common business purpose of operating
the retail or service establishments are
"related activities." It is not material
that the enterprise sells different goods
or provides different services, or that it
operates separate retail or service es-
tablishments. As stated in the defini-
tion, the enterprise includes all related
activities whether performed "in one
or more establishments." Since the ac-
tivities performed by one retail or
service establishment are the "same or
similar" to the activities performed by
another, they are, as such, "related ac-
tivities." (See Senate Report No. 145,
87th Cong. 1st Sess. p. 41.) For example,
in operations of a single retailing busi-
ness a drug store may sell a large vari-
ety of different products, and a grocery
store may sell clothing and furniture
and other goods. Clearly all of these ac-
tivities are "related." Similarly it is
clear that all activities of a depart-
ment store are "related activities," even
if the store sells a great variety of
different types of goods and services
and even if, as in some cases, the de-
partmentalized business is conducted
in more than one location, as where
the department selling garden supplies
or electrical appliances is located on
separate premises. Whether on the
same premises or at separate locations,
the activities involved in retail selling
of goods or services, of any type, are
related activities and they will be con-
sidered one enterprise where they are
performed, through unified operation
or common control, for a common busi-
ness purpose.

§ 779.208 Auxiliary activities which are
"related activities."

As stated in Senate Report No. 145,
87th Cong., 1st Session, cited in
§ 779.206, auxiliary and service activi-
ties, such as central office and
warehousing activities and book-
keeping, auditing, purchasing, adver-
tising and other similar services, also
are "related activities." When such ac-
tivities are performed through unified
operation or common control, for a
common business purpose, they will be
included in the enterprise. The fol-
lowing are some additional examples of
auxiliary activities which are "related ac-
tivities" and which may be included
in the enterprise:

(a) Credit rating and collection serv-
dices;
(b) Promotional activities including
advertising, sign painting, display serv-
dices, stamp redemptions, and prize con-
tests;
(c) Maintenance and repair services
of plant machinery and equipment in-
cluding painting, decorating, and simi-
lar services;
(d) Store or plant engineering, site
location and related survey activities;
(e) Detective, guard, watchmen, and
other protective services;
(f) Delivery services;
(g) The operation of employee or cus-
tomer parking lots;
(h) The recruitment, hiring and
training activities, and other manage-
rial services;
(i) Recreational and health facilities
for customers or employees including
eating and drinking facilities (note
that employees primarily engaged in
certain food service activities in retail
establishments may be exempt from
the overtime provisions under section
13(b)(18) of the Act if the specific condi-
tions are met; see § 779.388);
(j) The operation of employee benefit
and insurance plans; and
(k) Repair and alteration services on
goods for sale or sold to customers.

§ 779.209 Vertical activities which are
"related activities."

(a) The Senate Report also states (see
§ 779.206 that activities are "related"
when they are "part of a vertical struc-
ture such as the manufacturing,
warehousing, and retailing of a par-
ticular product or products." Where
such activities are performed through
unified operation or common control
for a common business purpose they
will be regarded as a part of the enter-
prise.
(b) Whether activities are vertically
"related" activities and part of a single
enterprise, or whether they constitute
separate businesses are separate enter-
prises, depends upon the facts in each
case. In all of these cases of so-called
"vertical operations," the determina-
tion whether the activities are "re-
lated," depends upon the extent to
which the various business activities,
such as a wholesaling and retailing or
§ 779.210 Other activities which may be part of the enterprise.

(a) An enterprise may perform certain activities that appear entirely foreign to its principal business but which may be a part of the enterprise because of the manner in which they are performed. In some cases these activities may be a very minor and incidental part of its business operations. For example a retail store may accept payments of utility bills, provide a notarial service, sell stamps, bus and theater tickets, or travellers’ checks, etc. These and other activities may be entirely different from the enterprise’s principal business but they may be performed on the same premises and by the same employees or otherwise under such circumstances as to be a part of the enterprise.

(b) Sometimes such activities are performed as an adjunct to the principal business to create good will or to attract customers. In other cases, the businessman may engage in them primarily for the additional revenue. Some such foreign activities may be conducted in a more elaborate manner, as where the enterprise operates a bus stop or a post office substation as an adjunct to a principal business such as a hotel or a retail store. Where in such a case the activities are performed in a physically separate “establishment” (see §§779.303–779.308) from the other business activities of the enterprise and are functionally operated as a separate business, separately controlled, with separate employees, separate records, and a distinct business objective of its own, they may constitute a separate enterprise. Where, however, such activities are intermingled with the other activities of the enterprise and have a reasonable connection to the same business purpose they will be a part of the enterprise.

§ 779.211 Status of activities which are not “related.”

Activities which are not related even if performed by the same employer are not included as a part of the enterprise. The receipts from the unrelated activities will not be counted toward the annual dollar volume of sales or business under section 3(s) and the employees performing such unrelated activities will not be covered merely because they work for the same employer. Common ownership standing alone does not bring unrelated activities within the scope of the same enterprise. If, for example, one individual owns or controls a bank, a filing station, and a factory, the mere fact of common ownership will not make them one enterprise. However, if it appears that there is a reasonable relationship of all the activities to a single business purpose a different conclusion might be warranted. Activities which are not “related” will be treated separately for purposes of the tests contained in section 3(s)(1) through (5) of the prior Act and section 3(s)(1) through (4) of the amended Act. For example, in the case where a single company operates retail grocery stores and also engages in an