

FEDERAL TRADE COMMISSION
FEDERAL TRADE COMMISSION

CODES OF FAIR COMPETITION

Part 101.151

Section 101

ADOPTED BY THE COMMISSION ON DECEMBER 7, 1933

no 9381.1A40

v. 3



NATIONAL RECOVERY ADMINISTRATION
HUGH S. JOHNSON, Administrator for Industrial Recovery

CODES OF FAIR COMPETITION
Nos. 111-150

AS APPROVED

BY

PRESIDENT ROOSEVELT

NOVEMBER 11-DECEMBER 7, 1933

WITH SUPPLEMENTAL CODES, AMENDMENTS, AND
EXECUTIVE ORDERS ISSUED BETWEEN
THESE DATES

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CODES OF FAIR COMPETITION

Approved Code No. 111

CODE OF FAIR COMPETITION

FOR THE

AIR TRANSPORT INDUSTRY

As Approved on November 14, 1933

BY

PRESIDENT ROOSEVELT

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 Air Transport 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 such a 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 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 the findings and approve the report and recommendations of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 14, 1933.

NOVEMBER 10, 1933.

THE PRESIDENT,
The White House.

SIR: This is a report of the Hearing on the Code of Fair Competition for the Air Transport Industry of the United States and the Territory of Alaska, conducted in Washington on the 31st of August 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

Maximum hours for employees are established as follows: Clerical employees—40 hours per week. Shop mechanics and shop mechanics' helpers—40 hours per week, averaged over a period of 4 weeks with a maximum of 48 hours in any one week. Service mechanics and service mechanics' helpers—48 hours per week, averaged over a period of 8 weeks with a maximum of 54 hours in any one week. Ground radio operators and field clerks not more than 48 hours in any one week. Watchmen—54 hours in any one week. Chauffeurs—48 hours per week, averaged over a period of 6 weeks with a maximum of 54 hours in any one week.

No employee shall be paid less than at the rate of \$15.00 a week. Provision is made that rates of pay for employees whose hours of employment have been reduced by the provisions of this Code shall be increased by a readjustment so that equitable differentials in earnings will be maintained and the rates of pay of employees whose hours have not been reduced shall not be decreased.

Employment of any person under 16 years of age and anyone under 18 years of age at occupations hazardous in nature or dangerous to health is prohibited.

In recommending the approval of the hour provisions of this Code it has been necessary to recognize that air transportation is a public service requiring 24 hours per day operation throughout the year and that its schedules are continuously subject to interferences by weather conditions.

ECONOMIC EFFECT OF THE CODE

The Air Transport Industry represents an exception in the present depression in that it has added to its personnel and expanded steadily from year to year. Its personnel increased from about 1,861 in 1929 to about 4,260 in June 1933. Under the recommended Code the Industry will show an additional increase in personnel of about 14.5%. The total increase in pay roll will be about 20%. It is considered that this is a substantial contribution to the Reemployment Program in view of the fact that the Post Office Department's mail payments which form the largest item of the air-line income have been reduced approximately 28% for 1933.

Through the provisions of this Code the Industry has an opportunity to provide for the control of new operations so that it will not be subject to uneconomic paralleling of lines and the destructive competition experienced during the course of development by the railroads and bus lines.

It is believed that the provisions in this Code permit adequate control and at the same time insure development and sound expansion.

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 limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein, and is truly representative of the Air Transport Industry; and that

(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.

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 is satisfactory to this Industry, labor, the public, and this Administration. It is recommended, therefore, that this Code, as herewith submitted, be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
AIR TRANSPORT 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 Air Transport 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

As used in this Code:

(1) The term "President" means the President of the United States.

(2) The terms "Act" and "Administrator" mean respectively the National Industrial Recovery Act, and the Administrator of Title I of said Act.

(3) The term "Industry" includes all public carriers for hire by aircraft for passengers, and/or mail, and/or cargo on scheduled operations and services incidental thereto within the several States of the United States, the District of Columbia, and the territory of Alaska, and such branches or subdivisions thereof as may from time to time be included by the President under the provisions of this Code, but does not include scheduled operations and/or services incidental thereto not within the several States of the United States, the District of Columbia, and the territory of Alaska.

(4) The term "employee" 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.

(5) The term "employer" includes anyone engaged in the Industry by whom any employee is compensated or employed.

(6) The term "member of the Industry" includes anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

(7) The term "Chamber" means the Aeronautical Chamber of Commerce of America, Inc., a trade association organized under the laws of the State of New York.

ARTICLE III—HOURS

1. No employee in the Industry shall be permitted to work in excess of forty (40) hours in any one week except as follows:

a. Shop mechanics and shop mechanics' helpers not more than forty (40) hours per week averaged over a period of four (4) weeks, with a maximum of forty-eight (48) hours in any one week.

b. Service mechanics and service mechanics' helpers not more than forty-eight (48) hours per week averaged over a period of eight (8) weeks with a maximum of fifty-four (54) hours in any one week.

c. Ground radio operators and field clerks not more than forty-eight (48) hours in any one week.

d. Watchmen not more than fifty-four (54) hours in any one week.

e. Chauffeurs not more than forty-eight (48) hours in any one week averaged over a period of six (6) weeks, with a maximum of fifty-four (54) hours in any one week.

f. The number of employees classified as ground radio operators, field clerks, and watchmen shall not exceed fifteen per cent (15%) of the total number of employees of any employer.

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

3. No employee shall be regularly employed more than six (6) days in any seven (7) day period.

4. The provisions of this Article shall not apply to any employee on emergency maintenance or emergency repair work involving accidents endangering life or property, nor to persons who receive more than \$35.00 a week employed in a managerial, executive, or professional capacity, or as pilots or copilots.

ARTICLE IV—WAGES

1. No employee shall be paid less than at the rate of \$15.00 a week.

2. The rates of pay of all employees included in Article III whose hours of employment have been reduced by the provisions of this Code but whose wages have not been increased by the foregoing section of this Article, shall be increased by a readjustment so that equitable differentials in earnings will be maintained, and the rates of pay of such employees included in Article III whose hours have not been reduced shall not be decreased.

3. Those employees included in paragraph (a) Article III above who work in excess of eight (8) hours per day, or in excess of forty (40) hours per week, and those employees included in paragraph (b) Article III above who work in excess of forty-eight (48) hours per week, shall be compensated by not less than one and one third times the normal rate of pay for such excess. All other employees on emergency maintenance or emergency repair work involving accidents endangering life or property shall receive at least time and one third pay per hours' work in excess of the maximum hours herein provided.

4. Any employee shall be classified according to the classification of his occupation existing on June 16, 1933, provided he is still performing the same duties. If he is performing other duties, he shall be classified as to occupation on the basis of such duties as of said date.

ARTICLE V—LABOR PROVISIONS

1. 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.

2. 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.

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

4. No person under sixteen (16) years of age shall be employed in the Industry nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator before March 1, 1934, a list of such occupations. An employer shall be deemed to have complied with these provisions 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.

5. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements regulating the age of employees, hours of work, or general working conditions than under this Code, nor shall it supersede the provisions of the Air Commerce Act of 1926, or any regulations issued thereunder or pursuant thereto.

ARTICLE VI—ADMINISTRATION

To effectuate further the purposes of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code.

1. The Code Authority shall be composed of seven (7) voting members and one or more nonvoting members. Not more than five (5) voting members shall be chosen by the Chamber. Not more than two (2) voting members may be chosen by those assenting to the Code who are not members of the Chamber. One or more nonvoting members may be appointed by the Administrator to serve without cost to the Industry. The method of selection of the voting members of the Code Authority shall be subject to the approval of the Administrator.

2. Any trade or industrial association participating in the selection of or activities of the Code Authority shall comply with the following requirements: (a) it shall impose no inequitable restrictions on membership, (b) it shall not violate any rule or regulation prescribed by the President under the Act, and (c) it shall submit to the Administrator true copies of its articles of association, bylaws, regulations, and amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may require to effectuate the policies of this Act.

3. The Administrator may provide such hearings as he may deem proper for those claiming the right to be represented on the Code Authority, and may thereafter change the method of selection and the organizations selecting the members of the Code Authority in order that the Code Authority shall be truly representative of the Industry.

4. An appeal from any action by the Code Authority affecting the rights of any employer or employee in the Industry may be taken to the Administrator.

5. Only employers assenting to this Code shall be entitled to participate in the selection of the Code Authority and to share in its activities as hereinafter set forth.

6. The Code Authority shall have the following duties and powers, to the extent permitted by this Act, subject to review by the Administrator:

a. To elect officers and assign to them such duties as it may consider advisable, and to provide reasonable rules for its own procedure.

b. To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon, and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations, and information relative to unadjusted violations.

c. To require periodical reports from the members of the Industry with respect to revenues, expenses, and other charges, wages, hours of labor, conditions of employment, number of employees, and other matters pertinent to the purposes of this Code, in order that the President may be kept informed with respect to the observance thereof. In addition to the information required to be submitted to the Code Authority as set forth in this Article 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 National Industrial Recovery Act.

d. To recommend to the Administrator a uniform system of accounting which upon his approval shall be used in furnishing the aforesaid reports.

e. To initiate, consider, and submit proposals for amendments or modifications to this Code, which upon approval by the President, after such hearings as he may prescribe, shall be incorporated herein with the same force and effect as if originally made a part hereof.

f. To determine and collect with the approval of the Administrator, from those assenting to the Code their equitable and proportionate shares of the expense of maintaining the Code Authority and its activities.

g. To cooperate with the Administrator in regulating the use of the N.R.A. insignia solely by those who have agreed to and do comply with this Code.

7. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or nonfeasance.

8. The Code Authority shall have the powers and duties elsewhere provided in this Code, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Code Authority.

ARTICLE VII—TRADE PRACTICES

Within sixty (60) days from the date of approval of this Code with respect to existing routes, and within thirty (30) days after the establishment of any extension of an existing route, and prior to the establishment of any new route or service, each member of the Industry shall file with the Code Authority the following:

1. A certified copy of a letter or certificate of authority to operate, issued by the United States Department of Commerce permitting service over such route or extension thereof.

2. Such information in respect to routes, schedules, tariffs, working conditions, and other matters pertinent to the purpose of this Code as the Code Authority with the approval of the Administrator may from time to time prescribe in order to inform the President as to the observance of this Code.

3. Evidence of compliance with such standards and conditions of operation, other than those required by the Department of Commerce, as the Administrator upon the recommendation of the Code Authority, after such notice and hearing as he shall prescribe, may approve as reasonable and in the interests of fair competition.

ARTICLE VIII—GENERAL

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 limitations 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. Nothing in this Code shall permit monopolies or monopolistic practices or eliminate or oppress or discriminate against small enterprises.

3. Each member shall post in a conspicuous place in each workshop a full copy of this Code.

4. This Code shall become effective on the second Monday after it shall have been approved by the President of the United States.

Approved Code No. 111.
Registry No. 1741-2-04.



Approved Code No. 112

CODE OF FAIR COMPETITION
FOR THE
ALL-METAL INSECT SCREEN INDUSTRY

As Approved on November 14, 1933

BY
PRESIDENT ROOSEVELT

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 All-Metal Insect Screen 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 14, 1933.

NOVEMBER 4, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the All-Metal Insect Screen Industry in the United States, as revised after a hearing conducted in Washington on October 26, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

This code provides a maximum of forty hours in one week and eight hours in one day or forty-eight hours in any one week averaged over a four-week period. Overtime shall be paid at one and one-half times the normal rate.

Office, accounting, or clerical workers may work in excess of the above during any month's period but are limited to forty-eight hours in any one week.

Professional and supervisory employees receiving more than thirty-five dollars a week are exempt from the above scale of hours.

Emergency maintenance employees shall be paid one and one-half times their normal rate for overtime.

Installation employees, in projects other than those covered by the Construction Industry, shall be paid not less than sixty cents an hour.

Employers shall arrange work to provide the maximum practicable continuity of employment.

Employers shall not increase requirements of employees' production to defeat purpose of this code.

Employees shall receive not less than sixteen dollars for a week of forty hours except that accounting, clerical, and office employees shall receive fifteen dollars for a week of forty hours except that office boys or girls under eighteen, not to exceed one for each ten office employees, shall receive not less than eighty percent of the above rates.

A minimum rate is established regardless of whether an employee is compensated on a time rate, piecework, or other basis.

To the extent practicable wage rates for occupations other than those receiving the minimum shall be equitably adjusted.

Males and females shall receive the same pay for the same work.

Persons under 16 years shall not be employed in the industry, nor shall any person under 18 be employed in hazardous occupations.

With permission of State Authority, persons physically or mentally handicapped may be employed below the minimum wage provided.

ECONOMIC EFFECTS OF THE CODE

The Research and Planning Division estimates employment increases of twenty-five percent and wage increases of twenty percent as a result of the code.

This Code's provisions are expected to be beneficial to the industry, but they will not cause a marked increase in the cost of this Industry's products to the public.

Substantial increases in production in this Industry are contingent upon new construction which will result in proportionate increases in employment.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the All-Metal Insect Screen Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
ALL-METAL INSECT SCREEN INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the All-Metal Insect Screen Industry and upon approval by the President shall be the standard of Fair Competition for this Industry.

ARTICLE II—DEFINITIONS

1. The term "all-metal insect screen industry" as used herein is defined to mean the business of manufacturing, selling and installing by the manufacturer of all-metal insect screens except the adjustable type stock all-metal insect screens.

2. The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the method of payment of his compensation.

3. The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

4. The term "member of the industry" includes any employer who shall be subject to this Code.

5. The term "Administrator" means the Administrator of Title I of the National Industrial Recovery Act.

6. The term "President" as used herein shall mean the President of the United States or such officers, agents, and employees as he may designate or appoint to aid or carry out his functions under Title I of the National Industrial Recovery Act.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty (40) hours in any one (1) week or eight (8) hours in any twenty-four (24) hour period or forty-eight (48) hours in any one (1) week averaged over a four (4) weeks' period, except that:

(a) Employees engaged in office, accounting, and/or clerical work may be employed in excess of the above during any one (1) month's period, when such employees may be employed not more than forty-eight (48) hours during any one (1) week.

(b) The maximum hours fixed herein shall not apply to employees engaged in professional, executive, administrative, or supervisory work, who receive thirty-five (35) dollars or more per week.

(c) The maximum hours fixed herein shall not apply to employees on emergency maintenance or emergency repair work, involving breakdowns or protection of life or property, but in any such special

case at least one and one-half ($1\frac{1}{2}$) times the normal rate shall be paid for hours worked in excess of the eight (8) hours in any one twenty-four (24) hour period herein provided.

(d) The rate for installation in projects other than those covered by the Construction Industry, shall be not less than sixty (60) cents per hour.

2. Nothing herein contained shall be construed to apply to employees whose rates of wages or hours of labor are established for specific projects by competent governmental authority, Federal, State, or Political subdivision thereof, in accordance with law, where such hours are shorter.

3. No employer shall engage any employee for any time, which, when totaled with that already performed for another employer, or employers, exceeds the maximum permitted herein.

4. Employers who personally perform manual work or are engaged in mechanical operations shall not work in excess of the prescribed maximum number of hours.

5. An employer shall so administer work in his charge as to provide a maximum practicable continuity of employment for his personnel.

6. No increases in the amount of production work shall be required of employees for the purpose of avoiding the provisions of this Code in respect to wages and hours of employment. All such new requirements shall be reported to the Code Authority.

ARTICLE IV—WAGES

1. No employee shall be paid at less than the rate of sixteen (16) dollars per week of forty (40) hours or forty (40) cents per hour, except that:

(a) Accounting, clerical, or office employees shall be paid not less than fifteen (15) dollars per week of forty (40) hours, except that office boys and/or girls under eighteen (18) years of age shall be paid not less than eighty (80) percent of the said rate. Such office boys and/or girls shall be limited to one (1) for each ten (10) office employees employed by an employer.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

3. An equitable adjustment shall be made in the wages of all employees now receiving more than the minimum wage as provided in this Code. Provided, however, that these rates shall be subject to readjustments by the Administrator if the adjustments made by an employer are not suitable in obtaining uniformity for this industry. Within 30 days after the effective date each employer shall report to the Administrator through the Code Authority, all such readjustments made by him since June 16, 1933.

4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

5. An employer shall make payment of all wages due in lawful currency or by negotiable check, therefor payable on demand. Wages shall be paid at regular periods. These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners.

6. No employer or his agent shall accept any rebate directly or indirectly on such wages or give anything of value or extend favors to any person for the purpose of influencing rates of wages or the working conditions of his employees.

7. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer 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, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

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 employers regulating the age of employees, wages, hours of work, or health, fire, or general 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 in conspicuous places full copies of this Code.

8. Every employer shall provide for the health and safety of his workmen. He shall comply with all National, State, and local ordinances and provisions of safety and health, and to protect his employees by Workmen's Compensation Insurance, according to the amounts required in the State of jurisdiction or the United States Employees' Compensation Insurance, if that State has not established a compensation scheme for this industry. A safety and health manual is to be submitted by the Code Authority to the Administrator within six (6) months after the effective date of this Code.

ARTICLE VI—ADMINISTRATION

1. To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

(a) The Code Authority shall consist of five members of the industry, four members of which shall be elected from the membership of the National Screen Institute, and one member of which shall be elected by members of the industry who are not members of the Institute, if any. The Administrator in his discretion may appoint not more than three additional nonvoting members of the Code Authority as his representatives, without expense to the Industry.

(b) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method or selection of the Code Authority.

2. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall: (a) Impose no inequitable restrictions on membership, and (b) 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.

3. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Code Authority:

(a) The Code Authority may adopt such rules and take such action and conduct such investigations as may be necessary in accordance with law to effectuate this Code and to that end may establish subcommittees and subordinate, occupational, state, regional, or local administrative committees and prescribe such duties, rules, and regulations as it deems necessary to carry out the purposes of this Code and the National Industrial Recovery Act.

(b) The Code Authority or their delegated representatives shall have power from time to time to require each member of the Industry to furnish to the Code Authority such information and reports concerning purchases, hours of labor, rates of pay, and such other statistical information as may be necessary or proper to support the provisions of this Code.

4. The Administrator may cancel or modify any order, regulation, or other action of the Code Authority in order to effectuate the purposes of the Act and the provisions of this Code, either on his own initiative or on appeal.

5. 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 3 (a) of the Act.

6. Any member of the Industry is eligible for membership in the Code and there shall be no inequitable restrictions on such membership.

7. Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The 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 to be taken into consideration.

8. The Code Authority shall cooperate with the Administration in regulating the use of the N.R.A. Code Insignia solely to those employers who have agreed to, and are complying with, this code.

9. The Code Authority shall have the power to initiate, consider, and make recommendations for the modification or amendment to this Code.

ARTICLE VII—TRADE PRACTICES

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

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, substance, character, nature, origin, size, finish, or preparation of any product of the industry, or otherwise.

2. *Misrepresentation or False or Misleading Advertising.*—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 otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

3. *Commercial Bribery.*—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.

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.

5. *Secret Rebates.*—The secret payment or allowances of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain pur-

chasers of special services or privileges not extended to all purchasers on like terms and conditions.

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 thereto, by any scheme which involves lottery, misrepresentation, or fraud.

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.

8. *Threats of Litigation.*—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.

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.

10. *Bid Peddling.*—The practice commonly known as “bid peddling” or “bid shopping” are recognized as unfair and are prohibited. Bid peddling in effect means the offering by the bidder prior to the making of an award of a substitute bid at a price lower than the one originally quoted without a commensurate decrease in the requirements of the job.

11. *Independent Quotations.*—Where any member of the Industry quotes on other products in conjunction with all-metal screens, failing to include as a part of his quotation the following statement: “The prices made on the various products in this quotation are made independent of each other and we/I will accept a contract for insect screens herein quoted irrespective of whether we/I receive a contract for any other commodity quoted or not.”

12. *Submitting Bids.*—(a) Submitting either directly or indirectly more than one bid or quotation on any specified project, or revising such bid or quotation except in the event of a material change in the plans and specifications of such project.

(b) Where products outside of the industry form part of any specifications, failing to make separate quotations for products of the industry.

13. Selling below cost, except to meet the actual competition of the lower cost of another member of the industry. Cost, for the purpose of this paragraph, shall be determined in accordance with a standard system of cost accounting established by the Code Authority and approved by the Administrator.

14. *Failing to comply with the following provisions for publication of prices.*—(a) Each member of the Industry shall within ten (10) days after the effective date of this Code publish a complete list of his standard items showing all prices, terms, and discounts to the different classes of trade and copies of this price list and/or discount sheets published in accordance with this paragraph shall be filed with the Code Authority. The Code Authority shall immediately send copies thereof to all other members of the Industry. Revised price lists and/or discount sheets may be filed any time thereafter with the Code Authority by any such member, to become effective on the date

specified therein, but such revised price lists and/or discount sheets shall be filed with the Code Authority ten (10) days in advance of said effective date.

(b) Copies of revised price lists and/or discount sheets with notice of the effective date specified therein shall be immediately sent to all members of the industry who thereupon may file, if they so desire, revisions of their own published price lists and/or discount sheets in order to meet said revised price lists. The said revisions shall become effective upon the date when the said revised price lists and/or discount sheets first filed shall go into effect.

(c) No member of the industry shall sell directly or indirectly by any means whatsoever any product of the industry at a price lower, or at a discount greater, or on more favorable terms of payment, than those provided in his published price lists and discount sheets.

15. *Other Unfair Practices.*—The following are also prohibited.

(a) Enticement of competitor's employees.

(b) Deliveries not conforming to sample or order.

(c) Deviation from standards of the finished product as may be established by the industry and approved by the President.

(d) Wilfully misrepresenting market conditions in order to influence sale.

(e) Substitution of merchandise inferior to that called for in the specifications.

(f) Omitting parts called for in specifications.

16. 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—GENERAL

1. No provision in this Code shall be interpreted in such a way as to permit conduct or operations tending to promote monopolies or to eliminate or oppress small enterprises, or to discriminate against them.

2. 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 National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or limitation 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.

3. 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 the circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code or additional Codes will be submitted for the approval of the President to prevent unfair competition in prices and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

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

ARTICLE X—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 112.

Registry No. 1153-1-01.



Approved Code No. 113

CODE OF FAIR COMPETITION

FOR THE

LIMESTONE INDUSTRY

As Approved on November 14, 1933

BY

PRESIDENT ROOSEVELT

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 Limestone 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be, and it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 14, 1933.

NOVEMBER 10, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Limestone Industry in the United States, a hearing on which was conducted in Washington on the nineteenth of September 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

This Code provides for a maximum workweek of forty (40) hours as averaged over three months' periods, provided that no employee shall work more than forty-eight (48) hours, or six (6) days, in any one week, nor more than eight (8) hours in any twenty-four (24) hour period. Exceptions to these limitations on working hours are provided for salesmen, employees engaged in professional, executive, administrative, or supervisory work, when earning at least \$35.00 per week. Further exceptions are provided for watchmen, firemen, plant engineers, truckmen, shipping crews, plant maintenance crews, and those engaged in emergency work, for which occupations somewhat wider latitudes are permitted.

