The coverage of this bill is as broad, generally speaking, as the authority vested in the Federal Government by the commerce clause of the Constitution (Cong. Rec., vol. 116, p. H–11899, Dec. 17, 1970)

The legislative history, as a whole, clearly shows that every amendment or other proposal which would have resulted in any employee's being left outside the protections afforded by the Act was rejected. The reason for excluding no employee, either by exemption or limitation on coverage, lies in the most fundamental of social purposes of this legislation which is to protect the lives and health of human beings in the context of their employment.

(b) The Williams-Steiger Act includes special provisions (sections 19 and 18(c)(6)) for the protection of Federal and State employees to whom the Act's other provisions are made inapplicable under section 3(5), which excludes from the definition of the term ''employer'' both the United States and any State or political subdivision of a State.

(c) In the case of section 4(b)(1) of the Act, which makes the Act inapplicable to working conditions to the extent they are protected under laws administered by other Federal agencies, Congress did not intend to grant any general exemptions under the Act; its sole purpose was to avoid duplication of effort by Federal agencies in establishing a national policy of occupational safety and health protection.

(d) Interpretation of the provisions and terms of the Williams-Steiger Act must of necessity be consistent with the express intent of Congress to exercise its commerce power to the extent that, ''so far as possible, every working man and woman in the Nation'' would be protected as provided for in the Act. The words ''so far as possible'' refer to the practical extent to which governmental regulation and expended resources are capable of achieving safe and healthful working conditions; the words are not ones of limitation on coverage. The controlling definition for the purpose of coverage under the Act is that of ''employer'' contained in section 3(5). This term is defined as follows:

(5) The term ''employer'' means any person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

In carrying out the broad coverage mandate of Congress, we interpret the term ''business'' in the above definition as including any commercial or noncommercial activity affecting commerce and involving the employment of one or more employees; the term ''commerce'' is defined in the Act itself, in section 3(3). Since the legislative history and the words of the statute, itself, indicate that Congress intended the full exercise of its commerce power in order to reduce employment-related hazards which, as a whole impose a substantial burden on commerce, it follows that all employments where such hazards exist or could exist (that is, those involving the employment of one or more employees) were intended to be regulated as a class of activities which affects commerce.

§ 1975.4 Coverage.

(a) *General.* Any employer employing one or more employees would be an ''employer engaged in a business affecting commerce who has employees'' and, therefore, he is covered by the Act as such.

(b) *Clarification as to certain employers*—(1) *The professions, such as physicians, attorneys, etc.* Where a member of a profession, such as an attorney or physician, employs one or more employees such member comes within the definition of an employer as defined in the Act and interpreted thereunder and, therefore, such member is covered as an employer under the Act and required to comply with its provisions and with the regulations issued thereunder to the extent applicable.

(2) *Agricultural employers.* Any person engaged in an agricultural activity employing one or more employees comes within the definition of an employer under the Act, and therefore, is covered by its provisions. However, members of the immediate family of the farm employer are not regarded as employees for the purposes of this definition.

(3) *Indians.* The Williams-Steiger Act contains no special provisions with respect to different treatment in the case of Indians. It is well settled that under statutes of general application, such as

the Williams-Steiger Act, Indians are treated as any other person, unless Congress expressly provided for special treatment. ''FPC v. Tuscarora Indian Nation,'' 362 U.S. 99, 115–118 (1960); ''Navajo Tribe v. N.L.R.B.,'' 288 F.2d 162, 164–165 (D.C. Cir. 1961), cert. den. 366 U.S. 928 (1961). Therefore, provided they otherwise come within the definition of the term ''employer'' as interpreted in this part, Indians and Indian tribes, whether on or off reservations, and non-Indians on reservations, will be treated as employers subject to the requirements of the Act.

(4) *Nonprofit and charitable organizations*. The basic purpose of the Williams-Steiger Act is to improve working environments in the sense that they impair, or could impair, the lives and health of employees. Therefore, certain economic tests such as whether the employer's business is operated for the purpose of making a profit or has other economic ends, may not properly be used as tests for coverage of an employer's activity under the Williams-Steiger Act. To permit such economic tests to serve as criteria for excluding certain employers, such as nonprofit and charitable organizations which employ one or more employees, would result in thousands of employees being left outside the protections of the Williams-Steiger Act in disregard of the clear mandate of Congress to assure ''every working man and woman in the Nation safe and healthful working conditions * * *''. Therefore, any charitable or non-profit organization which employs one or more employees is covered under the Williams-Steiger Act and is required to comply with its provisions and the regulations issued thereunder. (Some examples of covered charitable or non-profit organizations would be disaster relief organizations, philanthropic organizations, trade associations, private educational institutions, labor organizations, and private hospitals.)

(c) *Coverage of churches and special policy as to certain church activities*—(1) *Churches*. Churches or religious organizations, like charitable and nonprofit organizations, are considered employers under the Act where they employ one or more persons in secular activities. As a matter of enforcement policy, the performance of, or participation in, religious services (as distinguished from secular or proprietary activities whether for charitable or religion-related purposes) will be regarded as not constituting employment under the Act. Any person, while performing religious services or participating in them in any degree is not regarded as an employer or employee under the Act, notwithstanding the fact that such person may be regarded as an employer or employee for other purposes—for example, giving or receiving remuneration in connection with the performance of religious services.

(2) *Examples*. Some examples of coverage of religious organizations as employers would be: A private hospital owned or operated by a religious organization; a private school or orphanage owned or operated by a religious organization; commercial establishments of religious organizations engaged in producing or selling products such as alcoholic beverages, bakery goods, religious goods, etc.; and administrative, executive, and other office personnel employed by religious organizations. Some examples of noncoverage in the case of religious organizations would be: Clergymen while performing or participating in religious services; and other participants in religious services; namely, choir masters, organists, other musicians, choir members, ushers, and the like.

§ 1975.5 States and political subdivisions thereof.

(a) *General*. The definition of the term ''employer'' in section 3(5) of the Act excludes the United States and States and political subdivisions of a State:

> (5) The term ''employer'' means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

The term ''State'' is defined as follows in section 3(7) of the Act:

> (7) The term ''State'' includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.