

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

IN THE MATTER OF THE PARTIAL EXEMPTION OF
THE CLEANING AND PREPARING OF GARDEN SEED AND
SEED CORN AT COUNTRY CLEANING PLANTS FROM THE
MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR
STANDARDS ACT OF 1938 PURSUANT TO SECTION
7(b)(3) AND PART 526 OF THE REGULATIONS ISSUED
THEREUNDER.

WHEREAS, applications were filed by the American Seed Trade Association and sundry other parties for partial exemption of the cleaning and preparing of garden seed and seed corn at country cleaning plants 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 of the Regulations issued thereunder, and

WHEREAS, upon the basis of the applications and investigations conducted thereon, it appeared that

- (1) garden seed and seed corn come to maturity and are harvested each year during regularly recurring periods, and
- (2) almost all garden seed and seed corn in the United States is grown on contract and normally this seed crop is delivered by the farmer, as soon after harvesting as weather and other farm work permits, to country cleaning plants where it is cleaned, purified, sorted, dried, graded and otherwise rendered suitable for seed, and
- (3) most seed crops after being received at the cleaning plants must be immediately prepared including drying and fumigating in order to prevent loss of germination, disease or other deterioration, and
- (4) that these plants are located at convenient points where it is practical and not unduly costly for the farmers to deliver their crops, and
- (5) the aforesaid country cleaning plants are devoted solely to the cleaning and preparing of garden seed and seed corn and that such plants open up when the crop begins to ripen and operate until all the seed has been delivered, and

- (6) the average operating season of these seed plants is about five months, some plants operating for as little as three or four months; a number operating as long as six months; and a negligible number operating over six months, and
- (7) that within a six months' period at least ninety-five percent of all garden seed and seed corn is cleaned and prepared by these plants, and
- (8) after the crop has been cleaned and prepared these country cleaning plants shut down except for maintenance, repair and occasional shipments of seeds because the materials used by the industry, i.e., garden seed and seed corn, are no longer available because of natural factors, and
- (9) these country cleaning plants are devoted solely and exclusively to the cleaning and preparing of garden seed and seed corn and no other work is done in these plants at any time.

The term "cleaning and preparing" is understood to mean receiving of the seed crop into the cleaning plant and the cleaning, purifying, sorting, drying, grading, and otherwise rendering such crop suitable for seed. It may include the bulk packaging of seed for delivery to a central point of distribution.

The term "country cleaning plants" is understood to designate those establishments wherein the seed crop is received direct from farmers (and no part of which is shipped from other plants) and is cleaned, purified, sorted, dried, graded, and otherwise rendered suitable for seed, and

WHEREAS, the Administrator caused to be published in the Federal Register on April 2, 1940 (5 F.R. 1283), a notice which stated that a prima facie case had 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 issued thereunder to the cleaning and preparing of garden seed and seed corn at country cleaning plants, and which further stated that if no objection and request for hearing was received within fifteen days thereafter, the Administrator would make a finding upon the prima facie case shown upon the applications, and

WHEREAS, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

NOW, THEREFORE, pursuant to Section 526.5(b)(ii) of the Regulations, as amended, the Administrator hereby finds on the prima facie case shown in the said applications that the cleaning and preparing of garden seed and seed corn at country cleaning plants is a seasonal industry within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Regulations issued thereunder, and, therefore, is entitled to the exemption provided in Section 7(b)(3) of the said Act.

Signed at Washington, D. C. this 26th day of April, 1940.

A handwritten signature in cursive script, appearing to read "Philip B. Fleming", written over a horizontal line.

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

Published in Federal Register, April 30, 1940.