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TITLE 29, CHAPTER V
CODE OF FEDERAL REGULATIONS

Part 536

Regulations Defining the Term

“Area of Production”

Pursuant to Section 7 (c) and Section 13 (a) (10)

of the Fair Labor Standards Act of 1938

(52 Stat. 1060)

NOVEMBER 1938



UNITED STATES DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

Regulations

Defining the Term “Area of Production” as Used in Section 7 (c) and in Section 13 (a) (10) of the Fair Labor Standards Act ¹

Congress having provided in section 7 (c) of the Fair Labor Standards Act of 1938 that in the case of “an employer engaged * * * in the first processing, within the area of production (as defined by the Administrator), of any agricultural or horticultural commodity during seasonal operations,” the overtime provisions of section 7 (a) during a period or periods of not more than 14 workweeks in the aggregate in any calendar year shall not apply to his employees in any place of employment where he is so engaged; and

Congress having provided in section 13 (a) (10) that the wage and hour provisions of sections 6 and 7 shall not apply to “any individual employed within the area of production (as defined by the Administrator), engaged in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;” and

It appearing that the intent of the Congress in making these special provisions relating to the “area of production” was to prevent undue disturbance to agriculture and to enable small businesses closely related to agriculture to employ occasional workers in addition to members of the employer’s family without regard to the wage or hour standards of the act; and

It appearing that the exemption of only those businesses which employ a small number of workers would not result in material inequities between firms doing the same type of business; and

It appearing that such small businesses are predominantly located in the open country or in rural communities, receive most of their raw products from neighboring farms, and frequently employ workers who spend part of their time in actual farming operations; and

It appearing that the exemptions herein granted to such small businesses would not defeat the declared purposes of the act;

Therefore, in view of the foregoing, the following regulations defining the term “area of production,” as used in the aforementioned sections of the act, are hereby issued.

¹ Issued under the authority contained in sections 7 (c) and 13 (a) (10), 52 Stat. 1060.

Section 536.1.—“Area of Production” as used in section 7 (c) of the Fair Labor Standards Act.

An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the “area of production” within the meaning of section 7 (c).

(a) if the first processing is conducted on a farm and is performed on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the commodities processed are obtained from farms in the immediate locality of the processing establishment and the number of employees there engaged in such processing does not exceed seven.

Section 536.2.—“Area of Production” as used in section 13 (a) (10) of the Fair Labor Standards Act.

An individual shall be regarded as employed in the “area of production” within the meaning of sections 13 (a) (10), in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products

(a) if he is engaged in such work on a farm and on agricultural or horticultural commodities produced exclusively on such farm, or

(b) if the agricultural or horticultural commodities are obtained by the establishment where he is employed from farms in the immediate locality and the number of employees in such establishment does not exceed seven.

Section 536.3.—Petition for amendment of regulations.

Any interested persons or association wishing a revision of the foregoing regulations may make application to the Administrator in writing to amend Sections 536.1 and 536.2 by increasing or decreasing the maximum of employees permitted within the exemption as defined. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their view either in support of or in opposition to the proposed changes.

Approved by the Administrator, October 20, 1938.

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