

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

REVISED "AREA OF PRODUCTION" REGULATIONS EXTENDS EXEMPTIONS

Elmer F. Andrews, Administrator, Wage and Hour Division, U. S. Department of Labor, today issued amended regulations defining the term "area of production." These regulations apply two alternative definitions of the term "area of production" to all agricultural or horticultural commodities, including dairy products.

One of these definitions exempts employees engaged in operations on commodities all of which come from within a radius of ten miles, provided also that the establishment is located in the open country or in a town of less than 2500; the other definition exempts employees engaged in establishments employing seven or fewer employees in the exempt operations and drawing the commodities from the "general vicinity."

These regulations thus make applicable the definition previously issued for fresh fruits and vegetables to all agricultural and horticultural commodities. In addition, the amended regulations continue in effect the definitions previously issued for dry edible beans and Puerto Rican leaf tobacco.

At the time of promulgating the regulations, which will appear in the Federal Register tomorrow, June 17, 1939, Mr. Andrews issued the following explanatory statement:

"The expression 'area of production' and the legislative history behind it indicate that it was intended to provide an exemption for (1) the operation taking place close to the farm where the agricultural or horticultural commodities are produced and (2) the small operation involving the

employment of merely a few persons whether or not it takes place quite as close to the farm. Two alternative definitions of 'area of production' have, therefore, been adopted -- one based primarily upon the proximity of the operation to the farm and stated in terms of miles and the other based primarily upon the number of employees engaged in the operation. The amended regulations issued today apply both definitions to all agricultural or horticultural commodities, including dairy products, and extend the exemption previously granted for fresh fruits and vegetables to these other commodities.. With respect to dry edible beans and Puerto Rican leaf tobacco, however, the definitions previously issued pursuant to hearings duly held are continued in effect pending possible future investigation and revision.

"The legislative history also indicates that Congress was intent upon exempting operations taking place in the open country or in a rural community. The frequent references in the legislative debates to the plant located in the open country or small town as opposed to that located in the urban area clearly show that it was the former and not the latter which Congress meant to exempt. Therefore, in addition to the mileage limitation, the amended regulations require that the operations take place in a town of less than 2500 population or in the open country.

"In the definition based on the number of employees, it seems proper also to require that the operation take place in the general vicinity of the farm where the commodities are produced. The term 'general vicinity' is broader than the term 'immediate locality,' and will be liberally interpreted. Nevertheless, if the commodities come from long distances, the exemption will not apply. Since the business which employs merely a few employees will normally receive most of its raw products from neighboring farms, such business will usually be able to meet this additional requirement.

"With respect to both of these definitions, it is our opinion that they will produce a minimum of discrimination and economic dislocation between competitors engaged in similar operations and between the same classes of labor. Further, the definitions contained in the regulations will aid in carrying out the declared purpose of the Act to eliminate substandard working conditions."

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