

§ 780.520

29 CFR Ch. V (7-1-06 Edition)

to long tables where the leaves are individually graded and sorted, after which they are tied in bundles called "hands" of about 30 to 35 leaves each, which are then baled for shipment. Equipment required for the work may include a steam-heated plant, platforms, thermometers, bulk covers, baling boxes and presses, baling mats and packing, sorting, and grading tables. (See *Mitchell v. Budd*, 350 U.S. 473, 475.) Employees performing any part of this processing prior to the stemming process, including the operations named in section 13(a)(14), may come within the exemption if they are otherwise qualified and if the tobacco on which they work is being processed for use as cigar wrapper tobacco.

§ 780.520 Particular operations which may be exempt.

(a) *General.* Section 13(a)(14) lists a number of operations as being included in the processing of shade-grown tobacco. Some of these are, and others are not, themselves "processing" in the sense that performance of the operations changes the natural form of the commodity on which it is performed. All of the operations named and described in paragraph (b) of this section, however, are a necessary and integral part of the overall process of preparing shade-grown tobacco for use as cigar wrapper tobacco and, when performed as part of that process and prior to stemming of the tobacco, by an employee qualified under the terms of the section, will provide the basis for his exemption from the minimum wage and overtime provisions of the Act.

(b) *Particular operations*—(1) *Drying.* Drying includes the removal or lowering of the moisture content of the tobacco, whether by natural means or by exposure to heat from ovens, furnaces, etc.

(2) *Curing.* Curing includes removing the tobacco to the curing shed or barn and stringing the tobacco over slats.

(3) *Fermenting.* Fermenting includes the operations controlling the chemical changes which take place in the tobacco as the result of bulking and re-bulking.

(4) *Bulking.* Bulking includes piling the tobacco in piles or bulks of about

4,000 pounds each for the purpose of fermenting the tobacco.

(5) *Rebulking.* Rebulking includes the breaking down of the tobacco bulks or piles and rearranging them so that the tobacco on the inside will be placed on the outside of the bulk and tobacco on the outside will be placed inside.

(6) *Sorting.* Sorting includes segregation of the tobacco leaves in connection with the grading and classifying of the cured tobacco.

(7) *Grading.* Grading includes sorting or classifying as to size and quality.

(8) *Aging.* Aging includes the curing process brought about by bulking.

(9) *Baling.* Baling includes the tying of the tobacco into "hands" and placing them in bales for shipment.

§ 780.521 Other processing operations.

The language of the section, namely, "including, but not limited to," extends the exemption for processing to include other operations in the processing of shade-grown tobacco besides those specifically enumerated. These additional operations include only those which are a necessary and integral part of preparing the shade-grown tobacco for use as cigar wrapper tobacco. These additional operations, like those enumerated in section 13(a)(14), must be performed before the tobacco has been stemmed. Stemming work and further work on the tobacco after stemming has been performed are nonexempt.

§ 780.522 Nonprocessing employees.

Only those employees who actually engaged in the growing and harvesting of shade-grown tobacco and the specified exempt processing activities are exempt. Clerical, maintenance and custodial workers are not included.