

§ 779.10

(*Skidmore v. Swift*, 323 U.S. 134.) Some of the interpretations in subpart D of this part relating to the scope of the exemption provided for retail or service establishments are interpretations of this exemption as it appeared in the original Act before amendment in 1949 and 1961, which have remained unchanged because they were consistent with the amendments. These interpretations may be said to have Congressional sanction because "When Congress amended the Act in 1949 it provided that pre-1949 rulings and interpretations by the Administrator should remain in effect unless inconsistent with the statute as amended. 63 Stat. 920." (*Mitchell v. Kentucky Finance Co.*, 359 U.S. 290.)

§ 779.10 Interpretations made, continued, and superseded by this part.

On and after publication of this part in the FEDERAL REGISTER, the interpretations contained therein shall be in effect and shall remain in effect until they are modified, rescinded, or withdrawn. This part supersedes and replaces the interpretations previously published in the FEDERAL REGISTER and Code of Federal Regulations as part 779 of this chapter. Prior opinions, rulings and interpretations and prior enforcement policies which are not inconsistent with the interpretations in this part or with the Fair Labor Standards Act as amended by the Fair Labor Standards Amendments of 1961 are continued in effect; all other opinions, rulings, interpretations, and enforcement policies on the subjects discussed in the interpretations in this part are rescinded and withdrawn. The interpretations in this part provide statements of general principles applicable to the subjects discussed and illustrations of the application of these principles to situations that frequently arise. They do not and cannot refer specifically to every problem which may be met by retailers in the application of the Act. The omission to discuss a particular problem in this part or in interpretations supplementing it should not be taken to indicate the adoption of any position by the Secretary of Labor or the Administrator with respect to such problem or to constitute an administrative interpretation or practice or

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enforcement policy. Questions on matters not fully covered by this part may be addressed to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210, or to any Regional or District Office of the Division.

SOME BASIC DEFINITIONS

§ 779.11 General statement.

The meaning and application of the provisions of law discussed in this part depend in large degree on the definitions of terms used in these provisions. The Act itself defines some of these terms. Others have been defined and construed in decisions of the courts. In the following sections some of these basic definitions are set forth for ready reference in connection with the part's discussion of the various provisions in which they appear. Some of these definitions and their application are considered in detail in other interpretative bulletins. The application of the others is considered in the sections of this part where the particular provisions containing the defined terms are discussed.

§ 779.12 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 § 779.16.) The application of this definition and the kinds of activities which it includes are discussed at length in the interpretative bulletin on general coverage of the Act, part 776 of this chapter.

§ 779.13 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 the interpretative bulletin on general coverage of the Act, part 776 of this chapter. Section 3(j) provides that "produced" as used in