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U. S. DEPARTMENT OF LABOR  
WAGE and HOUR DIVISION  
WASHINGTON

WESTERN PINE ASSOCIATION DENIED EXEMPTION

The application of the Western Pine Industry for seasonal exemption from the maximum hours provision of the Fair Labor Standards Act under Section 7(b)(3) was denied today in a finding and determination signed by Harold Stein, assistant chief of the Hearings and Exemptions Section of the Wage and Hour Division.

At the same time Administrator Elmer F. Andrews of the Wage and Hour Division, U. S. Department of Labor, signed a "notice of opportunity of petition for review."

In a hearing conducted by Mr. Stein June 29, the Western Pine Association in behalf of the industry, asked that exemption from the hours provisions of the Act be granted all units of the industry which do not normally operate in excess of nine months a year because of climatic factors. It further asked that these units be distinguished from the "non-seasonal" units on the basis of their past five-year records of operation.

"The applicant has failed to provide a criterion or a set of criteria other than the records of past performance by which the group of 'seasonal' operators may be distinguished from the group of 'non-seasonal' operators," the finding stated.

The industry was described in the application as including three different divisions: logging, sawmill production and shipping.

"During the hearing, the presiding officer attempted to establish by lengthy questioning of witnesses whether any number of logging and saw-

mill units having any substantial output were limited in operation by climatic factors to a period in such relation to the fourteen workweek exemption period, provided by Section 7(b)(3) of the Act, as to justify a finding that such a branch is of a seasonal nature, within the meaning of the law," Mr. Stein said in the findings.

The attempt failed to disclose the number of such units, their production or employment, he added.

If the divisions of "less than nine months operation" and those of "more than nine months operation" are considered separately, the determination held, any possible sub-branches of either the logging or sawmilling divisions of the industry which operate as long as nine months cannot be found to be of seasonal nature within the meaning of Section 7(b)(3) of the Act, or regulations issued under this section.

It was also found that as far as shipping is concerned, no definable or substantial group of plants cease operation for even three months a year. Thus, if the three divisions are considered together as a single industry, no industry or branch can be found that ceases operations even for three months a year.

The term "western pine industry" was used to include logging, sawmilling and shipping of pine, white red and Douglas fir, cedar, larch and Engelmann spruce in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington and Wyoming, exclusive of the Douglas fir region on the west side of Oregon and Washington and the Redwood region in western California.