

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

REGULATIONS FOR EMPLOYMENT OF HANDICAPPED PERSONS
IN "SHELTERED WORKSHOPS" ANNOUNCED

Regulations under the Wage and Hour Law to govern the employment of handicapped clients in non-profit making charitable institutions (sheltered workshops) were announced today by the Wage and Hour Division, U. S. Department of Labor (Federal Register, February 13).

The regulations carry out the recommendations made unanimously by the Advisory Committee on Sheltered Workshops, of which Colonel John N. Smith, Jr., Director of the Institution for the Crippled and Disabled of New York, is chairman.

There are some 400 such institutions, a survey revealed, attempting occupational rehabilitation for more than 40,000 "clients."

Any of these institutions which are producing goods for interstate commerce are thereby under the provisions of the Fair Labor Standards Act which require payment of at least 30 cents an hour and overtime in excess of 42 hours a week at at least one and one-half times the regular rate. Section 14 of the Fair Labor Standards Act allows the Administrator to permit employment at less than this minimum in the case of handicapped workers by issuing certificates.

The Committee has made almost a year's study of the problem. The regulations provide for the issuance of certificates to such institutions allowing employment of handicapped clients at less than the 30-cents-an-hour minimum, or any wage orders applicable to type of goods being produced therein. Such certificates will be issued to all institutions found to be within the definition of "Sheltered Workshops" included in the regulations. The regulations are effective immediately but previous temporary regulations for sheltered workshops will continue in effect insofar as any institution is concerned, which prior to March 1, 1940, files a notice of intention to file a formal application and which, within

thirty days thereafter, files a formal application. Any such institution may then continue to operate under its temporary certificate until its application for a certificate has been acted on by the Division.

As defined in the regulations, a sheltered workshop is "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 occupation rehabilitating activity of an education or therapeutic nature."

The regulations define "handicapped client" as "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."

The general purpose of the recommendation is to provide for the employment of handicapped persons in charitable institutions at less pay than the minimum wages of the Fair Labor Standards Act, but at the same time, to prevent any arrangement which constitutes an unfair method of competition in interstate commerce, or which tends to spread or perpetuate sub-standard wage levels.

The regulations provide that certificated Sheltered Workshops send monthly reports to the Administrator of the Wage and Hour Division showing, among other things, the amount of cash wage payments made to each handicapped client for each week, the estimated cost to the sheltered workshop of the client's lodging and meals; and 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. Should clients work more than the current 42-hour maximum workweek, or more than 40 hours after Oct. 24, 1940, in any one workweek, the reports must show the client's regular rate of pay and the extra wage attributable to overtime.

Certificates will fix the minimum wage which the sheltered workshops must pay to clients. In cases where an individual's earning capacity for the work he is to perform is impaired to an extraordinary extent, a special certificate may authorize his employment at a lower wage rate than is established in the certificate. These certificates will not legalize the employment of any individual who is not, in fact, a handicapped client at less than the minimum wage rate applicable to the industry in which the workshop is participating.

Public hearings may be conducted, should the Administrator so decide, upon applications for certificates, cancellation of certificates, or petition for the amendment of regulations.

The Wage and Hour Division will notify the Sheltered Workshop Advisory Committee of any contemplated denial of a certificate to any institution making application for same. The Advisory Committee will be given ten days to present its view to the Administrator, or his designated representative, concerning the contemplated denial.

The recommendations of the Advisory Committee, on which the regulations made public today are based, were reached by the Committee after several meetings and conferences with Merle D. Vincent and Harold Stein, Director and Assistant Director of the Hearings Branch of the Division, Miss Louise McGuire, Senior Examiner of the Branch, Charles R. Reynolds, Jr., of the Legal Branch, and other specialists of the Division.

In addition to the Chairman, the Sheltered Workshops Committee is comprised of the following members:

Linton M. Collins
Special Assistant to the Attorney General
U. S. Department of Justice
Washington, D. C.

Gladys Dickason
Research Director
Amalgamated Clothing Workers' Union
15 Union Square
New York City

Oliver A. Friedman
Executive Secretary
Milwaukee Goodwill Industries
2102 West Pierce Street
Milwaukee, Wisconsin

Edward Hochhauser, Executive Secretary
Committee for the Care of the Jewish
Tuberculous, Inc.
71 West 47th Street
New York City

S. L. Hoffman
1350 Broadway
New York City

Louise McGuire
Secretary to the Committee
Senior Examiner, Wage and Hour Division
939 D Street, N. W.
Washington, D. C.

The Right Rev. Msgr. John O'Grady
Secretary, National Conference of Catholic
Charities
1317 - F Street, N. W.
Washington, D. C.

Edward J. Parker
Executive Secretary of the Salvation Army
120-130 West 14th Street
New York City

Peter J. Salmon, Secretary
The Industrial Home for the Blind
520 Gates Avenue
Brooklyn, New York

Colonel John N. Smith, Jr.
Director of the Institute for the
Crippled and Disabled
400 First Avenue
New York City

Robert J. Watt
American Federation of Labor
901 Massachusetts Avenue
Washington, D. C.

Alternate to Mr. Watt
Boris Shishkin
American Federation of Labor
Washington, D. C.

#####