

### § 1620.3

### 29 CFR Ch. XIV (7-1-03 Edition)

#### § 1620.3 General coverage of employees “engaged in \* \* \* the production of goods for commerce.”

(a) Like the FLSA, the EPA applies to employees “engaged in \* \* \* the production of goods for commerce.” The broad meaning of “commerce” as defined in section 3(b) of the FLSA has been outlined in § 1620.2. “Goods” is also comprehensively defined in section 3(i) of the FLSA and includes “articles or subjects of commerce of any character, or any part or ingredient thereof” not expressly excepted by the statute. The activities constituting “production” of the goods for commerce are defined in section 3(j) of the FLSA. These are not limited to such work as manufacturing but include handling or otherwise working on goods intended for shipment out of the State either directly or indirectly or for use within the State to serve the needs of the instrumentalities or facilities by which interstate or foreign commerce is carried on. Employees engaged in any closely related process or occupation directly essential to such production of any goods, whether employed by the producer or by an independent employer, are also engaged, by definition, in “production.” Thus, employees engaged in the administration, planning, management, and control of the various physical processes together with the accompanying clerical and accounting activities are, from a productive standpoint and for purposes of the FLSA, “engaged in the production of goods for commerce.”

(b) Employees engaged in the production of goods for interstate or foreign commerce include those who work in manufacturing, processing, and distributing establishments, including wholesale and retail establishments that “produce” (including handling or working on) goods for such commerce. This includes everyone employed in such establishments, or elsewhere in the enterprises by which they are operated, whose activities constitute “production” of such goods under the principles outlined in paragraph (a) of this section. Thus, employees who sell, process, load, pack, or otherwise handle or work on goods which are to be shipped or delivered outside the State either by their employer or by another

firm, and either in the same form or as a part or ingredient of other goods, are engaged in the production of goods for commerce within the coverage of the FLSA. So also are the office, management, sales, and shipping personnel, and maintenance, custodial, and protective employees who perform as a part of the integrated effort for the production of the goods for commerce, services related to such production or to such goods or to the plant, equipment, or personnel by which the production is accomplished.

#### § 1620.4 “Closely related” and “directly essential” activities.

An employee is engaged in the production of goods for interstate or foreign commerce within the meaning of the FLSA even if the employee’s work is not an actual and direct part of such production, so long as the employee is engaged in a process or occupation which is “closely related” and “directly essential” to it. This is true whether the employee is employed by the producer of the goods or by someone else who provides goods or services to the producer. Typical of employees covered under these principles are computer operators, bookkeepers, stenographers, clerks, accountants, and auditors and other office and white-collar workers, and employees doing payroll, timekeeping, and time study work for the producer of goods; employees in the personnel, labor relations, employee benefits, safety and health, advertising, promotion, and public relations activities of the producing enterprise; work instructors for the producers; employees maintaining, servicing, repairing or improving the buildings, machinery, equipment, vehicles or other facilities used in the production of goods for commerce, and such custodial and productive employees as watchmen, guards, firemen, patrolmen, caretakers, stockroom workers and warehousemen; and transportation workers bringing supplies, materials, or equipment to the producer’s premises, removing waste materials therefrom, or transporting materials or other goods, or performing such other transportation activities, as the needs of production may require. These examples