

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 IN PART AND GRANTING IN PART THE APPLICATIONS FOR THE EXEMPTION OF THE PROCESSING OF SORGO INTO SORGO SYRUP 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.

WHEREAS, upon consideration of an application filed by the American Sugar Cane League of the U. S. A., Inc., for the exemption of the processing of sorgo into sorgo syrup in Louisiana 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, a preliminary determination was made that a prima facie case had been shown for amendment of the exemption granted under section 7(b)(3) of the Act to that portion of the cane sugar processing and milling branch of the cane sugar industry which is located in Louisiana, to include in the exemption granted to this branch of the industry the processing of sorgo into sorgo syrup; and

WHEREAS, within fifteen days following the publication of this preliminary determination the Administrator received an objection and request for hearing, and also received an application from the Waconia Sorghum Company, Cedar Rapids, Iowa, for the exemption of the processing of sorgo into sorgo syrup outside of Louisiana as an industry of a seasonal nature; and

WHEREAS, pursuant to sections 526.5 and 526.6 of the regulations, the Administrator of the Wage and Hour Division thereupon gave notice of a public hearing to be held at the National Offices of the Wage and Hour Division, 165 West 46 Street, New York, New York, on August 28, 1942, before Mr. Nathan Rubinstein, a duly authorized representative of the Administrator, who was authorized to receive evidence and hear arguments for the purpose of determining:

"Whether the processing of sorgo into sorgo syrup in Louisiana is an integral part of the cane sugar processing and milling branch of the cane sugar industry in Louisiana, and if so, whether the combined raw sugar processing and sorgo processing operations in Louisiana constitute an industry of a seasonal nature within the meaning of section 7(b)(3) of the Act and Part 526 of the regulations; and

Whether the processing of sorgo into sorgo syrup in the United States as a whole or in any one or more of the states constitutes an industry or a separable branch of an industry and is of a seasonal nature within the meaning of the Act and the regulations."

and

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

- "1. The pattern of sorgo processing operations in the cane sugar mills in Louisiana is not sufficiently established to warrant a finding that these operations constitute a separable branch of the sorgo processing industry or that they are an integral part of the sugar cane processing and milling branch of the cane sugar industry."
- "2. Sorgo is harvested in the State of Iowa during a period of not more than 8 weeks annually beginning about the last week in August, and is available for processing into sorgo syrup only during the harvesting season and for a few days thereafter.
3. The processing of sorgo into sorgo syrup in Iowa is carried on during an annually recurring period of not more than 8 weeks, after which the operations cease for the remainder of the year, except for maintenance, repair, clerical, and sales work.
4. The processing of sorgo into sorgo syrup in the State of Iowa is a separable branch of the sorgo processing industry, and is of a seasonal nature within the meaning of section 7(b)(3) of the Fair Labor Standards Act and Part 526 of the regulations, as amended. This determination is made without prejudice to the right of sorgo processors outside of Iowa to obtain the exemption under supplemental determinations, upon presentation of facts warranting such action.
5. For purposes of this determination the term 'processing of sorgo into sorgo syrup' includes the receiving, handling, unloading and weighing of sorgo at the processing establishment; the preparation of the sorgo for grinding by removing the leaves and seed heads; the extraction of the juice from the sorgo; the processing of the juice into sorgo syrup; and the following operations when performed at or near the sorgo processing plant by employees of the processor during the period of seasonal operations: packing the syrup into containers and labeling the packages; the removal, handling and conveying of the packages of sorgo syrup to trucks or other means of transportation in the vicinity of the plant; the removal, conveying, burning, packing, baling, piling and storing in bags or in baled form of bagasse resulting from the processing of sorgo into sorgo syrup; and any operations necessary or incident to the foregoing. The term 'processing of sorgo into sorgo syrup' does not include operations performed on syrups other than sorgo, or the blending or mixing of such other syrups with sorgo syrup."

"The application for the exemption of the processing of sorgo into sorgo syrup in Iowa is granted.

The application of the American Sugar Cane League of the United States of America, Inc. is denied without prejudice."

WHEREAS, said findings and determinations were duly filed with the Administrator on August 11, 1943 at the National Offices of the Wage and Hour Division, 165 West 46 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 Offices 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 request for review is based. If no petition for review is received within fifteen days, the Administrator will make a determination based on the findings of the presiding officer.

Signed at New York, New York this 12 day of August, 1943.

L. Metcalfe Walling

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

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