

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF THE DETERMINATION IN THE MATTER OF APPLICATIONS FOR THE EXEMPTION OF THE PACKING AND DRYING OF UNSHELLED WALNUTS AND FILBERTS FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS A BRANCH OR BRANCHES OF AN INDUSTRY AND OF A SEASONAL NATURE PURSUANT TO SECTION 7(b)(3) OF THE ACT AND PART 526, AS AMENDED, OF THE REGULATIONS ISSUED THEREUNDER.\*

WHEREAS, applications were filed by the California Walnut Growers' Association, the North Pacific Nut Growers' Cooperative and sundry other parties for the partial exemption of the packing, drying, etc., of unshelled walnuts and filberts from the maximum hours provisions of the Fair Labor Standards Act as a branch or branches of an industry and of a seasonal nature pursuant to Section 7(b)(3) of the Act and Part 526, as amended, of the Regulations issued thereunder; and

WHEREAS, the Administrator of the Wage and Hour Division gave notice of a public hearing to be held in Washington, D. C., on September 16, 1940, before Mr. Harold Stein, who was authorized to take testimony, hear argument and determine:

Whether the handling, packing, shelling or other processing, or storing of walnuts or filberts, or any subdivisions or combinations thereof are industries 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, following such hearing the said Harold Stein duly made his findings of fact and determined as follows with respect to walnuts and filberts:

- (1) Walnuts and filberts are harvested and packed in the fall of each year.
- (2) Far more than 50 percent of all walnuts and filberts are received for packing and storing unshelled in a fourteen week period each year.
- (3) Unshelled walnuts and filberts are agricultural commodities in their raw or natural state.
- (4) The packing and storing of unshelled walnuts and filberts constitute a branch or branches of the nut industry and are of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act and Section 526.3(b) of the Regulations issued thereunder.
- (5) Walnuts and filberts are dried prior to packing, to remove excess moisture, during the harvest season of about 10 weeks each year. Such drying is independent of all other operations on walnuts and filberts.

\* This affects tabulation contained in Section 526.101, Code of Federal Regulations.

(6) At the end of the harvest season, walnut and filbert drying establishments cease operation, except for maintenance, repair and sales work, until the next harvest season, because walnuts and filberts are no longer available for drying because of natural conditions.

(7) The drying of walnuts and filberts constitutes a branch or branches of the nut industry and is of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act and Section 526.3(a) of the Regulations, Part 526, issued thereunder.

The applications are granted.

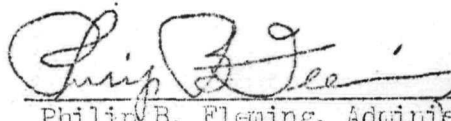
This determination does not apply to the shelling of walnuts and filberts or to the packing or storing of walnut and filbert kernels.

This determination does not excuse noncompliance with any state law or order issued thereunder establishing a maximum workweek lower than the maximum workweek established under Section 7(b)(3) of the Act.

WHEREAS, said findings and determination were duly filed with the Administrator on April 25, 1941, and are now on file in Room 5418, 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 15 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 5th day of May, 1941.



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