

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

NOTICE OF OPPORTUNITY TO PETITION FOR
REVIEW OF DETERMINATION GRANTING AND
DENYING CERTAIN APPLICATIONS FOR PARTIAL
EXEMPTION OF THE CLAY PRODUCTS INDUSTRY
AS A SEASONAL INDUSTRY 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 Committee of Brick Manufacturers of Main, New Hampshire and Vermont, Chehalis Brick and Tile Company, Colonial Clays, Inc. and Red River Valley Brick Corporation 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 clay products industry from the maximum hours provisions of Section 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 clay products industry or any subdivision thereof 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, the term "clay products industry" being defined to mean the processing or manufacturing of clay products (other than pottery); and

WHEREAS, following such hearing, the said Harold Stein duly made his findings of fact and determined as follows:

- "1. The manufacture of brick in the three northern New England states of Maine, Vermont and New Hampshire is integrated and well-defined and constitutes a branch of the clay products industry (other than pottery) as defined in the notice of hearing; and
- "2. Brick cannot be manufactured in freezing weather in unheated plants with open-air driers because the clay is not available at the various stages of extraction, handling and processing in the only form in which it can be used by the industry, i.e. as unfrozen clay; and
- "3. Brick in northern New England is manufactured only in plants with open-air drying yards and scove kilns, and almost all the brick is a specialty product which can be produced only under these conditions. The plants produce green brick between April 15 and October 15, approximately, each year and shut down thereafter because of freezing weather, although

one burning of approximately ten days' duration occurs after the last batch of green brick dries; and

- "4. The manufacture of brick in Maine, Vermont and New Hampshire is a branch of the clay products industry and is of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of the Regulations issued thereunder; and
- "5. Brick is manufactured in southern New England, and in New England as a whole, in plants with varying types of driers and kilns, as elsewhere; it is competitive with brick manufactured elsewhere; and the manufacture is carried on in important plants throughout the year; and
- "6. The manufacture of brick in the three southern New England states or in New England as a whole is not a branch of 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
- "7. The applications filed by the Chehalis Brick and Tile Company of Chehalis, Washington, and the Red River Valley Brick Corporation of Grand Forks, North Dakota, fail to show the existence of any integrated and well-defined branches of the clay products industry.

"The application of the Committee of Brick Manufacturers of Maine, New Hampshire and Vermont is granted.

"The applications of Colonial Clays, Inc., the Chehalis Brick and Tile Company and the Red River Valley Brick Corporation are denied"; and

WHEREAS, said Findings and Determination were duly filed with the Acting Administrator on November 16, 1939, 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 Acting 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 20th day of November, 1939.

Harold D. Jacobs

Harold D. Jacobs
Acting Administrator
Wage and Hour Division,
Department of Labor.