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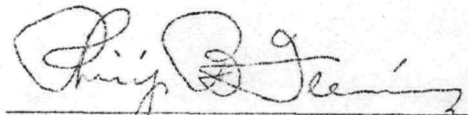
UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

SECTIONS 522.100 to 522.115 - REGU-
LATIONS APPLICABLE TO THE EMPLOYMENT
OF LEARNERS IN THE ARTIFICIAL FLOWER
AND FEATHER INDUSTRY

The following Regulations - Part 522, sections 522.100 to 522.115 (Regulations Applicable to the Employment of Learners in the Artificial Flower and Feather Industry) are hereby issued. These regulations shall become effective upon my signing the original and upon the publication thereof in the Federal Register, and shall continue in force and effect until hereafter modified.

Signed at Washington, D. C., this 22nd day of October,
1940.



Philip B. Fleming, Administrator
Wage and Hour Division
U. S. Department of Labor

Published in Federal Register, October 24, 1940.

(6030)

SECTION 522.100 - ISSUE OF SPECIAL LEARNER CERTIFICATES IN
THE ARTIFICIAL FLOWER AND FEATHER INDUSTRY

Special certificates authorizing the employment of learners at subminimum rates in the Artificial Flower and Feather Industry of persons employed as flower-makers shall be issued upon the following terms and conditions to any plant making application therefor on forms provided by the Wage and Hour Division:

- (a) 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.
- (b) Special certificates shall authorize the employment of learners at subminimum rates where experienced workers are not available in the area from which the employer customarily draws his supply of labor. Investigations of local labor market conditions shall be made when necessary with the cooperation of public employment offices, employer associations, trade unions, and by field investigations of the Wage and Hour Division. Where the information furnished with requests for special certificates or where investigations made by the Division indicate that learners have been employed in such a manner as to create unfair competitive labor cost advantages for the applicant, or to depress working standards established for experienced workers for work of a like or comparable character in the Industry, no certificate shall be issued.

SECTION 522.101 - 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 522.102 - NUMBER OR PROPORTION OF LEARNERS WHICH
MAY BE AUTHORIZED

Learners employed under the certificate shall not exceed at any one time 15 percent of the number of flower-makers, as defined in Section 522.109(b), employed in the plant; provided, however, that where the number

of flower-makers is six or less, two learners may be employed; where the number of flower-makers is more than six and less than fifteen, three learners may be employed, and where the number of flower-makers employed is fifteen or less than twenty, four learners may be employed; where the number of flower-makers is twenty or less than thirty, five learners may be employed; where the number of flower-makers is over thirty, as many as five learners or fifteen percent of the experienced flower-makers in the plant, whichever is greater, may be employed as learners.

SECTION 522.103 - OCCUPATION AT WHICH LEARNERS MAY BE EMPLOYED

Learners may be employed only in the occupation of flower-maker including the following operations: Slipping-up, heading, tying, pasting, rosemaking, branching and stemming.

SECTION 522.104 - LENGTH OF LEARNING PERIOD

No worker shall be employed as a learner under the certificate after 160 hours' experience in the occupation of flower-making including any or all of the operations listed in Section 522.103.

SECTION 522.105 - WAGE RATES TO BE PAID LEARNERS

Learners employed under special certificate shall be paid 75 percent of the minimum wage applicable to the products manufactured, pursuant to the Fair Labor Standards Act and the Administrator's Wage Orders, effective July 15, 1940. Where experienced operatives are paid piecework rates, learners shall be paid the same piecework rate and piece rate earnings if in excess of the subminimum rate. (See Section 522.115 for applicable minimum rate.)

SECTION 522.106 - DURATION OF CERTIFICATE ISSUED

A special certificate shall be valid for a period of no more than six weeks after date of issue but no learner may be employed under the certificate for more than 160 hours at less than the applicable minimum rate. No more than two such special certificates shall be issued to any one plant within any twelve-month period.

SECTION 522.107 - PLANT COVERAGE OF SPECIAL CERTIFICATE

No special certificate shall be applicable to more than one plant.

