

Wage and Hour Division, Labor

§ 782.0

and others. While plants other than evergreens may be used in making the wreaths, such plants, whether they are forest products cultivated plants, cannot be considered as part of the required principal evergreen component of the wreath.

§ 780.1013 Natural evergreens.

Only "natural" evergreens may comprise the principal part of the wreath. The word "natural" qualifies all of the evergreens listed in the section, including "other evergreens." The term *natural* means that the evergreens at the time they are being used in making a wreath must be in the raw and natural state in which they have been harvested. Artificial evergreens (*Herring Magic v. U.S.*, 258 F. 2d 197; *Cal. Casualty Indemnity Exchange v. Industrial Accident Commission of Cal.* 90 P. 2d 289) or evergreens which have been processed as by drying and spraying with tinsel or by other means are not included. It is immaterial whether the natural evergreen used in making a wreath has been cultivated or is a product of the woods or forest.

§ 780.1014 Harvesting.

The homeworker is permitted to harvest evergreens and other forest products to be used in making the wreath. The word *harvesting* means the removal of evergreens and other forest products from their growing positions in the woods or forest, including transportation of the harvested products to the home of the homeworker and the performance of other duties necessary for such harvesting.

§ 780.1015 Other forest products.

The homeworker may also harvest "other forest products" for use in making wreaths. The term *other forest products* means any plant of the forest and includes, of course, deciduous plants as well.

§ 780.1016 Use of evergreens and forest products.

Harvesting of evergreens and other forest products is exempt only when these products will be "used in making such wreaths." The phrase "used in making such wreaths" places a definite limitation on the purpose for which ev-

ergreens may be harvested under section 13(d). Harvesting of these materials for a use other than making wreaths is nonexempt. Also, such harvesting is nonexempt when the evergreens are used for wreathmaking by persons other than the homeworkers (see *Mitchell v. Hunt*, 263 F. 2d 913). For example, harvesting of evergreens for sale or distribution to an employer who uses them in his factory to make wreaths is not exempt.

PART 782—EXEMPTION FROM MAXIMUM HOURS PROVISIONS FOR CERTAIN EMPLOYEES OF MOTOR CARRIERS

Sec.

- 782.0 Introductory statement.
- 782.1 Statutory provisions considered.
- 782.2 Requirements for exemption in general.
- 782.3 Drivers.
- 782.4 Drivers' helpers.
- 782.5 Loaders.
- 782.6 Mechanics.
- 782.7 Interstate commerce requirements of exemption.
- 782.8 Special classes of carriers.

AUTHORITY: 52 Stat. 1060, as amended; 29 U.S.C. 201 *et seq.*

SOURCE: 36 FR 21778, Nov. 13, 1971, unless otherwise noted.

§ 782.0 Introductory statement.

(a) Since the enactment of the Fair Labor Standards Act of 1938, the views of the Administrator of the Wage and Hour Division as to the scope and applicability of the exemption provided by section 13(b)(1) of the act have been expressed in interpretations issued from time to time in various forms. This part, as of the date of its publication in the FEDERAL REGISTER, supersedes and replaces such prior interpretations. Its purpose is to make available in one place general interpretations of the Administrator which will provide "a practical guide to employers and employees as to how the office representing the public interest in enforcement of the law will seek to apply it." (*Skidmore v. Swift & Co.*, 323 U.S. 134)

(b) The interpretations contained in this part indicate, with respect to the