

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

IN THE MATTER OF APPLICATION FOR EXEMPTION OF THE
COLD STORAGE OF APPLES IN APPLE STORAGE WAREHOUSES
IN THE "APPALACHIAN AREA" FROM THE MAXIMUM HOURS
PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938
PURSUANT TO SECTION 7(b)(3) AND PART 526 OF THE
REGULATIONS ISSUED THEREUNDER

WHEREAS, applications have been filed by the Winchester Cold Storage Company, Inc., and sundry other parties for the exemption of the cold storage of apples in apple storage warehouses located in the "Appalachian area" from the maximum hours provisions of the Fair Labor Standards Act of 1938, as a branch of an industry of a seasonal nature within the meaning of Section 7(b)(3) and Part 526 of the Regulations issued thereunder, and

WHEREAS, it appears from the said application that:

- (1) apples are produced and harvested in the said Appalachian area" during the regularly recurring season, September to November, and
- (2) that in the "Appalachian area" the great bulk of such apples enter into cold storage in local warehouses which are restricted to apple storage, and that in other areas the great bulk of apples do not enter into cold storage in local warehouses at all, or if they do, such warehouses are not restricted to apple storage, and
- (3) that such apples enter into cold storage during a regularly recurring season, late September through November, running nearly concurrently with but lagging somewhat after the harvest, and
- (4) that such apples customarily move out of these warehouses during the regularly recurring season, November through March, only an unsubstantial amount remaining in storage after March and moving out thereafter, and
- (5) during a portion of the year (generally April through August and part of September) the cold storage of apples in these apple storage warehouses ceases apart from such work as maintenance, repair, clerical and sales work, because the apples in the form in which they are stored are not available, and

- (6) these apple storage warehouses exist for the purpose of warehousing and do warehouse apples exclusively save for an unsubstantial amount of other products, and
- (7) whereas all of these warehouses are located in a district designated as the "Appalachian area" in the State of Pennsylvania, Maryland, West Virginia and Virginia, which includes all apple storage warehouses located
 - (a) between the Allegehany Mountains on the west, the Blue Ridge Mountains on the east, U. S. Route No. 30 on the north, and U. S. Route No. 58 on the south, and
 - (b) in the Virginia counties of Albemarle, Nelson, Amherst, Bedford and Henry.

NOW, THEREFORE, upon consideration of the facts stated in the said applications, the Administrator hereby determines, pursuant to Section 526.5(c) of the Regulations, that a prima facie case has been shown for the granting of an exemption, pursuant to Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations issued thereunder to the cold storage of apples in apple storage warehouses in the "Appalachian area".

In the above:

The term "cold storage" of apples is used in the commonly accepted meaning and includes the receiving into storage, the maintaining in storage, and the moving out of storage of such apples.

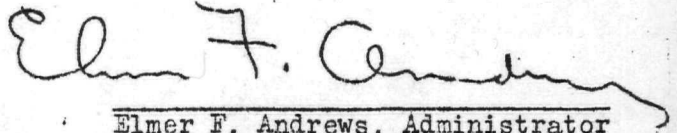
The term "apple storage warehouses" is understood to designate those warehouses which exist for the purpose of warehousing and do warehouse apples exclusively save for an unsubstantial amount of other products.

In accordance with the procedure established by Section 526.5(c) of the Regulations, the Administrator for fifteen days following the publication of this determination will receive objection to the granting of the exemption and request for hearing from any interested person. Upon receipt of objection and request for hearing, the Administrator will set the application for the hearing before himself or an authorized representative.

If no objection and request for hearing is received within fifteen days, the Administrator will make a finding upon the prima facie case shown upon the application.

This application may be examined at Room 313, 939 D Street, N.W.,
Washington, D. C.

Signed at Washington, D. C., this 3rd day of October, 1939.

A handwritten signature in cursive script, appearing to read "Elmer F. Andrews". The signature is written in dark ink and is positioned above the typed name.

Elmer F. Andrews, Administrator
Wage and Hour Division
Department of Labor