

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

INACTIVE

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW  
OF THE DETERMINATION IN THE MATTER OF APPLI-  
CATIONS FOR THE EXEMPTION OF THE HANDLING,  
PACKING, SHELLING, OR OTHER PROCESSING OR  
STORING OF PECANS FROM THE OVERTIME PROVISIONS  
OF THE FAIR LABOR STANDARDS ACT UNDER SECTION  
7(b)(3) OF THE ACT AND PART 526, AS AMENDED,  
OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, applications were filed by the National Pecan Growers Exchange of Albany, Georgia, and sundry other parties for the exemption of the handling, packing, shelling, or other processing or storing of pecans from the overtime provisions of the Fair Labor Standards Act under 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 the Willard Hotel, Washington, D. C., on September 16, 1940; before Mr. Harold Stein, who is authorized to take testimony, hear argument, and determine:

Whether the handling, packing, shelling or other processing, or storing of pecans, 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:

1. The packing of unshelled papershell or improved varieties of pecans is conducted in establishments specifically designed for this purpose.
2. The packing of unshelled papershell or improved varieties of pecans is a separable branch of the pecan industry.
3. In excess of 50 percent of the annual volume of papershell or improved varieties of pecans is received for packing unshelled, i.e., in the raw and natural state in a period amounting in the aggregate to not more than 14 workweeks.
4. The packing of unshelled papershell or improved varieties of pecans is an industry of a seasonal nature pursuant to section 7(b)(3) of the Fair Labor Standards Act and part 526 of the regulations issued thereunder.

5. The shelling of seedling pecans in Texas takes place during a period too long in relation to the period of exemption afforded by section 7(b)(3) of the Fair Labor Standards Act to justify a finding that such operations are of a seasonal nature, and therefore, does not constitute 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.

The packing of unshelled papershell or improved varieties of pecans is granted exemption.

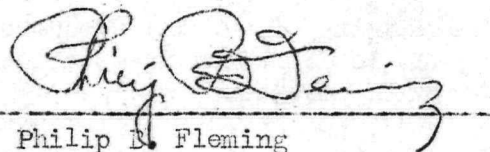
Exemption is denied the shelling of seedling pecans in Texas.

Because the record is inconclusive thereon, no finding is possible on the shelling of pecans other than seedling pecans in Texas or on the storage of pecans.

WHEREAS, said findings and determination were duly filed with the Administrator on November 15, 1940, and are now on file in Room 5144, Department of Labor Building, Washington, D. C. and are there available for examination by 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 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 15th day of November, 1940.



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