

(g) The terms of any certificate, including the wage rate(s) specified therein, may be amended by the Administrator or his authorized representative upon written notice to the parties concerned, if the facts justify such amendment.

§ 524.9 Renewal of a certificate.

(a) Application for renewal of any certificate shall be filed in the same manner as an original application.

(b) If an application for renewal has been properly and timely filed prior to the expiration date of a certificate, the certificate shall remain in effect until the application for renewal has been granted or denied.

§ 524.10 Records to be kept.

Every employer who employs a handicapped worker or handicapped trainee pursuant to these regulations shall keep, maintain, and have available for inspection by the Administrator or his authorized representative a copy of the certificate and all other records required under the applicable provisions of Part 516 (recordkeeping regulations) of this chapter.

§ 524.11 Review.

Any person aggrieved by an action of an authorized representative of the Administrator taken pursuant to this part may, within 15 days after such action, file with the Administrator a petition for review of the action complained of, setting forth grounds for seeking review. If such review is granted, the Administrator or an authorized representative who took no part in the action under review may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

§ 524.12 Issuance of certificates for experimental purposes.

In addition to the issuance of certificates as provided in §§ 524.1 to 524.11, the Administrator may authorize the issuance of certificates to permit employment of handicapped workers at less than the applicable minimum wage under section 6 of the Act as part of experimental programs to increase employment opportunities for such workers. Such certificates shall be issued in such types of cases and on such terms and conditions within the scope of section 14(d) of the Act as the Administrator shall determine will best further any such experimental programs.

§ 524.13 Amendment of this part.

The Administrator may at any time upon his own motion or upon written request of any interested person setting forth reasonable ground therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of this part.

PART 525—EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

Sec.	
525.1	Applicability of regulations.
525.2	Definitions.
525.3	Advisory Committee on Sheltered Workshops.
525.4	Application for a special certificate for a workshop.
525.5	Application for a special certificate for a training or evaluation program.
525.6	Application for a special individual rate.
525.7	Criteria for consideration in issuance of a special certificate.
525.8	Issuance of special certificates.
525.9	Terms and conditions of special certificates.
525.10	Renewal of special certificates.
525.11	Staff workers in sheltered workshops.
525.12	Industrial homework.
525.13	Records to be kept.
525.14	Cancellation of a special certificate.
525.15	Review.
525.16	Submission of information, investigations, and hearings.
525.17	Relation to other laws.
525.18	Issuance of certificates for experimental purposes.
525.19	Amendment of this part.

AUTHORITY: The provisions of this Part 525 issued under sec. 14, 52 Stat. 1068, as amended; 29 U.S.C. 214, unless otherwise noted.

SOURCE: The provisions of this Part 525 appear at 33 F.R. 10488, July 23, 1968, unless otherwise noted.

§ 525.1 Applicability of regulations.

The Fair Labor Standards Amendments of 1966 (Public Law 89-601, 80 Stat. 830) among other things, makes substantial revision in the provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201) for the employment of handicapped persons at special minimum wages. This provision is now codified at section 14(d) of that Act. It reads as follows:

(d) (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection,

the Secretary of Labor, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulation or order provide for the employment under special certificates of individuals (including individuals employed in agriculture) whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, at wages which are lower than the minimum wage applicable under section 6 of this Act but not less than 50 per centum of such wage and which are commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work.

(2) The Secretary, pursuant to such regulations as he shall prescribe and upon certification of the State agency administering or supervising the administration of vocational rehabilitation services, may issue special certificates for the employment of—

(A) Handicapped workers engaged in work which is incidental to training or evaluation programs, and

(B) Multihandicapped individuals and other individuals whose earning capacity is so severely impaired that they are unable to engage in competitive employment, at wages which are less than those required by this subsection and which are related to the worker's productivity.

(3) (A) The Secretary may by regulation or order provide for the employment of handicapped clients in work activities centers under special certificates at wages which are less than the minimums applicable under section 6 of this Act or prescribed by paragraph (1) of this subsection and which constitute equitable compensation for such clients in work activities centers.

(B) For purposes of this section, the term "work activities centers" shall mean centers planned and designed exclusively to provide therapeutic activities for handicapped clients whose physical or mental impairment is so severe as to make their productive capacity inconsequential.

