bank shall, within thirty days after the last day of February, May, August and November in each year, file with the Commission a statement on the revised form U-3A3-1 [Sec. 17.U-3A3-1], designated "Adopted March 1, 1939," containing the information therein specified and any further relevant information which the Commission may require.

(d) In addition to its power to amend or rescind this Rule, the Commission by order, after notice and opportunity for hearing, may, upon finding the exemption detrimental to the public interest or the interest of investors or consumers, terminate, suspend, or modify the exemption provided by this Rule as to any bank, if such bank shall evade, seek to evade, or be used to evade the provisions of the Act or if such bank shall have continuously been, directly or indirectly, the beneficial owner of 10 per cent or more of the outstanding voting securities of a public-utility company or holding company for a period exceeding three years.

(e) This Rule shall become effective forthwith except that the requirements of paragraph (c) of the Rule need not be complied with until March 30, 1939, on or before which date there should be filed with the Commission a statement on the revised Form U-3A3-1 [Sec. 17.U-3A3-1], designated "Adopted March 1, 1939," for the three-month period ending on the last day of February, 1939.

(C. 687, sec. 3, 49 Stat. 810; 15 U. S. C., Sup. III, 79c; c. 687, sec. 12, 49 Stat. 823, 15 U. S. C., Sup. III, 791) [Gen. Rules and Regulations, Rule U-3A3-1, effective March 2, 1939] [Form U-3A3-1, designated "Adopted March 1, 1939"]

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 39-716; Filed, March 2, 1939; 11:15 a. m.]

##### PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

##### AMENDMENT OF RULES UNDER SECTION 17 (C)

Acting pursuant to the Public Utility Holding Company Act of 1935, particularly Sections 17 (c), 12 (f), and 20 (a) thereof, and finding that such action will not adversely affect the public interest or the interest of investors or consumers and is appropriate to carry out the provisions of said Act, the Securities and Ex-

change Commission hereby rescinds Rules U-17C-1 [Sec. 15.U-17C-1], U-17C-2 [Sec. 15.U-17C-2], U-17C-3 [Sec. 15.U-17C-3], U-17C-4 [Sec. 15.U-17C-4], U-17C-5 [Sec. 15.U-17C-5], U-17C-6 [Sec. 15.U-17C-6], U-17C-7 [Sec. 15.U-17C-7], U-17C-8 [Sec. 15.U-17C-8], U-17C-9 [Sec. 15.U-17C-9], U-17C-10 [Sec. 15.U-17C-10], U-17C-11 [Sec. 15.U-17C-11], and U-17C-12 [Sec. 15.U-17C-12] and Form U-17-3 [Sec. 17.U-17-3] and the rule adopting that form and hereby adopts Rules U-17C-1 [Sec. 15.U-17C-1], U-17C-2 [Sec. 15.U-17C-2], and U-17C-3 [Sec. 15.U-17C-3] to read as follows:

Sec. 15.U-17C-1 (*Rule U-17C-1*). *Exemptions from Section 17 (c) of the Act for Officers and Directors of Operating Companies.* As to acting as officer or director of any operating company, the following persons are hereby exempt from Section 17 (c)<sup>1</sup> of the Act:

(a) A person who (1) has no financial connection with any commercial banking institution other than such an institution having its principal office within the territory served by such operating company and (2) has no financial connection with any investment banker; or

(b) A person who owns, or is the designated representative of one or more persons who own, the beneficial interest in (1) 10% or more of the outstanding voting securities of such company, or (2) 10% or more of any class of the outstanding securities of such company, provided the capital amount of all outstanding securities of such class aggregates more than 10% of the capital amount of all outstanding securities of such company, or (3) obligations of such company totaling 2% or more of the corporate assets of such company at the close of the preceding calendar year if such obligations are in default or are held as security for a debt which is in default; or

(c) A person who (1) is a regular full-time officer or employee of such company and/or one or more associate companies thereof and (2) has no financial connection with any investment banker; or

