

29 C.F.R. § 794.105

Other requirements for exemption.

The limited overtime pay exemption provided by section 7(b)(3) applies to any employee compensated in accordance with its terms who is “employed * * * by an * * * enterprise * * * engaged in the wholesale or bulk distribution of petroleum products” as explained in §§ 794.103 through 794.104 if the enterprise which employs him meets all of the following requirements: (a) It is a “local” enterprise; (b) it is “independently owned and controlled”; (c) it has an annual gross volume of sales of less than \$1 million exclusive of excise taxes; (d) it makes more than 75 percent of its annual dollar volume of sales within the State in which it is located; and (e) not more than 25 percent of such annual dollar volume of sales is to customers who are engaged in the bulk distribution of petroleum products for resale. In order to determine whether all these requirements are met, it is necessary to know what constitutes the “enterprise” to which reference is made, the meaning of “the wholesale or bulk distribution of petroleum products” in which engagement is required as a prerequisite to exemption, what is meant by a “local” enterprise and what characterizes it as “independently owned and controlled”, and the criteria for application of the dollar volume tests. These matters will be discussed in some detail in the sections following.

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