Authority to make the regulations and issue the certificates referred to in section 14(d) has been delegated by the Secretary to the Administrator (General Order No. 45-A of the Secretary of Labor (15 F.R. 3290)). The regulations in this Part 525 govern all certificates and employment pursuant to certificates authorizing special minimum wages for handicapped workers in sheltered workshops. These include some of the certificates which may be issued under paragraph 14(d)(1) of the Act authorizing employment of handicapped workers at wages which are lower than the minimum wage applicable under section 6 of the Act but not less than 50 per centum of such wage. Other certificates of this description authorizing the employment

of handicapped persons at special minimum wages are issued pursuant to Part 524 of this chapter for the employment of such persons in competitive employment. The regulations in this Part 525 govern all of the certificates and employment pursuant to certificates issued under paragraphs (2) and (3) of section 14(d) authorizing employment of handicapped workers at special minimum wages which are less than 50 per centum of the minimum wage applicable under section 6 of the Act.

§ 525.2 Definitions.

(a) "Administrator" means the Administrator of the Wage and Hour Division, U.S. Department of Labor.

(b) "Sheltered workshop" or "workshop" means a charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for handicapped workers, and/or providing such individuals with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature.

(c) "Work activities center" shall mean a workshop, or a physically separated department of a workshop having an identifiable program, separate supervision and records, planned and designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic activities include custodial activities (such as activities where the focus is on teaching the basic skills of living), and any purposeful activity so long as work or production is not the main purpose. No sheltered workshop or separate department thereof shall qualify as a work activities center if the average productivity per handicapped worker is \$850 or more per year as measured by dividing the total annual earned income of the work program, less the cost of purchased materials used, by the average number of clients in the work program, or, if wage payments are primarily at piece rates, the average annual labor rate per client is \$600 or more as measured by dividing the total annual wages of the clients by the average number of clients in the work program. (The average number of clients shall be determined by taking the average of the total number of clients in the work pro-

gram on the last day of each quarter in the previous fiscal year, provided such average is representative of the average number of clients employed during the entire year.) No individual worker whose productivity substantially exceeds this average shall be employed at less than the statutory minimum wage under a work activities center certificate. (A handicapped worker, whose productivity substantially exceeds the average, may be certificated under Regulations, Part 524 of this chapter, in rare and unusual cases where necessary to avoid extreme hardship, if he is unable to earn the statutory minimum because of his handicap, and if his production and earnings are included in the averages provided in this paragraph.) Where information is not available for a year, a temporary certificate for not more than 6 months may be issued based on the limited information available, if it is represented that the center expects and has good reason to believe that the conditions hereinabove specified will be satisfied when 1 year's data are available. Information to be considered will include the severity of disability of the handicapped workers employed, or other pertinent factors.

(d) "Handicapped worker" or "client" means an individual whose earnings capacity is impaired by age or physical or mental deficiency or injury, and who is being served in accordance with the recognized program of a sheltered workshop within the facilities of such agency or in or about his home.

(e) "State agency" shall mean the State agency which administers or supervises the administration of vocational rehabilitation services in any State of the United States, the District of Columbia, or any territory or possession of the United States.

(f) "Training program" means a program of not more than 12 months duration, except that longer periods may be approved in unusual circumstances, designed to (1) develop the patterns of behavior which will help a client adjust to a work environment, or (2) teach the skills and knowledge related to a specific occupational objective of a job family, and which meets State agency or equivalent standards.

(g) "Evaluation program" means a program of not more than 6 months duration, except that longer periods may be approved in unusual circumstances, using the medium of work to determine

a client's potential, and which meets State agency or equivalent standards.

(h) "Act" means the Fair Labor Standards Act of 1938, as amended.

§ 525.3 Advisory Committee on Sheltered Workshops.

(a) The Advisory Committee on Sheltered Workshops appointed periodically by the Secretary of Labor shall advise and make recommendations to the Administrator concerning the administration and enforcement of this part and the need for amendments thereof from time to time and for such other purposes as may be desired by the Administrator.

