

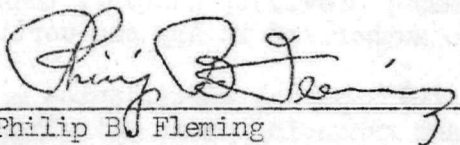
UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

PART 522 - SECTIONS 522.120 TO
522.138 - REGULATIONS APPLICABLE
TO THE EMPLOYMENT OF LEARNERS IN
THE WOOLEN INDUSTRY

The following Regulations -- Part 522, Sections 522.120 to 522.138 (Regulations Applicable to the Employment of Learners in the Woolen Industry) are hereby issued. These Regulations repeal and supersede all regulations previously issued applicable to the employment of learners in the woolen industry, and 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
Department of Labor

Published in the Federal Register
October 30, 1940.

SECTION 522.120 -- REGULATIONS APPLICABLE TO THE EMPLOYMENT OF LEARNERS
IN THE WOOLEN INDUSTRY

Special certificates authorizing the employment of learners at subminimum rates in the Woolen Industry shall be issued upon the following terms and conditions to any employer making application therefor on forms provided by the Wage and Hour Division.

SECTION 522.121 -- APPLICATIONS ON OFFICIAL FORMS

All applications must be made upon official forms, which forms will be 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 522.122 -- POSTING NOTICE OF APPLICATION IN EMPLOYER'S ESTABLISHMENT

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 establishment 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 522.123 -- NUMBER OR PROPORTION OF LEARNERS WHICH MAY BE
AUTHORIZED

(a) Special learners' certificates may be issued to employers authorizing the employment of learners to the number of three percent of the total number of production workers (not including maintenance, supervisory, shipping and clerical personnel) employed in a particular employer's establishment; provided, however, that employment of a minimum of two learners may be authorized in any one certificate.

(b) Special certificates may also be issued to employers operating new and expanding plant establishments permitting the employment of a number of learners in excess of three percent of the total number of production workers in the establishment. A "new" plant establishment, for the purpose of these Regulations, is one which is newly established and being operated for the first time, or which has not been operated more than eight months, and in which a substantial number of workers must be trained for operations on products of the plant. An "expanding" plant establishment, for the purpose of these Regulations, is one which is being expanded by the installation of additional mechanical equipment or other

production facilities.

(c) Special certificates may be issued to employers whose plants are operating on Government contract production required by the National Defense Program, authorizing the employment of learners in excess of three percent of the total number of production workers in the establishment, to the extent that such employment of learners is necessary to meet production needs resulting from said Government contract production, which needs shall be stated in the application.

SECTION 522.124 -- OCCUPATIONS AT WHICH LEARNERS MAY BE EMPLOYED AND LENGTH OF LEARNING PERIOD

Learners may be employed in the following occupations only and for a maximum number of hours not to exceed those shown herewith:

Group A
Occupations with a maximum
learning period of 320 hours

Mule Piecer
Drawer-in
Percher
Gill Box Tender
Drawing Machine Tender
Cap Spinner
Ring Spinner
Twister
Spooler
Sewer

Group B
Occupations with a maximum
learning period of 240 hours

Chain Builder
Burler
Drop Wire Hand
Winder
Reeler

SECTION 522.125 -- WAGE RATES TO BE PAID LEARNERS

Learners employed under special certificates shall be paid not less than 30 cents an hour during the learning period. If experienced workers performing the same duties in the employer's plant establishment are paid piece work rates, learners shall be paid the same piecework rates and piece rate earnings if in excess of 30 cents an hour.

SECTION 522.126 -- SPECIAL CONDITIONS AFFECTING ISSUE OF CERTIFICATES

Special certificates shall not be issued to an employer authorizing the employment of learners at subminimum rates if experienced workers are available in the area from which the employer customarily draws his supply of labor. (See Section 522.133). Investigations of local labor market conditions when necessary shall be made with the cooperation of public employment offices, employers' associations, trade unions and by field investigations of the Wage and Hour Divisions. Where the information furnished in an application or with a request for renewal of a certificate, or where investigation made by the Wage and Hour Division,

indicates 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 522.127 -- CERTIFICATES APPLICABLE TO INDIVIDUAL PLANTS

No special certificate issued shall be applicable to the employment of learners at more than one plant establishment.

