

FLSA-1010

April 17, 1972

This is in further reply to your letter of March 22, 1972, concerning the exemption status of an industrial nurse and technical writers under section 13(a)(1) of the Fair Labor Standards Act.

The information you have provided indicates that the industrial nurse has been employed since July, 1970, and her rate of pay is \$698 per month. In order to be employed she must have been a graduate of an accredited school of nurses and be registered in the State of Maryland. In addition, she must have had minimum of one year of hospital, clinical, private, or industrial nursing experience plus some background related to general office and secretarial duties. You include a long list of her duties such as administering emergency treatment, directing other personnel in an emergency situation, promoting health education programs for the employees, providing general health care of employees, and maintaining required health records for the plant employees. She also checks to see that proper health standards are observed by the cafeteria.

After carefully analysis of the information provided we would conclude that a registered nurse employed by your firm as an industrial nurse and performing the duties described would qualify for exemption under section 13(a)(1) of the Fair Labor Standards Act.

You state in your letter that there are 36 employees employed in the position of technical writer. They are paid on a salary basis ranging from a low of \$650 to \$910 per month. The qualifications for the position require an education equivalent to minimum of two years of college or vocational or trades training in electrical or radio engineering and theory. In addition, a technical writer must have two years of experience related to the installation, testing and maintenance of electronic equipment or technical publication writing connected therewith. Their duties involve assisting in the preparation of equipment instruction manuals or other related publications involving the organization and layout of a part of a major publication project, and the accumulation and analysis of available data, specifications, drawings, etc. related thereto. Other duties involve writing of installation, operation and maintenance instructions according to designated military or commercial publications specifications. Also, under close supervision and guidance handle complete but relatively simple publications projects determining contents required in terms of instruction text, illustrations, charts, tables, parts lists, writing the descriptive material, and editing and preparing publications for reproduction. Other duties involve preparation and correction of special publications, materials, reports, spare and replacement parts lists, and data charts.

The determination as to whether or not an exemption under section 13(a)(1) of the Act is applicable must be made on the basis of the duties and responsibilities as well as salary of an individual employee in a particular employment situation. It is difficult to make a determination, particularly where there is a range of salaries as set forth in your letter, and that there may be employees within such a classification with supervisory functions. However, it is reasonably clear that the technical writer's duties which you have submitted actually describe the use of skills rather than discretion and independent judgment. This is further emphasized by the fact that where they may be responsible for the complete preparation of a simple publication they function under close supervision. Based on the job content as outlined in your letter and attachments, it would appear that any judgements made at the technical writer level are not the type contemplated for exemption under section 13(a)(1) of the Fair Labor Standards Act.

Sincerely,

Horace E. Menasco
Deputy Assistant Secretary

Enclosures

(

(

]