

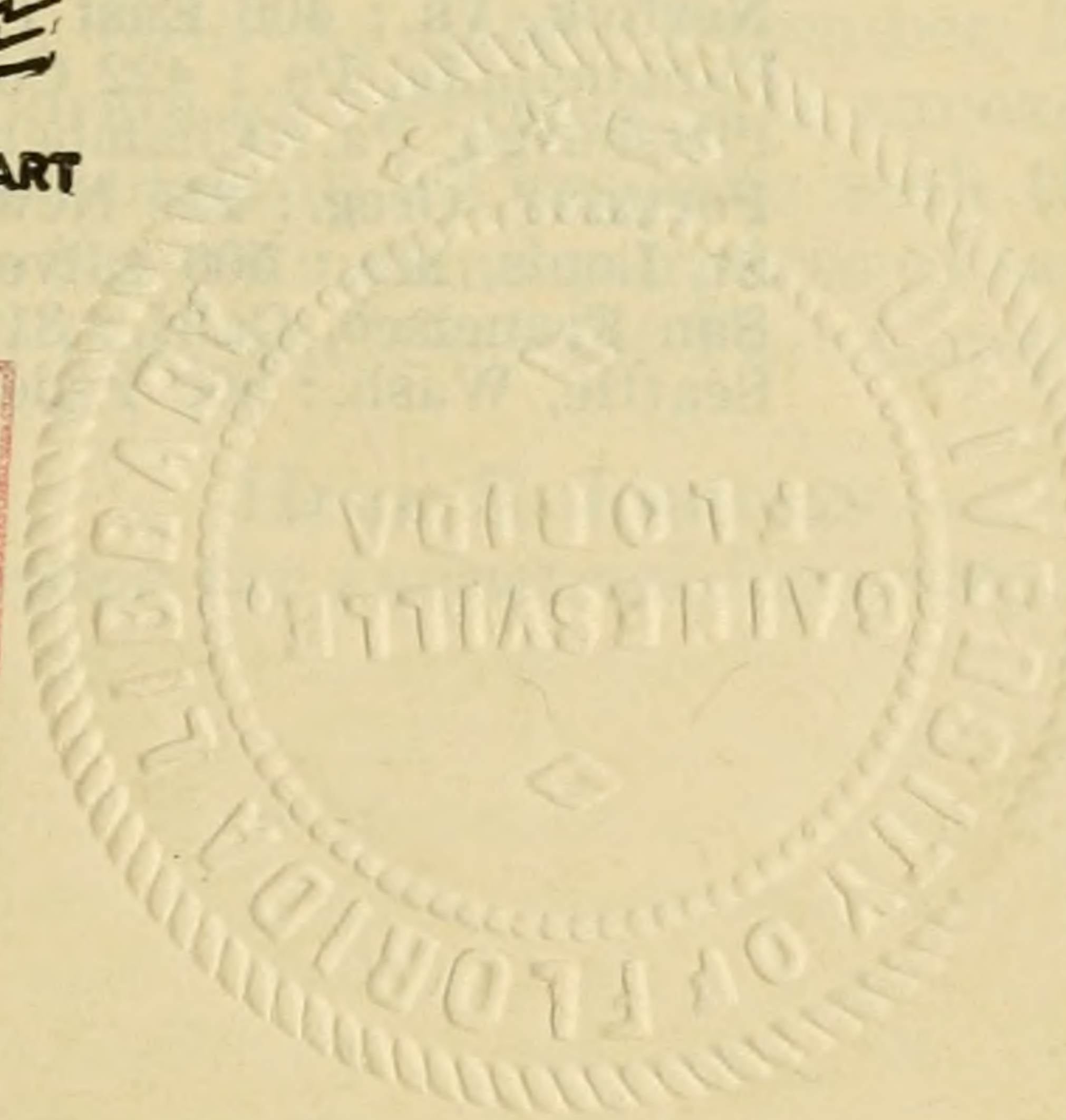
