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29 C.F.R. § 780.402

The general guides for applying the exemption.

(a) Like other exemptions provided by the Act, the section 13(b)(12) exemption is narrowly construed (*Phillips, Inc.* v. *Walling,* 334 U.S. 490; *Bowie* v. *Gonzalez,* 117 F. 2d 11; *Calaf* v. *Gonzalez,* 127 F. 2d 934; *Fleming* v. *Hawkeye Pearl Button Co.,* 113 F. 2d 52; *Fleming* v. *Swift & Co.,* 41 F. Supp. 825; *Miller Hatcheries* v. *Boyer,* 131 F. 2d 283; *Walling* v. *Friend,* 156 F. 2d 429; see also § 780.2 of subpart A of this part 780). An employer who claims the exemption has the burden of showing that it applies. (See § 780.2) The section 13(b)(12) exemption for employment in agriculture is intended to cover all agriculture, including "extraordinary methods" of agriculture as well as the more conventional ones and large operators as well as small ones. Nevertheless, it was meant to apply only to agriculture. It does not extend to processes that are more akin to manufacturing than to agriculture. Practices performed off the farm by nonfarmers are not within the exemption, except for the irrigation activities specifically described in section 13(b)(12). Practices performed by a farmer do not come within the exemption for agriculture if they are neither a part of farming nor performed by him as an incident to or in conjunction with his own farming operations. These principles have been well established by the courts in such cases as *Mitchell* v. *Budd,* 350 U.S. 473; *Maneja* v. *Waialua,* 349 U.S. 254; *Farmers Reservoir Co.* v. *McComb,* 337 U.S. 755; *Addison* v. *Holly Hill Fruit Products,* 322 U.S. 607; *Calaf* v. *Gonzalez,* 127 F. 2d 934; *Chapman* v. *Durkin,* 214 F. 2d 363, certiorari denied, 348 U.S. 897; *McComb* v. *Puerto Rico Tobacco Marketing Co-op. Ass'n.* 80 F. Supp. 953, 181 F. 2d 697.