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## 29 C.F.R. § 776.26

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### Relationship of the construction work to the covered facility.

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Unless the construction work is physically or functionally integrated or closely identified with an existing covered facility it is not regarded as covered construction because it is not closely enough related to or integrated with the production of goods for commerce or the engagement in commerce. For this reason the erection, maintenance or repair of dwellings, apartments, hotels, churches and schools are not covered projects. <sup>[1]</sup> Similarly the construction of a separate, wholly new, factory building, not constructed as an integral part or as an improvement of an existing covered production plant, is not covered (Cf. § 776.27(c)). Coverage of any construction work, whether new or repair work, depends upon how closely integrated it is with, and how essential it is to the functioning of, existing covered facilities. Neither the mere fact that the construction is “new construction” nor the fact that it is physically separated from an existing covered plant, is determinative. Moreover, the court decisions make it clear that the construction project itself need not be actually employed in commerce or in the production of goods for commerce during the time of its construction in order to be covered. <sup>[2]</sup> Such factors may be considered in determining whether as a practical matter the work is directly and vitally related to the functioning of the covered facility but would not be decisive.

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