

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
NEW YORK, NEW YORK

TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

NOTICE OF HEARING ON THE MINIMUM WAGE
RECOMMENDATION OF INDUSTRY COMMITTEE
NO. 47 FOR THE CANDY AND RELATED
PRODUCTS MANUFACTURING INDUSTRY

To be held October 14, 1942:

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 August 14, 1942, by Administrative Order No. 150, appointed Industry Committee No. 47 for the Candy and Related Products Manufacturing 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. 47, on September 15, 1942, recommended a minimum wage rate for the Candy and Related Products Manufacturing Industry and duly adopted a report containing such recommendations and reasons therefor and filed such report with the Administrator on September 16, 1942, 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. 47 if he finds that the recommendation is made in accordance with law and is supported by the evidence adduced at the hearing 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 recommendation;

NOW, THEREFORE, notice is hereby given that:

I. The recommendation of Industry Committee No. 47 is as follows:

Every employer shall pay not less than the following rate per hour to each of his employees who shall be engaged in commerce or in the production of goods for commerce in the Candy and Related Products Manufacturing Industry as defined by Administrative Order No. 150, dated August 14, 1942.

a. 40 cents to be paid for: the production of chocolate and cocoa products.

b. 40 cents to be paid for: the production of candied, crystallized or glace fruits and fruit peels.

c. 40 cents to be paid for: the production of any other products of the Candy and Related Products Manufacturing Industry.

II. The definition of the Candy and Related Products Manufacturing Industry as set forth in Administrative Order No. 150, issued August 14, 1942, is as follows:

The production of candies and related products, including, but without limitation, stuffed fruits; candied, crystallized or glace fruits and fruit peels; candied popcorn; salted, sugared or roasted nuts; chocolate and cocoa products; marshmallow creams; and chewing gum: provided that the shelling and cleaning of nuts are excluded except where the operations are performed in plants also engaged in the further processing of nuts.

The definition of the candy and related products manufacturing 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 such clerical, maintenance, shipping and selling occupations when carried on in a wholesaling or selling department physically segregated from other departments of a manufacturing establishment, the greater part of the sales of which wholesaling or selling department are sales of articles which have been purchased for resale, shall not be deemed to be covered by this definition, 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. 47 is 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
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
Fourth and Smithfield Streets

Richmond, Virginia
215 Richmond Trust Building
627 East Main Street

Baltimore, Maryland
201 North Calvert Street

Raleigh, North Carolina
North Carolina Department of Labor
Salisbury and Edenton Streets

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

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

Jacksonville, Florida
456 New Post Office Building

Birmingham, Alabama
1908 Comer Building
2nd Avenue and 21st Street

New Orleans, Louisiana
916 Union Building

Jackson, Mississippi
402 Deposit Guaranty Bank Building
102 Lamar Street

Nashville, Tennessee
509 Medical Arts Building
115 Seventh Avenue, N.

Cleveland, Ohio
Main Post Office
West 3rd and Prospect Avenue

Cincinnati, Ohio
1312 Traction Building
5th and Walnut Streets

Detroit, Michigan
David Scott Building
1150 Griswold Street

Chicago, Illinois
1200 Merchandise Mart
222 W. North Bank Drive

Minneapolis, Minnesota
406 Pence Building
730 Hennepin Avenue

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

St. Louis, Missouri
100 Old Federal Building

Denver, Colorado
300 Chamber of Commerce Building
1726 Champa Street

Dallas, Texas
Rio Grande National Building
1100 Main Street

San Francisco, California
Room 500, Humboldt Bank Building
785 Market Street

Los Angeles, California
417 N. W. Hellman Building

Seattle, Washington
305 Post Office Building
3rd Avenue and Union Street

San Juan, Puerto Rico
Post Office Box 112

Washington, District of Columbia
Department of Labor
1st Floor

New York, New York
165 West 46th Street

Copies of the committee's report and recommendation may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York, New York.

IV. A public hearing will be held on October 14, 1942, before Major Robert N. Campbell, Presiding Officer, at 10:00 a.m. in Room 3229, United States Department of Labor Building, 14th Street and Constitution Avenue, N. W., Washington, D. C. for the purpose of taking evidence on the following question:

Whether the recommendation of Industry Committee No. 47 should be approved or disapproved.

V. Any interested person supporting or opposing the recommendation of Industry Committee No. 47 may appear at the aforesaid hearing to offer evidence, either on his behalf or on behalf of any other person; provided that not later than October 8, 1942, such person shall file with the Administrator

at New York, New York, 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. 47.
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, 165 West 46th Street, New York, New York, and shall be deemed filed upon receipt thereof.

VI. Any person interested in supporting or opposing the recommendation of Industry Committee No. 47 may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, 165 West 46th Street, New York, New York, or by consulting with attorneys representing the Administrator who will be available for that purpose at the Office of the Solicitor, United States Department of Labor, in Washington, D. C. and New York, New York.

VII. Copies of the following document relating to the Candy and Related Products Manufacturing Industry will be made available on request for inspection by any interested person who intends to appear at the aforesaid hearing:

Report entitled, Economic Factors Bearing on the Minimum Wages in the Candy and Related Products Manufacturing Industry, prepared by the Economics Branch, Wage and Hour Division, United States Department of Labor, August, 1942.

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or the Presiding Officer as are deemed appropriate.

1. The hearings 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, United States Department of Labor, 165 West 46th Street, New York, New York.
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.
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 insofar 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 New York, New York, this 19th day of September, 1942.

L. Metcalfe Walling

L. Metcalfe Walling, Administrator
Wage and Hour Division
United States Department of Labor