

Subpart C—Agriculture as It Relates to Specific Situations

FORESTRY OR LUMBERING OPERATIONS

§ 780.200 Inclusion of forestry or lumbering operations in agriculture is limited.

Employment in forestry or lumbering operations is expressly included in agriculture if the operations are performed “by a farmer or on a farm as an incident to or in conjunction with such farming operation.” While “agriculture” is sometimes used in a broad sense as including the science and art of cultivating forests, the language quoted in the preceding sentence is a limitation on the forestry and lumbering operations which will be considered agricultural for purposes of section 3(f). It follows that employees of an employer engaged exclusively in forestry or lumbering operations are not considered agricultural employees.

§ 780.201 Meaning of “forestry or lumbering operations.”

The term “forestry or lumbering operations” refers to the cultivation and management of forests, the felling and trimming of timber, the cutting, hauling, and transportation of timber, logs, pulpwood, cordwood, lumber, and like products, the sawing of logs into lumber or the conversion of logs into ties, posts, and similar products, and similar operations. It also includes the piling, stacking, and storing of all such products. The gathering of wild plants and of wild or planted Christmas trees are included. (See the related discussion in §§ 780.205 through 780.209 and in part 788 of this chapter which considers the section 13(a)(13) exemption for forestry or logging operations in which not more than eight employees are employed.) “Wood working” as such is not included in “forestry” or “lumbering” operations. The manufacture of charcoal under modern methods is neither a “forestry”, nor “lumbering” operation and cannot be regarded as “agriculture.”

§ 780.202 Subordination to farming operations is necessary for exemption.

While section 3(f) speaks of practices performed “in conjunction with” as

well as “incident to” farming operations, it would be an unreasonable construction of the Act to hold that all practices were to be regarded as agricultural if the person performing the practice did any farming, no matter how little, or resorted to tilling a small acreage for the purpose of qualifying for exemption (*Ridgeway v. Warren*, 60 F. Supp. 363 (M.D. Tenn.); in re Combs, 5 WH Cases 595, 10 Labor Cases 62,802 (M.D. Ga.)). To illustrate, where an employer owns several thousand acres of timberland on which he carries on lumbering operations and cultivates about 100 acres of farm land which are contiguous to such timberland, he would not be engaged in agriculture so far as his forestry or lumbering operations are concerned. In such case, the forestry or lumbering operations would clearly not be subordinate to the farming operations but rather the principal or a separate business of the “farmer.”

§ 780.203 Performance of operations on a farm but not by the farmer.

Logging or sawmill operations on a farm undertaken on behalf of the farmer or on behalf of the buyer of the logs or the resulting lumber by a contract logger or sawmill owner are not within the scope of agriculture unless it can be shown that these logging or sawmill operations are clearly incidental to farming operations on the farm on which the logging or sawmill operations are being conducted. For example, the clearing of additional land for cultivation by the farmer or the preparation of timber for construction of his farm buildings would appear to constitute operations incidental to “such farming operations.”

§ 780.204 Number of employees engaged in operations not material.

The fact that the employer employs fewer than a certain number of employees in forestry and lumbering operations does not provide a basis for their being considered as agricultural employees. This is to be distinguished from the exemption provided by section 13(a)(13) (discussed in part 788 of this chapter) which is limited to employers employing not more than eight employees in the forestry or logging operations described therein.