

## TITLE 29 -- LABOR

## CHAPTER V -- WAGE AND HOUR DIVISION

PART 525 -- Regulations Applicable to the Employment of Handicapped Clients in Sheltered Workshops Pursuant to Section 14 of the Fair Labor Standards Act.

The following regulations -- Part 525 --

(Regulations Applicable to the Employment of Handicapped Clients in Sheltered Workshops Pursuant to Section 14 of the Fair Labor Standards Act) are hereby issued. These regulations shall become effective upon my signing the original and upon publication thereof in the Federal Register, and shall be in force and effect until repealed by regulations hereafter made and published.

Signed at Washington, D. C. this 10th day of February, 1940.

*Harold D. Jacobs*

Harold D. Jacobs, Administrator  
Wage and Hour Division  
Department of Labor

REGULATIONS APPLICABLE TO THE  
EMPLOYMENT OF HANDICAPPED CLIENTS  
IN SHELTERED WORKSHOPS  
PURSUANT TO SECTION 14 OF  
THE FAIR LABOR STANDARDS ACT

---

SECTION 525.1 - DEFINITIONS.

As used in these Regulations, the following terms are defined, as follows:

"Sheltered Workshops" - A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

"Handicapped Client" - An individual whose earning capacity is impaired by age or physical or mental deficiency or injury, and who is being served in accordance with the recognized rehabilitation program of a sheltered workshop. \*

SECTION 525.2 - ADVISORY COMMITTEE ON SHELTERED WORKSHOPS.

The Administrator's Advisory Committee on Sheltered Workshops as constituted by Administrative Order No. 19 and subsequent Administrative Orders shall remain in existence for the purpose of advising and making recommendations to the Administrator concerning the administration and enforcement of the provisions contained in the several sections of these Regulations and the need for amendments and modifications of the same from time to time and for such other purposes as may be desired by the Administrator. \*

SECTION 525.3 - APPLICATIONS FOR SHELTERED WORKSHOP CERTIFICATES.

Notwithstanding any of the provisions of Part 524 of the Administrator's Regulations Applicable to the Employment of Handicapped Persons (Title 29, Chapter V, Code of Federal Regulations), applications may be filed with the Administrator by any charitable organization or institution conducted not for profit and engaged in commerce or in the production of goods for commerce, desiring to secure a Sheltered Workshop Certificate. Such application must be made on official forms furnished for the purpose by the Wage and Hour Division, and must clearly set forth facts upon which a finding could be based that the applicant is in fact a sheltered workshop within the meaning of these Regulations. \*

SECTION 525.4 - ISSUANCE OF SHELTERED WORKSHOP CERTIFICATES.

Upon application duly filed, the Administrator, or his authorized representative, will issue to the applicant a Sheltered Workshop Certificate based upon the representations in the application, unless (1) the application fails to set forth facts upon which a finding could be based that the applicant is in fact a sheltered workshop, or (2) it is determined that, despite the representations in

the application, the applicant is not a sheltered workshop within the meaning of these Regulations. In the case of any contemplated denial of an application for a Sheltered Workshop Certificate, the Advisory Committee on Sheltered Workshops will be notified through a member or members duly designated by such Committee and the Committee will be given ten days to present its views upon the matter to the Administrator or his designated representative. The denial of an application for a Sheltered Workshop Certificate shall be without prejudice to any right of the applicant to file individual applications for Special Certificates under Part 524 of the Administrator's Regulations or to re-submit an application after the matters resulting in denial have been adjusted. \*

SECTION 525.5 - PROCEDURE UNDER SHELTERED WORKSHOP CERTIFICATE.

Each Certificate issued pursuant to Section 525.4 shall authorize the sheltered workshop named therein to employ (suffer or permit to work) handicapped clients at not less than the wage rate established in the certificate, provided that the sheltered workshop prepares monthly, as of the last day of each month and mails to the Administrator before the tenth day of the following month, a report on the official monthly report form with respect to each handicapped client employed (suffered or permitted to work) during the month and the work engaged in by the sheltered workshop and provided further that the sheltered workshop shall keep, maintain, and have available for inspection by the Administrator or his authorized representative at any time, records and reports showing with respect to each handicapped client employed (suffered or permitted to work) by the sheltered workshop, the following information:

- (a) Name of handicapped client;
- (b) Home address of handicapped client;
- (c) Age of handicapped client, and date of birth if under 19;
- (d) Nature of physical or mental deficiency or injury as shown by medical certificate or other reliable evidence;
- (e) Workshop's careful evaluation of the impairment of earning capacity expressed in percentage of full earning capacity;
- (f) Number of hours that the handicapped client was engaged in work during each day and each week;
- (g) Type of work performed by the handicapped client;
- (h) Amount of any cash wage payments made to the handicapped client for such work for each week;
- (i) Date of such payment;
- (j) Amount of cash subsidy or other cash assistance furnished the client;

- (k) Date of such payment;
- (l) Number of lodgings and meals furnished client for each week;
- (m) Estimated cost to the sheltered workshop of such lodging and meals per week;
- (n) Classified description and estimated cost to the sheltered workshop of any other service furnished the handicapped client;
- (o) A statement of the payments or funds if any received by the sheltered workshop from any source for service, maintenance, care, or wage of the particular client;
- (p) If overtime is worked (above 42 hours per week until October 24, 1940 and above 40 hours thereafter) the following information should also be recorded:
  - 1) Regular rate of pay
  - 2) Extra wage for workweek attributable to overtime.

The foregoing records shall be kept by each sheltered workshop for each handicapped client in lieu of the records required under Part 516 of the Regulations of the Wage and Hour Division. For each homebound handicapped client the sheltered workshop shall keep records similar to those required in Section 516.90 of the Regulations of the Wage and Hour Division, and in such form as may be approved by the Wage and Hour Division. 1/ \*

SECTION 525.6 - TERMS OF SHELTERED WORKSHOP CERTIFICATES.

The Administrator or his authorized representative shall set the sub-minimum wage for each workshop certificate. He may set separate wage rates for each workshop or for separate groups in each sheltered workshop, and he may consider in each case:

- (a) The present and previous earnings of handicapped and non-handicapped persons who are clients of the sheltered workshop;
- (b) The general nature and extent of the handicaps of clients served by the workshop;
- (c) The wage rates and earnings of non-handicapped employees employed in private industry engaged in work comparable to that performed in the sheltered workshop;
- (d) The cost, value, duration and types of rehabilitative, educational, therapeutic and social work services given to handicapped clients;

---

For employees of the sheltered workshop who are not handicapped clients, the sheltered workshop should keep such records as are required by Regulations, Part 516.

- (e) The tuition, fees, et cetera charged by other than sheltered workshops for similar types of service;
- (f) The extent to which handicapped clients, or other individuals, organizations, governmental agencies, et cetera may pay dues, fees, charges for service et cetera to the sheltered workshop;
- (g) The extent to which clients share, through services or wages, in the receipts for work done in the workshop;
- (h) Extent to which the handicapped clients may also be learners or otherwise inexperienced.

In addition, the Administrator or his authorized representative may require the submission of such information or may initiate such investigation as appears necessary to determine any of the above considerations or to determine the nature of any special arrangements or unique features of workshop operation that relate to the setting of wage rates.

Certificates issued under this section shall also contain such terms and conditions as the Administrator or his authorized representative deems necessary to prevent any workshop customer arrangement which constitutes an unfair method of competition in commerce and which tends to spread or perpetuate sub-standard wage levels. However, in the inclusion of any such terms and conditions in the certificates issued, consideration shall be given to the existence of sub-standard workmanship if any, and other difficulties which may be present in the sheltered workshops, so that their rehabilitative programs may not be unduly hampered.

In carrying out the several provisions of this section, the Administrator or his authorized representative shall consider the recommendations of the Advisory Committee on Sheltered Workshops. \*

#### SECTION 525.7 - DURATION OF SHELTERED WORKSHOP CERTIFICATES.

No Sheltered Workshop Certificate issued pursuant to Section 525.4 shall be valid for longer than one year from the date of its issuance. Any Sheltered Workshop Certificate may be renewed by the Administrator or his authorized representative upon the filing of a renewal application. \*

#### SECTION 525.8 - RECONSIDERATION OF SHOP WAGE RATE.

Notwithstanding the provisions of any other section of these Regulations, any sheltered workshop holding a valid Sheltered Workshop Certificate may petition for a reconsideration of the wage rate or rates established in such certificate. The Administrator or his authorized representative, on his own motion, may likewise reconsider such rate or rates. \*

SECTION 525.9 - EMPLOYMENT AT LESS THAN SHOP WAGE RATE.

Whenever it is desired to employ a handicapped client at a wage rate less than the rate established in the Sheltered Workshop Certificate, application must be made on forms provided for the purpose for a special certificate authorizing the employment of such handicapped client at a wage rate less than the rate established in the Sheltered Workshop Certificate. Such application must clearly establish that the earning capacity of the client in question for the work he is to perform is in fact impaired by age or physical or mental deficiency or injury to the extent that it is necessary, in order to prevent curtailment of opportunities for employment, to provide for his employment at a wage rate below that established in the Sheltered Workshop Certificate. A Medical Certificate or other satisfactory evidence of the client's handicap must accompany such an application. \*

SECTION 525.10 - ISSUANCE OF CERTIFICATES FOR INDIVIDUAL HANDICAPPED CLIENTS.

