

This is the standard applied to the packing, canning, and food-processing industries as well as to all manufacture.

In the event agricultural employees were brought under the Act, the Board would very likely adopt some similar jurisdictional test for this industry if Congress itself had made no provision in the legislation for a standard.

The standard would be set only after full inquiry into the pertinent facts, special needs and problems of agriculture.⁷ Most probably the Board would hold oral argument on the question to which interested labor unions and employer organizations and associations, in addition to the parties, would be invited to participate.

Unfair Labor Practice Cases

The administration of the unfair labor practice provisions of the Act, Sections 8(a) and 8(b), do not appear to involve any particular problems which the Agency has not already experienced where employment is seasonal and the employees migratory.

Representation Elections

Scope of Bargaining Unit

Section 9(b) of the Act provides that "The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof . . ." Thus, the basic unit is the single-employer unit.

Under current law, the Board will not establish multi-employer units unless it finds that the employers have voluntarily formed an association for the purpose of collective bargaining and the union has agreed to bargain on that basis. These requirements of consent of the parties for purposes of establishing multi-employer bargaining units apply equally to seasonal industry.⁸ Thus, if in a given area a number of growers employing their workers from a common labor pool insisted on single-employer units but the union wanted a multi-employer unit, under present law single units would be bound appropriate and elections held accordingly. Were the positions reversed the results would be the same.

Consent is the key to the continuance of multi-employer units as well as to their creation. Where an association-wide unit has been voluntarily established, an employer member may, with due notice at an appropriate time, withdraw from the broad unit and thereafter bargain on a single-employer basis.⁹ Likewise, a union may serve notice at an appropriate time of its intent to cease bargaining on a multi-employer basis, and thereafter bargain in single-employer units.¹⁰

Units broader than single employers may be particularly appropriate to certain phases of agriculture and the parties may well agree since it would be in their mutual interest. In the unlikely event that they do not the Committee might wish to explore the possibility of permitting the Board to formulate bargaining units in the field of agriculture on a broader and different basis from those which the present Act allows, such as multi-employer units, other than those obtained by consent of the parties, or production or marketing area units.

Composition of bargaining unit

The composition of an appropriate unit for collective-bargaining purposes is an issue in many representation cases. The history of collective bargaining, if any, in a particular situation has always been an important factor in determining the composition and scope of the unit. Likewise, the patterns of bargaining in the industry have also been a factor. In agriculture, with collective-bargaining history still to be made and patterns of bargaining not yet developed, these factors are not present. Many analogies to related or similar industries exist, however, that may assist the Board in establishing appropriate units.

Company, 114 NLRB 112 Territories—Standards apply. *Sixto Ortego d/b/a Sixto* 110 NLRB 1917.

Associations: Regarded as a single employer in that the annual business of all members is totaled to determine whether any of the standards will apply. *Laundry Owners' Association of Greater Cincinnati*, 123 NLRB 543.

⁷ The question of jurisdictional standards should also be considered in relation to labor contractors. See page 19 for a discussion of this.

⁸ *Strathmore District Orange Association, et al.*, 85 NLRB 1029.

⁹ *Retail Associates*, 120 NLRB 388.

¹⁰ *Evening News Association*, 154 NLRB 1494. See also, *Evening News Association*, 154 NLRB 1482.