

U. S. DEPARTMENT OF LABOR  
WAGE AND HOUR DIVISION  
Washington

IN THE MATTER OF APPLICATION FOR THE EX-  
EMPTION OF THE OPEN-CUT OR SURFACE MINING  
OF PLACER TIN IN THE TERRITORY OF ALASKA  
FROM THE MAXIMUM HOURS PROVISION OF THE  
FAIR LABOR STANDARDS ACT OF 1938 PURSUANT  
TO SECTION 7(b)(3) AND PART 526, AS AMENDED,  
OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, application was filed by the American Mining Congress for the ex-  
emption of the open-cut or surface mining of placer tin in the Territory of  
Alaska from the maximum hours provisions of the Fair Labor Standards Act of 1938  
as a branch of an industry of a seasonal nature within the meaning of Section  
7(b)(3) and Part 526, as amended, of the Regulations issued thereunder, and

WHEREAS, it appeared that:

- (1) in the United States placer tin is extracted from surface or  
open cuts only in the northwestern tip of the Seward Peninsula  
of Alaska, and
- (2) the mining of placer tin from surface or open cuts is characterized  
by annually recurring cessation of operation, because freezing  
temperatures and severe climate during this period make impossible  
the excavating of the tin minerals, and the washing and separating  
thereof, and
- (3) except for maintenance, repair, and sales work, the open-cut  
mining of placer tin in the above defined area ceases completely  
during a regularly recurring part of the year for a period of  
approximately nine months, 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

WHEREAS, the Administrator caused to be published in the Federal Register  
on March 20, 1940 (5 FR 1108), 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, as amended,  
of the Regulations issued thereunder to the mining of placer tin from surface

or open cuts in the Territory of Alaska and which notice defined the mining of placer tin from surface or open cuts to mean the extraction of such tin from pit, bank or marine deposits by hand or power methods but not to embrace any underground operations, and

WHEREAS, said notice stated that pursuant to the procedure established by Section 526.5(c) of the Regulations, the Administrator for fifteen days following the publication of the determination, would receive objection to the granting of the exemption and request for hearing from any interested person and upon the receipt of objection and request for hearing, would set the application for hearing before himself or an authorized representative, and if no objection and request for hearing was received within fifteen days thereafter, the Administrator would make a finding upon the prima facie case, and

WHEREAS, objections to the granting of the exemption were received by the Administrator but the objections did not set forth reasons which would warrant the holding of a hearing thereon, and

WHEREAS, the objecting party has abandoned its request for a hearing,

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 mining of placer tin from surface or open cuts in the Territory of Alaska is a seasonal industry 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 16th day of September, 1940.



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