(d) A person who is the trustee, or is the designated representative of the trustee, under a corporate trust indenture or similar instrument under which outstanding obligations of such company were issued; or

(e) A person who is specifically authorized by an order of the Federal Power Commission to hold every position as officer, executive officer, or director held by such person in such company and in any financial institution; or

(f) A person whose election or appointment as such officer or director or both of such company is specifically provided for in a plan of reorganization approved by a court of the United States, and not more than 5 years shall have elapsed since the date of such approval; or

(g) A person whose *only* financial connection is (a) with a commercial banking institution having combined capital and surplus not in excess of \$1,500,000, or (b) with an investment banker who has total capital and surplus not exceeding \$500,000 and which investment banker (including any business of which it is a continuation) is not and has not at any time after January 1, 1939 engaged in underwriting or otherwise participating in the marketing of, or trading in (except as brokers), securities of any public-utility or holding company.

*Provided, however,* that no such company (1) shall have as many as one-half of its directors persons with financial connections within the scope of Section 17 (c)<sup>1</sup> of the Act or (2) shall sell, directly or indirectly, any securities to, or pursuant to an underwriting agreement with, or by participation of, a financial institution if such company or any company of which such company is a subsidiary company at any time during the preceding 12 months shall have had as an officer or director a person or persons having a financial connection with such financial institution. (C. 687, sec. 17, 49 Stat. 830; 15 U. S. C., Sup. III, 79q; c. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791; c. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t) [Gen. Rules and Regs., Rule U-17C-1, effective April 1, 1939]

Sec. 15.U-17C-2 (*Rule U-17C-2*). *Exemptions from Section 17 (c) of the Act for Officers and Directors of Non-Operating Companies.* As to acting as officer or director of any non-operating company, the exemptions provided by paragraphs (b), (c), (d), (e) (f), and (g) of Rule U-17C-1 [Sec. 15.U-17C-1] shall also be applicable to a non-operating company, *subject, however,* to the limitations contained in the proviso to that rule. (C. 687, sec. 17, 49 Stat. 830; 15 U. S. C., Sup. III, 79q; c. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791; c. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t) [Gen. Rules and Regs., Rule U-17C-2, effective April 1, 1939]

Sec. 15.U-17C-3 (*Rule U-17C-3*). *Definitions of Terms Used in Section 17 (c) of the Act and Rules Thereunder.* As used in Section 17 (c)<sup>1</sup> of the Act and rules adopted thereunder:

(1) "Officer" and "Executive Officer" mean (a) a Chairman of the Board of Directors, Chairman of the Finance Committee or Executive Committee, President, Vice President, Treasurer, Secretary, Comptroller, and in the case of a financial institution also a Cashier or Trust Officer, and (b) any other person who performs functions corresponding to those normally performed by the foregoing officers, regardless of whether he has an official title or whether his title contains a designation of assistant,

and regardless of whether he is serving without salary or other compensation.

(2) "Director" means any director of a corporation or any individual who performs similar functions in connection with a partnership, trust, or voting trust.

(3) A "bank, trust company, investment banker, or banking association or firm" shall be deemed not to include the Reconstruction Finance Corporation, or a Federal Reserve Bank, or a bank or trust company which does not accept deposits or, if accepting deposits, not less than 85 per cent of whose total deposits at the end of the preceding calendar year consisted of time and savings deposits as defined by Regulation IV of the Federal Deposit Insurance Corporation.

(4) "Investment banker" means a person engaged in business as an underwriter or a dealer, as these terms are defined in the Securities Act of 1933, but does not include a bank, a trust company, banking association, or banking firm which is prohibited by statute or by rule or regulation thereunder from underwriting or participating in the marketing of securities of a public-utility or holding company.

