

## Wage and Hour Division, Labor

## § 780.5

exemption” (*Arnold v. Kanowsky*, 361 U.S. 388). “The details with which the exemptions in this Act have been made preclude their enlargement by implication” and “no matter how broad the exemption, it is meant to apply only to” the specified activities (*Addison v. Holly Hill*, 322 U.S. 607; *Maneja v. Waialua*, 349 U.S. 254). Exemptions provided in the Act “are to be narrowly construed against the employer seeking to assert them” and their application limited to those who come “plainly and unmistakably within their terms and spirit” (*Phillips v. Walling*, 334 U.S. 490; *Mitchell v. Kentucky Finance Co.*, 359 U.S. 290; *Arnold v. Kanowsky*, 361 U.S. 388).

### § 780.3 Exemptions discussed in this part.

(a) The specific exemptions which the Act provides for employment in agriculture and in certain operations more or less closely connected with the agricultural industry are discussed in this part 780. These exemptions differ substantially in their terms, scope, and methods of application. Each of them is therefore separately considered in a subpart of this part which, together with this subpart A, constitutes the official interpretative bulletin of the Department of Labor with respect to that exemption. Exemptions from minimum wages and overtime pay and the subparts in which they are considered include the section 13(a)(6) exemptions for employees on small farms, family members, local hand harvest laborers, migrant hand harvest workers under 16, and range production employees discussed in subpart D of this part, and the section 13(a)(14) exemption for agricultural employees processing shade-grown tobacco discussed in subpart F of this part.

(b) Exemptions from the overtime pay provisions and the subparts in which these exemptions are discussed include the section 13(b)(12) exemption (agriculture and irrigation) discussed in subpart E of this part, the section 13(b)(13) exemption (agriculture and livestock auction operations) discussed in subpart G of this part, the section 13(b)(14) exemption (country elevators) discussed in subpart H of this part, the section 13(b)(15) exemption (cotton gin-

ning and sugar processing) discussed in subpart I of this part, and the section 13(b)(16) exemption (fruit and vegetable harvest transportation) discussed in subpart J of this part.

(c) An exemption in section 13(d) of the Act from the minimum wage, overtime pay, and child labor provisions for certain homeworkers making holly and evergreen wreaths is discussed in subpart K of this part.

### § 780.4 Matters not discussed in this part.

The application of provisions of the Fair Labor Standards Act other than the exemptions referred to in § 780.3 is not considered in this part 780. Interpretative bulletins published elsewhere in the Code of Federal Regulations deal with such subjects as the general coverage of the Act (part 776 of this chapter) and of the child labor provisions (subpart G of part 1500 of this title which includes a discussion of the exemption for children employed in agriculture outside of school hours), partial overtime exemptions provided for industries of a seasonal nature under sections 7(c) and 7(d) (part 526 of this chapter) and for industries with marked seasonal peaks of operations under section 7(d) (part 526 of this chapter), methods of payment of wages (part 531 of this chapter), computation and payment of overtime compensation (part 778 of this chapter), and hours worked (part 785 of this chapter). Regulations on recordkeeping are contained in part 516 of this chapter and regulations defining exempt administrative, executive, and professional employees, and outside salesmen are contained in part 541 of this chapter. Regulations and interpretations on other subjects concerned with the application of the Act are listed in the table of contents to this chapter. Copies of any of these documents may be obtained from any office of the Wage and Hour Division.

### § 780.5 Significance of official interpretations.

The regulations in this part contain the official interpretations of the Department of Labor with respect to the application under described circumstances of the provisions of law

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which they discuss. These interpretations indicate the construction of the law which the Secretary of Labor and the Administrator believe to be correct and which will guide them in the performance of their duties under the Act unless and until they are otherwise directed by authoritative decisions of the courts or conclude, upon reexamination of an interpretation, that it is incorrect.

### § 780.6 Basic support for interpretations.

The ultimate decisions on interpretations of the Act are made by the courts (*Mitchell v. Zachry*, 362 U.S. 310; *Kirschbaum v. Walling*, 316 U.S. 517). Court decisions supporting interpretations contained in this bulletin are cited where it is believed they may be helpful. On matters which have not been determined by the courts, it is necessary for the Secretary of Labor and the Administrator to reach conclusions as to the meaning and the application of provisions of the law in order to carry out their responsibilities of administration and enforcement (*Skidmore v. Swift*, 323 U.S. 134). In order that these positions may be made known to persons who may be affected by them, official interpretations are issued by the Administrator on the advice of the Solicitor of Labor, as authorized by the Secretary (Reorg. Pl. 6 of 1950, 64 Stat. 1263; Gen. Ord. 45A, May 24, 1950; 15 FR 3290; Secretary's Order 13-71, May 4, 1971, FR; Secretary's Order 15-71, May 4, 1971, FR). Interpretative rules under the Act as amended in 1966 are also authorized by section 602 of the Fair Labor Standards Amendments of 1966 (80 Stat. 830), which provides: "On and after the date of the enactment of this Act the Secretary is authorized to promulgate necessary rules, regulations, or orders with regard to the amendments made by this Act." As included in the regulations in this part, these interpretations are believed to express the intent of the law as reflected in its provisions and as construed by the courts and evidenced by its legislative history. References to pertinent legislative history are made in this bulletin where it appears that they will contribute to a

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better understanding of the interpretations.

### § 780.7 Reliance on interpretations.

The interpretations of the law contained in this part are official interpretations which may be relied upon as provided in section 10 of the Portal-to-Portal Act of 1947. In addition, the Supreme Court has recognized that such interpretations of this Act "provide a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" and "constitute a body of experience and informed judgment to which courts and litigants may properly resort for guidance." Further, as stated by the Court: "Good administration of the Act and good judicial administration alike require that the standards of public enforcement and those for determining private rights shall be at variance only where justified by very good reasons." (*Skidmore v. Swift*, 323 U.S. 134). Some of the interpretations in this part are interpretations of exemption provisions as they appeared in the original Act before amendment in 1949, 1961, and 1966, which have remained unchanged because they are consistent with the amendments. These interpretations may be said to have congressional sanction because "When Congress amended the Act in 1949 it provided that pre-1949 rulings and interpretations by the Administrator should remain in effect unless inconsistent with the statute as amended. 63 Stat. 920." (*Mitchell v. Kentucky Finance Co.*, 359 U.S. 290; accord, *Maneja v. Waialua*, 349 U.S. 254.)

### § 780.8 Interpretations made, continued, and superseded by this part.

On and after publication of this part 780 in the FEDERAL REGISTER, the interpretations contained therein shall be in effect and shall remain in effect until they are modified, rescinded, or withdrawn. This part supersedes and replaces the interpretations previously published in the FEDERAL REGISTER and Code of Federal Regulations as this part 780. Prior opinions, rulings, and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or