

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

NOTICE OF HEARING ON MINIMUM WAGE RECOMMENDATION OF  
INDUSTRY COMMITTEE NO. 19 FOR THE DRUG, MEDICINE, AND  
TOILET PREPARATIONS INDUSTRY

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 December 17, 1940, by Administrative Order No. 77, appointed Industry Committee No. 19 for the Drug, Medicine, and Toilet Preparations Industry, composed of an equal number of representatives of the public, employers in the industry and employees in the industry, such representatives having been appointed with due regard to the geographical regions in which the industry is carried on; and

WHEREAS, Industry Committee No. 19, on January 30, 1941 recommended a minimum wage rate for the Drug, Medicine, and Toilet Preparations Industry and duly adopted a report containing said recommendation and reasons therefor and has filed such report with the Administrator on January 31, 1941, 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. 19 if he finds that the recommendation is made in accordance with law and is supported by the evidence adduced at the hearing before him, 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 recommendations;

NOW, THEREFORE, notice is hereby given that:

1. The recommendation of Industry Committee No. 19 is as follows:

Every employer shall pay not less than 40 cents per hour to each of his employees who is engaged in the Drug, Medicine, and Toilet Preparations Industry as defined in Administrative Order No. 77, dated December 17, 1940.

- II. The definition of the Drug, Medicine, and Toilet Preparations Industry, as set forth in Administrative Order No. 77 issued December 17, 1940, is as follows:

The manufacture or packaging of any one or more of the following products:

- (a) Drugs or medicinal preparations (other than food) intended for internal or external use in the diagnosis, treatment, or prevention of disease in, or to affect the structure or any function of, the body of man or other animals, or

(b) Dentrifices, cosmetics, perfume, or other preparations designed or intended for external application to the person for the purpose of cleansing, improving the appearance of, or refreshing the person,

(c) Provided that this definition shall not include the manufacture or packaging of shaving cream, shampoo, essential (volatile) oils, glycerine, and soap, or the milling or packaging without further processing of crude botanical drugs.

The definition of the Drug, Medicine, and Toilet Preparations Industry covers all occupations in the industry which are necessary to the production of the articles specified in the definition including clerical, maintenance, shipping, and selling occupations, provided, however, that there shall not be included (a) in establishments, the greater part of whose sales are sales of articles purchased for resale, employees other than those who are engaged directly in the manufacturing or the packaging in consumer packages of products covered by this definition, and (b) employees of a manufacturer who are engaged exclusively in marketing and distributing products of the industry which have been purchased for resale, and provided further, that where an employee covered by this definition is employed during the same workweek at two or more different minimum rates of pay, he shall be paid the highest of such rates for such workweek unless records with respect to his employment in segregable occupations are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

III. The full text of the report and recommendation of Industry Committee No. 19, together with any dissenting statements which may be filed by a member subsequent to the date of this notice, are and will be available for inspection by any person between the hours of 9:00 a.m. and 4:30 p.m. at the following offices of the United States Department of Labor, Wage and Hour Division:

Boston, Massachusetts  
Walker Building  
120 Boylston Street

New York, New York  
Parcel Post Building  
30th Street & 9th Avenue

Philadelphia, Pennsylvania  
1216 Widener Building  
Chestnut & Juniper Streets

Pittsburgh, Pennsylvania  
216 Old Post Office Building

Newark, New Jersey  
1004 Kinney Building  
790 Broad Street

Richmond, Virginia  
215 Richmond Trust Building  
627 East Main Street

Baltimore, Maryland  
606 Snow Building  
Calvert & Lombard Streets

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

Raleigh, North Carolina  
507 Raleigh Building  
Hargett & Fayetteville Streets

Atlanta, Georgia  
Witt Building  
249 Peachtree Street

Jacksonville, Florida  
New Post Office Building

Birmingham, Alabama  
Comer Building  
2nd Avenue & 21st Street

New Orleans, Louisiana  
Pere Marquette Building  
150 Baronne Street

Nashville, Tennessee  
Medical Arts Building  
119 Seventh Avenue, N.

Cleveland, Ohio  
Standard Building  
1370 Ontario Street

Cincinnati, Ohio  
Cincinnati Traction Building  
5th & Walnut Streets

Chicago, Illinois  
1200 Merchandise Mart  
222 West North Bank Drive

Minneapolis, Minnesota  
406 Pence Building  
730 Hennepin Avenue

St. Louis, Missouri  
100 Old Custom House Building  
815 Olive Street

Denver, Colorado  
Chamber of Commerce Building  
1726 Champa Street

Dallas, Texas  
824 Santa Fe Building  
1114 Commerce Street

San Francisco, California  
Room 500  
785 Market Street

Los Angeles, California  
338 H. W. Hellman Building  
354 South Spring Street

San Juan, Puerto Rico  
Post Office Box 112

Seattle, Washington  
305 Post Office Building

Juneau, Alaska  
D. B. Stewart  
Commissioner of Mines

Washington, District of Columbia  
Department of Labor, 4th Floor

Kansas City, Missouri  
504 Title & Trust Building  
10th & Walnut Streets

Copies of the Committee's report and recommendation, together with any dissenting statement which may be filed by a member subsequent to the date of this notice, may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C.

IV. A public hearing for the purpose of taking evidence on the question of whether the recommendation of Industry Committee No. 19 shall be approved or disapproved pursuant to Section 8 of the Act will be held March 10, 1941, at 10:00 a.m. at Room 3229, Department of Labor Building in Washington, D. C., before Henry T. Hunt, Esquire, Principal Hearings Examiner of the Wage and Hour Division, United States Department of Labor, as presiding officer.

V. Any interested person, supporting or opposing the recommendation of Industry Committee No. 19, may appear at the aforesaid hearing to offer evidence, either on his own behalf or on behalf of any other person; provided, that not later than March 3, 1941, any such person shall file with the Administrator at Washington, D. C., 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. 19.
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, Washington, D. C., and shall be deemed filed upon receipt thereof.

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

VII. Copies of the following documents relating to the Drug, Medicine, and Toilet Preparations Industry will be made available upon request for inspection by any interested person who intends to appear at the aforesaid hearing:

U. S. Department of Labor, Bureau of Labor Statistics, Division of Wage and Hour Statistics, Average Hourly Earnings in the Drug, Medicine, and Toilet Preparations Industry, May, 1940.

U. S. Department of Labor, Wage and Hour Division, Research and Statistics Branch, Report of the Drug, Medicine, and Toilet Preparations Industry, January, 1941.

U. S. Department of Labor, Bureau of Labor Statistics, Monthly Labor Review, Differences in Living Costs in Northern and Southern Cities, July, 1939, (Serial No. R-963).

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or the Principal Hearings Examiner 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 made to the official reporter, Electric Reporting Service, 1707 Eye Street, N. W., Washington, D. C.

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 presiding officer has closed the hearing before him, 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. Upon presentation of such copies in proper form the copies will be received 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 in so far 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, the presiding officer shall receive written requests from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. These requests will be forwarded to the Administrator by the presiding officer with the record of the proceedings. 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 the presiding officer shall forthwith file a complete record of the proceedings with the Administrator. The presiding officer shall not file an intermediate report 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 Washington, D. C. this 5th day of February, 1941.



Administrator  
Wage and Hour Division  
Department of Labor

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