

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

IN THE MATTER OF APPLICATIONS OF THE NATIONAL GRAIN TRADE COUNCIL, MILLERS' NATIONAL FEDERATION AND SUNDRY OTHER PARTIES FOR THE EXEMPTION OF THE RECEIVING OF GRAIN, SOY BEANS, FLAXSEED, AND BUCKWHEAT INTO GRAIN ELEVATORS FROM THE MAXIMUM HOURS PROVISION OF THE FAIR LABOR STANDARDS ACT OF 1938, AS INDUSTRIES OF A SEASONAL NATURE PURSUANT TO SECTION 7(b)(3) OF THE ACT AND PART 526, AS AMENDED, OF THE REGULATIONS ISSUED THEREUNDER

ADMINISTRATOR'S DECISION

WHEREAS, applications have been made by the National Grain Trade Council, Millers' National Federation and sundry other parties under Section 7(b)(3) of the Fair Labor Standards Act of 1938, and Part 526, as amended, of the regulations issued thereunder for the exemption of the receiving of grain, soy beans, flaxseed, and buckwheat into grain elevators from the maximum hours provisions of the Fair Labor Standards Act of 1938, as industries of a seasonal nature pursuant to Section 7(b)(3) applicable to industries found by the Administrator to be of a seasonal nature; and

WHEREAS, a preliminary determination was made that a prima facie case had been shown for the granting of the aforesaid exemption for the receiving of grain, soy beans, flaxseed, and buckwheat into grain elevators, and notice thereof was published in the Federal Register under date of July 26, 1940, in accordance with the procedure established in Section 526, as amended, of the regulations; and

WHEREAS, within fifteen days following that preliminary determination, the Administrator received objection and request for a public hearing; and

WHEREAS, after a public hearing on said applications at Chicago, Illinois, on December 9, 1940, the Presiding Officer duly made his Findings and Determination upon the basis of the record made at the hearing; and

WHEREAS, petitions for review of the Presiding Officer's Findings and Determination were filed by the applicants; and

WHEREAS, said petitions were granted for the purpose of reviewing the Presiding Officer's Findings and Determination; and

WHEREAS, all interested persons were given leave to file briefs in this matter on or before May 24, 1941; and

WHEREAS, pursuant to notice published in the Federal Register on May 16, 1941, oral argument by interested persons was heard by the Administrator on May 29, 1941; and

WHEREAS, the Administrator has set forth the decision in an opinion entitled:

Findings and Opinion of the Administrator In the Matter of Applications of the National Grain Trade Council, Millers' National Federation, and Sundry Other Parties for the Exemption of the Receiving of Grain, Soy Beans, Flaxseed and Buckwheat into Grain Elevators from the Maximum Hours Provisions of the Fair Labor Standards Act of 1938 as Industries of a Seasonal Nature, Pursuant to Section 7(b)(3) of the Act and Part 526, as Amended, of the Regulations Issued Thereunder;

dated this day, a copy of which may be had upon request addressed to the Wage and Hour Division, United States Department of Labor, Washington, D. C.;

NOW, THEREFORE, notice is hereby given that the Administrator has found and determined pursuant to the provisions of Section 526, as amended, of the regulations upon the basis of the record, that:

(1) The storing of grain including flaxseed, buckwheat, and soy beans by country grain elevators is a branch of an industry and of a seasonal nature 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.

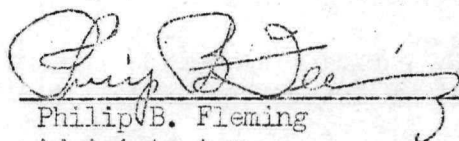
(2) The storing of grain including flaxseed, buckwheat, and soy beans by public terminal and subterminal elevators is a branch of an industry and of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938, and regulations issued thereunder, and therefore is entitled to the exemption provided in Section 7(b)(3) of the said Act.

(3) The storing of grain including flaxseed, buckwheat, and soy beans by mill elevators is a branch of an industry and of a seasonal nature 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.

(4) Cash grain commission merchants are not a branch of an industry engaged in the storing of grain within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938, and regulations issued thereunder, and the application by the cash grain commission merchants requesting an exemption provided in Section 7(b)(3) of the Act is therefore denied.

(5) The exemptions hereinabove set forth will become effective on the date this notice appears in the Federal Register. The said exemptions are applicable only in so far as specified in the aforesaid Findings and Opinion of the Administrator.

Signed at Washington, D. C., this 13th day of June, 1941.



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