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activities performed off the farm by his employees as an incident to racing, such as the training and care of the horses, are not practices performed by the farmer in his capacity as a farmer or breeder as an incident to his raising operations. Employees engaged in the feeding, care, and training of horses which have been used in commercial racing and returned to a breeding or training farm for such care pending entry in subsequent races are employed in agriculture.

§ 780.123 Raising of bees.

The term ''raising of * * * bees'' refers to all of those activities customarily performed in connection with the handling and keeping of bees, including the treatment of disease and the raising of queens.

§ 780.124 Raising of fur-bearing animals.

(a) The term ''fur-bearing animals'' has reference to animals which bear fur of marketable value and includes, among other animals, rabbits, silver foxes, minks, squirrels, and muskrats. Animals whose fur lacks marketable value, such as albino and other rats, mice, guinea pigs, and hamsters, are not ''fur-bearing animals'' which within the meaning of section 3(f).

(b) The term ''raising'' of fur-bearing animals includes all those activities customarily performed in connection with breeding, feeding and caring for fur-bearing animals, including the treatment of disease. Such treatment of disease has reference only to disease of the animals being bred and does not refer to the use of such animals or their fur in experimenting with disease or treating diseases in others. The fact that muskrats or other fur-bearing animals are propagated in open water or marsh areas rather than in pens does not prevent the raising of such animals from constituting the ''raising of fur-bearing animals.'' Where wild fur-bearing animals propagate in their native habitat and are not raised as above described, the trapping or hunting of such animals and activities incidental thereto are not included within section 3(f).

§ 780.125 Raising of poultry in general.

(a) The term ''poultry'' includes domesticated fowl and game birds. Ducks and pigeons are included. Canaries and parakeets are not included.

(b) The ''raising'' of poultry includes the breeding, hatching, propagating, feeding, and general care of poultry. Slaughtering, which is the antithesis of ''raising,'' is not included. To constitute ''agriculture,'' slaughtering must come within the secondary meaning of the term ''agriculture.'' The temporary feeding and care of chickens and other poultry for a few days pending sale, shipment or slaughter is not the ''raising'' of poultry. However, feeding, fattening and caring for poultry over a substantial period may constitute the ''raising'' of poultry.

§ 780.126 Contract arrangements for raising poultry.

Feed dealers and processors sometimes enter into contractual arrangements with farmers under which the latter agree to raise to marketable size baby chicks supplied by the former who also undertake to furnish all the required feed and possibly additional items. Typically, the feed dealer or processor retains title to the chickens until they are sold. Under such an arrangement, the activities of the farmers and their employees in raising the poultry are clearly within section 3(f). The activities of the feed dealer or processor, on the other hand, are not ''raising of poultry'' and employees engaged in them cannot be considered agricultural employees on that ground. Employees of the feed dealer or processor who perform work on a farm as an incident to or in conjunction with the raising of poultry on the farm are employed in ''secondary'' agriculture (see §§ 780.137 *et seq.* and *Johnston* v. *Cotton Producers Assn.*, 244 F. 2d 553).

§ 780.127 Hatchery operations.

Hatchery operations incident to the breeding of poultry, whether performed in a rural or urban location, are the ''raising of poultry'' (*Miller Hatcheries* v. *Boyer*, 131 F. 2d 283). The application of section 3(f) to employees of hatcheries is further discussed in §§ 780.210 through 780.214.

PRACTICES EXEMPT UNDER ''SECONDARY'' MEANING OF AGRICULTURE GENERALLY

§ 780.128 General statement on "secondary" agriculture.

The discussion in §§ 780.106 through 780.127 relates to the direct farming operations which come within the ''primary'' meaning of the definition of ''agriculture.'' As defined in section 3(f) ''agriculture'' includes not only the farming activities described in the ''primary'' meaning but also includes, in its ''secondary'' meaning, ''any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market delivery to storage or to market or to carriers for transportation to market.'' The legislative history makes it plain that this language was particularly included to make certain that independent contractors such as threshers of wheat, who travel around from farm to farm to assist farmers in what is recognized as a purely agricultural task and also to assist a farmer in getting his agricultural goods to market in their raw or natural state, should be included within the definition of agricultural employees (see *Bowie* v. *Gonzalez*, 117 F. 2d 11; 81 Cong. Rec. 7876, 7888).

§ 780.129 Required relationship of practices to farming operations.

To come within this secondary meaning, a practice must be performed either by a farmer or on a farm. It must also be performed either in connection with the farmer's own farming operations or in connection with farming operations conducted on the farm where the practice is performed. In addition, the practice must be performed ''as an incident to or in conjunction with'' the farming operations. No matter how closely related it may be to farming operations, a practice performed neither by a farmer nor on a farm is not within the scope of the ''secondary'' meaning of ''agriculture.'' Thus, employees employed by commission brokers in the typical activities conducted at their establishments, warehouse employees at the typical tobacco warehouses, shop employees of an employer engaged in the business of servicing machinery and equipment for farmers, plant employees of a company dealing in eggs or poultry produced by others, employees of an irrigation company engaged in the general distribution of water to farmers, and other employees similarly situated do not generally come within the secondary meaning of ''agriculture.'' The inclusion of industrial operations is not within the intent of the definition in section 3(f), nor are processes that are more akin to manufacturing than to agriculture (see *Bowie* v. *Gonzales*, 117 F. 2d 11; *Fleming* v. *Hawkeye Pearl Button Co.*, 113 F. 2d 52; *Holtville Alfalfa Mills* v. *Wyatt*, 230 F. 2d 398; *Maneja* v. *Waialua*, 349 U.S. 254; *Mitchell* v. *Budd*, 350 U.S. 473).

PRACTICES PERFORMED ''BY A FARMER''

§ 780.130 Performance "by a farmer" generally.

Among other things, a practice must be performed by a farmer or on a farm in order to come within the secondary portion of the definition of ''agriculture.'' No precise lines can be drawn which will serve to delimit the term ''farmer'' in all cases. Essentially, however, the term is an occupational title and the employer must be engaged in activities of a type and to the extent that the person ordinarily regarded as a ''farmer'' is engaged in order to qualify for the title. If this test is met, it is immaterial for what purpose he engages in farming or whether farming is his sole occupation. Thus, an employer's status as a ''farmer'' is not altered by the fact that his only purpose is to obtain products useful to him in a nonfarming enterprise which he conducts. For example, an employer engaged in raising nursery stock is a ''farmer'' for purposes of section 3(f) even though his purpose is to supply goods for a separate establishment where he engages in the retail distribution of nursery products. The term ''farmer'' as used in section 3(f) is not confined to individual persons. Thus an association, a partnership, or a corporation which engages in actual farming operations may be a ''farmer'' (see *Mitchell* v. *Budd*, 350 U.S. 473). This is so even