

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

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION IN THE MATTER OF APPLICATION FOR THE EXEMPTION OF THE MANUFACTURING OR PROCESSING OF CLAY PRODUCTS (OTHER THAN POTTERY) AND CONCRETE PRODUCTS FROM THE MAXIMUM HOURS PROVISIONS OF THE FAIR LABOR STANDARDS ACT OF 1938 AS AN INDUSTRY OF A SEASONAL NATURE PURSUANT TO SECTION 7(b)(3) OF THE ACT AND PART 526, AS AMENDED, OF THE REGULATIONS ISSUED THEREUNDER.

WHEREAS, an application was filed by the Vermont Concrete Pipe Corporation and sundry other parties for the partial exemption of the manufacturing or processing of clay products (other than pottery) and concrete products from the maximum hours provisions of the Fair Labor Standards Act of 1938 as industries of a seasonal nature pursuant to Section 7(b)(3) of the Act and Part 526 of Regulations issued thereunder; and

WHEREAS, the Administrator of the Wage and Hour Division gave notice of a public hearing to be held in Washington, D. C., on August 7, 1939 before Mr. Harold Stein who was authorized to take testimony, hear argument, and determine:

Whether the processing or manufacturing of clay products (other than pottery) or concrete products as defined herein or any subdivisions thereof are industries of a seasonal nature within the meaning of Section 7(b)(3) of the Act and Part 526 of the Regulations issued thereunder.

The term "processing and manufacturing of concrete products" was defined to mean the removal of materials from the stock pile and the measuring, mixing, moulding, curing of concrete or other operations resulting in building block and tile, brick, cast stone, pipe, posts, vaults, and miscellaneous articles made of aggregates, including sand, gravel, crushed rock, cinders, slag, and burned clay, bound together with cement.

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

- (1) In the three northern New England states of Maine, Vermont and New Hampshire, concrete pipe is manufactured in open-air plants that produce concrete pipe almost entirely for this region and that produce almost all the concrete pipe that is used in this region; and
- (2) The operating season for the concrete pipe plants in this region extends from about April 25 to about December 25; and

- (3) The materials used by the industry are available even during the brief period of shut-down; and
- (4) The manufacture of concrete pipe in the States of Maine, Vermont, and New Hampshire is not of a seasonal nature within the meaning of section 7(b)(3) of the Fair Labor Standards Act and Part 526 of the regulations issued thereunder; and
- (5) The record fails to show the existence of any definable branch of the concrete products industry outside the States of Maine, Vermont and New Hampshire.

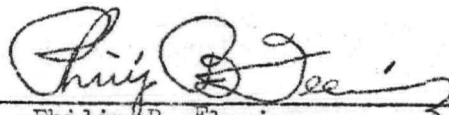
The applications of the concrete pipe manufacturers of Maine, Vermont, and New Hampshire are denied.

All other applications of producers of concrete products are denied without prejudice; and

WHEREAS, said findings and determination were duly filed with the Administrator on August 6, 1940 and are now on file in Room 5144, Department of Labor Building, Washington, D. C., and there available for examination by 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 22nd day of August, 1940.



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