

U.S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
COOPERATION AND ENFORCEMENT BRANCH

SUMMARY AND ANALYSIS OF COMPLAINTS FILED ALLEGING VIOLATIONS OF THE
FAIR LABOR STANDARDS ACT AS OF DECEMBER 31, 1938

The Cooperation and Enforcement Branch of the Wage and Hour Division, has received, through December 31, 1938, a total of 5,294 complaints alleging violations of the Fair Labor Standards Act. Of this total, 3,811 complaints were sent directly to Washington. The balance, 1,483 complaints, were transmitted to the central office through the 22 field offices which have been established to date.

Complaints received from the field offices, while smaller in number than the complaints mailed directly to the central office in Washington, represent a substantially higher proportion of alleged violations. Where a violation is not actually occurring, the field representative has an opportunity to discuss the situation with the complainant and advise against the filing of a complaint. However, when complaints are mailed directly to Washington, the complainant does not have the benefit of this type of discussion. The number of complaints would undoubtedly be much higher if all the interviews in the field offices with persons alleging violations who are not covered by the Act were recorded on complaint forms and transmitted to Washington by the field staff.

TABLE 1.—WEEKLY NUMBER OF COMPLAINTS RECEIVED
December 31, 1938

Week ending—	Total	Washington 1/	Field 2/
All weeks	<u>5,294</u>	<u>3,811</u>	<u>1,483</u>
Prior to—			
October 24, 1938	82	82	0
October 29, 1938	183	179	4
November 5, 1938	339	283	56
November 12, 1938	392	268	124
November 19, 1938	455	292	163
November 26, 1938	605	449	156
December 3, 1938	735	498	237
December 10, 1938	604	345	259
December 17, 1938	990	703	287
December 24, 1938	367	258	109
December 31, 1938	542	454	88

1/ Represents complaints mailed directly to the Central Office in Washington.

2/ Represents complaints transmitted through Field Offices.

As shown in Table I above, the weekly receipt of complaints increased gradually from the first week of the operation of the Act to the week ending December 17, 1938. For the last two weeks of 1938, there was a decline in receipts. This may have been due to the Christmas holiday.

