

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

TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

PART 522 - REGULATIONS APPLICABLE TO
THE EMPLOYMENT OF LEARNERS PURSUANT
TO SECTION 14 OF THE FAIR LABOR
STANDARDS ACT OF 1938

The following Regulations - Part 522 (Regulations Applicable to the Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938) is hereby issued. These regulations repeal and supersede all regulations previously issued applicable to the employment of learners and shall become effective upon my signing the original and upon the publication thereof in the Federal Register, and shall be in force and effect until repealed by regulations hereafter made and published.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 2d day of August,
1940.



Baird Snyder,
Acting Administrator
Wage and Hour Division
U.S. Department of Labor

Published in Federal Register, August 16, 1940.

SECTION 522.1 - APPLICATION FOR LEARNERS

Application may be made by any employer to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C. to employ learners in a specified plant at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act, whenever employment of learners at such lower rate is believed necessary to prevent curtailment of employment opportunities in such plant. Separate applications must be made with respect to each plant in which the applicant desires to employ learners at a wage lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act.

SECTION 522.2 - APPLICATIONS ON OFFICIAL FORMS

All applications must be made upon official forms furnished on request by the Wage and Hour Division and must contain all information required by such forms. Any application which fails to present the information required by the form will not be considered by the Administrator or his authorized representative but will be returned to the applicant with a notation of deficiencies and without prejudice against submission of a new application. Any applicant may also submit such additional information as he may believe to be pertinent.

SECTION 522.3 - POSTING NOTICE OF APPLICATION IN PLANT

At the time of filing an application, the applicant must post a notice thereof on a form supplied by the Wage and Hour Division in a conspicuous place in each department of his plant where he proposes to employ learners at wages lower than the minimum wage applicable under Section 6 of the Fair Labor Standards Act. Such notice must contain all the information required therein and shall remain posted until such time as the application shall have been acted upon by the Administrator or his authorized representative.

SECTION 522.4 - INDUSTRY HEARING

Upon receipt of one or more applications for exemption in an industry for which no regulation has been issued, or upon request of any person or group of persons representing an industry or branch thereof, the Administrator may, if he deems it advisable, cause a hearing to be held for an industry or branch thereof to determine the need for the employment of learners at subminimum wage rates in order to prevent curtailment of opportunities for employment within the industry, to determine the occupation or occupations which require a learning period, and to determine under what limitations as to wages, time, number, proportion and length of service, special certificates authorizing the employment of learners at subminimum rates may be issued to employers for any such occupation or occupations in the industry. The hearing shall be held before the Administrator or an authorized representative. Following such hearing, the Administrator shall, by regulations, prescribe

the conditions and limitations under which special certificates shall be issued for the employment of learners in such industry or branch thereof, if he determines that there is need therefor to prevent curtailment of opportunities for employment in such industry or branch.

SECTION 522.5 - PROCEDURE UPON APPLICATION FOR SPECIAL CERTIFICATE

- A. Pursuant to the terms of industry regulations. Any application for the employment of learners in any industry or branch pursuant to the terms of regulations (or orders heretofore issued) governing the employment of learners in such industry or branch shall, if complete and sufficient on its face, be granted forthwith by the Administrator or his authorized representative to the extent necessary to prevent curtailment of opportunities for employment subject to the conditions of the industry regulations in question; otherwise, such application shall be denied without prejudice to the renewal thereof in complete and sufficient form.

- B. Procedure to be followed where no industry regulations apply. Upon receipt of any application for exemption in any industry or branch for which no industry regulation is in effect (unless the Administrator causes an industry hearing to be held), or upon receipt of any application for the employment of learners in excess of the number of percentage allowed by an industry regulation, the Administrator or his authorized representative shall:
 1. Deny the application on the ground that it fails to show:
 - (a) that the occupation or occupations specified therein require such skill as to necessitate a learning period;
or
 - (b) that such denial will result in the curtailment of opportunities for employment; or

 2. Issue immediately a Special Certificate upon the facts shown in the application and publish it in the Federal Register and by general press release a statement of the terms of the Special Certificate and a notice that for fifteen days following such publication the Administrator will receive written objections to such Special Certificate and requests for hearing from any persons interested, including but not limited to, employees, employee groups, and labor organizations. Upon receipt of written objections and requests for hearing, if adequate and detailed grounds for objection are set forth, the Administrator or his authorized representative will set the question of the affirmance or the cancellation of the Special Certificate for hearing, or will make other provisions affording the applicant and any other interested persons an opportunity to present evidence or argument and, as a result thereof, shall either affirm or cancel the Special Certificate; or

3. Hold a hearing or make other provision affording interested parties an opportunity to present evidence or argument upon the application or upon a group of applications filed by persons in the same industry presenting related issues of law or fact, and as a result thereof issue or deny Special Certificate to any or all of the applicants involved.

