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work using similar methods and equipment as that used by each worker with disabilities employed under a special minimum wage certificate (see also § 525.10(b) and (d));

(d) The production standards and supporting documentation for non-disabled workers for each job being performed by workers with disabilities employed under special certificates; and

(e) The records required under all of the applicable provisions of part 516 of this title, except that any provision pertaining to homeworker handbooks shall not be applicable to workers with disabilities who are employed by a recognized nonprofit rehabilitation facility and working in or about a home, apartment, tenement, or room in a residential establishment. (See § 525.15) Records required by this section shall be maintained and preserved for the periods specified in part 516 of this title.

(Approved by the Office of Management and Budget under control number 1215-0017)

§ 525.17 Revocation of certificates.

(a) A special minimum wage certificate may be revoked for cause at any time. A certificate may be revoked:

(1) As of the date of issuance, if it is found that misrepresentations or false statements have been made in obtaining the certificate or in permitting a worker with a disability to be employed thereunder;

(2) As of the date of violation, if it is found that any of the provisions of FLSA or of the terms of the certificate have been violated; or

(3) As of the date of notice of revocation, if it is found that the certificate is no longer necessary in order to prevent curtailment of opportunities for employment, or that the requirements of these regulations other than those referred to in paragraph (a)(2) of this section have not been complied with.

(b) Except in cases of willfulness or those in which the public interest requires otherwise, before any certificate shall be revoked, facts or conduct which may warrant such action shall be called to the attention of the employer in writing and such employer shall be afforded an opportunity to demonstrate or achieve compliance with all legal requirements.

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§ 525.18 Review.

Any person aggrieved by any action 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 by the Administrator. Other interested persons, to the extent it is deemed appropriate, may be afforded an opportunity to present data and views.

§ 525.19 Investigations and hearings.

The Administrator may conduct an investigation, which may include a hearing, prior to taking any action pursuant to these regulations. To the extent it is deemed appropriate, the Administrator may provide an opportunity to other interested persons to present data and views. Proceedings initiated pursuant to this section are separate from those taken pursuant to FLSA section 14(c)(5) and § 525.22.

§ 525.20 Relation to other laws.

No provision of these regulations, or of any special minimum wage certificate issued thereunder, shall excuse noncompliance with any other Federal or State law or municipal ordinance establishing higher standards.

§ 525.21 Lowering of wage rates.

(a) No employer may reduce the minimum hourly wage rate, guaranteed by a special minimum wage certificate in effect on June 1, 1986, of any worker with disabilities from June 1, 1986 until May 31, 1988, without prior authorization of the Secretary.

(b) This provision applies to those workers with disabilities who were:

(1) Employed during the pay period which included June 1, 1986, even if no work was performed during that pay period; and

(2) Employed under a group or individual special minimum wage certificate which specified a minimum guaranteed rate, i.e., a special certificate issued under former section 14(c) (1) or (2)(b) of FLSA.

(c) In order to obtain authority to lower the wage rate of a worker with a disability to whom this provision applies to a rate below the certificate

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rate, the employer must submit information as prescribed under this section to the appropriate Regional Office. The burden of establishing the necessity of lowering the wage of a worker with a disability rests with the employer.

(d) In reviewing a request to lower a wage rate of a worker with a disability, documented evidence of the following will be considered:

(1) Any change in the worker's disabling condition which has a substantially negative impact on productive capacity;

(2) Any change in the type of work being performed in the facility which would affect the productivity of the worker with a disability or which would result in the application of a lower prevailing wage rate;

(3) Any change in general economic conditions in the locality in which the work is performed which results in lower prevailing wage rates.

(e) A wage rate may not be lowered until authorization is obtained.

§ 525.22 Employee's right to petition.

(a) Any employee receiving a special minimum wage at a rate specified pursuant to subsection 14(c) of FLSA or the parent or guardian of such an employee may petition the Secretary to obtain a review of such special minimum wage rate. No particular form of petition is required, except that a petition must be signed by the individual, or the parent or guardian of the individual, and should contain the name and address of the employee and the name and address of the employee's employer. A petition may be filed in person or by mail with the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S3502, 200 Constitution Avenue NW., Washington, DC 20210. The petitioner may be represented by counsel in any stage of such proceedings. Upon receipt, the petition shall be forwarded immediately to the Chief Administrative Law Judge.

(b) Upon receipt of a petition, the Chief Administrative Law Judge shall, within 10 days of the receipt of the petition by the Secretary, appoint an Administrative Law Judge (ALJ) to hear the case. Upon receipt, the ALJ shall

notify the employer named in the petition. The ALJ shall also notify the employee, the employer, the Administrator, and the Associate Solicitor for Fair Labor Standards of the time and place of the hearing. The date of the hearing shall be not more than 30 days after the assignment of the case to the ALJ. All the parties shall be given at least eight days' notice of such hearing. Because of the time constraints imposed by the statute, requests for postponement shall be granted only sparingly and for compelling reasons.

(c) Hearings held under this subpart shall be conducted, consistent with statutory time limitations, under the Department's rules of practice and procedure for administrative hearings found in 29 CFR part 18. There shall be a minimum of formality in the proceeding consistent with orderly procedure. Any employer who intends to participate in the proceeding shall provide to the ALJ, and shall serve on the petitioner and the Associate Solicitor for Fair Labor Standards no later than 15 days prior to the commencement of the hearing, or as soon as practical depending on when the notice of a hearing as required under paragraph (b) of this section was received, that documentary evidence pertaining to the employee or employees identified in the petition which is contained in the records required by § 525.16 (a), (b), (c) and (d). The Administrator shall be permitted to participate by counsel in the proceeding upon application.

(d) In determining whether any special minimum wage rate is justified, the ALJ shall consider, to the extent evidence is available, the productivity of the employee or employees identified in the petition and the conditions under which such productivity was measured, and the productivity of other employees performing work of essentially the same type and quality for other employers in the same vicinity and the conditions under which much productivity was measured. In these proceedings, the burden of proof on all matters relating to the propriety of a wage at issue shall rest with the employer.

(e) The ALJ shall issue a decision within 30 days after the termination of the hearing and shall serve the decision