CHART A

WEEKLY NUMBER OF COMPLAINTS RECEIVED

DECEMBER 31, 1938

Number of
Complaints

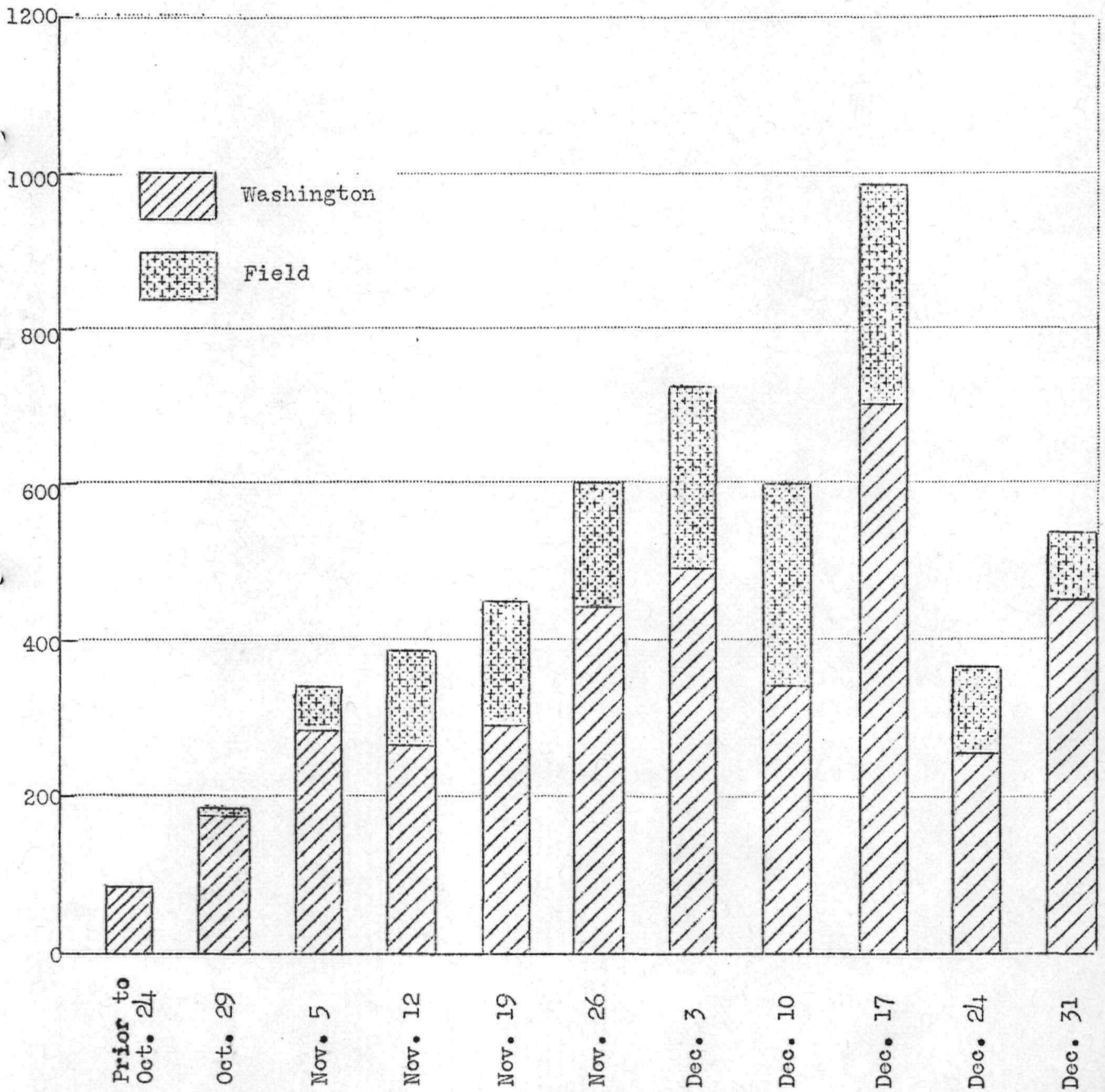


TABLE II.—NUMBER AND PERCENTAGE DISTRIBUTION
OF COMPLAINTS FILED BY AREAS
THROUGH DECEMBER 31, 1938

Area	Number of complaints	Percent of total
Total.....	<u>5,294</u>	<u>100.0</u>
Area I.....	2,042	38.6
Area II.....	1,785	33.7
Area III.....	1,323	25.0
Area IV.....	144	2.7

As indicated in Table II, Areas I and II, which are composed mostly of States on the Atlantic Seaboard and the Gulf of Mexico, account for more than 72 percent of all complaints received.

More than 38 percent, or almost 2 out of every 5 complaints received, originated in Area I, which includes the New England States, as well as Delaware, New York, New Jersey, and Pennsylvania.

Area II, which includes Alabama, Arkansas, the District of Columbia, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, was responsible for almost 34 percent, or approximately one-third of the complaints received.

Area III, comprised of the Central and Middle Western States of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota and Wisconsin, sent in 25 percent, or 1 out of every 4 of all complaints received.

The balance of the complaints, or not quite 3 percent, came from the far Western and Coast States in Area IV, which include the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

Table III presents this same data by States grouped within the areas which they comprise.

TABLE III.—NUMBER AND PERCENTAGE DISTRIBUTION OF COMPLAINTS FILED
BY AREAS AND STATES THROUGH DECEMBER 31, 1938

Areas and States	Number	Percent of total	Areas and States	Number	Percent of total
Total, United States	<u>5,294</u>	<u>100.0</u>			
Area I.....	<u>2,042</u>	<u>38.6</u>	Area III.....	<u>1,323</u>	<u>25.0</u>
Connecticut.....	90	1.7	Illinois.....	346	6.6
Delaware.....	34	0.6	Indiana.....	107	2.0
Maine.....	25	0.5	Iowa.....	58	1.1
Massachusetts.....	173	3.3	Kansas.....	49	0.9
New Hampshire.....	19	0.4	Kentucky.....	83	1.6
New Jersey.....	237	4.5	Michigan.....	94	1.8
New York.....	1,077	20.3	Minnesota.....	51	1.0
Pennsylvania.....	365	6.9	Missouri.....	226	4.3
Rhode Island.....	10	0.2	Nebraska.....	20	0.4
Vermont.....	12	0.2	North Dakota.....	3	<u>1/</u>
			Ohio.....	198	3.7
Area II.....	<u>1,785</u>	<u>33.7</u>	South Dakota.....	7	0.1
Alabama.....	129	2.4	Wisconsin.....	81	1.5
Arkansas.....	75	1.4			
District of Columbia.....	37	0.7	Area IV.....	<u>144</u>	<u>2.7</u>
Florida.....	128	2.4	Arizona.....	10	0.2
Georgia.....	180	3.4	California.....	68	1.2
Louisiana.....	151	2.9	Colorado.....	11	0.2
Maryland.....	195	3.7	Idaho.....	6	0.1
Mississippi.....	59	1.1	Montana.....	9	0.2
North Carolina.....	149	2.8	Nevada.....	2	<u>1/</u>
Oklahoma.....	80	1.5	New Mexico.....	5	0.1
South Carolina.....	51	1.0	Oregon.....	10	0.2
Tennessee.....	136	2.6	Utah.....	0	
Texas.....	170	3.2	Washington.....	14	0.3
Virginia.....	180	3.4	Wyoming.....	9	0.2
West Virginia.....	65	1.2			

1/ Less than one-twentieth of 1 percent.