(5) "Financial institution" means a bank, trust company, investment banker, or banking association or firm, or a corporation a majority of whose stock, having the unrestricted right to vote for the election of directors, is owned by a bank, trust company, investment banker or banking association or firm *except* a corporation (a) not engaged in the business of a bank, trust company, investment banker, or banking association or firm and (b) a majority of whose stock, having the unrestricted right to vote for the election of directors, is owned by a financial institution which is not organized under the laws of the United States or of a State thereof and does not have its principal office located in the United States.

(6) "Commercial banking institution" means any financial institution except an investment banker or a corporation a majority of whose stock, having the unrestricted right to vote for the election of directors, is owned by an investment banker.

(7) A person shall be deemed to have a "financial connection" if he is an executive officer, director, partner, appointee, or representative (including a designated representative) of a financial institution.

(8) "Designated representative" means a person who has been designated in writing to the Commission by not more than 10 financial institutions and/or other persons to represent them by acting as officer or director or both of a registered holding company or subsidiary company. No financial institution shall have a designated representative as an officer or director of a company unless (a) such institution is trustee under a corporate trust indenture or similar instrument under which outstanding obligations of such company were issued, or

<sup>1</sup> C. 687, sec. 17, 49 Stat. 830; 15 U. S. C., Sup. III, 79q.

(b) such institution owns the beneficial interest in securities of such company whose capital amount exceeds one-half of 1 per cent of the capital amount of all outstanding securities of such company. A designated representative shall have no financial connection other than with persons for whom he is designated representative.

(9) "Capital amount" means with respect to obligations the principal amount and with respect to capital stock the par value, or, if the stock has no par value, the market value at the date of its issue.

(10) "Operating company" means any registered holding company or subsidiary company which during the preceding calendar year had corporate gross revenues derived from its operations as a public-utility company equal to at least 70 per cent of the consolidated gross revenues of such company and all its subsidiary companies, if any, derived from their operations as public-utility companies.

(11) "Non-operating company" means any registered holding company or subsidiary company *except* (a) an operating company and (b) any company exempted by Rule U-3D-5 [Sec. 15.U-3D-5] from the obligations, duties and liabilities imposed by the Act upon such company as a subsidiary company. (C. 687, sec. 17, 49 Stat. 830, 15 U. S. C., Sup. III, 79q; c. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 791; c. 687, sec. 20, 49 Stat. 833; 15 U. S. C., Sup. III, 79t) [Gen. Rules and Regs., Rule U-17C-3, effective April 1, 1939]

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 39-717; Filed, March 2, 1939; 11:15 a. m.]

#### SECURITIES EXCHANGE ACT OF 1934

FORM X-17A-1

Form X-17A-1, Report to be Filed Pursuant to Rule X-17A-2 (a) (1) or (3)<sup>1</sup> under the Securities Exchange Act of 1934, as amended, adopted January 30, 1939, effective March 15, 1939, was filed with the Division of the Federal Register, The National Archives, on March 2, 1939, at 11:17 a. m. (F. R. Doc. 39-720). Requests for copies should be addressed to the Securities and Exchange Commission.

#### SECURITIES EXCHANGE ACT OF 1934

FORM X-17A-2

Form X-17A-2, Report to be Filed Pursuant to Rule X-17A-2 (a) (2)<sup>1</sup> under the Securities Exchange Act of 1934, as amended, adopted January 30, 1939, effective March 15, 1939, was filed with the Division of the Federal Register,

<sup>1</sup> 4 F. R. 699 DI.

The National Archives, on March 2, 1939, at 11:17 a. m. (F. R. Doc. 39-721). Requests for copies should be addressed to the Securities and Exchange Commission.

#### SECURITIES EXCHANGE ACT OF 1934

FORM X-17A-3

Form X-17A-3, Report to be Filed Pursuant to Rule X-17A-2 (a) (4)<sup>1</sup> under the Securities Exchange Act of 1934, as amended, adopted January 30, 1939, effective March 15, 1939, was filed with the Division of the Federal Register, The National Archives, on March 2, 1939, at 11:17 a. m. (F. R. Doc. 39-722). Requests for copies should be addressed to the Securities and Exchange Commission.

