

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

PRIMA FACIE DETERMINATION IN THE MATTER OF APPLICATION OF THE OREGON FEED DEALERS ASSOCIATION FOR THE EXEMPTION OF THE CLEANING AND PREPARING OF SPECIFIED GRASS, CLOVER AND OTHER FORAGE SEED CROPS IN CLEANING PLANTS ENGAGED PRIMARILY IN SUCH CLEANING AND PREPARING FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS A BRANCH OF AN INDUSTRY OF A SEASONAL NATURE WITHIN THE MEANING OF SECTION 7 (b)(3) OF THE ACT AND PART 526 AS AMENDED OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, application has been filed by the Oregon Feed Dealers Association, Portland, Oregon for the exemption of the cleaning and preparing of specified grass, clover and other forage seed crops in cleaning plants primarily engaged in such cleaning and preparing, from the maximum hours provisions of the Fair Labor Standards Act of 1938 as a branch of an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 as amended of the Regulations issued thereunder, and

WHEREAS, it appears from said application and upon further investigation that:

- (1) Perennial ryegrass, common ryegrass, Hungarian vetch, hairy vetch, chewings fescue, tall fescue, Austrian Winter Peas, bent grass and Ladino clover seed crops are customarily cleaned and prepared in cleaning plants which engage primarily in such cleaning and preparation; and
- (2) The harvest of the earliest above seed crops begins early in July and they are cured and are threshed as soon as practicable thereafter; and
- (3) Cleaning plants which are primarily engaged in cleaning and preparing the above seed crops receive them immediately after threshing and clean and prepare them immediately to avoid deterioration; and
- (4) These cleaning plants customarily operate from early July to December 15, receiving, cleaning, and shipping from the plants 90 per cent of all seed within a four months' period; and
- (5) That during the period from late December to early July, plants primarily engaged in the cleaning of the above seed

crops, cease operations except for maintenance, repair and sales work, because owing to natural factors the seed crops to be cleaned are no longer available.

NOW, THEREFORE, upon consideration of the facts stated in the said application, and upon further investigation the Administrator hereby determines, pursuant to Section 526.5(c) of the Regulations, that a prima facie case has been shown for the granting of an exemption, pursuant to Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations, to cleaning plants engaged primarily in the cleaning and preparing of perennial ryegrass, common ryegrass, Hungarian vetch, hairy vetch, chewings fescue, tall fescue, Austrian Winter Peas, bent grass and Ladino clover seed crops as an industry of a seasonal nature.

In the above, the term "cleaning plants primarily engaged in such cleaning and preparation", i. e., the cleaning and preparation of perennial ryegrass, common ryegrass, Hungarian vetch, hairy vetch, chewings fescue, tall fescue, Austrian Winter Peas, bent grass and Ladino clover seed crops is understood to include those cleaning plants in which the cleaning and preparing of such seed crops either individually or in combination make up 75 per cent of their cleaning and preparing operations.

In accordance with the procedure established by Section 526.5(c) of the Regulations, the Administrator for fifteen days following the publication of this determination will receive objection to the granting of the exemption and request for hearing from any interested person. Upon receipt of objection and request for hearing, the Administrator will set the application for the hearing before himself or an authorized representative.

If no objection and request for hearing is received within fifteen days, the Administrator will make a finding upon the prima facie case shown upon the application.

These applications may be examined at Room 313, 939 D Street, N. W., Washington, D. C.

Signed at Washington, D. C. this 19th day of June, 1940.



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