

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

TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

NOTICE OF HEARING ON THE MINIMUM
WAGE RECOMMENDATION OF INDUSTRY
COMMITTEE NO. 62 FOR THE FRUIT AND
VEGETABLE PACKING AND FARM PRODUCTS
ASSEMBLING INDUSTRY

To be held August 26, 1943

WHEREAS, the Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to Section 5(b) of the Fair Labor Standards Act of 1938, on July 2, 1943, by Administrative Order No. 202, appointed Industry Committee No. 62 for the Fruit and Vegetable Packing and Farm Products Assembling Industry, composed of an equal number of representatives of the public, employers in the Industry and employees in the Industry, and on July 15, 1943, by Administrative Order No. 206 enlarged the Committee by appointing nine additional members, likewise equally representative of the public, employers, and employees in the Industry, all of such representatives having been appointed with due regard to the geographical regions in which the Industry is carried on; and

WHEREAS, Industry Committee No. 62, on July 27, 1943, recommended a minimum wage rate for the Fruit and Vegetable Packing and Farm Products Assembling Industry and duly adopted a report containing such recommendation and reasons therefor and filed such report with the Administrator on July 30, 1943, pursuant to Section 8(d) of the Act and Section 511.19 of the regulations issued under the Act; and

WHEREAS, the Administrator is required by Section 8(d) of the Act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order the recommendation of Industry Committee No. 62 if he finds that the recommendation is made in accordance with law and is supported by the evidence adduced at the hearing, and, taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of Section 8 of the Act; and, if he finds otherwise, to disapprove such recommendation;

NOW, THEREFORE, notice is hereby given that:

I. The recommendation of Industry Committee No. 62 is as follows:

Wages at a rate of not less than 40 cents an hour shall be paid under Section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the Fruit and Vegetable Packing and Farm Products Assembling Industry (as defined in Administrative Order No. 202) who is engaged in commerce or in the production of goods for commerce and is not exempt under Section 13(a) of the Act.

II. The definition of the Fruit and Vegetable Packing and Farm Products Assembling Industry as set forth in Administrative Order No. 202, issued July 2, 1943, is as follows:

The assembling and preparing for market of fresh fruits and vegetables, and other farm and related products (including wild and domesticated animals other than those assembled for processing into food for human or animal consumption).

a. It includes, but without limitation:

- (1) The packing of fresh fruits and vegetables; the shelling of nuts; the ginning and compressing of cotton; the retting and decorticating of flax and other vegetable fibers; and other similar operations performed on farm and related products.
- (2) The gathering or collecting of wild berries, plants, flowers, gums, saps, seeds and other forms of wild plant or animal life.
- (3) "The leaf processing branch of the Cigar Industry" as defined in the wage order for the Cigar Industry.

b. Provided, however, this industry does not include:

(1) the assembling of fresh fruits and vegetables or other farm and related products when performed in a marketing or wholesaling establishment which does no preparing for market within the meaning of this definition and which receives directly from gatherers of non-cultivated products or from farmers products constituting less than one-half of all products handled; (2) logging; (3) public warehousing of commodities other than cotton; (4) any product included in the Canned Fruits and Vegetables and Related Products Industry; Cottonseed and Peanut Crushing Industry; Vegetable Fats and Oils Industry; and Meat, Poultry, and Dairy Products Industry (as defined in Administrative Orders Nos. 182, 189, 190, and 201 respectively), or in the Grain Products Industry and the Tobacco Industry (as defined in the wage orders for such industries).

III. The full text of the report and recommendation of Industry Committee No. 62 is and will be available for inspection by any person between the hours of 9:00 a.m. and 4:00 p.m. at the following offices of the United States Department of Labor, Wage and Hour Division:

Boston, Massachusetts
Old South Building
294 Washington Street

New York, New York
Parcel Post Building
341 Ninth Avenue

Philadelphia, Pennsylvania
1216 Widener Building
Chestnut and Juniper Streets

Richmond, Virginia
215 Richmond Trust Building

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Boston, Massachusetts
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294 Washington Street

New York, New York
Parcel Post Building
341 Ninth Avenue

Philadelphia, Pennsylvania
1216 Widener Building
Chestnut and Juniper Streets

Richmond, Virginia
215 Richmond Trust Building

Atlanta, Georgia
Fifth Floor, Carl Witt Building
249 Peachtree Street, N. E.

Birmingham, Alabama
1007 Comer Building

Cleveland, Ohio
4094 Main Post Office
West Third and Prospect Avenue

Newark, New Jersey
Essex Building
31 Clinton Street

Baltimore, Maryland
401-411 Old Town Building
Gay and Fallsway Streets

Jacksonville, Florida
456 New Post Office Building

Cincinnati, Ohio
1312 Traction Building
Fifth and Walnut Streets

Chicago, Illinois
1200 Merchandise Mart
222 West North Bank Drive

St. Louis, Missouri
316 Old Customs House
815 Olive Street

San Francisco, California
800 Humboldt Bank Building
785 Market Street

Denver, Colorado
300 Chamber of Commerce Building
1726 Champa Street

Seattle, Washington
305 Post Office Building
Third Avenue and Union Street

New York, New York
165 West 46th Street

Columbia, South Carolina
Federal Land Bank Building
Hampton and Marion Streets

Jackson, Mississippi
404 Deposit Guaranty Bank Building
102 Lamar Street

Detroit, Michigan
David Stott Building
1150 Griswold Street

Pittsburgh, Pennsylvania
Clark Building
Liberty Avenue and Seventh Street

Raleigh, North Carolina
North Carolina Department of Labor
Salisbury and Edenton Streets