#### Notices

#### DEPARTMENT OF LABOR.

##### Division of Public Contracts.

IN THE MATTER OF THE PROPOSED AMENDMENT TO ARTICLE 101 (b) OF THE REGULATIONS OF THE SECRETARY OF LABOR NO. 504 FOR DEALERS IN HAY, GRAIN OR FEED

##### NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the matter of the definition of a "regular dealer" in hay, grain or feed as provided in Section 1 (a) of the Public Contracts Act (49 Stat. 2036), are hereby given until and including March 13, 1939, within which to file briefs with the Administrator of the Division of Public Contracts, showing reasons of law or fact why Article 101 (b) of the Regulations<sup>2</sup> of the Secretary of Labor should not be amended as applied to dealers in hay, grain or feed, by the addition of the following subsection:

A regular dealer in hay, grain or feed may be a person who owns, operates, or maintains a store, warehouse, or other place of business in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such materials, supplies, articles, or equipment.

So that Article 101 (b) of the aforementioned Regulations, as amended, will read as follows:

A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the

<sup>1</sup> 1 F. R. 1406.

specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.

(1) A regular dealer in hay, grain or feed may be a person who owns, operates, or maintains a store, warehouse, or other place of business in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to the public in the usual course of business, and whose principal business is such purchase and sale of such materials, supplies, articles, or equipment.

Dated this 25th day of February, 1939.

[SEAL] L. METCALFE WALLING,  
Administrator.

[F. R. Doc. 39-713; Filed, March 2, 1939; 11:13 a. m.]

IN THE MATTER OF THE PROPOSED AMENDMENT TO ARTICLE 101 (b) OF THE REGULATIONS OF THE SECRETARY OF LABOR NO. 504 FOR WHOLESALE COAL DEALERS

##### NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the matter of the definition of a "regular dealer" in coal, as provided in Section 1 (a) of the Public Contracts Act (49 Stat. 2036), are hereby given until and including March 13, 1939, within which to file briefs with the Administrator of the Division of Public Contracts, showing reasons of law or fact why Article 101 (b) of the Regulations<sup>2</sup> of the Secretary of Labor should not be amended as applied to coal dealers, by the addition of the following subsection:

A regular dealer in coal may be a person who owns, operates, or maintains a place of business in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought for the account of such person and sold to users or other trade outlets in the usual course of business in lots of not less than a cargo or railroad carload.

So that Article 101 (b) of the aforementioned Regulations, as amended, will read as follows:

A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.

(1) A regular dealer in coal may be a person who owns, operates, or maintains a place of business in which the materials, supplies, articles, or equipment of the general character described by the

specifications and required under the contract are bought for the account of such person and sold to users or other trade outlets in the usual course of business in lots of not less than a cargo or railroad carload.

Dated this 25th day of February, 1939.

[SEAL] L. METCALFE WALLING,  
Administrator.

[F. R. Doc. 39-712; Filed, March 2, 1939;  
11:13 a. m.]

IN THE MATTER OF THE PROPOSED AMENDMENT TO ARTICLE 101 (B) OF THE REGULATIONS OF THE SECRETARY OF LABOR NO. 504 FOR MACHINE TOOL DEALERS

NOTICE OF OPPORTUNITY TO SHOW CAUSE

All parties who are interested in the matter of the definition of a "regular dealer" in machine tools, as provided in Section 1 (a) of the Public Contracts Act (49 Stat. 2036), are hereby given until and including March 13, 1939, within which to file briefs with the Administrator of the Division of Public Contracts, showing reasons of law or fact why Article 101 (b) of the Regulations<sup>1</sup> of the Secretary of Labor should not be amended as applied to machine tool dealers, by the addition of the following subsection:

A machine tool dealer may be a person possessing, through contract or agreement with a manufacturer, the responsibility for selling that manufacturer's products, with respect to a specific territory and who is authorized by such manufacturer to offer its products and to negotiate and conclude contracts for the furnishing thereof; provided, that upon all orders to manufacturers for direct shipment to the United States he agrees to insert a notice to the manufacturer to the effect that the supplies are purchased for the United States and that the manufacturer is within the terms of Article 104 of the Administrative Regulations<sup>2</sup> issued by the Secretary of Labor requiring compliance with the provisions of the "Public Contracts Act."

