Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

IBP, INC. *v.* ALVAREZ, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 03–1238. Argued October 3, 2005—Decided November 8, 2005*

After this Court ruled that the term "workweek" in the Fair Labor Standards Act of 1938 (FLSA) included the time employees spent walking from time clocks near a factory entrance to their workstations, *Anderson* v. *Mt. Clemens Pottery Co.,* 328 U. S. 680, 691–692, Congress passed the Portal-to-Portal Act of 1947, which, *inter alia,* excepted from FLSA coverage walking on the employer's premises to and from the location of the employee's "principal activity or activities," §4(a)(1), and activities that are "preliminary or postliminary" to "said principal activity or activities," §4(a)(2). The Act did not otherwise change this Court's descriptions of "work" and "workweek" or define "workday." Regulations promulgated by the Secretary of Labor shortly thereafter concluded that the Act did not affect the computation of hours within a "workday," 29 CFR §790.6(a), which includes "the period between the commencement and completion" of the "principal activity or activities," §790.6(b). Eight years after the enactment of the Portal-to-Portal Act and these interpretative regulations, the Court explained that the "term 'principal activity or activities' . . . embraces all activities which are 'an integral and indispensable part of the principal activities,'" including the donning and doffing of specialized protective gear "before or after the regular work shift, on or off the production line." *Steiner* v. *Mitchell,* 350 U. S. 247, 256.

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*Together with No. 04–66, *Tum et al.* v. *Barber Foods, Inc., dba Barber Foods,* on certiorari to the United States Court of Appeals for the First Circuit.

Syllabus

In No. 03–1238, respondent employees filed a class action seeking compensation for time spent donning and doffing required protective gear and walking from the locker rooms to the production floor of a meat processing facility owned by petitioner IBP, Inc. (IBP), and back. The District Court found the activities compensable, and the Ninth Circuit affirmed. In No. 04–66, petitioner employees sought compensation for time spent donning and doffing required protective gear at a poultry processing plant operated by respondent Barber Foods, Inc. (Barber), as well as the attendant walking and waiting times. Barber prevailed on the walking and waiting claims. On appeal, the First Circuit found those times preliminary and postliminary activities excluded from FLSA coverage by §§4(a)(1) and (2) of the Portal-to-Portal Act.

Held:

1. The time respondents in No. 03–1238 spend walking between changing and production areas is compensable under the FLSA. Pp. 7–15.

(a) Section 4(a)(1)'s text does not exclude such time from the FLSA's scope. IBP claims that, because donning is not the "principal activity" that starts the workday, walking occurring immediately after donning and immediately before doffing is not compensable. That argument, which in effect asks for a third category of activities—those that are "integral and indispensable" to a "principal activity" and thus not excluded from coverage by §4(a)(2), but are not themselves "principal activities" as defined by §4(a)(1)—is foreclosed by *Steiner,* which made clear that §4 does not remove activities that are "integral and indispensable" to "principal activities" from FLSA coverage precisely because such activities are themselves "principal activities." 350 U. S., at 253. There is no plausible argument that these terms mean different things in §4(a)(2) and in §4(a)(1). Under the normal rule of statutory interpretation, identical words used in different parts of the same statute are generally presumed to have the same meaning; and in §4(a)(2)'s reference to "said principal activity or activities," "said" is an explicit reference to the use of the identical term in §4(a)(1). Pp. 10–12.

(b) Also unpersuasive is IBP's argument that Congress' repudiation of the *Anderson* holding reflects a purpose to exclude the walking time at issue. That time, which occurs after the workday begins and before it ends, is more comparable to time spent walking between two different positions on an assembly line than to the walking in *Anderson,* which occurred before the workday began. Pp. 12–13.

(c) The relevant regulations also support this view of walking. Contrary to IBP's claim, 29 CFR §790.6 does not strictly define the workday's limits as the period from "whistle to whistle." And

§790.7(g), n. 49, which provides that postdonning walking time is not "necessarily" excluded from §4(a)(1)'s scope, does not mean that such time is always excluded and is insufficient to overcome clear statements in the regulations' text that support the holding here. Pp. 13–15.

2. Because donning and doffing gear that is "integral and indispensable" to employees' work is a "principal activity" under the statute, the continuous workday rule mandates that the time the No. 04–66 petitioners spend walking to and from the production floor after donning and before doffing, as well as the time spent waiting to doff, are not affected by the Portal-to-Portal Act, and are instead covered by the FLSA. Pp. 15–17.

3. However, §4(a)(2) excludes from the FLSA's scope the time employees spend waiting to don the first piece of gear that marks the beginning of the continuous workday. Such waiting—which is two steps removed from the productive activity on the assembly line—comfortably qualifies as a "preliminary" activity. The fact that certain preshift activities are necessary for employees to engage in their principal activities does not mean that those preshift activities are "integral and indispensable" to a "principal activity" under *Steiner*. No limiting principle allows this Court to conclude that the waiting time here is such an activity without also leading to the logical (but untenable) conclusion that the walking time in *Anderson* would also be a "principal activity" unaffected by the Portal-to-Portal Act. Title 29 CFR §790.7(h) does not support a contrary view. Pp. 17–19.

No. 03–1238, 339 F. 3d 894, affirmed; No. 04–66, 360 F. 3d 274, affirmed in part, reversed in part, and remanded.

STEVENS, J., delivered the opinion for a unanimous Court.