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scope as explained in §§ 783.24, 783.25, and 783.27, with regard to the principles set forth in § 783.20 and the legislative history and judicial construction outlined in §§ 783.28 through 783.30. Whether a particular employee is exempt depends on what he does, as explained in §§ 783.31 through 783.37. Whether he is exempt from the overtime pay provisions only or from minimum wages as well depends on whether his employment is or is not on an American vessel, which is determined as indicated in §§ 783.38 through 783.42. In addition, sections 13(a)(14) and 13(b)(6), like other exemptions in the Act, apply on a workweek basis as mentioned in § 783.43 and explained in §§ 783.49 and 783.50.

§ 783.49 Workweek unit in applying the exemptions.

The unit of time to be used in determining the application of the exemption provided by section 13(b)(6) or 13(a)(14) to an employee is the workweek. (See *Overnight Transportation Co. v. Missel*, 316 U.S. 572; *Sternberg Dredging Co. v. Walling*, 158 F. 2d 678.) This is the period used in determining whether a substantial amount of non-seaman's work has been performed so as to make the exemption inapplicable. See § 783.37. A workweek is a fixed and regularly recurring interval of 7 consecutive 24-hour periods. It may begin at any hour of any day set by the employer and need not coincide with the calendar week. Once the workweek has been set it commences each succeeding week on the same day and at the same hour. Changing of the workweek for the purpose of escaping the requirements of the Act is not permitted.

§ 783.50 Work exempt under another section of the Act.

Where an employee performs work during his workweek, some of which is exempt under one section of the Act, and the remainder of which is exempt under another section or sections of the Act, the exemptions may be combined. The employee's combination exemption is controlled in such case by that exemption which is narrower in scope. For example, if part of his work is exempt from both minimum wage and overtime compensation under one section of the Act, and the rest is ex-

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empt only from the overtime pay requirements under section 13(b)(6), the employee is exempt that week from the overtime pay provisions but not from the minimum wage requirements.

§ 783.51 Seamen on a fishing vessel.

In extending the minimum wage to seamen on American vessels by limiting the exemption from minimum wages and overtime provided by section 13(a)(14) of the Act to "any employee employed as a seaman on a vessel other than an American vessel," and at the same time extending the minimum wage to "onshore" but not "offshore" operations concerned with aquatic products, the Congress, in the 1961 Amendments to the Act, did not indicate any intent to remove the crews of fishing vessels engaged in operations named in section 13(a)(5) from the exemption provided by that section. The exemption provided by section 13(a)(14), and the general exemption in section 13(b)(6) from overtime for "any employee employed as a seaman" (whether or not on an American vessel) apply, in general, to employees, working aboard vessels, whose services are rendered primarily as an aid to navigation (§§ 783.31-783.37). It appears, however, that it is not the custom or practice in the fishing industry for a fishing vessel to have two crews; namely, a fishing crew whose duty it is primarily to fish and to perform other duties incidental thereto and a navigational crew whose duty it is primarily to operate the boat. Where, as is the typical situation, there is but one crew which performs all these functions, the section 13(a)(5) exemption from both the minimum wage and the overtime provisions would apply to its members. For a further explanation of the fishery exemption see part 784 of this chapter.

PART 784—PROVISIONS OF THE FAIR LABOR STANDARDS ACT APPLICABLE TO FISHING AND OPERATIONS ON AQUATIC PRODUCTS

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AUTHORITY: Secs. 1-19, 52 Stat. 1060, as amended, 75 Stat. 65; 29 U.S.C. 201-219.

SOURCE: 35 FR 13342, Aug. 20, 1970, unless otherwise noted.

Subpart A—General

INTRODUCTORY

§ 784.0 Purpose.

It is the purpose of this part to provide an official statement of the views of the Department of Labor with respect to the meaning and application of sections 13(a)(5) and 13(b)(4) of the Fair Labor Standards Act, which govern the application of the minimum wage and overtime pay requirements of the Act to employees engaged in fishing and related activities and in operations on aquatic products. It is an objective of this part to make available in one place, the interpretations of law relating to such employment which will guide the Secretary of Labor and the Administrator in carrying out their responsibilities under the Act.

§ 784.1 General scope of the Act.

The Fair Labor Standards Act, as amended, is a Federal statute of general application which establishes minimum wage, overtime pay, equal pay, and child labor requirements that apply as provided in the Act. Employers and employees in enterprises en-

gaged in fishing and related activities, or in operations on aquatic products on shore, need to know how the Act applies to employment in these enterprises so that they may understand their rights and obligations under the law. All employees whose employment has the relationship to interstate or foreign commerce which the Act specifies are subject to the prescribed labor standards unless specifically exempted from them. Employers having such employees are required to comply with the Act's provisions in this regard and with specified recordkeeping requirements contained in part 516 of this chapter. The law authorizes the Department of Labor to investigate for compliance and, in the event of violations, to supervise the payment of unpaid minimum wages or unpaid overtime compensation owing to any employee. The law also provides for enforcement in the courts.

§ 784.2 Matters discussed in this part.

This part discusses generally the provisions of the Act which govern its application to employers and employees in enterprises and establishments of the fisheries, seafood processing, and related industries. It discusses in some detail those exemption provisions of the Act in sections 13(a)(5) and 13(b)(4) which refer specifically to employees employed in described activities with respect to seafood and other forms of aquatic life.

§ 784.3 Matters discussed in other interpretations.

Interpretations having general application to others subject to the law, as well as to fishermen and seafood canners, processors, or distributors and their employees, have been issued on a number of subjects of general interest. These will be found in other parts of this chapter. Reference should be made to them for guidance on matters which they discuss in detail, which this part does not undertake to do. They include part 776 of this chapter, discussing coverage; part 531 of this chapter, discussing payment of wages; part 778 of this chapter, discussing computation and payment of overtime compensation; part 785 of this chapter, discussing the calculation of hours