So that Article 101 (b) of the aforementioned Regulations as amended will read as follows:

A regular dealer is a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and sold to the public in the usual course of business.

(1) A machine tool dealer may be a person possessing, through contract or agreement with a manufacturer, the responsibility for selling that manufac-

turer's products, with respect to a specific territory and who is authorized by such manufacturer to offer its products and to negotiate and conclude contracts for the furnishing thereof; provided, that upon all orders to manufacturers for direct shipment to the United States he agrees to insert a notice to the manufacturer to the effect that the supplies are purchased for the United States and that the manufacturer is within the terms of Article 104 of the Administrative Regulations issued by the Secretary of Labor requiring compliance with the provisions of the "Public Contracts Act."

Dated this 25th day of February, 1939.

[SEAL] L. METCALFE WALLING,  
Administrator.

[F. R. Doc. 39-714; Filed, March 2, 1939;  
11:13 a. m.]

Wage and Hour Division.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION DENYING APPLICATION FOR PARTIAL EXEMPTION OF THE LUMBER INDUSTRY AS A SEASONAL INDUSTRY

Whereas, application has been made by the Northeastern Lumber Manufacturers Association, Timber Producers Association of Minnesota and sundry other parties (representative of the lumber industry in the East, Middle West and South) under Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Regulations, Part 526, as amended (Regulations applicable to Industries of a Seasonal Nature),<sup>1</sup> issued by the Administrator thereunder, for partial exemption of the lumber industry from the maximum hours provisions of Section 7 (a) of said Act pursuant to Section 7 (b) (3) applicable to industries found by the Administrator to be of a seasonal nature; and

Whereas, a public hearing on said application was held<sup>2</sup> before Harold Stein, the representative of the Administrator of the Wage and Hour Division, duly authorized to hear and determine whether or not the lumber industry or branch thereof is of a seasonal nature within the meaning of Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Part 526 of Regulations issued thereunder, the term "lumber industry" being defined to mean the cutting, sawing, hauling and stacking of logs; and

Whereas, following such hearing, the said Harold Stein duly made his findings of fact and determined as follows:

"1. The 'lumber industry' involved in the applications consists of (a) the Northern branch of the logging industry (including the peeling of the pulpwood); and (b) the Northern branch of the sawmill industry.

"2. The Northern branches of the logging and sawmill industries include all

logging and sawmill operations carried on in the northern portions of the states of Maine, Vermont, New Hampshire, New York, Pennsylvania, Michigan, Wisconsin and Minnesota, within the geographical limits specifically set forth on maps submitted by the applicants, and herein incorporated by reference.

"3. The Northern branch of the logging industry includes, within the above described geographical limits, cutting, hauling, driving, peeling and auxiliary operations. Labor and material requirements for the industry are largely predetermined and the chain of operations, all essential to production, continues throughout the year. The materials extracted or handled by the industry are not highly perishable. The industry has available a plentiful supply of labor, it is to some extent habituated to a regular workweek of 48 hours or less, and it may be characterized as an extractive industry.

"4. Cutting, hauling, driving and peeling of logs are not separate industries but are integral parts of the logging industry.

"5. The Northern branch of the logging industry engages in the handling, extracting, and processing of materials continuously throughout the year and does not at any time cease production (as the term 'production' is used in regulations, Part 526, and defined in Section 3 (j) of the Act).

