

UNITED STATES DEPARTMENT OF LABOR

Office of the Solicitor

September 22, 1942

LEGAL FIELD LETTER

No. 79

SUBJECT: Barge Tenders as Seamen Under Section 13(a)(3)

In view of the decision in the case of Gale v. Union Bag and Paper Corp. (Lit. Man. Memos. 179 and 179a), paragraph 6 of Interpretative Bulletin No. 11 should be considered modified to the extent of recognizing that barge tenders on non-self-propelled barges who perform the normal duties of their occupation, such as attending to the lines and anchors, putting out running and mooring lights, pumping out bilge water, and other similar activities necessary and usual to the navigation of barges, will be considered seamen within the exemption provided by section 13(a)(3) of the Fair Labor Standards Act unless they do a substantial amount of nonexempt work. Loading and unloading and activities relating thereto will be considered nonexempt work. The facts on which the Gale decision was based are more fully set forth at 30 F.Supp. 648, 649.