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U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

MORE THAN NINETY PERCENT OF COTTON GINS EXEMPT FROM
FAIR LABOR STANDARDS ACT

Employees of considerably more than 90 percent of American cotton gins are exempt from both wage and hour provisions of the Fair Labor Standards Act, Colonel Philip B. Fleming, Administrator of the Wage and Hour Division, declared today in a letter to G. M. Lester, president of the National Cotton Ginners Association of Jackson, Miss.

Section 13 (a)(10) of the Act provides for complete exemption of cotton gins within the area of production, he said.

Congress could not have intended to exempt the remaining small percent which in the main are located in larger centers, Colonel Fleming added, because several amendments which would have exempted all cotton ginning were defeated before the Act was passed.

At the same time Colonel Fleming informed Mr. Lester that he was willing to confer on the question with members of the association in Washington. Mr. Lester had suggested such a conference to be held in Washington or at some point in the South.

In his letter to Mr. Lester, Colonel Fleming clarified the present status of cotton gins under existing definitions and regulations issued by the Division.

Section 13 (a)(10) of the Act, he said, exempts cotton gins from both the wage and hour provisions of the Act when they are located in the "area of production" which Congress specified must be defined by the Administrator. Under the Division's definition, a cotton gin is within the "area of production" if:

(a) All the cotton comes from farms in the general vicinity of the gin, and the number of employees there engaged in ginning does not exceed seven, or

(c) If all the cotton comes from farms within a radius of ten miles of the gin, and the gin is located in the open country or in a city or town of less than
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2,500 population.

In the letter to Colonel Fleming suggesting the conference, Mr. Lester agreed that the Division's definition of the "area of production" exempted from 90 percent to 95 percent of the 12,000 active cotton gins who employ between 60,000 and 70,000 workers. But he added that by confining the area of production to the above limitations the Wage and Hour administration served to work a hardship on those ginners who employed more than seven persons and who draw their raw cotton from distances greater than ten miles.

In his reply, Colonel Fleming pointed out the distinction between the phrase "immediate locality" and the phrase "general vicinity" as used in the "area of production" regulations.

He said that while "immediate locality" means ten miles, "with respect to 'general vicinity' there is no specific definition . . . In actual practice, therefore, it can be safely estimated that any cotton gin having seven or fewer employees is in fact within the 'area of production' as defined in Section 536 of our regulations."

Further, Colonel Fleming pointed out that "from all the information at our disposal it appears that the manager of a cotton gin frequently may be correctly classified as a person employed in a 'bona fide executive, administrative . . . capacity' as these terms are defined in Part 541 of our regulations. In that case the manager is exempt from the wage and hour provisions of the Act under Section 13 (a)(1) and should not be counted in computing whether there are seven or fewer employees in the establishment. Thus the area of production exemption is applicable to a number of gins in which the manager is the eighth employee."

"I shall, of course, give my most careful attention to any petition filed by you," he wrote. "However, my action thereon must be taken in accordance with my understanding of the intent of Congress and of the nature of my own responsibility under Section 13 (a)(10) of the Act."

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