New Orleans, Louisiana
916 Union Building

Nashville, Tennessee
509 Medical Arts Building

Minneapolis, Minnesota
406 Pence Building
730 Hennepin Avenue

Dallas, Texas
Rio Grande National Building
1100 Main Street

Kansas City, Missouri
3000 Fidelity Building
911 Walnut Street

Los Angeles, California
417 H. W. Hellman Building
Spring and Fourth Streets

San Juan, Puerto Rico
Post Office Box 112

Washington, District of Columbia
Department of Labor
First Floor

Copies of the Committee's report and recommendation may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York.

IV. A public hearing will be held on August 26, 1943, before the

Administrator of the Wage and Hour Division or a representative designated to preside in his place, at 10:00 a.m. in Room 1001, United States Department of Labor, 165 West 46th Street, New York, New York, for the purpose of taking evidence on the following question:

Whether the recommendation of Industry Committee No. 62 should be approved or disapproved.

V. Any interested person supporting or opposing the recommendation of Industry Committee No. 62 may appear at the aforesaid hearing to offer evidence, either on his behalf or on behalf of any other person; provided that not later than August 21, 1943, such person shall file with the Administrator at New York, New York, a notice of his intent 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 whom he is representing.
3. Whether such person proposes to appear for or against the recommendation of Industry Committee No. 62.
4. 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, 165 West 46th Street, New York 19, New York, and shall be deemed filed upon receipt thereof.

VI. Any person interested in supporting or opposing the recommendation of Industry Committee No. 62 may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York, or by consulting with attorneys representing the Administrator who will be available for that purpose at the Office of the Solicitor, United States Department of Labor, in Washington, D. C., and New York, New York.

VII. Copies of the following document relating to the Fruit and Vegetable Packing and Farm Products Assembling Industry will be made available on request for inspection by any interested person who intends to appear at the aforesaid hearing:

Report entitled, Memorandum to Industry Committee No. 62 for the Fruit and Vegetable Packing and Farm Products Assembling Industry, prepared by the Economics Branch, Wage and Hour and Public Contracts Divisions, United States Department of Labor, July 1943.

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or Presiding Officer as are deemed appropriate.

1. The hearing shall be stenographically reported and a transcript made which will be available to any person at prescribed rates upon request addressed to the Administrator, Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York 19, New York.
2. In order to maintain orderly and expeditious procedure, each person filing a Notice to Appear shall be notified, if practicable, of the approximate day and the place at which he may offer evidence at the hearing. If such person does not appear at the time set in the notice, he will not be permitted to offer evidence at any other time except by special permission of the Presiding Officer.
3. At the discretion of the Presiding Officer, the hearing may be continued from day to day, or adjourned to a later date, or to a different place by announcement thereof at the hearing by the Presiding Officer or by other appropriate notice.
4. At any stage of the hearing, the Presiding Officer may call for further evidence upon any matter. After the hearing has been closed, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.
5. All evidence must be presented under oath or affirmation.
6. Written documents or exhibits, except as otherwise permitted by the Presiding Officer, must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof.
7. Written documents and exhibits shall be tendered in duplicate and the persons preparing the same shall be prepared to supply additional copies if such are ordered by the Presiding Officer. When evidence is embraced in a document containing matter not intended to be put in evidence, such a document will not be received, but the person offering the same may present to the Presiding Officer the original document together with two copies of those portions of the document intended to be put in evidence.
8. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing may be issued by the Administrator at his discretion, and any person appearing in the proceeding may apply in writing for the issuance by the Administrator of the subpoena. Such application shall be timely and shall identify exactly the witness or document and state fully the nature of the evidence proposed to be secured.

9. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear, and the Administrator before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

10. The rules of evidence prevailing in the courts of law or equity shall not be controlling.

11. The Presiding Officer may, at his discretion, permit any person appearing in the proceeding to cross-examine any witness offered by another person insofar as is practicable, and to object to the admission or exclusion of evidence by the Presiding Officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the ground of objection relied on. Such requests or objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the Presiding Officer. Objections to the approval of the Committee's recommendation and to the promulgation of a wage order based upon such approval must be made at the hearing before the Presiding Officer.

12. Before the close of the hearing, written requests shall be received from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. If the Administrator, in his discretion, allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceedings and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

14. On the close of the hearing, a complete record of the proceedings shall be filed with the Administrator. No intermediate report shall be filed unless so directed by the Administrator. If a report is filed it shall be advisory only and have no binding effect upon the Administrator.

15. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the Federal Register.

Signed at New York, New York, this 2nd day of August, 1943.

L. Metcalfe Walling

L. Metcalfe Walling, Administrator
Wage and Hour Division
United States Department of Labor