

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

IN THE MATTER OF THE APPLICATION FOR EXEMPTION  
OF THE OPEN-CUT MINING OF PLACER GOLD IN THE  
STATE OF COLORADO FROM THE MAXIMUM HOURS PRO-  
VISIONS OF THE FAIR LABOR STANDARDS ACT OF  
1938 PURSUANT TO SECTION 7(b)(3) AND PART 526  
OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, on November 6, 1939, an authorized representative of the Administrator of the Wage and Hour Division, United States Department of Labor, determined, after a public hearing held before him in Washington, D.C. on June 19 and 20, 1939, that the open-cut mining of placer gold in the States of Idaho, Montana, Nevada, Oregon, South Dakota, Utah, Washington, and Wyoming and the Territory of Alaska is a branch of an industry of a seasonal nature and therefore entitled to the seasonal exemption provided in Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations issued thereunder, and

WHEREAS, on January 3, 1940, the Administrator made this exemption effective by publication in the Federal Register, and

WHEREAS, the Colorado Mining Association filed an application with the Administrator for a determination that the open-cut mining of placer gold in the State of Colorado is included within the aforesaid branch of the industry and therefore is entitled to the seasonal exemption, and

WHEREAS, it was alleged in the application filed by the Colorado Mining Association that the open-cut mining of placer gold in Colorado is similar in all material respects to the open-cut mining of placer gold in the States of Idaho, Montana, Nevada, Oregon, South Dakota, Utah, Washington and Wyoming and the Territory of Alaska, and

WHEREAS, the Administrator caused to be published in the Federal Register on April 2, 1940 (5 F.R. 1284), a notice which stated that upon consideration of the facts stated in the said application, and upon further investigation the Administrator determined, pursuant to Section 526.5(c) of the Regulations, that a prima facie case had been shown for the granting of an exemption, pursuant to Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Part 526 of the Regulations, to the open-cut mining of placer gold in the State of Colorado as part of the branch of the open-cut placer gold mining industry found to be a branch of a seasonal industry as set forth in the first and second paragraphs of the notice, and which stated further that if no objection and request for hearing were received within fifteen days, the Administrator would make a finding upon the prima facie case shown in the application, and

WHEREAS, no objection and request for hearing was received by the Administrator within the fifteen days following the publication of said notice;

NOW, THEREFORE, pursuant to Section 526.5(b)(ii) of the Regulations, as amended, the Administrator hereby finds on the prima facie case shown in the said application that the open-cut mining of placer gold in the State of Colorado is a part of a branch of an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act of 1938 and Regulations issued thereunder and, therefore, is entitled to the exemption provided in Section 7(b)(3) of the said Act.

Signed at Washington, D.C. this 26th day of April 1940.



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Philip B. Fleming  
Administrator  
Wage and Hour Division  
U.S. Department of Labor

Published in Federal Register, April 30, 1940.