"6. The Northern branch of the sawmill industry consists of the operation of sawmills within the above described geographical limits. Some of its constituent mills operate continuously, others operate for longer or shorter periods at varying times of the year, but there is no cessation of work by the industry at any time. Its materials are not highly perishable, it has available a plentiful supply of labor, it is to some extent habituated to a regular workweek of 48 hours or less, and it may be characterized as a manufacturing industry.

"7. The Northern branch of the sawmill industry engages in the handling and processing of materials throughout the year and does not at any time cease production (as the term 'production' is used in regulation, Part 526, and defined in Section 3 (j) of the Act).

"8. The record does not warrant a finding that the Northern branch of the logging industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of Regulations issued thereunder; and

"9. The record does not warrant a finding that the Northern branch of the sawmill industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of Regulations issued thereunder."

and on the basis thereof denied the applications; and

Whereas, said Findings and Determination were duly filed with the Admin-

<sup>1</sup> 1 F. R. 1406.

<sup>2</sup> 1 F. R. 2049.

<sup>1</sup> 3 F. R. 2534, 3127 DL.

<sup>2</sup> 4 F. R. 94 DL.

istrator on February 25, 1939, and are now on file in his Office, Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties:

Now, therefore, pursuant to the provisions of Section 526.7 of the aforesaid Regulations, notice is hereby given that any person aggrieved by the said determination may, within fifteen days after the date this notice appears in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the action of the said representative upon the record of hearing before the said representative.

Signed at Washington, D. C., this 28th day of February, 1939.

ELMER F. ANDREWS,  
Administrator.

[F. R. Doc. 39-723; Filed, March 2, 1939; 11:22 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 25th day of February, A. D. 1939.

[File No. 55-14]

##### IN THE MATTER OF JAY SAMUEL HARTT, TRUSTEE OF THE ESTATE OF MIDLAND UTILITIES COMPANY

###### ORDER

Jay Samuel Hartt, Co-Trustee of the Estate of Midland Utilities Company, Debtor, having filed an application pursuant to Rule U-11F-2 promulgated under Section 11 (f) of the Public Utility Holding Company Act of 1935; a public hearing having been held on said application pursuant to appropriate notice;<sup>1</sup> said applicant having waived a Trial Examiner's report, submission to him of proposed findings of fact by the Commission or requests for findings of fact by counsel to the Commission, and the right to file briefs and make oral argument before the Commission prior to the entry of the Commission's findings and order herein; and the Commission having considered the record in this matter and having on the date hereof made and filed its findings and opinion herein;

*It is ordered:*

(1) That the amount of \$4,000 be, and it is hereby fixed, for the time being, and without prejudice to the subsequent fixing of final maximum limits therefor upon further application, as the maximum amount that may be paid to Jay Samuel Hartt for services rendered by him as Co-Trustee of the Estate of Midland Utilities Company from October 24, 1938 to January 15, 1939; and that the amount of \$350 per month on the aver-

age be, and it is hereby fixed as the maximum amount that may be paid to said Jay Samuel Hartt for out-of-pocket expenses incurred during said period from October 24, 1938 to January 15, 1939.

(2) That the amount of \$585 be, and it is hereby fixed as the final maximum allowance that may be paid out of the Estate of Midland Utilities Company to Elbridge Lennon Lord for services rendered by him to the Trustees of said Estate from December 7, 1938 to January 15, 1939; and that the amount of \$250 per month on the average be, and it is hereby fixed as the maximum amount that may be paid to said Elbridge Lennon Lord for out-of-pocket expenses incurred during said period from December 7, 1938 to January 15, 1939.

(3) That the amount of \$760 be, and it is hereby fixed as the final maximum allowance that may be paid out of the Estate of Midland Utilities Company to Donald M. Cook for services rendered by him to the Trustees of said Estate from December 8, 1938 to January 15, 1939; and that the amount of \$250 per month on the average be, and it is hereby fixed as the maximum amount that may be paid to said Donald M. Cook for out-of-pocket expenses incurred during said period from December 8, 1938 to January 15, 1939.