The status of complaints received through December 31, 1938, is presented in the following table:

TABLE IV.—STATUS OF COMPLAINTS RECEIVED AS OF DECEMBER 31, 1938

Status of complaints	Number	Percent
Total received..	<u>5,294</u>	<u>100.0</u>
Analyzed.....	2,986	56.4
Pending analysis.....	2,308	43.6

If the intervention of the Christmas holiday had not occurred, the number of complaints analyzed would have been higher. The production of the analysts was curtailed for a week during the month of December when these people attended

the training school. This training was deemed to be necessary in order to give the analysts a more thorough background of the Act and the interpretations and rulings made to date.

TABLE V.—DISTRIBUTION OF COMPLAINTS ANALYZED BY TYPE
DECEMBER 31, 1938

Type	Total		Area I		Area II		Area III		Area IV	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Total.....	<u>2,986</u>	<u>100.0</u>	<u>1,098</u>	<u>100.0</u>	<u>975</u>	<u>100.0</u>	<u>804</u>	<u>100.0</u>	<u>109</u>	<u>100.0</u>
Violation alleged.....	1,194	40.0	496	45.2	393	40.3	279	34.7	26	23.9
No violation alleged...	506	16.9	159	14.5	158	16.2	150	18.7	39	35.8
More information neces- sary.....	802	26.9	324	29.5	245	25.1	206	25.6	27	24.8
Held for special con- sideration.....	484	16.2	119	10.8	179	18.4	169	21.0	17	15.5

Of the 2,986 complaints analyzed, 1,194, or 40 percent of the total, indicated a violation; and 506 complaints, or almost 17 percent, indicated no violation. The proportion of alleged violations would probably be higher if some of the complainants, in their letters, had furnished more information.

In almost 27 percent of the total complaints analyzed, it was impossible to reach a decision from the information furnished. In these cases, it will be necessary to obtain the additional information through correspondence with the complainants. Unfortunately, however, many of the complaints received were anonymous, precluding the possibility of correspondence with the complainants. There are more than 16 percent of all complaints being held for special consideration. These consist mainly of complaints which present problems requiring interpretation of some part of the Act or perhaps an additional opinion by the Legal Division. Complaints alleging a reduction of wage rates to the minimum provided by the Act are an example of the type included in this group.

Table V, above, presents this data in total and by areas.

TABLE VI.—DISTRIBUTION OF COMPLAINTS BY SECTION OF THE ACT
ALLEGED TO BE VIOLATED, AS OF DECEMBER 31, 1938

Section	Total		Area I		Area II		Area III		Area IV	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Total.....	<u>1,194</u>	<u>100.0</u>	<u>496</u>	<u>100.0</u>	<u>393</u>	<u>100.0</u>	<u>279</u>	<u>100.0</u>	<u>26</u>	<u>100.0</u>
Section 6.....	293	24.5	128	25.8	110	28.0	53	19.0	2	7.7
Section 7.....	419	35.2	188	37.9	95	24.2	125	44.8	11	42.3
Sections 6 and 7.....	416	34.8	166	33.5	156	39.7	83	29.7	11	42.3
Other.....	66	5.5	14	2.8	32	8.1	18	6.5	2	7.7

In Table VI above, there is presented an analysis of the 1,194 complaints distributed according to the section of the Act alleged to be violated. Almost 25 percent of all complaints were against violations of Section 6 of the Act. This

