Wage and Hour Division, Labor

§ 780.157 Other transportation incident to farming.

(a) Transportation by a farmer or on a farm as an incident to or in conjunction with the farming operations of the farmer or of that farm is within the scope of agriculture even though things other than farm commodities raised by the farmer or on the farm are being transported. As previously indicated, transportation of commodities raised by other farmers or on other farms would not be within section 3(f). The definition of agriculture clearly covers the transportation by the farmer, as an incident to or in conjunction with his farming activities, of farm implements, supplies, and fieldworkers to and from the fields, regardless of whether such transportation involves travel on or off the farm and regardless of the method used. The Supreme Court of the United States so held in Maneja v. Wai'ialua, 349 U.S. 254.

TRANSPORTATION OPERATIONS NOT MENTIONED IN SECTION 3(f)

§ 780.156 Transportation of farm products from the fields or farm.

Transportation of farm products from the fields where they are grown or from the farm to other places may be within the “secondary” meaning of agriculture, regardless of whether the transportation is included as “delivery to storage or to market or to carriers for transportation to market”: Provided only, That it is performed by a farmer or on a farm as an incident to or in conjunction with the farming operations of that farmer or that farm. Of course, any transportation operations which are part of, and not subsequent to, the “primary” farming operations are also within section 3(f). This principle has been recognized by the courts in the following cases, among others: Maneja v. Wai'ialua, 349 U.S. 254; NLRB v. Olaa Sugar Co., 242 F. 2d 714; Bowie v. Gonzales, 117 F. 2d 11; Calaf v. Gonzales, 127 F. 8d 934; Vives v. Serralles, 145 F. 2d 552; Holtville Alfalfa Mills v. Wyatt, 230 F. 2d 398. If not performed by the farmer, transportation beyond the limits of the farm is not within section 3(f), even when performed by a purchaser of the unharvested commodities who has harvested the crop. The scope of section 3(f) includes the harvesting employees but does not extend to the employees transporting the commodities off the farm (Chapman v. Durkin, 214 F. 2d 360, cert. denied, 348 U.S. 897; Fort Mason Fruit Co. v. Durkin, 214 F. 2d 363, cert. denied, 348 U.S. 897).

§ 780.155 Delivery “to carriers for transportation to market.”

The term “delivery * * * to carriers for transportation to market” includes taking agricultural or horticultural commodities, dairy products, livestock, bees or their honey, fur-bearing animals or their pelts, and poultry to any carrier (including carriers by truck, rail, water, etc.) for transportation by such carrier to market. The market referred to is the farmer’s market which normally means the distributing agency, cooperative marketing agency, wholesaler, or processor to which the farmer delivers his products. As in the case of “delivery to market,” when it involves travel off the farm (as would normally be the case) the delivery must be performed by the farmer’s own employees in order to constitute an agricultural practice. Employees of the carrier who transport to market the commodities which are delivered to it are not within the scope of agriculture.

Transportation Operations Not Mentioned in Section 3(f)