

Wage and Hour Division, Labor

§ 780.115

§§ 780.128 *et seq.* Also see *Farmers Reservoir Co. v. McComb*, 337 U.S. 755.) Other operations such as the commercial production and distribution of fertilizer are not included within the scope of agriculture. (*McComb v. Super-A Fertilizer Works*, 165 F. 2d 824; *Farmers Reservoir Co. v. McComb*, 337 U.S. 755.)

DAIRYING

§ 780.111 “Dairying” as a farming operation.

“Dairying” includes the work of caring for and milking cows or goats. It also includes putting the milk in containers, cooling it, and storing it where done on the farm. The handling of milk and cream at receiving stations is not included. Such operations as separating cream from milk, bottling milk and cream, or making butter and cheese may be considered as “dairying” under some circumstances, or they may be considered practices under the “secondary” meaning of the definition when performed by a farmer or on a farm, if they are not performed on milk produced by other farmers or produced on other farms. (See the discussions in §§ 780.128 *et seq.*)

AGRICULTURAL OR HORTICULTURAL COMMODITIES

§ 780.112 General meaning of “agriculture or horticultural commodities.”

Section 3(f) of the Act defines as “agriculture” the “production, cultivation, growing, and harvesting” of “agricultural or horticultural commodities,” and employees employed in such operations are engaged in agriculture. In general, within the meaning of the Act, “agricultural or horticultural commodities” refers to commodities resulting from the application of agricultural or horticultural techniques. Insofar as the term refers to products of the soil, it means commodities that are planted and cultivated by man. Among such commodities are the following: Grains, forage crops, fruits, vegetables, nuts, sugar crops, fiber crops, tobacco, and nursery products. Thus, employees engaged in growing wheat, corn, hay, onions, carrots, sugar cane, seed, or any other agricultural or horticultural commodity are engaged in “agri-

culture.” In addition to such products of the soil, however, the term includes domesticated animals and some of their products such as milk, wool, eggs, and honey. The term does not include commodities produced by industrial techniques, by exploitation of mineral wealth or other natural resources, or by uncultivated natural growth. For example, peat humus or peat moss is not an agricultural commodity. *Wirtz v. Ti Ti Peat Humus Co.*, 373 f(2d) 209 (C.A.4).

§ 780.113 Seeds, spawn, etc.

Seeds and seedlings of agricultural and horticultural plants are considered “agricultural or horticultural commodities.” Thus, since mushrooms and beans are considered “agricultural or horticultural commodities,” the spawn of mushrooms and bean sprouts are also so considered and the production, cultivation, growing, and harvesting of mushroom spawn or bean sprouts is “agriculture” within the meaning of section 3(f).

§ 780.114 Wild commodities.

Employees engaged in the gathering or harvesting of wild commodities such as mosses, wild rice, burls and laurel plants, the trapping of wild animals, or the appropriation of minerals and other uncultivated products from the soil are not employed in “the production, cultivation, growing, and harvesting of agricultural or horticultural commodities.” However, the fact that plants or other commodities actually cultivated by men are of a species which ordinarily grows wild without being cultivated does not preclude them from being classed as “agricultural or horticultural commodities.” Transplanted branches which were cut from plants growing wild in the field or forest are included within the term. Cultivated blueberries are also included.

§ 780.115 Forest products.

Trees grown in forests and the lumber derived therefrom are not “agricultural or horticultural commodities.”