

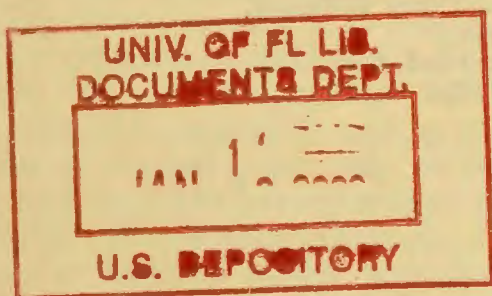
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

FOOD DISH AND PULP AND
PAPER PLATE INDUSTRY

AS APPROVED ON FEBRUARY 1, 1934



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Approved Code No. 247

CODE OF FAIR COMPETITION
FOR THE
FOOD DISH AND PULP AND PAPER PLATE
INDUSTRY

As Approved on February 1, 1934

ORDER

**APPROVING CODE OF FAIR COMPETITION FOR THE FOOD DISH AND PULP
AND PAPER PLATE 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 Food Dish and Pulp and Paper Plate 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 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; provided, however, that the provisions of Article VI, Sections 2 to 9 inclusive, insofar as they prescribe a waiting period between the filing with the Code Authority (i.e., actual receipt by the Code Authority) and the effective date of revised price lists or revised terms and conditions of sale, be and they are hereby stayed pending my further order; provided further, that within ninety days I may direct that there be a further hearing on such of the provisions of said Code as I may designate, and that any order which I may make after such hearing shall have the effect of a condition on the approval of said Code.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval Recommended:

GEO. L. BERRY,
Division Administrator.

WASHINGTON, D.C., *February 1, 1934.*

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Food Dish and Pulp Paper Plate Industry conducted in Washington on December 28, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

HOURS AND WAGES

This Code provides a standard 40-hour week for factory workers with a weekly tolerance of eight hours to be paid for as overtime. The usual exceptions are made in regard to nonproductive employees. Office employees are limited to an average of 40 hours per week over an eight-week period.

The minimum wage rate in the North for hourly paid employees is 40¢ per hour for males and 35¢ per hour for females. In the South the minimum wage rate for hourly paid employees is 35¢ per hour for males and 30¢ per hour for females. Office employees will receive a minimum wage of \$16.00 per week in the North and \$14.00 per week in the South.

OPEN PRICE PLAN

An open price plan of selling is provided, and selling below cost, except to meet competition, is prohibited.

OTHER PROVISIONS

Provision is made for furnishing the Administrator with such statistical data as he may require.

ECONOMIC EFFECT OF THE CODE

The Industry in 1929 employed approximately 1,600 persons and in July 1933 about 1,800 persons. The number of the plants in the Industry increased from 12 in 1929 to 30 in 1933. Figures submitted by 17 plants engaged in the Industry show a total number, in July 1933, of 1,491 factory employees of whom over 76% worked an average of at least 45 hours per week. The immediate effect of the Code will be to employ about 108 additional persons which number will probably increase to about 270 persons by the Summer of 1934.

In July 1933, 56% of male factory employees in the North and 91% of the female factory employees received less than the proposed minimum rates of 40¢ and 35¢. The total increase in pay rolls as a result of the Code will be about 15%.

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 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 limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant associations are industrial associations truly representative of the aforesaid Industry; and that said associations impose no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies of 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 this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

FEBRUARY 1, 1934.

CODE OF FAIR COMPETITION FOR THE FOOD DISH AND PULP AND PAPER PLATE INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following is hereby established as a Code of Fair Competition for the above-named Industry and shall be binding on every member thereof.

ARTICLE I—DEFINITIONS

The following words are used in this Code with the meaning herein set forth:

“Industry”—The manufacture of pulp or paper dishes; wooden veneer dishes; pulp or paper plates.

“Member”—A natural person, partnership, corporation, association, trust, trustee, trustee in bankruptcy, or receiver, engaged in such Industry.

“Act”—Title I of the National Industrial Recovery Act.

“Administrator”—The Administrator for Industrial Recovery under Title I in the Act.