(4) That until further order of the Commission Jay Samuel Hartt, Elbridge Lennon Lord, and Donald M. Cook be, and they are hereby exempted from the necessity of making subsequent applications pursuant to Rule U-11F-2 for approval of maximum ad interim allowances for fees, expenses and remuneration to be paid out of the Estate of Midland Utilities Company, subject, however, to the following conditions:

(a) Any such ad interim allowances to Hartt for services as Co-Trustee of Midland Utilities Company shall not exceed \$2,000 per month, on account, without prejudice to the subsequent fixing of final maximum allowances for his services;

(b) Any such ad interim allowances to Lord for services as principal accountant for the Trustees of Midland Utilities Company shall not exceed \$450 per month in full payment for services rendered;

(c) Any such ad interim allowances to Cook for services as principal engineer for the Trustees of Midland Utilities Company shall not exceed \$600 per month in full payment for services rendered; and

(d) Any such ad interim allowances for expenses shall be limited to reimbursement for actual out-of-pocket expenses and shall not exceed \$350 per month on the average in the case of Hartt, and an average of \$250 per month each in the case of Lord and Cook.

(5) That the exemptions set out in paragraph (4) hereof are subject to the following additional conditions:

(a) There shall be filed with this Commission by or on behalf of each of the aforesaid persons three copies of any application for fees, expenses and remuneration filed with the Court in which the reorganization proceedings of Midland Utilities Company are pending, or of any bill or statement of services or expenses which shall be submitted to the Trustees of Midland Utilities Company, or if no such application or bill for or statement of services or expenses is so filed or submitted, three copies of a statement showing the services rendered by such person and the expenses for which reimbursement is claimed;

(b) At any time when Hartt devotes less than twenty days per month to his duties as Trustee, he shall so notify this Commission;

(c) This Commission retains jurisdiction at any time to terminate or modify the exemptions hereby granted with respect to any of the aforesaid persons upon notice to such persons and to the Trustees of Midland Utilities Company.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 39-715; Filed, March 2, 1939; 11:15 a. m.]

##### *United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 27th day of February, A. D. 1939.

[File No. 43-179]

##### IN THE MATTER OF MASSACHUSETTS UTILITIES ASSOCIATES

###### ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

Massachusetts Utilities Associates, a subsidiary of New England Power Association, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935 regarding the issue of an unsecured note to be dated February 8, 1939 and payable February 8, 1942, in the face amount of \$4,000,000, bearing interest at the rate of 2½% per annum, payable monthly, which will be payable to The First National Bank of Boston and issued in payment of an existing note of the declarant held by the aforesaid bank dated August 8, 1938 and payable August 8, 1940, in the face amount of \$4,000,000, bearing interest at the rate of 2½% per annum, payable monthly:

A public hearing on said declaration, as amended, having been held after appropriate notice;<sup>1</sup> the record in this matter having been duly considered; and the Commission having filed its findings herein;

<sup>1</sup> 4 F. R. 73 DI.

<sup>1</sup> 4 F. R. 480 DI.

It is ordered, That such declaration, as amended, be and become effective forthwith, on the conditions, however:

(1) that the issue of the aforesaid note shall be effected in compliance with the terms and conditions set forth in, and for the purposes represented by, said amended declaration;

(2) that within ten days after the issue of aforesaid note, the declarant shall file with this Commission a certificate of notification showing that the issuance of aforesaid note has been effected in accordance with the terms and conditions of, and for the purposes represented by, said amended declaration.

It is further ordered, That the accounting treatment proposed by the declarant relating to the unamortized debt discount, expense and premium in connection with the redemption of declarant's Sinking Fund Gold Debentures, Series A, 5%, due April 1, 1949, be and the same hereby is approved; *Provided, however,* That the Commission reserves jurisdiction over said accounting treatment until such future time as other financing by the declarant relating to repayment or refunding of the note is presented to the Commission and reserves the right to reconsider the question at that time.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 39-718; Filed, March 2, 1939;  
11:16 a. m.]

