

## Wage and Hour Division, Labor

## §776.2

REGISTER, subpart A of this interpretative bulletin replaces and supersedes the general statement previously published as part 776 of this chapter, which statement is withdrawn. All other administrative rulings, interpretations, practices and enforcement policies relating to the general coverage of the wages and hours provisions of the Act and not withdrawn prior to such date are, to the extent that they are inconsistent with or in conflict with the principles stated in this interpretative bulletin, hereby rescinded and withdrawn.

[15 FR 2925, May 17, 1950, as amended at 21 FR 1448, Mar. 6, 1956. Redesignated at 35 FR 5543, Apr. 3, 1970]

### HOW COVERAGE IS DETERMINED

#### §776.1 General interpretative guides.

The congressional policy under which employees “engaged in commerce or in the production of goods for commerce” are brought within the general coverage of the Act’s wage and hours provisions is stated in section 2 of the Act. This section makes it clear that the congressional power to regulate interstate and foreign commerce is exercised in this Act in order to remedy certain evils, namely, “labor conditions detrimental to the maintenance of the minimum standards of living necessary for health, efficiency, and the general well being of workers” which Congress found “(a) causes commerce and the channels and instrumentalities of commerce to be used to perpetuate such labor conditions among the workers of the several States; (b) burdens commerce and the free flow of goods in commerce; (c) constitutes an unfair method of competition in commerce; (d) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce and (e) interferes with the orderly and fair marketing of goods in commerce.” In carrying out these broad remedial purposes, however, the Congress did not choose to make the scope of the Act co-extensive in all respects with the limits of its power over commerce or to apply it to all activities affecting com-

merce.<sup>7</sup> Congress delimited the area in which the Act operates by providing for certain exceptions and exemptions, and by making wage-hour coverage applicable only to employees who are “engaged in” either “commerce”, as defined in the Act, or “production” of “goods” for such commerce, within the meaning of the Act’s definitions of these terms. The Fair Labor Standards Amendments of 1949 indicate an intention to restrict somewhat the category of employees within the reach of the Act under the former definition of “produced” and to expand to some extent the group covered under the former definition of “commerce.” In his interpretations, the Administrator will endeavor to give effect to both the broad remedial purposes of the Act and the limitations on its application, seeking guidance in his task from the terms of the statute, from authoritative court decisions, and from the legislative history of the Act, as amended.<sup>8</sup>

#### §776.2 Employee basis of coverage.

(a) The coverage of the Act’s wage and hours provisions as described in sections 6 and 7 does not deal in a blanket way with industries as a whole. Thus, in section 6, it is provided that every employer shall pay the statutory

<sup>7</sup> *Kirschbaum v. Walling*, 316 U.S. 517; *Walling v. Jacksonville Paper Co.*, 317 U.S. 564; *10 East 40th St. Bldg. Co. v. Callus*, 325 U.S. 578; *A. H. Phillips, Inc. v. Walling*, 324 U.S. 490; *Fleming v. Hawkeye Pearl Button Co.*, 113 F. 2d 52 (C.A. 8); *Armstrong v. Walling*, 161 F. 2d 515 (C.A. 1); *Bowie v. Gonzalez*, 117 F. 2d 11 (C.A. 1).

<sup>8</sup>Footnote references to some of the relevant court decisions are made for the assistance of readers who may be interested in such decisions.

Footnote reference to the legislative history of the 1949 amendments are made at points in this part where it is believed they may be helpful. References to the *Statement of the Managers on the part of the House*, appended to the Conference Report on the amendments (H. Rept. No. 1453, 81st Cong., 1st sess.) are abbreviated: H. Mgrs. St. 1949, p. —. References to the *Statement of a majority of the Senate Conferees*, 95 Cong. Rec., October 19, 1949 at 15372-15377 are abbreviated: Sen. St., 1949 Cong. Rec. References to the Congressional Record are to the 1949 daily issues, the permanent volumes being unavailable at the time this part was prepared.