ARTICLE II—ORGANIZATION AND ADMINISTRATION

1. There shall forthwith be constituted a Code Authority of the Food Dish and Pulp and Paper Plate Industry which shall comprise six (6) members of the industry. Three (3) of such members shall be selected by the Board of Directors of the Food Dish Associates of America, and three (3) of such members shall be selected by the Board of Directors of the Pulp and Paper Plate Associates of America. In addition to the members so selected the Administrator may appoint one or more persons to serve on the Code Authority. The persons appointed by the Administrator shall serve in an advisory capacity, shall have no vote, and shall serve without expense to the Industry.

2. Each of the said Associates shall impose no inequitable restrictions on membership and shall file with the Administrator certified copies of any amendments of its By-Laws, relating to eligibility or admission to membership in said Associates, or relating to the method of selection of the members of such Board of Directors which said Associates may hereafter adopt.

3. The Administrator may at any time prescribe a different method for selecting the Industry members of the Code Authority, and thereafter, such members shall be chosen in the manner so prescribed.

4. The Code Authority is charged generally with the duty of administering this Code. If the Administrator shall determine that any action of the Code Authority or any agency thereof is unfair or unjust or contrary to the public interest, the Administrator may

require that such action be suspended for a period of not to exceed thirty days 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 be taken only upon approval by the Administrator.

5. The expenses of administering this Code shall be borne pro rata, in accordance with a formula to be adopted by the Code Authority, by all members of the Industry who accept the benefit of the services of the Code Authority or otherwise assent to this Code.

6. The Code Authority shall have power to investigate alleged violations of this Code and acts or courses of conduct by any member which are or appear to be contrary to the policy of the Act or which tend or may tend to render ineffective this Code and to report the same with recommendations to the Administrator.

7. The Code Authority is hereby constituted the agency to endeavor to effect, by arbitral proceedings or otherwise, adjustments of contracts entered into by members of the Industry, where the costs of executing such contracts are increased through the application of the provisions of the Act or of this Code.

ARTICLE III—HOURS OF LABOR

1. Employees in the Industry shall not be required or permitted to work hours in excess of the limits prescribed in the following schedule:

SCHEDULE OF WORKING HOURS

(a) *Watchmen*.—Fifty-six (56) hours in any one week, but not more than six (6) days in any seven (7) day period; or fifty-six (56) hours in any one week, but not more than eight (8) hours in any one day.

(b) *Chauffeurs, truck drivers, and their helpers*.—One hundred eighty (180) hours in any period of four (4) consecutive weeks, provided, however, that time worked in excess of nine (9) hours in any one day or forty-five (45) hours in any one week shall be paid for as not less than time and one third.

(c) *Engineers, firemen, electricians, filter-plant employees, electric and hydroelectric operators*.—One hundred sixty-eight (168) hours in any period of four (4) consecutive weeks, provided, however, that time worked in excess of nine (9) hours in any one day or forty-five (45) hours in any one week shall be paid for as not less than time and one third.

(d) *All other laborers, mechanical workers or artisans employed in any plant, mill or factory or on work connected with the operation of such plant, mill or factory*.—Eight (8) hours in any one day and forty (40) hours in any one week, provided, however, that these maximum limits may be exceeded for any reason at any time provided that all time worked in excess of the maximums prescribed shall be paid for as not less than time and one third, and provided, further, that no employee shall be required or permitted to work in excess of ten (10) hours in any one day or forty-eight (48) hours in any one week.

(e) *Employees regularly engaged in a managerial or executive capacity and their personal secretaries, foremen, and supervisors, receiving thirty-five dollars (\$35.00) or more per week, and outside salesmen.*—No limitation.

(f) *All other employees.*—Forty-eight (48) hours in any one week and not to exceed three hundred twenty (320) hours in any period of eight (8) consecutive weeks.

2. No limitation contained in said schedule shall apply to employees of any class when engaged in emergency repairs or emergency maintenance work occasioned by breakdowns or involving protection of life or property, provided, however, that all time worked in excess of the limitations prescribed in said schedule shall be paid for as not less than time and one third.

3. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers in this Industry, exceeds the maximum permitted herein.

ARTICLE IV—WAGES

1. The minimum rate of wage of any laborer, mechanical worker or artisan employed in any pulp or paper dish, or pulp or paper plate plant, mill or factory or on work connected with the operation of any such plant, mill, or factory shall be as follows:

(a) In the Northern zone, which shall consist of all of the territory of the United States except the States named in subdivision

(b) hereof

Male labor, 40 cents per hour.

Female labor, 35 cents per hour.

(b) In the Southern zone, which shall consist of the States of Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas

Male labor, 35 cents per hour.

Female labor, 30 cents per hour.

2. The minimum rate of wage of any laborer, mechanical worker, or artisan employed in any wooden veneer dish plant, mill or factory, or on work connected with or incidental to the operation of such plant, mill or factory, shall be:

Male labor, 35 cents per hour.

Female labor, 35 cents per hour.

3. The minimum rates of wages for all other employees shall be as follows:

(a) In the Northern zone, as defined in Section 1 hereof, \$16.00 per week.

(b) In the Southern zone, as defined in said Section, \$14.00 per week.

(c) Part-time employees covered by the provisions of this section shall be paid at the rate of not less than 40¢ per hour in the North and 35¢ per hour in the South.

4. This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is actually compensated on time-rate, piecework, or other basis.

5. Female employees performing substantially the same work as male employees, shall receive the same rate of pay as male employees. The Code Authority shall within 90 days after the effective date of this Code file with the Administrator a description of all occupations in the Industry in which both men and women are employed.

6. The wage rates of all employees receiving more than the minimum rates herein prescribed shall be reviewed and such adjustments, if any, made therein as are equitable in the light of all the circumstances, and within sixty (60) days after the effective date hereof, the Code Authority shall report to the Administrator the action taken by all members of the Industry under this Section.

7. Office boys and girls under 18 years of age, to the extent of no more than 5% of the total number of employees described in Section 3 hereof, may be employed at a wage of not less than 80% of the minimum prescribed by said Section, provided that at least one such office boy or girl may be employed by each member.

8. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage of not less than 80% of the minimum prescribed by this Code, provided the State Authority or other agency designated by the United States Department of Labor shall have issued a certificate authorizing his employment on such basis. Each member shall file with the Code Authority a list of all such persons employed by him.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the industry. 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 within sixty (60) days after the effective date of this Code 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. 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. 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. 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 State or Federal law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sani-

tary or general working conditions or insurance or fire protection, than are imposed by this Code.

4. 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.

5. All employers shall post copies of Articles III, IV, and V of this Code in conspicuous places accessible to employees.

6. Every employer shall make reasonable provisions 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 within six (6) months after the effective date of this Code.

7. No provision in this Code shall supersede provisions as to hours, wages, and conditions of employment which are established for specific projects by competent governmental authority acting in accordance with law, or to terms of employment which are established by labor agreements now in force, where either the wages are higher or the hours of labor are shorter, or both, than are those set forth in this Code.

8. The Code Authority shall make a study of conditions in the Industry to determine the feasibility of the adoption of a shorter working week and shall, within three (3) months after the effective date of this Code, make a report of its findings to the Administrator. The Code Authority shall also submit to the Administrator within six (6) months after the effective date of this Code, a plan for the stabilization and regularization of employment.

9. The manufacturer or partial manufacture of any product of the Industry in homes shall be prohibited.

ARTICLE VI—ACCOUNTING—SELLING

1. The Code Authority shall, as soon as practicable, formulate a standard method of accounting and costing for the industry and submit the same to the Administrator. When it shall have been approved by the Administrator, every member shall use an accounting and costing system which conforms to the principles of, and is at least as detailed and complete as, such standard method.

2. The Code Authority may, from time to time, determine that an open-price plan of selling such product or products of the industry as it shall specify shall be put into effect on such date as it shall fix. Notice of such determination shall be announced to all known members of the industry who manufacture such products not less than 30 days prior to the date so fixed.

