

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

*Inactive*

ADMINISTRATOR DISAPPROVES JEWELRY WAGE RECOMMENDATION;  
REFERS MATTER TO ANOTHER COMMITTEE

An industry committee recommendation for the establishment of minimum wage rates of 40 cents and 35 cents an hour for the jewelry industry was disapproved today by General Philip B. Fleming, Administrator of the Wage and Hour Division, U. S. Department of Labor. General Fleming at the same time appointed another committee to investigate economic and competitive conditions in the industry and to recommend the highest minimum wage rate up to 40 cents an hour which will not cause substantial unemployment.

The new committee will meet in Room 3229, Department of Labor, May 19.

Under the Fair Labor Standards Act (Federal Wage-Hour Law), the Administrator must hold a public hearing at which any interested person may appear, before issuing a wage order putting into effect an industry committee's recommendation. Hearings on the jewelry wage recommendation were held in Washington on January 21-24 and on February 3, 1941. This is the first wage recommendation of an industry committee to be rejected in its entirety.

Alexander Hamilton Frey of Philadelphia, representing the public, will be Chairman of the new industry committee for the jewelry manufacturing industry (Industry Committee No. 26). Other members will be:

For the Public:

Teresa M. Crowley, New York, New York  
C. Emanuel Ekstrom, Providence, R. I.  
Robert R. R. Brooks, Williamstown, Mass.  
Dr. Harry Schulman, New Haven, Conn.  
Mrs. Elizabeth B. Raushenbush, Madison,  
Wisconsin

For the Employees:

Leon Williams, Bronx, New York\*  
Samuel E. Beardsley, New York, New York\*  
A. J. Gaul, Chicago, Illinois\*  
Erwin Spiegel, Teaneck, New Jersey  
Morris Borodkin, New York, New York  
John R. Maurillo, Providence, R. I.

For the Employers:

Charles John Simeon, Providence, R. I.\*  
Sturgis G. Rice, Plainville, Mass.\*  
Rawson L. Wood, New York, New York\*  
August Kappel, New York, New York\*  
Leo F. Krussman, New York, New York\*  
F. B. Stegeman, Dayton, Kentucky

Those marked with an asterisk served on the first committee for the jewelry industry.

While he had the recommendation of the committee under consideration, General Fleming inspected eight jewelry factories in New York and Rhode Island.

Reasons for his rejection of the recommendation were given in a "Findings and Opinion" based on the record of the hearing.

"The recommendations of the Committee," General Fleming stated, "establish two main wage categories--40 cents for the enumerated items, and 35 cents for all other products. It is necessary that the intent of the Committee in placing a product in one or the other of these two categories should be made reasonably clear either by the language employed in their recommendations or by other means.

"Examination of the record and the terms of the recommendations shows that there are patent inconsistencies in the classifications which cannot be resolved.

"Recommendation number three of the Committee proposes a 40 cent minimum for jewelry 'containing precious stones such as diamonds, pearls, zircons, emeralds rubies, garnets, etc.' Evidence was put in the record, however, which showed that zircons and garnets are not precious stones in the ordinary sense, and that the small number of gem zircons and garnets which have been obtained are used primarily for collectors' purposes. On the other hand, an interpretation that the term 'precious stones' in this section includes all the enumerated items and similar stones, regardless of quality, cannot be reconciled with the preceding recommendation in which the Committee specifically used the term 'semi-precious stones' when it intended to provide an inclusive coverage.

"Recommendation number two of the Committee is subject to the same objection as recommendation number three. The language employed makes it difficult to determine whether the Committee intended to place the manufacture of imitation pearls under the 40 cent or the 35 cent minimum wage category. The recommendation in terms covers the 'manufacturing, cutting, polishing, encrusting or engraving of precious, semi-precious, synthetic, or imitation stones.' There was evidence to the effect that pearls are not stones. Yet recommendation number three includes

'pearls' in the term 'precious stones.' Reference to the definition of the industry as contained in Administrative Order Nos. 66 and 74 shows, moreover, that the definition set out the exact language used in recommendation number two but in addition contained a separate paragraph covering 'the manufacturing, drilling and stringing of pearls, imitation pearls, and beads designed for use in the manufacture of jewelry.'

"The recommendations of a Committee are not a statute and should not be expected to be prepared with the meticulous care of such a document. Any language from which a reasonable inference of intent can be drawn should be considered sufficient. In this case, however, there are direct contradictions upon the face of the recommendations which cannot be resolved by construction of the language in the recommendations or reference to the proceedings of the Committee or other sources from which the intent of the Committee could be inferred. Under the circumstances, the defects noted affect the Committee's entire recommendations.

"It is my conclusion that the recommendations are not made in accordance with law. Accordingly, I disapprove the recommendations of the Jewelry Industry Committee and shall refer the matter back to a new industry committee for further consideration and recommendations in accordance with the provisions of Section 8(d) of the Act."

The definition of the industry for the new committee will remain the same.

It reads:

1. For the purpose of this order the term "jewelry manufacturing industry"

means:

(a) The manufacturing, processing, or assembling, wholly or partially from any material, of jewelry, commonly or commercially so known. Jewelry as used herein includes, without limitation, religious, school, college, and fraternal insignia; articles of ornament or adornment designed to be worn on apparel or carried on or about the person, including, without limitation, cigar and cigarette cases, holders and lighters; watch cases; metal mesh bags and metal watch bracelets; and chain,

mesh, and parts for use in the manufacture of any of the articles included in this definition. Jewelry as used herein does not include pocket knives, cigar cutters, badges, emblems, military and naval insignia, belt buckles, and handbag and pocketbook frames and clasps, or commercial compacts and vanity cases, except when made from or embellished with precious metals or precious, semi-precious, synthetic, or imitation stones; and the assaying, refining, and smelting of base or precious metals.

The term "parts" as used in the foregoing paragraph does not include parts which are used predominantly for products other than jewelry, such as springs, blades, and nail files. The term "commercial compacts and vanity cases" as used means compacts and vanity cases which bear the trade name or mark of a cosmetic manufacturer and are made for the purpose of distributing or advertising said cosmetics.

(b) The manufacturing, cutting, polishing, encrusting, engraving, and setting of precious, semi-precious, synthetic, and imitation stones.

(c) The manufacturing, drilling, and stringing of pearls, imitation pearls, and beads designed for use in the manufacture of jewelry.

2. The definition of the jewelry manufacturing industry covers all occupations in the industry which are necessary to the production of the products covered in the definition, including clerical, maintenance, shipping, and selling occupations, provided, however, that this definition does not cover employees of a manufacturer, assembler, processor, or independent wholesaler 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 concerning his employment are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

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