This Code provides for a minimum wage of thirty-eight (38) cents per hour, except that in southern states the wage may be as low as that prevailing on July 15, 1929; provided that in no case less than thirty (30) cents per hour shall be paid. These minimum rates are to be in effect where employees are compensated on the basis of a time-rate or on a piece-work performance. Provisions are included for maintaining wage differentials where equitable.

The above wage requirements do not apply to the aged or physically infirm, who are limited in number and are to receive at least eighty (80%) percent of the above rates of pay. Accounting, clerical, office, or other employees are to be paid not less than \$14.00 per week, except that a limited number of apprentices may be employed for limited periods for not less than eighty (80%) percent of this weekly wage.

No persons under sixteen (16) years of age shall be employed nor anyone under eighteen (18) years of age at hazardous occupations.

ECONOMIC ASPECTS OF THE CODE

In 1932 only six and one half million cubic feet of Building Limestone was produced in this country while the volume of production in 1929 was estimated at approximately eighteen million cubic feet. This serious decrease in volume coupled with the disastrous competitive practices has brought about a proportionate reduction in the Industry's income.

It is estimated that during 1929, 36,000 workers were employed at the quarries and on outside works for a period of 257 working

days, while in 1932, an opportunity of employment was extended to only 22,000 men for a period of 183 working days. In many cases employees have been forced to work long hours for very low wages.

The Industry includes both the quarrying and fabrication of Limestone and since the fabrication is often done near the building site, fabricating plants are located in all important towns and cities throughout the United States. It is evident, therefore, that improvement within the industry will be reflected in the business areas as well as in the quarrying districts.

Although it is impossible to accurately estimate the increase in employment resulting from an application of the Code provisions, it is submitted that the maximum working hours provisions, the stabilization of the earnings of labor and the elimination of unfair trade practices will be reflected in the material improvement of labor and competitive conditions within the Industry.

FINDINGS

I find that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Limestone Industry; and that

(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.

It is recommended, therefore, that this Code be immediately adopted.

Respectfully,

HUGH S. JOHNSON, *Administrator.*

CODE OF FAIR COMPETITION
FOR THE
LIMESTONE INDUSTRY

ARTICLE I—PURPOSES

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 Limestone Industry and are binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "industry", as used herein, includes the quarrying and/or fabricating of limestone for use as architectural building stone, and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

SEC. 2. *Employee.*—The term "employee", as used herein, includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 3. *Employer.*—The term "employer", as used herein, includes anyone by whom any such employee is compensated or employed.

SEC. 4. *Member of the Industry.*—The term "member of the industry", as used herein, includes anyone engaged in the industry as above defined, either as an employer or on his own behalf.

SEC. 5. *Effective Date.*—The term "effective date", as used herein, shall mean the tenth day after the approval of this Code by the President.

SEC. 6. The terms "President", "Act", and "Administrator", as used herein, shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator under Title I of said Act.

ARTICLE III—HOURS

SECTION 1. *Hours.*—On and after the effective date, except as hereinafter set forth, no employee shall work or be permitted to work in excess of forty (40) hours per week averaged over three months' periods; or in excess of forty-eight (48) hours in any one week or in excess of six (6) days in any one week, or in excess of eight (8) hours in any twenty-four (24) hour period.

SEC. 2. The maximum hours specified in this article shall not apply to salesmen when earning more than \$35.00 per week, employees engaged in professional, executive, administrative, or supervisory work when earning more than \$35.00 per week.

The maximum hours specified in this article shall not apply to watchmen. On and after the effective date, no watchmen employed in this industry shall work or be permitted to work in excess of

twelve (12) hours in any 24-hour period, or in excess of 64 hours in any one week. The maximum hours specified in this article shall not apply to firemen or to plant engineers, who shall be permitted to work not more than 2 hours a day in excess of the maximum hours prescribed in Section 1 of this article. The maximum hours prescribed in this article shall not apply to truckmen, shipping clerks, plant-maintenance crews, and those engaged in cases of emergency work requiring the protection of life or property. Such employees shall work not more than six days in any one week, nor more than 48 hours in any one week, and shall be compensated at one and one third times their regular rate of hourly pay for all time worked in excess of 8 hours in any 24-hour period.

SEC. 3. *Total Hours*.—No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed herein for each week and each day, whether employed by one or more employers.

ARTICLE IV—WAGES

SECTION 1. *Rates of Pay*.—(a) Except as hereinafter set forth, no employee shall be paid at less than the rate of thirty-eight cents per hour, except that in the states listed below where the established rate of pay for the same class of work on July 15, 1929 was less than thirty-eight cents per hour, the hourly rate shall be not less than that of July 15, 1929, and in no event less than thirty cents per hour. (Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Ohio (south), Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia.)

(b) The amounts by which hourly wage rates in the higher paid classes of employees exceeded wages in the lower paid classes of employees on July 1, 1933, shall be at least maintained where equitable, having in view the then existing differentials in hourly wage rates.

(c) The foregoing paragraph (a) establishes a guaranteed minimum rate of hourly pay, regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance.

(d) No employer shall reclassify employees so as to defeat the purpose of the Act.

(e) All employers in the industry shall post in their quarries and/or mills or places of doing business, copies of the minimum wage and maximum hour provisions as set forth in this Code.

SEC. 2. *Privileged Employees*.—Employees who by reason of old age or physical infirmities are incapable of normal productive effort, may be compensated at a rate not less than eighty (80) per cent of the foregoing minimum rates of pay, but the number of such employees shall not at any time exceed eight percent (8%) of the total number of employees.

SEC. 3. *Salaried Employees*.—No accounting, clerical, office, or other employees paid on a regular weekly or monthly basis shall be paid at less than the rate of \$14.00 per week; except that office apprentices (for a period not to exceed six (6) weeks in the Industry), office boys, and office girls paid on a regular weekly or monthly basis may be paid not less than eighty percent (80%) of the minimum weekly rate provided in this section.

SEC. 4. *Area Agreements.*—Minimum rates of wages and maximum hours of labor may be established nationally or for a region or locality by mutual agreements reached through bona fide collective bargaining between representative national, regional, or local groups of employers and employees. In no event shall such minimum rates of wages be less than those established in this article, nor shall such maximum hours of labor be more than those established in Article III of this Code. Such area agreements shall be effective upon approval by the President after such notice and hearing as he may require.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor.*—No person under sixteen (16) years of age shall be employed in this industry, nor anyone under eighteen years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations. In any state an employer shall be deemed to have complied with this provision 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.

SEC. 2. *Rights of Labor.*—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) 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.

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

(d) Where the rates of pay and maximum hours of labor for any of the various classifications of workers in the industry are now in effect by virtue of contracts entered into by collective bargaining between the employers and the employees, such rates of pay and maximum hours of labor shall be maintained during the periods covered by the respective contracts; provided that the rates of pay provided in such contracts are not less than, nor the maximum hours of labor provided in such contracts more than, the minimum rates of pay and the maximum hours of labor established in this Code.

ARTICLE VI—ADMINISTRATION

SECTION 1. *Code Authority.*—(a) To further effectuate the policies of the Act a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Act.

(b) The National Control Committee of the National Limestone Industry, Associated, as that committee is from time to time constituted, is hereby established as the Code Authority for the In-

dustry. The Government may be represented on said committee by ----- (from 1 to 3) members, without vote, to be appointed by the Administrator. Such governmental representatives will be appointed for terms of from six months to a year. In case more than one such representative is appointed, the terms of appointment will be so arranged that they do not expire at the same time.

(c) 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, 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.

(d) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

(e) The Code Authority shall have the following specific power and duties, subject to the review and disapproval or modification by the Administrator:

(1) To establish such subcommittees and state, regional, or local committees as it may deem necessary.

(2) To obtain from all members of the industry sworn or unsworn reports, periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, or other conditions in the industry pertaining to the provisions of this Code.

(3) In addition to information required to be submitted to the Code Authority, there shall be furnished to governmental agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act.

(4) To submit to the Administrator from time to time such recommendations, based upon conditions in the industry, as they may develop, as in its judgment will further effectuate the policies of the Act, or will improve the operation of this Code or any supplemental Codes proposed or made a part of this Code. Any such recommendations, when approved by the President, after such notice and hearing as he may prescribe, shall become effective as part of this Code. The Administrator may, if he so desires, submit such recommendations to the Authority or Authorities if and when established in Codes of the Construction Materials Industry and of the various functions or subdivisions of the Construction Materials Industry.

(5) To establish its own rules for the conduct of its own business.

(6) Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and

complying with the requirements of this Code and sustaining their reasonable share of the expense of its administration. The reasonable share of the expenses of the 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 to be taken into consideration.

(7) To establish rules, methods, and practices for filing bids, which upon approval by the Administrator, shall be used by all members of the industry.

(8) To coordinate its acts with the administrative agency if and when established under the Code of Fair Competition for the Construction Materials Industry.

(9) To prepare and submit, with the cooperation of the United States Public Health Service, not later than January 1, 1934, a report on hazards affecting employees in the industry, with recommendations for their improvement or correction, which recommendations, upon approval by the President, and after such hearing as he may prescribe, shall become effective as part of this Code.

SEC. 2. The Code Authority is directed to cooperate with the Administrator as a planning and fair practice agency for the limestone industry. The Code Authority may from time to time present to the Administrator recommendations based on conditions in the industry as they may develop from time to time which will tend to effectuate the operations of the provisions of this Code and the policy of the National Recovery Act and in particular along the following lines:

1. Recommendations for the requirement by the Administrator of registration by members of the industry of their productive machinery.

2. Recommendations for the requirement by the Administrator that prior to the installation of additional productive machinery by persons engaged or engaging in the limestone industry, except for the replacement of obsolete or retired machinery, such persons shall secure certificates that such installation will be consistent with effectuating the policy of the National Industrial Recovery Act during the period of the emergency.

3. For the granting or withholding by the Administrator of such certificates as so required by him.

SEC. 3. Supplemental codes may be submitted to the Administrator by subdivisions of the industry through the Code Authority established herein or through the Code Authority established by the Code of Fair Competition for the Construction Materials Industry, when consistent with this Code and other rules and regulations promulgated by the President and when within the spirit and purpose of the Act, but nothing herein shall be construed to prevent a trade association or other representative group from submitting a code directly to the National Recovery Administration. Any such supplemental codes shall provide for minimum rates of pay not less than, and for maximum hours of work not more than, the limitations established therefor in this Code.

SEC. 4. *Selling Methods.*—(a) The Code Authority shall determine with the approval of the Administrator a formula for arriving at the allowable cost for the various products of the industry, below which it shall be an unfair practice to sell.

(b) Any member of the industry selling block and sawed stone shall publish price schedules and shall file the same with the Code Authority or with such agencies as it may designate. Notice of changes in prices so published and filed shall be given the Authority or its agency not less than six (6) days before such changes become effective. Prices so published and filed shall be maintained by each member of the industry filing the same.

(c) Members of the industry who both quarry and fabricate limestone shall charge themselves as fabricators the prices for block and sawed stone which they have filed with the Code Authority.

SEC. 5. *Trade Practices.*—The Code Authority shall study the trade-practice provisions, paragraphs (a) to (d) below, and the operation thereof, and shall make any recommendation from time to time to the Administrator which it deems desirable for modification or addition thereto which upon his approval, after such hearing as he may prescribe, shall become a part of this Code and shall have full force and effect as provisions hereof.

(a) Collusion between the awarding authority and any member of the industry, or between different such members in preparation of bids, shall be an unfair method of competition.

(b) Submitting of bids unless and until the awarding authority inviting the bids makes available complete plans and/or specifications and other pertinent information in order that the bidder may prepare a complete estimate or bid in accordance therewith, shall be an unfair method of competition.

(c) Extending of any rebates, refund allowance, discount, commission or service privilege in any form, except to all purchasers under like terms and conditions, shall be an unfair method of competition.

(d) 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 otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers shall be an unfair method of competition.

ARTICLE VII—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of the 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. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based on application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE VIII—MONOPOLIES

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—PRICE INCREASE

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 increase 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 X—BIDDING PRACTICES

Whenever a member or members of the Industry, acting as an awarding authority, receive competitive bids, such member or members of the Industry shall not engage in the practice of "Bid Peddling." (Note—"Bid Peddling" is defined as the giving or receiving or attempting to give or receive information, true or false, regarding a competitor's estimate or bid in order to gain or give an unfair advantage.)

ARTICLE XI—EFFECTIVE DATE

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

Approved Code No. 113.
Registry No. 1026-09.



Approved Code No. 114

CODE OF FAIR COMPETITION
FOR THE
SCIENTIFIC APPARATUS INDUSTRY

As Approved on November 14, 1933

BY
PRESIDENT ROOSEVELT

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 Scientific Apparatus 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 14, 1933.

NOVEMBER 9, 1933.

The PRESIDENT,
The White House.

SIR: A public hearing on the Code of Fair Competition for the Scientific Apparatus Industry of the United States, submitted by the Scientific Apparatus Makers of America, located at 12 South Twelfth Street, Philadelphia, Pennsylvania, was conducted in Washington, D.C., on the 21st of September, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 80 percent of the industry.

The maximum hours provided in the Code are 40 per week, with ample provision for emergencies and peak periods, and providing time and one half for all hours in excess of the maximum for productive employees. The average workweek in 1928 was 45 hours; in 1929 it was approximately 48 to 50 hours.

The minimum wage provided in the Code is \$15.00 per week. The Code contains a clause providing for an equitable adjustment of wages above the minimum subsequent to June 16, 1933.

The inclusion of the products covered by this Code is logical from the standpoint of the trade, but because the various products included in this Code cut across all Census Classifications, including some under the Code which are not included in Census Classifications and excluding others which are included as Scientific Apparatus, it is impossible to get any definite statistical data regarding the industry.

There were about 16,000 employees in 92-94 establishments reported during 1929. Approximately 12,000 were employed in 110 concerns reporting in August 1933. To raise employment to the level of 1929 or 1931, the peak production years in this industry, would require the adoption of 18 to 24 hours per week, depending upon which year was chosen. Such a limitation would undoubtedly be unjust to the manufacturers and to the workers. The increase in prices to the consumer would be prohibitive, should such provisions be adopted.

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 limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof; and that

(b) The Scientific Apparatus Makers of America, the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Scientific Apparatus Industry; and that

(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
SCIENTIFIC APPARATUS INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Scientific Apparatus 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

1. As used herein, the term "Scientific Apparatus Industry", shall be taken to mean the manufacture for sale and the sale as units by the manufacturer, and/or the distribution of scientific and technical apparatus and equipment; such as—

- Astronomical Apparatus.
- Aviation Instruments.
- Bacteriological and Biological Apparatus.
- Chemical Apparatus and supplies (for laboratory use only).
- Combustion Regulators.
- Combustion Measuring Instruments.
- Controllers for Pressure, Temperature, Level, etc.
- CO and CO₂ Meters.
- Electrical Measuring Instruments.
- Flow Meters and Fluid Meters.
- Gas Analysis Instruments.
- Glassware, optical and fabricated laboratory.
- Hardness Testers.
- Hydrometers.
- Hygrometers and Humidity Instruments.
- Laboratory Equipment, Furniture, and Accessories.
- Liquid Level Gages, industrial
- Metallurgical Instruments
- Meteorological Instruments
- Nautical Instruments
- Operation Recorders
- Optical Instruments
- Physical, Physiological, and Psychological Instruments and Apparatus
- Porcelain (Laboratory and Technical)
- Pressure and Vacuum Gages
- Physical Testing Instruments and Apparatus
- Pyrometers
- Recording, Indicating, and Controlling Instruments
- Regulators
- Resistance Meters
- Scientific and Analytical Balances
- Surveying, Engineering, and Drafting Instruments and Blueprint and Similar Reproduction Papers
- Tachometers, industrial
- Thermometers

and like instruments and equipment for scientific or technical use; but exclusive of ophthalmic instruments.

(a) The provisions of this Code shall not be so interpreted as to conflict with the provisions of the Retail Code.

2. 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, and shall include all proprietors, partners, supervisors, and foremen when actually engaged in productive work.

3. The term "employer" as used herein includes any person engaged in the manufacture and/or distribution of the products of the Scientific Apparatus Industry.

4. The term "member of the industry" as used herein includes anyone engaged in the industry as defined above.

5. The terms "President", "Act", and "Administrator" as used herein shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

ARTICLE III—HOURS

1. No employee, except outside salesmen, engaged by any employer in any office, or in any accounting, clerical, service, or sales department shall be employed for more than forty (40) hours in any one week, except as provided in subparagraphs 2, 3, 4, 5, and 6.

2. No factory or mechanical worker or artisan shall be employed for more than a maximum week of forty (40) hours, except as provided in sub-paragraphs 4 and 6.

3. The maximum hours fixed in the foregoing paragraphs shall not apply to employees in a managerial or executive capacity, nor to planners, technical and research engineers who receive \$35.00 per week or over.

4. Employees on emergency repair and maintenance work, or in special instances where the restrictions of hours of highly skilled workers would unavoidably reduce production or limit the work available to other workers, may work not more than forty-eight (48) hours per week, provided that at least time and one half shall be paid for hours worked in excess of forty (40) hours per week.

5. Watchmen, janitors, and elevator operators may be employed in pairs or shifts and shall work not more than thirty-six (36) and forty-eight (48) hours on alternate weeks or an average of forty-two (42) hours per week per man.

6. To care for seasonal or peak demands employees mentioned in paragraphs 1 and 2 may work for not more than forty-eight (48) hours per week for periods aggregating not more than six weeks in any six months' period, provided that at least time and one half shall be paid to employees mentioned in paragraph 2 for all hours per week over forty (40).

7. 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.

ARTICLE IV—WAGES

1. No employee shall be paid less than at the rate of fifteen dollars (\$15.00) per week for forty (40) hours (or thirty-seven and one half cents (37½¢) per hour), except as provided in paragraphs 2 and 3.

2. Factory, mechanical workers, and artisans shall be paid not less than forty cents (40¢) per hour unless the hourly rate for the same class of work on July 15, 1929, was less than forty cents (40¢) per hour, in which latter case employees shall not be paid less than the hourly rate on July 15, 1929, and in no event less than 30¢ per hour except as provided in paragraph 3 of this Article.

3. Learners, office boys and girls under eighteen (18) years of age, and old or partially disabled employees shall be paid not less than 80 percent of the minimum wages set forth in paragraphs 1 and 2 of this Article; but the maximum number of learners and office boys and girls and old or partially disabled employees shall not exceed in any calendar month five percent of the total number of employees, except that where the total number of employees is less than eighty, four employees may be so classified, and where the total number of employees is less than twenty-five (25), three employees may be so classified.

4. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on time rate, or piecework performance, or other basis.

5. Employers shall endeavor to adjust the compensation of employees receiving less than thirty-five dollars (\$35.00) per week in equitable relation to the minimum rates provided in this Article, unless such adjustments have been made subsequent to June 16, 1933.

6. Female employees performing the same work as male employees shall receive the same rates of pay as male employees.

7. All home work is prohibited after the effective date of this Code.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen years of age shall be employed in the industry, nor anyone under eighteen years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

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 the employer regulating the age of employe'es, wages, hours of work, or health, fire, or general working conditions than under this Code.

6. Employers shall not reclassify employe'es or duties of occupations performed by employe'es 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.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act a Code Authority is hereby established to cooperate with the Administrator in the administration of this Code.

SECTION 1. Organization and constitution of Code Authority.

(a) The Code Authority shall consist of nine members of the industry or such other number as may be approved from time to time by the Administrator, to be selected by a fair method of selection. The President, in his discretion, may appoint not more than three additional members, without vote, to represent the Administrator or such groups or interests as may be designated.

(b) The Code Authority shall be selected from the following sections of the Scientific Apparatus Industry:

Industrial Instruments Clinical Thermometers Automatic Controls Optical Instruments Aeronautical, Nautical, and Military Instruments	Laboratory Suppliers Laboratory Furniture Surveying, Drafting, Coaters
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(c) As conditions may warrant or make desirable, new sections may be added, or any or all of the above-mentioned sections may be combined or abolished.

(d) Each section shall elect its own Executive Committee annually, and as the general planning and coordinating agency of the particular section, it shall be charged with the following duties:

(1) The election of a Manager through whom it may discharge any of its functions, the manager to be representative of the Section in all dealings with Governmental Authorities and to make such agreements with such Authorities in behalf of the Section as may be advisable and/or necessary, subject to rules worked out by the Sectional Executive Committee.

(2) Receiving and transmitting to the Code Authority such reports and records as may be necessary to effect the purposes of this Code, such reports and records to be held in strict confidence by the Manager and not to be accessible to any other member, except such information as is authorized for distribution to the industry or to the public.

(e) Each Section may be independent and self-governing with respect to all conditions and problems relating exclusively to the

said section, subject to the approval of the Code Authority and the Administrator.

(f) Proposals in respect to matters affecting more than one section may be initiated by any Section affected, and shall be submitted for consideration to the Code Authority and the Sectional Executive Committees affected thereby, and with the approval of the Administrator such proposal shall be binding upon the proposing Section and all other Sections thereby affected.

SEC. 2. The Scientific Apparatus Makers of America shall be the agency under the Code Authority for administering the provisions of this Code. The Association shall (a) impose no inequitable restrictions on membership, and (b) 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.

SEC. 3. 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 thereafter, if he finds that the Code Authority 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.

SEC. 4. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Code Authority:

(a) Collect and receive reports: such reports to be held in confidence, except for such information as is authorized for distribution to the entire industry.

(b) Forward the necessary substance of reports to the President, as may be required by the Administrator.

(c) Make recommendations to the Administrator.

(d) Administer this Code of Fair Practices within the industry.

(e) Administer such fiscal policy and affairs within the industry as may be necessary to the formulation and continued application of this Code.

SEC. 5. No inequitable restrictions on admission to membership in the "Scientific Apparatus Makers of America", 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.

SEC. 6. In addition to the information required to be submitted to the Code Authority there shall be furnished to the Administrator such statistical information as he may deem necessary for the purposes recited in Section 3 (a) of the Act.

ARTICLE VII—TRADE PRACTICES

1. The following provisions shall apply to all sections of this industry but only to business done in continental United States and its territories, and not to its insular possessions, and not to exports to foreign countries.

2. *Price Lists and Discount Sheets.*—When the Manager determines that it is the general practice to sell any specified product on the basis of published net price list, or price lists with discount sheets, each employer shall—

(a) Within ten days after notice from the Manager, file with him a statement of sales policy, including prices, discounts, and conditions of sale to all recognized classes of buyers.

