

*****DRAFT - NOT FOR FILING*****

4101:9-1-02 Definitions.

AMEND

- (A) "Department" means the department of Commerce. ▸
- (B) "Employee or worker with a disability" means an individual whose earning capacity is impaired by physical or mental impairment or injuries for the work he or she is to perform.
- ~~(C) "Competitive employment" means employment of a worker with a disability whose earning or productive capacity would yield wages equal to at least fifty per cent of the minimum wage and at wages commensurate with those for workers who do not have a disability for essentially the same type, quality, and quantity of work.~~
- (D) "Work activities center" means a workshop, or a physically separated department of a workshop, conducted not for profit, having an identifiable program, separate supervision and records, planned and designed exclusively to provide therapeutic activities for ~~disabled workers~~worker with a disability whose physical or mental impairment is so severe as to make their productive capacity inconsequential. Therapeutic activities shall include custodial 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 work activities center or separate department thereof shall qualify as a work activities center if the average productivity is more than fifty per cent of the minimum wage 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. ~~(The average number of clients shall be determined by taking the average of the total number of clients in the work program 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 disabled worker~~worker with a disability whose productivity substantially exceeds the average may be certified under rules for individual rates in rare and unusual cases where necessary to avoid extreme hardship, if the individual is unable to earn the statutory minimum because of his disability, and if his production and earnings are included in the average.) Information to be considered will include the severity of the ~~disability of the disabled workers~~worker with a disability employed and other pertinent factors.
- (E) "Sheltered workshop" means a public or private organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for ~~disabled workers~~worker with a disability or other occupational rehabilitation activity of an educational or therapeutic nature and/or providing such workers with remunerative employment at less than minimum wage but more than fifty per cent of the minimum wage 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.
- (1) The average number of clients shall be determined by the average of the total number of clients in the work program on the last day of each quarter in the previous fiscal

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year, provided such average is representative of the average number of clients employed during the entire year.

- (2) A ~~disabled worker~~worker with a disability whose productivity substantially falls below the average may be certified under rules for individual rates in rare and unusual cases where necessary to avoid extreme hardship, and if his production and earnings are included in the average.

Information to be considered will include the severity of the ~~disability of the disabled workers~~worker with a disability employed and other pertinent factors.

- (F) "Trainee with a disability" means an individual whose earning capacity is impaired by physical or mental impairment or injuries and who is receiving training in industry under any recognized vocational program.