

Saturday, November 18, 1939

UNITED STATES DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
WASHINGTON, D. C.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION GRANTING APPLICATION FOR PARTIAL EXEMPTION OF THE OPEN-CUT PLACER GOLD MINING INDUSTRY AS A SEASONAL INDUSTRY PURSUANT TO SECTION 7(b)(3) OF THE FAIR LABOR STANDARDS ACT OF 1938 AND PART 526 AS AMENDED OF REGULATIONS ISSUED THEREUNDER.

WHEREAS, application has been made by the Arctic Circle Exploration Company and sundry other parties under Section 7(b)(3) of the Fair Labor Standards Act of 1938, and Regulations, Part 526, as amended (Regulations applicable to Industries of a Seasonal Nature), issued by the Administrator thereunder, for partial exemption of the open-cut placer gold mining industry from the maximum hours provisions of Section 7(a) of said Act pursuant to Section 7(b)(3) applicable to industries found by the Administrator to be of a seasonal nature; and

WHEREAS, a public hearing on said application was held before Harold Stein, the representative of the Administrator of the Wage and Hour Division, duly authorized to take testimony, hear argument, and determine whether or not the open-cut placer gold mining industry or any sub-division thereof is an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938, and Part 526 of Regulations issued thereunder; and

WHEREAS, following such hearing, the said Harold Stein duly made his findings of fact and determined as follows:

- "1. The open-cut mining of placer gold in the States of Idaho, Montana, Nevada, Oregon, South Dakota, Utah, Washington, Wyoming, and the Territory of Alaska, is a branch of the open-cut placer gold mining industry as defined in the Notice of Hearing; and ^{1/}
- "2. The mining of placer gold from surface or open cuts in the above-defined area is characterized by annually recurrent cessation of operations caused by freezing temperatures and water shortage; and
- "3. Except for maintenance, repair, and sales work the open-cut mining of placer gold in the above-defined area ceases completely at regular recurring times

^{1/} As corrected by Notice of Correction published in the Federal Register November 17, 1939.

of the year for a period of approximately six months or more in each part of the area, because due to climatic and other natural causes the materials used by the industry are not available in the form in which they are handled or processed; and

- "4. The open-cut mining of placer gold in the above-defined area is a branch of an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of the Regulations issued thereunder.

"The application is granted.

"This determination is without prejudice to a determination on applications from other placer gold producing states and territories"; and

WHEREAS, said Findings and Determination were duly filed with the Acting Administrator on November 10, 1939, and are now on file in Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties:

NOW, THEREFORE, pursuant to the provisions of Section 526.7 of the aforesaid Regulations, notice is hereby given that any person aggrieved by the said determination may, within fifteen days after the date this notice appears in the Federal Register, file a petition with the Acting Administrator requesting that he review the action of the said representative upon the record of hearing before the said representative.

Signed at Washington, D. C. this 14th day of November, 1939.

Harold D. Jacobs

Harold D. Jacobs, Acting Administrator,
Wage and Hour Division,
Department of Labor.

U. S. DEPARTMENT OF LABOR
Wage and Hour Division
Washington

SEASONAL EXEMPTION FOR LOUISIANA CANE SUGAR PROCESSING AND MILLING
MADE FINAL

A seasonal exemption from the hours provisions of the Fair Labor Standards Act for the processing and milling branch of the cane sugar industry and for operations performed on bagasse (cane from which the juice has been extracted) in Louisiana, was granted today when the Wage and Hour Division, U. S. Department of Labor, made final a preliminary finding to that effect.

On October 28, 1939, a prima facie case for the granting of such an exemption was declared to exist. The exemption had been requested by the South Coast Corporation, of New Orleans, for that portion of the cane sugar processing and milling branch of the cane sugar industry in Louisiana. Harry L. Laws and Company, Inc., of New Orleans, and the Celotex Corporation at Marrero, near New Orleans, sought the exemption for operations performed on bagasse in connection with that branch of the industry. Since no objection or request for a hearing was received within fifteen days from the time the exemption was proposed, a finding declaring this industry to be of a seasonal nature and therefore entitled to the exemption sought, was made final (Federal Register, November 18, 1939).

The exemption includes that branch of the industry engaged in the unloading of sugar cane from wagons and railroad cars onto conveyors; the processing of sugar cane into sugar, syrup and molasses, but not the refining of such sugar, syrup and molasses; the removal, handling and conveying of raw sugar, syrup and molasses to storage and placing them in storage on or in the vicinity of the sugar mill site; the removal,

conveying, burning, baling, and piling and storing in baled form on or in the vicinity of the sugar mill site, of bagasse; or incidental operations. The exemption allows employees engaged in this branch of the industry to be employed up to 12 hours a day and 56 hours a week for a period not to exceed 14 workweeks in the aggregate per year without payment of overtime.

This finding is issued without prejudice to the rights of sugar cane processors in other states who might desire to seek similar exemption, nor does it prejudice the rights of employers in the cane sugar processing and milling branch of the cane sugar industry in Louisiana under Section 7 (c) of the Act, which contains hours exemptions for certain operations performed on sugar cane.

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