

29 C.F.R. § 780.147

Practices performed on farm products—special factors considered.

In determining whether a practice performed on agricultural or horticultural commodities is incident to or in conjunction with the farming operations of a farmer or a farm, it is also necessary to consider the type of product resulting from the practice—as whether the raw or natural state of the commodity has been changed. Such a change may be a strong indication that the practice is not within the scope of agriculture (*Mitchell v. Budd*, 350 U.S. 473); the view was expressed in the legislative debates on the Act that it marks the dividing line between processing as an agricultural function and processing as a manufacturing operation (*Maneja v. Waiialua*, 349 U.S. 254, citing 81 Cong. Rec. 7659–7660, 7877–7879). Consideration should also be given to the value added to the product as a result of the practice and whether a sales organization is maintained for the disposal of the product. Seasonality of the operations involved in the practice would not be very helpful as a test to distinguish between operations incident to agriculture and operations of commercial or industrial processors who handle a similar volume of the same seasonal crop. But the length of the period during which the practice is performed might cast some light on whether the operations are conducted as a part of agriculture or as a separate undertaking when considered together with the amount of investment, payroll, and other factors. In some cases, the fact that products resulting from the practice are sold under the producer's own label rather than under that of the purchaser may furnish an indication that the practice is conducted as a separate business activity rather than as a part of agriculture.

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)