

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

ANDREWS ISSUES STATEMENT ON EFFECTIVE DATE OF 42-HOUR WORKWEEK

Answering many inquiries from employers all over the country, Administrator Elmer F. Andrews of the Wage and Hour Division, U. S. Department of Labor, today announced that for any workweek beginning before October 24, overtime under the Fair Labor Standards Act must be paid only if more than 44 hours are worked.

Under the Wage and Hour Law, whose second year of operation begins October 24, the minimum wage that must be paid on all work necessary to the production of goods for interstate commerce rises from 25 cents an hour to 30 cents an hour at midnight October 23, 1939. On the same date, the workweek for which straight time may be paid is automatically reduced from 44 hours to 42 hours.

Questions had arisen regarding payrolls covering workweeks beginning on Monday, October 23, which include time both before and after the statutory change. The opinion prepared for Mr. Andrews by the office of George A. McNulty, the General Counsel, follows:

"It is our opinion that all hours worked after midnight of Monday, October 23, must be paid for at a rate not less than 30 cents an hour. As far as overtime is concerned, however, it is our opinion that the 42-hour week applies to the first full workweek beginning on or after midnight, October 23. Section 7 provides that no employer shall employ any of his employees entitled to the benefits of the Act 'for a workweek longer than 42 hours during the second year from such date' (October 24, 1939).

"Thus if the employee's workweek begins on Monday, October 23, the employer need pay time and a half only if more than 44 hours are worked in the period of seven consecutive days from Monday, October 23, through Sunday, October 29, inclusive. The employee in such case did not work 'for a workweek longer than 42 hours during the second year from such date' (October 24, 1939). Beginning Monday, October 30, such employer must pay time and a half after 42 hours are worked in a workweek. Of course, if the employee's workweek begins on or after midnight October 23, the employer must pay time and a half after 42 hours are worked in the workweek beginning at such time.

"Thus it may be said generally that an employer need pay time and a half only after 44 hours are worked in any workweek commencing before midnight October 23. Let us take another example: The pay periods of a large number of concerns will end on Wednesday or Thursday, October 25 or October 26. In such cases the 42 hour maximum will apply beginning October 26 or October 27, as the case may be. It will not apply to the workweek beginning the previous October 18 or October 19. Similarly, the workweek might end on the 24th of October, in which case the 42 hour standard will begin to apply October 25."

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requiring a learning period at wage rates lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act of 1938, and

- (c) If such necessity is found to exist, at what wages lower than the minimum wage applicable under Section 6, such employment of learners shall be permitted, and with what limitations as to time, number, proportion, and length of service; and

WHEREAS, new applications by representatives of certain branches of the textile industry, whose original applications were withdrawn following the aforesaid hearing, have been received; and

WHEREAS, it appears advisable that the aforesaid hearing be reopened for the purpose of considering the necessity, if any, of employing learners at subminimum wage rates in the textile industry, as defined below, or any branch thereof, under the minimum wage rates of 30 cents and 32½ cents an hour to become effective October 24, 1939;

NOW, THEREFORE, notice is hereby given that the aforesaid hearing will be reopened on October 12, 1939, at 10 a.m. in Room 208, 939 D Street, N. W., Washington, D. C., and Merle D. Vincent is hereby designated as presiding officer to conduct the said reopened hearing, to take further testimony for the purpose of determining and to determine under the minimum wage rates applicable October 24, 1939:

- (a) What, if any, occupation or occupations in the textile industry, or branch thereof, require a learning period, and
- (b) the factors which may have a bearing upon curtailment of opportunities for employment within the textile industry, or branch thereof, and
- (c) under what limitations as to wages, time, number, proportion, and length of service special certificates

may be issued to employers in the textile industry, or branch thereof, for whatever occupation or occupations, if any, are found to require a learning period.

As used in this notice, the term "textile industry" is defined to mean:

I. The following operations, which constituted the definition of the term in the original notice of hearing (published in the Federal Register, November 10, 1938),

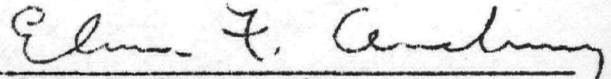
- (a) the manufacturing or processing of yarn or thread and all processes preparatory thereto, and the manufacturing, bleaching, dyeing, printing and other finishing of woven fabrics (other than carpets and rugs) from cotton, wool, silk, flax, jute or any synthetic fiber, or from mixtures of these fibers; except the chemical manufacturing of synthetic fiber and such related processing of yarn as is conducted in establishments manufacturing synthetic fiber;
- (b) the manufacturing of batting, wadding or filling and the processing of waste from the fibers enumerated in clause (a);
- (c) the manufacturing, bleaching, dyeing, or other finishing of pile fabrics (except carpets and rugs) from any fiber or yarn;
- (d) the manufacturing or finishing of braid, net or lace from any fiber or yarn;
- (e) the manufacturing of cordage, rope or twine from any fiber, and

II. Any other operations which are subject to the Textile Minimum Wage Order effective October 24, 1939.

At this reopened hearing opportunity to present evidence relevant to the above questions will be afforded any interested person provided the presiding officer, Merle D. Vincent, shall have received from such person prior to noon, October 11, 1939, a notice of intention to appear setting forth his name and address, and specifying the branch or branches of the

textile industry to which his testimony will be directed and the approximate length of such presentation.

Signed at Washington, D. C., this 5th day of October, 1939.



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