

For Release Tuesday,
March 12, 1940

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

IN THE MATTER OF DETERMINATION THAT CERTAIN BRANCHES OF THE DECORATIVE GREENS INDUSTRY ARE INDUSTRIES OF A SEASONAL NATURE PURSUANT TO SECTION 7(b)(3) OF THE FAIR LABOR STANDARDS ACT OF 1938, AND PART 526 AS AMENDED OF REGULATIONS ISSUED THEREUNDER.

WHEREAS, application has been made by the Halvorson Trees, Inc., the Bradbury Company, the Northwest Evergreen Company, and sundry other parties, 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 decorative greens industry from the maximum hour provisions of Section 7(a) of the said Act; and

WHEREAS, a public hearing on said applications 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 said industry or 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 (Title V, Chapter 29, Code of Federal Regulations); and

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

- "1. (a) That the harvesting and preparing of undried evergreens, including both evergreens and deciduous holly but excluding evergreen huckleberry and evergreen ferns in the State of Washington, for use as Christmas trees, wreaths, decorative boughs, ropings, grave blankets,

sprays, bouquets, and baskets, including the incidental handling and shipping thereof; and

(b) the processing of coniferous evergreen trees into Christmas trees, including the handling and shipping incident thereto; and

(c) the processing of undried evergreen holly, including handling and shipping incident thereto except when such processing is conducted as part of the florist supply business which operates throughout the year;

takes place during a season or seasons aggregating six months or less occurring in a regularly, annually, recurring part or parts of the year and ceases apart from work such as maintenance, repair, clerical or sales work during the remainder of the year, because, owing to climate the undried evergreens, including deciduous holly, are unavailable in the form in which they are used and hence constitute industries of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of the Regulations issued thereunder.

"2. That the harvesting and preparing of evergreen huckleberry and evergreen ferns in the State of Washington takes place during a season in excess of six months and so long as to be inconsistent with the period of exemption afforded by Section 7(b)(3) of the Act and does not cease for any substantial period apart from work such as maintenance, repair, clerical and sales work;

and hence 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.

"3. That the preparing and processing of dried decorative greens, including the handling and shipping incident thereto, is not a separate and distinct industry but is an integral part of the florist supply industry, and that the entire enterprise does not cease operation at any time during the year;

and therefore is not 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.

"4. That no pertinent evidence was presented at the hearing in the matter of jobbing and central market distribution of evergreens, or in the matter of harvesting, handling, processing, shipping or distributing of undried commercial greens, other than evergreens and deciduous holly;

and therefore no finding is possible with respect thereto";
and

WHEREAS, said findings and determination were duly filed with the Administrator on February 1, 1940, 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; and

WHEREAS, on February 15, 1940, the Administrator caused to be published in the Federal Register (5 F.R. 687) a notice which stated that, pursuant to the provisions of Section 526.7 of the aforesaid Regulations, any person aggrieved by the said determination might, within fifteen days after February 15, 1940, 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; and

WHEREAS, no petition for review has been filed within the said fifteen days;

NOW, THEREFORE, pursuant to the provisions of Section 526.7 of the said Regulations, the exemption provided by Section 7(b)(3) of the Fair Labor Standards Act of 1938 will become effective on the date this notice embodying the above-quoted findings and determination appears in the Federal Register. The said exemption is applicable only as specified by the aforesaid finding and determination.

Signed at Washington, D. C., this 8th day of March, 1940



Philip B. Fleming
Colonel, Corps of Engineers
Administrator
Wage and Hour Division
Department of Labor