

**NATIONAL RECOVERY ADMINISTRATION**

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**CODE OF FAIR COMPETITION**

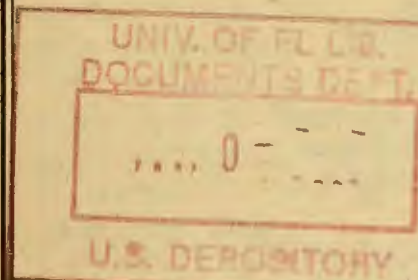
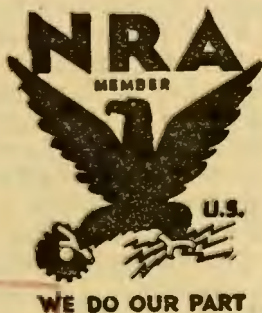
**FOR THE**

**CHINAWARE AND PORCELAIN  
MANUFACTURING INDUSTRY**

**AS APPROVED ON NOVEMBER 27, 1933**

**BY**

**PRESIDENT ROOSEVELT**



1. Executive Order
2. Letter of Transmittal
3. Code

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Approved Code No. 126

**CODE OF FAIR COMPETITION**

FOR THE

**CHINAWARE AND PORCELAIN MANUFACTURING  
INDUSTRY**

As Approved on November 27, 1933

BY

**PRESIDENT ROOSEVELT**

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**Executive Order**

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 my approval of a code of fair competition for the chinaware and porcelain manufacturing industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations, and findings of the Administrator and do order that the said code of fair competition be and is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,  
*Administrator.*

THE WHITE HOUSE,  
*November 27, 1933.*

(273)

NOVEMBER 17, 1933.

The PRESIDENT,  
*The White House.*

SIR: A public hearing on the Code of Fair Competition for the Chinaware and Porcelain Manufacturing Industry, submitted by the United States Potters Association and the American Vitreous China Manufacturers Association, was conducted in Washington on the 31st of August 1933 in accordance with the provisions of the National Industrial Recovery Act. These associations claim to represent seventy-five percent (75%) of the industry.

The maximum hours permitted under this code are forty (40) per week. Watchmen and kiln firemen are allowed to work forty-two (42) hours per week. In case of increased production, after using up all available labor, provision is made for an appeal to the Administrator to grant an extension of hours.

The minimum wage is forty cents (40¢) per hour for male employees and thirty-two cents (32¢) per hour for females. Special provision is made that where females do the same work as males they shall receive the same pay. Learners, who shall not exceed five percent (5%) of the total number employed, are provided to be paid not less than eighty percent (80%) of the minimum wage for a three months' period.

The industry is fairly well unionized and the wage rates for the skilled and semiskilled employees are fairly high. In face of the serious foreign competition it is questionable whether any great increase in labor costs will permit additional employment. In fact, any move along that line will tend to still further reduce employment.

The aggregate invested capital in the industry is estimated at about forty million dollars in 1933, which represents a seventeen percent (17%) decrease from forty-eight million dollars in 1928. Production dropped about twenty-two percent (22%) from 1928 to 1933. Sales dropped similarly, but much more severely, the 1933 sales representing about half of the 1928 figures.

The drop in value of sales has been due not only to the depression but perhaps more to the competition from foreign countries. In spite of a tariff duty, foreign producers have lately been able to undersell domestic prices because of lower labor costs and primarily depreciated currencies. Needless to say American exports are practically nil, for domestic producers cannot compete against the low foreign prices.

#### FINDINGS

The Administrator finds that:

(a) The code, as recommended, complies in all respects with the pertinent provisions of title I of the act, including, without limita-



tion subsection (a) of section 7, and subsection (b) of section 10 thereof; and that

(b) The United States Potters Association and the American Vitreous China Manufacturers Association, the applicant groups herein, impose no inequitable restrictions on admission to membership and are truly representative of the Chinaware and Porcelain Manufacturing Industry.

(c) The code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of title I of the National Industrial Recovery Act.