(b) Not file any net price on any such product which is below the cost of production as ascertained by a uniform cost-accounting system to be adopted by the section and approved by the Administrator; provided, however, that any member of the section may sell below his cost of production to meet price competition in any specific instance by selling his product at a price not less than the lowest price of a comparable item on file with the Manager.

(c) When prices or discounts are changed, revised price lists and/or discount sheets shall be filed with the Manager, to become effective within a reasonable time, but in no case later than fifteen (15) days after receipt of said price list and/or discount revisions.

3. *Standard forms and methods of bidding.*—Each section may from time to time adopt (a) standard forms of bids, proposals, contracts, guarantees, terms of sale, and similar standard forms, and (b) standard methods of bidding, settlement of insolvent accounts, and similar items. When such standard forms or methods are adopted by the Section and approved by the Administrator the scope and extent of their use shall be as specified, and they shall be commonly and uniformly used by all employers in the section.

4. These practices described in the following subparagraphs are declared to be unfair.

(a) *Bids and quotations.*—No employer shall:

(1) Quote a total price on any schedule of products which does not show, or which is lower than the sum of the regular unit prices of the articles comprising the schedule; unless the reduction is in accord with his regularly published discounts and/or terms;

(2) Attempt to have all bids rejected to the end that a more advantageous position may be secured in the new bidding;

(3) Offer credits, allowances, or discounts, for the purpose of altering retroactively a quoted price or of creating price discriminations;

(4) Sell or offer for sale special products which are not covered by his published price list, at net prices more favorable to the purchaser than the lowest published net price of a similar stock item of comparable grade.

(5) Sell, or offer for sale, dropped lines, obsolete products, or inventories which must be converted into cash, except as approved by the Manager. Damaged or discontinued items may be sold singly and not as part of a bid, but no such products shall be included in a bid with regularly listed items.

(6) Submit deceptive or misleading bids to secure the award as low bidder and subsequently make changes in materials, finish, transportation allowances, installation charges, or any other changes from original bid or proposals.

(7) Guarantee a bid against a change in price beyond a maximum of sixty days.

(b) *Guarantees*.—No employer shall promise a better performance nor make a higher guarantee than experience in the art and his experience will warrant.

(c) *Special Allowances*.—No employer shall grant, or offer to grant, secret rebates, refunds, or special privileges.

(d) *Commercial Bribery*.—No employer shall—

(1) Gives or offer to give money or other valuable considerations to customers or prospective customers (or their agents or representatives) for the purpose of influencing their good will or purchases, or to employees of competitors; provided nothing herein shall be interpreted as prohibiting free and general distribution of articles commonly used for advertising.

(2) Pay fees, royalties, or other valuable consideration to any persons in the employ of a purchaser or prospective purchaser, for the purpose of influencing the good will and/or purchases of such employee or his or her employer.

(3) Employ "local agents" to supplement regular salesmen, distributors, or resident agents with the intent of exerting improper local influence on a prospective customer.

(e) *Other Unfair Practices*.—No employer shall:

(1) Render a false or misleading invoice or credit.

(2) Induce or attempt to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or interfere with or obstruct the performance of any such contractual duties or services, by any such means with the purpose of unduly hampering, injuring, or embarrassing competitors in their business.

(3) Deceitfully defame the character, ability, credit standing, or other attributes of a competitor, or falsely disparage the quality of his products or service.

(4) Deceitfully imitate the design, lot number, product number, style pattern, trade mark, trade name, slogan, illustration, descriptive text, or other marks of identification of any competitor's products.

(5) Publish false information regarding the products of his own or of his competitor, by word of mouth or otherwise.

(6) Circulate threats of suit for infringement of patents or trade marks among customers of a competitor for the purpose of harassing and intimidating customers, and not in good faith.

(7) Accept bonds, stocks, or other evidences of ownership, of doubtful value, in partial or full payment for employer's products, unless such be accepted at their current open market value, or unless accepted in settlement of insolvent accounts;

(8) Knowingly ship or deliver products which do not conform to the samples submitted or representations made prior to securing the order.

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

ARTICLE IX—MONOPOLIES, ETC.

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 X—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 XI—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

ARTICLE XII—SUPPLEMENTARY PROVISIONS

The following schedules (A, B, C, and D, inclusive) are supplementary to, and constitute part of, the Code of Fair Competition for the Scientific Apparatus Industry. Such schedules apply only to those particular sections indicated by the specific headings.

Any provision of any supplementary Code, that may be inconsistent with the provisions of the General Code, shall prevail.

Approved Code No. 114.
Registry No. 1330—1—01.

SCHEDULE A

SUPPLEMENTARY CODE FOR THE INDUSTRIAL INSTRUMENT SECTION

1. *Bids and Quotations.*—(a) No employer shall sell, or offer to sell, directly or indirectly, any product of the industry covered by the provisions of the General Code, paragraph 3, Article VII, at a price lower or at a discount greater or on more favorable terms of payment than those provided in his current price list and discount sheets; except an employer may sell below his published net price, but not below the lowest published net price filed with Manager and then in effect, in order to meet existing competition on products of equivalent design, character, quality, or specifications, provided a true copy or abstract of such quotation shall, after the business has been placed or definitely abandoned, be sent to the Manager, unless the bids have already been officially made public.

(b) All quotations and/or billings specifying the labor of installation or supervision of the product shall include a charge of not less than \$15.00 per man-day, or proportionate amounts thereof for portions of a day, plus traveling expenses or a pro rata share of such expenses where more than one call is made per day.

(c) It is the policy of the Industry that all bids, proposals, or contracts shall be terminated within ninety (90) days after the effective date, or revised in accordance with the provisions of this Code.

(d) Allowances for old apparatus taken in part payment for new shall be subject to the following limitations:

(1) The old apparatus shall not exceed in quantity and shall be equivalent in type to the new.

(2) The price allowed for the old apparatus shall not exceed 10 percent of the prevailing price of like, new apparatus; or if more than 10 percent, shall be not more than the fair cash market value.

2. *Terms of Sale.*—The terms of sale of each employer shall be uniform and uniformly applied. All quotations shall be f.o.b. shipping point or transportation charges shall be added. Cash discounts shall not exceed one percent for cash in ten days or less time. The Section Executive Committee shall formulate, and may from time to time amend, provisions covering terms of sale.

3. *Warranty.*—No employer shall guarantee more in regard to the material, workmanship, or design of his equipment than is done by the following standard warranty:

"We warrant each new instrument manufactured and/or sold by us to be free from defects in material, workmanship, and design; our obligation under this warranty being limited to repairing or replacing any instrument or part thereof which shall, within one year after delivery to the original purchaser, prove by our examination to be thus defective."

4. *Service Charges.*—Unless the seller's product or instructions pertaining thereto is at fault, when service is requested by the customer, a charge of not less than \$15.00 per man-day or proportionate amount thereof for a portion of a day, plus traveling expenses, or a pro rata share of such expenses where more than one call is made per day, must be made for adjustment or repair service.

SCHEDULE B

SUPPLEMENTARY CODE FOR THE CLINICAL THERMOMETER SECTION

The following rules are a part of this Code as regards the ethics of the Industry. It is understood and agreed that violation of any rule is a violation of the Code and constitutes unfair competition.

ARTICLE I—DEFINITIONS

1. A clinical thermometer blank is the complete clinical thermometer tube blown, tested for scale and ready to be calibrated and sealed.
2. A blankmaker is one who manufactures clinical thermometer blanks.

ARTICLE II—STANDARDS

1. Each clinical thermometer manufactured or sold by an employer shall conform in all respects with Commercial Standards CS 1-32 issued by the Bureau of Standards of the United States. The process of seasoning shall be deemed to have commenced at the time at which the blank is finished.
2. Each clinical thermometer sold by an employer shall have permanently etched upon it the name or trade name and/or trade mark of the employer who engraves it as a finished instrument. Trade names and/or trade marks for this purpose shall be recorded with the Manager of the Section for identification. No clinical thermometer shall be marked with any other name or mark except as otherwise provided by State laws.
3. Each clinical thermometer must be accompanied by a certificate bearing the manufacturer's name and guarantee that the clinical thermometer to which it applies conforms to Commercial Standards CS 1-32 of the Bureau of Standards of the United States.
4. Blanks which are rejected by the purchaser for defects not possible of repair shall be so marked by file, knife, or saw on the lens by such purchaser as to make resale impossible. The vendor and purchaser shall first agree as to the impossibility of repair.
5. No importing distributor shall sell or offer for sale any blanks, or finished clinical thermometers on which the name of the manufacturer and country of origin are not permanently and legibly etched.
6. Each employer shall file with the Manager, within thirty (30) days after the effective date, a schedule of his minimum list prices with discounts from same or net prices, for quantity or class of trade. No reduction of minimum list prices with discounts from same or net prices shall be permitted while same are in effect. It shall be permitted, however, to file new minimum list prices with discounts from same, or net prices from time to time provided that no sales at the new figure shall be effected until at least ten (10) days have elapsed from the date of receipt by the Manager, of the revised minimum prices.
7. Each clinical thermometer blankmaker shall file with the Manager the minimum selling price at which he sells blanks. All blanks shall be seasoned for one month by the blankmaker, this provision to become effective on and after January 1, 1934.

SCHEDULE C

SUPPLEMENTARY CODE FOR THE LABORATORY SUPPLIES SECTION

ARTICLE I—DEFINITIONS

For the purposes of administering these rules, the following definitions apply:

1. A *Consumer* is an individual, firm, corporation, institution, establishment, or a Federal, state, municipal, or other governmental department, purchasing goods for his or its own use and consumption and not for resale.

2. A *Dealer* is a firm, corporation, or individual who carries a stock of laboratory apparatus and supplies sufficient to offer a distribution service of obvious economic value to the producer and to the consumer.

3. A *Wholesaler* is a dealer who carries an adequate stock of laboratory apparatus and supplies and who is authorized by manufacturers of trade-marked or franchise items to carry out their distribution policies to other dealers, or a dealer who sells merchandise under his own trade mark to other dealers for resale.

4. A *Manufacturer's Agent* is a firm, corporation, or individual who is the sole representative of a manufacturer, domestic or foreign, for a specified district.

ARTICLE II

1. The retail prices to all consumers shall be the same, both on open orders and on competitive bids and shall be the prices established by the individual employer in his current list prices and/or discount sheets. They shall apply alike on all orders for the same quantity of a given item taken at one time and shipped to the same destination. Such prices shall be established independently by each employer.

(a) No discounts, other than those established for specified packages and quantities—and filed in member's current price schedule provided for in Paragraph (b)—shall be allowed because of the purchase at one time of miscellaneous assortments of any given value or because of the aggregate value of such orders placed over any stated period of time.

(b) Each employer shall file with the Manager, within thirty days after the effective date, a list of his current selling prices and discount sheets for all laboratory apparatus and supplies carried in his stock, listed in his catalog, or regularly offered by him for sale, including single, quantity, or package prices to consumers. No employer shall sell or offer to sell any product of this industry at a price less or on conditions different from those established by his own price lists and discount sheets.

(c) Terms to consumers shall be thirty days net or net payment on the 25th proximo. No cash discounts shall be allowed.

(d) The granting of trade discounts or their equivalent by any manufacturer, manufacturers' agent or wholesaler, to any one in the laboratory supply business who shall be found by the Section Administrator to be conducting his business in a manner not conforming with this Code, constitutes a violation of this Code.

(e) Nothing in this Code shall be interpreted as interfering with or disturbing the relations between manufacturers or wholesalers and their chosen dealers, when such relations are in accord with the provisions of this Code; nor so interpreted as to restrict or otherwise obligate any manufacturer or wholesaler in the free choice of dealers.

(f) Allowances for old apparatus taken in part payment for new shall be subject to the following limitations:

(1) The old apparatus shall not exceed in quantity and shall be equivalent in type to the new.

(2) The price allowed for the old apparatus shall not exceed ten percent of the prevailing price of like new apparatus, or if more than ten percent, it shall be not more than the fair cash market value.

SCHEDULE D

SUPPLEMENTARY CODE FOR THE LABORATORY FURNITURE MANUFACTURERS' SECTION

Definition.—The term "Laboratory Furniture", as used herein, means the following products (made of wood or metal or both) with accessories:

I. Science Furniture and Equipment for laboratory use.

- (a) Specialized laboratory furniture, with or without fittings and accessories.
- (b) General science and physics laboratory tables, with or without fittings and accessories.
- (c) Biology and agricultural tables.
- (d) Chemistry and combination science tables and fume hoods.
- (e) Dental, medical, and pharmacy laboratory tables.
- (f) General laboratory furniture.
- (g) Cases and cabinets for science laboratories and displays.
- (h) Industrial laboratory tables.
- (i) Electrical laboratory furniture.

II. Vocational Furniture and Equipment for laboratory use.

- (a) Art furniture.
- (b) Woodworking and metal shop furniture.

III. Home Economic Furniture and Equipment for laboratory use.

- (a) Domestic Science and dietetic laboratory furniture.
- (b) Sewing room furniture and equipment for laboratory use.
- (c) Educational classroom tables.

IV. Commercial Furniture for educational uses.

- (a) Bookkeeping and typewriting room furniture.

V. Pharmacognosy desks and tables for laboratory use.

VI. Chairs and Stools for laboratory use.

- (a) Chairs attached by mechanical means to fixed or movable furniture.
- (b) Automatic adjustable stools and chairs.

Terms of Sale.—Terms shall be 30 days net, except when otherwise specified by contract.

No cash discounts shall be allowed. If terms in excess of 30 days are allowed or full payment is not made in 30 days, interest at the rate of 6 percent, or less if so provided by State law, shall be charged for any balance unpaid after 30 days.

Trade Practices.—The following shall be unfair trade practices.

1. To discriminate either directly or indirectly in the prices charged to any purchaser.

2. The prepayment of freight or express charges without charging therefor, or the installation of equipment, at the expense of the manufacturer, with the intent or with the effect of granting discriminatory credits or otherwise.

3. Submission of full-size samples of either stock or special items for the inspection of prospective customers, except in the regularly maintained display rooms of the manufacturer or his agent, in lieu of demonstrating sections.

4. The making of plans, drawings or layouts, and/or specifications for distribution by the prospective customer to competing employers for the purpose of obtaining competitive bids, without bona fide agreement with the prospective customers to pay the originator of said plans, drawings, layouts, and/or specifications an amount not less than the actual cost of such service.

5. Entering into "Term Contracts" covering a definite period of time for indefinite quantities of furniture, without provision for reimbursement for actual increases in cost of both labor and material over those current at time contract is accepted.

6. The giving of guarantees on equipment in excess of a one-year guarantee against defective materials and workmanship.

Approved Code No. 115

CODE OF FAIR COMPETITION

FOR THE

WOOD PLUG INDUSTRY

As Approved on November 14, 1933

BY

PRESIDENT ROOSEVELT

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 Wood Plug 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 respects 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 and recommendations, and findings of the Administrator and do order that the said Code of Fair Competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 14, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Wood Plug Industry in the United States, the hearing being conducted in Washington, D.C., October 25, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS ON HOURS AND WAGES

The maximum hours provided by the code for factory employees will be 40 per week and 8 per day. Those employed as shipping clerks, foremen, and engineers are allowed a tolerance of 8 hours in any one week. Watchmen are allowed a tolerance of 16 hours in any one week but are restricted to 8 hours in any 24-hour period, thus providing for this service by two shifts. Those employed in maintenance and repair work are allowed a tolerance of 8 hours in any one week with one and one-third the normal wage being paid for time in excess of 40 hours in any one week. The above limitations of hours do not apply to employees engaged in supervisory work receiving more than \$35.00 per week.

The minimum wage rate for labor in the South will be 27 cents per hour until one year from the effective date of this code and 30 cents per hour thereafter. The minimum wage rate in the North will be 32½ cents per hour until one year from the effective date of this code and 35 cents per hour thereafter. It is provided that wages shall be paid in cash or by negotiable check to avoid the use of company scrip which has been practiced by a few members of this industry. It is also provided that an employee shall not be required as a condition of employment to live in a house owned by his employer nor to trade at the store operated by his employer. No distinction in wage rates will be made between male and female employees doing the same type of work. Equitable adjustment of wage rates above the minimum provided will be made and reported to the Administrator. Handicapped persons may be employed, but their number shall not be in excess of 10 percent of the total number of employees in any plant and at a wage rate of not less than 80 percent of the minimum wage rate provided by the code.

The terms of employment for those engaged in accounting, clerical, and office work are in accordance with the President's Reemployment Agreement. Weekly compensation of all employees as of June 16, 1933, higher than the minimum will not be reduced because of any change in hours provided in the code.

CHILD LABOR

The minimum age provided in this code is 16 years, but in hazardous occupations this age limit is increased to 18 years.

ECONOMIC EFFECT OF THE CODE

This relatively small industry manufactures the wooden plugs and cores which paper manufacturers use for paper rolls. There are less than 20 members of this industry and approximately 500 workers are employed. Approximately half of the employees are engaged as woods or logging crews to procure the raw material for this operation which cannot be secured from lumber dealers due to required size variations. The other half of the employees are engaged in factory operations. Most of this labor is unskilled and interchangeable.

It is estimated by the industry that the provisions of this code regarding maximum hours will increase employment approximately 20 percent and that the income of employees will be increased between 25 percent and 40 percent. The wage scale has been exceedingly low due to a chaotic condition of ruinous competition in this industry during recent years which representatives of the industry believe will be largely corrected by the adoption of this code.

In arriving at the terms expressed in the code, the industry has shown its cooperation in complying with the spirit of the Act and looks upon the proposed code of fair competition as a necessity to the industry.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the wood plug industry; and that

(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.

It is recommended, therefore, that this code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

WOOD PLUG INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Wood Plug 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

The term "industry" as used herein includes the manufacture and sale by manufacturers of wooden plugs and cores for paper rolls, and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code by the President after such notice and hearing as he may prescribe.

The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

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

The term "Association" as used herein means the Wood Plug Manufacturers' Association.

The terms "President", "Act", and "Administrator" as used herein shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

The term "South" as used herein shall include the states of Virginia, West Virginia, Kentucky, Arkansas, Oklahoma, Texas, and all the territory of the United States south and east of the states named.

The term "North" as used herein shall include all the territory of the United States not included in the South.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period, except as hereinbefore stated:

(a) Shipping clerks, firemen, and engineers, who shall not be permitted to work in excess of nine and one-half (9½) hours in any twenty-four (24) hour period or forty-eight (48) hours in any one week.

(b) Watchmen, who shall not be permitted to work more than eight (8) hours in any twenty-four (24) hour period, who shall receive one and one third times their normal rate for all hours in excess of forty-eight (48) hours in any one week.

(c) Employees in a managerial or executive capacity who now receive more than \$35.00 per week.

2. The maximum hours fixed in the foregoing section shall not apply to an employee on maintenance or repair work who shall not be permitted to work more than forty-eight (48) hours in any one week and who shall be paid at least one and one-third ($1\frac{1}{3}$) times their normal rate for all hours worked in excess of forty (40) hours in any one week.

3. No employer shall knowingly engage any employee for any time which when totaled with that already performed with another employer or employers exceeds the maximum hereinabove provided.

ARTICLE IV—WAGES

1. No employee in the South shall be paid at less than the rate of twenty-seven (27) cents per hour during the period which shall continue for one year from the date on which this Code shall become effective, nor less than the rate of thirty (30) cents per hour thereafter while this Code shall be in effect; no employee in the North shall be paid at less than the rate of thirty-two and one-half ($32\frac{1}{2}$) cents per hour during the period which shall continue for one year from the date on which this Code shall become effective, nor less than the rate of thirty-five (35) cents per hour thereafter while this Code shall be in effect.

2. An employer shall make payment of all wages due in lawful currency or by negotiable check, therefor payable on demand. Wages shall be paid at the end of each work week. These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners.

The employer or his agents shall accept no rebates directly or indirectly on such wages nor give anything of value or extend favors to any person for the purpose of influencing rates of wages or the working conditions of employees.

3. Accounting, clerical, or office employees shall not be paid less than the rate of \$15.00 per week in any city of 500,000 population or over, or in the immediate trade area of such city, and not less than \$14.50 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 \$14.00 per week in any city between 10,000 and 100,000 or in the immediate trade area of such city, and not less than \$12.00 per week in any city under 10,000 population. The census figures for the latest Federal census shall be the basis for this provision.

4. This Article establishes minimum rates of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

5. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

6. The weekly compensation of all employees as of June 16, 1933, in excess of the minimum wage hereinabove specified shall not be

reduced, notwithstanding that the hours of work of any such employee may be reduced. The wages of all employees receiving more than the minimum rates herein prescribed shall be equitably adjusted and the differentials between employees receiving in excess of the minimum herein prescribed existing prior to the approval of this Code shall be maintained. Such adjustments shall be reported to the Code Authority and to the Administrator.

7. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him. The number of such employees shall not be in excess of 10 percent of the total number of employees engaged by any member of the Industry at any one time, nor shall such employees be paid at less than 80 percent of the minimum wage rate herein established.

8. Employees other than maintenance or supervisory men, or those necessary to protect the property, shall not be required, as a condition of employment, to live in quarters rented from the employer.

9. No employee shall be required, as a condition of employment, to trade at the store of the employer.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the Industry, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 30, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

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 any 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.

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 no provision of this Code shall supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, 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 in conspicuous and accessible places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To effectuate further the policies of the Act a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. Organization and constitution of Code Authority.

(a) The Code Authority shall consist of five (5) individuals or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint from one to three additional members without vote to represent the administration or such groups or interests as may be agreed upon. Members appointed by the Administrator shall serve for terms of from six months to one year provided, however, that the terms of such members shall not expire at the same time. Such members shall be given notice of and may attend all meetings of the Code Authority.

(b) Three members of the Code Authority shall be selected by the Association from among its membership. The Association not later than 10 days after the approval of this Code shall notify the members of the Industry who are nonmembers of the Association that on a specified day not later than 20 days after such notice shall have been given two members of the Code Authority will be selected by nonmembers of the Association. Such notice shall specify that such nonmembers may be selected by nonmembers of the Association either present or by proxy or by letter ballot.

(c) The Association 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.

(d) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

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 on review to disapprove or modify any action taken by the Code Authority:

(a) With a view to informing the President and the Administrator as to the observance of this Code, and as to whether the Industry is taking appropriate steps to effectuate the declared policy of the Act, each member of the Industry shall furnish duly certified reports in the form required by the Code Authority on wages, hours,

conditions of employment, and such other matters as may be pertinent to the administration of this Code. The Code Authority shall make such reports to the Administrator as he may direct. All such reports shall be held in strict confidence except when they shall be required by the Administrator or the Code Authority in connection with a violation of the provisions of this Code.

(b) The Code Authority may from time to time present to the Administrator recommendations based on conditions in the Industry as they may develop, which will tend to effectuate the operation of the provisions of this Code.

(c) The Code Authority is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on request of the Administrator, or on complaint of any person affected, and to report the same to the Administrator.

(d) The Code Authority shall coordinate the Administration of this Code with such codes, if any, as may affect this Industry or any related industry, with a view to promoting joint and harmonious action upon matters of common interest.

(e) All members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof. Members who thus participate in or share the benefits shall sustain their reasonable share of the expenses of its administration. The reasonable share of the expenses shall be administered 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 to be taken into consideration.

3. In addition to the information required to be submitted to the Code Authority, there shall be furnished to government agencies by the members of the Industry such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of Title I of the Act.

ARTICLE VII—TRADE PRACTICES

1. The Code Authority shall formulate or cause to be formulated a uniform accounting system which shall be adaptable to cost-accounting procedure and to the business of the Industry. Such plan shall specify the factors which shall be included in determining the costs to each member of the Industry. Upon approval by the Administrator of such a system of cost accounting for the Industry complete advice concerning it shall be distributed by the Code Authority to all members of the Industry. Thereafter no member of the Industry shall sell the products of the Industry at such prices or upon such terms and conditions of sale as will result in the purchaser's paying for such product less than the cost thereof to the seller, determined in accordance with the aforesaid system of cost accounting, except to meet competition. Within twenty days after the approval of this Code each member of the Industry shall publish to the trade and file with the Code Authority a price list for all products of the industry sold or offered for sale by him, together with the discounts, if any, allowed therefrom, and fixed terms of payment. Revised price

lists or revised discounts or terms and conditions of sale may be filed and published from time to time thereafter by any member of the Industry, provided, however, that such revision shall be published and filed with the Code Authority at least five days in advance of the effective date thereof. No member of the Industry shall sell or offer for sale any products of the Industry at prices lower than the prices noted in his price list or on more favorable terms and conditions of sale than the terms and conditions of sale previously published and filed by such member with the Code Authority in accordance with the foregoing provisions and in effect at the time of such sale.

2. The following practices constitute unfair methods of competition and are prohibited:

(a) 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.

(b) The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers under like terms and conditions.

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

ARTICLE IX—MONOPOLIES

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

ARTICLE X—EFFECTIVE DATE

This Code shall be effective ten days after its approval by the President.

Approved Code No. 116

CODE OF FAIR COMPETITION

FOR THE

MOPSTICK INDUSTRY

As Approved on November 14, 1933

BY

PRESIDENT ROOSEVELT

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 Mopstick 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 and recommendations and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 14, 1933.

NOVEMBER 9, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Mopstick Industry in the United States, the hearing being conducted in Washington, D.C., October 26, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS ON HOURS AND WAGES

The maximum hours provided by the code for factory employees will be 40 per week and 8 per day. Firemen and engineers are allowed a tolerance of 8 hours in any one week. Shipping clerks and men engaged in maintenance and repair work are allowed a tolerance of 8 hours with one and one third the normal wage rate being paid for time worked in excess of 40 hours in any one week. Watchmen are permitted a tolerance of 16 hours in any one week with a day off each week. The above limitations do not apply to employees engaged in supervisory work and receiving more than \$35.00 per week.

The minimum wage rate for employees is 35 cents per hour, male and female. Handicapped persons may be employed but their number shall not exceed 10 percent of the number of employees in any plant and their wage rate shall be not less than 80 percent of the minimum wage rate provided by the code. The weekly compensation of all employees as of June 16, 1933, higher than the minimum will not be reduced because of any change in hours provided in the code.

CHILD LABOR

The minimum age provided in this code is 16 years, but in hazardous occupations this age limit is increased to 18 years.

ECONOMIC EFFECT OF THE CODE

This small industry manufactures mop sticks made by finishing a mop handle and attaching thereto a clamping device for holding a removable wet mop. Approximately 160 persons are employed in this industry. It has maintained an effective trade association for many years and approximately 97 percent of its product complies with the specifications established by the United States Bureau of Standards. The provisions of article VII, section 2, on methods of unfair competition were derived from a list of unfair trade practices approved for the Mopstick Industry by the Federal Trade Commission and are already in operation in this well organized industry.

Analysis of data submitted by this industry indicates that approximately the provisions of the code already made effective have increased the number of those employed in September 1933, as compared with June 1933, by 18.5 percent. The reported average wage for September represents increases of 16.7 percent in the weekly wage and 31.3 percent in the hourly wage.

In arriving at the terms expressed in the code, the industry has shown its cooperation in complying with the spirit of the National Industrial Recovery Act and welcomes the adoption of a code of fair competition as a further aid in accomplishing the purposes of said Act.

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

(b) the applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Mopstick Industry; and that

(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.

It is recommended, therefore, that this code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
MOPSTICK INDUSTRY

ARTICLE I—PURPOSES

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

ARTICLE II—DEFINITIONS

The term "mopstick industry" as used herein includes the manufacture and/or sale by manufacturers of complete mopsticks made by finishing a mop handle and attaching thereto a metal clamping device for holding removable wet mops, and such branches or subdivisions thereof as may from time to time be included under the provisions of this code by the President after such notice and hearing as he may prescribe.

The term "employee" as used herein includes any one engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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.

The terms "President", "Act", and "Administrator" as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

The term "Association" as used herein shall mean the National Association of Mop Stick Manufacturers.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of 40 hours in any one week or 8 hours in any 24-hour period, with the following exceptions:

(a) Firemen and engineers, who shall not be permitted to work more than nine and one half hours in any twenty-four hour period nor more than forty-eight hours in any one week.

(b) Shipping clerks and men engaged in repair and maintenance, who shall not be permitted to work more than 48 hours in any one week and who shall be paid at least one and one third times their normal rate for all hours worked in excess of forty (40) hours in any one week.

(c) Watchmen, who shall not be permitted to work more than fifty-six (56) hours in any one week nor more than six (6) days in any seven (7) day period.

(d) Employees engaged in a managerial or executive capacity and receiving compensation at the rate of \$35.00 per week or more, and outside salesmen, who shall not be subject to hourly limitations.

2. No employer shall knowingly engage any employee for any time which when totaled with that already performed with another employer or employers exceeds the maximum hereinabove provided.

ARTICLE IV—WAGES

1. No employee shall be paid less than the rate of \$14.00 per week of forty (40) hours (or 35 cents per hour).

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

3. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

4. The weekly compensation of all employees as of June 16, 1933, in excess of the minimum wage hereinabove specified shall not be reduced notwithstanding that the hours of work of any such employees may be reduced. The wages of all employees receiving more than the minimum rates herein prescribed shall be equitably adjusted and the differentials between employees receiving in excess of the minimum herein prescribed existing prior to the approval of this Code shall be maintained. Such adjustments shall be reported to the Code Authority and to the Administrator.

5. A person whose earning capacity is limited because of age or physical or mental handicap may be employed in 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him. The number of such employees engaged by any member of the Industry at any one time shall not be in excess of 10 percent of the total number of his employees, nor shall such employees be paid at less than 80 percent of the minimum wage rate herein established.

ARTICLE V—GENERAL LABOR PROVISIONS

1. 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.

2. 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.

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

4. No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 30, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

5. Within each State no provision of this Code shall supersede any laws of such State imposing more stringent requirements on employer regulating the age of employees, wages, hours of work, or health, fire, 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 in conspicuous and accessible places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To effectuate further the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. Organization and constitution of Code Authority.

(a) The Code Authority shall consist of five (5) individuals, or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint from one to three additional members without vote to represent the Administrator or such groups or interests as may be agreed upon. Members appointed by the Administrator shall serve for terms of from six months to one year, provided, however, that the terms of such members shall not expire at the same time. Such members shall be given notice of and may attend all meetings of the Code Authority.

(b) Four members of the Code Authority shall be selected by the Association from among its membership by ballot, and one member shall be selected from among the nonmembers of the Association by those nonmembers. The Association not later than 10 days after the approval of this Code shall notify the members of the Industry who are nonmembers of the Association that on a specified day not later than 20 days after such notice shall have been given one member of the Code Authority will be selected by nonmembers of the Association. Such notice shall specify that such nonmember may be selected by nonmembers of the Association either present or by proxy or by letter ballot.

(c) Each trade or industrial association directly or indirectly participating in the selection and 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, 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.

(d) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

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 on review to disapprove or modify any action taken by the Code Authority.

(a) With a view to informing the President and Administrator as to the observance of this Code, and as to whether the Industry is taking appropriate steps to effectuate the declared policy of the Act, each member of the Industry shall furnish duly certified reports in the form and as required by the Code Authority for the administration of this Code on production, orders, sales, prices, and conditions of employment and such other matters as may be pertinent to the administration of this Code. The Code Authority is hereby constituted the agency for the collection and compilation of such reports, and for the forwarding of such reports to the Administrator; and all such reports shall be held in strict confidence by the Code Authority except when they shall be required by the Administrator or by the Code Authority in connection with a violation of the provisions of this Code.

(b) The Code Authority may from time to time present to the Administrator recommendations based on conditions in the Industry as they may develop which will tend to effectuate the operation of the provisions of this Code.

(c) The Code Authority is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint of any person affected, and to report the same to the Administrator.

(d) The Code Authority shall coordinate the administration of this Code with such other codes, if any, as may affect this Industry or any related industry with a view to promoting joint and harmonious action upon matters of common interest.

(e) All members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code. Those members thus participating and sharing shall sustain their reasonable share of the expenses of its administration. The 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 and/or such other factors as may be deemed equitable to be taken into consideration.

3. In addition to the information required to be submitted to the Code Authority, there shall be furnished to government agencies by the members of the Industry such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of Title I of the Act.

ARTICLE VII—TRADE PRACTICES

1. The Code Authority shall formulate or cause to be formulated a uniform accounting system which shall be adaptable to the cost accounting procedure and to the business of the Industry. Such plan shall specify the factors which shall be included in determining the costs of each member of the Industry. Upon approval by the Administrator of such a system of cost accounting for the Industry, complete advice concerning it shall be distributed by the Code Authority to all members of the Industry. Thereafter no member of the Industry shall sell the products of the Industry at such prices or upon such terms and conditions of sale as will result in the purchaser's paying for such product less than the cost thereof to the seller, determined in accordance with the aforesaid system of cost accounting, except to meet competition. Within twenty days after the approval of this Code each member of the Industry shall publish to the trade and file with the Code Authority a price list for all products of the Industry sold or offered for sale by him, together with the discounts, if any, allowed therefrom, and fixed terms of payment. Revised price lists or revised discounts or terms and conditions of sale may be filed and published from time to time thereafter by any member of the Industry, provided, however, that such revision shall be published and filed with the Code Authority at least five days in advance of the effective date thereof. No member of the Industry shall sell or offer for sale any products of the Industry at prices lower than the prices noted in his price list or on more favorable terms and conditions of sale than the terms and conditions of sale previously published and filed by such member with the Code Authority in accordance with the foregoing provisions and in effect at the time of such sale.

2. The following practices constitute unfair methods of competition and are prohibited:

(a) Either directly or indirectly to discriminate in price between different purchasers of commodities, where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly: Provided, that nothing herein contained shall prevent discrimination in price between purchasers of the same class on account of differences in the grade, quality, or quantity of the commodity sold;

(b) The sale or offering for sale of any product of the Industry by any false means or device which has the tendency and capacity to mislead or deceive customers or prospective customers as to the quantity, quality, substance, or size of such product;

(c) The imitation of the trade marks, trade names, slogans, or other marks of identification of competitors, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers;

(d) The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of their goods, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers;

(e) Maliciously inducing or attempting to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual duties or services by any such means;

(f) The secret payment or allowance of rebates, refunds, commissions, or unearned discounts, whether in the form of money or otherwise, or secretly extending to certain purchasers special services or privileges not extended to all purchasers under like terms and conditions;

(g) Offering for sale merchandise at a price reduced from a marked-up or fictitious price which has the tendency and capacity to mislead or deceive purchasers or prospective purchasers;

(h) To sell mopsticks which do not comply with the minimum standards as established for the Industry by the United States Bureau of Standards without labelling the product as not complying with such standards.

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

ARTICLE IX—MONOPOLIES AND MONOPOLISTIC PRACTICES

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 X—EFFECTIVE DATE

This Code shall become effective on the 10th day after its approval by the President.

Approved Code No. 117

CODE OF FAIR COMPETITION

FOR THE

GEAR MANUFACTURING INDUSTRY

As Approved on November 14, 1933

BY

PRESIDENT ROOSEVELT

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 Gear 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 and recommendations, and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 14, 1933.

NOVEMBER 10, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Gear Manufacturing Industry, the hearing having been held in Washington, November 8, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

This Code provides for a maximum 40-hour week for all employees except executive, administrative, supervisory, and technical employees, and outside sales and service employees receiving \$35.00 or more per week; and watchmen and firemen, provided, however, that watchmen and firemen shall not be permitted to work in excess of 48 hours per week or in excess of 6 days in any one week. Exception is also made for those branches of the Industry in which seasonal or peak demands, the requirements of the continuous gear-making processes or break-downs place a temporary burden on such branches. In these special cases, such number of hours may be worked as may be required, provided that in no such case shall they exceed 48 hours in any one week.

It is further provided that the emergency overtime in excess of 40 hours per week will not exceed 64 hours during any 6 months' period. Time and one-half the hourly rate is established for all hours worked in excess of the daily scheduled number of hours and in excess of 40 hours per week.

The Code provides for a minimum hourly wage of 40 cents per hour, except that apprentices may be employed at a lesser rate, provided written contracts with apprentices are filed with the Code Authority, and handicapped employees whose earning capacity is limited because of age or physical condition.

Each employer shall file with the Code Authority a list of all such handicapped persons employed by him, but the number of such persons employed at less than the minimum rates shall be limited to 2% of the number of his employees.

A minimum wage of \$15.00 per week shall be paid to clerical and all other employees not covered by the hourly rate, except that a limited number of office boys or girls may be employed at not less than 80% of the minimum weekly salary.

Hourly rates, base piecework rates, and salaries above the minimum will be equitably adjusted by those employers of the Industry who have not already made adjustments, and in no case shall they be decreased.

Complete copies of the Code will be posted in conspicuous places accessible to employees.

ECONOMIC EFFECT OF THE CODE

No person under the age of 16 shall be employed or any person under 18 years of age at hazardous occupations.

Employment in the Industry has shown an increase of approximately 30% in 1933 to date over that of the year 1932. This is attributed partly to the shortening of hours and partly to upswing in production. There has been an increase of 45% in the number of workers for the 4 months' period, May to August, over the first 4 months of the year 1933. At the present time, there are approximately 5,000 employees engaged in the Industry as against 8,000 in 1929.

Adjustments in the wage and salary classifications over the minimum rates, when considered in connection with additional reemployment, should represent an increase in pay roll of approximately \$120,000 over that of 1932.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Gear Manufacturing Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
GEAR MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act the following provisions are submitted as a Code of Fair Competition for the Gear Manufacturing Industry and, upon approval by the President, shall be the standard of fair competition for this industry.

ARTICLE II—DEFINITIONS

The term "industry" as used herein is defined to mean and include the manufacture for sale of cut-tooth gears, speed reducers (whether manufactured with or without motor and whether or not known as mortorized reducers, gear motors or by similar designations), cut-tooth sprockets, and other similar power-transmission media; except such of the above described items as are produced by any manufacturer within another industry as part of the products of such other industry, including finished and semi-finished parts thereof and replacement parts therefor and not sold for other uses in the general market of the industry herein defined.

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

The term "member of the Industry" includes, but without limitation, any individual, partnership, association, corporation, or other form of enterprise engaged in the Industry, either as a manufacturer or on his own or its own behalf.

The term "apprentice" as used herein means an individual (usually a minor), bound by indenture to serve an employer for a term of years at a predetermined wage for the period of the indenture in order to learn a trade, art, or profession.

The term "member of the Code" includes any member of the Industry who shall expressly signify assent to this Code.

The term "Act" means Title I of the National Industrial Recovery Act.

The term "President" means the President of the United States.

The term "Administrator" means the Administrator for National Recovery.

The term "Administration" means the National Industrial Recovery Administration.

The term "Association" means the American Gear Manufacturers' Association, a trade association now having its office in the First National Bank Building, Wilkinsburg, Pennsylvania.

The term "Executive Committee" means the Executive Committee of the Association.

The term "effective date", as used herein, is defined to mean the eleventh day after this Code shall have been approved by the President.

ARTICLE III—EMPLOYMENT

As required by Section 7 (a) of Title I of the National Industrial Recovery Act, the following provisions are included in this Code:

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

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

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

ARTICLE IV—HOURS

No employee shall be permitted to work in excess of 40 hours per week, excluding:

(1) Executive, administrative, supervisory, and technical employees, and outside sales and service employees, who receive \$35.00 or more per week; and

(2) Watchmen and firemen, provided, however, that watchmen and firemen shall not be permitted to work in excess of 48 hours per week or in excess of six days in any week.

The foregoing limitations shall not apply to branches of this Industry in which seasonal or peak demands, or the requirements of a continuous gear-making process or a breakdown, place an unusual and temporary burden on such branches. In any such case such number of hours may be worked as are required by the necessities of the situation, provided that in no such case shall the hours worked in any one week exceed 48, and provided further that the number of hours worked in any six months' period in excess of 40 hours per week shall not exceed 64 hours.

Where in any case an employee works in excess of the daily scheduled number of hours or in excess of 40 hours in any one week, such extra time shall be compensated for at not less than one and one-half times the hourly rate of such employee.

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

No employer shall reclassify employees or duties of occupations performed for the purpose of defeating the provisions of the Act or of this Code.

ARTICLE V—WAGES

The minimum wage that shall be paid to any employee shall be forty cents (40¢) per hour, with the following exceptions:

(1) *Apprentices.*—Any employee apprenticed to any employer by an indenture made in pursuance of the laws of any State of the United States, or by a written contract under any apprentice system established and maintained by an employer, provided such agreements are, and each additional agreement as made is, filed with the Code Authority, and provided that this exception shall apply to such employees only during the period that they are receiving less than the minimum rate.

(2) *Handicapped Employees.*—An individual whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the Certificate. Each employer shall file with the Code Authority a list of all such persons employed by him, but the number of such persons shall be limited to 2% of his employees.

Clerical Employees.—The minimum wage that shall be paid by any employer to any of the accounting, clerical, office, service, or sales employes shall not be less than \$15.00 per week; provided, however, that office boys or girls, limited in number to not more than 5% of the total number of employees in any factory, may be paid not less than 80% of the above minimum.

The hourly rates, base piecework rates, and salaries for all duties and occupations now paid at more than the minimum herein prescribed shall be equitably adjusted by all members of the Industry who have not already done so, and in no case shall these rates be decreased. Reports concerning the action taken, whether prior to or after the date of approval of this Code, shall be reported to the Code Authority not later than ninety (90) days after the effective date, and to the Administrator upon his request.

No distinction in rates shall be made between male and female employees where the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, monthly, piecework, or other basis.

Posting.—All employers shall post complete copies of this Code in conspicuous places accessible to employees.

No provisions in this Code shall supersede any State or Federal law which imposes more stringent requirements on employers as to age of employees, wages, hours of work, or general working conditions.

ARTICLE VI—CHILD LABOR

On and after the effective date no employer shall employ any person under the age of sixteen years, or any person under eighteen years of age in any hazardous occupation.

ARTICLE VII—ADMINISTRATION

1. To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code.

(a) The Code Authority shall consist of six members of the Association (no two of whom shall represent the same manufacturer), appointed by and subject to the direction of the Executive Committee of the Association; one representative of members of the Industry who are not members of the Association (providing they desire such representation, and signify their willingness to pay their pro rata share of the cost of administering this Code); and one or more appointees of the Administrator, if he so desires. The appointee or appointees of the Administrator shall act in an advisory capacity only, and shall have no vote. The representatives of the nonmembers shall be elected by the nonmembers in any fair manner approved by the Administrator.

(b) Any member of the Industry is eligible for membership in the Association, and there shall be no inequitable restrictions on such membership. Any such member may participate in the preparation of and any revision or additions or supplements to this Code by assuming his pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the Association and paying the annual dues and assessments of the Association, or by paying to the Code Authority his pro rata share of the costs. There shall be no initiation fee for members of the Industry who participate only in the Code and do not become members of the Association.

2. The Code Authority shall have the following duties and powers, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove or modify any action taken by the Code Authority.

(a) To collect from members of the Industry all data, reports, and statistics when and as required by the President and/or the Administrator and/or their agent or agents; also to collect such data, reports, and statistics as may be required from time to time by the Code Authority. All such information shall be confidential, except insofar as disclosure may be necessary for the effective administration and enforcement of this code. Such data as may be requested by the Administrator shall be made available to him. Reports submitted by the Code Authority to the President or the Administrator shall be in the form prescribed or provided by him.

(b) 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 National Industrial Recovery Act.

(c) The Code Authority may require from the members of the Industry reports regarding prices, or prices and discounts on closed transactions, or such other pertinent data on closed transactions as in its opinion may be necessary to effectuate Title I of the Act, and may publish the same should such procedure be deemed advisable.

(d) To represent the Industry in conferring with the President or his agents with respect to the Administration of this Code and in respect of the Act and any regulations issued thereunder.

(e) To hear complaints and attempt to adjust the same.

(f) To coordinate the Administration of this Code with such codes, if any, as may be adopted by any subdivision of this Industry or any related industry, with a view to providing joint and harmonious action on all matters of common interest, all with approval of the Administration.

(g) To study the marketing and trade practice provisions of Articles IX and X hereof, and the operation thereof, and make recommendations from time to time to the Administrator which it deems desirable for modification or addition thereto, which, upon the approval of the Administrator, after such hearing as he may prescribe, shall become a part of this Code and have full force and effect as provisions hereof.

(h) To make rules and regulations necessary for the administration and enforcement of this Code, subject to the right of any affected person to appeal to the Administrator.

(i) Any notice, demand, or request required or permitted to be given to or to be made upon any member of the Industry shall be sufficiently given if mailed, postage prepaid, addressed to such member of the Industry at his address on file with the Secretary of the Code Authority.

(j) If the Code Authority determines that in any branch or subdivision of the Industry it has been the generally recognized practice to sell a specified product on the basis of printed net price lists, or price lists with discount sheets, and fixed terms of payment which are distributed to the trade, each manufacturer of such product shall within ten (10) days after notice of such determination file with the Code Authority a net price list or a price list and discount sheet, as the case may be, individually prepared by him showing his current prices, or prices and discounts, and terms of payment, and the Code Authority shall immediately send copies thereof to all known manufacturers of such specified product, and shall hold such copies and any revisions available to the trade. Revised price lists with or without discount sheets may be filed from time to time thereafter with the Code Authority by any manufacturer of such product, to become effective upon the date specified therein, but such revised price lists and discount sheets shall be filed with the Secretary of the Code Authority ten days in advance of the effective date, unless the Code Authority shall authorize a shorter period. Copies of revised price lists and discount sheets, with notice of the effective date specified, shall be immediately sent to all known manufacturers of such product, who thereupon may file, if they so desire, revisions of their price lists and/or discount sheets, which shall become effective upon the date when the revised price list or discount sheet first filed shall go into effect.

