

wages including commissions and certain bonuses paid by the employer. Any tips received by the employee in excess of the tip credit need not be included in the regular rate. Such tips are not payments made by the employer to the employee as remuneration for employment within the meaning of the Act.

PART 536—AREA OF PRODUCTION

Sec.

536.1-536.2 [Reserved]

536.3 “Area of production” as used in section 13(b)(14) of the Fair Labor Standards Act.

AUTHORITY: Sec. 13(a)(17), 52 Stat. 1067, as amended, sec. 9, 75 Stat. 71, as amended, sec. 204(b), 80 Stat. 835; 29 U.S.C. 213(b)(14).

SOURCE: 27 FR 400, Jan. 13, 1962, unless otherwise noted.

§§ 536.1-536.2 [Reserved]

§ 536.3 “Area of production” as used in section 13(b)(14) of the Fair Labor Standards Act.

(a) An employee employed by an establishment commonly recognized as a country elevator and having not more than five employees (including such an establishment which sells products and services used in the operation of a farm) shall be regarded as employed within the “area of production,” within the meaning of section 13(b)(14) of the Fair Labor Standards Act, if the establishment by which he is employed is located in the open country or in a rural community and 95 percent of the agricultural commodities received by the establishment for storage or for market come from normal rural sources of supply within the following air-line distances from the establishment:

(1) With respect to grain and soybeans—50 miles;

(2) With respect to any other agricultural commodities—20 miles.

(b) For the purpose of this section:

(1) “Open country or rural community” shall not include any city, town, or urban place of 2,500 or greater population or any area within:

(i) One air-line mile of the city, town, or urban place with a population of 2,500 up to but not including 50,000, or

(ii) Three air-line miles of any city, town, or urban place with a population

of 50,000 up to but not including 500,000, or

(iii) Five air-line miles of any city with a population of 500,000 or greater, according to the latest available United States Census.

(2) The commodities shall be considered to come from “normal rural sources of supply” within the specified distances from the establishment if they are received: (i) From farms within such specified distances, or (ii) from farm assemblers or other establishments through which the commodity customarily moves, which are within such specified distances and located in the open country or in a rural community, or (iii) from farm assemblers or other establishments not located in the open country or in a rural community provided it can be demonstrated that the commodities were produced on farms within such specified distances.

(3) The period for determining whether 95 percent of the commodities are received from normal rural sources of supply shall be the last preceding calendar month in which operations were carried on for two workweeks or more, except that until such time as an establishment has operated for such a calendar month the period shall be the time during which it has been in operation.

(4) The percentage of commodities received from normal rural sources of supply within the specified distances shall be determined by weight, volume or other physical unit of measure, except that dollar value shall be used if different commodities received in the establishment are customarily measured in physical units that are not comparable.

(Sec. 13(a) (17), 52 Stat. 1067, as amended, sec. 9, 75 Stat. 71; 29 U.S.C. 213 (a) (17))

[27 FR 400, Jan. 13, 1962, as amended at 71 FR 16666, Apr. 3, 2006]

PART 541—DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

Subpart A—General Regulations

Sec.

541.0 Introductory statement.