
29 C.F.R. § 780.719

Employees not employed “by” the elevator establishment.

Since the exemption depends on employment “by” an establishment qualified for exemption rather than simply the work of the employee, employees who are not employed by the country elevator are not exempt. This is so even though they work in the establishment and engage in duties which are part of the services which are commonly recognized as those of a country elevator. Since they are not employed by the elevator, employees of independent contractors, farmers and others who work in or for the elevator are not exempt under section 13(b) (14) simply because they work in or for the elevator (see *Walling v. Friend*, 156 F. 2d 429; *Mitchell v. Kroger*, 248 F. 2d 935; *Durkin v. Joyce Agency*, 110 F. Supp. 918, affirmed sub. nom. *Mitchell v. Joyce Agency*, 348 U.S. 945). Thus an employee of an independent contractor who works inside the elevator in drying grain for the elevator is not exempt under this section.

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