

§ 780.119

the farm. Off-the-farm transportation can only be “agriculture” when performed by the farmer as an incident to his farming operations (*Chapman v. Durkin*, 214 F. 2d 360 cert. denied 348 U.S. 897; *Fort Mason Fruit Co. v. Durkin*, 214 F. 2d 363 cert. denied 348 U.S. 897). For further discussion of this point, see §§ 780.144 through 780.147; §§ 780.152 through 780.157.

RAISING OF LIVESTOCK, BEES, FUR-BEARING ANIMALS, OR POULTRY

§ 780.119 Employment in the specified operations generally.

Employees are employed in the raising of livestock, bees, fur-bearing animals or poultry only if their operations relate to animals of the type named and constitute the “raising” of such animals. If these two requirements are met, it makes no difference for what purpose the animals are raised or where the operations are performed. For example, the fact that cattle are raised to obtain serum or virus or that chicks are hatched in a commercial hatchery does not affect the status of the operations under section 3(f).

§ 780.120 Raising of “livestock.”

The meaning of the term “livestock” as used in section 3(f) is confined to the ordinary use of the word and includes only domestic animals ordinarily raised or used on farms. That Congress did not use this term in its generic sense is supported by the specific enumeration of activities, such as the raising of fur-bearing animals, which would be included in the generic meaning of the word. The term includes the following animals, among others: Cattle (both dairy and beef cattle), sheep, swine, horses, mules, donkeys, and goats. It does not include such animals as albino and other rats, mice, guinea pigs, and hamsters, which are ordinarily used by laboratories for research purposes (*Mitchell v. Maxfield*, 12 WH Cases 792 (S.D. Ohio), 29 Labor Cases 68, 781). Fish are not “livestock” (*Dunkly v. Erich*, 158 F. 2d 1), but employees employed in propagating or farming of fish may qualify for exemption under section 13(a)(6) or 13(b)(12) of the Act as stated in § 780.109 as well as under sec-

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tion 13(a)(5), as explained in part 784 of this chapter.

§ 780.121 What constitutes “raising” of livestock.

The term “raising” employed with reference to livestock in section 3(f) includes such operations as the breeding, fattening, feeding, and general care of livestock. Thus, employees exclusively engaged in feeding and fattening livestock in stock pens where the livestock remains for a substantial period of time are engaged in the “raising” of livestock. The fact that the livestock is purchased to be fattened and is not bred on the premises does not characterize the fattening as something other than the “raising” of livestock. The feeding and care of livestock does not necessarily or under all circumstances constitute the “raising” of such livestock, however. It is clear, for example, that animals are not being “raised” in the pens of stockyards or the corrals of meat packing plants where they are confined for a period of a few days while en route to slaughter or pending their sale or shipment. Therefore, employees employed in these places in feeding and caring for the constantly changing group of animals cannot reasonably be regarded as “raising” livestock (*NLRB v. Tovrea Packing Co.*, 111 F. 2d 626, cert. denied 311 U.S. 668; *Walling v. Friend*, 156 F. 2d 429). Employees of a cattle raisers’ association engaged in the publication of a magazine about cattle, the detection of cattle thefts, the location of stolen cattle, and apprehension of cattle thieves are not employed in raising livestock and are not engaged in agriculture.

§ 780.122 Activities relating to race horses.

Employees engaged in the breeding, raising, and training of horses on farms for racing purposes are considered agricultural employees. Included are such employees as grooms, attendants, exercise boys, and watchmen employed at the breeding or training farm. On the other hand, employees engaged in the racing, training, and care of horses and other activities performed off the farm in connection with commercial racing are not employed in agriculture. For this purpose, a training track at a