

Wage and Hour Division, Labor

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

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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 engaged in fishing and related activities, or in operations on aquatic products on

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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 worked; and part 800 of this chapter, discussing equal pay for equal work.

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Reference should also be made to subpart G of part 570 of this chapter, which contains the official interpretations of the child labor provisions of the Act.

§ 784.4 Significance of official interpretations.

The regulations in this part contain the official interpretations of the Department of Labor pertaining to the exemptions provided in sections 13(a)(5) and 13(b)(4) of the Fair Labor Standards Act of 1938, as amended. It is intended that the positions stated will serve as "a practical guide to employers and employees as to how the office representing the public interest in its enforcement will seek to apply it" (*Skidmore v. Swift*, 323 U.S. 134, 138). 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 re-examination of an interpretation that it is incorrect. The interpretations contained herein may be relied upon in accordance with section 10 of the Portal-to-Portal Act (29 U.S.C. 251-262), so long as they remain effective and are not modified, amended, rescinded, or determined by judicial authority to be incorrect.

§ 784.5 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 part 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