

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

APPALACHIAN APPLE PACKING FOUND SEASONAL

Cold storage of apples in the "Appalachian Area" has been found by Harold Stein, Assistant Director of the Hearings Branch of the Wage and Hour Division, U. S. Department of Labor, to be an industry of a seasonal nature and thereby partially exempt from the hours provisions of the Fair Labor Standards Act of 1938, the Wage and Hour Division announced today. (Federal Register April 19, 1940)

At the same time notice was given by Colonel Philip B. Fleming, Administrator, that petitions for review of the determination would be received by the Division for fifteen days. If no petition for review is received, or if such petition is filed and subsequently is denied by the Administrator, the finding shall become final upon publication in the Federal Register.

The "Appalachian Area" was defined in the finding as the region between the Allegheny Mountains on the west, the Blue Ridge Mountains on the east, U. S. Route No. 30 on the north, and U. S. Route No. 58 on the south and the Virginia counties of Albemarle, Nelson, Amherst, Bedford and Henry.

The defined region includes parts of Pennsylvania, Maryland, Virginia and West Virginia. It contains sixteen apple storage warehouses, among them the largest in the United States, the plant of the Winchester Cold Storage Company, Inc. principal petitioner for seasonal exemption.

The finding and determination was based on a hearing November 2 before Mr. Stein on the question, "Whether the cold storage of apples in apple storage warehouses located in the 'Appalachian Area' is an industry of a seasonal nature

or a 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."

It was found that the apple storage warehouses in this region receive apples only in the months of September, October and November (the only months in which apples are harvested in this region), and perform no work during the balance of the year except for maintenance and sales. It was also found that a group of apple warehouses located in this region is a branch of an industry possessing, among others, the distinguishing factors of "their important share of the export market, their handling of special types of apples, notably the York-Imperial, their limitation of function to apple storage, and their cessation of operations" following the receipt of apples as described above.

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