

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

AMENDED DETERMINATION AND ORDER RE
EMPLOYMENT OF LEARNERS IN THE TEXTILE
INDUSTRY AT WAGES LOWER THAN THE
MINIMUM WAGE APPLICABLE UNDER SECTION
6 OF THE FAIR LABOR STANDARDS ACT OF
1938

and

NOTICE OF REVIEW

WHEREAS, the original applications made by the Cotton Textile Institute and sundry other parties pursuant to Section 14 of the Fair Labor Standards Act of 1938 and regulations (Part 522 - Regulations Applicable to Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938 - Title 29, Labor, Chapter V - Wage and Hour Division) issued by the Administrator thereunder, for permission to employ learners in the Textile Industry at wages less than the minimum applicable under Section 6 of the Act were withdrawn after a public hearing was held upon said applications in Washington, D. C., on November 28, 29, and 30, 1938 before Merle D. Vincent, a representative of the Administrator duly authorized to conduct said hearing; and

WHEREAS, the Cotton Textile Institute and sundry other parties made application for a reconvening of the said hearing under said Act and regulations and for permission to employ learners in the Cotton Textile Industry at wages lower than the minimum wage applicable under Section 6 of the Act by virtue of the Textile Wage Order; and

WHEREAS, after due notice a reconvened public hearing was held on these applications in Washington, D. C., on October 12, 1939, before Merle D. Vincent, authorized representative of the Administrator, who was duly designated to preside at the hearing and to determine:

- (a) What, if any, occupation or occupations in the Textile Industry 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; and

WHEREAS, on October 31, 1939, the said Merle D. Vincent duly made findings of fact, copies of which were filed in the office of the Acting Administrator on November 4, 1939, and are there available for inspection by interested parties, and made the following determination and order:

1. On or after October 31, 1939, special certificates shall be issued permitting employment of learners in the Textile Industry at subminimum rates in the textile occupations of machine operating, tending, fixing, and jobs immediately incidental thereto, except that no certificate shall be deemed to apply to any employees performing functions similar to those performed by the following: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, time keepers, machine cleaners, janitors, and truckers. In the tufted bedspread branch of the industry, certificates shall be issued for the occupations of punchwork operation and chenille operation, and only such occupations. In the curtain branch of the industry, certificates shall be issued for the operation of sewing machines, but for no other occupations.

All such special certificates shall be issued, upon the following terms, to all plants in the industry making application therefor representing that experienced workers are not available to the plant, unless experienced workers are found to be available:

- (a) Learners employed under the certificate shall be paid at a rate of not less than 25 cents an hour; provided that in all plants where experienced operators are paid on a piece-work rate, learners in the same occupations shall be paid at least the same piece-work rate and shall receive earnings paid on this rate, if in excess of the above-stated minimum.
- (b) No learner shall be employed under the certificate longer than 6 weeks; provided that in the tufted bedspread branch of the industry no learner shall be employed longer than 8 weeks as a chenille operator, and not longer than 16 weeks as a punchwork operator, and not longer than one 8-week re-training period for chenille operators learning

punchwork; provided, further, that in the curtain branch of the industry no learner shall be employed under the certificate longer than 8 weeks.

- (c) Learners employed under the certificates shall not exceed 3 percent of the total number of persons in the learner occupations, provided that in the tufted bedspread branch of the industry learners shall not exceed 5 percent of the total number of chenille and punchwork operators; provided further that, in the curtain branch of the industry, learners shall not exceed 5 percent of the total number of sewing-machine operators; and provided finally that the employment of as many as 3 learners may be authorized by any certificate except that in the tufted bedspread and curtain branches of the industry as many as 5 learners may be authorized by any certificate. In cases of plant expansion or new plants, certificates may be issued under Part 522 of the Regulations for a larger number of learners if need therefor is found.
 - (d) Only learners shall be employed at a subminimum wage under the certificate, and no learner shall be employed under the certificate unless hired when an experienced worker was not available.
 - (e) No learner shall be employed at a subminimum wage under the certificate until and unless a copy of this certificate is posted and kept posted in a conspicuous place in the plant in which learners are employed.
2. Any special certificate issued pursuant to this order may be cancelled as of the date of issue if it is found that such certificate was issued when experienced workers were available and may be cancelled prospectively or as of the date of violation if it is found that any of its terms have been violated or that skilled workers have become available. No certificate issued pursuant to this order shall be valid after October 24, 1940, subject to modification or extension on or before that time following an appropriate reconsideration of this Order.
 3. In this Order the term "learner" shall mean a person who has had less than 6 weeks' experience in the aggregate in any of the learner occupations in any branch of the

Textile Industry except tufted bedspreads and curtains. In the tufted bedspread branch of the industry the term "Learner" shall mean a person who has had less than 8 weeks' experience as a chenille operator, or 16 weeks' experience as a punchwork operator, or less than 8 weeks' experience as a chenille operator plus 8 weeks retraining as a punchwork operator. In the curtain branch of the industry, the term "Learner" shall mean a person who has had less than 8 weeks' experience as a sewing-machine operator. If any worker has partially completed the applicable learning period, as prescribed above, the time thus served shall be deducted from the learning period authorized by special certificate upon any subsequent employment.