(b) The Administrator or his authorized representative may notify the Advisory Committee on Sheltered Workshops prior to the denial or cancellation of any special certificate under § 525.8, § 525.10, or § 525.14 and may afford the Committee 15 days, or such additional time as he may allow, to present its views. The Administrator or his authorized representative may also afford the Committee an opportunity to present its views in connection with any petition for review filed under § 525.15, any hearing held under § 525.16, or any petition for amendment of this part filed under § 525.19.

§ 525.4 Application for a special certificate for a workshop.

(a) Application for a special certificate for a workshop, including a work activities center, may be filed by any sheltered workshop with the Regional or District Director of the administrative region or district of the Wage and Hour Division, U.S. Department of Labor, in which the workshop is located. Application forms may be obtained from the appropriate Regional or District Director.

(b) The application shall contain answers to all of the questions presented on the form, including, among other things, a description of the nature of the disabilities of the persons served by the workshop, a description of the types of employment and the program provided by the workshop, and the earnings of each handicapped worker engaged in work covered by the Act.

(c) The application shall be signed by the president of the board of directors and a duly authorized officer of the workshop.

(d) A workshop newly applying for a certificate, which does not have indi-

vidual earnings records on which to establish an appropriate certificate rate, may be issued a temporary certificate under the terms and conditions applicable to work activities centers if it meets all of the requirements in the definition provided in § 525.2(c) and presents satisfactory evidence that all of its clients will be compensated at wages which are equitable compensation for them.

§ 525.5 Application for a special certificate for a training or evaluation program.

(a) Application for a special certificate for training or evaluation programs may be filed by a sheltered workshop with the appropriate Regional or District Director. Application forms may be obtained from the appropriate Regional or District Office.

(b) The application shall contain answers to all of the questions on the form, including, among other things, evidence of State agency certification that the workshop operates a training or evaluation program as defined in § 525.2 (f) and (g), a description of the services to be rendered, the earnings of the trainees and evaluatees engaged in work covered by the Act, and the results obtained with trainees and evaluatees who have participated in the programs during the previous year.

(c) The application shall be signed by the president of the board of directors and a duly authorized officer of the workshop.

§ 525.6 Application for a special individual rate.

(a) A workshop may apply with the appropriate Regional or District Director at the time of applying for a certificate, or during the life of a certificate, for an individual rate for a handicapped worker who is unable to earn the applicable certificate rate. Application forms may be obtained from the appropriate Regional or District Office.

(b) The application shall contain answers to all of the questions presented on the form, including, among other things, information on the nature of the individual's disability, the extent to which it impairs his earning capacity; and justification for a lower individual rate based on productivity records maintained as required under § 525.13(b).

(c) In the case of a request for an individual rate below 50 percent of the

statutory minimum applicable under section 6 of the Act, the application in addition shall contain evidence of State agency certification that the individual's earning capacity is so severely impaired that he is unable to engage in competitive employment. Such certification shall be based on an evaluation report made upon recent completion or shortly before such completion of an evaluation or training program as defined in § 525.2 (f) or (g). If an adequate application for an individual rate below 50 percent of the statutory minimum is filed prior to the expiration of the certificate authority of the evaluation or training program, that certificate authority will be continued for the applicant until action is taken on the application. For clients entering a regular work program from a work activities center, a productivity report as required by § 525.13(b) covering the most recent 3-month employment period constitutes an acceptable evaluation report. The requirement that an individual complete a recognized evaluation or training program will be waived until January 31, 1969, for any person employed by the applicant workshop prior to February 1, 1967: *Provided:* (1) Other suitable information is furnished for State agency certification; and (2) the workshop furnishes the Regional or District Director a satisfactory progress report by January 31, 1968, of plans for providing evaluation or training for those persons receiving State agency certification without having completed such programs.

§ 525.7 Criteria for consideration in issuance of a special certificate.