(k) If the Code Authority shall determine that in any branch or subdivision of the Industry not now selling its products on the basis of price lists with or without discount sheets with fixed terms of payment the distribution or marketing conditions in said branch or subdivision are similar to, or the same as, the distribution or

marketing conditions in a branch or subdivision of the Industry where the use of price lists with or without discount sheets is well recognized, and that a system of selling on net price lists or price lists and discount sheets should be put into effect in such branch or subdivision, each manufacturer of the product or products of such branch or subdivision shall within twenty (20) days after notice of such determination file with the Code Authority net price lists or price lists and discount sheets as the Code Authority may direct containing fixed terms of payment showing his prices and discounts and terms of payment, and such price lists and/or discount sheets and terms of payment may be revised, and shall be distributed and held available to the trade, in the manner hereinabove provided.

ARTICLE VIII—ACCOUNTING AND COSTING

Every employer shall use an accounting system which conforms to the principles of the uniform and standard chart of accounts set forth in the Recommended Practice for Uniform Cost Accounting issued by the Association, and a costing system which conforms to the principles of the standard uniform method of costing to be formulated and approved by the Executive Committee and made supplements to the said Manual of Accounting or method of costing, subject to the approval of the Administrator.

ARTICLE IX—MARKETING

Guarantees against decline in price, or protection against advance in price, shall not be extended over a period greater than ninety (90) days.

Prices quoted on a specified quantity shall not be applicable to a lesser quantity. If lesser quantities are shipped under a contract calling for a larger quantity, billing prices shall be those quoted or consistent with the actual quantities shipped.

It shall be permissible for a bidder to offer any substitute which he feels is equal, superior, or more desirable to meet the specifications of the bid; but if substitute does not conform to the specifications of the bid, it must be so specifically stated.

ARTICLE X—UNFAIR PRACTICES

The following acts, as described, shall constitute unfair methods of competition:

(a) The paying of lower wages than prescribed herein or the operation of hours of labor in excess of the maximum herein prescribed.

(b) The sale or exchange of any product, in whole or in part, below the seller's cost of such product, in whole or in part, as determined in accordance with the cost and accounting systems referred to in Article VIII, provided that any seller may sell a product below his cost to meet the price of any competitor whose price for such product is not below such competitor's cost. Obsolete material, however, may be sold at its depreciated value by permission of the Code Authority.

(c) To sell directly or indirectly by any means whatsoever any product of the Industry covered by the provisions of paragraphs (j) and (k) of Article VII at a price lower or at discounts greater or on more favorable terms of payment than those provided in current net price lists or price lists and discount sheets filed with the Secretary of the Code Authority.

(d) Withholding from or inserting in, any invoice, words or figures which make or tend to make such invoice a false record, wholly or in part, of the transaction represented on the face thereof; or the payment or allowance of secret rebates, refunds, credits, unearned discounts, whether in the form of money or otherwise; or the extension to certain purchasers of prices, services, or privileges not extended to all purchasers under like conditions.

(e) To defame or disparage a competitor, directly or indirectly, by words or acts which untruthfully impugn his business integrity, his ability to keep his contracts, his credit standing, or the quality of his products; or advertising, marking, branding, labelling products, and making statements regarding products the purport or effect of which may be misleading or tend to deceive purchasers as to the quantity, quality, grade, or substance of the goods purchased.

(f) To imitate or simulate the trade-mark, trade name, package, wrapper, or label of a competitor's product to such a degree as to deceive or have a tendency to deceive customers.

(g) To give, or permit to be given, to agents, employees, or representatives of customers or to agents, employees, or representatives of competitors, money, or anything of value, to induce them to influence their employers or principals to purchase or contract to purchase products of this Industry, or to influence such employers or principals to refrain from contracting with competitors.

(h) To misrepresent to one source of supply, directly or indirectly, in conducting negotiations as a purchaser of materials for use in the Industry, the offer of a competing source of supply.

ARTICLE XI—SCOPE OF CODE

(a) This code is intended to be a Basic Code and to cover the entire industry. It is understood, however, that groups of the industry may formulate Supplementary Codes of Fair Practice, defining that part of the industry and specifying such additional regulations as may be considered advisable. These regulations, however, shall conform to the principles of the Basic Code. Such codes, when approved by the President, shall have the same force as this Code.

(b) The provisions of this Code shall apply to and affect only that part of production included in this industry.

(c) In accordance with the provisions of Section 10 (b) of the Act the President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I of the Act.

Approved Code No. 118

CODE OF FAIR COMPETITION

FOR THE

COTTON GARMENT INDUSTRY

As Approved on November 17, 1933

BY

PRESIDENT ROOSEVELT

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 Cotton Garment 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 hereby adopt and approve the report, recommendations and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved, subject to the following conditions:

A. A committee appointed by representatives of several of the States having heretofore drafted a tentative code or compact concerning prison labor, the purpose of which is the establishment of fair competition between the products of prisons and the products of competing private industry, and containing provisions the intention of which is substantially the same as is hereinafter referred to, the code or compact shall be deemed to be satisfactory under the requirement in article VIII C of the within code if and so long as the compact or code adopted by the States provides for and accomplishes the following in relation to the manufacture, sale, and distribution of products made in whole or in part by prisoners:

1. The hours of labor of prisoners shall not be greater than the hours prescribed in the code of fair competition of the competing private domestic industry.

2. Prison products when sold by the prison or through a contractor, whether sold direct or through any agency, shall be sold not lower than the current price prevailing in the market in which the product is customarily sold—to wholesalers, retailers, or consumers as the case may be.

3. Unless it requires a higher price than specified in paragraph 2, the State shall be paid on all contracts for the labor of prisoners an amount equal to the cost per unit for labor and overhead of the comparable product necessarily paid in competing domestic private industry.

4. The hours of operation of productive machinery shall be not more than is prescribed in the code of the competing private domestic industry.

5. Nothing in said compact, or code shall affect in any way any Federal act relating to prison-made products, or any State act passed or effective under any such Federal act, if said acts are held constitutional and valid.

6. A code authority set up in the compact shall have the power to administer, supervise, and enforce said code and establish the prices and costs of prison-made goods as required in paragraphs 2 and 3 above after conferring with the code authority of the affected industry, from which decision an appeal shall be allowed to the President of the United States.

7. The code authority set up in the compact, after an investigation which shall include a consideration of economic, trade, and market conditions, shall (1) formulate such regulations as may be consistent and lawful and as may be necessary to assure a diversification of the output of "prison industries" in fair proportion to the production of any competing private domestic industry affected, and (2) prohibit the expansion of any existing prison industry which is causing a disproportionate competition with any private domestic industry.

8. Such other provisions as will assure a fair basis of competition not inconsistent with the above.

B. That the application of section G of article IV be and hereby is stayed as to members of the industry located in the State of Kentucky and in those counties in the States of Illinois and Indiana which border on the Ohio River for such period as the Administrator shall determine, which period shall not exceed four (4) months from and after the effective date of the aforesaid Code of Fair Competition for the Cotton Garment Industry, that during such period the said members of the industry located in the State of Kentucky and in those counties in the States of Illinois and Indiana bordering on the Ohio River shall be included in the southern section of the industry for the purposes of the aforesaid article IV, that during such period the administrator shall hold such hearings and cause such investigations to be made as he may deem necessary to determine the classification of the above area for the purposes of the aforesaid article IV and that prior to the termination of such

period, the Administrator shall determine the classification of the said area for the purposes of said article IV of the said Code of Fair Competition for the Cotton Garment Industry.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,

Administrator.

THE WHITE HOUSE,

November 17, 1933.

NOVEMBER 7, 1933.

THE PRESIDENT,
The White House.

SIR: A proposed code of fair competition for the Cotton Garment Industry was submitted to the Administrator on July 20, 1933, and public hearings were held on August 2nd and 3rd. The revision of the code was then begun by the principal interested parties and a number of subsequent hearings were held. Revised versions of the code were resubmitted on September 6th, September 19th, and September 25th. The long delay which resulted before the code could be recommended for approval has not been due to any irreconcilable differences of opinion with contending factions refusing to give ground. The delay has resulted almost entirely from the fact that the Cotton Garment Industry has many ramifications and that time has been required to work out code provisions which could equitably apply to the different parts of a complicated structure and, more particularly, which would reduce so far as possible conflicts of jurisdiction.

The sponsoring organization for the code was the International Association of Garment Manufacturers, which is also a federation of smaller associations which represent subdivisions of the industry. At the time of the hearings the International Association of Garment Manufacturers had more than 275 members who were grouped in the following divisions:

- Work Garment Manufacturers Division.
- Union-Made Garment Manufacturers Division.
- Men's Shirt Manufacturers Division.
- Men's Wash Suit Manufacturers Division.
- Work Shirt Manufacturers Division.
- Pajama Manufacturers Division.
- Athletic Underwear Manufacturers Division.
- Men's Collar Manufacturers Division.
- Cotton Wash Dress Manufacturers Division.
- Boy's Shirts and Blouse Manufacturers Division.
- Waterproof Cotton Garment Manufacturers Division.
- Heavy Cotton Outerwear and Combination Leather Garment Manufacturers Division.

The number and variety of the articles thus manufactured seemed sufficiently great. Since the first public hearings, however, the association, through direct membership or affiliations, has come to represent oiled cotton garments, nurses' and maid's uniforms, washable service apparel and pants (chiefly of cotton content). The Code, according to the terms of Article II, covers the manufacture of fourteen articles or garments. The International Association of Garment Manufacturers appears to represent more than 75% of the production of each article. It now has 395 members, with 110

applications for membership on file, and claims that the total volume of business of its members amounts annually to \$332,000,000, approximately 80% of the total production.

DEFINITION

As was pointed out at the conclusion of the first hearings, the Cotton Garment Code was presented for a trade association rather than for an industry. Indeed, it was doubtful whether there should be such an industry, at least with definitions as broad as those in the Code. There were no codes for the Woolen Garment Industry or the Silken Garment Industry. Codes had been presented for men's clothing, for coats and suits and for dresses. The manufacturers under those codes use wool, silk, and cotton. From the operation of these codes the proponents of the Cotton Garment Code sought to exclude all manufacturers whose products were chiefly of cotton content.

Even if disinterested efforts are made to put industries and their subdivisions as logically and as fairly as possible under appropriate codes, difficulties are certain to arise. Definitions cannot be written so clearly and comprehensively as to eliminate all doubts and controversies as to jurisdiction. Special difficulties are invited, however, when a code is presented by a trade association which is a federation of other trade associations and which naturally wishes to bring into its membership as many units as possible. During the hearings such a federation was justified on the principle that all articles which would be manufactured under the aegis of the federation would contain cotton and that the number of codes for the garment industries would be reduced in number by grouping together a number of industries or subdivisions.

One important reason, however, for the popularity of the Cotton Garment Code—that is to say for the desire of certain industries to come under it—was the expectation that the Cotton Garment Code would be less onerous on manufacturers than any other code which was adopted for any one of the needle trades. The hours proposed were high and the wages proposed were low. It is these hour and wage provisions which have been responsible for the marriage de convenance between cotton dresses and leather clothing, between pants and nurses and maids uniforms, between pajamas and work clothing, and between children's play suits and oiled cotton garments. Much of the delay experienced in the completion of this code is attributable to the heterogeneous coverage of the Code and to the fact that difficulties as to jurisdictions and prospects of unfair competition have become apparent before the Code goes into effect. Three examples of these difficulties may be cited: cotton wash suits, pants, and linen dresses.

On the first two questions a number of hearings were held. The third question will have to be dealt with shortly, for the makers of cotton wash dresses have been accustomed to make linen dresses. Linen dresses, however, will probably be under the Dress Code. This difficulty will have to be dealt with later by putting all dresses under the same code with appropriate wage differentials covering the manufacture of wash dresses which requires less skill than does the manufacture of more dressy dresses.

The difficulty was much the same in the case of men's wash suits. These, when chiefly of cotton content, were excluded from the Men's Clothing Code which went into effect on September 11th, and the expectation was that they would be covered by the Cotton Garment Code. It appeared, however, that many men's clothing manufacturers made cotton wash suits. They would thus be under two codes. It appeared also that the cotton wash suit manufacturers, located largely in New Orleans, made linen suits which were cut and sewn at the same time as their cotton suits. After several conferences and hearings, the New Orleans and other wash suit manufacturers joined with the Men's Clothing Code Authority in urging the desirability of the Men's Clothing Code covering all men's summer clothing, washable and nonwashable, with appropriate wage differentials recognizing that a different class of labor from that employed in the manufacture of woolen suits can be used in the manufacture of summer clothing and that the seasonal nature of the summer clothing industry may require tolerance in certain periods, in respect of the number of hours per week that may be worked.

The difficulty as to pants does not lend itself to such an easy solution. "Work pants and men's and boys' pants in chief content of cotton" are under the Cotton Garment Code. "Single knee pants and single pants" are under the Men's Clothing Code. Promptly as the Men's Clothing Code went into effect, on September 11th, complaints were made by manufacturers under the Men's Clothing Code that other manufacturers making precisely similar articles claimed that they were chiefly of cotton content and therefore came under the Cotton Garment Code, with forty instead of thirty-six hours as the maximum week and $32\frac{1}{2}\text{¢}$ instead of 40¢ per hour as the minimum wage. Some of these manufacturers, it should be noted, had been members of one of the associations proposing a Men's Clothing Code. They were then men's clothing manufacturers but when it appeared that the Men's Clothing Code would have high standards they became cotton-garment manufacturers.

This difficulty, it appeared, could not be satisfactorily dealt with by a change of definitions. Manifestly the object of the Recovery Act—the spread of employment and the increase of wages—would be negated by placing all pants manufacturers on a forty hour and $32\frac{1}{2}\text{¢}$ basis. Manifestly, also, employers could not be expected to continue under the Men's Clothing Code if other employers in direct competition and producing the same article were permitted to operate under a code which was more favorable to them. That would be unfair competition of a most vicious character.

It was proposed, therefore, that the Administrator designate a pants expert who would investigate the extent and character of the manufacture of pants under the Men's Clothing Code and the extent and character of the manufacture of pants which the Men's Clothing Code Authority claimed was unfair competition and then make recommendations as to administrative determinations in particular cases—that is, determination as to whether individual manufacturers were properly under the Men's Clothing Code or under the Cotton Garment Code. Such an appointment has been made. This action does little more than anticipate the action contemplated by Article II, Section D of the Cotton Garment Code, which provides that if

there is a dispute as to whether an employer is subject to the provisions of the Cotton Garment Code or another code, the dispute shall be settled by the two code authorities involved, and in the event of a disagreement, by the Administrator. In this case, because quick action was desirable, it was assumed that the code authorities would be unable to agree and steps have been taken to secure the expert advice which will make it possible for the Administrator to render equitable decisions. It may be added that this procedure was suggested three weeks before it was accepted by the representatives of the International Association of Garment Manufacturers, who insisted on two hearings before they consented to an investigation by an expert.

In this connection attention should also be called to the provision of Article II of the Code which specifically provides for prompt hearings for the further review of the status of cotton wash dresses, cotton wash suits, and cotton pants, in order to determine whether the definitions shall be modified or eliminated, and the disposition to be made of these subdivisational industries. That the Administrator is empowered thus to act is the inarticulate premise of any code, but because of the considerations set forth above it is proper in this case to make the premise articulate.

It is not possible here to discuss in detail all the matters which were relevant to determination of what, for the time being, the Cotton Garment Code should cover. Illustrations have been given of the more important problems which had to be settled. After the hearings and while the code was in process of final formulation, a code was presented for aprons and nurses' uniforms. It was evident, however, that many manufacturers in the International Association of Garment Manufacturers made aprons and nurses' uniforms, and that a separate code for these articles would mean that some manufacturers of them would be under one code and some manufacturers under another code. This particular problem was easily solved by the affiliation of the Apron and Nurses' Uniform Manufacturers' Association with the International Association of Garment Manufacturers. The pajama and shirt problems had been settled the same way, with the respective trade associations retaining their identity and having representation on the Cotton Garment Code Authority. For a time the Rain Wear Industry sought to come under the Cotton Garment Code on the theory that rain wear has a cotton content. Some of the principal manufacturers of rain wear do the bulk of their production in rubber articles which are not wearing apparel, and a designation of manufacturers of rain wear as manufacturers of rubber seemed more satisfactory than any other solution.

HOURS AND WAGES

It is obvious that with the difficulties described above in respect of definitions, the determination of the minimum wages and maximum hours was not a simple problem. It would not have been simple even if there had not been made any demands for differentials and preferential treatment.

In most branches of the industry long hours have been worked and low wages have been paid. The earnings of shirt workers have been the subject of a special investigation by the Bureau of Labor

Statistics. In 1927 the average annual earnings of shirt workers were \$752; in 1931 they were \$574; and in 1932, \$486. The wages are so low that the proposed minimum for the northern section of the country of \$13.00 per week is 78% higher than the median weekly wage reported by the Bureau of Labor Statistics and should affect 75% of all the workers. In the Heavy Outer Garment Industry wage levels are higher. In the Work Shirt Industry wage levels are even lower than in shirts and the Code provides that the Work Shirt Division shall have an opportunity to make out a case for it not being able to pay its employees the minimum which the Code provides. Save in the case of the Sheep Lined and Leather Garment Industry it seemed impossible at the present time to differentiate in respect of minima for unskilled workers or to afford any protection to skilled workers above the minimum scale.

There are no accurate estimates as to the extent of unemployment which has existed in the Cotton Garment Industry and no figures which would indicate the number of workers who would be unemployed as a result of a limitation of the number of hours. Consequently the number of hours per week has been fixed rather arbitrarily at forty. In certain sections of the country this will be a drastic reduction for some of the subdivisions have been working fifty and sixty hours per week. The Code Authority is asked to report promptly on the reemployment which results from the reduction to forty hours so that the Administrator may decide whether there should be a further reduction.

It was necessary, in the Cotton Garment Code, to make provisions for both learners and incapacitated employees so that there could be some deviation from the minimum wage scale. With respect to the first group it was argued that employers could not afford to pay the minimum to unskilled workers; that the increased labor costs which would result from a minimum for skilled workers was as much as, and perhaps more, than the industry could bear. Unless carefully limited, however, permission to employ learners will result in widespread evasions of the minimum-wage provisions. Consequently the Code, as recommended, limits the number of learners that may be employed in any one establishment at the same time, to 10% of the total number of employees; defines learners as those that have not been engaged in the industry for more than six weeks and stipulates that if on a piecework basis the learner earns more than the 75% of the minimum wage to which he is entitled during the learning period, then he shall receive his earnings.

The problem of substandard and incapacitated employees also had to be dealt with. If no provisions had been inserted in the Code, the tendency would have been for employers to dismiss substandard and aged employees in order to secure more efficient workers who, on the basis of the prevailing piece rates, would be able to earn the minimum which the Code stipulates. Obviously such a result should be avoided and the code, therefore, permits 10% of the total number of employees to be in a substandard class.

SOUTHERN MANUFACTURERS

These provisions as to learners and substandard employees were of great interest to Southern manufacturers. The International Asso-

ciation of Garment Manufacturers has many members in the South and at the public hearings spoke for the entire industry with its truly representative character not challenged. The only voice of protest raised at the public hearings was on behalf of Kentucky and its inclusion in the Southern section of the country.

The delay which occurred between the conclusion of the public hearings and the recommendation of the Code for approval afforded an opportunity for Southern protests to gain in number and volume. The protests came from individual manufacturers and from the Southern Garment Manufacturers Association, which claimed to be much more representative of Southern manufacturers than was the International Association of Garment Manufacturers. These protests alleged that the unproductive nature of Southern labor warranted a larger differential than $2\frac{1}{2}\%$ per hour, which the Code proposed to allow. There was a strong demand also for a liberalization of the learner and substandard employee provisions. It was alleged that the employees of many Southern manufacturers are, in comparison with employees of Northern manufacturers, so inefficient that if on the same piece-rate basis a Northern employee earns the minimum the Southern employee will not, and the difference will have to be made up by the employer.

Individual Southern manufacturers and the Southern Garment Manufacturers Association were given several hearings and every opportunity to present data in support of their allegations. Little data was presented. There were many general allegations that Southern manufacturers as a class would find it hard to operate under the Code, but in no case was it shown convincingly from pay rolls or production methods that an employer needed more than 10% learners or 10% substandard employees or that his average workers were less productive than Northern workers. At the same time, the Administrator received many protests from individual Southern manufacturers against any further differential for the South. These manufacturers said that they were able to operate successfully under the provisions which were contemplated and that if other Southern manufacturers found these provisions onerous, the reason was their own inefficiency and not the severity of the provisions.

In the absence of definite data there was nothing before the Administrator to justify any more preferential treatment of Southern manufacturers than that which was acceptable to the International Association of Garment Manufacturers. The Code as recommended, however, instructs the Code Authority to make prompt investigations and to report to the Administrator the effects of operations under its provisions. Specifically in the case of substandard employees it is provided that "the Cotton Garment Code Authority shall report to the Administrator, from time to time, as to the effects of the operation of this provision both generally and in cases of individual hardship so that the Administrator may determine whether or not the provisions of this section shall be changed or exceptions granted hereunder." This, it is believed, affords Southern manufacturers—and other manufacturers as well—a way of securing relief if, because of peculiar situations, they are entitled to relief and their securing it will not permit them to compete unfairly.

The same principles apply as to the line which is drawn between the Northern and Southern Sections of the country. The line be-

tween North and South, as drawn in the code, is the line proposed to the Administrator as the considered judgment of the manufacturers represented on the Code Committee of the International Association of Garment Manufacturers with one exception: The inclusion of certain factories in the vicinity of Paducah, Kentucky, in the Southern section for a six months' period. The original definition omitted Kentucky from the South and many protests were received. Protests were also received against the inclusion of Maryland in the North. On the other hand, if Maryland had been included in the South there would have been protests from Pennsylvania manufacturers. If Kentucky were in the South, there would be protests from Indiana, Missouri, and West Virginia. Protests have already been received against the temporary arrangement for Paducah.

Any line which is drawn will be subject to criticism; for no matter where the line is drawn manufacturers a few miles on either side of it, employing the same class of labor and making the same kind of articles, will have wage scales which differ by the amount of the differential which the Code allows. There were no data before the Administrator which justified him in disregarding the recommendation of the International Association of Garment Manufacturers in its code as submitted and arbitrarily ruling that the South should include certain states. The Code as recommended, however, instructs the Code Authority to report to the Administrator with respect to differentials between the Northern and Southern sections of the country and the Administrator may determine whether or not the line should be redrawn. The South which is entitled to a differential is not the historic South, the climatic South, or the Solid South. It is the South in which labor is less productive than in the North. A line can be drawn intelligently only if data on lower productivity are available. If Southern manufacturers present adequate data to the Administrator, then the Administrator can eliminate any injustices which now exist. On the basis of the sentimental and historic arguments which were made at the hearings, it was impossible to act.

