
29 C.F.R. § 780.922

“Harvesting” of fruits or vegetables.

Only transportation of employees employed or to be employed in the “harvesting” of fruits or vegetables is exempt under clause (B) of section 13(b)(16). As indicated in § 780.920, such harvest workers do not include employees employed or to be employed in planting or cultivating the crop. Nor do they include employees employed or to be employed in operations subsequent to harvesting, even where such operations constitute “agriculture” within the definition in section 3(f) of the Act. “Harvesting” refers to the removal of fruits or vegetables from their growing position in the fields, and as explained in § 780.118 of this part, includes the operations customarily performed in connection with this severance of the crops from the soil (see *Vives v. Serralles*, 145 F. 2d 552), but does not extend to operations subsequent to and unconnected with the actual severance process or to operations performed off the farm. It may include moving the fruits or vegetables to concentration points on the farm, but would not include packingshed or other operations performed in preparation for market rather than as part of harvesting, such as ripening, cleaning, grading, sorting, drying, and storing. If the workers are employed or to be employed in “harvesting”, it does not matter for purposes of the exemption whether a farmer or someone else employs them or does the harvesting. It is the character of their employment as “harvesting” and not the identity of their employer or the owner of the crop which determines whether their transportation to and from the farm will provide a basis for exemption of the transportation of employees.

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