(a) The following criteria may be considered by the Administrator or his authorized representative in determining the necessity of issuing a special certificate and the conditions to be specified therein:

(1) The present and previous earnings of handicapped workers of the workshop engaged in work covered by the Act;

(2) Whether the individual handicapped workers are being paid wages commensurate with those paid nonhandicapped workers in industry in the vicinity for essentially the same type, quality, and quantity of work;

(3) The nature and extent of the disabilities of individuals served by the workshop;

(4) The wages of nonhandicapped employees employed in private industry

engaged in work comparable to that performed in the workshop;

(5) The types and duration of medical, education, therapeutic, social work, and other rehabilitative services given to handicapped workers;

(6) The extent to which the handicapped workers share, through wages, in the receipts for work done in the workshop;

(7) The extent to which the handicapped workers may be learners or otherwise inexperienced;

(8) The extent to which earned operating income, other than normal depreciation allowances, is used for capital expenditures for equipment, buildings, or expansion of activities in situations where the adequacy of the wage rates proposed by the workshop cannot clearly be established;

(9) Whether there exists any workshop-customer arrangement or sub-contract agreement which constitutes an unfair method of competition in commerce and which tends to spread or perpetuate substandard wage levels;

(10) Whether, in the case of non-government operated workshops, the organization has obtained an exemption under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and has registered as a nonprofit organization with the appropriate State or local agencies providing for such registration.

(b) In addition, the following criteria will be considered in determining the advisability of issuing a special certificate for a training or evaluation program: (1) Whether there is competent instruction or supervision; (2) whether there is a written curriculum and plan of procedures designed to obtain the objectives of the program; (3) whether there are written records made at periodic intervals of not more than 3 months, showing progress of individual clients; and (4) whether in the case of a training program, there is a progression of rate increases as the trainee successfully advances through the steps of the program. The progression of rate increases should be geared to at least the statutory minimum wage if the worker is being trained for competitive employment, or to at least the certificate rate if he is being trained for workshop employment.

§ 525.8 Issuance of special certificates.

(a) Upon consideration of the criteria specified in § 525.7 and if the require-

ments of this Part 525 are satisfied, the Administrator or his authorized representative may issue a special certificate.

(b) If a special certificate is issued, a copy shall be sent to the workshop. If denied, the workshop shall be notified in writing of the denial and the reasons therefor.

(c) A special certificate may be issued for the entire workshop, a department of the workshop, a work activities center, a training or evaluation program, and individual handicapped worker or any combination thereof.

(d) No special certificate will be issued pursuant to this Part 525 when abnormal labor conditions, such as a strike, a lock-out, or other similar condition, exists at the workshop for which such certificate is requested.

§ 525.9 Terms and conditions of special certificates.

(a) A special certificate shall specify the terms and conditions under which it is granted.

(b) A special certificate shall apply to every handicapped worker in the sheltered workshop or department thereof, for which the special certificate is granted.

(c) A special certificate shall be effective for a period to be designated by the Administrator or his authorized representative. Handicapped workers may be paid wages lower than the statutory minimum only during the effective period of a special certificate.

(d) Except for special certificates for work activities centers and for training or evaluation programs, and unless a lower special individual wage has been authorized on the basis of an application under § 525.6(c), a special certificate shall provide a minimum wage, or different minimum wages for different departments, but none of them shall be less than 50 percent of the minimum wage applicable under section 6 of the Act. It may provide a minimum wage lower than the applicable workshop or department rate, but not less than 50 percent of the minimum wage applicable under section 6 of the Act, for a specified period(s), designated as "learning period(s)." Such rate may apply during the specified learning period(s) to a handicapped worker who has never previously worked in the workshop, or who is transferred to a skilled or semiskilled job in the workshop at which he has never previously worked, or who has returned to

the workshop after such period of separation as would require relearning.

(e) A special certificate issued to a work activities center or for a training or evaluation program need not set a minimum wage (other than required in paragraphs (f) and (g) of this section).

(f) The wage rates paid handicapped workers working at time rates shall be commensurate with those paid nonhandicapped workers in the vicinity in industry maintaining approved labor standards for essentially the same type, quality, and quantity of work.

(g) (1) The wage rates paid handicapped workers working at piece rates shall not be less than prevailing piece rates paid nonhandicapped employees in the same work in the vicinity in industry maintaining approved labor standards. In the absence of industry piece rates, time studies or other tests may be used by the workshop to establish piece rates. Such time studies should be made with nonhandicapped persons, although handicapped workers may be used in those situations where they are not handicapped for the type of work being tested and their production is comparable to that of nonhandicapped persons of average ability. The base hourly rate used in making time studies must be not less than the prevailing rate in industry for work requiring similar skill.

(2) Each handicapped worker working at piece rates must be paid his full piece-rate earnings. Pooling of earnings is not permitted except where piece rates cannot be established for each individual worker, e.g., in a team operation where each worker's individual contribution to the finished product cannot be separately tallied.

