

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

NOTICE OF HEARING ON PROPOSED AMENDMENTS
TO PART 541 OF REGULATIONS WITH RESPECT
TO THE DEFINITION OF THE TERMS "EXECUTIVE,
ADMINISTRATIVE, PROFESSIONAL...OUTSIDE
SALESMAN" AS THEY AFFECT EMPLOYEES IN THE
PUBLICATION, COMMUNICATION, PUBLIC UTILITY,
TRANSPORTATION, AND MISCELLANEOUS INDUSTRIES

WHEREAS, Section 13(a)(1) of the Fair Labor Standards Act provides that the provisions of Section 6 and Section 7 of the Act shall not apply to any employee "employed in a bona fide executive, administrative, professional... capacity, or in the capacity of outside salesman (as such terms are defined and delimited by regulations of the Administrator);" and

WHEREAS, the Administrator of the Wage and Hour Division, on October 20, 1938, issued Title 29, Chapter V, Part 541, entitled Regulations Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, Professional, or Local Retailing Capacity, or in the Capacity of Outside Salesman" Pursuant to Section 13(a)(1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060); and

WHEREAS, applications have been filed pursuant to Section 541.5 of the said regulations for amendment of Sections 541.1, 541.2, and 541.4 of the said regulations defining and delimiting the terms "executive, administrative, professional,...(and)...outside salesman," by the United States Independent Telephone Association, the Southern States Industrial Council and sundry other parties, with respect to the Publication, Communication, Public Utility, Transportation, and Miscellaneous Industries.

NOW, THEREFORE, notice is hereby given of a public hearing to be held pursuant to Section 541.5 of the said regulations on July 25, 1940, at 10:00 A.M. at the Willard Hotel, 14th Street and Pennsylvania Avenue, N.W., Washington, D. C., before Harold Stein, the presiding officer hereby designated, at which interested parties will be heard on the following question:

What, if any, amendments should be made to Sections 541.1, 541.2, and 541.4 of regulations issued under Section 13(a)(1) of the Fair Labor Standards Act of 1938 defining and delimiting the terms "executive, administrative, professional,...(and)...outside salesman," with respect to the Publication, Communication, Public Utility, Transportation, and Miscellaneous Industries.

Any person interested in proposing or opposing any amendment to the regulations and wishing to be heard shall file not later than July 23, 1940, a notice of intention to appear, which shall contain the following information:

1. The name and address of the person appearing.

2. If such person is appearing in a representative capacity, the name and address of the person or persons he is representing.

3. The branch of the publication, communication, public utility, transportation, and miscellaneous industries in which he is interested.

4. Whether such person proposes to appear in support of or in opposition to any amendment of the regulations.

5. If he proposes to appear in support of an amendment, the terms of the suggested amendment.

6. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C. All notices including terms of proposed amendments will be placed on file upon receipt in Room 5109, Department of Labor Building, Washington, D. C., where they may be examined by any interested person.

Written statements may be filed in lieu of personal appearances, if filed not later than July 23, 1940.

Testimony offered in written statements or in personal appearances by witnesses in support of proposed amendments will have its usefulness increased if it includes as much of the following information as possible:

(a) The number of individuals or firms whom the witnesses represent. The number of employees in such firms.

(b) The number or percentage of persons in these firms exempt under present definitions.

(c) The number, or percentage, of persons in these firms not now exempt, whom it is desired to exempt by the proposed definition, together with their titles and places in an organization chart.

(d) The duties of such persons, with a rough percentage breakdown showing various types of work performed; what parts of the present definition they do not meet; also reasons why they should properly be classified as employed in an "executive, administrative," or "professional" capacity or in the capacity of an "outside salesman."

(e) Normal low, high and average salary paid the employees listed in (b) and (c) above.

(f) Discussion of the ability of the proposed language to exempt only the employees listed in (c) above and not other employees as well.

As used in this notice of hearing "publication, communication, public utility, transportation, and miscellaneous industries" shall include publication of books, magazines and newspapers; radio and television broadcasting; telegraph, telephone, gas, electric, and water service; transportation; moving picture production; construction; and other industries not represented at previous hearings.

Signed at Washington, D. C., this 20th day of June, 1940.



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

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