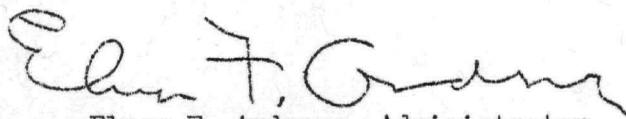


TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

PART 526 - REGULATIONS APPLICABLE TO INDUSTRIES OF A SEASONAL NATURE PURSUANT
TO SECTION 7(b)(3) OF THE FAIR LABOR STANDARDS ACT OF 1938

The following amendment to Regulations - Part 526 - (Regulations Applicable to Industries of a Seasonal Nature Pursuant to Section 7(b)(3) of the Fair Labor Standards Act of 1938) is hereby issued. Said amendment to Part 526 amends Section 526.90 by extending the period of the temporary exemption for industries of a seasonal nature from December 31, 1938, until January 31, 1939. Said amendment shall become effective upon my signing the original and upon the publication thereof in the Federal Register and shall be in force and effect until repealed by regulations hereafter made and published by me.

Signed at Washington, D. C., this 20th day of December, 1938.



Elmer F. Andrews, Administrator
Wage and Hour Division
Department of Labor

SECTION 526.90 TEMPORARY REGULATION OF ADMINISTRATOR RELATING TO EXEMPTIONS FOR INDUSTRIES OF A SEASONAL NATURE UNDER SECTION 7(b)(3) OF THE FAIR LABOR STANDARDS ACT.

(a) Subject to objection by any person interested as hereinafter provided in paragraph (d), the Administrator (without prejudice to the possible subsequent inclusion of other industries as of a seasonal nature within the meaning of Sec. 526.3) temporarily until January 31, 1939 finds the following industries to be of a seasonal nature:

Industries which both:

- (1) Engage in the handling, extracting, or processing of materials during a season or seasons occurring in regularly, annually recurring part or parts of the year; and cease production, apart from the work of maintenance, repair, and clerical employees, in the remainder of the year because of the fact that, owing to climate or other natural conditions, the materials handled, extracted, or processed in the form in which such materials are handled, extracted, or processed, are not available in the remainder of the year; and which
- (2) Produce 50 percent or more of their annual output in a period or periods amounting in the aggregate to not more than 14 workweeks.

(b) Such industries may, until January 31, 1939, for a period or periods of not more than 14 workweeks in the aggregate, employ employees 12 hours in any workday and 56 hours in any workweek without payment of time and one-half; provided, however, that such employees receive compensation for employment in excess of 12 hours in any workday, or for employment in excess of 56 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which they are employed. Industries seeking exemption beyond January 31, 1939 must make application pursuant to Section 526.4.

(c) Any employer, group of employers, or trade association representing employers, who are not a part or the whole of an industry within the terms of Paragraph (a) because 50 percent or more of the annual output is not produced within a period of periods of 14 workweeks, or who are in doubt as to whether they are a part or the whole of such industry, should make application to the Administrator for exemption in accordance with the Administrator's regulations Sections 526.1 - 526.7.

(d) Any employee, or group of employees, who are employed by an employer or employers claiming to be a part or the whole of an industry within the terms of Paragraph (a) of this section, or any employee labor organization representing such employees, or any other person interested, may make written objection to the Administrator and request a hearing on the ground that such employer or employers are not entitled to exemption as a part or the whole of an industry of a seasonal nature.

If objection and request for hearing is received, the Administrator or his authorized representative will hold a hearing and any further proceedings in accordance with the procedure set forth in Sections 526.6 - 526.7.

The finding of the Administrator or his authorized representative following such procedure shall be published in the same manner and have the same force and effect as if the hearing had been had upon application for exemption under Section 526.4, and the exemption upon a finding of an industry of a seasonal nature shall become effective in accordance with the provisions of Sections 526.6 - 526.7; provided, however, that if the industry is within the terms of Paragraph (a) of this Section, the finding of the Administrator or his authorized representative shall so state, and the exemption upon such finding shall be effective as of October 24, 1938.*

*This section 526.50, as amended December , 1938, issued under the authority contained in Section 7 (b)(3), 52 Stat. 1060.