

April 18, 1980

This is in further reply to your letter of February 25, 1980, which has been forwarded to this office for reply. You request a determination under section 13(a)(1) of the Fair Labor Standards Act as to the professional status of employees employed in hydrocarbon analysis by your company.

Section 13(a)(1) of the Act provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, or professional capacity, as those terms are defined and delimited in Regulations, Part 541, a copy of which is enclosed. An employee may qualify for exemption as a bona fide professional employee if all the pertinent tests relating to duties, responsibilities, and salary, as discussed in section 541.3 of the regulations, are met. As defined in the regulations, a bona fide professional employee means an employee whose primary duty consists of the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study.

The typical symbol of the professional training and the best prima facie evidence of its possession is, of course, the appropriate academic degree. From the information you provide it is clear that the type of work performed by the employees in question does not require a prolonged course of specialized instruction and study, since you indicate that only 79 of the 99 employees have baccalaureate degrees in geology or a related earth science.

In addition, it is our further position that the employee in question generally are not involved in the performance of duties requiring the exercise of discretion and independent judgment of the type required by section 541.3(b) of the regulations, they are, instead, involved in the use of skills rather than discretion and independent judgment. In our view, such employees generally are found to be highly trained and highly skilled specialists who, as such, would not qualify for the exemption as "professional" employees as defined and delimited in Regulations, Part 541.

We trust the above is of assistance to you in this matter.

Sincerely,

Henry T. White, Jr.
Deputy Administrator

Enclosure