CHART B

DISTRIBUTION OF COMPLAINTS
ANALYZED BY TYPE

DECEMBER 31, 1938

Percent

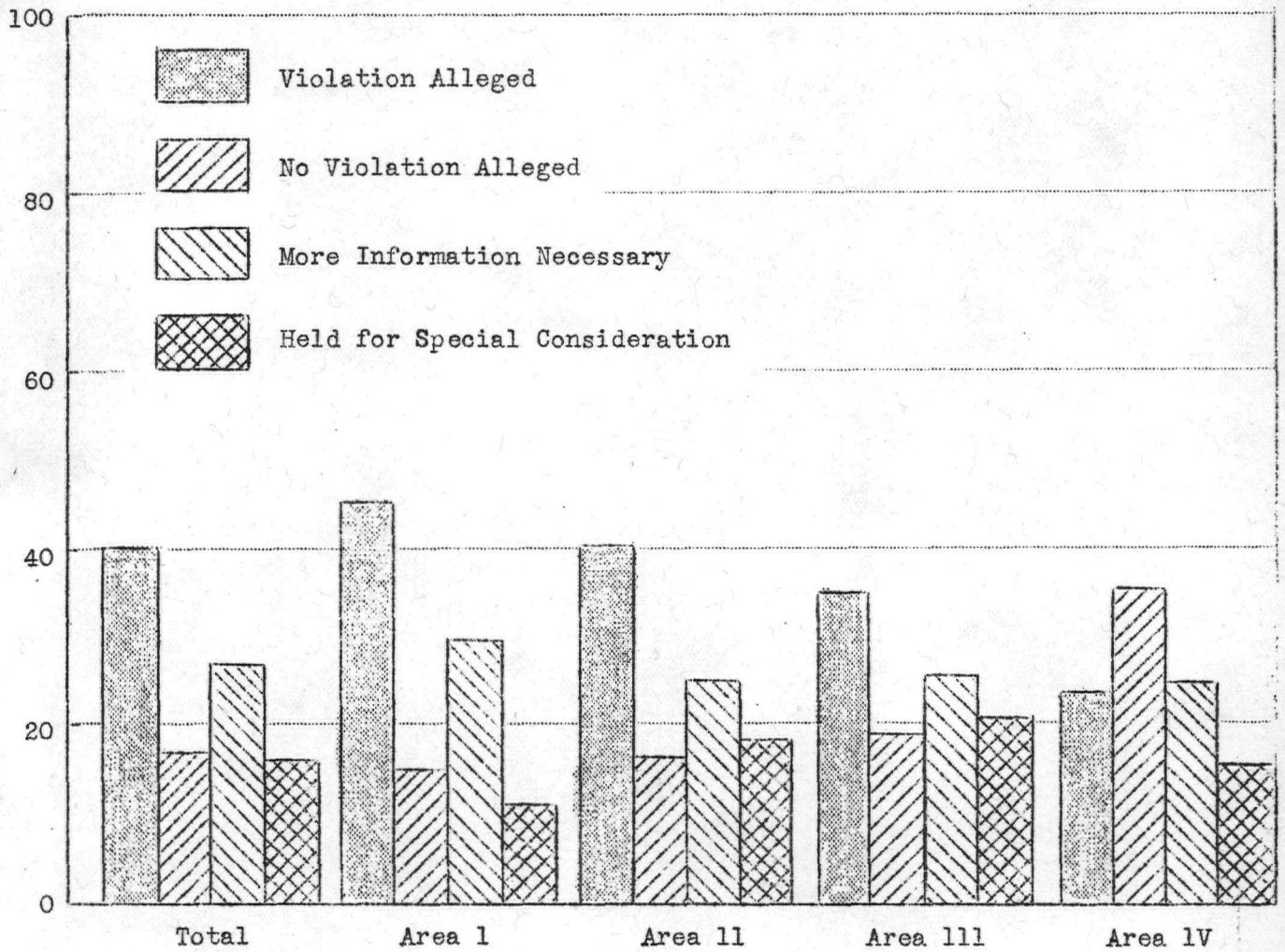
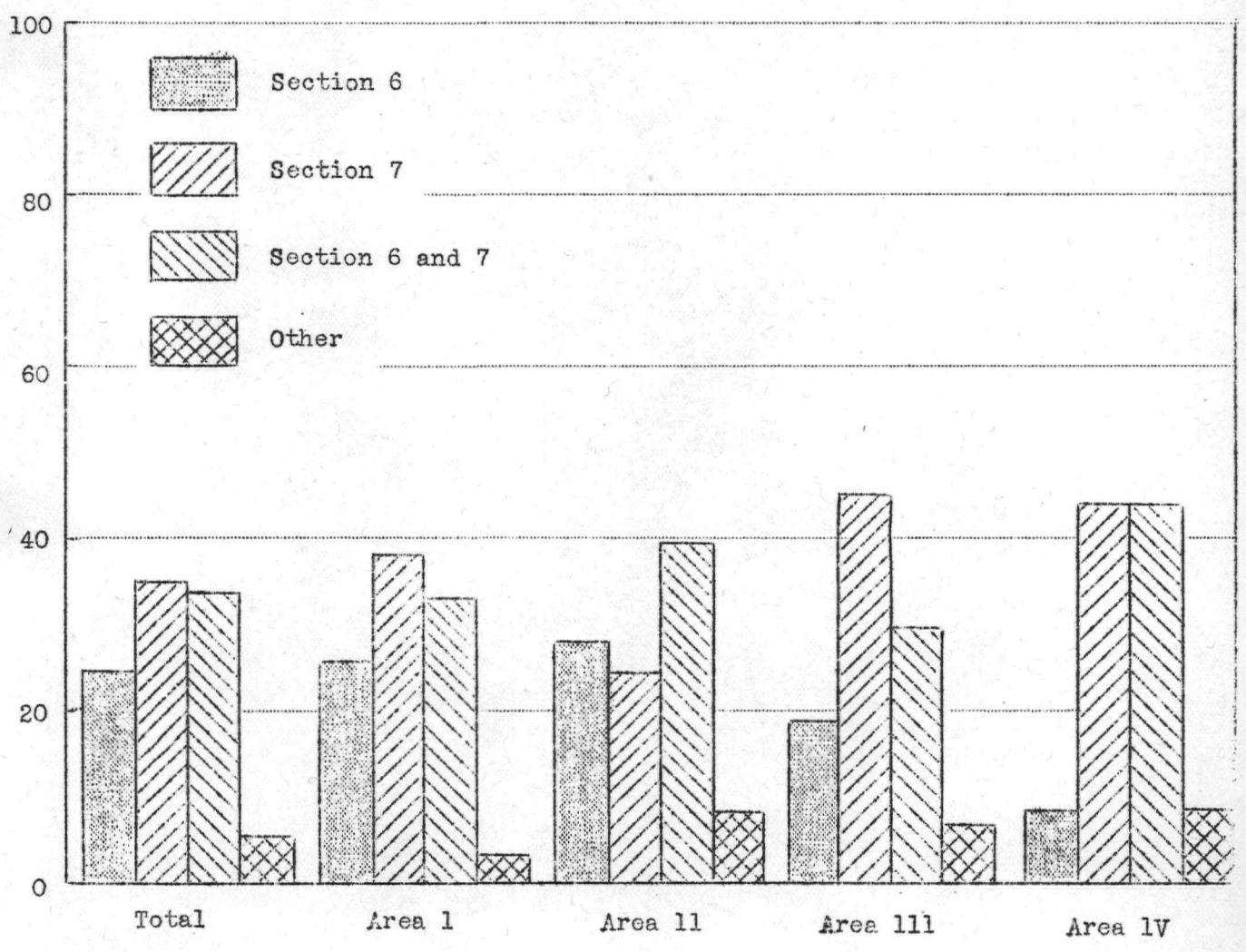