3. At least ten days prior to such date, every such member shall file with the Code Authority a schedule of prices and terms of sale for all such products or, in the alternative, shall be deemed to have filed a schedule conforming in respect to price and terms of sale with the schedule at any time on file which states the lowest price and the most favorable terms.

4. All such schedules shall be in such form as the Code Authority shall prescribe and shall contain all information necessary to permit any interested person to determine the exact net price per unit after

all discounts or other deductions have been made, whether pertaining to a single order, a commitment for future delivery, or a contract. All such original schedules shall become effective on the date fixed by the Code Authority as provided in Section 2 hereof.

5. A revised schedule or schedules, or a new schedule or schedules, or a notice of withdrawal of a schedule previously filed, may be filed by a member with the Code Authority at any time, provided, however, that any member who withdraws a schedule without substituting a new schedule therefore shall be deemed to have filed a schedule conforming in respect to price and terms of sale with the schedule at any time thereafter on file which states the lowest price and the most favorable terms. Any schedule or notice filed hereunder, shall become effective ten (10) days after the date of filing, provided, however, that an increased price shall become effective immediately.

6. The Code Authority shall promptly supply all members of the Industry who manufacture any particular product with copies of all schedules, revised schedules, and notices of withdrawal, which pertain to such product. Immediately upon receipt of information relative to the withdrawal of a price for any product, any member may file notice of withdrawal of his own price for the same product effective as of the same date as the notice of withdrawal of such other member. Immediately on receipt of information that a schedule then on file has been revised or that a new schedule has been filed, any member may file a revised schedule conforming as to price and terms to the schedule of such other member, and effective on the same date, or he may notify the Code Authority that he adopts as his own, the schedule of such other member. In the latter event, he shall be deemed to have filed a revised schedule conforming to the revised schedule of such other member.

7. No such schedule of prices and terms of sale filed by any member, or in effect at any time, shall be such as to permit the sale of any product at less than the cost thereof to such member determined in the manner provided in Section 11 hereof, provided, however, that any member may, by notice to the Code Authority, adopt as his own, a lower price filed by another designated member. Such adoption shall become automatically void upon the withdrawal or revision upward of the price adopted.

8. No member who shall have filed a price, or adopted as his own, a price filed by another member for any product of the Industry, shall sell such product for less than such price or upon terms or conditions more favorable than stated in such price schedule. No member who shall have failed to file a price for any product for which the open-price plan is in effect shall sell such product at a lower price or on terms more favorable than the lowest price and most favorable terms stated in any price schedule for such product then on file.

9. The Code Authority shall furnish at cost to any nonmember requesting them, copies of any price schedules which have been filed with it. Such price schedules shall be made available to nonmembers at the same time that they are sent to members.

10. No member shall sell any product of the industry for which no open-price plan is in effect at less than the cost thereof to such member, determined as provided in Section 11 hereof, except to meet the price of a competitor whose price does not violate such Section.

11. Cost, for the purposes of this Article, shall be determined pursuant to the method of accounting and costing prescribed as provided in Section 1 hereof as soon as such method is adopted and approved and theretofore pursuant to the method employed by such member subject to such preliminary rules as the Code Authority shall from time to time prescribe with the approval of the Administrator.

12. For the purpose of determining whether Sections 7 and 10 hereof have been complied with, every member shall upon the request of the Code Authority furnish a designated agency of the Code Authority in respect to closed transactions only, with complete information in regard to any quotation, order, contract, or sale of any product of the industry, including information as to specifications, quantities, price, conditions of storage, transportation or delivery, terms of billing, cash or trade discounts allowed, and other pertinent facts relating to such quotation, contract, or sale.

13. Nothing herein contained shall be construed to prevent the disposition of distress merchandise required to be sold to liquidate a defunct or insolvent business in such manner, at such price, and such terms and conditions as the Code Authority and the Administrator may approve.

14. Nothing herein contained shall be construed to prevent the fulfillment of a bona fide contract existing on the effective date of this Code.¹

ARTICLE VII—REPORTS AND STATISTICS

1. Each member shall prepare and file with an impartial agent designated by the Code Authority at such times and in such manner as it may prescribe, such statistics, data, and information relating to plant capacity, volume of production, volume of sales in units and dollars, orders received, unfilled orders, stocks on hand, inventory both raw and finished, number of employees, wage rates, employee earnings, hours of work, and other matters as the Code Authority or the Administrator may from time to time require. Any or all information so furnished by any member shall be subject to checking for the purpose of verification by an examination of the books, accounts, and records of such member by any disinterested accountant or accountants or other qualified person or persons designated by the Code Authority.

2. Except as otherwise provided in the Act, or in this Code, all statistics, data, and information filed or required in accordance with the provisions of this Code shall be confidential and the statistics, data, and information of one member shall not be revealed to another member. No such data or information shall be published except in combination with other similar data and in such a manner as to avoid the disclosure of confidential information. The Code

¹ See paragraph 2 of order approving this Code.

Authority shall arrange in such manner as it may determine for the current publication of industry statistics to members.

3. The Code Authority shall make such reports to the Administrator as he may from time to time require.

4. In addition to 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 3 (a) of the Act.

ARTICLE VIII—MONOPOLIES

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 IX—RECOMMENDATIONS

1. The Code Authority may, from time to time, present to the Administrator recommendations based on conditions in the Industry which will tend to effectuate the operation of this Code and the policy of the Act, and in particular along the following lines:

(a) For the establishment of additional rules of fair trade practice for the Industry and for the codification of its trade customs, and the enforcement thereof.

(b) For the establishment of plans to equalize production with demand, so that the interests of the Industry and the public may be properly served.

(c) For dealing with any other inequality that may arise to endanger the stability of the Industry and of production and employment.

(d) For an increase or decrease in the number of Industry members of the Code Authority and/or for a change in the method of choosing such members.

2. For the purpose of assisting the Code Authorities of the Paper Manufacturing and/or Converting Industries in the adjustment of all labor disputes and labor complaints arising within such Industries, the Code Authority shall consider the advisability of creating a Joint Industrial Relations Board for such Industries and shall report its recommendations to the Administrator.

3. Recommendations made pursuant to Sections 1 and 2 hereof when approved by the Administrator shall have the same force and effect as other provisions of this Code.

ARTICLE X—TRADE PRACTICES

1. The following are hereby constituted Trade Practices for the Industry and failure to comply with the provisions thereof shall be a violation of this code.

(a) No member of the Industry shall practice deception in regard to that which is sold or its selling price by false or misleading description, statement, record, or undisclosed consideration.

(b) Members shall refrain from dumping, deferred delivery, extension of stated credit, and secret rebates.

(c) No member shall wilfully injure by falsely defaming a competitor's goods, credit, or ability to perform his contracts.

(d) No member shall wilfully induce or attempt to induce the breach of a competitor's contract.

(e) No member 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. The foregoing 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.

(f) No member of the industry shall ship goods on consignment except under circumstances to be defined by the Code Authority, where peculiar circumstances of the Industry require the practice.

(g) Terms of sale in the Industry shall be not more favorable than two (2%) percent for cash if paid within thirty (30) days or net thirty-one (31) days from date of shipment.

(h) No member shall guarantee either dealers or wholesalers floor stock against decline.

ARTICLE XI—GENERAL PROVISIONS

1. If any member is also a member of another industry, the provisions of this Code shall apply to and affect only that part of his business which is included in this Industry.

2. Any work or process incidental to, and carried on by a member at his plant as a part of the manufacture of any product of the Industry, shall be regarded as a part of this Industry.

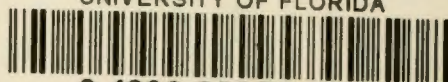
3. Such of the Provisions of this Code as are not required to be included therein by the Act, may with the approval of the Administrator, be modified and eliminated as changes in circumstances or experience may indicate.

4. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Section 10(b) of the 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 such Code or any conditions imposed by him upon his approval thereof.

5. This Code shall become effective on the second Monday after the date upon which it shall be approved by the President of the United States.

Approved Code No. 247.
Registry No. 407-1-04.

UNIVERSITY OF FLORIDA



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