

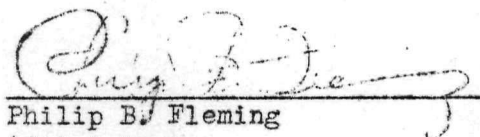
UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

TITLE 29 - LABOR
CHAPTER V - WAGE AND HOUR DIVISION

PART 522 - SECTIONS 522.140 TO
522.159 - REGULATIONS APPLICABLE
TO THE EMPLOYMENT OF LEARNERS IN
THE TEXTILE INDUSTRY

The following regulations - Part 522, Sections 522.140 to 522.159 (Regulations Applicable to the Employment of Learners in the Textile Industry) are hereby issued. These Regulations repeal and supersede all regulations previously issued applicable to the employment of learners in the Textile 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 7 day of
May, 1941.



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

Published in Federal Register, May 15, 1941

SECTION 522.140--REGULATIONS APPLICABLE TO THE EMPLOYMENT OF LEARNERS IN THE
TEXTILE INDUSTRY

Special certificates authorizing the employment of learners at subminimum rates in the Textile Industry, except in the Novelty Curtain Branch, may be issued upon the following terms and conditions to any employer making application therefor on forms provided by the Wage and Hour Division.

SECTION 522.141--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 522.142--POSTING NOTICE OF APPLICATION IN EMPLOYERS 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 plant 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 522.143--NUMBER OR PROPORTION OF LEARNERS WHICH MAY BE AUTHORIZED

(a) Special learners' certificates may be issued if experienced workers are not available, to meet the demands of normal labor turnover, authorizing the employment of learners to the number of three percent of the total number of machine operators, machine tenders, machine fixers and persons engaged in jobs immediately incidental thereto (not including sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors and truckers and employees in the shipping department) employed in a particular employer's plant establishment; or authorizing the employment of a minimum of three learners, whichever is greater; provided, however, that special certificates may be issued if experienced workers are not available, to employers in the Tufted Bedspread Division of the Industry authorizing the employment of learners to the number of five percent of the chenille and punchwork operators employed in a particular employer's plant, or authorizing the employment of a minimum of five learners, whichever is greater; and provided, further that special certificates may be issued if experienced workers are not available, to employers in the Silk Throwing Division of the Industry authorizing the employment of a minimum of three learners in plants employing 30 or fewer employees engaged in learner occupations and authorizing the employment of a minimum of five learners in plants having 31 or more employees engaged in learner occupations.

(b) Special certificates may also be issued to employers operating new or expanding plant establishments authorizing the employment of a number of learners in excess of that specified in paragraph (a) of this section to the extent of need;

provided, that special certificates shall not be issued when it appears that experienced workers are available to the employer, or that the issue of a special certificate will create unfair competitive labor cost advantages, or will impair or depress working standards established for experienced workers for work of a like or comparable character in the industry. 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 operation 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, by again placing into operation machinery which has been idle for an appreciable period or by adding an additional shift.

SECTION 522.144--OCCUPATIONS AT WHICH LEARNERS MAY BE EMPLOYED

Special certificates issued to employers in divisions of the Textile Industry, other than the Tufted Bedspread Division, will authorize the employment of learners at subminimum wage rates in the Textile occupations of machine operator, machine tender, or machine fixer, and jobs immediately incidental thereto. Special certificates issued to employers in the Tufted Bedspread Division of the Industry will authorize the employment of learners at subminimum wage rates in the occupations of punchworker and chenille machine operator. However, no certificate authorizing the employment of learners in the Textile Industry shall be deemed to authorize the employment as learners of workers engaged in the following, or similar, processes or occupations: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, shipping employees.

SECTION 522.145--LENGTH OF THE LEARNING PERIOD

No learner shall be employed under a special certificate longer than 240 hours; provided, that in the Tufted Bedspread Division of the Textile Industry no learner shall be employed under a special certificate longer than 320 hours as a chenille machine operator or longer than 640 hours as a punchwork operator; and provided, further, that in the Silk Throwing Division of the Industry no learner shall be employed under a special certificate longer than 480 hours.

SECTION 522.146--WAGE RATES TO BE PAID LEARNERS

Learners employed under special certificates shall be paid not less than 25 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 piece work rates as said experienced workers and piece rate earnings if in excess of 25 cents an hour.

