U.S. Department of Labor

Occupational Safety and Health Administration
Washington, D.C. 20210

Reply to the attention of:

DEP/CPSEI/SMK

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MEMORANDUM FOR: REGIONAL ADMINISTRATORS

THROUGH: DOROTHY DOUGHERTY
Deputy Assistant Secretary

FROM: THOMAS GALASSI, Director
Directorate of Enforcement Programs

SUBJECT: Policy Clarification on OSHA's Enforcement Authority at Small Farms

The purpose of this memorandum is to clarify OSHA's longstanding position on the limits of its authority to conduct enforcement activities on small farms. This memorandum supersedes OSHA's June 28, 2011, memorandum on this subject.

Since 1976, an appropriations rider has precluded OSHA from expending appropriated funds to conduct enforcement activities with respect to any person engaged in a farming operation with ten or fewer non-family employees that has not maintained a temporary labor camp within the preceding twelve months.[1]

OSHA defines a "farming operation" as "any operation involved in the growing or harvesting of crops or the raising of livestock or poultry, or related activities conducted by a farmer on sites such as farms, ranches, orchards, dairy farms or similar farming operations."[2] Crop farming operation activities include preparing the ground, sowing seeds, watering, weeding, spraying, harvesting, and all related activities necessary for these operations, such as storing, fumigating, and drying crops grown on the farm. An exempt small[3] farm would not become subject to

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[1] See Consolidated Appropriations Act, 2014, Pub. L. No. 113-76 (2014).

[2] These are employers engaged in businesses that have a two digit Standard Industrial Classification (SIC) of 01 and three digit North American Industry Classification System (NAICS) of 111 (Agricultural Production – Crops), two digit SIC 02 and NAICS 112 (Agricultural Production – Livestock and Animal Specialties), four digit SIC 0711 and Six digit NAICS 115112 (Soil Preparation Services), SIC 0721 and NAICS 115112 (Crop Planting, Cultivating, and Protecting), SIC 0722 and NAICS 115113 (Crop Harvesting, Primarily by Machine), and SIC 0761 and NAICS 115115 (Farm Management Services). See OSHA Compliance Directive CPL 02-00-051, *Enforcement Exemptions and Limitations under the Appropriation Act*.

[3] In this memorandum, the term "small" means that the employer has ten or fewer non-family employees and does not maintain a temporary labor camp.

OSHA enforcement simply because, for example, it stores its own grain on the farm or sells that grain from the farm. Onsite storage or sale of grain grown on the farm would constitute a "related activity" under OSHA's interpretation of "farming operation" because it is necessary to gain economic value from grain grown on the farm. Similarly, a small farm that grows grain to feed its own livestock, and stores and grinds that grain on the farm would not become subject to OSHA enforcement because of those activities.

However, if an employer performs activities on a small farm that are not related to farming operations and are not necessary to gain economic value from products produced on the farm, those activities are not exempt from OSHA enforcement. For example, if an exempt small farm maintains a grain handling operation storing and selling grain grown on other farms, the grain handling operation would not be exempt from OSHA enforcement under the appropriations rider. If a small farm employer maintains a food processing facility for making cider from apples grown on the farm or for processing large carrots into "baby" carrots, or if the employer mills its grain into flour and then uses the flour to make baked goods, those food processing operations would be food manufacturing, not farming. Food manufacturing operations are not exempt from OSHA enforcement activities under the appropriations rider, even if they take place on a small farm.

To ensure consistent compliance with the appropriations rider, please consult with Art Buchanan of the Office of General Industry and Agriculture Enforcement, at 202-693-1850, when the applicability of the appropriations rider to a particular activity or employer is unclear. To avoid inadvertently conducting enforcement activity on an exempt small farming operation, this consultation should occur before OSHA initiates the inspection.