

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

IN THE MATTER OF PARTIAL 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 was 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 appeared 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; and

WHEREAS, on June 25, 1940 the Administrator caused to be published in the Federal Register (5FR2373) a notice which set forth the foregoing and which stated that upon consideration of the facts stated in the said application, and upon further investigation the Administrator thereby determined, pursuant to Section 526.5(c) of the Regulations, that a prima facie case had 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, and which notice stated further that if no objection and request for hearing was received within fifteen days thereafter the Administrator would make a finding upon the prima facie case shown upon the application, and

WHEREAS, no objection and request for hearing was received within fifteen days thereafter:

NOW, THEREFORE, pursuant to Section 526.5(b)(ii) of the Regulations as amended, the Administrator hereby finds upon the prima facie case shown in the said application that 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 in cleaning plants primarily engaged in such cleaning and preparation is an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Regulations issued thereunder, and therefore it is entitled to the exemption provided in Section 7(b)(3) of the said Act.

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.

Signed at Washington, D. C., this 18th day of July, 1940.



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