

29 C.F.R. § 784.137

Relationship of exemption to exemption for “offshore” activities.

The reasons advanced for exemption of employment in “shore” operations, now listed in section 13(b)(4), at the time of the adoption of the original exemption in 1938, had to do with the difficulty of regulating hours of work of those whose operations, like those of fishermen, were stated to be governed by the time, size, availability, and perishability of the catch, all of which were considered to be affected by natural factors that the employer could not control (see 83 Cong. Rec. 7408, 7422, 7443). The intended limited scope of the exemption in this respect was not changed by transfer of the “shore” activities from section 13(a)(5) to section 13(b)(4). The exemption of employment in these “shore” operations may be considered, therefore, as intended to implement and supplement the exemption for employment in “offshore” operations provided by section 13(a)(5), by exempting from the hours provisions of the Act employees employed in those “shore” activities which are necessarily somewhat affected by the same natural factors. These “shore” activities are affected primarily, however, by fluctuations in the supply of the product or by the necessity for consumption or preservation of such products before spoilage occurs (see *Fleming v. Hawkeye Pearl Button Co.*, 113 F. 2d 52; cf. *McComb v. Consolidated Fisheries*, 174 F. 2d 74).

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