If the showing required in the preceding section is duly made, the Administrator or his authorized representative will issue a Special Certificate authorizing the employment of the handicapped client for the period and at the wage rate or rates which shall be established in such certificate. Unless and until such a certificate is issued in the case of the handicapped client, such client may not be employed at a wage rate lower than that established in the Sheltered Workshop Certificate issued pursuant to Section 525.4 of these Regulations. \*

SECTION 525.11 - HEARINGS ON APPLICATIONS.

In considering one or more applications filed under these Regulations the Administrator or his authorized representative may call a public hearing upon due notice published in the Federal Register or provide other opportunity for interested parties including the Advisory Committee on Sheltered Workshops to present their views on the issues raised by such application or applications. \*

SECTION 525.12 - WORKERS OTHER THAN CLIENTS EMPLOYED IN SHELTERED WORKSHOPS.

No Certificate issued pursuant to these Regulations shall authorize the employment of any individual at a wage rate below the minimum wage rate applicable under Section 6 of the Fair Labor Standards Act unless such individual is a handicapped client within the meaning of the Act and of these Regulations. \*

SECTION 525.13 - DURATION OF SECTION 524.91.

Section 524.91 of the Administrator's Regulations (Title 29, Chapter V, Code of Federal Regulations, Part 524) which by its terms expires March 1, 1940, will expire on that date, provided that said Section 524.91 shall be deemed to have remained in full force and effect and available to any institution or organization that shall have filed with the Administrator prior to March 1, 1940 a notice of intention to file a formal application. The filing of such notice will extend the duration of said Section 524.91 until 30 days following such time as formal application forms are made available by the Wage and Hour Division. The filing of a formal application on official forms within the said 30-day period

shall further extend the duration of said Section 524.91 until final action shall have been taken on such formal application. The issuance of a certificate pursuant to Section 525.4 of these Regulations to any sheltered workshop shall, upon the effective date of such certificate, terminate the application of the said Section 524.91 in the case of such sheltered workshop. \*

SECTION 525.14 - REVOCATION OF SHOP CERTIFICATES.

If it is found by the Administrator or his authorized representative that any sheltered workshop has violated any of the provisions of the Act or of these Regulations or any of the terms or conditions in any certificate issued hereunder, or if the Administrator or his authorized representative, on the basis of more complete or subsequent data, has reason to believe that a Sheltered Workshop Certificate should not have been issued, or is no longer necessary to prevent curtailment of opportunities for employment, the certificate or certificates previously issued to the sheltered workshop may be cancelled. Any certificate issued under these Regulations may also be cancelled for cause. Before any certificate is cancelled the Advisory Committee on Sheltered Workshops through a member or members duly designated by the Committee shall be notified and reasonable notice of the time when and place where such action is to be considered will be sent by registered mail to the parties named in such certificate at their last known address or addresses. \*

SECTION 525.15 - REVIEW

Any person aggrieved by any action of an authorized representative of the Administrator taken pursuant to these Regulations may, within 15 days or within such additional time as the Administrator may allow, file with the Administrator a petition for review of the action complained of, setting forth the reasons for seeking review. The Advisory Committee on Sheltered Workshops will be notified through a member or member duly designated by such Committee of any petition for review whether granted or denied. If such petition for review is granted all interested parties will be afforded an opportunity to present oral or written argument before the Administrator or an authorized representative of the Administrator who took no part in the action under review and who shall thereafter make a final determination of the questions presented. \*

SECTION 525.16 - PETITION FOR AMENDMENT OF THESE REGULATIONS.

Any person wishing a revision of any of the terms of the foregoing Regulations may submit in writing to the Administrator a petition setting forth the change desired and the reasons for proposing them. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the rules and regulations is set forth, the Administrator will obtain the recommendations of the Advisory Committee on Sheltered Workshops and will either schedule a hearing before himself or his authorized representative with due notice to interested parties, or will make other provisions for affording interested parties an opportunity to present their views, both in support of and in opposition to the proposed changes. \*

SECTION 525.17 - REPORTS FROM SHELTERED WORKSHOPS.

Each sheltered workshop holding a valid Sheltered Workshop Certificate issued pursuant to Section 525.4 of these Regulations shall file a report with the Administrator as of January 1 and July 1 of each year. Such reports shall be made not later than February 1 and August 1 each year on forms furnished for this purpose by the Wage and Hour Division and shall contain all data required by such forms unless after petition the Administrator has determined that certain specified data need not be submitted. \*

---

\* Issued under the authority contained in sec. 14, 52 stat. 1060.