COSMOS
Navigate the Compliance Universe

29 C.F.R. § 776.17

Employment in a "closely related process or occupation directly essential to" production of goods.

(a) *Coverage in general.* Employees who are not actually "producing * * * or in any other manner working on" goods for commerce are, nevertheless, engaged in the "production" of such goods within the meaning of the Act and therefore within its general coverage if they are employed "in any closely related process or occupation directly essential to the production thereof, in any State." [1] Prior to the Fair Labor Standards Amendments of 1949, this was true of employees engaged "in any process or occupation necessary to the production" of goods for commerce. The amendments deleted the word "necessary" and substituted the words "closely related" and "directly essential" contained in the present law. The words "directly essential" were adopted by the Conference Committee in lieu of the word "indispensable" contained in the amendments as first passed by the House of Representatives. Under the amended language, an employee is covered if the process or occupation in which he is employed is both "closely related" and "directly essential" to the production of goods for interstate or foreign commerce.

The legislative history shows that the new language in the final clause of section 3(j) of the Act is intended to narrow, and to provide a more precise guide to, the scope of its coverage with respect to employees (engaged neither "in commerce" nor in actually "producing or in any other manner working on" goods for commerce) whose coverage under the Act formerly depended on whether their work was "necessary" to the production of goods for commerce. Some employees whose work might meet the "necessary" test are now outside the coverage of the Act because their work is not "closely related" and "directly essential" to such production; others, however, who would have been excluded if the indispensability of their work to production had been made the test, remain within the coverage under the new language.

The scope of coverage under the "closely related" and "directly essential" language is discussed in the paragraphs following. In the light of explanations provided by managers of the legislation in Congress [2] including expressions of their intention to leave undisturbed the areas of coverage established under court decisions containing similar language, [3] this new language should provide a more definite guide to the intended coverage under the final clause of section 3(j) than did the earlier "necessary" test. However, while the coverage or noncoverage of many employees may be determined with reasonable certainty, no precise line for inclusion or exclusion may be drawn; there are bound to be borderline problems of coverage under the new language which cannot be finally determined except by authoritative decisions of the courts.