§ 784.100 The section 13(a)(5) exemption.

Section 13(a)(5) grants an exemption from both the minimum wage and the overtime requirements of the Act and applies to “any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or by products thereof” (52 Stat. 1060, sec. 13(a)(5)).

§ 784.101 The section 13(b)(4) exemption.

Section 13(b)(4) grants an exemption only from the overtime requirements of the Act and applies to “any employee employed in the canning of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any byproduct thereof”. All other employees included in the original minimum wage and overtime exemption remained within it (63 Stat. 910).

(c) By the Fair Labor Standards Amendments of 1961, both these exemptions were further revised to read as set forth in §§784.100 and 784.101. The effect of this change was to provide a means of equalizing the application of the Act as between canning employees and employees employed in other processing, marketing, and distributing of aquatic products on shore, to whom minimum wage protection, formerly provided only for canning employees, was extended by this action. The 1961 amendments, however, left employees employed in fishing, in fish farming, and in related occupations concerned with procurement of aquatic products from nature, under the existing exemption from minimum wages as well as overtime pay.

§ 784.102 General legislative history.

(a) As originally enacted in 1938, the Fair Labor Standards Act provided an exemption from both the minimum wage requirements of section 6 and the overtime pay requirements of section 7 which was made applicable to “any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or by products thereof” (52 Stat. 1060, sec. 13(a)(5)).