

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

LANDSCAPE CONTRACTING SEASONAL EXEMPTION MADE FINAL

Partial exemption for landscape contracting from the hours provision of the Fair Labor Standards Act as a "seasonal" industry was made final today by the Wage and Hour Division, U. S. Department of Labor. (Federal Register, July 19, 1940)

Colonel Philip B. Fleming, Administrator of the Wage and Hour Division made this final finding after an application by Edwin M. Tate, Landscape Contractor of Caldwell, New Jersey, and others had been filed. A prima-facie case had been shown for granting this exemption, and no objections were filed to the preliminary determination.

As a "seasonal" industry, landscape contracting, except in the states of California, Oregon, and Washington, may be carried on for 12 hours in any workday or for 56 hours in any workweek, as the case may be, for a period or periods aggregating 14 workweeks in any calendar year, before the overtime provisions requiring payment of at least time and one-half the regular rate of pay become effective. The reason for excluding the states of California, Oregon and Washington from the exemption is that the operating season in those states, because of special climatic conditions prevailing therein, can and does extend from eight to twelve months.

The term "landscape contracting" is understood to include the planting or transplanting of trees, shrubs and other plants, including the making of lawns and gardens, and the necessary coincidental building, on the site, of garden retaining walls, rock gardens, etc. It does not include routine lawn or garden maintenance except as an incident to the above during the planting season or seasons.