

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

NOTICE OF HEARING

IN THE MATTER OF APPLICATIONS FOR EXEMPTION OF THE RECEIVING, GRADING AND PACKING OF UNSHELLED "ENGLISH" WALNUTS IN THE STATES OF CALIFORNIA, OREGON AND WASHINGTON, AND UNSHELLED FILBERTS IN THE STATES OF OREGON AND WASHINGTON FROM THE MAXIMUM HOUR PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 PURSUANT TO SECTION 7(b)(3) AND PART 526 OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, upon consideration of applications filed by the California Walnut Growers Association, the North Pacific Nut Growers Cooperative and sundry other parties for exemption of the receiving, grading and packing of unshelled "English" walnuts in the States of California, Oregon and Washington from the maximum hour 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) and Part 526 of the regulations issued thereunder, a preliminary determination was made that a prima facie case had been shown for the granting of the aforesaid exemption to the receiving, grading and packing of unshelled "English" walnuts and notice thereof was published in the Federal Register under date of August 29, 1939, in accordance with the procedure established by Section 526.5(c) of the said regulations; and

WHEREAS, within fifteen days following the publication of that preliminary determination the Administrator received objection and request for hearing; and

WHEREAS, applications have been filed by the North Pacific Nut Growers Cooperative and sundry other parties for exemption of the receiving, grading and packing of unshelled filberts in the States of Oregon and Washington from the maximum hour 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) and Part 526 of the regulations issued thereunder; and

WHEREAS, it appears that the applications for the exemption of the receiving, grading and packing of unshelled "English" walnuts and receiving, grading and packing of unshelled filberts present related issues of fact and law:

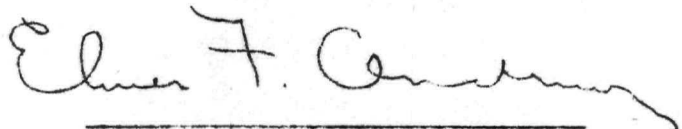
NOW, THEREFORE, notice is hereby given of a combined public hearing to be held pursuant to Sections 526.5 and 526.6 of the said regulations in United States Post Office Building, San Francisco, California, to commence at 10:00 A.M. on September 28, 1939, before Harold Stein, an authorized representative of the Administrator, hereby authorized to conduct said hearing, take testimony and hear arguments for the purpose of determining, and to determine the following questions:

- (1) Whether either the receiving, grading and packing of unshelled "English" walnuts, or the receiving, grading or packing of unshelled filberts is an industry of a seasonal nature or branch thereof within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Part 526 of the regulations issued thereunder; and
- (2) Whether both the receiving, grading and packing of unshelled "English" walnuts, and the receiving grading and packing of unshelled filberts together constitute an industry of a seasonal nature or branch thereof within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Part 526 of regulations issued thereunder.

As used in this notice, the terms "receiving, grading and packing of unshelled 'English' walnuts" and "receiving, grading and packing of unshelled filberts" are used in the ordinary accepted meaning of those terms in the trade but do not include the warehousing or shelling of such nuts.

At this hearing all persons interested, including employees, employee groups, employee labor organizations, employers, employer groups, and trade organizations, within the industry affected, and designated subordinates of the Administrator, will be afforded an opportunity to present evidence and to be heard. All persons or associations desiring to avail themselves of this opportunity should, if possible, notify the Administrator in advance.

Signed at Washington, D. C., this 20th day of September, 1939.



Elmer F. Andrews, Administrator
Wage and Hour Division
Department of Labor