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## 29 C.F.R. § 776.22b

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### Guiding principles.

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(a) *Scope of bulletin and general coverage statement.* This subpart contains the opinions of the Administrator of the Wage and Hour Division with respect to the applicability of the Fair Labor Standards Act to employees engaged in the building and construction industry. The provisions of the Act expressly make its application dependent on the character of an employee's activities, that is, on whether he is engaged “in commerce” or in the “production of goods for commerce including any closely related process or occupation directly essential to such production.” Under either of the two prescribed areas of covered work, coverage cannot be determined by a rigid or technical formula. The United States Supreme Court has said of both phases that coverage must be given “a liberal construction” determined “by practical considerations, not by technical conceptions.” <sup>[1]</sup> The Court has specifically rejected the technical “new construction” concept, as a reliable test for determining coverage under this Act. <sup>[2]</sup>

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