(h) A special certificate may provide a lower individual minimum wage for a handicapped worker unable to earn the workshop or applicable department minimum wage. Such individual minimum wage may not be set at less than 50 percent of the minimum wage applicable under section 6 of the Act, except for a handicapped worker whose earning capacity is so severely impaired that he is unable to engage in competitive employment as certified by a State agency. The individual minimum wage for a handicapped worker so certified may not be less than 25 percent of the minimum wage applicable under section 6 of the Act.

(i) Handicapped workers in the workshop shall be paid not less than one and one-half times the regular rate for all work in excess of the minimum work-week applicable under section 7 of the Act.

(j) A special certificate shall provide that the workshop may not compete unfairly in obtaining subcontract work or in the sale of its products.

(k) No worker or client shall be hired under a certificate issued under these regulations while abnormal labor conditions, such as a strike, a lock-out, or other similar condition, exists in the workshop.

(l) Each handicapped worker in a workshop shall be informed promptly and in writing of the certificate rate applicable to him and of the terms of the certificate. Such information may be provided by a notice in the handicapped worker's pay envelope, or other suitable method.

(m) The terms of any special certificate may be amended for cause, upon request of the sheltered workshop or handicapped worker, or upon the initiative of the Administrator or his authorized representative.

§ 525.10 Renewal of special certificates.

(a) Application may be filed for renewal of any special certificate.

(b) If an application for renewal has been properly and timely filed prior to the expiration date of a special certificate, the certificate shall remain in effect until the application for renewal has been granted or denied.

(c) Handicapped workers may be paid wages less than the statutory minimum after notice that the application for renewal has been denied, if review of such denial is requested in accordance with § 525.15: *Provided, however,* That if the denial is affirmed on review, the sheltered workshop shall reimburse any person covered by the special certificate in an amount equal to the difference between the applicable minimum wage and any lower wage paid such person subsequent to the effective date of denial.

[33 F.R. 10488, July 23, 1968, as amended at 36 F.R. 5787, Mar. 27, 1971]

§ 525.11 Staff workers in sheltered workshops.

No individual who is not a handicapped worker or client within the meaning of § 525.2(d) shall be employed under any special certificate issued pursuant to this

part at wages lower than the minimum required under section 6 of the Act. Staff jobs are clearly identified as such where the duties include supervision of others or a high degree of responsibility such as office manager, bookkeeper, or truck driver, except that truck drivers may be considered as clients in workshops serving alcoholics where it is the practice to select drivers (also called crew leaders) from among the handicapped workers. Some jobs, such as some office and telephone soliciting jobs, are not clearly either staff or client jobs and may be filled by either depending on the policy and practices of the workshop. Where handicapped worker status is indicated for such borderline workers on an application substantiating information may be requested, such as evidence of the use of screening procedures which are ordinarily required for handicapped workers, such as a medical examination, psychological and aptitude testing, etc., the use of rehabilitation services offered by the workshop, and an attempt by the workshop to place the worker in industry.

§ 525.12 Industrial homework.

A special certificate issued pursuant to this part, except one for a work activities center, authorizes a sheltered workshop to employ a handicapped worker in or about a home, apartment, tenement, or room in a residential establishment, without the necessity of obtaining a special industrial homeworker's certificate for such person under regulations of the Administrator governing the employment of industrial homeworkers; nor shall it be necessary for a sheltered workshop to obtain a special industrial homeworker's certificate for handicapped workers working in or about a home, apartment, tenement, or room in a residential establishment, who are earning the minimum required under section 6 of the Act.

§ 525.13 Records to be kept.

Every sheltered workshop shall maintain and have available for inspection by the Administrator or his authorized representative records of:

(a) Disability, which show the nature of the handicapped worker's disability. Nonobvious disabilities must be substantiated by medical or psychiatric reports or results of psychological tests, as appropriate.

(b) Productivity, which show the productivity of each handicapped worker on

a continuing basis or at periodic intervals not exceeding 6 months. Piece rate or other records which show productivity on a continuing basis must also show the average expected production for a nonhandicapped person and either the piece rate paid in commercial industry or the average expected earnings of a nonhandicapped person for the production shown. Where productivity is measured by means of progress reports, records must relate the worker's performance to that of a nonhandicapped person receiving the prevailing wage in industry for similar work or work requiring similar skills. Records of time studies made to establish piece rates must be kept.

