

**Subpart E—Taxicab Operators**

**§ 786.200 Enforcement policy concerning performance of nonexempt work.**

The Division has taken the position that the exemption provided by section 13(b)(17) of the Fair Labor Standards Act will be deemed applicable even though some nonexempt work (that is, work of a nature other than that which characterizes the exemption) is performed by the employee during the workweek, unless the amount of such nonexempt work is substantial. For enforcement purposes, the amount of nonexempt work will be considered substantial if it occupies more than 20 percent of the time worked by the employee during the workweek.

[32 FR 15426, Nov. 4, 1967]

**Subpart F—Newspaper Publishing**

**§ 786.250 Enforcement policy.**

The exemption provided by paragraph 13(a)(8) of the Fair Labor Standards Act of 1938 applies to “any employee employed in connection with the publication of any weekly, semi-weekly, or daily newspaper with a circulation of less than four thousand the major part of which circulation is within the county where published or counties contiguous thereto.” For the purpose of enforcement, it is the Divisions’ position that such an employee is within the exemption even though he is also engaged in job printing activities. If less than 50 percent of the employee’s worktime during the workweek is spent in job printing work, some of which is subject to the Act. If none of the job printing activities are within the general coverage of the Act, the exemption applies even if the job printing activities equal or exceed 50 percent of the employee’s worktime. However, this exemption is not applicable if the employee spends 50 percent or more of his worktime in a workweek on job printing, any portion of which is within the general coverage of the Act on an individual or enterprise basis.

[32 FR 15426, Nov. 4, 1967]

**PART 788—FORESTRY OR LOGGING OPERATIONS IN WHICH NOT MORE THAN EIGHT EMPLOYEES ARE EMPLOYED**

- Sec.
- 788.1 Statutory provisions.
- 788.2 Matters not discussed in this part.
- 788.3 Purpose of this part.
- 788.4 Significance of official interpretations.
- 788.5 Reliance on official interpretations.
- 788.6 Scope of the section 13(a)(13) exemption.
- 788.7 “Planting or tending trees.”
- 788.8 “Cruising, surveying, or felling timber.”
- 788.9 “Preparing \* \* \* logs.”
- 788.10 “Preparing \* \* \* other forestry products.”
- 788.11 “Transporting [such] products to the mill, processing plant, railroad, or other transportation terminal.”
- 788.12 Limitation of exemption to specific operations in which “number of employees \* \* \* does not exceed eight.”
- 788.13 Counting the eight employees.
- 788.14 Number employed in other than specified operations.
- 788.15 Multiple crews.
- 788.16 Employment relationship.
- 788.17 Employees employed in both exempt and nonexempt work.

AUTHORITY: Secs. 1-19, 52 Stat. 1060, as amended; 29 U.S.C. 201-219.

SOURCE: 34 FR 15794, Oct. 14, 1969, unless otherwise noted.

**§ 788.1 Statutory provisions.**

Section 13(a)(13) of the Fair Labor Standards Act of 1938, as amended, provides an exemption from the minimum wage and overtime requirements of the Act, as follows:

The provisions of sections 6 and 7 shall not apply with respect to \* \* \* any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.

This exemption, formerly section 13(a)(15) of the Act, was amended by the Fair Labor Standards Amendments of 1966 (80 Stat. 830) to change the number of employees limitation from 12 to eight, and to redesignate it as section 13(a)(13).