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HATCHERY OPERATIONS

§ 780.210 The typical hatchery operations constitute "agriculture."

As stated in § 780.127, the typical hatchery is engaged in ''agriculture,'' whether in a rural or city location. Where the hatchery is engaged solely in procuring eggs for hatching, performing the hatching operations, and selling the chicks, all the employees including office and maintenance workers are engaged in agriculture (see *Miller Hatcheries* v. *Boyer*, 131 F. 2d 283).

§ 780.211 Contract production of hatching eggs.

It is common practice for hatcherymen to enter into arrangements with farmer poultry raisers for the production of hatching eggs which the hatchery agrees to buy. Ordinarily, the farmer furnishes the facilities, feed and labor and the hatchery furnishes the basic stock of poultry. The farmer undertakes a specialized program of care and improvement of the flock in cooperation with the hatchery. The hatchery may at times have a surplus of eggs, including those suitable for hatching and culled eggs which it sells. Activities such as grading and packing performed by the hatchery employees in connection with the disposal of these eggs, are an incident to the breeding of poultry by the hatchery and are within the scope of agriculture.

§ 780.212 Hatchery employees working on farms.

The work of hatchery employees in connection with the maintenance of the quality of the poultry flock on farms is also part of the ''raising'' operations. This includes testing for disese, culling, weighing, cooping, loading, and transporting the culled birds. The catching and loading of broilers on farms by hatchery employees for transportation to market are agricultural operations.

§ 780.213 Produce business.

In some instances, hatcheries also engage in the produce business as such and commingle with the culled eggs and chickens other eggs and chickens which they buy for resale. In such a case that work which relates to both the hatchery and produce types of activities would not be within the scope of agriculture.

§ 780.214 Feed sales and other activities.

In some situations, the hatchery also operates a feed store and furnishes feed to the growers. As in the case of the produce business operated by a hatchery, this is not an agricultural activity and employees engaged therein, such as truckdrivers hauling feed to growers, are not agricultural employees. Also office workers and other employees are not employed in agriculture when their duties relate to nonagricultural activities.

§ 780.215 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 Christmas trees is included. (*See* the related discussion in §§ 780.205 through 780.209 and in part 788 of this chapter which considers the sec. 13(b)(28) 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.

[73 FR 77238, Dec. 18, 2008. Redesignated at 74 FR 26014, May 29, 2009]

EFFECTIVE DATE NOTE: At 74 FR 26014, May 29, 2009, § 780.201 was redesignated as § 780.215 and newly designated § 780.215 was suspended, effective June 29, 2009.

§ 780.216 Nursery activities generally and Christmas tree production.

(a) The employees of a nursery who are engaged in the following activities are employed in agriculture: