

NATIONAL RECOVERY ADMINISTRATION

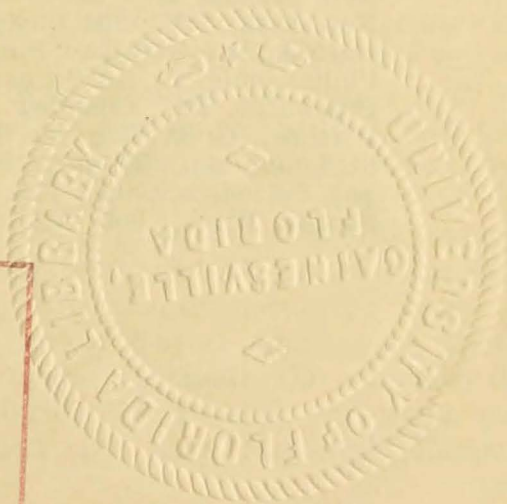
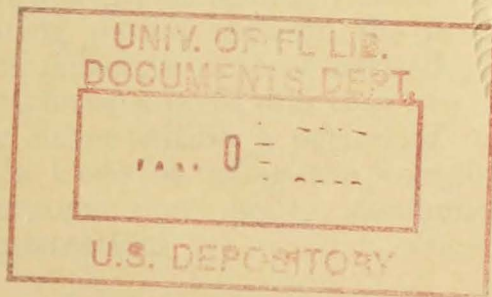
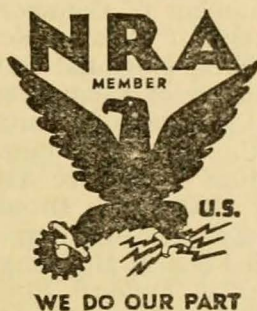
CODE OF FAIR COMPETITION

FOR THE

CLAY DRAIN TILE

MANUFACTURING INDUSTRY

AS APPROVED ON MARCH 24, 1934

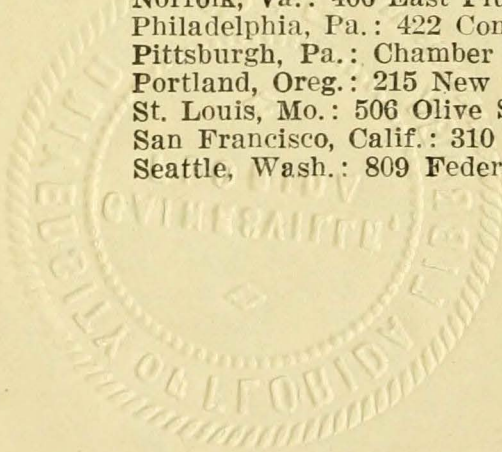


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Approved Code No. 364

CODE OF FAIR COMPETITION

FOR THE

CLAY DRAIN TILE MANUFACTURING INDUSTRY

As Approved on March 24, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE CLAY DRAIN TILE MANUFACTURING INDUSTRY

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 Clay Drain Tile Manufacturing Industry, 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 number 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; provided, however, that the provisions of Article VII, Section 2, insofar as they permit a Regional Committee to adopt a plan which would prescribe a waiting period between the filing with the Regional Committee and the effective date of revised price lists, discounts or terms and conditions of sale, be and they are hereby stayed pending my further Order either within a period of sixty days from the effective date of this Code or after the completion of a study of open price associations now being conducted by the National Recovery Administration.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

A. R. GLANCY,
Division Administrator.

WASHINGTON, D.C.,
March 24, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Clay Drain Tile Manufacturing Industry, a hearing on which was conducted in Washington on the fourth of January 1934 in accordance with the provisions of the National Industrial Recovery Act.

HOURS

This Code provides that no employee shall be permitted to work in excess of an average of forty (40) hours per week over any six (6) month period, nor in excess of forty-eight (48) hours in any week, nor in excess of eight (8) hours in any day, except the following:

(a) Managers, executives and technical employees, receiving thirty-five (\$35.00) dollars or more per week, and commercial traveling salesmen;

(b) Office employees who may not work in excess of forty (40) hours in any week;

(c) Watchmen, who may not work in excess of fifty-six (56) hours in any week;

(d) Truck drivers, who may not work in excess of an average of forty (40) hours per week over any four (4) week period nor in excess of forty-eight (48) hours in any week;

(e) Employees directly engaged in the continuous drying and burning processes, who may work not in excess of forty-eight (48) hours in any week nor eight (8) hours in any day;

(f) Kiln setters and kiln drawers, who may work not in excess of an average of forty (40) hours per week over a six (6) month period nor forty-eight (48) hours in any week, provided that one and one-third times the normal rate be paid for time worked in excess of forty (40) hours in any week.

(g) Employees engaged in emergency repairs, who may work not in excess of an average of forty (40) hours over any six (6) month period, provided that one and one-third times the normal rate be paid for time worked in excess of forty (40) hours in any week.

WAGES

The Code provides for minimum rates of pay of 35 cents per hour in the North and 30 cents, 27 cents, 25 cents and 24 cents per hour in each of four southern zones, the southern rates and zones conforming to those provided for in the Code for the Structural Clay Products Manufacturing Industry. It provides for minimum rates of pay for accounting, clerical and office employees of from \$16 per week to \$14 per week, depending upon the size of the city, in the

immediate trade area of which they are employed, and for minimum rates of pay of \$15 per week for watchmen. It provides for the increase of wages above the minimum, to preserve equitable differentials, and for report to the Code Authority of action taken with reference to these adjustments.

ECONOMIC EFFECT OF THE CODE

Approximately 95% of the product of this industry is sold to the farmer and approximately 84% of it is produced and sold in the States of Ohio, Illinois, Indiana, Michigan and Iowa. Because of the very low purchasing power of the farmer, particularly in this section, the industry finds itself in a desperate condition. Sales have dropped about 83% in volume and 85% in value since the year 1929. A large percentage of the industry is bankrupt.

Employment has already been spread, in this industry, to the point where average time worked has been reduced to 12 hours per week and average weekly earnings to \$2.40. In the face of an 83% decline in production, the number of employees has decreased but 25%, from 3,600 in 1929 to 2,650 in 1933. Obviously, the application of the Code will not increase employment. It will, however, tend to shorten the long idle periods between periods of operation.

The average minimum wage rates provided for in the Code are 75% higher than the average minimum wage rates now in effect and are higher than those in effect in 1929. It is only by means of a substantial increase in farm purchasing power that the industry will be enabled to carry this additional burden.

FINDINGS

The Assistant 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 classified 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 limita-

tion 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) Said 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.

For these reasons, therefore, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 24, 1934.

CODE OF FAIR COMPETITION FOR THE CLAY DRAIN TILE MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Clay Drain Tile Manufacturing Industry, and shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The terms "Clay Drain Tile Manufacturing Industry", or "the industry", as used herein means and includes the manufacture for sale of drain tile, excluding, however, salt glazed clay drain tile fabricated in vitrified clay sewer pipe plants by such manufacturers thereof as have not, pursuant to the provisions of the Code of Fair Competition for the Vitrified Clay Sewer Pipe Manufacturing Industry, elected to operate under this Code in respect to the salt glazed clay drain tile so fabricated.

SECTION 2. The term "drain tile" as used herein means a hollow cylinder of burned clay with straight ends without bell, and used for under-drainage of land.

SECTION 3. The term "employee" as used herein includes anyone engaged in the industry in any capacity however compensated, except a member of the industry.

SECTION 4. The term "employer" as used herein includes anyone by whom such employee is compensated or employed.

SECTION 5. The term "member of the industry" includes anyone engaged in the industry as above defined, either as an employer or on his own behalf.

SECTION 6. The term "plant" as used herein means an establishment engaged in the manufacture of drain tile.

SECTION 7. The terms "President", "Act", and "Administrator", as used herein shall mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

SECTION 8. The term "Code Committee" as used herein means the committee appointed by the members of the industry to present this Code.

SECTION 9. Population for the purpose of this Code shall be determined by reference to the latest Federal Census.

ARTICLE III—HOURS

SECTION 1. No employer shall cause or permit any employee to work in excess of an average of forty (40) hours per week over any six month period, nor in excess of eight (8) hours in any day, nor in excess of forty-eight (48) hours in any week, except that:

(a) Any employee may be permitted to work in any day or week in excess of the maximum hours above provided in the case of emer-

gencies requiring protection of life or property, or involving the repair of production facilities, provided that the total hours worked shall not average more than 40 hours per week over any six-month period, and provided further that in any such special cases at least one and one-third times the normal rate shall be paid for time worked in excess of forty (40) hours in any week;

(b) Any employee directly engaged in the continuous drying and burning processes of the products of this industry may be permitted to work regularly not in excess of forty-eight (48) hours in any week or eight (8) hours in any day;

(c) Kiln setters and kiln drawers may be permitted to work not in excess of an average of forty (40) hours per week over any six month period, nor in excess of forty-eight hours in any week, provided that at least one and one-third times the normal rate shall be paid for all time worked in excess of forty (40) hours in any week;

(d) Truck drivers may be permitted to work not in excess of an average of forty (40) hours per week over any four week period, nor in excess of forty-eight (48) hours in any week;

(e) Employees regularly receiving thirty-five dollars (\$35.00) or more per week who are engaged in technical work or in managerial, executive or supervisory capacities, and commercial traveling salesmen, shall not be subject to the limitations of this Article;

(f) Watchmen may be permitted to work not in excess of fifty-six (56) hours in any week;

(g) Accounting, clerical, office, service, or sales employees (except commercial traveling salesmen) may be permitted to work not in excess of forty (40) hours in any week.

SECTION 2. No employer shall knowingly permit any employee to work for any time which when totaled with that already performed for another employer or employers exceeds the maximum hours permitted herein.

ARTICLE IV—WAGES

SECTION 1. No employee, excluding the classes of employees described in Sections 2, 3 and 4 of this Article, shall be paid less than at the rate of thirty-five cents (35¢) per hour, provided, however, that:

(a) In Arizona, Arkansas, Kentucky, New Mexico, Oklahoma, and Virginia with the exception of the counties of Arlington, Fairfax, Loudoun, Clarke and Frederick, such minimum rate shall be thirty (30) cents per hour;

(b) In North Carolina, such minimum rate shall be twenty-seven cents (27¢) per hour;

(c) In Tennessee, such minimum rate shall be twenty-five cents (25¢) per hour; and

(d) In Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina and Texas such minimum rate shall be twenty-four cents (24¢) per hour.

SECTION 2. Accounting, clerical, or office employees shall not be paid less than at the rate of \$16.00 per week, in any city of 500,000 population or over, or in the immediate trade area of such city; and not less than at the rate of \$15.50 per week in any city between 100,000 and 500,000 population, or in the immediate trade area of such city; and not less than at the rate of \$15.00 per week in any

city between 10,000 and 100,000 population, or in the immediate trade area of such city; and not less than at the rate of \$14.00 per week in any other place.

SECTION 3. Watchmen shall be paid not less than \$15.00 per week.

SECTION 4. A person whose earning capacity is limited because of age or physical handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the state authority designated by the United States Department of Labor a certificate authorizing his employment at such wages as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file with the Code Authority a list of all such persons employed by him.

SECTION 5. This article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piece-work, or other basis.

SECTION 6. Wages above the minimum shall not be decreased, and rates of pay in excess of the minimum rate herein provided shall be increased to preserve equitable differentials, and members of the industry shall report to the Code Authority the action taken by them in pursuance of this provision.

SECTION 7. Female employees performing substantially the same work as male employees shall receive the same rates of pay as such male employees.

SECTION 8. An employer shall make payment of all wages due in lawful currency, or by negotiable check therefor payable on demand. Wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily authorized by the employee or required by law. Wages shall be payable at least semi-monthly and salaries at least monthly.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen years of age shall be employed in the industry, nor any one under eighteen years of age at operations or occupations hazardous in nature or detrimental to health. Each member of the industry shall submit to the Code Authority within sixty (60) days after the effective date, a list of such operations or occupations. In any State an employer shall be deemed to have complied with the provisions of this paragraph if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. 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.

SECTION 3. 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.

SECTION 4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SECTION 5. No provision of this Code shall supersede any state or federal law imposing more stringent requirements on any employer, regulating the age of employees, wages, hours of work, or health, fire protection, or general working conditions, than under this Code.

SECTION 6. Employers shall not reclassify employees or duties of occupations performed by employees or engage in any other subterfuge in order to defeat the purposes of this Code or of the Act.

SECTION 7. Each employer shall post in conspicuous places easily accessible to employees full copies of this Code.

SECTION 8. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six months after the effective date of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted for the administration of this Code.

SECTION 1. For a period not to exceed thirty days after the effective date hereof the Code Committee shall constitute a temporary Code Authority until the Code Authority is elected.

SECTION 2. The Code Authority shall consist of one representative from each of the regions established in Section 5 hereof, or as may be hereafter established, to be elected by a majority vote of the members of the industry located in the respective regions, and one member to be elected from the industry at large, by the members elected from the said regions, to serve for a period of one year.

In addition to the membership above provided, the Administrator may appoint not more than three additional members, without vote, to serve for a period of one year from the date of appointment.

SECTION 3. In the event of any vacancy in the voting membership of the Code Authority, the remaining members may designate a member (from the region to be represented if the vacancy is that of a regional member) to serve temporarily until such vacancy shall have been filled, in the manner provided in Section 2 of this Article for the original selection of such member, by a special or regular election.

SECTION 4. For the purpose of the election of the Code Authority the temporary Code Authority shall call a meeting of the members of the industry in each region, as established in Section 5 hereof, upon ten days' notice sent by registered mail to all members of the industry in the respective regions, who may vote in person or by proxy.

At these meetings the members of the industry shall elect the regional Code Committees, as provided in Section 7 hereof.

SECTION 5. The industry shall be divided into the following regions and such regions shall be, within the limitations hereinafter provided, independent and self-governing in respect to the administration and enforcement of this Code within such regions:

Region No. 1. States of Ohio and Michigan;

Region No. 2. States of Indiana and Kentucky;

Region No. 3. States of Illinois and Wisconsin;

Region No. 4. All States West of Mississippi River, except those included in Region No. 5;

Region No. 5. States of Washington, Oregon, California, Idaho, Nevada and Arizona;

Region No. 6. All States East of the Mississippi except those included in Regions Nos. 1, 2, and 3.

SECTION 6. Subject to the approval of the Administrator, the Code Authority may establish regions in addition to those hereinabove established and may revise the regions from time to time established hereunder with the consent of a majority of the members of the industry located in any such revised region or regions.

SECTION 7. The members of the industry located in each region shall, at the meeting called by the temporary Code Authority, as provided in Section 4 hereof, elect a regional committee of five (5) members to serve for one year within such region as above provided, and such regional committee shall have the following powers and duties:

(a) To adopt by-laws and rules and regulations for its procedure in the administration and enforcement of the Code in accordance with the powers herein granted, and to delegate to agencies and representatives such of its powers and duties as it may deem proper, provided that nothing herein shall relieve it of its duties and responsibilities, and that such agencies or representatives shall at all times be subject to and comply with the provisions of this Code;

(b) Under such rules and regulations as may be prescribed by the Administrator, (1) to receive complaints of violations of the Code against members of the industry within its region, (2) to make investigations thereof and to seek adjustments of such complaints; and (3) to bring to the attention of the Code Authority, recommendations and information relative to unadjusted violations;

(c) To make recommendations to the Code Authority concerning the operation and functioning of this Code within its region;

(d) To cooperate with and aid the Code Authority in the collection of reports and assessments for administration expenses and in effectuating the other powers and duties conferred upon the Code Authority.

SECTION 8. The Code Authority shall have the following powers and duties, in addition to those elsewhere provided herein;

(a) To adopt by-laws and rules and regulations for its procedure in the administration and enforcement of the Code in accordance with the powers herein granted;

(b) To obtain from members of the industry for its use and that of the Administrator such reports as may be required under the Act for the effective administration and enforcement of the Code; all individual reports, data and information obtained from members of the industry pursuant to this Code, however, shall be kept confidential and unless the Administrator shall otherwise require, only general summaries thereof may be published;

(c) Under such rules and regulations as may be prescribed by the Administrator, to receive complaints of violations of the Code from

the Regional Committees and to make investigations thereof and seek adjustments of such complaints in accordance with the requirements of this Code, and to bring to the attention of the Administrator recommendations and information relative to unadjusted violations;

(d) To use such trade associations, Regional Committees and other agencies and to delegate to them such of its powers and duties, as it deems proper for the carrying out of any of its activities provided herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such associations, regional committees and other Agencies shall at all times be subject to and comply with the provisions of this Code;

(e) To coordinate the administration of this Code with such other codes as may be relative hereto or any sub-division hereof and to delegate to any other administrative authority, with the approval of the Administrator, such powers as will promote joint and harmonious action upon matters of common interest;

(f) To hear and to seek to adjust controversies between or affecting two or more Regional Committees;

(g) To cooperate with the Administrator in regulating the use of the N.R.A. Code insignia solely by those employers who have assented to and are complying with this Code;

(h) To initiate, consider and make recommendations for the modification or amendment of this Code.

SECTION 9. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 10. In order that the Code Authority and the Regional Committees shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority or any such Regional Committee is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority or any such Regional Committee.

SECTION 11. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and the Regional Committees 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.

SECTION 12. In addition to the information required to be submitted to the Code Authority, there shall be furnished to State and Federal government agencies such statistical information as the Administrator may deem necessary for the purposes recited in

Section 3 (a) of the Act, and nothing contained herein shall relieve any member of the industry of any existing obligation to furnish reports to government agencies.

SECTION 13. If the Administrator shall determine that any 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 days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 14. Nothing contained in this Code shall constitute the members of the Code Authority or the Regional Committees partners for any purpose. Nor shall any member of the Code Authority or any Regional Committee be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority or any Regional Committee. Nor shall any member of the Code Authority be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or non-feasance.

ARTICLE VII—ACCOUNTING, PRICE PUBLICATION AND PRODUCTION

SECTION 1. *Accounting and Costing.*—The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the industry. After such system and methods have been formulated, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods.

Upon the approval of such system or method by the Administrator, no member of the industry shall sell any product of the industry below his individual cost thereof, determined pursuant to the principles of such approved system or method; except

(a) to meet the competitive price of a product of this industry of similar grade and quality (by publication where required by a price publication system adopted pursuant to the provisions of Section 2 of this Article); and except

(b) to meet (without price publication) the competitive price of a product of another industry in actual competition with such member's product provided such action be reported within five (5) days after the quotation is made to the Regional Committee of the region into which delivery is to be made; and except

(c) to dispose of obsolete or below-grade products, upon making, within five days after sale, a detailed report to the Regional Committee for the region within which delivery is to be made describing the quantities and grades of such products disposed of and the price or prices secured therefor; and except

(d) under such other circumstances or conditions as the appropriate Regional Committee may determine justice requires, provided that such determination of the Regional Committee shall apply to all members of the industry within the region under similar conditions or circumstances.

SECTION 2. *Price Publication*.—(a) Any Regional Committee may, if it so determines, require that each member of the industry within its region shall file with the Committee's Secretary a net price list and/or a price list and discount sheet individually prepared by him showing his current prices and/or prices and discounts, and his terms and conditions of sale, including all special discounts, freight allowances, and terms of payment. Within ten (10) days after notice of such determination, each such member of the industry shall comply therewith. The Secretary shall immediately send copies thereof, and of any revisions therein filed as hereinafter provided, to all other interested members of the industry, and all such lists and revisions so filed shall be available to and subject at all times to the inspection of purchasers and prospective purchasers.

(b) Each member of the industry shall be free to change his published prices, discounts or terms and conditions of sale from time to time, but he shall file such new, amended or revised prices, discounts or terms and conditions of sale with the Regional Committee of his region to become effective five (5) days after filing thereof, except that in order to meet the revisions of another member of the industry, any member may file appropriate revisions to become effective upon the effective date of such other member's revisions, or, if such other member's revisions have already become effective, to become effective immediately. All such revisions shall be deemed to be filed with Regional Committees, as hereinabove provided, when an acknowledgment by wire or by mail shall have been issued by the Secretary of such Regional Committee, who shall issue such acknowledgment immediately upon receipt of any price list.

(c) Except as otherwise in this Section provided, no member of the industry shall sell directly or indirectly, through an affiliated company or otherwise, by any means whatever any products of the industry at a price lower, or at discounts greater, or on more favorable terms and conditions than those provided in his current net prices and/or price lists and discount sheets, so filed as aforesaid. Any member of the industry may deviate from his published prices, discounts or terms and conditions of sale when bidding in competition with the products of another industry, but any such deviation shall be reported forthwith to the Regional Committee for the region into which delivery is to be made. An "affiliated company", for the purpose of this Section means a company the majority of whose voting stock is owned or controlled directly or through any intermediate agency, by a member of the industry.

(d) A member of the industry, located in a region for which a price publication plan shall not have been adopted pursuant hereto, shall not sell any industry product for delivery in any other region, in which such a plan shall have been adopted, at a net delivered price lower than the lowest net price published in that region, except by complying with the price publication plan adopted for such other region.¹

SECTION 3. *Production*.—The present kiln capacity of the industry shall be registered by the members of the industry with the Code Authority. The intention of persons engaged or engaging in the industry to install additional kiln capacity, excepting, however, mod-

¹ See paragraph 2 of order approving this Code.

ernization or replacement of existing capacity, or to devote to the manufacture of drain tile, kilns not used for such purpose during the four year period ending February 1, 1934, shall be reported to the Code Authority. The Code Authority shall make such recommendations with respect thereto to the Administrator as it may deem desirable to effectuate the policy of the Act.

ARTICLE VIII—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the industry and are prohibited:

SECTION 1. *False Marking or Branding*.—The false marking or branding of any product of the industry which has the tendency to mislead or deceive customers or prospective customers, whether as to the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry or otherwise.

SECTION 2. *Misrepresentation or False or Misleading Advertising*.—Making or causing or knowingly permitting to be made or published any statement or representation by way of advertisement or otherwise which is false, inaccurate or deceptive in any material particular, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry, or the credit terms, values, policies, or services of any member of the industry, or otherwise having the tendency or capacity to mislead or deceive customers or prospective customers.

SECTION 3. *Commercial Bribery*.—Giving, permitting to be given, or directly offering 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. This provision 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 hereinabove defined.

SECTION 4. *Interference with Contractual Relations*.—Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply, or interfering with or obstructing the performance of any such contractual duties or services.

SECTION 5. *Secret Rebates*.—The secret payment or allowance of rebates, refunds, credits, or unearned commissions or discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

SECTION 6. *Giving of Prizes, Premiums, or Gifts*.—The offering or giving of prizes, premiums or gifts in connection with the sale of products, or as an inducement thereof, by any scheme which involves bribery, misrepresentation, or fraud.

SECTION 7. *Defamation*.—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

SECTION 8. *Threats of Litigations*.—The publishing or circularizing of threats or suits for infringement of patents or trade marks or of any other legal proceedings not in good faith, with the tendency or effect of harassing competitors or intimidating their customers.

SECTION 9. *Espionage of Competitors*.—Securing confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

SECTION 10. *Acceptance of Securities*.—Accepting securities except at current marketable cash value, in payment for drain tile.

SECTION 11. *Other Unfair Practices*.—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 provisions of the Act or this Code.

ARTICLE IX—MODIFICATION

SECTION 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 the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

SECTION 2. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator by the Code Authority and, after such notice and hearing as he shall specify, shall become effective as a part of this Code on his approval thereof.

ARTICLE X—MONOPOLIES, ETC.

No provisions 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

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases should be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the tenth (10th) day after its approval pursuant to the Act.

Approved Code No. 364.
Registry No. 1042-04.