CODE AUTHORITY

At one of the later public hearings the Southern Garment Manufacturers Association raised the question as to the truly representative character of the International Association of Garment Manufacturers in respect of the South. The Southern Garment Manufacturers Association asked for an amendment of the Code so that the South would be represented on the Code Authority.

It would seem undesirable to write in the Code any provisions for sectional representation. The Administrator, under the Code, reserves full powers to re-examine the constitution of the Code Authority and to order its reconstitution so as to make it more representative. The Administrator has authority to appoint one or more members to the Code Authority and he will exercise that power to appoint for the time being to the Code Authority, a representative of the Southern Garment Manufacturers Association so that this Association will be in a position to bring to the attention of the Administrator any situation which will warrant the latter in using the power which he reserves to himself under Article IX, Section D, of the Code.

THE CODE AS REVISED AND RECOMMENDED

The Code, as revised and recommended, may be summarized as follows:

Article I states the purposes of the Code.

Article II gives the definitions.

Article III establishes forty hours as the maximum number of hours per week for manufacturing employees in the Industry and its subdivisions.

Article IV provides a minimum wage of $32\frac{1}{2}\text{¢}$ per hour in the Northern section and 30¢ per hour in the Southern section, with special provisions for operators and cutters in the Sheep Lined and Leather Garment Industry and with carefully drafted safeguards covering the exceptions of learners and substandard employees. It also defines the Southern section of the country and provides for various investigations as to the effects of the wage and hour provisions of the Code.

Article V limits the use of productive machinery, except cutting machinery, to one shift.

Article VI contains the Code's general labor provisions and sets forth the mandatory provisions of Section 7 (a) of the National Industrial Recovery Act.

Article VII abolishes home work after three months, with one or two minor exceptions.

Article VIII deals with the sale of prison-made goods.

Article IX sets up the Cotton Garment Code Authority and confers on it certain powers.

Article X contemplates the presentation of additional codes of fair-trade practices for the subdivisional industries under the Code.

Article XI sets forth certain unfair-trade practices.

Article XII permits the Code Authority, upon approval of the Administrator, if it is deemed necessary, to put into effect certain provisions with reference to NRA labels.

Article XIII reserves to the President the right to amend, cancel, and modify any provision of the Code.

Article XIV declares that nothing in the Code shall be construed to promote monopolies.

Article XV permits applications for exemptions from or a stay of the Code.

Article XVI warns against unnecessary price increases.

Article XVII makes the effective date of the Code the first Monday following the first Wednesday after the date of approval by the President.

PRISON LABOR

The Code as submitted by the International Association of Garment Manufacturers contained a provision prohibiting members of the industry from manufacturing or causing to be manufactured, or acquiring, selling, or distributing prison-made garments and from purchasing textiles or raw materials from penal, correctional, or reformatory institutions after certain date.

Protests were received from various prison officials and at least one Governor against including in a Code of Fair Competition

any provision interfering with the sales and distribution of prison-made goods. The protestants argued that it was essential from a social point of view that prisoners be taught a trade and be kept busy; that the provision proposed was an indirect attempt to regulate functions of a State which are exclusively within the prerogatives of a State: that it was impossible for a Code under the National Industrial Recovery Act to interfere with a manner in which States attempt to care for the health and well-being of their wards and that the proposed provision would unfairly deprive the States of a proper source of revenue and directly destroy the value of a large amount of invested capital in the form of a plant, good will, and general investment.

On the other hand, the proponents of the Code argued that the competition of prison-made goods with goods made by free industry was sufficiently large and so concentrated in certain cases as to permit prison producers to dictate the price of certain articles and thus adversely to affect the wages, hours, and conditions of labor in the free branch of the industry. Two examples adduced by the proponents of the Code to show the extent of the concentration of prison production were those of work shirts and work pants. In 1932 prisons produced and sold on the open market almost 20,000,000 work shirts. The free factories in that year produced 62,000,000 work shirts, or about 75% of the total. In the same year, prisons produced almost 7,000,000 work pants, while the free factories in the industry produced 27,000,000 work pants, or about 80% of the total. It was contended by the International Association of Garment Manufacturers that the prison products in each case naturally affected market prices and were in a large measure responsible for the substandard labor conditions in the industry.

The interested prison officials did not refute the contention that prison competition inevitably undermines standards prevailing in the free branch of the industry, nor that such continued competition would endanger the success of a Code of Fair Competition which aimed to raise standards higher than they are at the present time. Certain prison officials presented their cases with an eye on their own special problems and leaned on the broad shoulders of States' Rights and the plea *ad hominem* that idleness leads to moral breakdown and violence.

The proponents of the Code, on the other hand, argued that they were making no attempt to limit the State in its activities or to do more than bind those properly subject to their Code of Fair Competition. They conceded idleness of prisoners to be an evil but argued that their proposed provisions did not shut the door to educational and vocational training and all other prison activities which did not compete with free industries. In this connection it should be noted that nine states at present do not sell prison products in the open market. These states include such thickly populated areas as New Jersey, New York, Ohio, and Massachusetts. Nine States have adopted the system of producing for State use alone. Therein lies one solution to the problem. Other solutions which have been put into practice, are the diversification of products made in prisons and increasing emphasis on truly educational and vocational activities instead of on unfair profit seeking factory production.

The proponents of the Code have an unassailable position in arguing that it would be impossible for manufacturers under the Code to stay in business if prison goods continue unfairly to compete with goods produced in free plants; that this competition in the past has led to sweat-shop and substandard conditions in the open branch of the industry and that unless checked it will be impossible for manufacturers to meet the standards of operation of the Code and stay in business. The proponents of the Code are on unassailable ground as well, in arguing that the elimination of prison competition in Cotton Garments will not make more acute social problems which many prisons have seriously attempted to solve but which other prisons have been holding up as a shield to cloak profit seeking and exploitation.

FINDINGS

The Administrator finds that:

(a) The Code complies in all respects with the pertinent provisions of Title I of the Act, including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The International Association of Garment Manufacturers imposes no inequitable restrictions on admission to membership therein and is truly representative of the Cotton Garment Industry; and that

(c) The Code 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.

I recommend that the Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
COTTON GARMENT INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act and aid in reducing and relieving unemployment, improving the standards of labor, and eliminating competitive practices destructive of the interests of the public, employees, and employers, the following provisions shall constitute the Code of Fair Competition for the Cotton Garment Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

A. As used in this Code the term "Cotton Garment Industry" means and includes the production by any of the following processes: (a) cutting, (b) creasing, (c) sewing (all or part of the garment), (d) trimming, (e) pressing, (f) finishing, (g) examining and inspecting, (h) boxing, or all of them, of any article or garment known as (1) work clothing, work garments, work pants and children's play suits; (2) men's shirts, including knitted outer shirts and polo shirts; (3) boys' shirts and blouses; (4) boys' wash suits; (5) work shirts of any material, including flannel shirts; (6) pajamas and nightshirts; (7) men's collars; (8) cotton wash dresses; (9) oiled cotton garments; (10) men's and boys' pants in chief content of cotton; (11) sheep lined and leather garments; (12) nurses and maids aprons and uniforms; (13) washable service apparel; (14) men's cotton wash suits.

The products covered by Section A, paragraphs 8, 10, and 14, are included in this Code pending the prompt holding of such further hearing on such notice as the Administrator in his discretion may fix, and the final determination of whether the definitions of any of them shall be modified or eliminated or whether any of the subdivisions shall continue to be included in this Code.

B. "Cotton Wash Dresses" as used herein means and includes those house dresses and dresses made in chief content of cotton which in the custom and practice of the trade are merchandised in what is known in the trade as the house dress or wash dress departments of recognized department stores and other retailers of women's garments, and which cotton dresses, under the established custom and practice of the trade, are customarily bought from the manufacturer by, or sold by the manufacturer to, the buyer of house or wash dresses. And the term "Cotton Wash Dress Industry" as used herein means and includes that industry engaged in the manufacture of such cotton wash dresses.

C. The term "Washable Service Apparel" as used herein is defined to mean cotton coats; trousers; waitresses', nurses', and maids'

service garments, aprons, service caps, and other kindred service garments manufactured for direct distribution to linen supply service companies, hotels, hospitals, institutions, and other consumers.

D. If and when, because of the character of any product made by any employer, or by any subdivisional industry, there arises any dispute as to whether such product is covered by the provisions of this or another code, the code authorities concerned will report to the Administrator the code under which such product properly belongs and in the event that the code authorities are unable to agree within a reasonable time, the Administrator may, after notice and hearing, decide under which code the product or subdivisional industry manufacturing the same is covered.

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

F. The term "Manufacturer" as used herein means and includes (1) anyone who buys materials and manufactures them under the processes named in subsection A of Article II hereof into finished garments, (2) anyone who buys the materials and performs the cloth-cutting operation and contracts other operations, retaining legal title to the goods, or (3) a contractor who receives materials in cut form and does the sewing operations and any additional operations (except cutting).

G. The term "contractor" as used herein means and includes anyone engaged in the making of cut materials into finished products suitable for use but not intended for his own distribution, who owns and operates his own plant, hires his own labor for that purpose, but who receives cut-piece goods from another for the purpose of making same into finished garments and who in the operation of his business renders this service in the course of an independent occupation, the relationship being such that legal title to the goods to be manufactured is retained by the one for whom the contractor is finishing the product.

H. The term "manufacturing employee" as used herein means and includes anyone who is engaged in (a) cutting, (b) creasing, (c) sewing (all or part of the garment), (d) trimming, (e) pressing, (f) examining, (g) inspecting, or (h) finishing, of any garment produced in the industry.

I. The term "nonmanufacturing employee" as used herein means and includes all persons engaged in the Cotton Garment industry, but not included in any of the classifications of subsection H above.

J. The term "employer" means anyone by whom any such employee is compensated or employed.

K. The terms "President", "Act", and "Administrator" as used herein mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

ARTICLE III—HOURS

A. No manufacturing employee shall be permitted to work in excess of 40 hours in any one week, or more than 8 hours in any one day, provided, however, that the Cotton Garment Code Authority shall, immediately after the effective date begin an investigation

under such rules and regulations as to reports as the Code Authority may require and the Administrator approve, to determine whether or not the 40-hour week provision of this section is resulting in increased employment, and the said Code Authority shall report its findings on this question to the Administrator not later than 60 days after effective date, so that the Administrator may determine whether or not the provisions of this Article shall be changed. In respect of cutters, the Code Authority, immediately after the effective date, shall begin an investigation under such rules and regulations as to reports as the Code Authority shall determine, to ascertain whether the 40-hour week provision of this Article as to cutters unduly handicaps factory operations and whether or not overtime should be recommended as to cutters. The Code Authority shall report thereon within 60 days after the effective date hereof, so that the Administrator may determine whether or not the provisions of this Article shall be changed.

B. Within 60 days after effective date hereof, the Cotton Garment Code Authority shall report to the Administrator as to the result of the maximum hours for the Sheep Lined and Leather Garment Industry provided for in the preceding paragraph, so that the Administrator may determine whether or not the provisions of this Article shall be changed.

C. No office employee (including accounting, clerical, and stenographic help) shall be permitted to work in excess of 40 hours per week averaged over any three months' period. Secretaries, factory department heads, and executives earning more than \$35.00 per week are exempted from this provision.

D. As to all nonmanufacturing employees other than those included in paragraph C immediately preceding, the Cotton Garment Code Authority shall, on or before March 1, 1934, submit to the Administrator a recommendation as to maximum hours for these classes.

E. The provision for maximum hours constitutes the maximum hours of labor per week for the employee covered so that under no circumstances will such an employee be employed or be permitted to work for one or more employers in the industry in the aggregate in excess of the prescribed number of hours in a single day or single week.

ARTICLE IV—WAGES

A. Except as hereinafter provided, no employee (except actual learners in the industry during a period not to exceed six weeks' apprenticeship and outside employees) shall be paid at less than the rate of 30 cents per hour per 40-hour week when employed in those states included within the southern section of the industry, nor at less than the rate of 32½ cents per hour per 40-hour week when employed in those states included within the northern section.

B. In the Sheep Lined and Leather Garment Industry, no manufacturing employee shall be paid at less than the rate of 35 cents per hour per 40-hour week; no operator shall be paid at less than the rate of 45 cents per hour per 40-hour week; and no short knife cutters shall be paid at less than the rate of 75 cents per hour per 40-hour week.

C. The number of learners employed at any time by any member of the Cotton Garment Industry in his plant or factory shall not exceed 10 percent of the total number of manufacturing employees in said plant. Each learner shall receive not less than 75 percent of the minimum wage, provided, that if on a piecework basis a learner earns more, then he shall be paid what he earns; and provided, further, that the maximum six weeks' period as to learners shall apply to the total period of apprenticeship in the industry whether in one manufacturing plant or another. Any member of the industry may apply to the Code Authority for a modification of this provision, and upon showing of extreme hardship the Administrator may grant such modifications after review and report with recommendations by the Code Authority.

D. Within three months from the effective date, the Cotton Garment Code Authority shall report so that the Administrator may determine whether or not the provisions of section C shall be changed.

E. Each member of the industry shall make periodic reports, as required by the Cotton Garment Code Authority, showing in each instance the number and names of learners employed and the extent of time so employed.

F. Employees partially incapacitated by age, injury, or infirmity shall be exempted from the minimum-wage provisions; provided, however, that such employees shall be paid no less than other employees in the same factory proportionately to the amount or character of the work they do; and, provided further, that the number of such privileged employees shall not exceed 10 percent of the total number of manufacturing employees engaged in the same factory. Employers shall report monthly to the Cotton Garment Code Authority the names of those included in this class and the reasons therefor, and the Cotton Garment Code Authority shall report to the Administrator within three months and from time to time as to the effect of the operation of this provision, both generally and in cases of individual hardship, so that the Administrator may determine whether or not the provisions of this section shall be changed or exceptions granted hereunder.

G. For the purpose of this Article, the states which shall be included in the southern section are: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia. All other states and the District of Columbia shall be included within the northern section of the industry, except that for a period of not to exceed six months after the effective date of this Code the northern-section provisions of this Article shall not apply to factories operating under this Code which have been established between January 1, 1933, and September 1, 1933, in the area within 50 miles of the northern boundaries of Tennessee and Arkansas.

H. The Cotton Garment Code Authority shall, from time to time, report to the Administrator as to the effect of the operation of Section G, so that the Administrator may determine whether or not the provisions of that section shall be changed. The differentials provided for in this Article as between the northern and southern sec-

tions shall not apply to the Sheep Lined and Leather Garment Industry.

I. No changes in piece-rates and no increases in the amount of production or work of week workers shall be made for the purpose of evading the benefits to manufacturing employees prescribed by this Code in respect of wages and hours of employment. All requirements in respect of such increases shall be reported to the Cotton Garment Code Authority and failure to so report shall constitute a prima facie violation of this section.

J. The Work Clothing and Work Shirt Industries of the Cotton Garment Industry, may present to the Administrator such memoranda as the said Work Clothing and Work Shirt Industries may deem proper in relation to the effect of the minimum wage scale of this Article and other economic factors, upon the sale price of work clothing and work shirts manufactured in such industries, so that the Administrator, after due notice and hearing, may determine whether any changes shall be made in the wage provisions of this Code with respect to the Work Clothing and Work Shirt Industries.

K. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

L. The Cotton Garment Code Authority shall, as soon as practicable, set up a committee to investigate the wage scales for cutters, to determine whether the wages paid said cutters tend to effectuate the purposes of the National Industrial Recovery Act. The said committee shall also investigate differentials in wages paid to other employees receiving above the minimum to determine whether such differentials permit unfair competition in the Cotton Garment Industry.

M. Nothing in this Code shall be construed to interfere with, alter, change, or abrogate any existing contract between employer and employee in respect of wages above the minimum, or hours below the maximum herein provided.

ARTICLE V—MACHINERY CONTROL

A. No member of the Cotton Garment Industry shall operate productive machinery used in any of the processes enumerated in Section A of Article II, except cutting machinery, for more than one shift of 40 hours per week. If any member of the Cotton Garment Industry has customarily operated productive machinery on a double-shift basis, said member of the industry may make representations to the Cotton Garment Code Authority as to the facts and conditions requiring more than a single-shift basis in his particular plant or plants and may request a special exemption to operate on a double-shift basis; it being agreed that such application may be granted by the Administrator upon recommendation of the Code Authority, but only for the purpose of meeting contractual obligations existing on the effective date, or of preventing discharge of employees, or of otherwise removing any unusual difficulties or hardships in the application of this Article. Any deviations from the provisions of this section, however, shall be deemed a violation of the Code unless the said application is made and approved as provided herein.

ARTICLE VI—GENERAL LABOR PROVISIONS

A. No person under 16 years of age shall be employed in the Industry.

B. 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.

C. 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

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

E. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of labor, or health, fire, or general working conditions than under this Code.

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

G. Each employer shall post in conspicuous places accessible to employees full copies of this Code or all portions of this Code concerning labor and working conditions.

ARTICLE VII—HOME WORK

A. After three months from the effective date, no member of the industry shall have any sewing-machine work done on any garment or any part thereof in the private home of any worker, but all such sewing-machine work shall be done in the plant of the member of the industry producing such garment; provided, however, that any member of the industry may apply to the Cotton Garment Code Authority for exemption from the provisions of this Article for what is known in the trade as turning collars which have a laundry wash in the factory before shipping, provided, also, that home work on hand embroidery, which is incidental to the manufacture of cotton garments, may continue, and that within three months the Cotton Garment Code Authority shall report on the home-work problem so that the Administrator, after due notice and hearing, may determine whether or not this provision shall be changed. Each member of the industry shall report at once to the Cotton Garment Code Authority the names of any individuals employed under the provisions of this section and the reasons for such employment, and after the effective date, no member of the industry shall increase the number of persons so employed prior to July 15, 1933.

ARTICLE VIII—PRISON LABOR

A. No member of the industry shall manufacture or cause to be manufactured, acquire, sell, or distribute any garment, textiles, or supplies produced by prisoners, except prisoners on parole, or pro-

duced in any tax-maintained penal or reformatory institutions; except that any member of the industry who, prior to September 1, 1933, entered into a bona fide contract for the purchase of any garments or textiles made by prisoners, may, until January 1, 1934, accept delivery of said garments or textiles included within the terms of said contract, and may thereafter sell those particular garments, or garments made from those particular textiles.

B. Provided, however, that the provisions of paragraph A are hereby stayed until January 1, 1934, for the purpose of permitting those states of the United States, which so choose, to formulate, enter into, and make effective a compact or agreement, and thereby satisfying the Administrator that merchandise produced in the penal institutions of any state signatory to the said compact or agreement (with the exception of goods, wares, and merchandise produced or mined by any prison solely for the use of tax-supported institutions, agencies, departments, or activities of any state or its political subdivisions) is manufactured, sold, and distributed only upon a fair basis of competition with private industry.

C. When and so long as any penal institution, by subscribing to, complying with, and making effective the Code or compact hereinbefore referred to, or a binding agreement of any other nature, satisfies the Administrator that merchandise produced in whole or in part in such institution or by the inmates thereof is being produced and sold upon a fair competitive basis with similar merchandise not so produced, the provisions of paragraph A hereof shall not apply to any merchandise produced in such manner in the institution covered by such agreement, but otherwise paragraph A hereof shall apply to such prison-made products.

D. Any member of this industry or subsidiary thereof making any contracts with prisons for labor of prisoners or prison products shall report the facts in writing to the Administrator and file with the Administrator a copy of any such contract.

E. The Cotton Garment Code Authority shall, as soon as practicable after the effective date, make such rules and regulations as may tend to effectuate the policy of the National Industrial Recovery Act and aid in the observance of the provisions of this Code with respect to the sale and distribution of cotton garments or parts thereof made in whole or in part by the inmates of private or semi-public charitable reformatory institutions other than prisons.

F. Nothing in this Article shall be construed to supersede or interfere with the operation of the Act of Congress approved January 19, 1929, entitled "An Act to Divest Goods, Wares, and Merchandise Manufactured, Produced or Mined by Convicts or Prisoners of their Interstate Character in Certain Cases", or the provisions of any State legislation enacted or made effective thereunder.

ARTICLE IX—ADMINISTRATION

A. Further to effectuate the policy of this Act, a Cotton Garment Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code and shall be constituted as follows:

B. The International Associations of Garment Manufacturers, with the collaboration of the industries affiliated, shall select as mem-

bers of the Cotton Garment Code Authority one representative from such of the following associations or subdivisional groups as it may satisfy the Administrator are truly representative and comply with the provisions of Title I of the National Industrial Recovery Act:

1. The National Association of Shirt Manufacturers.
2. The National Boys' Blouse and Shirt Manufacturers' Association.
3. The National Pajama Manufacturers' Council, Inc.
4. The Association of Collar Manufacturers.
5. The National Work Clothes Manufacturers' Association.
6. The Union Made Garment Manufacturers' Association.
7. The Work Shirt Manufacturers' National Association.
8. The National Sheep Lined and Leather Garment Association.
9. The Associated Pants Manufacturers of America.
10. The National Association of Cotton Dress Manufacturers.
11. The National Oiled Cotton Garment Manufacturers' Association.
12. The National Association of Nurses and Maids Aprons and Uniforms.
13. Shirt Institute, Inc.
14. The National Association of Men's Shirts and Boys' Blouse Contractors.
15. Associated Manufacturers of Washable Service Apparel, Inc.

And such other associations as may from time to time, with the approval of the Administrator, be placed under the provisions of this Code. Alternates may be appointed to represent members unable to be present, but all such members and alternates of the Cotton Garment Code Authority shall in each case be persons actually engaged in the operation of a business in the respective industries.

The Administrator may appoint four members on nomination of the labor Advisory Board.

The Administrator, at his discretion, may appoint not more than three additional members to represent the Administrator, and additional members to represent such groups or interests as he may deem entitled to representation.

C. 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.

D. 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

E. The Cotton Garment Code Authority shall have the power to make investigations and to conduct hearings to ascertain whether

members of the industry are complying with the provisions of this Code.

F. The Cotton Garment Code Authority shall select its chairman, may employ such personnel as may be required for the effective discharge of its functions, and may set up such administrative committees as may be necessary to aid divisional industries in the administration and observance of this Code.

G. Members of the Industry shall be entitled to participate in and share in the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The 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 to be taken into consideration. Expenditures authorized by the Code Authority shall not exceed an amount reasonably necessary for the administration of this Code.

H. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose; nor shall any members of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder, nor be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or nonfeasance.

I. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to veto any action taken by the Code Authority:

(a) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and to submit the same to the Administrator for his approval, together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such other information as to its activities as the Administrator may deem necessary to effect the purposes of the Act.

