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TITLE 29, CHAPTER V
CODE OF FEDERAL REGULATIONS

Part 523

**Regulations Applicable to
Employment of Messengers**

Pursuant to Section 14

of the Fair Labor Standards Act of 1938

(52 Stat. 1060)

NOVEMBER 1938



UNITED STATES DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

Regulations
Applicable to Employment of Messengers
Pursuant to Section 14 of
the Fair Labor Standards Act¹

Section 523.1.—Application for messengers.

Application may be made to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C., to employ messengers to be engaged exclusively in delivering letters and messages at a wage lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act of 1938 whenever employment at such lower rate is necessary to prevent curtailment of employment opportunities.

Section 523.2.—Applications by groups or individuals.

Such application may be filed by an employer or employee or group of employers or employees. Preferential consideration will be given, however, to applications filed by groups or organizations which are deemed to be representative of the interests of a whole industry or branch thereof.

Section 523.3.—Consideration on basis of industry.

All applications filed under these regulations will be considered and acted upon on the basis of the needs of the employees and employers in the industry as a whole rather than on the basis of the needs of individual employees or employers in the industry.

Section 523.4.—Information in applications.

The application shall—

- (a) Identify the industry in which messengers, to be engaged exclusively in delivering letters and messages, are requested to be employed at a wage lower than those applicable under section 6;
- (b) Set forth the proposed hourly wage rate at which messengers will be compensated;
- (c) State why messengers should be employed at a wage less than those applicable under section 6; and
- (d) Include any other information believed to be pertinent.

¹ Issued under the authority contained in section 14, 52 Stat. 1060.

Section 523.5.—Hearings.

A hearing will be held before the Administrator or his authorized representative on such application at which all interested parties will be afforded an opportunity to present evidence and to be heard. A notice of the time, place, and scope of the hearing will be published in the Federal Register and made public by a general press release at least 5 days before the date of such hearing.

Section 523.6.—Witnesses.

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 523.7.—Burden of proof on applicants.

The applicant or applicants shall have the burden of showing at such hearing that the minimum wage applicable under section 6 will curtail employment opportunities for messengers in the industry designated in the application.

Section 523.8.—Further regulations for certificates.

If upon the hearing the Administrator or his authorized representative determines that a lower wage rate than the rate applicable under section 6 is necessary to prevent curtailment of employment opportunities, the Administrator will issue rules and regulations providing for the employment of messengers in the industry under special certificates at such lower wage (subject to such limitations as to time, number, proportion and length of service) as the Administrator or his authorized representative has found to be necessary on the basis of the evidence presented at the hearing.

Section 523.9.—Petition for review.

Any person aggrieved by the action of an authorized representative of the Administrator under these regulations may within 15 days after the action of such representative file a petition with the Administrator requesting a review by the Administrator of the action of the representative. If the request for review is granted, all interested parties will be afforded an opportunity to be heard either in support or in opposition to the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the Federal Register and made public by general press release at least 5 days before the date of such hearing.

Section 523.10.—Petition for amendment of regulations.

Any person wishing a revision of any of the terms of the foregoing regulations applicable to messengers may submit in writing to the Administrator a petition setting forth the changes desired and

