Wage and Hour Division, Labor

§ 776.10 Employees participating in the actual movement of commerce.

(a) Under the principles stated in §776.9, the wage and hours provisions of the Act apply typically, but not exclusively, to employees such as those in the telephone, telegraph, transportation and shipping industries, since these industries serve as the actual instrumentalities and channels of interstate and foreign commerce or makes it possible for existing instrumentalities of commerce to accomplish the movement of such commerce effectively and to free it from burdens or obstructions.

26 Walling v. Sondock, 132 F. 2d 77 (C.A. 5), certiorari denied 318 U.S. 772. See also Horton v. Wilson & Co., 223 N.C. 71, 25 S.E. 2d 437, in which the court stated that an employee is engaged “in commerce” if his services—not too remotely but substantially and directly—aid in such commerce as defined in the Act.

27 For a list of such instrumentalities, see §776.11.


30 Western Union Telegraph Co. v. Lenroot, 323 U.S. 490; Western Union Telegraph Co. v. McComb, 165 F. 2d 65 (C.A. 6), certiorari denied 333 U.S. 862; Moss v. Postal Telegraph-Cable Co., 42 F. Supp. 807 (M.D. Ga.).

31 Wilson v. Shuman, 140 F. 2d 644 (C.A. 6); Wabash Radio Corp. v. Walling, 162 F. 2d 391 (C.A. 6).

§ 776.11 Employees doing work related to instrumentalities of commerce.

(a) Another large category of employees covered as “engaged in commerce” is comprised of employees performing the work involved in the maintenance, repair, or improvement of existing instrumentalities of commerce. (See the cases cited in footnote 28 to §776.9. See also the discussion of coverage of employees engaged in building and construction work, in subpart B of this part.) Typical illustrations of instrumentalities of commerce include railroads, highways, city streets, pipe lines, telephone lines, electrical transmission lines, rivers, streams, or other waterways over which interstate or foreign commerce more or less regularly moves; airports; railroad, bus, truck, or steamship terminals; telephone exchanges, radio and television stations, post offices and express offices; bridges and ferries carrying traffic moving in interstate or foreign commerce (even though within a single State); bays, harbors, piers, wharves and docks used for shipping between a State and points outside; dams, dikes, revetments and levees which directly facilitate the uninterrupted movement of commerce by enhancing or improving the usefulness of waterways, railways, and highways through control of water depth, channels or flow in streams or through control of flood waters; warehouses or distribution depots devoted to the receipt and shipment of goods in interstate or foreign commerce; ships, vehicles, and aircraft regularly used in transportation of persons or goods in commerce; and similar fixed or movable facilities on which the flow of interstate and foreign commerce depends.

(b) It is well settled that the work of employees involved in the maintenance, repair, or improvement of such existing instrumentalities of commerce is so closely related to interstate or foreign commerce as to be in practice and in legal contemplation a part of it. Included among the employees who are thus “engaged in commerce” within the meaning of the Act are employees of railroads, telephone companies, and

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