

Farmwork

Purpose of Tool: This tool provides the definition of farmwork for Wagner-Peyser Employment Service (ES) and National Farmworker Jobs Program (NFJP) grants, which is used for [Participant Individual Layout \(PIRL\)](#) data elements 413 and 808. ES grants must record and report both PIRL data elements 413 and 808. NFJP grants must only document PIRL data element 808.

Use of Tool: [20 CFR 651.10](#) provides the definition of farmwork that applies to ES and NFJP grants. The § 651.10 definition of farmwork incorporates several other definitions from other laws and regulations. This tool provides text from the other definitions that §651.10 references, which are part of the §651.10 definition of farmwork.

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Farmwork Definition at 20 CFR 651.10

Farmwork means the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities.

Farmwork includes:

- The raising of
 - livestock
 - bees
 - fur-bearing animals, or
 - poultry
- The farming of fish
- Any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including:

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- preparation for market
 - delivery to storage or to market or to carriers for transportation to market
- Prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state:
 - handling
 - planting
 - drying
 - packing
 - packaging
 - processing
 - freezing, or
 - grading

For the purposes of this definition, agricultural commodities means all commodities produced on a farm including crude gum (oleoresin) from a living tree products processed by the original producer of the crude gum (oleoresin) from which they are derived, including gum spirits of turpentine and gum rosin.

Farmwork also means any service or activity covered under [§ 655.103\(c\) of this chapter](#) and/or [29 CFR 500.20\(e\)](#) and any service or activity so identified through official Department guidance such as a Training and Employment Guidance Letter.

Agricultural Labor or Services Definition at 20 CFR 655.103(c)

Definition of agricultural labor or services. For the purposes of this subpart, agricultural labor or services, pursuant to 8 U.S.C. 1011(a)(15)(H)(ii)(a), is defined as: agricultural labor as defined and applied in sec. 3121(g) of the Internal Revenue Code of 1986 at [26 U.S.C. 3121\(g\)](#); agriculture as defined and applied in sec. 3(f) of the Fair Labor Standards Act of 1938, as amended (FLSA), at [29 U.S.C. 203\(f\)](#); the pressing of apples for cider on a farm; or logging employment. An occupation included in either statutory definition is agricultural labor or services, notwithstanding the exclusion of that occupation from the other statutory definition. For informational purposes, the statutory provisions are listed in [paragraphs \(c\)\(1\)](#) through [\(3\)](#) of this section.

(1) *Agricultural labor*

- (i) For the purpose of [paragraph \(c\)](#) of this section means all service performed:
 - (A) On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;
 - (B) In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and

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its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

- (C) In connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended, [12 U.S.C. 1141j](#), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;
- (D) In the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;
- (E) In the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in [paragraph \(c\)\(1\)\(i\)\(D\)](#) of this section but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this [paragraph \(c\)\(1\)\(i\)\(E\)](#), any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar year in which such service is performed;
- (F) The provisions of [paragraphs \(c\)\(1\)\(i\)\(D\)](#) and [\(E\)](#) of this section shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or
- (G) On a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

- (ii) As used in this section, the term farm includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

- (2) **Agriculture.** For purposes of [paragraph \(c\)](#) of this section, agriculture means farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in [12 U.S.C. 1141j\(g\)](#),¹ the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market. See [29 U.S.C. 203\(f\)](#), as amended. Under [12 U.S.C. 1141j\(g\)](#),² agricultural commodities

¹ 20 CFR 655.103(c) cites to 12 U.S.C. 1141j(g), however, the accurate citation is [12 U.S.C. 1141j\(f\)](#).

² The accurate citation is [12 U.S.C. 1141j\(f\)](#).

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include, in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: gum spirits of turpentine and gum rosin. In addition, as defined in [7 U.S.C. 92](#), gum spirits of turpentine means spirits of turpentine made from gum (oleoresin) from a living tree and gum rosin means rosin remaining after the distillation of gum spirits of turpentine.

- (3) **Apple pressing for cider.** The pressing of apples for cider on a farm, as the term farm is defined and applied in sec. 3121(g) of the Internal Revenue Code at [26 U.S.C. 3121\(g\)](#) or as applied in sec. 3(f) of the FLSA at [29 U.S.C. 203\(f\)](#), pursuant to 29 CFR part 780.
- (4) **Logging employment.** Logging employment is operations associated with felling and moving trees and logs from the stump to the point of delivery, such as, but not limited to, marking danger trees, marking trees or logs to be cut to length, felling, limbing, bucking, debarking, chipping, yarding, loading, unloading, storing, and transporting machines, equipment and personnel to, from, and between logging sites.
- (5) **Employment as defined and specified in §§ 655.300 through 655.304.** For the purpose of paragraph (c) of this section, agricultural labor or services includes animal shearing, commercial beekeeping, and custom combining activities as defined and specified in §§ 655.[300](#) through 655.[304](#).³

Agricultural Employment Definition in the Migrant and Seasonal Agricultural Worker Protection Act at 29 CFR 500.20(e)

Agricultural employment means employment in any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 ([29 U.S.C. 203\(f\)](#)), or section 3121(g) of the Internal Revenue Code of 1954 ([26 U.S.C. 3121\(g\)](#)) and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

Agriculture Definition in Section 3(f) of the Fair Labor Standards Act of 1938, 29 U.S.C. 203(f)

(f) “Agriculture” includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in section [1141j\(g\)](#),⁴ of title 12), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.

³ Includes 20 CFR 655.[300](#), [301](#), [302](#), [303](#), [304](#).

⁴ The accurate citation is [12 U.S.C. 1141j\(f\)](#).

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Agricultural Labor Definition in Section 3121(g) of the Internal Revenue Code of 1954, 26 U.S.C. 3121(g)

(g) Agricultural labor

For purposes of this chapter, the term “agricultural labor” includes all service performed—

- (1) on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;
- (2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;
- (3) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Agricultural Marketing Act, as amended (12 U.S.C. 1141j), or in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;
- (4)
 - (A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed;
 - (B) in the employ of a group of operators of farms (other than a cooperative organization) in the performance of service described in subparagraph (A), but only if such operators produced all of the commodity with respect to which such service is performed. For purposes of this subparagraph, any unincorporated group of operators shall be deemed a cooperative organization if the number of operators comprising such group is more than 20 at any time during the calendar year in which such service is performed;
 - (C) the provisions of subparagraphs (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or
- (5) on a farm operated for profit if such service is not in the course of the employer’s trade or business.

As used in this subsection, the term “farm” includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

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Agricultural Commodity Definition at 12 U.S.C. 1141j(f)

As used in this chapter, the term “agricultural commodity” includes, in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine and gum rosin, as defined in section 92 of title 7.

Definitions in the Naval Stores Act at 7 U.S.C 92

When used in this chapter—

- (a) “Naval stores” means spirits of turpentine and rosin.
- (b) “Spirits of turpentine” includes gum spirits of turpentine and wood turpentine.
- (c) “Gum spirits of turpentine” means spirits of turpentine made from gum (oleoresin) from a living tree.
- (d) “Wood turpentine” includes steam distilled wood turpentine and destructively distilled wood turpentine.
- (e) “Steam distilled wood turpentine” means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.
- (f) “Destructively distilled wood turpentine” means wood turpentine obtained in the destructive distillation of the wood.
- (g) “Rosin” includes gum rosin and wood rosin.
- (h) “Gum rosin” means rosin remaining after the distillation of gum spirits of turpentine.
- (i) “Wood rosin” means rosin remaining after the distillation of steam distilled wood turpentine.
- (j) “Package” means any container of naval stores, and includes barrel, tank, tank car, or other receptacle.
- (k) “Person” includes partnerships, associations, and corporations, as well as individuals.
- (l) The term “commerce” means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession or the District of Columbia.