SECTION 522.108 - REVOCATION OF SPECIAL LEARNER CERTIFICATES

- (a) 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.

- (b) 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 to the extent shown in paragraphs (d) and (e) of this section.
- (c) Any special certificate may be cancelled if it is found that it is not necessary to prevent a curtailment of opportunities for employment, provided however, that where experienced workers become available after a certificate has been issued, the certificate may be cancelled insofar as future employment is concerned, or may be allowed to continue in effect, upon condition that the employer does not hire additional workers under it. In the absence of fraud or misrepresentation, learners already hired under a special certificate may be retained under its terms if the learning period extends beyond the date on which the certificate has been cancelled.
- (d) Any special certificate shall be cancelled as of the date of issue if it is found that the certificate has been obtained by fraud or misrepresentation or that learners have been employed thereunder in violation of the terms of the certificate. When a certificate has been obtained by fraud or misrepresentation, the employer shall be liable to the employee for wages established by the Act or the Administrator's Wage Orders as if no certificate had issued.
- (e) Any special certificate shall be cancelled as of the first date of violation if it is found that any of its terms have been violated, and the employer shall be liable to those employed under such certificate from the date of violation, for wages established by the Act and the Administrator's Wage Orders, as if no certificate had issued.

SECTION 522.109 - DEFINITIONS

- (a) Definition of Learner - Only learners may be employed at a sub-minimum wage under certificates issued and no learners may be employed as homeworkers. In these regulations the term learner means a person who has not been employed in the Artificial Flower and Feather Industry for more than 160 hours in the occupation of flower-maker engaged in any or all of the following operations: slipping-up, tying, pasting, head-making, rose-making, branching and stemming.
- (b) Definition of Experienced Worker - An experienced worker for the purpose of these regulations is hereby defined as a person who

has been employed in the Artificial Flower and Feather Industry as a flower-maker engaged in any or all of the operations of slipping-up, tying, pasting, head-making, rose-making, branching and stemming, for more than 160 hours within the preceding three years.

- (c) Meaning of Terms "Available" and "Experienced" as Used in Regulations - The terms "available" and "experienced" as used in these regulations shall be construed in the following manner; that experienced workers should be available within the area from where the employer customarily draws his labor supply, or that such workers have in fact made themselves available to the employer at the plant or place of employment and have signified their readiness to accept or to continue in employment. Such workers should also possess the requisite 160 hours of employment within the preceding three years and also be productive to an average degree and capable of equalling the performance of a worker of average or ordinary skill and experience. The merits of particular cases involving availability and the definition of an experienced worker, which present singular or unusual facts and circumstances will be given due consideration.
- (d) Definition of Artificial Flower and Feather Industry - The Artificial Flower and Feather Industry as used in these regulations means the manufacturing, processing and fabrication of artificial flowers, buds, foliage, fruit plants and feathers or parts thereof from any material; and the preservation and processing of natural flowers, foliage and feathers.

SECTION 522.110 - DESIGNATION OF LEARNERS ON EMPLOYERS' RECORDS

Each worker employed as a learner under a special certificate shall be designated as such on the payroll records kept by the employer. All persons so employed shall be listed together in a separate group on the payroll records kept by such employer and for each learner the occupation in which employed shall be shown.

SECTION 522.111 - REPORTS REQUIRED OF EMPLOYERS

The employer holding a special certificate shall immediately upon employment of a learner fill out and forward to the Wage and Hour Division, Washington, D. C., a special learner identification card, this form to be supplied by the Wage and Hour Division, containing information to be specified on the form identifying the learner and describing previous experience in the Industry, if any. Failure to forward such cards shall be grounds for cancellation of any special certificate.

SECTION 522.112 - NOTICE OF ISSUANCE OR CANCELLATION OF SPECIAL CERTIFICATES

Notice of the issuance or cancellation of each special certificate

pursuant to these regulations shall be published in the Federal Register.

SECTION 522.113 - 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 522.114 - 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 this regulation issued pursuant to Section 522.4 of the Regulations Applicable to the Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938.