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grown on that particular farm, are engaged in agriculture. If they also vine peas grown on other farms, such operations could not be within section 3(f) unless the farmer-employer owns or operates the other farms and vines his own peas exclusively. However, the work of vining station employees in weeks in which the stations vine only peas grown by a canner on farms owned or leased by him is considered part of the canning operations. As such, the cannery operations, including the vining operations, are within section 3(f) only if the canners can crops which he grows himself and if the canning operations are subordinate to the farming operations.

§ 780.140 Place of performing the practice as a factor.

So long as the farming operations to which a farmer's practice pertains are performed by him in his capacity as a farmer, the status of the practice is not necessarily altered by the fact that the farming operations take place on more than one farm or by the fact that some of the operations are performed off his farm (*NLRB* v. *Olaa Sugar Co.*, 242 F. 2d 714). Thus, where the practice is performed with respect to products of farming operations, the controlling consideration is whether the products were produced by the farming operations of the farmer who performs the practice rather than at what place or on whose land he produced them. Ordinarily, a practice performed by a farmer in connection with farming operations conducted on land which he owns or leases will be considered as performed in connection with the farming operations of such farmer in the absence of facts indicating that the farming operations are actually those of someone else. Conversely, a contrary conclusion will ordinarily be justified if such farmer is not the owner or a bona fide lessee of such land during the period when the farming operations take place. The question of whose farming operations are actually being conducted in cases where they are performed pursuant to an agreement or arrangement, not amounting to a bona fide lease, between the farmer who performs the practice and the landowner necessarily involves a careful scrutiny of the facts and circumstances surrounding the arrangement. Where commodities are grown on the farm of the actual grower under contract with another, practices performed by the latter on the commodities, off the farm where they were grown, relate to farming operations of the grower rather than to any farming operations of the contract purchaser. This is true even though the contract purports to lease the land to the latter, give him the title to the crop at all times, and confer on him the right to supervise the growing operations, where the facts as a whole show that the contract purchaser provides a farm market, cash advances, and advice and counsel but does not really perform growing operations (*Mitchell* v. *Huntsville Nurseries*, 267 F. 2d 286).

''SUCH FARMING OPERATIONS''—ON THE FARM

§ 780.141 Practices must relate to farming operations on the particular farm.

''Practices * * * performed * * * on a farm'' must be performed as an incident to or in conjunction with ''such farming operations'' in order to constitute ''agriculture'' within the secondary meaning of the term. No practice performed with respect to farm commodities is within the language under discussion by reason of its performance on a farm unless all of such commodities are the products of that farm. Thus, the performance on a farm of any practice, such as packing or storing, which may be incidental to farming operations cannot constitute a basis for considering the employees engaged in agriculture if the practice is performed upon any commodities that have been produced elsewhere than on such farm (see *Mitchell* v. *Hunt*, 263 F. 2d 913). The construction by an independent contractor of granary on a farm is not connected with ''such'' farming operations if the farmer for whom it is built intends to use the structure for storing grain produced on other farms. Nor is the requirement met with respect to employees engaged in any other practices performed on a farm, but not by a farmer, in connection with farming operations that are not conducted on that particular farm.

The fact that such a practice pertains to farming operations generally or to those performed on a number of farms, rather than to those performed on the same farm only, is sufficient to take it outside the scope of the statutory language. Area soil surveys and genetics research activities, results of which are made available to a number of farmers, are typical of the practices to which this principle applies and which are not within section 3(f) under this provision.

§ 780.142 Practices on a farm not related to farming operations.

Practices performed on a farm in connection with nonfarming operations performed on or off such farm do not meet the requirement stated in § 780.141. For example, if a farmer operates a gravel pit on his farm, none of the practices performed in connection with the operation of such gravel pit would be within section 3(f). Whether or not some practices are performed in connection with farming operations conducted on the farm where they are performed must be determined with reference to the purpose of the farmer for whom the practice is performed. Thus, land clearing operations may or may not be connected with such farming operations depending on whether or not the farmer intends to devote the cleared land to farm use.

§ 780.143 Practices on a farm not performed for the farmer.

The fact that a practice performed on a farm is not performed by or for the farmer is a strong indication that it is not performed in connection with the farming operations there conducted. Thus, where such an employer other than the farmer performs certain work on a farm solely for himself in furtherance of his own enterprise, the practice cannot ordinarily be regarded as performed in connection with farming operations conducted on the farm. For example, it is clear that the work of employees of a utility company in trimming and cutting trees for power and communications lines is part of a nonfarming enterprise outside the scope of agriculture. When a packer of vegetables or dehydrator of alfalfa buys the standing crop from the farmer, harvests it with his own crew of employees, and transports the harvested crop to his off-the-farm packing or dehydrating plant, the transporting and plant employees, who are not engaged in ''primary'' agriculture as are the harvesting employees (see *NLRB* v. *Olaa Sugar Co.*, 242 F. 2d 714), are clearly not agricultural employees. Such an employer cannot automatically become an agricultural employer by merely transferring the plant operations to the farm so as to meet the ''on a farm'' requirement. His employees will continue outside the scope of agriculture if the packing or dehydrating is not in reality done for the farmer. The question of for whom the practices are performed is one of fact. In determining the question, however, the fact that prior to the performance of the packing or dehydrating operations, the farmer has relinquished title and divested himself of further responsibility with respect to the product, is highly significant.

PERFORMANCE OF THE PRACTICE ''AS AN INCIDENT TO OR IN CONJUNCTION WITH'' THE FARMING OPERATIONS

§ 780.144 "As an incident to or in conjunction with" the farming operations.

In order for practices other than actual farming operations to constitute ''agriculture'' within the meaning of section 3(f) of the Act, it is not enough that they be performed by a farmer or on a farm in connection with the farming operations conducted by such farmer or on such farm, as explained in §§ 780.129 through 780.143. They must also be performed ''as an incident to or in conjunction with'' these farming operations. The line between practices that are and those that are not performed ''as an incident to or in conjunction with'' such farming operations is not susceptible of precise definition. Generally, a practice performed in connection with farming operations is within the statutory language only if it constitutes an established part of agriculture, is subordinate to the farming operations involved, and does not amount to an independent business. Industrial operations (*Holtville Alfalfa Mills* v. *Wyatt*, 230 F. 2d 398) and processes that are more akin to manufacturing than to agriculture (*Maneja* v.