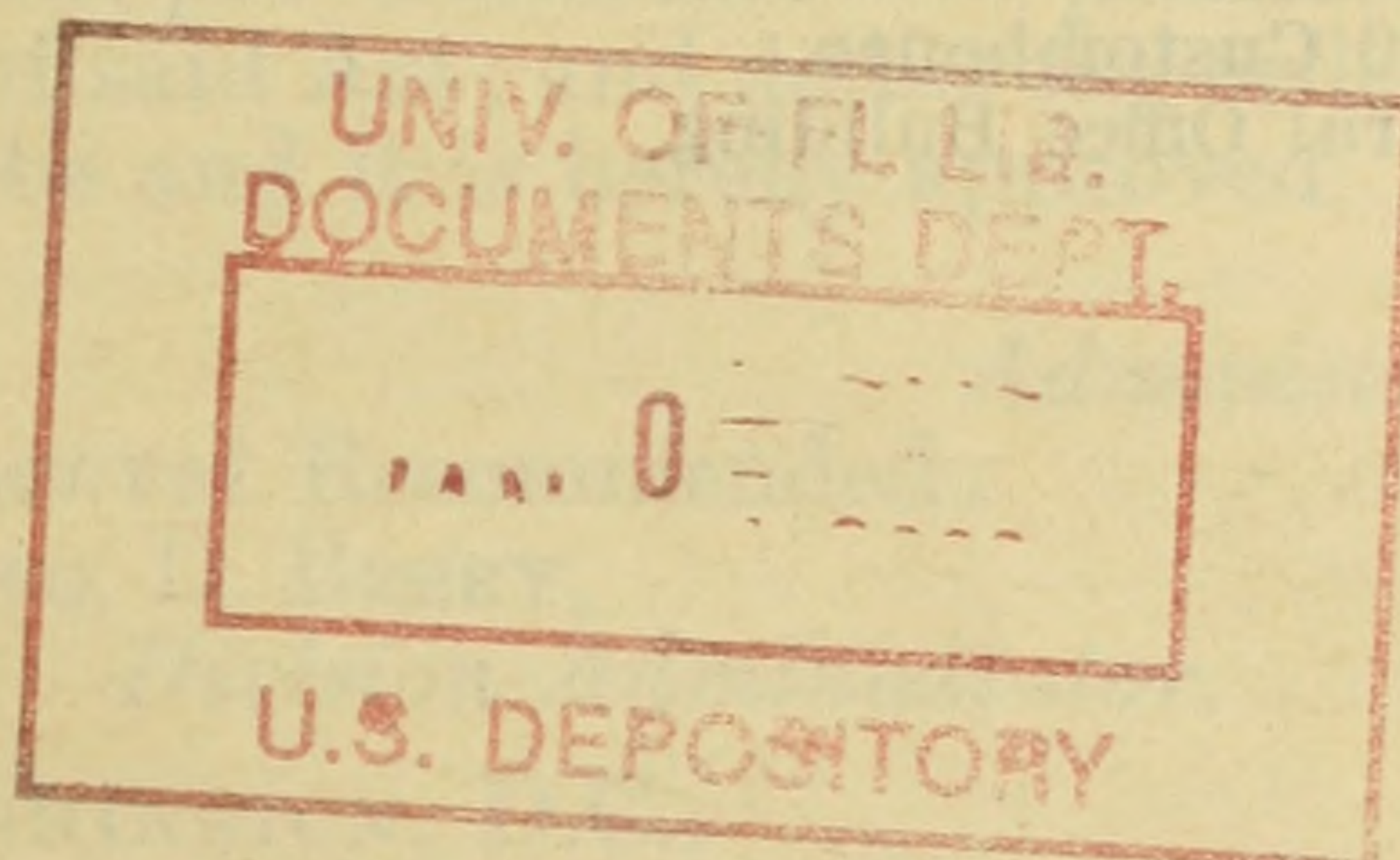
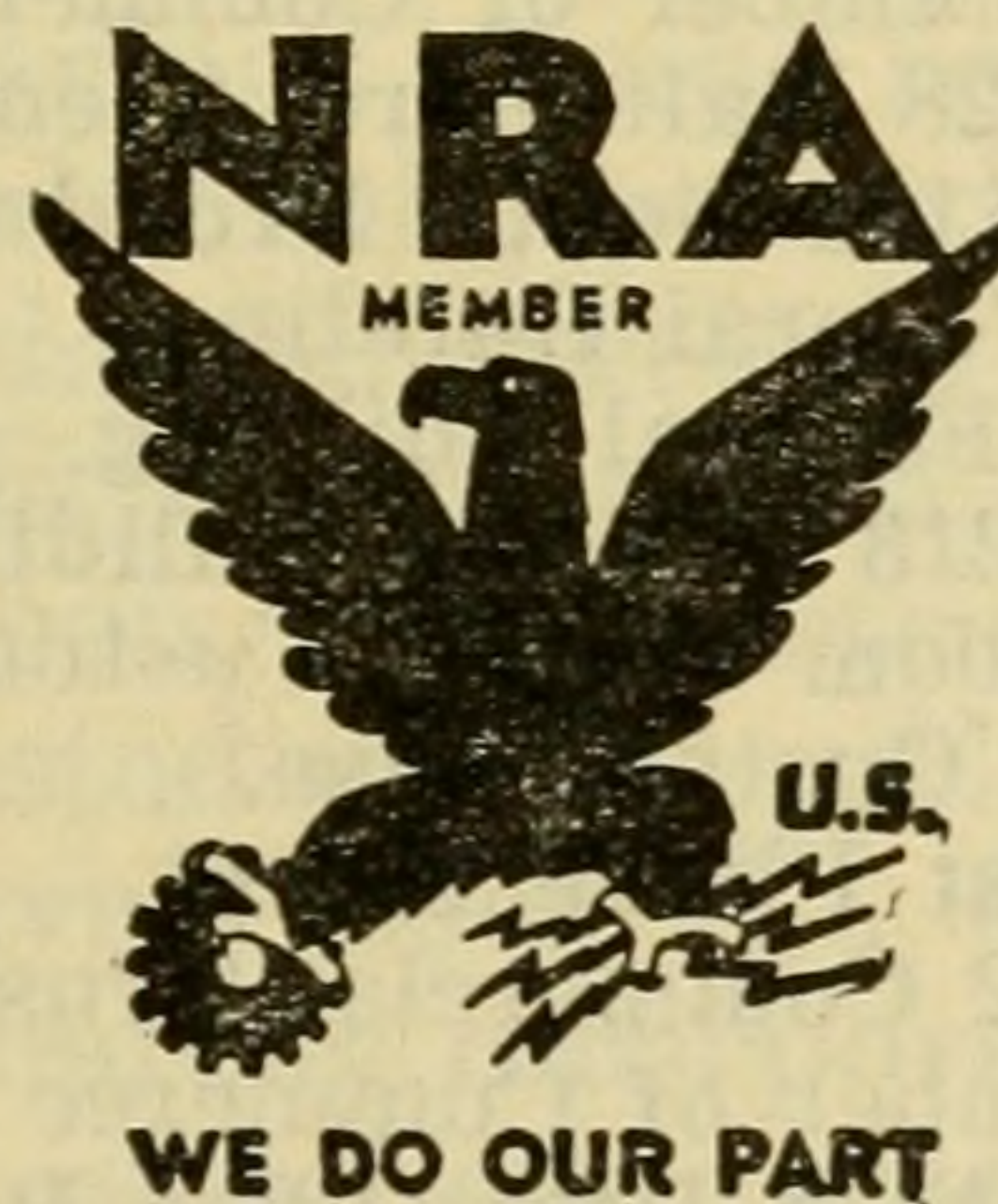
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