(c) Learning periods, when such periods are authorized by the certificate, which show the daily hours worked by each handicapped worker during the learning period(s), and the cumulative total of such hours.

(d) When evaluation or training periods are authorized by the certificate, records designating which workers are evaluatees and which are trainees, and the total period of time they have been in such a category.

(e) When a sheltered workshop holds both a work activity center certificate and a regular program certificate, records showing which workers are under each certificate.

(f) Records showing the handicapped workers for whom special individual rates have been authorized.

(g) Pricing of work, which show that part of the unit prices which are allocated to direct labor (labor rate) and the average expected earnings of nonhandicapped workers at a normal expected production rate. Records of time studies made to establish prices must be kept.

(h) Documents relating to State agencies' certification including copies of training or evaluation agreements, authorizations for extensions of such periods, progress reports made during such periods, and evaluation of other reports on which a judgment relating to certification was made.

(i) In addition, the records required under all of the applicable provisions of Part 516 of this chapter, except that any provision pertaining to homeworker's handbooks shall not be applicable to handicapped workers of a sheltered workshop working in or about a home, apartment, tenement, or room in a residential establishment.

(j) Every sheltered workshop having workers who are entitled to benefits under the Act shall at all times post a poster, as prescribed by the Administrator, in a conspicuous place in the workshop where it may be observed readily by the handicapped workers and other workers in the workshop.

(k) Records required by this § 525.13 shall be preserved for a period of at least 2 years.

(Sec. 11, 51 Stat. 1066, as amended; 29 U.S.C. 211)

§ 525.14 Cancellation of a special certificate.

(a) The Administrator or his authorized representative may cancel any special certificate for cause. A special certificate may be canceled (1) as of the date of issuance, if it is found that fraud has been exercised on obtaining the special certificate or in permitting a handicapped worker to work thereunder; (2) as of the date of violation, if it is found that any of the provisions of the Act or of the terms of the special certificate have been violated; or (3) as of the date of notice of cancellation, if it is found that the special certificate is no longer necessary in order to prevent curtailment of opportunities for employment, or that the requirements of this part have not been complied with.

(b) If a petition for review is filed under § 525.15, the effective date of the cancellation shall be postponed until action is taken thereon: *Provided, however*, That if the cancellation order is affirmed on review, the workshop shall reimburse any person covered by the special certificate in an amount equal to the difference between the applicable minimum wage and any lower wage paid such person subsequent to the effective date of cancellation.

(c) Except in cases of willfulness or those in which the public interest requires otherwise, before any special certificate shall be canceled, facts or conduct which may warrant such action shall be called to the attention of the sheltered workshop in writing and it shall be afforded an opportunity to demonstrate or achieve compliance with all lawful requirements.

§ 525.15 Review.

Any person aggrieved by any action of an authorized representative of the Administrator taken pursuant to this part may, within 60 days or such additional

time as the Administrator may allow, file with the Administrator a petition for review. Such review, if granted, shall be made either by the Administrator or by an authorized representative who took no part in the action under review, who may, to the extent he deems it appropriate, afford other interested persons an opportunity to present data and views.

§ 525.16 Submission of information, investigations, and hearings.

The Administrator or his authorized representative may require at any time the submission of such information, other than that specified elsewhere in this part, as is deemed appropriate or may conduct an investigation, which may include a hearing prior to taking any action pursuant to this part. To the extent he deems appropriate, the Administrator or his authorized representative may provide an opportunity to other interested persons to present data and views.

§ 525.17 Relation to other laws.

Nothing contained in this part shall be construed as authorizing any act that is contrary to any Federal or State law or municipal ordinance.

§ 525.18 Issuance of certificates for experimental purposes.

In addition to the issuance of certificates as provided in §§ 525.1 to 525.18, the Administrator may authorize the issuance of certificates to permit employment of handicapped workers or clients of a sheltered workshop at less than the applicable minimum wage under section 6 of the Act as part of experimental programs to increase employment opportunities for such persons. Such certificates shall be issued in such types of cases and on such terms and conditions within the scope of section 14 of the Act as the Administrator shall determine will best further any such experimental programs.

