

the Act, “includes any individual employed by an employer,” and “employ,” as used in the Act, is defined in section 3(g) to include “to suffer or permit to work.” It should be noted, as explained in part 791 of this chapter, dealing with joint employment that in appropriate circumstances two or more employers may be jointly responsible for compliance with the statutory requirements applicable to employment of a particular employee. It should also be noted that “employer,” “enterprise,” and “establishment” are not synonymous terms, as used in the Act. An employer may have an enterprise with more than one establishment, or he may have more than one enterprise in which he employs employees within the meaning of the Act. Also, there may be different employers who employ employees in a particular establishment or enterprise.

§ 784.9 “Person.”

As used in the Act (including the definition of “enterprise” set forth below in § 784.10), “person” is defined as meaning “an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons” (Act, section 3(a)).

§ 784.10 “Enterprise.”

The term “enterprise” which may, in some situations, be pertinent in determining coverage of this Act to employees employed by employers engaged in the procurement, processing, or distribution of aquatic products, is defined in section 3(r) of the Act, section 3(r) states:

Enterprise means the related activities performed (either through unified operation or common control) by any person or persons for a common business purpose, and includes all such activities whether performed in one or more establishments or by one or more corporate or other organizational units including departments of an establishment operated through leasing arrangements, but shall not include the related activities performed for such enterprise by an independent contractor * * *.

The scope and application of this definition is discussed in part 776 of this chapter.

§ 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