

Wage and Hour Division, Labor

§ 793.12

to introduce programs, read news announcements, present commercial messages, give station identification and time signals, and present other similar routine on-the-air material. In small stations, an announcer may, in addition to these duties, operate the studio control board, give cues to the control room for switching programs, make recordings, make the necessary preparations for the day's programs, play records, or write advertising, promotional or similar type copy. An employee who is primarily engaged in the above described activities and in activities which are an integral part thereof will be considered to be employed as an announcer within the meaning of the exemption in section 13(b)(9).

§ 793.8 "News editor."

A news editor is an employee who gathers, edits and rewrites the news. He 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 within the meaning of the exemption in section 13(b)(9).

§ 793.9 "Chief engineer."

A chief engineer is an employee who primarily supervises the operation maintenance and repair of all electronic equipment in the studio and at the transmitter and is licensed by the Federal Communications Commission as a Radio Telephone Operator First Class. In small stations, only one such engineer may be employed, and in some cases he may be assisted by part-time workers from other departments. The engineer in such cases will be regarded as employed as the "chief engineer" for purposes of the section 13(b)(9) exemption provided that he performs the duties described above and is properly licensed by the Federal Communications Commission. Where two or more engineers are employed by a station, only one may qualify as "chief engineer"—that one who, on the basis of the factual situation, is in charge of the engineering work.

§ 793.10 Primary employment in named occupation.

The legislative history of the exemption is explicit that the exemption applies only to an employee who is employed "primarily" as an announcer, news editor, or chief engineer. Thus the Senate Report states: "The exemption is specifically limited to those employees who are employed primarily in the named occupations * * *" (S. Rept. 145, 87th Cong., 1st sess., p. 37). No specific rule can be established for determining whether in any given case an employee is employed "primarily" in the named occupations. Generally, however, where an employee spends more than half of the hours he works in a workweek in a named occupation, he will be considered to be primarily employed in such occupation during that workweek. The answer will necessarily depend upon the facts in each case.

§ 793.11 Combination announcer, news editor and chief engineer.

The 13(b)(9) exemption, as was made clear during the debate on the amendment, is intended to apply to employees employed in the named occupations by small market radio and television stations. It is known at the time of such debate that these stations employ only a small number of employees and that, at times, an employee of such a station may perform a variety of duties in connection with the operation of the station. For example, an employee may perform work both as an announcer and as a news editor. In such cases, the primary employment test under the section 13(b)(9) exemption will be considered to be met by an employee who is employed primarily in any one or any combination of the named occupations. Thus an employee who works both as an announcer and news editor for the greater part of the workweek will be considered to be primarily employed in the named occupations during that week.

§ 793.12 Related and incidental work.

An employee who is employed primarily in one or more of the named occupations may also be engaged in other duties pertaining to the operation of the station by which he is employed.