(b) Set up rules and regulations governing the making of returns and reports by members of the industry as to

1. Production.
2. Machine hours.
3. Labor hours and pay-roll account.

(The aforesaid reports shall be made not less than every three months, and at such other times as the Cotton Garment Code Authority may determine; provided that no member of the industry shall have access to the confidential returns and data reported by the individual members, but all such data shall be correlated, tabulated, or otherwise presented in such manner as to avoid disclosure of individual plant operations, except when its use is necessary to prove or disprove a complaint or violation of this Code.)

(c) Prepare for, order, receive, collate, and analyze such additional reports as to any phase of the Cotton Garment Industry as may be required from time to time by the Administrator for the purpose of informing the President as to the observance of this Code or

the situation within the industry with respect to the operation thereof.

(d) Set up such commissions, bureaus, or committees as may be necessary :

1. To recommend to the Administrator the establishment of a system of uniform cost accounting, which upon approval of the Administrator shall be binding upon all members of the industry ;

2. To investigate and make recommendations to the Administrator concerning control or balancing of production, distribution, and consumption of products of the industry and the stabilization of the industry with respect to production and employment ;

3. To report to the Administrator with respect to differentials between the northern and southern sections of the industry ;

4. To investigate and report to the Administrator on the subject of differentials as between urban and rural wage minimums or such adjustments as may be necessary in connection therewith ;

5. To aid in the adjustment of contracts made prior to August 1st for future delivery where the costs of executing same are increased through the operation of the National Industrial Recovery Act or the provisions of this Code, it being interpreted as equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be made. Any dispute arising under this provision should be settled by amicable agreement, or if that is not possible, should be referred to arbitration, and the Code Authority shall offer all assistance possible ;

6. To investigate and report to the Administrator, with such recommendations as may be deemed necessary, looking to the control in this industry of undue expansion of productive machinery capacity ;

7. To investigate and make such recommendations to the President as may tend to effectuate the National Industrial Recovery Act and the provisions of this Code in respect to imports, or, upon investigation to make application to the President to exercise his authority as to imports under Section 3 (e) of the National Industrial Recovery Act ;

8. To collaborate with members of the industry and with the Administrator for the purpose of recommending from time to time changes in or additions to this Code ;

9. To prepare and present to the President for his approval such additional Codes of fair trade practice as may be necessary or expedient in the conduct of the industry or any of the particular industries subject to this Code ;

10. To do and perform all other acts necessary to carry out any of the provisions of this Code or the provisions of the National Industrial Recovery Act or the requirements of the Administrator in connection with this Code ;

11. To recommend to the Administrator through the Divisional Code Authorities uniform systems of cost accounting which shall be designed to effectuate fair competition in the divisional industries subject to the aforesaid Code Authorities.

12. The Code Authority may recommend to the Administrator provisions regarding the use of an N.R.A. label or insignia other than that provided for in Article II and rules or regulations with respect to the issuance and use of such insignia.

J. Except where otherwise provided herein, all recommendations made by the Cotton Garment Code Authority shall, upon approval of the President, become part of this Code and shall thereafter be binding upon all those engaged in the industries subject to this Code.

K. All data, records, statistics, information, or other material gathered by the Cotton Garment Code Authority shall at all times be available to the Administrator. 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 3 (a) of the Act.

L. Any power or authority delegated herein to the Code Authority shall be subject to the right of the Administrator to review and veto any action taken by the Code Authority; any particular provision or implied delegation herein to the contrary notwithstanding.

ARTICLE X—ADDITIONAL CODES

A. 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 Codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

B. Codes of Fair Practices may be submitted with the approval of subdivisional trade associations, and if approved by the President in accordance with Title I of the National Industrial Recovery Act, such Code or Codes shall be administered by such Trade Associations.

ARTICLE XI—UNFAIR TRADE PRACTICES

A. It shall be deemed an unfair trade practice and a violation of this Code of Fair Competition for any member of the Cotton Garment Industry to hold himself out, or advertise or otherwise represent himself as a "manufacturer" unless the cutting or sewing of garments is included within the processes of his factory or plant; provided, however, that nothing in this section shall be construed to relieve anyone engaged in (a) cutting, (b) creasing, (c) trimming, (d) sewing, (e) pressing, or (f) finishing, or all of them, from the hour, wage, and production and other provisions of this Code.

B. It shall be an unfair trade practice for any member of the industry to send out work to any "contractor" to be made into a garment by said contractor which shall include the cutting of the material by said contractor and all work sent to a contractor by a member of the industry must be cut in the member's own factory or plant. And it shall be an unfair trade practice for any contractor to accept from any one any uncut material or textile for the purpose of producing from same a garment. Provided, however,

that this provision shall become effective January 1, 1934, and that thereafter only those contractors may cut who obtain express permission from the Code Authority, with the concurrence of the Administrator, upon duly showing their financial responsibility and ability to comply with the wage and hours provisions of this Code and further that their continuance of cutting operations will not tend to defeat the purposes of the National Industrial Recovery Act and this Code.

C. It shall be an unfair trade practice and a violation of this Code for any member of the Cotton Garment Industry to sell or offer for sale merely cut but unsewn and unfinished garments and any person selling or offering for sale any merely cut but unsewn and unfinished products, shall be deemed to have violated this Code and be subject to the penalties provided in the National Industrial Recovery Act.

ARTICLE XII—GARMENT IDENTIFICATION

The Cotton Garment Code Authority may with respect to any of the products covered by this Code, if deemed necessary, put into effect the following provisions with respect to an N.R.A. label or insignia, upon the approval of the Administrator:

A. Every such garment produced by any person subject to the provisions of this Code shall bear an insignia, the purpose of which shall be to aid as a means of bearing the purposes of the provisions of this Code by tracing the garment to its origin. Garments bearing a recognized trade-union insignia indicating the origin of said garment shall not be required to bear the additional insignia required by this Section. Every manufacturer engaged in the industry shall apply to the Cotton Garment Code Authority for permission to use insignia herein provided for, and each application, when approved, shall be given a registered identification and every garment manufactured thereafter by the applicant shall bear said registered identification except as provided above. The Code Authority shall charge no more than the actual cost of production and distribution of the dies, labels, or insignia, provided for herein.

B. The Cotton Garment Code Authority, with the approval of the Administrator, shall determine the insignia to be used under the provisions of this article and shall make such rules and regulations as to the use and location of the insignia on any particular garment as may be deemed practical or necessary. It is understood that the location of the insignia on the garment is to be in an inconspicuous position such as the skirt of a shirt, "size label" on overalls, etc.

C. The Cotton Garment Code Authority shall set up an Insignia Registration Bureau for the purpose of carrying out the provisions of this article.

ARTICLE XIII—MODIFICATIONS

A. 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 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.

ARTICLE XIV—MONOPOLIES

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

ARTICLE XV—OPERATION AND APPLICATION

A. This Code shall be in operation on and after the effective date as to the whole Cotton Garment Industry as described herein, except as an exemption from or a stay of the application of this provision may be granted by the Administrator to a member applying for same, in accordance with rules and regulations of the Administrator.

B. The provisions of this Code shall not apply to manufacturing operations carried on outside the Continental portion of the United States.

ARTICLE XVI—PRICE INCREASES

A. 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 XVII—EFFECTIVE DATE

A. The effective date of this Code shall be the first Monday following the first Wednesday after the date of approval by the President of the United States.

Approved Code No. 118.
Registry No. 217-1-06.



Approved Code No. 119

CODE OF FAIR COMPETITION

FOR THE

NEWSPRINT INDUSTRY

As Approved on November 17, 1933

BY

PRESIDENT ROOSEVELT

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 of the Newsprint 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 it is hereby approved, however, feeling that the minimum wage for this industry should be not less than forty (40) cents per hour, my order of approval is subject to the following condition:

That within 90 days from the effective date of this Code the Administrator hold such further hearing upon such notice as he, in his discretion, shall fix for the purpose of determining the adequacy of the minimum wages established in said Code, after which his report and recommendation shall be submitted to me for further order which order shall have the effect of a condition to my approval of this Code.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 17, 1933.

OCTOBER 26, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Newsprint Industry in the United States, conducted in Washington on September 6, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

WORKING HOURS

This Code provides for a standard 40-hour week for all but a small portion of the employees in the Industry. In order to provide flexibility necessary to meet unusual conditions, such as variation in water supply, etc., provision is made for a 40-hour week averaged over a 13-week period with a limitation on day workers of 48 hours in a single week with time and one-third for hours worked in excess of 8 in a single day.

No such provision is made for tour workers who desire to be free to exchange shifts. Provision is also made for additional hours for them to meet situations where the work requires the help of men from an off-duty shift to change wires and wash and clean the machines after a run. Such work is too small in amount and too irregular to justify employment of an additional shift.

Employees not engaged directly in production, of whom there are only a few in each plant, are on a 42-hour basis averaged over a 4-week period. Watchmen may work 56 hours per week, and office employees 40 hours per week averaged over a year, but not more than an average of 48 hours per week in any quarter. In emergency cases, restrictions are removed for employees engaged in repair and maintenance work. Regular reports of hours worked are required.

WAGES

The basic minimum wage rate for mechanical workers is 38 cents per hour. Provision is also made for a 5 cent lower hourly wage for women, but it is expressly provided that men and women doing the same work shall receive the same pay, and that the Code Authority shall file with the Administrator a description of all occupations in which women are employed.

ECONOMIC EFFECT OF THE CODE

The Newsprint Industry is in a very serious condition. Consumption has fallen from 3,800,000 tons in 1929 to 2,800,000 tons in 1932. The capacity of the mills in the United States is about 1,800,000 tons. In 1929 they produced 1,400,000 tons and in 1932 1,008,000 tons. The price has fallen from \$65 per ton delivered in 1929 to \$40 in 1933.

It is doubtful whether even the most efficient mills can produce paper at this price in either Canada or the United States. In fact, five out of eight of the largest producers in the United States are in receivership, as well as practically all of the Canadian mills, which are not supported by their affiliates.

As newsprint is imported duty free the United States and Canadian branches of the Industry are practically one from a competitive standpoint, and consequently the manufacturers in the United States can obtain no reimbursement through increased prices for any additional costs which may be imposed upon them by this Code.

The condition of the Newsprint Industry has a depressing and disturbing effect on the general paper industry, both because newsprint mills can and do shift over to other types of paper, and because the price of newsprint has a pronounced influence on the price of other paper.

Newsprint contracts are generally made for the calendar year and offerings for 1934 are now being made. Some offers as low as \$30 to \$35 per ton, delivered, have been made by Canadian mills. The paper Industry as a whole is in something of a panic for fear that a lower price for newsprint will be established and that this will result in the inability of the Industry to meet its increased costs under the National Industrial Recovery Act.

In spite of this situation, the Newsprint Industry has shortened its working hours from 48 to 40 per week and increased its wage rates substantially by this Code. Employment will be increased only about 10% by this change because the average actual work week has been only slightly over 40 hours. The real problem of the Newsprint Industry is not to increase employment, but to maintain employment at its present manufacture. It is estimated, however, that the total increase in pay rolls in the Industry as a result of the Code will be about 15% to 20%.

Under the circumstances, I am of the opinion that the Industry has offered the maximum of which it is capable and that the Code is satisfactory in all other respects.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Paper and Pulp Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

NEWSPRINT INDUSTRY

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

ARTICLE I—DEFINITIONS

1. The following words are used in this Code with the meanings herein set forth:

“Newsprint”—The word “newsprint” is used in this Code with the same meaning with which the words “standard newspaper paper” are used in paragraph 1672 of the Tariff Act of 1922, and in paragraph 1772 of the Tariff Act of 1930.

“Industry”—The manufacture in the United States from wood pulp and/or other stock of newsprint and all other papers, except rotogravure paper, when such other papers are manufactured and sold for regular use in the making of daily newspapers.

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

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

“Administrator”—The National Recovery Administrator.

“The Association”—The Association of Newsprint Manufacturers of the United States.

ARTICLE II—ORGANIZATION

1. The Advisory Committee of the Association is hereby designated as the agency for administering this Code, and is hereby constituted and hereinafter referred to as the “Code Authority.” The Administrator may designate three (3) persons as additional members of such Code Authority who shall have no vote, but in all other respects shall be members thereof.

2. The expenses of administering this Code shall be borne pro rata by all members of the Industry who accept the benefits of the Code Authority or otherwise assent to this Code, in accordance with a formula to be adopted by the Code Authority. The Association shall be responsible for the payment of such expenses.

ARTICLE III—HOURS OF LABOR

1. No paper machine shall be operated in excess of 144 hours in any week.

2. 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: 8 hours in any one day and 56 hours in any one week.

(b) Chauffeurs, truckmen, switching crews, engineers, firemen and electric and hydroelectric operators and filter-plant employees: 168 hours in any period of four consecutive weeks, but no more than 10 hours in any one day and 48 hours in any one week.

(c) Tour-workers in continuous process operations: 8 hours in any one day and an average of 40 hours per week in any period of 13 consecutive weeks; provided, however, that additional hours may be worked—

(1) To avoid a shut-down due to the temporary absence of a relief worker; (2) In changing wires and machine clothing; and (3) In clean-ups, wash-ups, and ordinary repairs and adjustments in cases where a machine is shut-down for a period of not less than eight consecutive hours.

(d) All other laborers, mechanical workers, or artisans employed in any plant, mill, or factory or on work connected with the operation of any plant, mill, or factory: An average of not more than 40 hours per week in any period of 13 consecutive weeks, but not more than 48 hours in any one week, provided, however, that time worked in excess of eight hours in any one day shall be paid for as not less than time and one-third.

(e) Executives and their personal secretaries and other employees regularly engaged in a supervisory capacity receiving \$35.00 or more per week and outside salesmen: No limitation.

(f) All other employees: An average of 40 hours per week in any calendar year and an average of not to exceed 48 hours per week in any period of 13 consecutive weeks. Provided, however, that no limitation on hours of work contained in said schedule shall apply to employees of any class when engaged in emergency repair or emergency maintenance work involving break-downs or protection of life or property.

3. At such intervals as the Code Authority shall prescribe, every member shall report to the Code Authority (a) the number of man-hours worked under subdivisions c (1) and c (2) of said schedule and the ratio which said man-hours bear to the total number of man-hours of labor under subdivision c; and (b) shall furnish the Code Authority such information as it may require in order to enable it to determine whether the limitations contained in said schedule have been exceeded.

4. No employee shall be permitted to work for more than one member of the Industry an aggregate number of hours in excess of the number prescribed in said schedule.

ARTICLE IV—WAGES

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

Male labor, 38 cents per hour.

Female labor, 33 cents per hour.

Provided, however, that where a State law provides a higher minimum wage than is provided in this Code, no person employed within such State shall be paid a wage below that required by such State law.

2. Piece workers shall be paid at rates which will yield a worker for an hour's work not less than the minimum rates prescribed.

3. The minimum rates of wages for all other employees except commission salesmen shall be as follows: Not less than \$15 per week in any city of over 500,000 population, nor less than \$14.50 per week in any city between 250,000 and 500,000 population, nor less than \$14 per week in any city between 2,500 and 250,000 population, nor less than \$12 per week in towns of less than 2,500 population.

4. The minimum wages hereby prescribed shall not in any way be considered as a discrimination by reason of sex and where, in any case, women do substantially the same work or perform substantially the same duties under the same conditions as men, they shall receive the same rate of wages as men receive for doing such work or performing such duties. The Code Authority shall prepare and file with the Administrator within ninety days after the effective date of this Code, a description of all occupations in the industry in which women are employed.

5. 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. Within ninety (90) 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.

6. A person whose earning capacity is limited because of physical or mental deficiency, age, or other infirmity, may be employed on light work at not less than eighty (80) percent of the minimum wage prescribed in Section 1 hereof, if the State Authority designated by the United States Department of Labor shall have issued a certificate authorizing the employment of such person on such basis, provided, however, that the total number of such employees in any one plant shall not exceed three (3) percent of the total employees in such plant. So much of this Section as requires the issuance of such a certificate shall not take effect until sixty (60) days after the effective date of this Code.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the industry nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental 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 occupations. In any State an employer shall be deemed to have complied with this provision 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.

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. Labor agreements now in force between members and their employees shall be affected only by such provisions of this Code as may prescribe higher wages and shorter hours than are provided for in such agreements.

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

5. All employees shall post full copies of this Code in conspicuous places accessible to employees.

6. 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. The Code Authority shall make a study of conditions in the Industry to determine the feasibility of the adoption of a shorter working day 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 months after the effective date of this Code a plan for the stabilization and regularization of employment. The Code Authority may also submit recommendations to the Administrator for the establishment of rules relative to work on Sundays and holidays, to a weekly day of rest, and to overtime work generally and rates of wages therefor. Such recommendations, when approved by the Administrator, shall have the same force and effect as other provisions of this Code.

ARTICLE VI—ACCOUNTING

1. The Code Authority shall, as soon as practicable, propose 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.

ARTICLE VII—REPORTS; STATISTICS

1. Each member shall prepare and file with the Code Authority, at such time and in such manner as it may prescribe, statistics of plant capacity, production, sales in units and dollars, stocks on hand, number of employees, wage rates, employee earnings, hours of work, and such other data or information as the Code Authority or the Administrator may from time to time require, and in addition, shall furnish government agencies such statistical information as the

Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

2. Except as otherwise provided in the Act, all statistics, data, and information filed with or required by the Code Authority in accordance with the provisions of Section 1 hereof 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.

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

ARTICLE VIII—VIOLATIONS

1. The failure on the part of any member of this industry to comply with the provisions of this Code or to perform any obligation imposed on him thereby shall constitute a violation of the Code.

2. The Code Authority shall investigate alleged violations of this Code and make reports thereon to the Administrator.

ARTICLE IX—GENERAL PROVISIONS

1. This Code may, with the approval of the President, be amended except as to provisions required to be included therein by the Act.

2. If any member of the industry is engaged in any other industry, the provisions of this Code shall apply to and affect only that part of his business which is included in the industry.

3. The Code Authority may confer with the members of the industry and the consumers of its product in respect of the stabilization of the industry and the elimination of unfair practices and destructive competitive prices, and may formulate and submit to the Administrator its recommendations to that end. Such recommendations when approved by the Administrator shall have the same force and effect as any other provisions of this Code.

4. The Code Authority may secure current information concerning the competition in domestic markets of imported newsprint, and if it shall find that such newsprint is being imported into the United States in substantial quantities or increasing ratio to domestic production and on such terms or under such conditions as to render ineffective or seriously endanger the maintenance of this Code, it may complain to the President pursuant to the provisions of Section 3 (e) of the National Industrial Recovery Act and petition for suitable restrictions on the importation of such newsprint.

5. In order to maintain at all times an adequate domestic supply of raw material for the Industry, it is the declared purpose of the Industry to conserve forest resources and bring about the sustained production thereof. The Code Authority shall cooperate with the Secretary of Agriculture and other National and State Officials and Agencies and with the Code Authorities of other Industries in planning such practical measures as may be necessary to accomplish such declared purpose, and shall, upon the request of the Secretary of Agriculture, join with the Lumber and Timber

Products Industries in any conference which may be held pursuant to the provisions of Article X of the Code of Fair Competition of the Lumber and Timber Products Industries, approved by the President on August 19, 1933.

6. The trade standards and customs covered by the appendix hereto attached are made a part hereof, and any deviation from them is a violation of the Code.

7. 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 National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation, issued under said Act, and specifically 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.

8. This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 119.
Registry No. 405/01.

APPENDIX

TRADE CUSTOMS AND TRADE PRACTICES

1. Newsprint, other than tinted news, is white, cream white or blue white, and mild variations thereof.

2. Every manufacturer shall deliver as newsprint paper, as nearly as practicable, paper of an average basis weight of 32 lbs. Five (5) percent over or under specified base of weight shall be considered good delivery for individual rolls. Orders for heavier weight bases (over 24 x 36—32 lbs. to 500 sheets) shall be furnished at no price concession. Newsprint shall not be sold on a production basis.

3. No newsprint shall be designated as "Culled" and sold at a reduced price.

4. The billing weight of roll newsprint shall be the gross weight, including paper and wrappers, less only the weight of cores if returnable cores are used. Sheet newsprint shall be billed at the ordered weight unless there is a shortage in excess of 2½ percent, in which event paper shall be billed at the actual scale weight.

5. Terms—net cash United States Funds, 30 days from date of shipment; or from date of withdrawal from warehouse in the case of water shipments; or 15th of month for shipments made during preceding month or any other mutually agreeable arrangement which contemplates an approximate thirty day cash settlement. 6% interest shall be paid on all amounts remaining unpaid on due dates. Time of payment may be extended beyond thirty days, provided interest at the rate of 6% per annum is charged after thirty days from date of shipment, or from date of withdrawal from warehouse in the case of water shipments.

6. Returnable cores, either paper or iron, shall be charged to the purchaser at 2 cents per running inch and shall be returned promptly, freight prepaid, to the manufacturer. Cores shall be credited to the purchaser at the invoiced price when a prepaid bill of lading showing the number and sizes of cores returned to mill of manufacturer is received by the manufacturer. Nonreturnable cores shall be included in invoice price of paper and shall not be returnable.

7. No allowance shall be made for waste, damage, or paper left on cores. In case of claim of any nature applying on any shipment, the manufacturer shall be notified immediately, but no claim shall be allowed for consequential damage.

8. Miscellaneous Differentials: For newsprint in sheets the differentials shall not be less than those stated in the following schedule:

	White	Colored
For sheets 150 sq. in., and larger_____per ton__	5. 00	10. 00
For sheets 72 sq. in. to 149 sq. in._____do_____	10. 00	15. 00
For sheets 36 sq. in. to 71 sq. in._____do_____	15. 00	20. 00

These differentials shall be with relation to the price of white newsprint in rolls.

Two dollars per ton shall be charged for skid loads if more than 3,000 lbs.; \$3.00 per ton on quantities from 3,000 lbs. to 2,000 lbs.; and \$5.00 per ton for quantities of 2,000 lbs. and under.

Press trimming shall be charged for, over the sheet price, as follows:

\$1.00 per ton for one side.

\$2.00 per ton for two sides.

\$3.00 per ton for either three or four sides.

If sheet news is packed in skeleton frames, this charge shall be \$5.00 per ton over the sheet price.

9. The foregoing trade customs and practices with respect to newsprint shall also apply to all other products of the industry.





CODE OF FAIR COMPETITION
FOR THE
PAPER AND PULP INDUSTRY

As Approved on November 17, 1933

BY

PRESIDENT ROOSEVELT

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 of the Paper and Pulp 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 it is hereby approved; however, feeling that the minimum wage for this industry should be not less than forty (40) cents per hour, my order of approval is subject to the following condition:

That within 90 days from the effective date of this code the Administrator hold such further hearing upon such notice as he, in his discretion, shall fix for the purpose of determining the adequacy of the minimum wages established in said code, after which his report and recommendation shall be submitted to me for further order which order shall have the effect of a condition to my approval of this Code.

