

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

PRIMA FACIE DETERMINATION IN THE MATTER OF APPLICATION OF THE NATIONAL GRAIN TRADE COUNCIL, THE MILLERS' NATIONAL FEDERATION, AND SUNDRY OTHER PARTIES FOR THE EXEMPTION OF THE RECEIVING OF GRAIN, SOYBEANS, FLAX, AND BUCKWHEAT INTO GRAIN ELEVATORS 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 AS AMENDED OF THE REGULATIONS ISSUED THEREUNDER

WHEREAS, applications have been filed by the National Grain Trade Council, the Millers' National Federation, and sundry other parties for the exemption of the receiving of grain, soybeans, flax, and buckwheat, into grain elevators from the maximum hours provisions of the Fair Labor Standards Act as a branch of an industry of a seasonal nature, within the meaning of section 7(b)(3) of the Act and Part 526 as amended of the regulations issued thereunder, and

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

(1) Wheat, oats, barley, rye, corn, and other grains, soybeans, flax, and buckwheat, normally move from the farms into country, sub-terminal, terminal, and mill elevators immediately after harvest for storage; and

(2) Country grain elevators receive for storage during a period of 14 workweeks greatly in excess of 50 per cent of the annual volume of grain, soybeans, flax, and buckwheat, handled by these elevators; and

(3) Sub-terminal, terminal, and mill warehouses normally receive for storage during a period of 14 workweeks 50 per cent or more of the annual volume of grain, soybeans, flax, and buckwheat handled.

NOW, THEREFORE, upon consideration of the facts stated in said applications, and upon further investigation the Administrator hereby determines 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 as amended of the regulations issued thereunder, to the receiving of grain, soybeans, flax, and buckwheat, for storage by country, sub-terminal, terminal, and mill elevators, (but not by commission merchants), as an industry of a seasonal nature.

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.

These applications may be examined at Room 5220, Department of Labor Building, Washington, D. C.

Signed at Washington, D. C., this 24th day of July, 1940.


Philip B. Fleming, Administrator
Wage and Hour Division
Department of Labor

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