

FLSA-662

August 12, 1982

Thank you for your correspondence of May 12, 1982, enclosing, along with other material, a letter from *** concerning the application of section 13(b)(9) of the Fair Labor Standards Act to news editors. We regret the delay in responding to your inquiry.

Section 13(b)(9) of the Act provides an overtime pay exemption for any employee employed as an announcer, news editor, or chief engineer by a radio or television station the major studio of which is located (a) in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of one hundred thousand, or (b) in a city or town of twenty-five thousand population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area.

A news editor is defined in section 793.8 of Interpretative Bulletin, Part 793, to mean an employee who gathers, edits, and rewrites the news. He or she may also select and prepare news items for broadcast and present the news on the air. An employee who is primarily engaged in the above duties and in activities which are an integral part thereof will be considered to be employed as a news editor. Thus, it is our opinion that where an employee of a qualifying radio or television station gathers, edits, and rewrites his or her own material, or that of other employees, without a higher level of review before it is presented on the air, the employee will qualify for exemption under section 13(b)(9) of the Act as a bona fide news editor.

With respect to the Department's pending enforcement action against , *** we have requested the Office of the Solicitor to review the facts of the case in the light of the position expressed herein. After they have completed their review, they will consult with the station's attorneys concerning an appropriate disposition of the matter.

If you have any further questions on this matter, please do not hesitate to let us know.

Sincerely,

James L. Valin
Assistant Administrator
Wage and Hour Division

William M. Otter
Administrator

Enclosure