

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

NOTICE OF OPPORTUNITY TO PETITION FOR
REVIEW OF DETERMINATION THAT THE NORTHERN
BRANCH OF THE CRUSHED STONE INDUSTRY IS,
AND THE SOUTHERN BRANCH OF THAT INDUSTRY
IS NOT, AN INDUSTRY OF A SEASONAL NATURE
PURSUANT TO SECTION 7(b)(3) OF THE FAIR
LABOR STANDARDS ACT OF 1938 AND PART 526
AS AMENDED OF REGULATIONS ISSUED THERE-
UNDER.

WHEREAS, applications have been made by the National Crushed Stone Association 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 crushed stone industry from the maximum hours provisions of Sections 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 applications was held before Harold Stein, the representative of the Administrator, duly authorized to take testimony, hear argument and determine whether or not the crushed stone industry 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. There is a branch of the crushed stone industry (as defined herein) wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States; and
2. There is a southern branch of the industry wherein the plants do not shut down at all or do not normally shut down for a substantial period each year; and
3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work,

because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges, and banks of blasted rock, because of climatic factors; and

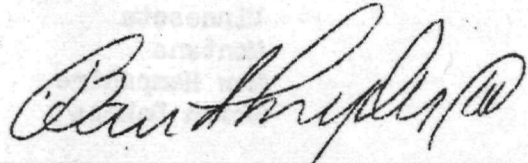
4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of Regulations issued thereunder; and
5. The southern branch of the crushed stone industry is not an industry of a seasonal nature within the meaning of the Act and the Regulations; and
6. For the purpose of this Determination the crushed stone industry shall mean the blasting and excavating of stone for crushing from surface or open cuts, the transportation, handling, and crushing of such stone, and the sizing, washing, and grading of crushed stone, together with other necessary processing incidental thereto.
7. For the purpose of this Determination the northern branch of the crushed stone industry shall include all plants located in counties that lie within the isothermic belt below 25 degrees Fahrenheit or are touched by the 25 degree isotherm on Figure 5 of the American Atlas of Agriculture issued by the United States Department of Agriculture. The said counties are listed in Appendix A attached hereto and incorporated herewith by reference.
8. This Determination shall be without prejudice to a supplementary Determination enlarging the scope of the Northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the Northern branch described in paragraphs 1 and 3 above.

WHEREAS, said Findings and Determination were duly filed with the Administrator on May 27, 1940, 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 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 5th day of June, 1940.



Baird Snyder, Acting Administrator
Wage and Hour Division
Department of Labor

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APPENDIX A

A. All counties in the States of:

Iowa	South Dakota
Maine	Utah
Minnesota	Vermont
Montana	Wisconsin, and
New Hampshire	Wyoming
North Dakota	

B. All the counties in the State of Colorado except the counties of:

Adams	Lincoln
Arapahoe	Logan
Baca	Morgan
Bent	Otero
Cheyenne	Phillips
Crowley	Prowers
Denver	Pueblo
Douglas	Sedgwick
Elbert	Washington
Kiowa	Weld, and
Kit Carson	Yuma

All the counties in the State of Connecticut except the counties of:

Middlesex	Tolland, and
New London	Windham

All the counties in the State of Idaho except the counties of:

Ada	Lincoln
Benewah	Minidoka
Canyon	Nez Perce
Gooding	Owyhee
Jerome	Payette, and
Latah	Twin Falls
Lewis	

All the counties in the State of Michigan except the counties of:

Berrian and	Monroe
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All the counties in the State of Nebraska except the counties of:

Adams	Harlan
Banner	Hayes
Buffalo	Hitchcock
Chase	Jefferson
Cheyenne	Kearney
Clay	Kimball
Dawson	Nuckolls
Deuel	Pawnee
Dundy	Perkins
Franklin	Phelps
Frontier	Redwillow
Furnas	Richardson
Gosper	Thayer, and
Hall	Webster

All the counties in the State of New York except the counties of:

Genesee	Seneca
Monroe	Suffolk
Nassau	Wayne
Niagara	Westchester, and
Orleans	all the counties of
Rockland	the City of New York

C. The following counties in the following states:

State of Illinois:

Boone	Lee
Bureau	McHenry
Carroll	Marshall
Cook	Mercer
DeKalb	Ogle
DuPage	Peoria
Henderson	Putnam
Henry	Rock Island
Jo Daviess	Stark
Kane	Stephenson
Kendall	Warren
Knox	Whiteside
Lake	Will, and
La Salle	Winnebago

State of Indiana:

Allen	Marshall
DeKalb	Noble
Elkhart	Saint Joseph

State of Indiana: (cont'd)

Kosciusko	Steuben, and
Lagrange	Whitley

State of Massachusetts:

Berkshire	Hampshire
Franklin	Middlesex, and
Hampden	Worcester

State of Missouri:

Atchison	Putnam
Centry	Schuyler
Harrison	Scotland
Holt	Sullivan, and
Mercer	Worth
Nodaway	

State of Nevada:

Elko
Eureka, and
White Pine

State of New Mexico:

Colfax	Sante Fe, and
Nora	Taos
Rio Arriba	

State of Ohio:

Williams

State of Oregon:

Baker	Lane
Clackamus	Linn
Deschutes	Marion
Grant	Omatilla
Hodd River	Union, and
Jefferson	Wasco

State of Pennsylvania:

Bradford	Susquehanna
Erie	Tioga
Lackawanna	Warren
McKean	Wayne, and
Pike	Wyoming
Potter	

State of Washington:

Chelan	Skagit
Ferry	Skamania
King	Snohomish
Kittitas	Spokane
Lewis	Stevens
Okanogan	Whatcom, and
Pend Oreille	Yakima
Pierce	