

## Wage and Hour Division, Labor

## § 784.16

### § 784.11 “Establishment.”

As used in the Act, the term “establishment”, which is not specially defined therein, refers to a “distinct physical place of business” rather than to “an entire business or enterprise” which may include several separate places of business. This is consistent with the meaning of the term as it is normally used in business and in government, is judicially settled, and has been recognized in the Congress in the course of enactment of amendatory legislation (*Phillips v. Walling*, 324 U.S. 490; *Mitchell v. Bekins Van & Storage Co.*, 352 U.S. 1027; 95 Cong. Rec. 12505, 12579, 14877; H. Rept. No. 1453, 81st Cong., first session, p. 25). This is the meaning of the term as used in sections 3(r) and 3(s) of the Act.

### § 784.12 “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 § 784.15.) 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.

### § 784.13 “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 term 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 essen-

tial to the production thereof, in any State.” (For the definition of “State” see § 784.15.)

### § 784.14 “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.

### § 784.15 “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 Act’s definition of “commerce” and “produced” (see §§ 784.12, 784.13) is discussed in part 776 of this chapter, dealing with general coverage.

### § 784.16 “Regular rate.”

As explained in part 778 of this chapter, dealing with overtime compensation, employees subject to the overtime pay provisions of the Act must generally receive for their overtime work in any workweek as provided in the Act not less than one and one-half times their regular rates of pay. Section 7(e) of the Act defines the term “regular rate” “to include all remuneration for employment paid to, or on behalf of, the employee” except certain payments which are expressly described in and excluded by the statutory definition. This definition, which is discussed at length in part 778 of this chapter, determines the regular rate upon which time and one-half overtime compensation must be computed under section 7(a) of the Act for employees within its general coverage who are not exempt from the overtime provisions