

U. S. DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

WASHINGTON, D. C.

NOTICE OF OPPORTUNITY TO PETITION FOR  
REVIEW OF DETERMINATION DENYING APPLI-  
CATION FOR PARTIAL EXEMPTION OF THE  
WESTERN PINE INDUSTRY AS A SEASONAL  
INDUSTRY PURSUANT TO SECTION 7(b)(3)  
OF THE FAIR LABOR STANDARDS ACT OF  
1938 AND PART 526 AS AMENDED OF REGU-  
LATIONS ISSUED THEREUNDER

WHEREAS, application has been made by the Western Pine Association under Section 7(b)(3) of the Fair Labor Standards Act of 1938, and Regulations, Part 526, as amended (Regulations applicable to Industries of a Seasonal Nature), issued by the Administrator thereunder, for partial exemption of the Western Pine Industry from the maximum hours provisions of Section 7(a) of said Act pursuant to Section 7(b)(3) applicable to industries found by the Administrator to be of a seasonal nature; and

WHEREAS, a public hearing on said application was held before Harold Stein, the representative of the Administrator of the Wage and Hour Division, duly authorized to hear and determine whether or not the Western Pine industry or any branch thereof is of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938, and Part 526 of Regulations issued thereunder; and

WHEREAS, following such hearing, the said Harold Stein duly made his findings of fact and determined as follows

1. The Western Pine industry, as defined in the Notice of Hearing, includes the major operations of logging, sawmilling, and shipping, together with ancillary operations.
2. If it is assumed that logging, sawmilling and shipping appropriately constitute separate branches of the Western Pine industry:
  - (a) Some units in each of these three branches cease operation annually for three months or more primarily because the materials used are not available on account of climatic and other natural factors.
  - (b) The volume of production and employment of such units is substantial in logging and sawmilling but is not substantial in shipping.
  - (c) There is no substantial sub-branch of the shipping branch of the industry that ceases operation annually for three months or more.
  - (d) Data in the record on which any such sub-branch of logging and sawmilling might be defined are limited to data distinguishing between groups of units operating more than nine months and less than nine months respectively.
  - (e) Any sub-branches of logging and sawmilling that operate annually for as long as (even though not in excess of) nine months can not be found to be

of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of Regulations issued thereunder.

- (f) No criteria exist in the record on which it can be found that there are sub-branches of any logging or sawmill branches of the Western Pine industry whose operations are limited 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 any such sub-branch is of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of regulations issued thereunder.

3. If it is assumed that logging, sawmilling, and shipping do not constitute separate branches but together constitute a single industry:

- (a) Such industry as a whole does not at any time cease operation.
- (b) No group of plants with any substantial output ceases production for even three months during the year.
- (c) The group of plants which may cease production for even three months during the year do not have a sufficiently substantial output to constitute a branch of an industry.

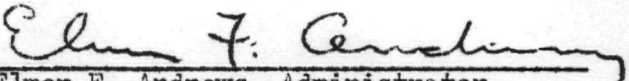
and on the basis thereof denied the applications; and

WHEREAS, said Findings and Determination were duly filed

with the Administrator on October 5, 1939, and are now on file in his Office, Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all 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 5th day of October, 1939.

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