

RULES FOR INDIVIDUAL LEARNER CERTIFICATES FORMULATED
AS APPAREL INDUSTRY-WIDE APPLICATION IS DENIED

The application of the apparel industry for the employment of learners at a wage rate lower than the statutory minimum under the Fair Labor Standards Act, made on an industry-wide basis, was denied today in a finding made public by Administrator Elmer F. Andrews of the Wage and Hour Division, U. S. Department of Labor. Provision was made, however, for granting individual applications. The conclusions contained in the findings and determination are printed in full in today's Federal Register (Tuesday, May 23) together with a notice of opportunity to all interested parties to file petitions with Mr. Andrews requesting that he review Mr. Vincent's determination. Such petitions under the regulations must be filed within 15 days.

The National Association of Shirt and Pajama Manufacturers, Inc., and other groups in the apparel industry had made application under Section 14 of the Wage and Hour Law for permission to employ learners at wages lower than the 25 cents an hour specified in the Act. Mr. Andrews designated Merle D. Vincent, Chief of the Hearings and Exemptions Section of the Wage and Hour Division, to preside at public hearings. Mr. Andrews announced the findings and determination of Mr. Vincent arrived at on the basis of the hearings and briefs filed at the close of the hearing.

While denying the industry-wide application, Mr. Vincent found that individual cases should be considered, but he stated that "each case must be separately decided in the light of the special circumstances surrounding it and the competitive effects upon the industry."

Mr. Vincent's determination then laid down certain general findings which should be considered in dealing with such individual cases,

Issuance of special certificates authorizing the employment of learners for a limited period at rates below the minimum may be found necessary when a new plant is established outside of industrial areas where experienced help is not available when trained workers are not available to man additional machine equipment installed in a plant expansion or when experienced labor is not available to expand production in response to an expanding market demand

and idle facilities are again to be brought into use and when the facts show that employment will be curtailed unless special learners' certificates are issued. Mr. Vincent pointed out, however, that such expansion "is to be clearly distinguished from a rise in production or employment due to periodic fluctuations of market demand."

The presiding officer found that where special certificates for learners are issued, limitations are to the number, proportion and length of the learning period must be established. These limitations as set forth in his findings as follows: A learner shall not include any person employed for more than 8 weeks in the aggregated during the preceding 3 years in the apparel industry; the learning period for each worker shall be not more than 8 weeks although an employer may utilize a special learners' certificate for a period of 12 weeks provided that no individual learner is paid less than the applicable minimum after he has completed 8 weeks of employment.

Learners would be paid the same piece rates paid workers already employed, and a learner must receive at least 75% of the applicable minimum rate. If piece rate earnings fell below this, this guarantee would have to be made up by the employer. The number of learners authorized in each case must correspond to the number of machines to be put into operation provided that the needed workers cannot be found among experienced operators. In all cases the number of learners to be paid at sub-minimum rates will be definitely specified in the certificate.

Mr. Andrews has issued regulations under which individual employers may apply for special certificates for the employment of learners in accordance with the recommendation with which Mr. Vincent concluded his findings and determination on the application of the apparel industry.