

complaint without prejudice and shall so inform the complainant.

(f) If the Commission receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(g) The Commission shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151-4157), is not readily accessible to and usable by individuals with handicaps.

(h) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the Commission shall notify the complainant of the results of the investigation in a letter containing—

- (1) Findings of fact and conclusions of law;
- (2) A description of a remedy for each violation found; and
- (3) A notice of the right to appeal.

(i) Appeals of the findings of fact and conclusions of law or remedies must be filed with the Chairman of the Commission by the complainant within ninety calendar days of receipt from the Commission of the letter required by §1615.170(h). The Commission shall extend this time for good cause when a complainant shows that he or she was not notified of the prescribed time limit and was not otherwise aware of it or that circumstances beyond his or her control prevented the filing of an appeal within the prescribed time limit. An appeal shall be deemed filed on the date it is postmarked, or, in the absence of a postmark, on the date it is received by the Chairman at 1801 "L" Street NW., Washington, DC 20507. It should be clearly marked "Appeal of section 504 decision" and should contain specific objections explaining why the person believes the initial decision was factually or legally wrong. Attached to the appeal letter should be a copy of the initial decision being appealed.

(j) Timely appeals shall be decided by the Chairman of the Commission unless the Commission determines that an appeal raises a policy issue which should be addressed by the full Com-

mission. The full Commission shall then decide such appeals.

(k) The Commission shall notify the complainant of the results of the appeal within sixty days of the receipt of the request. If the Commission determines that it needs additional information from the complainant, it shall have sixty days from the date it receives the additional information to make its determination on the appeal.

(l) The time limits cited in paragraphs (h) and (k) of this section may be extended with the permission of the Assistant Attorney General.

(m) The Commission may delegate its authority for conducting complaint investigations to other Federal agencies, or may contract with non-Federal entities to conduct such investigations except that the authority for making the final determination may not be delegated.

[54 FR 22749, May 26, 1989, as amended at 71 FR 26830, May 9, 2006]

**§§ 1615.171-1615.999 [Reserved]**

**PART 1620—THE EQUAL PAY ACT**

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- 1620.2 General coverage of employees "engaged in commerce."
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- 1620.20 Pay differentials claimed to be based on extra duties.
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- 1620.28 Relationship to other equal pay laws.
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- 1620.30 Investigations and compliance assistance.
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- 1620.32 Recordkeeping requirements.
- 1620.33 Recovery of wages due; injunctions; penalties for willful violations.
- 1620.34 Rules to be liberally construed.

AUTHORITY: Sec. 1-19, 52 Stat. 1060, as amended; sec. 10, 61 Stat. 84; Pub. L. 88-38, 77 Stat. 56 (29 U.S.C. 201 *et seq.*); sec. 1, Reorg. Plan No. 1 of 1978, 43 FR 19807; E.O. 12144, 44 FR 37193.

SOURCE: 51 FR 29819, Aug. 20, 1986, unless otherwise noted.

### § 1620.1 Basic applicability of the Equal Pay Act.

(a) Since the Equal Pay Act, 29 U.S.C. 206(d) (hereinafter referred to as the EPA), is a part of the Fair Labor Standards Act, 29 U.S.C. 201, *et seq.* (hereinafter referred to as the FLSA), it has the same basic coverage as the FLSA with two principal exceptions:

(1) The EPA applies to executive, administrative, and professional employees who are normally exempted from the FLSA for most purposes by section 13(a)(1) of that statute, and

(2) The EPA covers all State and local government employees unless they are specifically exempted under section 3(e)(2)(C) of the FLSA.

(b) The EPA does not apply where the employer has no employees who are engaged in commerce or in the handling of goods that have moved in commerce and the employer is not an enterprise engaged in commerce or in the production of goods for commerce.

(c) Men are protected under the Act equally with women. While the EPA was motivated by concern for the weaker bargaining position of women, the Act by its express terms applies to both sexes.

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(d) Most employees of the United States Government, as described in section 3(e)(2) (A) and (B) of the FLSA, are covered by the EPA. Accordingly, these interpretations and principles may generally be applied to Federal sector employment.

### § 1620.2 General coverage of employees “engaged in commerce.”

(a) Like the FLSA, the EPA applies to employees “engaged in commerce.” “Commerce” is broadly defined in section 3(b) of the FLSA. It includes both interstate and foreign commerce and is not limited to transportation across State lines, or to activity of a commercial character. All parts of the movement among the several States, or between any State and any place outside thereof, of persons or things, tangibles or intangibles, including communication of information and intelligence, constitute movement in “commerce” within the statutory definition. This includes those parts of any such activity which take place wholly within a single State. In addition, the instrumentalities for carrying on such commerce are so inseparable from the commerce itself that employees working on such instrumentalities within the borders of a single State, by virtue of the contribution made by their work to the movement of the commerce, are “engaged in commerce” within the meaning of the FLSA.

(b) Consistent with the purpose of the FLSA to apply Federal standards “throughout the farthest reaches of the channels of interstate commerce,” the courts have made it clear that the employees “engaged in commerce” include every employee employed in the channels of such commerce or in activities so closely related to such commerce as to be considered a part of it as a practical matter. Engaging “in commerce” includes activities connected therewith such as management and control of the various physical processes, together with the accompanying accounting and clerical activities. Thus, employees engaged in interstate or foreign commerce will typically include, among others, employees in distributing industries such as wholesaling or retailing who sell, transport, handle, or otherwise work