CHART C
 DISTRIBUTION OF COMPLAINTS
 BY SECTION OF THE ACT ALLEGED TO BE VIOLATED
 As of December 31, 1938

Percent



section requires the payment of minimum wages. More than 35 percent of all the complaints in this group alleged violations of Section 7 of the Act, which provides for the payment of one-half the regular rate for hours worked in excess of 44, in addition to the regular rate for the total number of hours worked. Almost 35 percent alleged a violation of both of these sections of the Act. In addition, there was a small proportion of complaints (5.5 percent) which indicated violations of other sections of the Act. These violations included maintenance of false time records, unreasonable deductions from wages, nonconformity with provisions of the Act relating to the employment of apprentices and learners, etc.

With the exception of Area II, the proportion of violations of Section 7 exceeds that of Section 6 in all cases.

TABLE VII.—DISTRIBUTION OF COMPLAINTS CLASSIFIED "NO VIOLATION"
BY COVERAGE OF EMPLOYEES, AS OF DECEMBER 31, 1938

Coverage	Total		Area I		Area II		Area III		Area IV	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Total.....	506	100.0	159	100.0	158	100.0	150	100.0	39	100.0
Covered, but no viola- tion indicated.....	120	23.7	31	19.5	48	30.4	32	21.3	9	23.1
Not covered, facts indi- cate conformity with standards of F.L.S.A..	16	3.2	8	5.0	4	2.5	3	2.0	1	2.6
Not covered, facts indi- cate nonconformity with standards of F.L.S.A..	370	73.1	120	75.5	106	67.1	115	76.7	29	74.3

Table VII shows the distribution of 506 complaints which were classified as "no violation." Almost 24 percent of the complaints in this group are directed against firms covered in the Act. The facts presented in this group of complaints indicated compliance with the provisions of the Act.

