

**§ 780.803 Basic conditions of exemption; first part, ginning of cotton.**

Under the first part of section 13(b)(15) of the Act, the ginning of cotton, all the following conditions must be met in order for the exemption to apply to an employee:

(a) He must be "engaged in ginning."

(b) The commodity ginned must be cotton.

(c) The ginning of the cotton must be "for market."

(d) The place of employment in which this work is done must be "located in a county where cotton is grown in commercial quantities." The following sections discuss the meaning and application of these requirements.

## GINNING OF COTTON FOR MARKET

**§ 780.804 "Ginning" of cotton.**

The term "ginning" refers to operations performed on "seed cotton" to separate the seeds from the spinnable fibers. (*Moore v. Farmer's Manufacturing and Ginning Co.*, 51 Ariz., 378, 77 F. 2d 209; *Frazier v. Stone*, 171 Miss. 56, 156 So. 596). "Seed cotton" is cotton in its natural state (*Burchfield v. Tanner*, 142 Tex. 404, 178 S.W. 2d 681, 683) and the ginning to which section 13(b)(15) refers is the "first processing" of this agricultural commodity (107 Cong. Rec. (daily ed.) p. 5887), which converts it into the marketable product commonly known as "lint cotton" (*Wirtz v. Southern Pickery Inc.* (W.D. Tenn.) 278 F. Supp. 729; *Mangan v. State*, 76 Ala. 60, 66) by removing the seed from the lint and then pressing and wrapping the lint into bales.

**§ 780.805 Ginning of "cotton."**

Only the ginning of "cotton" is within the first part of the exemption. An employee engaged in ginning of moss, for example, would not be exempt. The reconditioning of cotton waste resulting from spinning or oil mill operations is not included, since such waste is not the agricultural commodity in its natural state for whose first processing the exemption was provided. (See 107 Cong. Rec. (daily ed.) p. 5887.) The "cotton," "seed cotton," and "lint cotton" ginned by ordinary gins do not include "linter" or "Grabbot" cotton, obtained by reginning cotton seed and

hard locks of cotton mixed with hulls, bolls, and other substances which could not be removed by ordinary ginning (*Mississippi Levee Com'rs v. Refuge Cotton Oil Co.*, 91 Miss. 480, 44 So. 828, 829). Mote ginning, the process whereby raw motes (leaves, trash, sticks, dirt, and immature cotton with some cottonseed) are run through a ginning process to extract the short-fiber cotton, is not included in the ginning of cotton unless it is done as a part of the whole ginning process in one gin establishment as a continuous and uninterrupted series of operations resulting in useful cotton products including the regular "gin" bales, the "mote" bales (short-fiber cotton), and the cottonseed.

**§ 780.806 Exempt ginning limited to first processing.**

As indicated in § 780.804, the ginning for which the exemption is intended is the first processing of the agricultural commodity, cotton, in its natural form, into lint cotton for market. It does not include further operations which may be performed on the cottonseed or the cotton lint, even though such operations are performed in the same establishment where the ginning is done. Delinting, which is the removal of short fibers and fuzz from cottonseed, is not exempt under section 13(b)(15). It is not first processing of the seed cotton; rather, it is performed on cottonseed, usually in cottonseed processing establishments, and even if regarded as ginning (*Mitchell v. Burgess*, 239 F. 2d 484) it is not the ginning of cotton for market contemplated by section 13(b)(15). It may come within the overtime exemption provided in section 7(d) of the Act for certain seasonal industries. (See § 526.11(b)(1) of part 526 of this chapter.) Compressing of cotton, which is the pressing of bales into higher density bales than those which come from the gin, is a further processing of the cotton entirely removed from ginning (*Peacock v. Lubbock Compress Co.*, 252 F. 2d 892). Employees engaged in compressing may, however, be subject to exemption from overtime pay under section 7(c). (See § 526.10(b)(8) of this chapter.)