SECTION 522.6 - PROCEDURE FOR HEARINGS - INDUSTRY - INDIVIDUAL CERTIFICATE

Any hearing held pursuant to these regulations will be conducted by the Administrator or an authorized representative. A notice of the time, place and scope of such a hearing will be published in the Federal Register and made public by a general press release at least five days before the date of the hearing. The applicant shall in all cases be given notice by registered mail of any hearing to be held for the purpose of determining whether any Special Certificate shall be cancelled. All persons interested, including employees, employee groups, labor organizations, employers, employer groups and trade associations will be afforded an opportunity to present evidence and to be heard. The Administrator or his authorized representative may cause to be brought before him at such hearing any witness whose testimony he deems material to the matters in issue.

SECTION 522.7 - DESIGNATION OF LEARNERS IN EMPLOYER'S RECORDS

Each worker employed as a learner under a Special Certificate shall be designated as such in the payroll records kept by the employer. All persons so employed shall be listed together in a separate group in the payroll records kept by such employer.

SECTION 522.8 - PROHIBITION - FALSE EVIDENCE - PROCEDURE FOR CANCELLATION

1. Any Special Certificate shall be cancelled if it is found that it is not necessary to prevent curtailment of opportunities for employment. However, in the absence of fraud, learners already hired under a Special Certificate may be retained under the terms of the certificate if the learning period extends beyond the date on which the certificate has been cancelled.
2. Any Special Certificate shall be cancelled as of the date of issue if it is found that fraud has been exercised in obtaining the certificate or in hiring workers thereunder.
3. Any Special Certificate shall be cancelled as of the date of violation if it is found that any of its terms have been violated.
4. If it appears upon investigation or complaint that there is reasonable cause to cancel any Special Certificate, the

Administrator or his authorized representative shall, after due notice, afford all interested parties an opportunity to be heard. After such hearing, the Administrator or his authorized representative shall issue a determination as to whether the certificate shall be affirmed or cancelled.

5. No order cancelling any Special Certificate shall take effect until the expiration of the time allowed for the filing of a petition for review under Section 522.13, and, if a petition for review is filed thereunder the effective date of the cancellation shall be postponed until final action is taken on such petition, provided however, that if the cancellation order is affirmed on review, the employer shall reimburse any person employed under the Special Certificate in an amount equal to the difference between the applicable statutory minimum wage and any lesser wage paid such person subsequent to the date as of which date the Special Certificate was cancelled as provided in this section.

SECTION 522.9 - TERMS OF SPECIAL CERTIFICATES

No Special Certificate shall be applicable to more than one plant. Each Special Certificate shall specify the number or percentage of learners who may be employed under the certificate, the learning period, the time when and the wage rate at which such persons may be employed.

SECTION 522.10 - NOTICE OF ISSUANCE OF CANCELLATION OR SPECIAL CERTIFICATES

Notice of the issuance or cancellation of each Special Certificate pursuant to these regulations shall be published in the Federal Register.

SECTION 522.11 - POSTING OF SPECIAL CERTIFICATE OR CANCELLATION THEREOF

The employer shall post a copy of any Special Certificate issued to him in a conspicuous place in each department of the plant where learners are to be employed and shall also post a copy of any cancellation thereof.

SECTION 522.12 - AMENDMENT AND REVOCATION OF INDUSTRY LEARNER REGULATIONS.

The Administrator may at any time, upon his own motion or upon written request of any interested party setting forth reasonable grounds therefor, and after a hearing or other opportunity to interested persons to present their views, amend or revoke any industry regulation issued pursuant to Section 522.4 hereof.

SECTION 522.15 - APPLICATION FOR RECONSIDERATION AND PETITION FOR REVIEW

Any person aggrieved by the action of an authorized representative denying, granting, confirming, cancelling or revoking any Special Certificate

(1) may, within fifteen days after publication of the action (a) make application for reconsideration thereof by the authorized representative of the Administrator who made the decision in the first instance if it can be shown that there is additional evidence which may materially affect the decision and that there were reasonable grounds for failure to adduce such evidence in the original proceedings, or (b) file a petition for review of the decision by the Administrator or an authorized representative who has taken no part in the action which is the subject of review. Such petition must set forth grounds for the requested review. The petition will be examined by the Administrator or an authorized representative who has taken no part in the action which is sought to be reviewed.

(2) if an application for reconsideration is denied any person aggrieved by such action may, within fifteen days after publication thereof, file a petition for review.

(3) if an application for reconsideration is granted, all interested parties will be afforded an opportunity to present their views either in support of or in opposition to the matters prayed for in the application for reconsideration. Upon publication of the reconsidered determination, all interested persons may, within fifteen days thereafter, file a petition for review.

(4) if a petition for review is granted, all interested persons will be afforded an opportunity to present their views either in support of or in opposition to the matters prayed for in such petition. Action taken upon a petition for review shall be final and, except as provided in Section 522.8, shall take effect immediately upon publication.