subsequent to ginning (including preparation of weight records and tickets in connection with weighing operations).

(d) Placing seed cotton in temporary storage at the gin and removing the cotton from such storage to be ginned.

(e) Operating the suction feed.

(f) Operating the gin stands and power equipment.

(g) Making gin repairs during the ginning season.

(h) Operating the press, including the handling of bagging and ties in connection with the ginning operations of that gin.

(i) Removing bales from the press to holding areas on or near the gin premises.

(j) Others whose work is so directly and physically connected with the ginning process itself that it constitutes an integral part of its actual performance.

§ 780.810 Employees not "engaged in" ginning.

Since an employee must actually be ''engaged in'' ginning of cotton to come within the exemption, an employee engaged in other tasks, not an integral part of ''ginning'' operations, will not be exempt. (See, for rule that only the employees performing the work described in the exemption are exempt, *Wirtz* v. *Burton Mercantile and Gin Co., Inc.,* 234 F. Supp. 825, aff'd per curiam 338 F. 2d 414, cert. denied 380 U.S. 965; *Wirtz* v. *Kelso Gin Co., Inc.* (E.D. Ark.) 50 Labor Cases 31, 631, 16 WH Cases 663; *Mitchell* v. *Stinson,* 217 F. 2d 210; *Phillips* v. *Meeker Cooperative Light and Power Ass'n* 63 F. Supp. 743, affirmed 158 F. 2d 698; *Jenkins* v. *Durkin,* 208 F. 2d 941; *Heaburg* v. *Independent Oil Mill, Inc.,* 46 F. Supp. 751; *Abram* v. *San Joaquin Cotton Oil Co.,* 46 F. Supp. 969.) The following activities are among those not within the meaning of the term ''engaged in ginning of cotton'':

(a) Transporting seed cotton from farms or other points to the gin.

(b) General maintenance work (as opposed to operating repairs).

(c) General office and custodial duties.

(d) ''Watching'' duties.

(e) Working in the seed house.

(f) Transporting seed, hulls, and ginned bales away from the gin.

(g) Any activity performed during the ''off-season.''

County Where Cotton Is Grown in Commercial Quantities

§ 780.811 Exemption dependent upon place of employment generally.

Under the first part of section 13(b)(15), if the employee's work meets the requirements for exemption, the location of the place of employment where he performs it will determine whether the exemption is applicable. This location is required to be in a county where cotton is grown in commercial quantities. The exemption will apply, however, to an employee who performs such work in ''any'' place of employment in such a county. The place of employment in which he engages in ginning need not be an establishment exclusively or even principally devoted to such operations; nor is it important whether the place of employment is on a farm or in a town or city in such a county, or whether or to what extent the cotton ginned there comes from the county in which the ginning is done or from nearby or distant sources. It is enough if the place of employment where the employee is engaged in ginning cotton for market is ''located'' in such a county.

§ 780.812 "County."

As used in the section 13(b)(15) exemption, the term ''county'' refers to the political subdivision of a State commonly known as such, whether or not such a unit bears that name in a particular State. It would, for example, refer to the political subdivision known as a ''parish'' in the State of Louisiana. A place of employment would not be located in a county, within the meaning of the exemption, if it were located in a city which, in the particular State, was not a part of any county.

§ 780.813 "County where cotton is grown."

For the exemption to apply, the employee must be ginning cotton in a place of employment in a county where cotton ''is grown'' in the described quantities. It is the cotton grown, not the cotton ginned in the place of employment, to which the quantity test is

applicable. The quantities of cotton ginned in the county do not matter, so long as the requisite quantities are grown there.

§ 780.814 "Grown in commercial quantities."

Cotton must be ''grown in commercial quantities'' in the county where the place of employment is located if an employee ginning cotton in such place is to be exempt under section 13(b)(15). The term ''commercial quantities'' is not defined in the statute, but in the cotton-growing areas of the country there should be little question in most instances as to whether commercial quantities of cotton are grown in the county where the ginning is done. If it should become necessary to determine whether commercial quantities are grown in a particular county, it would appear appropriate in view of crop-year variations to consider average quantities produced over a representative period such as 5 years. On the question of whether the quantities grown are ''commercial'' quantities, the trade understanding of what are ''commercial'' quantities of cotton would be important. It would appear appropriate also to measure ''commercial'' quantities in terms of marketable lint cotton in bales rather than by acreage or amounts of seed cotton grown, since seed cotton is not a commercially marketable product (*Mangan* v. *State,* 76 Ala. 60). Also, production of a commodity in ''commercial'' quantities generally involves quantities sufficient for sale with a reasonable expectation of some return to the producers in excess of costs (*Bianco* v. *Hess* (Ariz.), 339 P. 2d 1038; *Nystel* v. *Thomas* (Tex. Civ. App.) 42 S.W. 2d 168).

§ 780.815 Basic conditions of exemption; second part, processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap.

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

(a) He must be engaged in the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap.

(b) The product of the processing must be sugar (other than refined sugar) or syrup.

§ 780.816 Processing of specific commodities.

Only the processing of sugar beets, sugar-beet molasses, sugarcane, or maple sap is within the exemption. Operations performed on commodities other than those named are not exempt under this section even though they result in the production of unrefined sugar or syrup. For example, sorghum cane or refinery syrup (which is a by-product of refined syrup) are not named commodities and employees engaged in processing these products are not exempt under this section even though the resultant product is raw sugar. The loss of exemption would obtain for the same reason for employees engaged in processing sugar, glucose, or ribbon cane syrup into syrup.

§ 780.817 Employees engaged in processing.

Only those employees who are engaged in the processing will come within the exemption. The processing of sugarcane to which the exemption applies and in which the employee must be engaged in order to come within it is considered to begin when the processor receives the cane for processing and to end when the cane is processed ''into sugar (other than refined sugar) or syrup.'' Employees engaged in the following activities of a sugarcane processing mill are considered to be engaged in ''the processing of'' the sugarcane into the named products, within the meaning of the exemption:

(a) Loading of the sugarcane in the field or at a concentration point and hauling the cane to the mill ''if performed by employees of the mill.'' (Such activities performed by employees of some other employer, such as an independent contractor, are not considered to be within the exemption.)

(b) Weighing, unloading, and stacking the cane at the mill yard.

(c) Performing sampling tests (such as a trash test or sucrose content test) on the incoming cane.

(d) Washing the cane, feeding it into the mill crushers and crushing.