
29 C.F.R. § 780.713

Determining the number of employees generally.

The number of employees referred to in section 13(b)(14) is the number “employed in the establishment in such operations”. The determination of the number of employees so employed involves a consideration of the meaning of employment “in the establishment” and “in such operations” in relation to each other. If, in any workweek, an employee is “employed in the establishment in such operations” for more than a negligible period of time, he should be counted in determining whether, in that workweek, more than five employees were so employed. An employee so employed must be counted for this purpose regardless of whether he would, apart from this exemption, be within the coverage of the Act. Also, as noted in the following discussion, the employees to be counted are not necessarily limited to employees directly employed by the country elevator but may include employees directly employed by others who are engaged in performing operations of the elevator establishment.

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