SECTION 522.128 -- DURATION OF SPECIAL CERTIFICATES

Special learner certificates authorizing the employment of learners to the number of three percent of the total production workers or certificates authorizing the employment of not more than two learners shall be issued for a period of one year unless sooner revoked because an adequate supply of experienced workers are available or for other cause. Special certificates authorizing the employment of learners in excess of three percent of the total production workers or certificates authorizing the employment of not more than two learners shall be issued for a period not greater than that necessary to complete the training of the total number of additional learners required.

SECTION 522.129 -- 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 when experienced workers become available after a certificate has been issued, the certificate may be cancelled in so far as future employment is concerned, or may be allowed to continue in effect, upon condition that the employer does not hire additional learners under it until experienced workers are not again available. 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 wage orders of the Administrator issued thereunder, as if no certificate had issued.

(e) Any special certificate may 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 wage orders of the Administrator issued thereunder, as if no certificate had issued.

SECTION 522.130 -- APPLICATION FOR RECONSIDERATION AND PETITION FOR REVIEW

(a) Any person aggrieved by an action of the Administrator or his authorized representative in denying, granting, confirming, cancelling or revoking any special certificate may, within fifteen days after publication of the action (1) make application for reconsideration thereof by the Administrator or his authorized representative; or (2) file a petition for review of the decision by the Administrator or an authorized representative of the Administrator who has taken no part in the action which is the subject of review. Such petition must set forth grounds for the requested review.

(b) 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.

SECTION 522.131 -- DEFINITION OF A LEARNER

Only learners may be employed at a subminimum wage under special certificates issued. In these Regulations the term "learner" means a person who has not been employed in the Woolen Industry for more than 320 hours in any of the occupations listed in Group A or for more than 240 hours in any of the occupations listed in Group B as shown in Section 522.124. A worker who has had total employment in the Woolen Industry in excess of the permissible learner hours in any one of the learner occupations may not be transferred to another learner occupation and there be employed as a learner under a special certificate.

SECTION 522.132 -- DEFINITION OF AN EXPERIENCED WORKER

An experienced worker for the purpose of these Regulations is hereby defined as any person who has been employed in the Woolen Industry in any of the occupations listed in Group A for more than 320 hours or in any of the occupations listed in Group B for more than 240 hours as listed in Section 522.124.

SECTION 522.133 -- MEANING OF TERMS "AVAILABLE" AND "EXPERIENCED"
AS USED IN THESE 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 which 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, in order to be considered available for employment, also possess the requisite number of hours of employment experience to qualify as experienced as defined in Section 522.132, 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 experienced worker, which present singular or unusual facts and circumstances, will be given due consideration.

SECTION 522.134 -- DESIGNATION OF LEARNERS ON EMPLOYERS' RECORDS

Each worker employed as a learner under a special certificate shall be designated as such on the pay roll records kept by the employer. All persons so employed shall be listed together in a separate group on the pay roll records kept by the employer and for each learner the occupation in which employed shall be shown, in addition to other information required by the Record Keeping Regulations, Part 516.

SECTION 522.135 -- NOTICE OF ISSUANCE OR CANCELLATION OF SPECIAL CERTIFICATE

Notice of the issuance or cancellation of each special certificate pursuant to these Regulations shall be published in the Federal Register.

SECTION 522.136 -- 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 522.137 -- DEFINITION OF THE WOOLEN INDUSTRY

The definition of the term "Woolen Industry" for the purpose of these Regulations shall be the same as that used in the Administrator's Wage Order for the Woolen Industry as published in the Federal Register May 15, 1940.

SECTION 522.138 -- 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.