

## 29 C.F.R. § 780.209

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### Packing, storage, warehousing, and sale of nursery products.

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Employees of a grower of nursery stock who work in packing and storage sheds sorting the stock, grading and trimming it, racking it in bins, and packing it for shipment are employed in “agriculture” provided they handle only products grown by their employer and their activities constitute an established part of their employer's agricultural activities and are subordinate to his farming operations. Such employees are not employed in agriculture when they handle the products of other growers (*Mitchell v. Huntsville Nurseries*, 267 F. 2d 286; *Jordan v. Stark Bros. Nurseries & Orchards Co.*, 45 F. Supp. 769). Agricultural activities would typically include employees engaged in the balling and storing of shrubs and trees grown in the nursery. Where a grower of nursery stock operates, as a separate enterprise, a processing establishment or an establishment for the wholesale or retail distribution of such commodities, the employees in such separate enterprise are not engaged in agriculture (see *Walling v. Rocklin*, 132 F. 2d 3; *Mitchell v. Huntsville Nurseries*, 267 F. 2d 286). Although the handling and the sale of nursery commodities by the grower at or near the place where they were grown may be incidental to his farming operations, the character of these operations changes when they are performed in an establishment set up as a marketing point to aid the distribution of those products.

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