

§779.216

individual on the other hand, the requirement of performance “through common control” of “related activities” for a “common business purpose” may not be sufficiently met.

§779.216 Statutory construction of the terms.

The terms “unified operation” and “common control” do not have a fixed legal or technical meaning. As used in the definition, these and other terms must be given an interpretation consistent with the Congressional intention to be ascertained from the context in which they are used, the legislation of which they form a part, and the legislative history. In extending coverage of the Act on an “enterprise” basis, the Congress intended, by the 1961 and 1966 amendments to cover, among others, business organizations and chain store systems which may perform their related activities through complex business arrangements or business structures, whether they perform their activities for a common business purpose through unified operation or through the retention or exercise of control. For these reasons, the definition of the term “enterprise” is stated in broad general terms. This legislative intent is evidenced both by the statements in the Committee Reports and by the definition itself, particularly the broad references to the inclusion in the “enterprise” of “all such activities” whether performed “in one or more establishments” or “by one or more corporate or other organizational units.” When the Act was amended in 1966 the Congress further broadened coverage by redefining an enterprise engaged in commerce or in the production of goods for commerce in section 3(s). (See §779.22.) Where the Congress intended to exclude certain arrangements or activities from the “enterprise” it did so by specific provision under the prior and amended Act.

§779.217 “Unified operation” defined.

Webster defines the word “unify” to mean “to cause to be one; to make into a unit; to unite.” The pertinent definition of “operation” is a method or way of operating, working or functioning. Since the term “unified operation” has reference to the method of performing

29 CFR Ch. V (7–1–10 Edition)

the related activities, it means combining, uniting, or organizing their performance so that they are in effect a single business unit or an organized business system which is an economic unit directed to the accomplishment of a common business purpose. The term “unified operation” thus includes a business which may consist of separate segments but which is conducted or operated as a unit or as a single business for a common business purpose.

§779.218 Methods to accomplish “unified operation.”

There are many instances where several establishments, persons, corporations, or other business organizations, join together to perform some or all of their activities as a unified business or business system. They may accomplish such unification through agreements, franchises, grants, leases, or other arrangements which have the effect of aligning or integrating the activities of one company with the activities of others so that they constitute a single business or unified business system. Whether in any particular case the activities are performed through “unified operation” and have the effect of creating a single enterprise, will depend upon all the facts, including the manner in which the activities are performed, the agreements and arrangements which govern their performance, and the other relationships between the parties, considered in the light of the statutory provision and the legislative intent. (cf *Wirtz v. Wornom's Pharmacy* (E.D. Va.), 18 WH Cases 289, 365; 57 Labor Cases 32,006, 32,030.)

§779.219 Unified operation may be achieved without common control or common ownership.

The performance of related activities through “unified operation” to serve a common business purpose may be achieved without common control and without common ownership. In particular cases ownership or control of the related activities may be factors to be considered, along with all facts and circumstances, in determining whether the activities are performed through “unified operation.” It is clear from the definition that if the described activities are performed through unified