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of March, A. D. 1939.

[File No. 54-12]

IN THE MATTER OF COLUMBIA GAS &  
ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

An application pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on Monday, April 3, 1939, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Richard Townsend or any other officer or officers

of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 28, 1939.

The matter concerned herewith is in regard to an application for the approval of a proposed plan under Section 11 (e) of the Public Utility Holding Company Act of 1935. The plan does not deal with the following "excepted companies" in which applicant has an interest:

(1) Columbia Oil & Gasoline Corporation (Applicant owns 400,000 shares without par value of non-cumulative participating preferred stock of this company and debentures in principal amount of \$21,000,000. Applicant owns none of the common stock in this company.)

(2) The subsidiary companies of Columbia Oil & Gasoline Corporation

(3) Michigan Gas Transmission Corporation (a wholly owned subsidiary of applicant)

(4) Indiana Gas Distribution Corporation (a wholly owned subsidiary of applicant)

(5) American Fuel and Power Company (a dissolved Delaware corporation, 76% of whose common stock is owned by applicant. Applicant also owns advances and notes of this corporation.)

In addition, the plan does not deal with certain excepted properties consisting of the properties of the excepted companies, and properties owned prior to its dissolution by American Fuel and Power Company.

The changes in the corporate structure of the applicant's system suggested in the plan are:

(1) sale to applicant of the stocks and indebtedness of Amere Gas Utilities Company, Virginia Gas Distribution Corporation and Virginia Gas Transmission Corporation. These three companies will then be 100% owned direct subsidiaries of applicant, and the Atlantic Seaboard Corporation, a wholly owned subsidiary of applicant, which now holds the stocks of these companies will cease to be an intermediate holding company.

(2) The following companies which are not public utility companies and which have no assets will be dissolved:

- (a) The Licking River Bridge Company
- (b) The Fayette Gas Fuel Company
- (c) The Sewickley Gas Company

These companies are 100% owned subsidiaries of subsidiaries of the applicant.

(3) United Fuel Gas Company, a subsidiary of applicant, will transfer to applicant 71.6% of the outstanding stock of Big March Oil Company in partial liquidation of its indebtedness to applicant.

(4) Eastern Pipe Line Company will sell its physical assets to Home Gas Company, and Eastern Pipe Line Company will be dissolved. Both of these companies are wholly owned subsidiaries of applicant. At present, application for necessary authorization has been made to the Public Service Commission of New York State.

(5) The following inactive wholly owned subsidiary companies of Columbia Gas & Electric Corporation which are not public utility companies will be dissolved:

- (a) Chenango Gas Company, Inc.
- (b) The Consumers Natural Gas Company
- (c) The Liberty Light and Power Company.

Subject to the above proposed changes and excepting the companies and properties designated, approval of the Columbia Gas and Electric System as complying with the terms of Section 11 is requested, applicant contending:

(a) that the operations of the holding company system of Columbia Gas & Electric Corporation, as now carried on and as they will be carried on upon the consummation of the Plan, are and will be limited to a single integrated public utility system as defined in the Act, and to such other businesses as are reasonably incidental or economically necessary or appropriate to the operations of such integrated public utility system;

(b) that such other businesses are necessary or appropriate in the public interest or for the protection of investors or consumers and not detrimental to the proper functioning of such integrated public utility system;

(c) that neither the corporate structure nor the continued existence of any company in the holding company system of Columbia Gas & Electric Corporation, as now constituted and as it will be constituted upon the consummation of the Plan, unduly or unnecessarily complicates the structure or unfairly or inequitably distributes voting power among security holders; and

(d) that the holding company system of Columbia Gas & Electric Corporation will in all respects conform to the provisions of Section 11 (b) of the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 39-719; Filed, March 2, 1939;  
11:16 a. m.]

