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prerequisite to the marketing, in its unmanufactured state, of any agricultural or horticultural commodity produced by such farmer or by the members of such farmers' organization or group. Services performed by employees of such farmer or farmers' organization or group in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of commodities produced by persons other than such farmer or members of such farmers' organization or group are not performed ''as an incident to ordinary farming operations''.

(2) Services performed by an employee in the employ of any person in the handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of fruits and vegetables, whether or not of a perishable nature, constitute agricultural labor, if such services are performed as an incident to the preparation of such fruits and vegetables for market. For example, if services in the sorting, grading, or storing of fruits, or in the cleaning of beans, are performed as an incident to their preparation for market, such services may constitute agricultural labor, whether performed in the employ of a farmer, a farmers' cooperative, or a commercial handler of such commodities.

(3) The services described in paragraphs (e)(1) and (2) of this section do not include services performed in connection with commercial canning or commercial freezing or in connection with any commodity after its delivery to a terminal market for distribution for consumption. Moreover, since the services described in such subparagraphs must be rendered in the actual handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, of the commodity, such services do not, for example, include services performed as stenographers, bookkeepers, clerks, and other office employees, even though such services may be in connection with such activities. However, to the extent that the services of such individuals are performed in the employ of the owner or tenant or other operator of a farm and are rendered in major part on a farm, they may be within the provisions of paragraph (c) of this section.

§ 31.3306(m)–1 American vessel and aircraft.

(a) The term ''American vessel'' means any vessel which is documented (that is, registered, enrolled, or licensed) or numbered in conformity with the laws of the United States. It also includes any vessel which is neither documented nor numbered under the laws of the United States, nor documented under the laws of any foreign country, if the crew of such vessel is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State. (For provisions relating to the terms ''State'' and ''citizen'', see § 31.3306(j)–1.)

(b) The term ''American aircraft'' means any aircraft registered under the laws of the United States.

(c) For provisions relating to services performed outside the United States on or in connection with an American vessel or American aircraft, see paragraph (c) of § 31.3306(c)–2.

[T.D. 6658, 28 FR 6641, June 27, 1963]

§ 31.3306(n)–1 Services on American vessel whose business is conducted by general agent of Secretary of Commerce.

(a) Section 3306(n) and this section of the regulations apply with respect only to services performed by an officer or member of the crew of an American vessel (1) which is owned by or bareboat chartered to the United States, and (2) whose business is conducted by a general agent of the Secretary of Commerce. Whether services performed by such an officer or member of a crew under the above conditions constitute employment is determined under section 3306(c) and (n), but without regard to section 3306(c)(6). See § 31.3306(c)(6)–1, relating to services performed in the employ of the United States and instrumentalities thereof. If, without regard to section 3306(c)(6), such services constitute employment,