SECTION 522.147--SPECIAL CONDITIONS AFFECTING ISSUE OF CERTIFICATES

Special certificates shall not be issued to an employer authorizing the employment of learners at subminimum wage rates if experienced workers are available in the area from which the employer customarily draws his supply of labor. (See Section 522.154). 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 Division. 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 522.148--CERTIFICATES APPLICABLE TO INDIVIDUAL PLANTS

No special certificate issued shall be applicable to the employment of learners at more than one plant establishment. Where one plant establishment occupies several adjacent buildings in the same community and the workers in these adjacent buildings are all engaged in the various processes entering into the chief products manufactured, said workers shall be regarded as employees of the same plant establishment for the purposes of these Regulations; otherwise, said workers shall be deemed to be employees of two or more plant establishments.

SECTION 522.149--DURATION OF SPECIAL CERTIFICATES

Special learner certificates, authorizing the employment of learners to the numbers specified in paragraph (a) of Section 522.143, shall be issued for a period of one year, unless sooner revoked because an adequate supply of experienced workers are available, or for other causes. Special certificates issued in accordance with the provisions of paragraph (b) of Section 522.143 shall be issued for a period not greater than that necessary to complete the training of the total number of additional learners required.

SECTION 522.150--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 either orally or, where it appears more equitable not to cause such parties to attend a formal hearing, in writing. 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 522.151, 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 insofar 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 fraudulently 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 employees for wages established by the Act or the wage orders of the Administrator thereunder, 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, except where the violation is deemed to be of minor nature by the Division, 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 522.151--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 or other notification 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 or other notice thereof, file a petition for review.

SECTION 522.152--DEFINITION OF A LEARNER

Only learners may be employed at subminimum wage rates under special learner certificates. In these Regulations, the term "learner" means a person who has not been employed in the learner occupation and branch of the Textile Industry, (excluding the Tufted Bedspread Division of the Industry) for which he is to be trained for more than 240 hours as a machine operator, tender, fixer, or jobs immediately incidental thereto, or for more than 480 hours in these occupations in the Silk Throwing Division of the Industry, or who has not been employed in the Tufted Bedspread Division of the Industry for more than 320 hours as a chenille machine operator or for more than 640 hours as a punchwork operator; provided, that no certificate authorizing the employment of learners in the Textile Industry shall be deemed to authorize the employment as learners of any workers engaged in the following, or similar processes or occupations: sweepers, scrubbers, yard employees, watchmen, clerical workers and supervisors, timekeepers, machine cleaners, janitors, truckers, shipping employees. A worker who has had total employment in the Textile Industry in excess of the permissible learner hours in any one of the learner occupations may not be transferred within the plant in which he is employed to another learner occupation and there be employed as a learner under a special certificate.

SECTION 522.153--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 learner occupation and branch for more than 240 hours during the past three years in the learner occupation of the

Textile Industry in which he is to be employed, or in a learner occupation in the Textile Industry involving skills similar to those involved in the learner occupation in which he is to be employed; provided, that in the Silk Throwing Division of the Industry an experienced worker is defined as any person who has been employed in any learner occupation in this Division for 480 hours or more during the past three years; and provided, further, that in the Tufted Bedspread Division of the Industry an experienced worker shall be defined as any person who has been employed in said Division of the Industry as a chenille machine operator for more than 320 hours or as a punchwork operator for more than 640 hours during the past three years.

SECTION 522.154--MEANING OF TERM "AVAILABLE" AS USED IN THESE REGULATIONS

The term "available" 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 establishment or place of employment and have signified their readiness to accept and to continue in employment. Such workers should also possess the requisite number of hours of employment experience to qualify as available as defined in Section 522.153, and also be capable of equaling the performance of a worker of ordinary or minimum skill and experience. The merits of particular cases involving availability, which present singular or unusual facts and circumstances, will be given due consideration.

SECTION 522.155--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 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. The employer shall also maintain a record of the previous employment experience in the Textile Industry, if any, of each learner employed by him, which record shall show for each learner the dates of previous employment, the occupation or occupations in which the learner was engaged during such previous employment, and the type of products produced during said previous employment.

SECTION 522.156--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 522.157--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 522.158--DEFINITION OF THE TEXTILE INDUSTRY

The definition of the term "Textile Industry" for the purpose of these Regulations shall be the same as that used in the Administrator's Wage Order for the Textile Industry as published in the Federal Register September 30, 1939.

SECTION 522.159--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 Regulation applicable to the Employment of Learners Pursuant to Section 14 of the Fair Labor Standards Act of 1938.