§ 525.19 Amendment of this part.

The Administrator may at any time upon his own motion or upon written request of any interested person setting forth reasonable ground therefor, and after opportunity has been given to interested persons to present their views, amend or revoke any of the terms of this part.

NOTE: Section 50-201.1102 of the Public Contracts Act Regulations (41 CFR Part 50-201) provides that any certificate issued pursuant to Regulations Part 525 authorizing

the employment of a handicapped worker under the Fair Labor Standards Act shall constitute authorization for the employment of that worker under the Public Contracts Act in accordance with the terms of the certificate.

PART 526—INDUSTRIES OF A SEASONAL NATURE AND INDUSTRIES WITH MARKED SEASONAL PEAKS OF OPERATION

- Sec.
 526.1 Scope and application.
 526.2 Issues.
 526.3 Meaning of industry.
 526.4 Policies.
 526.5 Petitions and requests.
 526.6 Initiating proceedings.
 526.7 Notice of proceedings.
 526.8 Procedures governing oral participation.
 526.9 Certification of record.
 526.10 Industries of a seasonal nature.
 526.11 Industries characterized by annually recurring seasonal peaks of operation.
 526.12 Seasonal industries engaged in certain operations on perishable agricultural or horticultural commodities.

AUTHORITY: The provisions of this Part 526 issued under sec. 1, 52 Stat. 1060, 29 U.S.C. 201, 207 as amended; General Order No. 45-A of the Sec. of Labor, 15 F.R. 3290; Reorganization Plan No. 6 of 1950, 3 C.F.R. 1949-53 Comp., p. 1004.

SOURCE: The provisions of this Part 526 appear at 32 F.R. 5775, Apr. 11, 1967, unless otherwise noted.

§ 526.1 Scope and application.

(a) The provisions of section 7 of the Fair Labor Standards Act of 1938, as amended, providing partial exemptions from its maximum hours provision for employes in industries found to be of a seasonal nature and for employees in some types of industries found to be characterized by marked annually recurring seasonal peaks of operation, are as follows:

(c) For a period or periods of not more than 10 workweeks in the aggregate in any calendar year, or 14 workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (d) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) [which prohibits employment for more than specified numbers of hours without specified overtime compensation] without paying the compensation for overtime employment prescribed in such subsection if such employee (1) is employed by such employer in an industry found

by the Secretary to be of a seasonal nature, and (2) receives compensation for employment by such employer in excess of 10 hours in any workday, or for employment by such employer in excess of 50 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

(d) For a period or periods of not more than 10 workweeks in the aggregate in any calendar year, or 14 workweeks in the aggregate in the case of an employer who does not qualify for the exemption in subsection (c) of this section, any employer may employ any employee for a workweek in excess of that specified in subsection (a) [which prohibits employment for more than specified numbers of hours without specified overtime compensation] without paying the compensation for overtime employment prescribed in such subsection, if such employee—

(1) Is employed by such employer in an enterprise which is in an industry found by the Secretary—

(A) To be characterized by marked annually recurring seasonal peaks of operation at the places of first marketing or first processing of agricultural or horticultural commodities from farms if such industry is engaged in the handling, packing, preparing, storing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, or

(B) To be of a seasonal nature and engaged in the handling, packing, storing, preparing, first processing, or canning of any perishable agricultural or horticultural commodities in their raw or natural state, and

(2) Receives compensation for employment by such employer in excess of 10 hours in any workday, or for employment in excess of 48 hours in any workweek, as the case may be, at a rate not less than one and one-half times the regular rate at which he is employed.

(b) The authority to make the findings contemplated by sections 7(c) and 7(d) of the Act has been delegated to the Administrator of the Wage and Hour Division (hereinafter called the Administrator). Each of these exemptions shall apply only to those industries which are the subject of currently effective findings.

(c) The regulations in this Part 526 set forth the general policies which will be observed by the Administrator in making, modifying, and revoking the findings on which the exemptions provided in sections 7(c) and 7(d) of the Act depend, provide the procedures whereby the requisite findings are made, amended, and revoked, and publish the findings on which the exemptions provided in sections 7(c) and 7(d) of the Act depend, provide the procedures