

## 22.1903 Applicability.

(a) This subpart applies to contracts covered by the *Service Contract* Labor Standards statute (41 U.S.C. chapter 67, formerly known as the *Service Contract* Act, subpart 22.10), or the Wage Rate Requirements (*Construction*) statute (40 U.S.C. chapter 31, Subchapter IV, formerly known as the Davis Bacon Act, subpart 22.4), that require performance in whole or in part within the *United States* (the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*)). When performance is in part within and in part outside the *United States*, this subpart applies to the part of the contract that is performed within the *United States*.

(b)

(1) This subpart applies to *workers* as defined at 22.1901. As provided in that definition-

(i) *Workers* are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the *worker*;

(ii) *Workers* with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and

(iii) *Workers* who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This subpart does not apply to-

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., i.e., those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the *Service Contract* Labor Standards statute or the Wage Rate Requirements (*Construction*) statute. These individuals include but are not limited to-

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a);

(B) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b); and

(C) Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

(c) *Agency Labor Advisors*, as defined at 22.001, are listed at <https://www.sam.gov>, and are available to provide guidance and assistance with the application of this subpart.

**Parent topic:** [Subpart 22.19 - Increasing the Minimum Wage for Contractors](#)