

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
NEW YORK, NEW YORK

Title 29 - Labor
Chapter V - Wage and Hour Division

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION DENYING THE APPLICATION FOR THE PARTIAL EXEMPTION OF THE PROCESSING OF FRESH GRAPES AND OTHER FRESH FRUITS INTO WINE, GRAPE JUICE, OR BRANDY FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS AN INDUSTRY OF A SEASONAL NATURE PURSUANT TO SECTION 7(b)(3) OF THE ACT AND PART 526 AS AMENDED OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, application was made by the Wine Institute of San Francisco, California for the partial exemption of the processing of fresh grapes and other fresh fruits into wine, grape juice, or brandy from the maximum hours provisions of the Fair Labor Standards Act pursuant to section 7(b)(3) of the Act and Part 526 as amended of the regulations issued thereunder; and

WHEREAS, the Administrator of the Wage and Hour Division gave notice of a public hearing to be held at the National Office of the Wage and Hour Division, New York, New York, on June 19, 1942, before Mr. Merle D. Vincent, who was authorized to take testimony, hear argument, and determine:

"Whether the processing of fresh grapes or other fresh fruits into wine, grape juice, or brandy, or any subdivision or combination of these activities is 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 if so the appropriate limits of such industry." and

WHEREAS, following such hearing the said Merle D. Vincent duly made his findings of fact and determined as follows:

1. The processing of fresh grapes or other fresh fruits into wine or grape juice in wineries, and the distillation of brandy in wineries and distilleries, as well as the production of related by-products in these establishments, constitute an integrated industry.
2. The preliminary operations in the making of wine or brandy, through the "first racking" of the wine, or any combination of operations short of the production of the finished wine, do not constitute a separable branch of an industry within the meaning of section 7(b)(3) of the Fair Labor Standards Act and Part 526 of the regulations.
3. Although the establishments engaged in the processing of fresh grapes or other fresh fruits into wine, grape juice, or brandy perform their crushing, fermenting and distilling operations principally during the harvesting season of approximately fourteen weeks each year, they do not cease production during the remainder of the year, but carry on aging, finishing, bottling, or other operations after the completion of the crushing, fermenting, and distilling.

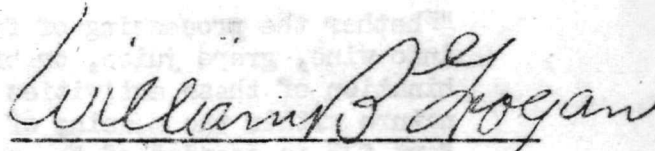
4. The processing of fresh grapes or other fresh fruits into wine, grape juice, or brandy is not an industry of a seasonal nature within the meaning of section 7(b)(3) of the Act and Part 526 of the regulations.

The application is denied; and

WHEREAS, said findings and determination were duly filed with the Administrator on September 11, 1942 and are now on file in room 1619, National Office of the Wage and Hour Division, 165 West 46th Street, New York, New York, and are available for examination by all interested parties;

NOW, THEREFORE, pursuant to the provisions of section 526.7 of the aforesaid regulations notice is hereby given that any person aggrieved by the said determination may within fifteen days after the date this notice appears in the Federal Register file a petition with the Administrator at the National Office of the Wage and Hour Division requesting that he review the action of the said representative upon the record of the hearing. Such petition shall set forth the grounds upon which the petition for review is based.

Signed at New York, New York, this 16th day of September, 1942.



William B. Grogan
Acting Administrator
Wage and Hour Division
U. S. Department of Labor

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