

For Release Tuesday,  
November 5, 1940

R-1117

UNITED STATES DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
WASHINGTON, D. C.

INACTIVE

IN THE MATTER OF APPLICATION FOR THE  
EXEMPTION OF THE EXCAVATION OF PEAT  
MATERIALS FROM THE MAXIMUM HOURS PRO-  
VISIONS OF THE FAIR LABOR STANDARDS  
ACT OF 1938 PURSUANT TO SECTION 7 (b)(3)  
OF THE ACT AND PART 526, AS AMENDED,  
OF THE REGULATIONS ISSUED THEREUNDER

WHEREAS, applications have been filed by the United States Peat Moss Corporation, the Hyper-Humus Company, and sundry other parties for the exemption of the excavation, macerating, spreading, cutting, or drying of peat materials from the maximum hours provisions of the Fair Labor Standards Act of 1938, as 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 that:

- (1) In the United States peat materials are produced in the more northerly and higher altitude states and in the southern states and California; and
- (2) That operations in the more northerly and higher altitude states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, Illinois, Iowa, Indiana, North Dakota, South Dakota, Colorado, Utah, Nevada, Montana, Idaho, Oregon, and Washington constitute the northern branch of the peat materials producing industry and operations in all other states make up the southern branch of the industry; and
- (3) That in the northern branch peat is produced during a regularly recurring season not extending beyond the six-months period, May through October, and ceases during the remainder of the year because the peat materials are not available for extraction due to their frozen condition, to excess moisture, or to other climatic factors; and
- (4) That in the southern branch of the industry peat

materials are, with perhaps occasional exceptions, produced during a season or seasons considerably longer than the maximum six-months season which obtains for the northern branch and too long in relation to the period of exemption afforded by section 7(b)(3) of the Fair Labor Standards Act to be considered an industry of a seasonal nature.

NOW, THEREFORE, upon consideration of the facts stated in the said applications and upon further investigation, the Administrator hereby determines, pursuant to section 526.5(b) (ii) 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 to the northern branch of the peat materials producing industry including the excavating, macerating, spreading, cutting, shredding, or drying of such materials in the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Ohio, Michigan, Wisconsin, Minnesota, Illinois, Iowa, Indiana, North Dakota, South Dakota, Colorado, Utah, Nevada, Montana, Idaho, Oregon, and Washington.


This determination shall be without prejudice to supplementary determination enlarging the scope of the northern branch by the inclusion therein of such production of peat materials, if any, as are conducted in the same manner and for the same reasons as operations in the northern branch described in paragraphs (2) and (3) above.

In accordance with the procedure established by section 526.5(b) (ii) 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. 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.

These applications may be examined at Room 5309, United States Department of Labor, Washington, D. C.

Signed at Washington, D. C., this 25th day of October, 1940.

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