More than 76 percent of the total complaints in this group were considered as "no violation" because the firms complained against were not covered in the Act. In all but 16 of these complaints, or slightly over 3 percent, the facts presented indicated nonconformity with the standards of the Fair Labor Standards Act.

TABLE VIII.—COMPLAINTS REQUIRING MORE INFORMATION BY NATURE OF
INFORMATION LACKING, AS OF DECEMBER 31, 1938

Information lacking	Total		Area I		Area II		Area III		Area IV	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Total.....	802	100.0	324	100.0	245	100.0	206	100.0	27	100.0
Concerning nature of em- ployer's business only	355	44.3	139	42.9	108	44.1	98	47.6	10	37.0
Concerning conditions of employment only.....	127	15.8	47	14.5	36	14.7	37	18.0	7	26.0
Concerning both nature of employer's business and conditions of em- ployment.....	320	39.9	138	42.6	101	41.2	71	34.4	10	37.0

CHART D

Distribution of Complaints Classified
"No Violation"

By Coverage of Employees

As of December 31, 1938

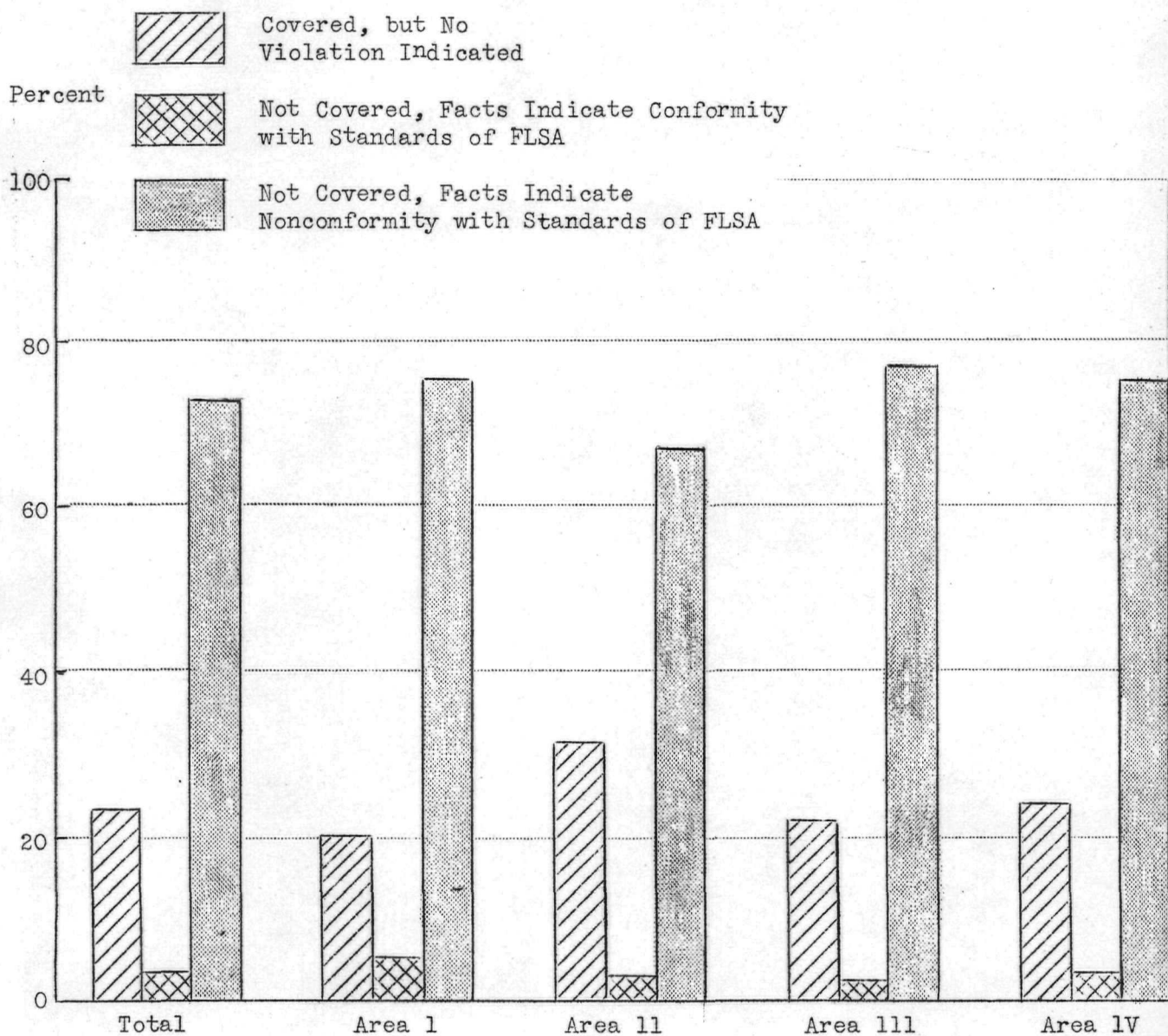


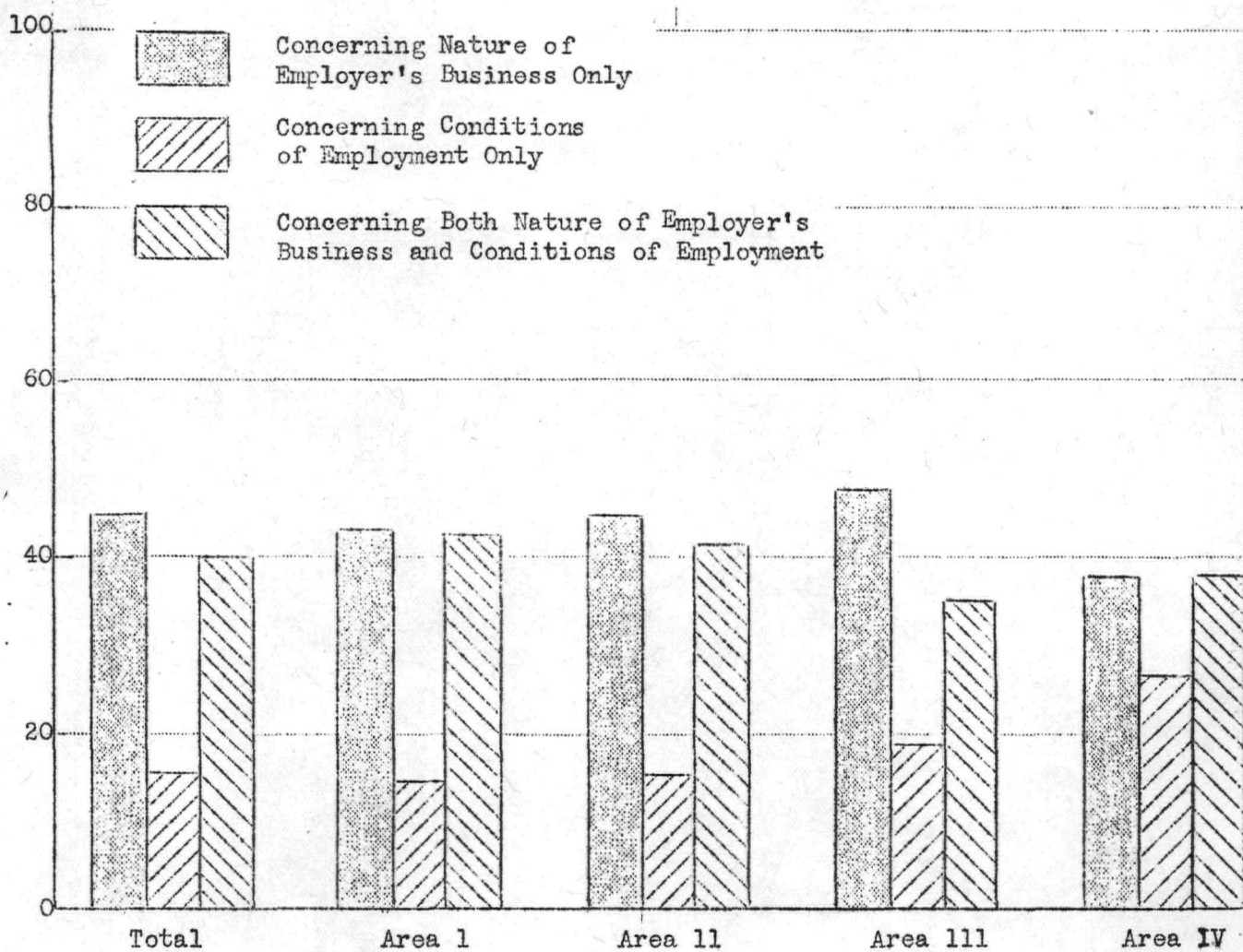
CHART E

Complaints Requiring More Information

By Nature of Information Lacking

As of December 31, 1938

Percent



As indicated previously, the proportion of violations alleged would probably be higher if some of the complainants, in their letters, had furnished more information. A break-down of the complaints requiring more information by nature of information lacking is presented in Table VIII above.

