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U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington, D. C.

SEASONAL EXEMPTION FOR NORTHERN BRANCH OF SAND AND GRAVEL INDUSTRY MADE FINAL

A partial exemption from the maximum hours provisions of the Fair Labor Standards Act for the northern branch of the sand and gravel industry as an industry of seasonal nature was made final today by the Wage and Hour Division, U. S. Department of Labor. The application for the exemption was made by the National Sand and Gravel Association and other parties, and the determination of Harold Stein, Assistant Director of the Hearings Branch of the Wage and Hour Division, was based on testimony adduced at a public hearing June 19, 1939 in Washington and on supplementary data filed by the Association.

The southern branch of the industry was held not to be an industry of a seasonal nature, in Mr. Stein's determination.

Announcement of the intention to grant the partial exemption to the northern branch of the industry was made January 16, 1940, at which time opportunity was given to file objections during a 15-day period. Since no petition for review is now pending, today's action (Federal Register March 15, 1940) makes the partial exemption final.

In making his determination, Mr. Stein used the best available figures on weather conditions throughout the country--the governing factor in considering the application. The boundary between the northern and southern branches of the industry, for the purposes of the determination, runs across the entire country from Maine to the State of Washington and follows the isothermic belt marking that part of the country in which the average temperature in December, January and February is below 25° F. The northern branch is held to include all plants located in counties that lie within the isothermic belt below 25° F. or are touched by the 25° isotherm on Figure 5 of the Atlas of American Agriculture issued by the U. S. Department of Agriculture.

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Under the partial exemption granted for the northern branch of the industry, employers will be permitted to work their employees up to 12 hours a day or 56 hours a week without the payment of overtime. The exemption does not in any way affect the requirement to pay the statutory minimum of 30 cents an hour or the child labor provisions of the Fair Labor Standards Act.

As defined in the determination, the northern branch of the industry for which the exemption is granted includes the States of Iowa, Maine, Minnesota, Montana, New Hampshire, North Dakota, South Dakota, Utah, Vermont, Wisconsin and Wyoming, and parts of the States of Colorado, Connecticut, Idaho, Michigan, Nebraska, New York, Illinois, Indiana, Massachusetts, Missouri, Nevada, New Mexico, Ohio, Oregon, Pennsylvania and Washington.

The determination is without prejudice to a supplementary determination enlarging the scope of the northern branch by including therein such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the typical plants in the northern branch--in other words, that shut down substantially for about six months each year and completely for about five months each year because climatic factors make unfrozen sand and gravel unavailable.

Following is a breakdown by counties of the States partially covered by the exemption:

All counties in the State of Colorado except Adams, Arapahoe, Baca, Bent, Cheyenne, Crowley, Denver, Douglas, Elbert, Kiowa, Kit Carson, Lincoln, Logan, Morgan, Otero, Phillips, Prowers, Pueblo, Sedgwick, Washington, Weld and Yuma.

All counties in the State of Connecticut except Middlesex, New London, Tolland and Windham.

All counties in the State of Idaho except Ada, Benewah, Canyon, Gooding, Jerome, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette and Twin Falls.

All counties in the State of Michigan except Berrian and Monroe.

All counties in the State of Nebraska except Adams, Banner, Buffalo, Chase, Cheyenne, Clay, Dawson, Deuel, Dundy, Franklin, Frontier, Furnas, Gosper, Hall, Harlan, Hayes, Hitchcock, Jefferson, Kearney, Kimball, Nuckolls, Pawnee, Perkins, Phelps, Redwillow, Richardson, Thayer and Webster.

All counties in the State of New York except Genesee, Monroe, Nassau, Niagara, Orleans, Rockland, Seneca, Suffolk, Wayne, Westchester and all the counties of the City of New York.

The following counties in the State of Illinois: Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Henderson, Henry, Jo Daviess, Kane, Kendall, Knox, Lake, La Salle, Lee, McHenry, Marshall, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Warren, Whiteside, Will and Winnebago.

The following counties in the State of Indiana: Allen, DeKalb, Elkhart, Kosciusko, Lagrange, Marshall, Noble, Saint Joseph, Steuben and Whitley.

The following counties in the State of Massachusetts: Berkshire, Franklin, Hampden, Hampshire, Middlesex and Worcester.

The following counties in the State of Missouri: Atchison, Centry, Harrison, Holt, Mercer, Nodaway, Putnam, Schuyler, Scotland, Sullivan and Worth.

The following counties in the State of Nevada: Elko, Eureka and White Pine

The following counties in the State of New Mexico: Colfax, Nora, Rio Arriba, Sante Fe and Taos.

The following county in the State of Ohio: Williams.

The following counties in the State of Oregon: Baker, Clackamas, Deschutes, Grant, Hood River, Jefferson, Lane, Linn, Marion, Umatilla, Union and Wasco.

The following counties in the State of Pennsylvania: Bradford, Erie, Lackawanna, McKean, Pike, Potter, Susquehanna, Tioga, Warren, Wayne and Wyoming.

The following counties in the State of Washington: Chelan, Ferry, King, Kittitas, Lewis, Okanogan, Pend Oreille, Pierce, Skagit, Skamania, Snohomish, Spokane, Stevens, Whatcom and Yakima.

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