

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

NOTICE OF HEARING ON MINIMUM WAGE
RECOMMENDATION OF INDUSTRY COMMITTEE
NO. 24 FOR THE CLAY PRODUCTS 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 March 4, 1941, by Administrative Order No. 87, appointed Industry Committee No. 24 for the Clay Products 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. 24, on April 29, 1941, recommended a minimum wage rate for the Clay Products Industry and duly adopted a report containing said recommendation and reasons therefor and has filed such report with the Administrator on May 1, 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. 24 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:

I. The recommendation of Industry Committee No. 24 is as follows:

"Wages at a rate of not less than thirty-four (34) 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 Clay Products Industry who is engaged in commerce or in the production of goods for commerce."

II. The definition of the Clay Products Industry, as set forth in Administrative Order No. 87 issued March 4, 1941, is as follows:

"The manufacture of all fired clay products except refractories, pottery and ceramic whiteware."

The definition of the Clay Products 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 this definition does not include employees of an independent wholesaler or 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 concerning his employment 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. 24, 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
304 Walker Building
120 Boylston Street

New York, New York
Parcel Post Building
341 Ninth Avenue

Buffalo, New York
507-8 Dun Building
Pearl and Swan Streets

Philadelphia, Pennsylvania
1216 Widener Building
Chestnut and Juniper Streets

Pittsburgh, Pennsylvania
216 Old Post Office Building
4th & Smithfield Streets

Newark, New Jersey
1005 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

Atlanta, Georgia
Fifth Floor
Witt Building
249 Peachtree Street

Jacksonville, Florida
456 New Post Office Building

Birmingham, Alabama
1007 Comer Building
2nd Avenue & 21st Street

New Orleans, Louisiana
1512 Pere Marquette Building
150 Baronne Street

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

Cleveland, Ohio
728 Standard Building
1370 Ontario Street

Cincinnati, Ohio
1312 Traction Building
5th & Walnut Streets

Chicago, Illinois
1200 Merchandise Mart
222 West North Bank Drive

Indianapolis, Indiana
Room 708
108 E. Washington Street

Minneapolis, Minnesota
406 Fenco Building
730 Hennepin Avenue

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

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

Denver, Colorado
300 Chamber of Commerce Building
1726 Champa Street

Dallas, Texas
824 Santa Fe Building
1114 Commerce Street

San Antonio, Texas
583 Federal Building
400 East Houston Street

Seattle, Washington
305 Post Office Building
208 James Street

San Francisco, California
Room 500
785 Market Street

San Juan, Puerto Rico
Post Office Box 112

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

Juneau, Alaska
D. B. Stewart
Commissioner of Mines

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

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 whether the recommendation of Industry Committee No. 24 shall be approved or disapproved pursuant to Section 8 of the Act will be held June 10, 1941, at 10:00 a.m. at Conference Rooms A and B, Interdepartmental Auditorium, Constitution Avenue, between 12th and 14th Streets, N. W., 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. 24, 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 June 5, 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. 24.
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. 24 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 document relating to the Clay Products 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, Wage and Hour Division, Research and Statistics Branch, Report on the Clay Products Industry (Except Pottery and Refractories) April 1941.

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 I 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. Where 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.

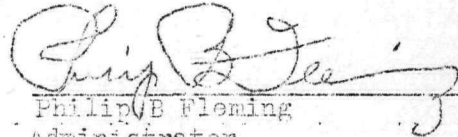
13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

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 6th day of May, 1941.



Philip B. Fleming
Administrator
Wage and Hour Division
Department of Labor

Published in Federal Register, May 13, 1941.