Investigations of 539 complaints against 447 establishments have been recommended. These investigations will cover 32 States. This is summarized in Table IX.

TABLE IX.—COMPLAINTS AND CASES RECOMMENDED FOR IMMEDIATE INVESTIGATION FOR SELECTED STATES AS OF DECEMBER 31, 1938

State	Complaints	Cases
Total.....	<u>539</u>	<u>447</u>
Alabama.....	11	9
Arizona.....	3	3
California.....	10	10
Colorado.....	1	1
Connecticut.....	22	16
Delaware.....	6	5
District of Columbia.....	16	15
Florida.....	13	12
Georgia.....	31	24
Idaho.....	1	1
Illinois.....	50	37
Louisiana.....	6	5
Maine.....	4	3
Massachusetts.....	8	3
Maryland.....	31	30
Mississippi.....	13	12
Missouri.....	17	12
Minnesota.....	6	6
Michigan.....	16	15
Montana.....	1	1
New Jersey.....	23	22
New Mexico.....	3	3
New York.....	114	82
North Carolina.....	28	23
Oklahoma.....	9	9
Oregon.....	4	4
Pennsylvania.....	28	27
Tennessee.....	28	24
Texas.....	20	18
Virginia.....	4	3
Washington.....	3	3
Wisconsin.....	9	9

A preliminary analysis of complaints by industrial classification has been made. This is presented in Table X.

TABLE X.—NUMBER AND PERCENTAGE DISTRIBUTION OF COMPLAINTS ANALYZED
DECEMBER 31, 1938

BY INDUSTRIAL CLASSIFICATIONS

Industrial classification	Total		Violation alleged		No violation alleged		More information and special handling	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Total	2,986	100.0	1,194	100.0	506	100.0	1,286	100.0
Forestry.....	6	<u>1/</u>	1	.1	0	<u>1/</u>	5	<u>1/</u>
Extraction of minerals.....	36	1.2	14	1.2	3	.6	19	1.5
Chemicals and allied industries.....	42	1.4	21	1.8	4	.8	17	1.3
Cigar and tobacco factories.....	17	.6	4	.3	1	.2	12	.9
Clay, glass, and stone industries.....	18	.6	10	.8	4	.8	4	.3
Clothing industries.....	252	8.4	156	13.1	7	1.4	89	6.9
Food and allied industries.....	198	6.6	80	6.7	29	5.7	89	6.9
Iron and steel, machinery and vehicle industries.....	55	1.9	31	2.6	3	.6	21	1.6
Metal industries.....	26	.9	10	.8	2	.4	14	1.1
Leather industries.....	52	1.7	42	3.5	1	.2	9	.7
Lumber and furniture industries.....	189	6.3	102	8.5	7	1.4	80	6.2
Paper, printing and allied indus- tries.....	141	4.7	73	6.1	11	2.1	57	4.4
Textile industry (excluding carpet and knitting mills).....	156	5.4	94	7.9	14	2.8	48	3.7
Carpet mills.....	2	<u>1/</u>	1	<u>1/</u>	0		1	
Knitting mills.....	71	2.3	50	4.2	2	.4	19	1.6
Miscellaneous manufacturing indus- tries.....	277	9.3	153	12.8	14	2.8	110	8.6
Transportation and communication.....	198	6.6	69	5.8	15	3.0	114	8.9
Wholesale trade.....	536	18.0	149	12.5	165	32.6	222	17.3
Not specified industries and services.....	714	24.1	134	11.3	<u>2/224</u>	<u>2/44.2</u>	356	28.1

1/ Less than one-twentieth of 1 percent.

2/ Includes 110 complaints from an industrial group classified as "Domestic and Personal Services" accounting for 21.7 percent of the total "no violations."

Note: The industrial classification groupings used for this analysis is not the final classification system that will be adopted by this Branch.

A preliminary summary of 63 inspectors' reports of cases investigated indicates that 15 cases involving 109 employees were settled with payments of \$454.04 made. In addition, 20 case reports indicate that settlements will probably occur. Of these, 3 cases, involving 58 employees and \$90 in back payments, will be settled without further investigative action; 15 cases involving 697 employees and \$587.90 in back payments will be settled after a reinspection for hour and wage checks; and 2 cases involving 304 employees will be settled after reinspection for record-keeping checks. These latter cases do not involve any back payments.

The inspectors' reports also indicate 7 cases, involving 276 employees, closed. Three of these cases representing 176 employees were closed because no violations were established, and the remaining 4 cases affecting 100 employees were closed because the employers were not covered by the Act.

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