

Wage and Hour Division, Labor

§ 783.16

No. 1453, 81st Cong., 1st sess. p. 35). This is the meaning of the term as used in sections 3(r), 3(s), and 6(b) of the Act. An establishment may have employees employed away from the establishment as well as within it (H. Rept. No. 1453, supra).

§ 783.11 “Enterprise engaged in commerce or in the production of goods for commerce”.

Portions of the definition of “enterprise engaged in commerce or in the production of goods for commerce” (Act section 3(s)) which may in some situations determine the application of provisions of the Act to employees employed by employers on vessels are as follows:

(s) “Enterprise engaged in commerce or in the production of goods for commerce” means any of the following in the activities of which employees are so engaged, including employees handling, selling, or otherwise working on goods that have been moved in or produced for commerce by any person:

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(3) any establishment of any such enterprise * * * which has employees engaged in commerce or in the production of goods for commerce if the annual gross volume of sales of such enterprise is not less than \$1,000,000.

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The application of this definition is considered in part 776 of this chapter.

§ 783.12 “Commerce”.

“Commerce” as used in the Act includes interstate and foreign commerce. It is defined in section 3(b) of the Act to mean “trade, commerce, transportation, transmission, or communication among the several States or between any State and any place outside thereof.” (For the definition of “State”, see § 783.15.) The application of this definition and the kinds of activities which it includes are discussed at length in part 776 of this chapter dealing with the general coverage of the Act.

§ 783.13 “Production”.

To understand the meaning of “production” of goods for commerce as used in the Act it is necessary to refer to

the definition in section 3(j) of the term “produced”. A detailed discussion of the application of the terms as defined is contained in part 776 of this chapter, dealing with the general coverage of the Act. Section 3(j) provides that “produced” as used in the Act “means produced, manufactured, mined, handled, or in any other manner worked on in any State; and for the purposes of this Act an employee shall be deemed to have been engaged in the production of goods if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any closely related process or occupation directly essential to the production thereof, in any State.” (For the definition of “State” see § 783.15.)

§ 783.14 “Goods”.

The definition in section 3(i) of the Act states that “goods”, as used in the Act means “goods (including ships and marine equipment), wares, products, commodities, merchandise, or articles or subjects of commerce of any character, or any part or ingredient thereof, but does not include goods after their delivery into the actual physical possession of the ultimate consumer thereof other than a producer, manufacturer, or processor thereof.” Part 776 of this chapter, dealing with the general coverage of the Act, contains a detailed discussion of the application of this definition and what is included in it.

§ 783.15 “State”.

As used in the Act, “State” means “any State of the United States or the District of Columbia or any Territory or possession of the United States” (Act, section 3(c)). The application of this definition in determining questions of coverage under the Acts’ definition of “commerce” and “produced” (see §§ 783.12, 783.13) is discussed in part 776 of this chapter, dealing with general coverage.

§ 783.16 “Wage”.

“Wage” paid to an employee is defined in section 3(m) of the Act to include “the reasonable cost, as determined by

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the Secretary of Labor, to the employer of furnishing such employee with board, lodging, or other facilities, if such board, lodging, or other facilities are customarily furnished by such employer to his employees: *Provided*, That the cost of board, lodging, or other facilities shall not be included as a part of the wage paid to any employee to the extent it is excluded therefrom under the terms of a bona fide collective bargaining agreement applicable to the particular employee: *Provided further*, That the Secretary is authorized to determine the fair value of such board, lodging, or other facilities for defined classes of employees and in defined areas, based on average cost to the employer or to groups of employers similarly situated, or average value to groups of employees, or other appropriate measure of fair value. Such evaluations, where applicable and pertinent, shall be used in lieu of actual measure of cost in determining the wage paid to any employee". Although there is some incidental discussion in this part of this definition and its impact, a fuller discussion of its meaning and the regulations pertaining thereto are set forth in part 531 of this chapter.

§ 783.17 "American vessel".

Section 3(p) of the Act, added by the 1961 Amendments, defines "American vessel" to include "any vessel which is documented or numbered under the laws of the United States." This definition and its effect with respect to the application of the Act to employment of individuals as seamen are discussed in subsequent sections of this part.

APPLICATION IN GENERAL OF THE ACT'S PROVISIONS

§ 783.18 Commerce activities of employees.

Prior to the 1961 Amendments, the Fair Labor Standards Act applied to all employees, not specifically exempted, who are engaged (a) in interstate or foreign commerce or (b) in the production of goods for such commerce, which is defined to include any closely related process or occupation directly, essential to such production (29 U.S.C. 206(a), 207(a); and see §§ 783.12 to 783.15

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for definitions governing the scope of this coverage). The Act as amended in 1961 continues this coverage. In general, employees of businesses concerned with the transportation of goods or persons on navigable waters are engaged in interstate or foreign commerce, or in the production of goods for such commerce, as defined in the Act, and are subject to the Act's provisions except as otherwise provided in sections 13(a)(14) and 13(b)(6) or other express exemptions. A detailed discussion of the activities in commerce or in the production of goods for commerce which will bring an employee under the Act is contained in part 776 of this chapter, dealing with general coverage.

§ 783.19 Commerce activities of enterprises in which employee is employed.

Under amendments to the Fair Labor Standards Act effective September 3, 1961, employees not covered by reason of their personal engagement in interstate commerce activities, as explained in § 783.18, are nevertheless brought within the coverage of the Act if they are employed in an enterprise which is defined in section 3(s) of the Act as an enterprise engaged in commerce or in the production of goods for commerce, or by an establishment described in section 3(s)(3) of the Act (see § 783.11). Such employees, if not exempt from the minimum wage and overtime pay requirements under section 13(a)(14) or exempt from the overtime pay requirements under section 13(b)(6), will have to be paid in accordance with those monetary standards of the Act unless expressly exempt under some other provision. This would generally be true of employees employed in enterprises and by establishments engaged in a business concerned with transportation of goods or persons by vessels, where the enterprise has an annual gross sales volume of \$1,000,000 or more. Enterprise coverage is more fully discussed in part 776 of this chapter, dealing with general coverage.