

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

PRIMA FACIE DETERMINATION IN THE MATTER OF
THE APPLICATION FOR EXEMPTION OF THE CLEAN-
ING AND PREPARING OF GARDEN SEED AND SEED
CORN AT COUNTRY CLEANING PLANTS 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 American Seed
Trade Association and sundry other parties for exemption of the
cleaning and preparing of garden seed and seed corn at country
cleaning plants 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) of the Act and Part 526
of the regulations issued thereunder, and

WHEREAS, it appears from said applications and upon further
investigation that:

- (1) garden seed and seed corn come to maturity
and are harvested each year during regularly
recurring periods, and
- (2) almost all garden seed and seed corn in the
United States is grown on contract and nor-
mally this seed crop is delivered by the
farmer, as soon after harvesting as weather
and other farm work permits, to country

cleaning plants where it is cleaned, purified, sorted, dried, graded and otherwise rendered suitable for seed, and

- (3) most seed crops after being received at the cleaning plants must be immediately prepared including drying and fumigating in order to prevent loss of germination, disease or other deterioration, and
- (4) that these plants are located at convenient points where it is practical and not unduly costly for the farmers to deliver their crops, and
- (5) the aforesaid country cleaning plants are devoted solely to the cleaning and preparing of garden seed and seed corn and that such plants open up when the crop begins to ripen and operate until all the seed has been delivered, and
- (6) the average operating season of these seed plants is about five months, some plants operating for as little as three or four months; a number operating as long as six months; and a negligible number operating over six months, and
- (7) that within a six months' period at least ninety-five per cent of all garden seed and

seed corn is cleaned and prepared by these plants, and

- (8) after the crop has been cleaned and prepared these country cleaning plants shut down except for maintenance, repair and occasional shipments of seeds because the materials used by the industry, i.e., garden seed and seed corn, are no longer available because of natural factors, and
- (9) these country cleaning plants are devoted solely and exclusively to the cleaning and preparing of garden seed and seed corn and no other work is done in these plants at any time.

NOW, THEREFORE, upon consideration of the aforesaid facts, 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 cleaning and preparing of garden seed and seed corn at country cleaning plants.

In the above the term "cleaning and preparing" is understood to mean receiving of the seed crop into the cleaning plant and the cleaning, purifying, sorting, drying, grading, and otherwise rendering such crop suitable for seed. It may include the bulk packaging of seed for delivery to a central point of distribution.


The term "country cleaning plants" is understood to designate those establishments wherein the seed crop is received direct from farmers (and no part of which is shipped from other plants) and is cleaned, purified, sorted, dried, graded, and otherwise rendered suitable for seed.

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 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.

These applications and the report of the investigation made thereon may be examined at Room 313, 939 D Street, N. W., Washington, D. C.

Signed at Washington, D. C. this 23rd day of March, 1940.


Philip B. Fleming
Colonel, Corps of Engineers
Administrator
Wage and Hour Division
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