

§ 780.12

fact that he performs other activities outside the scope of the exemption if the other activities are not covered by the Act.

§ 780.12 Work exempt under another section of the Act.

The combination (tacking) of exempt work under one exemption with exempt work under another exemption is permitted. For instance, the overtime pay requirements are not considered applicable to an employee who does work within section 13(b)(12) for only part of a workweek if all of the covered work done by him during the remainder of the workweek is within one or more equivalent exemptions under other provisions of the Act. If the scope of such exemptions is not the same, however, the exemption applicable to the employee is equivalent to that provided by whichever exemption provision is more limited in scope. For instance, an employee who devotes part of a workweek to work within section 13(b)(12) and the remainder to work exempt under section 7(c) must receive the minimum wage and must be paid time and one-half for his overtime work during that week for hours over 10 a day or 50 a week, whichever provides the greater compensation. Each activity is tested separately under the applicable exemption as though it were the sole activity of the employee for the whole workweek in question. The availability of a combination exemption depends on whether the employee meets all the requirements of each exemption which is sought to combine.

Subpart B—General Scope of Agriculture

INTRODUCTORY

§ 780.100 Scope and significance of interpretative bulletin.

Subpart A of this part 780, this subpart B and subparts C, D, and E of this part together constitute the official interpretative bulletin of the Department of Labor with respect to the meaning and application of sections 3(f), 13(a)(6), and 13(b)(12) of the Fair Labor Standards Act of 1938, as amended. Section 3(f) defines “agriculture” as the term is used in the Act. Section

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13(a)(6) provides exemption from the minimum wage and overtime pay provisions of the Act for certain employees employed in “agriculture,” as so defined. Section 13(b)(12) provides an overtime exemption for any employee employed in agriculture. As appears more fully in subpart A of this part 780, interpretations in this bulletin with respect to the provisions of the Act discussed are official interpretations upon which reliance may be placed and which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act.

§ 780.101 Matters discussed in this subpart.

Section 3(f) defines “agriculture” as this term is used in the Act. Those principles and rules which govern the interpretation of the meaning and application of the Act’s definition of “agriculture” in section 3(f) and of the terms used in it are set forth in this subpart B. Included is a discussion of the application of the definition in section 3(f) to the employees of farmers’ cooperative associations. In addition, the official interpretations of section 3(f) of the Act and the terms which appear in it are to be taken into consideration in determining the meaning intended by the use of like terms in particular related exemptions which are provided by the Act.

§ 780.102 Pay requirements for agricultural employees.

Section 6(a)(5) of the Act provides that any employee employed in agriculture must be paid at least \$1.30 an hour beginning February 1, 1969. However, there are certain exemptions provided in the Act for agricultural workers, as previously mentioned. (See §§ 780.3 and 780.4.)

§ 780.103 “Agriculture” as defined by the Act.

Section 3(f) of the Act defines “agriculture” as follows:

“Agriculture” includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing,