

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
NEW YORK, NEW YORK

Title 29 - Labor
Chapter V - Wage and Hour Division

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF THE DETERMINATION DENYING THE APPLICATION FOR EXEMPTION OF THE PROCURING, HAULING, HANDLING, COOLING, CANDLING, GRADING, PACKING, AND SHIPPING OF EGGS IN THE STATES OF IOWA, MINNESOTA, NORTH DAKOTA, AND SOUTH DAKOTA FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS AN INDUSTRY OF A SEASONAL NATURE PURSUANT TO SECTION 7(b)(3) OF THE ACT AND PART 526 AS AMENDED OF THE REGULATIONS ISSUED THEREUNDER

WHEREAS, an application was filed by sundry parties for exemption of the procuring, hauling, handling, cooling, candling, grading, packing, and shipping of eggs in the States of Iowa, Minnesota, North Dakota, and South Dakota from the maximum hours provisions 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; and

WHEREAS, the Administrator of the Wage and Hour Division gave notice of a public hearing to be held at Hotel Nicollet, Minneapolis, Minnesota, on February 10, 1942 before Mr. Marshall S. Spaulding, a duly authorized representative of the Administrator, who was authorized to take testimony, hear argument, and determine;

"Whether the procuring, hauling, handling, cooling, candling, grading, packing, and shipping of eggs in the States of Iowa, Minnesota, North Dakota, and South Dakota constitutes a separate branch of the egg industry and is 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 if so the appropriate limits of that branch of the industry"; and

WHEREAS, following such bearing the said representative of the Administrator duly made his findings of fact and determined as follows:

"1. Although comprehensive data are not available, it appears that many establishments engaged in procuring, hauling, handling, cooling, candling, grading, packing, and shipping of eggs in the States of Iowa, Minnesota, North Dakota, and South Dakota receive for packing 50 percent or more of their total annual receipts of eggs during a period of 14 weeks each year.

"2. For the country as a whole, establishments engaged in the procuring, hauling, handling, cooling, chandling, grading, packing, and shipping of eggs receive less than 50 percent of their total annual receipts of eggs during the peak 14 weeks of the year.

"3. Egg handling establishments, wherever located, carry on the same or similar operations and compete for the same markets in various parts of the country."

"4. A large proportion of the establishments which engage in these egg handling operations also engage in handling poultry or dairy products and in other operations. Any one or more of these activities are carried on substantially throughout the year; the peak activity in egg handling occurring in the spring and the peak activity in the handling of poultry occurring in the summer and fall. With very few exceptions, the same employees are used to carry on all these operations.

"5. The procuring, hauling, handling, cooling, candling, grading, packing, and shipping of eggs in the States of Iowa, Minnesota, North Dakota, and South Dakota does not constitute a separable branch of the egg handling industry within the meaning of section 7(b)(3) of the Fair Labor Standards Act and Part 526 of the regulations issued thereunder.

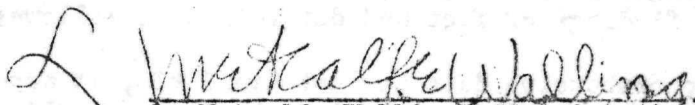
"6. The procuring, hauling, handling, cooling, candling, grading, packing, and shipping of eggs in the States of Iowa, Minnesota, North Dakota, and South Dakota is not an industry of a seasonal nature within the meaning of section 7(b)(3) of the Act and Part 526 Of the regulations.

"The application is denied;" and

WHEREAS, said findings and determination were duly filed with the Administrator on October 29, 1942, at the National Office of the Wage and Hour Division, 165 West 46th Street, New York, New York, and are 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 fifteen days after the date this notice appears in the Federal Register file a petition with the Administrator at the National Office of the Wage and Hour Division requesting that he review the action of the said representative upon the record of the hearing. Such petition shall set forth the grounds upon which the petition for review is based.

Signed at New York, New York this 4th day of November, 1942.


L. Metcalfe Walling, Administrator
Wage and Hour Division
U. S. Department of Labor