

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

NOTICE OF HEARING ON MINIMUM WAGE  
RECOMMENDATIONS OF INDUSTRY COM-  
MITTEE NO. 37 FOR THE CIGAR INDUSTRY

To be held January 13, 1942 at Washington, D. C.

WHEREAS, the Administrator of the Wage and Hour Division, United States Department of Labor, acting pursuant to Section 5(b) of the Fair Labor Standards Act of 1938, on November 21, 1941, by Administrative Order No. 131, appointed Industry Committee No. 37 for the Cigar Industry, composed of an equal number of representatives of the public, employers in the industry, and employees in the industry, selected with due regard to the geographical regions in which the industry is carried on; and

WHEREAS, Industry Committee No. 37, on December 10, 1941, recommended minimum wage rates for the Cigar Industry and duly adopted a report containing said recommendations and on December 12, 1941, filed its report with the Administrator in accordance with 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 giving due notice and an opportunity to be heard to interested persons, to approve and carry into effect by order the recommendations of Industry Committee No. 37 if he finds that the recommendations are made in accordance with law, are 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 the Act; and, if he finds otherwise, to disapprove such recommendations;

NOW, THEREFORE, notice is hereby given:

I. Industry Committee No. 37 for the Cigar Industry has made the following separable recommendations for minimum wages to be paid employees in the industry:

(a) 35 cents to be paid for: the preparation (as defined by Administrative Order No. 131) or marketing (including wholesaling) of cigar types of leaf tobacco (as defined by the Bureau of Agricultural Economics of the United States Department of Agriculture) and the scrap tobacco therefrom for use in the manufacture of cigars and other tobacco products.

(b) 40 cents to be paid for: the manufacture of cigars (as defined in Administrative Order No. 131) from any types of tobacco.

II. The definition of the Cigar Industry, as set forth in Administrative Order No. 131 is as follows:

For the purpose of this order the term "cigar industry" means the manufacture of cigars, from any types of tobacco; and the preparation or marketing (including wholesaling) of cigar types of leaf tobacco (as defined by the Bureau of Agricultural Economics of the United States Department of Agriculture) and the scrap tobacco therefrom for use in the manufacture of cigars and other tobacco products.

(a) The term "cigar" wherever used in this definition comprehends all types of cigars, including cheroots, stogies, and little cigars.

(b) The manufacture of cigars from non-cigar types of leaf tobacco and the scrap tobacco therefrom includes the preliminary processing of such tobacco which is performed in the manufacturing plant as an integral part of the manufacturing operation.

(c) The term "preparation" as used herein includes all operations involved in making cigar leaf tobacco and scrap tobacco therefrom suitable for use in the manufacture of cigars, whether performed by employees of warehousemen, manufacturers, leaf dealers, or others. It includes, but not by way of limitation, the operations of grading, sorting, packing, sweating, fermenting, stemming, and conditioning. It does not include, however, such preliminary processing of cigar types of tobacco or scrap tobacco therefrom as is performed in a manufacturing plant as an integral part of the manufacturing operations attending the production of tobacco products other than cigars, nor does it include operations performed by a farmer or on a farm as an incident to or in conjunction with farming operations.

The definition of the cigar industry covers all occupations in the industry which are necessary to the production of cigars or to the preparation or marketing of cigar types of tobacco and scrap tobacco therefrom, including clerical, maintenance, and selling occupations, provided, however, that this definition does not include employees of an independent wholesaler or manufacturer who are engaged in marketing and distributing the manufactured products of the industry which have been purchased by said wholesaler or manufacturer for resale and who perform no functions other than those relating to marketing and distributing. 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. 37 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 Wage and Hour Division, United States Department of Labor:

Boston, Massachusetts  
Old South Building  
294 Washington Street

New York, New York  
341 Ninth Avenue

Newark, New Jersey  
Essex Building  
31 Clinton Street

Philadelphia, Pennsylvania  
1216 Widener Building  
Chestnut and Juniper Streets

Pittsburgh, Pennsylvania  
219 Old Post Office Building

Richmond, Virginia  
215 Richmond Trust Building

Baltimore, Maryland  
201 North Calvert Street

Raleigh, North Carolina  
North Carolina State Department of Labor

Atlanta, Georgia  
5th Floor, Witt Building  
249 Peachtree Street, N. E.

Columbia, South Carolina  
Federal Land Bank Building

Jacksonville, Florida  
456 New Post Office Building

Birmingham, Alabama  
1007 Comer Building

New Orleans, Louisiana  
Union Building

St. Louis, Missouri  
100 Old Federal Building

Jackson, Mississippi  
404 Deposit Guaranty Bank Building

Denver, Colorado  
300 Chamber of Commerce Building

Nashville, Tennessee  
509 Medical Arts Building

Dallas, Texas  
Rio Grande National Building  
1400 Main Street

Cleveland, Ohio  
Main Post Office  
West Third and Prospect Avenue

San Francisco, California  
500 Humboldt Bank Building  
785 Market Street

Cincinnati, Ohio  
1312 Traction Building

Los Angeles, California  
417 H. W. Hellman Building

Detroit, Michigan  
348 Federal Building

Seattle, Washington  
305 Post Office Building

Chicago, Illinois  
1200 Merchandise Mart  
222 West North Bank Drive

San Juan, Puerto Rico  
Post Office Box 112

Minneapolis, Minnesota  
406 Pence Building  
730 Hennepin Avenue

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

St. Louis City, Missouri  
504 Title and Trust Building  
10th and Walnut Streets

Copies of the Committee's report and recommendations, and of dissenting statements filed by members of the Committee, are available for inspection at, and may be obtained by writing to, the office of the Wage and Hour Division, United States 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. 37 shall be approved or disapproved pursuant to Section 8 of the Act will be held on January 13, 1942, at 10:00 a.m. in Room 3229 of the United States Department of Labor Building, Washington, D. C., before Major Robert N. Campbell, as Presiding Officer.

V. Any interested person supporting or opposing the recommendations of Industry Committee No. 37 may appear at the hearing to offer evidence either on his own behalf or on behalf of any other person if not later than January 7, 1942, he files with the Administrator, by mail or otherwise, 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 he is representing.
3. Whether such person proposes to appear for or against the recommendations of the Committee.
4. The approximate length of time requested for his presentation.

VI. Any interested person may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator of the 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 office of the Wage and Hour Division in Washington, D. C.

VII. Copies of the following document relating to the Cigar Industry will be available 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, The Cigar Industry, November 1941.

VIII. The hearing will be conducted in accordance with the following rules of procedure subject to such subsequent modification by the Administrator or the Presiding Officer 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, addressed to the Administrator, Wage and Hour Division, Department of Labor, 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 further 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 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 the 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.

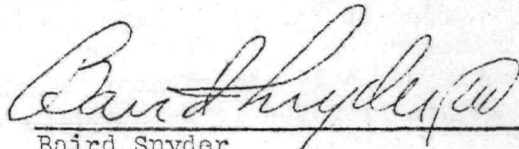
12. Before the close of the hearing the presiding officer shall receive written requests from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. These requests will be forwarded to the Administrator by the presiding officer with 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 proceeding, 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 hearings, 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 19th day of December, 1941.



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Baird Snyder  
Acting Administrator  
Wage and Hour Division  
United States Department of Labor

Published in Federal Register, December 30, 1941.