POTTERY SUPPLIES AND
BACKWALL AND RADIANT
INDUSTRIES

AS APPROVED ON FEBRUARY 16, 1934



UNITED STATES
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Approved Code No. 284

CODE OF FAIR COMPETITION
FOR THE
POTTERY SUPPLIES AND BACKWALL AND
RADIANT INDUSTRIES

As Approved on February 16, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE POTTERY SUPPLIES AND
BACKWALL AND RADIANT INDUSTRIES

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Pottery Supplies and Backwall and Radiant Industries, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President.

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval Recommended:

GEO. L. BERRY,
Division Administrator.

WASHINGTON, D.C.,
February 16, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: A Public Hearing on the Code of Fair Competition for the Pottery Supplies Industry, submitted by a Code Committee representing 70 percent of said Industry was held in Washington on the 20th of November, 1933, in accordance with the provisions of the National Industrial Recovery Act.

Subsequently, a Code Committee representing approximately 90 percent of the Backwall and Radiant Industry petitioned the Administration to bring that Industry under the provisions of the Code for the Pottery Supplies Industry by incorporating members of their Industry as co-proponents of the said Code. A Public Hearing was held on January 22, 1934 for the purpose of bringing about the above change, and incorporating in the Code for the Pottery Supplies Industry certain provisions necessary for the government of the Backwall and Radiant Industry. The name of the Code has now been changed to Code of Fair Competition for the Pottery Supplies and Backwall and Radiant Industries.

Mr. H. S. Russell of the Louthan Manufacturing Company of East Liverpool, Ohio is Chairman of the Code Committees of both Industries.

The maximum hours permitted under this Code are 40 per week. Excepted from these maximum hours are kiln loaders and clay makers who may work 50 hours per week, with time and one-third for all hours over 40 per week; also excepted are watchmen who may work 42 hours per week when averaged over a period of two weeks; also excepted are kiln firemen and engineers, the former of whom may work 48 hours per week and the latter 56 hours per week, provided, that they are paid time and one-third for all hours worked per week in excess of 40.

The minimum wage is 40¢ per hour for males and 32¢ per hour for females. Clerical employees are to be paid \$16.00 per week of 40 hours. Where female employees perform substantially the same work as males they shall receive the same rate of pay as male employees.

There are 5 establishments engaged in the Pottery Supplies Industry with an estimated invested capital of \$630,000. Sales in this Industry declined \$250,000 from 1929 to 1933.

There are also 5 establishments engaged in the Backwall and Radiant Industry with an estimated invested capital of \$800,000. Sales in this Industry declined from \$1,200,000 in 1929 to \$350,000 in 1933.

There has been a decline in the price of the products of both of these industries and this decline is reflected in the sales. Products of the Pottery Supplies Industry are used by the manufacturers

of pottery and chinaware and those of the Backwall and Radiant Industry are used by the manufacturers of stoves, furnaces and other heating devices.

The number of employees in the Pottery Supplies Industry declined from 200 in 1929 to 135 in 1933. It is estimated that under the provisions of the Code employment for 30 additional wage earners will be provided. This will be an increase of 22%. The increase in the annual payroll is estimated to be 40%.

In 1929 the Backwall and Radiant Industry had 380 employees which had declined to 220 in 1933. The Code will provide employment for 60 additional wage earners, an increase of 27%. The increase in the annual payroll is estimated to be 38%.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not lassified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said Association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

This Industry has cooperated in a most satisfactory manner with the Administrator in the preparation of this Code. From evidence

adduced during this hearing and from recommendations and reports of the various Advisory Boards it is believed that this Code as now proposed and revised represents an effective, practical, equitable solution for this industry and for these reasons this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

FEBRUARY 16, 1934.

CODE OF FAIR COMPETITION FOR THE POTTERY SUPPLIES AND BACKWALL AND RADIANT INDUSTRIES

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Pottery Supplies and Backwall and Radiant Industries, and its provisions shall be the standards of fair competition for such industries and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "Pottery Supplies Industry" as used herein is defined to mean all the articles manufactured from clay which are used in the processing of pottery, viz: Pins, Stilts, Spurs, Saddles, Thimbles, Saggers, Bats, Props, and articles of a like nature.

2. The term "Backwall and Radiant Industry" as used herein is defined to mean all of the articles manufactured from clay which are used in the manufacture of Heating Stoves, Furnaces and like equipment, viz: Backwalls, Radiants, Baffles and articles of a like nature.

3. The term "member of these industries" includes, but without limitation, any individual, partnership, association, corporation or other form of enterprise engaged in these industries, either as an employer or on his or its own behalf.

4. The term "employee" as used herein includes any and all persons engaged in these industries, however compensated, except a member of these industries.

5. The terms "Act" and "Administrator" as used herein mean respectively Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty (40) hours in any one week nor more than eight (8) hours in any one day, except as herein otherwise provided:

(a) Employees engaged in the loading of kilns and making of clay may work not in excess of fifty (50) hours per week or ten (10) hours in any twenty-four (24) hour period, provided, that time and one-third shall be paid for all hours worked by any such employee in excess of forty (40) hours per week.

