

## 29 C.F.R. § 794.139

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### Exempt and nonexempt activities in the workweek.

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The general nature of the activities of a wholesale or bulk petroleum distribution enterprise in which an employee must be engaged in order to come within the intent of the section 7(b)(3) exemption is discussed in §§ 794.136 through 794.137. In each case where an employee of the enterprise is engaged for a substantial portion of his workweek in activities which do not appear to be a part of the wholesale or bulk distribution of petroleum products, it will be necessary to examine such activities and the manner and extent of their performance to determine whether they are included in or are foreign to the activities customarily performed as an incident to or in conjunction with such distribution in the enterprises of the industry which distributes such products. If they are foreign to the activities thus customarily performed, engagement in them by the employee for a substantial portion of his workweek will render section 7(b)(3) inapplicable to him for that workweek. On the other hand, where an employee, who is otherwise engaged in the exempt activities (the wholesale or bulk distribution of petroleum products, including activities which are a necessary part thereof, and in activities customarily performed in the enterprises of the industry as an incident thereto or in conjunction therewith), devotes an insubstantial amount of time (for administrative purposes, not more than 20 percent in a workweek) to these foreign activities, the section 7(b)(3) exemption will not for that reason be considered inapplicable to him.

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