

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

NOTICE OF HEARING ON PROPOSED AMENDMENTS OF SECTIONS 536.1
AND 536.2 (AREA OF PRODUCTION) OF REGULATIONS ISSUED UNDER
THE FAIR LABOR STANDARDS ACT OF 1938

WHEREAS, Section 7 (c) of the Fair Labor Standards Act of 1938 provides that the maximum hours provision contained in Section 7 (a) of said Act shall not apply during a period or periods of not more than fourteen work weeks in the aggregate in any calendar year to employees of an employer engaged in

"The first processing, within the area of production (as defined by the Administrator), of any agricultural or horticultural commodity during seasonal operations."

WHEREAS, Section 13 (a) of the Fair Labor Standards Act of 1938 provides that the wages and hours provisions contained in Sections 6 and 7 of said Act shall not apply with respect

"(10 to any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products."

and

WHEREAS, pursuant to the authority contained in said section, the Administrator of the Wage and Hour Division on October 20, 1938 issued the following regulations:

SECTION 536.1 "AREA OF PRODUCTION" AS USED IN SECTION 7 (c) OF THE FAIR LABOR STANDARDS ACT. An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the "area of production" within the meaning of Section 7 (c)

(a) if the first processing is conducted on a farm and is performed on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the commodities processed are obtained from farms in the immediate locality of the processing establishment and the number of employees there engaged in such processing does not exceed seven,

SECTION 536.2 "AREA OF PRODUCTION" AS USED IN SECTION 13 (a) (10) OF THE FAIR LABOR STANDARDS ACT. An individual shall be regarded as employed in the "area of production" within the meaning of Section 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products.

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven.

SECTION 536.3 PETITION FOR AMENDMENT OF REGULATIONS.

Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2 by increasing or decreasing the maximum of employees permitted within the exemption as defined. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their view either in support of or in opposition to the proposed changes.

and

WHEREAS, The Texas Citrus Shippers Association, the West Michigan Growers and Shippers Association, the Agricultural Producers' Labor Committee, the International Apple Association, and sundry other parties have filed petitions with the Administrator to amend said Section 536.1 of said regulations by striking therefrom the phrase

"and the number of employees there engaged in such processing does not exceed seven,"

or to amend said Section 536.2 of said regulations by striking therefrom the phrase

"and the number of employees in such establishment does not exceed seven."

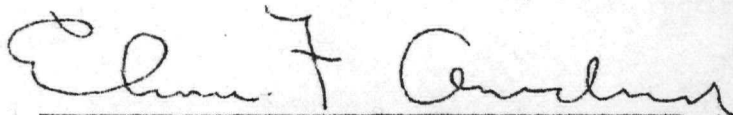
or modify both said sections by sundry other amendments.

NOW, THEREFORE, notice is hereby given of a public hearing to commence on December 14, 1938, at 10 o'clock a.m. in the Raleigh Hotel, Twelfth Street and Pennsylvania Avenue, Washington, D. C., before Mr. Merle D. Vincent, the presiding officer hereby designated, at which interested parties will be heard on the following question.

What, if any, amendment should be made of Section 536.1 or Section 536.2 of the regulations issued under the Fair Labor Standards Act of 1938 in respect to the definition of "area of production" for fresh fruits and vegetables.

Said petitions may be examined in Room 5321, United States Department of Labor, Washington, D. C.

Signed at Washington, D. C., this twenty-second day of November, 1938.



Administrator, Wage and Hour Division
U. S. Department of Labor