This Industry has cooperated in a most satisfactory manner with the administration 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 its approval as herewith submitted is recommended.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

**CODE OF FAIR COMPETITION**  
**FOR THE**  
**CHINAWARE AND PORCELAIN MANUFACTURING**  
**INDUSTRY**

**ARTICLE I—PURPOSES**

To effectuate the policies of Title I of the National Industry Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Chinaware and Porcelain Manufacturing Industry, and upon approval by the President shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

**ARTICLE II—DEFINITIONS**

(a) The term "Chinaware and Porcelain Manufacturing Industry" as used herein is defined to mean the manufacture of all properly glazed vitreous, vitrified, semivitreous or semivitrified china, tableware, kitchenware, dinnerware, and kindred lines, except sanitary, including all processes for the production of such commodities for general commercial resale; earthenware, stoneware, or clay flower pots, however, being hereby specifically excluded.

(b) The term "ware" shall be understood to mean any product or merchandise manufactured by any member of the industry as defined in paragraph (a) above.

(c) The term "employee" as used herein includes any person engaged in any phase of the industry in any capacity receiving compensation for his services, irrespective of the method of payment of such compensation.

(d) The term "employer" as used herein includes any one by whom such employee is compensated or employed.

(e) The term "member of the industry" includes any one engaged in the industry, as above defined, either as an employer or on his own behalf.

(f) The terms "Act" and "Administrator" as used herein shall mean respectively the National Industrial Recovery Act and the Administrator of said Act.

**ARTICLE III—HOURS**

(1) The maximum hours of labor for employees shall be forty (40) per week, subject to the following limitations and exceptions:

(a) The average hours worked per week by an individual employee shall not exceed the maximum established when figured over a period of three (3) months, nor shall the daily maximum exceed eight (8) hours per day, nor the weekly maximum forty-four (44) hours in any one week; provided however that not less than time



and one third shall be paid for all hours in excess of forty (40) per week, except as provided in paragraphs (b), (d), and (e).

(b) Watchmen and engineers may be employed in pairs and shall work thirty-six (36) and forty-eight (48) hours on alternate weeks, or not more than forty-two (42) hours per week averaged over any period of two weeks.

(c) The maximum hours established shall not apply to executives or supervisory staff receiving thirty-five dollars (\$35.00) per week, or more, nor to emergency repair crews or outside salesmen.

(d) For a period of sixty (60) days after the approval of this Code by the President the maximum hours hereby established shall not apply to tunnel kiln firemen, but thereafter shall prevail, and their hours shall not be longer than forty-two (42) hours in any one week. Other kiln firemen may be employed in pairs and shall work thirty-six (36) and forty-eight (48) hours on alternate weeks, or not more than forty-two (42) hours per week averaged over any period of two weeks. It is expressly provided that all kiln firemen shall receive one and one third time for all hours per week over forty-two (42) when averaged as provided in this paragraph.

(e) In the event of unusual conditions legitimately requiring an extension of hours, where it is impossible to meet the required production with the available supply of labor, or in the event that a reduction of hours is necessary to absorb existing unemployment, members of the industry, through the Code Authority, may request the Administrator for such extension or reduction of hours other than those provided in this Code, with such provisions for overtime as the Administrator may prescribe.

#### ARTICLE IV—WAGES

(a) The minimum wage that shall be paid by any employer in the Chinaware and Porcelain Manufacturing Industry shall be forty cents (40¢) per hour for males and thirty-two cents (32¢) per hour for females, except that where females do the same work, as is customarily done by males in this industry, they shall receive the same pay.

(b) Employees who hire assistants and thus become employers in fact, shall pay not less than the minimum wage as herein provided.

(c) Learners, who shall have had no previous employment or experience in this industry, shall be paid not less than eighty percent (80%) of the minimum wage, and shall not exceed in any calendar month five percent (5%) of the total number of employees of such employer. The learning period for such learners is hereby limited to a three (3) months' period.

(d) All wages shall be paid in cash or by check of even date, within six (6) days after the completion of the work period, which period in no event shall be longer than sixteen (16) days.

(e) It is the policy of the members of this Industry to refrain from reducing the compensation for employment which compensation was prior to June 16, 1933, in excess of the minimum wage herein set forth, notwithstanding that the hours of work in such employment may be reduced; and all members of this Industry shall endeavor to increase the pay of all employees in excess of the minimum wage, as herein set forth, by an equitable adjustment of all pay schedules.



## ARTICLE V—GENERAL LABOR PROVISIONS

1. Employers in the Chinaware and Porcelain Manufacturing Industry shall not have in their employ any person under the age of sixteen (16) years.

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.

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; and

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.

5. Within each state this Code shall not supersede any laws of such state imposing more stringent requirements on employer regulating the age of employees, wages, hours of work, or general working conditions than under this Code.

6. Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

7. Each employer shall post and keep posted in conspicuous places full copies of the wage and hour provisions of this Code.

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

9. If any employer of labor in the Chinaware and Porcelain Industry 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 which is engaged in the manufacture of chinaware and porcelain, as herein defined.

## ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the National Industrial Recovery Act, a Code Authority for the Chinaware and Porcelain Manufacturing Industry is set up to cooperate with the Administrator as a planning and fair practice agency for the Chinaware and Porcelain Manufacturing Industry.

1. Organization and Constitution of Code Authority.

(a) The Code Authority shall consist of three (3) members nominated by the United States Potters Association; three (3) members nominated by the American Vitified China Manufacturers Association, to be approved and appointed by the Administrator, and in addition thereto one (1) member to be nominated by the six (6) so appointed, who shall be approved and appointed by the Administrator, and not more than three (3) members, without vote, to be appointed at the discretion of the Administrator.



(b) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall submit to the Administrator true copies of its articles of association, bylaws, 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.

(c) In order that the Code Authority 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, if upon such hearings, 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 deems necessary under the circumstances.

2. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator to disapprove or modify any action taken by the Code Authority, to make effective the provisions of this Code and thereby effectuate the purposes of the National Industrial Recovery Act.

(a) The Code Authority, with the approval of the Administrator, shall have the power to require such reports from any member of the industry as may be necessary, provided, however, that all statistics, data, and information filed in accordance with this provision shall be confidential and the statistics, data, and other information of one employer shall not be revealed to any other employer except for the purpose of administering or enforcing the provisions of this Code.

(b) The Code Authority, subject to the approval of the Administrator, may designate a Regional Committee for the Pacific Coast and may delegate to such Regional Committee such of its powers and authority as may be necessary for the Administration of this Code within that region, including the right to submit to the Administrator recommendations, applicable only to such region for amendments of this Code.

3. No inequitable restrictions on admission to membership in the United States Potters Association, or the American Vitified China Manufacturers Association, or any other trade association or organized group, participating in the activities of the Code Authority, shall be imposed, and any member of the industry shall be eligible for membership in any such trade association or organized group, upon compliance with the provisions of the by-laws relating to membership, provided that any person applying for such membership shall, in addition to the payment of such dues as are imposed and paid by all other members, accept a reasonable and equitable share of the cost of code development and administration. Such members of the industry who do not choose to become members of any trade association or organized group may participate in the activities of the Code Authority, as herein provided, by paying to the Code Authority such proportionate part of the cost of code development and administration as the Code Authority, subject to the Administrator's approval, shall prescribe as fair and equitable.

4. In addition to the information required to be submitted to the Code Authority there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for



the purposes recited in Section 8 (a) of the National Industrial Recovery Act.

## ARTICLE VII—TRADE PRACTICES

### 1. Discontinued items and seconds:

(a) Discontinued lines of items may be disposed of in such manner and upon such terms as the Code Authority shall approve; and if such approval authorizes a sale below cost it shall not be deemed a violation of this Code.

(b) Semivitrified ware which ordinarily comes in the class of seconds, thirds, or lump, as these terms are understood by the trade, when it is decorated shall be stamped and fired "second selection." This shall apply to all ware of this character whether decorated by the manufacturer or by any other person.

### 2. The following practices constitute unfair methods of competition for members of the Industry and are prohibited:

(a) No member of this Industry shall sell any products or merchandise (except discontinued items as provided in section 1 (a)) at less than his individual cost; provided, however, that he may sell below such cost in order to meet a competitive price or prices.

(b) Omission from the invoice of any element of value in connection with the merchandise covered by the invoice, when the effect of such omission will be to reduce the total price of merchandise.

(c) The payment or allowance of rebates, secret or otherwise, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the extension to certain purchasers of special services, including special advertising allowances of any kind, or privileges not extended to all purchasers on like terms and conditions.

(d) Delivered quotations which do not include freight and package charges.

(e) No member of the Industry shall ship goods on consignment except under contract or on bona-fide orders.

(f) Copying of prints or decalcomania or hand-painted patterns, or shapes, of any American pottery of China manufacturers which is a new and original design, and not an adaptation of a foreign or domestic design. (This rule shall not apply to crests.)

(g) To make false and misleading remarks or statements with regard to a competitor, his employees, product, selling price, business, or financial standing.

(h) 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.

(i) To improperly or misleadingly use descriptive trade names or terms.

(j) The making or causing or knowingly permitting 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 the industry, or the credit terms, values, policies, or services of any member of the industry, or other-



wise, having the tendency or capacity to mislead or deceive customers or prospective customers.

(*k*) Directly or indirectly to give, or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitors' customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

(*l*) The offering or giving of 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.

(*m*) 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.

(*n*) 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.

(*o*) 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.

#### ARTICLE VIII—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 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.

2. Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act, may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions of this Code or additional conditions will be submitted for the approval of the President to prevent unfair competition in prices and other unfair destructive and competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act.

#### ARTICLE IX—MONOPOLIES, ETC.

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



## ARTICLE X—EFFECTIVE DATE

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

## ARTICLE XI—ADDENDA FOR VITRIFIED CHINA BRANCH

1. The following provisions shall apply only to the Vitrified China branch of the Industry:

(a) Each member shall use as a basis for his selling prices the uniform white list and decorated list as now in use by the majority of the industry or such lists, as they may be revised, at any future time by the association, with the approval of the Administrator; provided, however, that nothing in this Code shall be construed as limiting the percentages which members of this industry may extend to reduce or increase such prices quoted in the uniform lists, except as limited by Article VII, Section 2 (a).

(b) Each manufacturer of Vitrified Hotel China shall, within fifteen (15) days after the effective date hereof, file with the Code Authority a price list and discount sheet, showing his current prices and discounts and terms of payments. Any revision of such price lists and discount sheets shall likewise be filed with the Code Authority and be effective ten (10) days thereafter.

(c) No manufacturer of Vitrified Hotel China shall, directly or indirectly by any method whatsoever, sell any product of the industry covered by the provisions of this Article at a price lower or at discounts greater than or on more favorable terms of payment than on those provided in his current net price list or price lists and discount sheets; and upon learning of any deviation therefrom, the Code Authority shall notify any manufacturer who is selling at a price lower than as provided for in this Article, that his action is a violation and report the same to the Administrator for such action as may be proper in the premises.

(d) Terms of sale shall be one per cent (1%) fifteen (15) days, net thirty (30) days. With customers paying twice a month, one percent (1%) discount shall be allowed on purchases from the sixteenth to the thirty-first, if payment is made on or before the tenth of the following month. On purchases from the first to the fifteenth the same discount shall be allowed if paid for by the twenty-fifth of the same month.

## ARTICLE XII—COST ACCOUNTING SYSTEM

1. The Code Authority shall prepare, or cause to be prepared, adequate cost accounting systems, capable of uniform application within each branch of the Industry, and such cost accounting systems, when approved by the Administrator, shall be the standard for both branches of the Industry and no manufacturer may sell any of his products below his cost, as determined by the cost accounting system applicable to him, except as provided in Article VII, paragraphs 1 (a) and 2 (a).



(a) Pending the adoption and approval of cost accounting systems the Code Authority may call upon any member of either branch of the Industry for verified cost figures.

Approved Code No. 126.

Registry No. 1033-1-01.

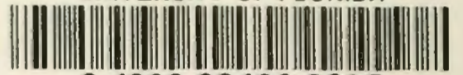








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