

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

IN THE MATTER OF EXEMPTION OF A
BRANCH OF THE CLAY PRODUCTS INDUSTRY
AS A SEASONAL INDUSTRY UNDER SECTION
7(b)(3) OF THE FAIR LABOR STANDARDS
ACT OF 1938 AND PART 526 AS AMENDED
OF REGULATIONS ISSUED THEREUNDER.

WHEREAS, a duly authorized representative of the
Administrator, after a public hearing, has made the follow-
ing finding and determination:

- "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, a notice of opportunity to petition for review of the said finding and determination was published in the Federal Register on November 25, 1939; and

WHEREAS, no petition for review has been filed within the fifteen days allowed under Section 526.7 of the Administrator's Regulations applicable to industries of a seasonal nature, as amended (Title V, Chapter 29, Part 526, Code of Federal Regulations);

NOW, THEREFORE, pursuant to the provisions of said Section 526.7 of the said Regulations, the exemption

provided by Section 7 (b)(3) of the Fair Labor Standards Act of 1938 will become effective on the date this notice embodying the above-quoted finding and determination appears in the Federal Register. The said exemption is applicable only as specified by the aforesaid finding and determination.

Signed at Washington, D. C. this 27th day of
December, 1939.



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