

that employees of contract mail carriers are not within the 13(b)(1) exemption for overtime work performed after June 14, 1972, pending authoritative court decisions to the contrary. This position is adopted without prejudice to the rights of individual employees under section 16(b) of the Fair Labor Standards Act.

(c) Section 202(c)(2) of the Motor Carrier Act, as amended on May 16, 1942, makes section 204 of that act "relative to qualifications and maximum hours of service of employees and safety of operations and equipment," applicable "to transportation by motor vehicle by any person (whether as agent or under a contractual arrangement) for a * * * railroad * * * express company * * * motor carrier * * * water carrier * * * or a freight forwarder * * * in the performance within terminal areas of transfer, collection, or delivery service." Thus, drivers, drivers' helpers, loaders, and mechanics of a motor carrier performing pickup and delivery service for a railroad, express company, or water carrier are to be regarded as within the 13(b)(1) exemption. (See *Levinson v. Spector Motor Service*, 330 U.S. 649 (footnote 10); cf. *Cedarblade v. Parmelee Transp. Co.* (C.A. 7), 166 F. (2d) 554, 14 Labor Cases, par. 64,340.) The same is true of drivers, drivers' helpers, loaders, and mechanics employed directly by a railroad, a water carrier or a freight forwarder in pickup and delivery service. Section 202(c)(1) of the Motor Carrier Act, as amended on May 16, 1942, includes employees employed by railroads, water carriers, and freight forwarders, in transfer, collection, and delivery service in terminal areas by motor vehicles within the Interstate Commerce Commission's regulatory power under section 204 of the same act. See *Morris v. McComb*, 332 U.S. 422 and §782.2(a). (Such employees of a carrier subject to part I of the Interstate Commerce Act may come within the exemption from the overtime requirements provided by section 13(b)(2). Cf. *Cedarblade v. Parmelee Transp. Co.* (C.A. 7), 166 F. (2d) 554, 14 Labor Cases, par. 64,340. Thus, only employees of a railroad, water carrier, or freight forwarder outside of the scope of part I of the Interstate Commerce Act and of the 13(b)(2) exemption are

affected by the above on and after the date of the amendment.) Both before and after the amendments referred to, it has been the Division's position that the 13(b)(1) exemption is applicable to drivers, drivers' helpers, loaders, and mechanics employed in pickup and delivery service to line-haul motor carrier depots or under contract with forwarding companies, since the Interstate Commerce Commission had determined that its regulatory power under section 204 of the Motor Carrier Act extended to such employees.

(d) The determinations of the Interstate Commerce Commission discussed in paragraphs (a), (b), and (c) of this section have not been amended or revoked by the Secretary of Transportation. These determinations will continue to guide the Administrator of the Wage and Hour Division in his enforcement of section 13(b)(1) of the Fair Labor Standards Act.

[36 FR 21778, Nov. 13, 1971, as amended at 37 FR 23638, Nov. 7, 1972]

PART 783—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO EMPLOYEES EMPLOYED AS SEAMEN

INTRODUCTORY

- Sec.
783.0 Purpose of this part.
783.1 General scope of the Act.
783.2 Matters discussed in this part.
783.3 Significance of official interpretations.
783.4 Basic support for interpretations.
783.5 Interpretations made, continued, and superseded by this part.

SOME BASIC DEFINITIONS

- 783.6 Definitions of terms used in the Act.
783.7 "Employer", "employee", and "employ".
783.8 "Person".
783.9 "Enterprise".
783.10 "Establishment".
783.11 "Enterprise engaged in commerce or in the production of goods for commerce".
783.12 "Commerce".
783.13 "Production".
783.14 "Goods".
783.15 "State".
783.16 "Wage".
783.17 "American vessel".

Wage and Hour Division, Labor

§ 783.1

APPLICATION IN GENERAL OF THE ACT'S PROVISIONS

- 783.18 Commerce activities of employees.
- 783.19 Commerce activities of enterprises in which employee is employed.
- 783.20 Exemptions from the Act's provisions.
- 783.21 Guiding principles for applying coverage and exemption provisions.
- 783.22 Pay standards for employees subject to "old" coverage of the Act.
- 783.23 Pay standards for "newly covered" employees.

THE STATUTORY PROVISIONS REGARDING SEAMEN

- 783.24 The section 13(a)(14) exemption.
- 783.25 The section 13(b)(6) exemption.
- 783.26 The section 6(b)(2) minimum wage requirement.
- 783.27 Scope of the provisions regarding "seamen".

LEGISLATIVE HISTORY AND JUDICIAL CONSTRUCTION OF THE EXEMPTIONS

- 783.28 General legislative history.
- 783.29 Adoption of the exemption in the original 1938 Act.
- 783.30 The 1961 Amendments.

WHO IS "EMPLOYED AS A SEAMAN"

- 783.31 Criteria for employment "as a seaman".
- 783.32 "Seaman" includes crew members.
- 783.33 Employment "as a seaman" depends on the work actually performed.
- 783.34 Employees aboard vessels who are not "seamen".
- 783.35 Employees serving as "watchmen" aboard vessels in port.
- 783.36 Barge tenders.
- 783.37 Enforcement policy for nonseaman's work.

WHAT IS AN "AMERICAN VESSEL"

- 783.38 Statutory definition of "American vessel".
- 783.39 "Vessel" includes all means of water transportation.
- 783.40 "Documented" vessel.
- 783.41 "Numbered" vessel.
- 783.42 Vessels neither "documented" nor "numbered".

COMPUTATION OF WAGES AND HOURS

- 783.43 Computation of seaman's minimum wage.
- 783.44 Board and lodging as wages.
- 783.45 Deductions from wages.
- 783.46 Hours worked.
- 783.47 Off-duty periods.

APPLICATION OF THE EXEMPTIONS

- 783.48 Factors determining application of exemptions.

783.49 Workweek unit in applying the exemptions.

783.50 Work exempt under another section of the Act.

783.51 Seamen on a fishing vessel.

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

SOURCE: 27 FR 8309, Aug. 21, 1962, unless otherwise noted.

INTRODUCTORY

§ 783.0 Purpose of this part.

This part 783 is the official interpretation of the Department of Labor with respect to the meaning and application of sections 6(b)(2), 13(a)(14), and 13(b)(6) of the Fair Labor Standards Act, as amended, which govern the application of the minimum wage and overtime pay requirements of the Act to employees employed as seamen. Prior to the Fair Labor Standards Amendments of 1961, which became effective on September 3, 1961, all employees employed as seamen were exempt from both the minimum wage and overtime pay provisions of the Act. The 1961 amendments have narrowed this exemption so as to extend the minimum wage provisions of the Act to employees employed as seamen on American vessels. Employees employed as seamen on vessels other than American vessels continue to be exempt from both the minimum wage and the overtime pay requirements of the Act. It is the purpose of this part to make available in one place the interpretations of the law relating to employees employed as seamen which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act.

§ 783.1 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, and child labor requirements that apply as provided in the Act. 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 exempt from them. Employers having such employees are required to comply with the Act's provisions in