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U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WASHINGTON, D.C. 20210



MAR 7 1973

This is in reply to your letter of December 12, 1972, concerning the application of the overtime provisions of the Fair Labor Standards Act to employees of a mushroom growing, processing and canning operation.

Workers engaged in growing mushrooms and in operations incident to such farming operations are employed in agriculture as defined in section 3(f) of the Act. As provided in section 13(b)(12) of the Act, its overtime provisions do not apply to such agricultural work. The enclosed pamphlet, Agricultural Employment, gives general information on the application of the Act to such employment. Interpretative Bulletin, Part 780 discusses the subject in more detail.

Any employer who processes and cans fresh fruits and vegetables may claim partial overtime exemptions under sections 7(c) and 7(d) of the Act. The determination found at 29 CFR 526.12(b)(2), on the 7(c) and 7(d) exemptions for the fresh fruit and vegetable industry, includes the operations named in that regulation when performed with respect to mushrooms.

Employees who are exempt under section 7(c) need not be paid at overtime rates except for hours worked in excess of 10 a day or 50 in a workweek during not more than 14 workweeks in each calendar year. Under section 7(d) the overtime pay requirements apply to hours worked in excess of 10 a day or 48 in a workweek during not more than 14 workweeks in each calendar year. However, if an employer, such as a packer or canner who qualifies for both exemptions, chooses to avail himself of both; he may take only 10 weeks of exemption under each section, or a maximum of 20 weeks a year. The pamphlet on the fresh fruit and vegetable industry explains in more detail how the law applies to such workers.

If you need further assistance in this matter you may find it convenient to contact our area office at 638 Federal Building, 210 Walnut Street,

Des Moines, Iowa 50309 (telephone: 515-284-4625). The people in that office are in the best position to ascertain the necessary facts and will be pleased to assist you.

Sincerely,

/s/ Ben P. Robertson
Ben P. Robertson
Acting Administrator
Wage and Hour Division

Enclosures