
29 C.F.R. § 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).

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