2. Watchmen may be employed in pairs and shall work thirty-six (36) and forty-eight hours on alternate weeks, or not more than forty-two (42) hours per week averaged over any period of two (2) weeks.

3. The maximum hours fixed in Section 1 shall not apply to any employee on emergency repair work involving breakdowns or protection of life or property, but in any such special case at least one and one-third times his normal rate shall be paid for all hours worked in excess of the maximum hours herein provided.

4. The above provisions shall not apply to employees engaged in a managerial, supervisory or executive capacity who receive over thirty-five dollars (\$35.00) per week.

5. Kiln firemen may be permitted to work not more than forty-eight (48) hours per week, and engineers may be permitted to work not more than fifty-six (56) hours per week, provided, however, that time and one-third shall be paid for all hours worked in excess of forty (40) hours per week.

6. No employee shall be permitted to work for a total number of hours in excess of the hours prescribed, whether he be employed by one or more employers.

ARTICLE IV—WAGES

1. No male employee shall be paid less than forty cents (40¢) per hour and no female employee shall be paid less than thirty-two cents (32¢) per hour, provided, however, that female employees performing substantially the same work as male employees shall receive the same rate of pay.

2. No clerical or office employee shall be paid at a rate of less than sixteen dollars (\$16.00) per week of forty (40) hours.

3. This Article establishes a minimum rate of pay regardless of whether an employee is compensated on a time-rate, piece-work performance or other basis.

4. It is the policy of members of these industries to refrain from reducing the rate of compensation for employment, which rate was prior to June 16, 1933, in excess of the minimum wage rate herein set forth, notwithstanding that the hours of work in such employment may be reduced, and unless since such date such adjustments have been made, all members of these industries shall endeavor to increase the pay of all employees in excess of the minimum wage herein set forth by an equitable adjustment of all pay schedules.

5. Wages shall be paid only in cash or by negotiable check of even date at intervals of not more than sixteen (16) days to cover the work done in the preceding work period. These wages shall be exempt from any payments for pensions, insurance or sick benefits other than those voluntarily paid by the wage earner or required by law. No employer shall withhold wages without the consent of the employee.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in these industries. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator a list of such operations or occupations. In any State an employer shall be deemed to have complied with this

provision as to age if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

2. In compliance with Section 7 (a) of the Act it is provided:

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing or assisting a labor organization of his own choosing, and

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

3. No provision in this Code shall supersede any law, State or Federal, which imposes on employers more stringent requirements as to age of employees, wages, hours of work, safety, health, sanitary or general working conditions, than are imposed by this Code.

4. No employer shall contract his work to any person except when such person is subject to the provisions of this Code or another code adopted for the industry in which such person is engaged.

5. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

6. If any employer of labor in these industries is also an employer of labor in any other industry, the provisions of this Code shall apply to and affect only that part of his business covered by this Code.

7. Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

8. Each employer shall post and keep posted complete copies of this Code in conspicuous places accessible to all employees.

ARTICLE VI—ADMINISTRATION

ORGANIZATION AND CONSTITUTION

1. A Code Authority is hereby established to cooperate with the Administrator in the administration of this Code and shall consist of five (5) members to be chosen by the Pottery Supplies Industry and five (5) members to be chosen by the Backwall and Radiant Industry, through a fair method of selection approved by the Administrator. The Administrator in his discretion may appoint not more than three (3) additional members without vote, and without compensation from these industries, to serve for such period of time and to represent the Administrator or such group or groups as he may designate.

2. In order that the Code Authority shall at all times be truly representative of these industries and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, he may take such action as he may deem necessary under the circumstances.

3. Members of the Industries shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

4. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful mis-feasance or non-feasance.

POWERS AND DUTIES

5. The Code Authority shall have the following further powers and duties:

(a) To administer the provisions of this Code, provide for the compliance of these industries with the provisions of the Act, and to propose amendments, exceptions and/or modifications, which, when approved by the Administrator after such notice and hearing as he may specify, shall become a part of this Code and have the same force and effect as any other provision hereof.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of these industries such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of these industries of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any other member of these industries or any other party except to such governmental agencies as may be directed by the Administrator.

(d) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to these industries.

(e) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of these industries who have assented to, and are complying with, this Code.

