

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

HURRICANE TIMBER SALVAGE OPERATIONS

The Wage and Hour Division, United States Department of Labor, which has been appealed to on behalf of New England farmers whose timber was blown down in the hurricane last September, held today that where removal of this down timber is carried out on a farm, the employees are exempt from the Wage and Hour Provisions of the law.

Under the law, forestry or lumber operations performed by a farmer or on a farm as an incident to or in conjunction with farming operations are included in the definition of agriculture.

"The agricultural exemption, however, would seem to include forestry or lumbering operations only when they constitute a subordinate and established part of the farming activities," it was stated in Interpretative Bulletin #7, issued by the Division.

In replying to a letter from Chairman Raymond B. Stevens of the United States Tariff Commission, who sought consideration of the problem of New England farmers whose land was cluttered with timber blown down during the hurricane, Calvert Magruder, General Counsel of the Wage and Hour Division, stated:

"Although it cannot be said with respect to these emergency logging operations (the removal of the down timber) that they constitute an 'established' part of the farming activities, they do seem to be a subordinate part thereof. Since it is in accordance with sound farming practice for a farmer to remove any down timber on his land, for otherwise such timber will constitute a fire hazard and may impede the proper cultivation of the farm, it seems to us that to the extent to which the logging operations are carried out by the farmer, or on his farm, they are within the exemption.

"On the other hand, if the logging operations are not conducted by the farmer, or if they are not carried out on his farm, the agricultural exemption is wholly inapplicable. In that event, and despite the emergency situation created by the hurricane, the wage and hour provisions of the Act are applicable as long as employees are 'engaged in commerce or in the production of goods for commerce.'

"The Fair Labor Standards Act does not give to the Administrator any discretionary power in the event of a hurricane or other similar disasters to vary the provisions of the Act, on account of such an emergency situation."