4. In this Order the term "Textile Industry" is defined as under the Textile Wage Order as follows:
 - (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, silk, flax, jute or any synthetic fiber, or from mixtures of these fibers; or from such mixtures of these fibers with wool or animal fiber (other than silk) as are specified in clauses (g) and (h); except the chemical manufacturing of synthetic fiber and such related processing of yarn as is conducted in the 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 processing of any textile fabric, included in this definition of this industry, into any of the following products: bags; bandages and surgical gauze, bath mats and related articles; bedspreads; blankets, diapers; dishcloths, scrubbing cloths and washcloths; sheets and pillow cases; tablecloths, lunchcloths and napkins; towels; and window curtains;

- (e) The manufacturing or finishing of braid, net or lace from any fiber or yarn;
- (f) The manufacturing of cordage, rope or twine from any fiber or yarn;
- (g) The manufacturing or processing of yarn or thread by systems other than the woolen system from mixtures of wool or animal fiber (other than silk) with any of the fibers designated in clause (a), containing not more than 45 percent by weight of wool or animal fiber (other than silk);
- (h) The manufacturing, bleaching, dyeing, printing or other finishing of woven fabrics (other than carpets and rugs) from mixtures of wool or animal fiber (other than silk) containing not more than 25 percent by weight of wool or animal fiber (other than silk), with any of the fibers designated in clause (a), with a margin of tolerance of 2 percent to meet the exigencies of manufacture.

This definition shall not be deemed to include the Wool Industry, and the operations of said industry are excluded from this Determination and Order; and,

WHEREAS, on November 8, 1939, the Acting Administrator caused to be published in the Federal Register (4 F.R. 4531 DI) a notice which set forth in full the determination and order of the Presiding Officer and stated that pursuant to the provisions of Section 522.13 of the aforesaid regulations, as amended, persons aggrieved by the said determination and order might, within 15 days after November 8, 1939, file petitions for review of the action of the said representative, and,

WHEREAS, petitions for review, copies of which are on file in Room 5144, Department of Labor Building, Washington, D. C., and there available for examination by all interested parties, have been duly filed by the Throwsters Research Institute and the Southern Cotton Manufacturer's Association; and

WHEREAS, on November 28, 1939, the Acting Administrator caused to be published in the Federal Register (4 F.R. 4704 DI) a notice which stated that the aforementioned hearing would be reopened on December 13, 1939, to permit the introduction of further testimony relevant to the curtain branch of the textile industry, and

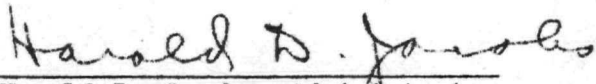
WHEREAS, on January 22, 1940, the aforementioned Presiding Officer duly made findings of fact on the basis of the reopened hearing, copies of which were filed in the office of the Administrator on that date and are there available for inspection, and made the following determination and order:

Upon the whole record of evidence, I determine and order:

1. The sewing-machine operation in the (novelty) curtain branch of the textile industry is a simple semi-skilled occupation that does not require any learning period at subminimum wages.
2. No certificates authorizing the employment of learners at subminimum wages shall be issued to employers in the (novelty) curtain branch of the textile industry.
3. All matters set forth in the Undersigned's Determination and Order on the employment of learners in the Textile Industry, dated October 31, 1939, inconsistent with the foregoing are hereby rescinded.

NOW, THEREFORE, the petitions for review are hereby granted and notice is hereby given that the Administrator for the purpose of reviewing the aforementioned Presiding Officer's Determination and Order, as amended, and to make a final determination of the questions set forth in the third paragraph of this notice, will receive briefs from interested parties either in support of or in opposition to the aforementioned Determination and Order, as amended, provided that original briefs are filed with the Administrator, Wage and Hour Division, prior to the close of business February 23, 1940, and provided that rebuttal briefs are filed with the Administrator prior to the close of business March 8, 1940. All briefs will be available for inspection by interested parties in Room 5144, U. S. Department of Labor Building, Washington, D. C.

Signed at Washington, D. C., this 22nd day of January,
1940.


Harold D. Jacobs, Administrator
Wage and Hour Division
U. S. Department of Labor