(f) To secure from members of these industries who assent to this Code and/or participate in the activities of the Code Authority such proportionate payment of the reasonable expenses of maintaining the Code Authority as may be determined by the Code Authority and approved by the Administrator.

6. If the Administrator shall determine that any such action of a code authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE VII—TRADE PRACTICES FOR BOTH INDUSTRIES

The commission by any member of these industries of any of the acts prohibited by this article shall constitute an unfair method of competition and a violation of this Code.

1. No member of these industries shall brand or mark or pack any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content or preparation of such goods.

2. No member of these industries shall make or cause or knowingly permit to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish or preparation of any product of these industries, or the credit terms, values, policies or services of any member of these industries, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

3. No member of these industries shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent, or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as herein defined.

4. No member of these industries shall attempt to induce the breach of an existing contract between a competitor and his customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services.

5. No member of these industries shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money

or otherwise, nor shall any member of these industries secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

6. No member of these industries shall offer or give prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto, by any scheme which involves lottery, misrepresentation or fraud, provided nothing contained herein shall be construed to alter in any way the provisions of Section 3 of this Article.

7. No member of these industries shall cause the defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representation or by the false disparagement of the grade or quality of their goods.

8. No member of these industries shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers. Failure to prosecute in due course shall be evidence that any such threat is unwarranted or unjustified.

9. No member of these industries shall secure confidential information concerning the business of a competitor by false or misleading statement or representation, or by a false impersonation of one in authority, or by bribery, or by any other unfair method.

10. No member of these industries shall knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

11. No member of these industries shall deliver quotations which do not include freight and package charges.

12. Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on complaint, finding and order, that any practice or method is unfair, providing that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

ADDITIONAL TRADE PRACTICES APPLYING ONLY TO THE BACKWALL AND RADIANT INDUSTRY

13. No member of the Backwall and Radiant Industry shall ship goods on consignment except under bona fide contract or order.

14. No member of the Backwall and Radiant Industry when furnishing dies, patterns, molds or tools necessary for production of special shapes shall charge less than his individual cost for such equipment.

15. No member of the Backwall and Radiant Industry shall quote terms of sale more favorable than two percent (2%), ten (10) days or thirty (30) days net from date of invoice, except to such customers who on account of their accounting systems prefer to pay twice monthly or once monthly, in which case the two percent (2%) may be deducted if paid not later than the tenth (10th) day of the following month.

ARTICLE VIII—SALES PROVISIONS

1. The Code Authority shall prescribe an adequate method for cost finding, capable of uniform application within these industries

which thirty (30) days after its approval by the Administrator, shall be used by all members of these industries as a basis for determining individual cost, and thereafter no member of these industries shall sell such products below his individual cost as determined by the use of such cost finding method, except as hereinafter provided.

2. Any member of these industries may dispose of products which are known as seconds, close-out numbers and sample stocks below cost, provided he first submits to the Code Authority by registered mail a descriptive list of such products, together with quantities and prices at which they will be offered for sale, and the price so named shall not be reduced unless and until such member files revised price lists with the Code Authority. Thereafter, upon the sale of such products, such members shall immediately notify the Code Authority advising the name and address of the buyer.

3. Any member of these industries, in order to meet bona fide competition in any specific instance, may sell the products of these industries at a price not less than the lowest competing cost of comparable items.

4. When such cost finding method shall have been adopted as prescribed above and it appears to the Code Authority that a member of the industry is selling his products in violation of this article, it may require such member to furnish complete information relating to his cost, which shall be verified by a certified, registered, chartered or any other lawful practitioner of public accountancy. All such data and statistics shall be and remain confidential as between the member submitting the same, the Code Authority and the Administrator or his duly appointed representative, depending upon the necessities in each case.

ARTICLE IX—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Subsection (b) of Section 10 of Title I of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under this Act.

2. This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modifications or amendments to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President, unless otherwise provided.

ARTICLE X—MONOPOLIES, ETC.

1. No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XI—PRICE INCREASES

1. Whereas the policy of the Act to increase real purchasing power will be made more difficult of consumation if prices of goods and services increase as rapidly as wages, it is recognized that price

increases except such as may be required to meet individual cost should be delayed, but when made such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the tenth day after its approval by the President.

Approved Code No. 284.

Registry No. 1016-05.