FRANKLIN D. ROOSEVELT.

Approval recommended :

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 17, 1933.

OCTOBER 19, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the General Code of Fair Competition for the Paper and Pulp Industry in the United States, and Subordinate Codes covering divisions of such Industry, conducted in Washington on September 14, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

WORKING HOURS

This Code provides for a standard 40-hour week for all but a small portion of the employees in the Industry. In order to provide the flexibility necessary to meet unusual conditions, such as variation in water supply and peak demands, provision is made for a 40-hour week averaged over a 13-week period, with a limitation on day workers of 48 hours in a single week with time and one-third for hours worked in excess of 8 in a single day.

No overtime provision is made for four workers on continuous-process operations who desire to be free to exchange shifts. Provision is also made for additional hours for them to meet situations where the work requires the help of men from an off-duty shift to change wires and wash and clean the machines after a run. Such work is too small in amount and too irregular to justify employment of an additional shift.

Employees not engaged directly in production, of whom there are only a few in each plant, are on a 42-hour basis averaged over a 4-week period. Watchmen may work 56 hours per week, and office employees 40 hours per week averaged over a year, but not more than an average of 48 hours per week in any quarter. In emergency cases restrictions are removed for employees engaged in repair and maintenance work. Regular reports of hours worked are required.

WAGES

For wage purposes the country is divided into three zones: Northern, Central, and Southern. The principal paper-producing States in the Southern zone are Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas; and in the Central zone, Virginia and West Virginia, Tennessee, and North Carolina. All the remaining important paper-producing States are in the Northern zone. The wage differentials between the zones, prescribed by the Code, are much less than those now prevailing and are necessary to avoid too great a change in established competitive conditions.

The basic minimum wage rates prescribed for the three zones are as follows:

- Northern, 38 cents per hour
- Central, 35 cents per hour
- Southern, 30 cents per hour

Provision is also made for a 5-cent lower wage for women in the Northern and Central zones, but it is expressly provided that men and women doing the same work shall receive the same pay, and that the Code Authority shall file with the Administrator a description of all occupations in which women are employed. An exception is made of work which on July 15, 1929, paid less than the prescribed rates. In such cases the 1929 rate, or ninety percent of the base rate, whichever is higher, is prescribed. A report to the Administrator on the effect of this exception is required.

The minimum wages of office workers range from \$12.00 to \$15.00 per week, as in the President's Reemployment Agreement.

Conditions vary greatly in different parts of the same zone and between different divisions of the Industry as to the ability of the mills to increase wages. The wages prescribed are a fair compromise. They are in all cases a substantial increase over rates prevailing in June of this year. They are also an increase over the average wage rates prevailing on October 1st, but are slightly less than the rates now being paid by some of the better-situated mills.

No exceptions are made for learners or for office boys or girls. State certificates of disability are required in the case of partly disabled employees paid lower rates.

ECONOMIC EFFECT OF THE CODE

The normal number of employees in the Industry is from 123,000 to 125,000. The number in 1929 was 128,000. Owing to technological improvements, the number which would be required today to produce the 1929 output would be about 120,000. The effect of the Code, however, will be to restore employment to 128,000, the 1929 figure, although the present rate of production is far below the 1929 rate.

The total pay roll of the Industry in May, 1933, was at a rate of approximately 100 million dollars per year. The American Paper and Pulp Association estimates that the effect of the Code will be to increase the rate to approximately 170 million dollars per year. The estimate is based on the production of June and July, 1933, and on such data as is available concerning action already taken by many large employers to increase wage rates and reduce working hours under the President's Reemployment Agreement.

The Industry represents an investment of over one and one-half billion dollars. The ratio of fixed investment to the value of annual production is abnormally high. The value of the 1929 production was about equal to the investment in manufacturing facilities (exclusive of material resources). The value of the 1932 production was less than one-half of the investment. Due to these conditions, the overhead burden, always high, has increased to an abnormal figure. Prices have been depressed to a point which has not returned cost. A group of companies representing 35% of the production capacity of the Industry shows a loss of 19% of their total working capital in the year 1932. The increase costs which the Industry will have assumed through the adoption of this Code are as great as it can reasonably be expected to bear.

OTHER CODE PROVISIONS

The Code contains provisions requiring the Code Authority to make a survey of the Industry for the purpose of obtaining data as to the feasibility of adopting a shorter man-hour week and to submit a report of its findings to the Administrator, together with a plan for the stabilization of employment.

The General Code, together with the Subordinate Codes, provides not only a divisional set-up for the Industry, but also complete machinery for the administration of the General Code and the Divisional Codes in each Division. A General Code Authority, to consist of the members of the Executive Committee of the American Paper and Pulp Association, is the agency for the administration of the General Code, and in each Division there is created a subordinate Code Authority to be selected by the members of such Division for the administration of the Divisional Code.

Provision is made for establishing a uniform accounting and costing system for the entire Industry and for the open publication of prices and adherence thereto.

This Code covers the manufacture of all paper except newsprint. There is a continual controversy regarding the precise meaning of the words "standard newsprint" as used in the Tariff Act, and there has been some apprehension on the part of members of the Industry and others that the definitions in this Code and the Newsprint Code might have some bearing on this controversy. It is pointed out that the sole purpose of these definitions is to establish a definite boundary line between the jurisdictional areas of the two Codes and, that they have no bearing whatsoever on the question of dutiability of imported paper.

I am satisfied that this Code is a long step toward the goal set up by the National Industrial Recovery Act.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Paper and Pulp Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
PAPER AND PULP 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 Paper and Pulp Industry, and shall be binding on every member thereof.

ARTICLE I—DEFINITIONS

1. Where used in this Code and in all codes subordinate hereto, the following definitions shall apply:

“Industry”—The manufacture in the United States from pulp-wood, wood pulp, or other stock or pulp, of all paper (except such paper now in regular use in the making of daily newspapers as is specifically mentioned and described in Schedule “A” hereof), such paperboard as is listed in Schedule “B” attached, and pulp; provided, however, that if and when the provisions of this Code shall be extended to cover any products of converters of paper and paperboard, then the word “Industry” shall include the manufacture of same.

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

“Division”—A division or section of the industry recognized as such by this Code.

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

“Administration”—The National Industrial Recovery Administration.

“Administrator”—The National Industrial Recovery Administrator.

ARTICLE II—ORGANIZATION

1. The Executive Committee of the American Paper and Pulp Association is hereby designated as the Agency for administering the provisions of this Code and is hereby named and is hereinafter referred to as “The Paper Industry Authority.” The Administrator may designate three persons as additional advisory members thereof; the member or members so designated shall have no vote, but in all other respects shall be members of the said Paper Industry Authority.

2. The Industry is hereby divided into divisions as set forth in Schedule C hereto attached. Any question as to the division into which any particular grade, class, or kind of paper, paperboard, or pulp or any product of conversion of any of them may fall shall be determined by the Paper Industry Authority.

In the event that the jurisdiction of the Code shall be extended to cover the manufacture of products which do not fall within any such division, the Paper Industry Authority may create new divisions to include such products, and the members of such divisions may then adopt and submit divisional codes as provided in Article III hereof.

The Paper Industry Authority may create new divisions by the subdivision of any of such divisions or by the consolidation of any two or more of such divisions, provided, however, that no such subdivision or consolidation shall be made without the consent of the divisional association of each division affected thereby.

3. In each division there may be one divisional association to which every member of the industry engaged in the manufacture of any product included in such division shall be eligible for membership. Each such divisional association shall be eligible for membership in the American Paper and Pulp Association.

4. The expenses of administering this Code shall be apportioned among the various divisions in accordance with a formula to be adopted by the Paper Industry Authority. The expenses of administering the subordinate Code of each Division, together with the proportion of the expense of administering this Code, allocated to such Division, shall be borne pro rata in accordance with a formula to be adopted by the Executive Authority of such Division by all members of such Division who accept the benefits of the Paper Industry Authority and/or the Executive Authority of such division or otherwise assent to this Code. Divisional Associations shall be responsible for the payment of all Code-administration expense.

ARTICLE III—DIVISIONAL CODES

1. Each such divisional association may adopt a divisional code and may either submit the same as a supplement to this Code for the approval of the President of the United States or may submit the same subsequently through the Paper Industry Authority to the President for his approval. Such divisional codes, when so approved, shall have the same force and effect as to the divisions of the industry affected thereby as this Code.

2. Such divisional codes shall be subordinate to this Code and shall specifically recognize this Code as applicable to all members of the industry engaged in manufacturing products falling within the division for which such divisional code is submitted.

3. Pending action by the Paper Industry Authority each division shall include such grades, classes, and kinds of paper, paperboard, or pulp as are generally recognized by custom as falling within the classification indicated by the name of such division.

4. Each such divisional code shall designate an agency for the purpose of administering such divisional code, which shall be denominated "The Executive Authority" of such division.

5. Such divisional codes may contain such provisions relating to said division as may be appropriate for inclusion in a Code of Fair Competition under the Act, provided that no such code shall contain any provision contrary to or inconsistent with the provisions of this Code.

ARTICLE IV—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: Eight (8) hours in any one day and fifty-six (56) hours in any one week.

(b) Chauffeurs, truckmen, switching crews, engineers, firemen, and electric and hydroelectric operators, and filter-plant employees: One hundred sixty-eight (168) hours in any period of four consecutive weeks, but no more than ten (10) hours in any one day and forty-eight (48) hours in any one week.

(c) Tour workers in continuous process operations: Eight (8) hours in any one day and an average of forty (40) hours per week in any period of thirteen (13) consecutive weeks; provided, however, that additional hours may be worked—

(1) To avoid a shut-down due to the temporary absence of a relief worker;

(2) In changing wires and machine clothing; and

(3) In clean-ups, wash-ups, and ordinary repairs and adjustments in cases where a machine is shut down for a period of not less than eight consecutive hours.

(d) All other laborers, mechanical workers, or artisans employed in any plant, mill, or factory or on work connected with the operation of any such plant, mill, or factory: An average of not more than forty (40) hours per week in any period of thirteen (13) consecutive weeks, but not more than forty-eight (48) hours in any one week; provided, however, that time worked in excess of eight (8) hours in any one day shall be paid for at not less than time and one-third.

(e) Executives and their personal secretaries and other employees regularly engaged in a supervisory capacity, receiving thirty-five (\$35) dollars or more per week, and outside salesmen: No limitations.

(f) All other employees: An average of forty (40) hours per week in any calendar year and an average of not to exceed forty-eight (48) hours per week in any period of thirteen (13) consecutive weeks.

Provided, however, that no limitation on hours of work contained in said schedule shall apply to employees of any class when engaged in emergency repairs or emergency maintenance work involving breakdowns or protection of life and property.

2. At such intervals as the Paper Industry Authority shall prescribe, every member shall report to the Paper Industry Authority—

(a) The number of man-hours worked under subdivisions c (1), c (2), and c (3) of said schedule and the ratio which said man-hours bear to the total number of man-hours of labor under subdivisions c; and

(b) Shall furnish the Paper Industry Authority such information as it may require in order to enable it to determine whether the limitations contained in said schedule have been exceeded.

3. No employee shall be permitted to work for more than one member of the Industry an aggregate number of hours in excess of the number prescribed in said schedule.

ARTICLE V—WAGES

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

(a) Northern Zone, which shall consist of all the territory of the United States except the States named in subdivisions (b) and (c).

Male: Thirty-eight (38) cents per hour.

Female: Thirty-three (33) cents per hour.

(b) Central Zone, which shall consist of the States of Delaware, Maryland, Virginia, West Virginia, Kentucky, Tennessee, and North Carolina, and the District of Columbia.

Male: Thirty-five (35) cents per hour.

Female: Thirty (30) cents per hour.

(c) Southern Zone, which shall consist of the States of South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas.

Thirty (30) cents per hour.

Provided, however, that in case the rate per hour for any class of labor was, on July 15, 1929, less than the minimum rate above specified for the same class of labor, then the minimum rate for such class of labor shall be the rate paid on July 15, 1929, but in no event less than ninety percent of the rate above specified.

2. The Paper Industry Authority shall obtain statistical data concerning the effect of the above proviso on wage rates in the Industry, and shall within ninety (90) days after the effective date of this Code make a report thereon to the Administrator.

3. Where a State law provides a higher minimum wage than is provided in this Code, no person employed within such State shall be paid a wage below that required by such State law.

4. Pieceworkers shall be paid at rates which will yield a worker for an hour's work not less than the minimum rate prescribed.

5. The minimum rates of wages for all other employees except commission salesmen shall be as follows:

Not less than fifteen dollars (\$15) per week in any city of over 500,000 population, nor less than fourteen dollars and fifty cents (\$14.50) per week in any city between 250,000 and 500,000 population, nor less than fourteen dollars (\$14) per week in any city between 2,500 and 250,000 population, nor less than twelve dollars (\$12) per week in towns of less than 2,500 population.

6. The minimum wages hereby prescribed shall not in any way be considered as a discrimination by reason of sex, and where in any case women do substantially the same work or perform substantially the same duties under the same conditions as men they shall receive the same rate of wages as men receive for doing such work or performing such duties. The Paper Industry Authority shall prepare and file with the Administrator, ninety (90) days after the effective

date of this Code, a description of all occupations in the industry in which women are employed.

7. 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 ninety (90) days after the effective date hereof the Paper Industry Authority shall report to the Administrator the action taken by all members of the industry under this Section.

8. A person whose earning capacity is limited because of physical or mental defect, age, or other infirmity may be employed on light work at not less than eighty percent (80%) of the minimum wage prescribed in Section 1 hereof if the State Authority designated by the United States Department of Labor shall have issued a certificate authorizing the employment of such person on such basis, provided, however, that the total number of such employees in any one plant shall not exceed three (3) percent of the total employees in such plant. So much of this Section as requires the issuance of such a certificate shall not take effect until sixty (60) days after the effective date of this Code.

ARTICLE VI—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the industry nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Paper Industry Authority shall submit to the Administrator within sixty (60) days after the effective date of this Code a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

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. Labor agreements now in force between members and their employees shall be affected only by such provisions of this Code as may prescribe higher wages and shorter hours than are provided for in such agreements.

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

5. All employers shall post full copies of this Code in conspicuous places accessible to employees.

6. Standards for safety and health shall be submitted by the Paper Industry Authority to the Administrator within six (6) months after the effective date of this Code.

ARTICLE VII—ACCOUNTING—SELLING

1. The Paper Industry Authority shall, as soon as practicable, propose 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. Each member shall, on or before thirty (30) days after the effective date of this Code, file with the Executive Authority of his division, or divisions, complete schedules in such form as such Executive Authority shall prescribe of prices and terms and conditions of sale for domestic consumption (including all differentials, discounts, trade allowances, and special charges) of all products falling within the scope of the division offered for sale by such member, and shall so file all subsequent changes therein or revisions thereof at least twenty-four (24) hours prior to the effective date of any such changes or revisions. When any member shall file any such schedule of prices, or any revision thereof, any other member may also file a revision of its own schedules, and if such other member shall so desire and state therein the same shall be effective as of the same date as the schedule or revision thereof first in this sentence referred to. Each such schedule of prices shall conform to all trade practices and other provisions established in and by this Code or any pertinent subordinate code or any amendment or supplement to this Code or to such subordinate code. The Executive Authority shall send to the Paper Industry Authority and to each member of the division and to any others concerned requesting a copy thereof, a copy of such schedules and of all changes and revisions thereof so filed.

The Executive Authority of any division may, from time to time, with the approval of the Paper Industry Authority, change in respect to all or any of the products of such division the period of time which shall elapse between the date of filing and the effective date of any such schedule; provided, however, that such period shall not be less than twenty-four (24) hours or more than five (5) days; and provided further, that pending the holding of a meeting of the Paper Industry Authority the chairman thereof may grant an interim approval of such action. The Executive Authority shall give immediate notice of such change to the members of the division.

The subordinate code of any division may contain a provision limiting the time within which future deliveries may be contracted for at the prices scheduled at the time of the contract; and the Executive Authority of each division may require the filing in such manner as it shall prescribe of such data as it may require in respect of contracts for future deliveries existing at the effective date of this Code.

3. No such schedule of prices and terms and conditions of sale filed by any member, or in effect at any time in any quarter of any

calendar year, shall be such as to permit the sale of any product at less than the lower of the following:

(a) The cost of such product to such member during the last period of three consecutive months or three accounting periods of four weeks each, ending not less than thirty (30) days prior to the first date of such quarter, which cost shall be determined pursuant to the method of accounting and costing prescribed by the Paper Industry Authority under this Article as soon as that method is prescribed and theretofore pursuant to the method employed by such member subject to such preliminary rules as the Paper Industry Authority shall from time to time prescribe.

(b) The lowest price scheduled for such product under the provisions of this Article by any other member and then in effect.

Each schedule filed under this Article shall state whether the prices, terms, and conditions therein specified are justified under subdivision (a) or under subdivision (b) of this Section, and in the case of justification under subdivision (b) shall identify the schedule or schedules of the other member or members of the industry justifying such prices, terms, and conditions. A schedule justified upon the basis of the schedule or schedules of another member or members shall become void forthwith upon the cancellations or revisions upward of such justifying schedule or schedules.

In applying the provisions of this Section and of Sections 4 and 5 of this Article, all prices shall be calculated on a delivered basis, and the cost of delivery shall be considered a part of the cost of the product; provided, however, that in the case of each product the Executive Authority of the division in which such product falls may amplify, define, or modify this principle.

Notwithstanding the provisions of this Section, discontinued lines or damaged goods or seconds of any product may be disposed of in such manner and on such terms and conditions as the Executive Authority of the division into which such products fall may approve.

4. The Paper Industry Authority shall have power on its own initiative or on the complaint of any member to investigate any price for any product shown in any schedule filed hereunder by any member, and for the purpose of the investigation thereof to require such member to furnish such information concerning the cost of manufacturing such product as the Paper Industry Authority shall deem necessary or proper for such purpose. Pending such investigation the Administrator may suspend any such price. If the Paper Industry Authority after such investigation shall determine that such price violates the provisions hereof, or would tend to render ineffective or seriously to endanger the maintenance of this or any subordinate divisional code, the Paper Industry Authority shall so notify such member and the Executive Authority with which such price was filed, and thereupon such price shall become void and of no effect. A notice of all decisions of the Paper Industry Authority under this Section, together with the reasons therefor, shall be filed with the Administrator. All such decisions shall be subject to suspension, cancellation, or modification by the Administrator.

5. Except in fulfillment of bona fide contracts existing on the effective date of this Code, no member of the industry shall sell any products of the industry for domestic consumption at a price

or prices lower than or upon terms or conditions more favorable than stated in his price schedule filed as hereinbefore provided.

6. The Executive Authority of any division may, with the approval of the Paper Industry Authority, suspend for any period of time and from time to time all or any of the provisions of Sections 2, 3, 4, and 5 of this Article in respect of any or all of the products of such divisions; provided, however, that pending the holding of a meeting of the Paper Industry Authority the Chairman thereof may grant an interim approval of such action.

ARTICLE VIII—REPORTS—STATISTICS

1. Each member shall prepare and file with the Executive Secretary of the Paper Industry Authority, at such times and in such manner as it may prescribe, statistics of 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 such other data or information as the Paper Industry Authority or the Administrator may from time to time require. Any or all information so furnished by any member shall, upon the approval of the Administrator, be subject to checking for the purpose of verification by an examination of the books and accounts and records of such member by any disinterested accountant or accountants or other qualified person or persons designated by the Paper Industry 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 hereof 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 manner as to avoid the disclosure of confidential information. The Paper Industry Authority shall arrange in such manner as it may determine for the publication currently to members of each division of the divisional totals of orders received, unfilled orders, shipments, stocks of finished goods on hand, and production.

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

4. In addition to information required to be submitted to the Paper Industry 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 IX—GENERAL PROVISIONS

1. If any member is also a member of another industry, the provisions of this Code shall apply to and effect only that part of his business which is included in this industry, and if the products of any member fall in more than one division of the industry the provisions of any divisional code shall apply to and affect said member only as to products falling in such division.

2. In the event that the divisional associations or Executive Authorities of any two or more divisions shall be unable to agree on any matter or matters affecting such divisions, the Paper Industry Authority shall decide such matter, and its decision, when approved by the Administrator, shall be binding on all concerned.

3. The Executive Authority of any division may formulate a complaint to the President of the United States, pursuant to the provisions of Subdivision (e) of Section 3 of the Act, that any paper, paperboard, or pulp is being imported into the United States in substantial quantities or in increasing ratio to domestic production of any competitive paper, paperboard, or pulp, on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of this Code or of any divisional code subordinate hereto and deliver the same to the Paper Industry Authority, which shall transmit such complaint to the President.

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

5. The Paper Industry Authority may, on its own initiative, or upon application from any Executive Authority shall, 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 rules of Fair Trade Practice for the industry and the codification of its trade customs, and the enforcement thereof.

(b) For the establishment of a standard method for determining the current cost of any product of the industry, and for a requirement that no member shall sell any such product below such cost.

(c) For restrictions on the creation of new facilities for the manufacture of any product of the industry or on the acquisition by any member of new equipment for such manufacture, and on the shifting of equipment from the manufacture of one kind or type of such product to another kind or type thereof.

(d) For the establishment of terms and conditions regarding sales to dealers and distributors by members of the industry.

(e) For the establishment of plans to bring about a reasonable balance between the production and consumption of the products of the industry.

(f) For the establishment of rules relative to work on Sundays and holidays and to a weekly day of rest and to overtime work generally and rates of wages therefor.

Such recommendations, when approved by the Administrator, shall have the same force and effect as other provisions of this Code.

6. 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 the industry.

7. In order to maintain at all times an adequate domestic supply of raw material for the use of the industry, it is the declared purpose of the industry to conserve forest resources and bring about the

sustained production thereof. The Paper Industry Authority and the executive authorities of the respective divisions shall cooperate with the Secretary of Agriculture and other National and State officials and agencies and with the code authorities of other industries in planning such practical measures as may be necessary to accomplish such declared purpose; and shall, upon the request of the Secretary of Agriculture, join with the Lumber and Timber Products Industries in any conference which may be held pursuant to the provisions of Article X of the Code of Fair Competition of Lumber and Timber Products Industries approved by the President on August 19, 1933.

8. The Paper Industry Authority shall make a study of conditions in the industry to determine the feasibility of the adoption of a shorter working day and shall, within three (3) months after the effective date of this Code, make a report of its findings to the Administrator. The Paper Industry 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. Such of the provisions of this Code or of any divisional code as are not required to be included therein by the Act may, with the approval of the President of the United States, be modified or eliminated as changes in circumstances or experience may indicate.

10. This Code and each divisional code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Clause 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 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.

11. 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.

SCHEDULE A

Paper, the manufacture of which is excluded from the industry:

(a) The product referred to as "standard newsprint paper" in paragraph 1672 of the Tariff Act of 1922 and in paragraph 1772 of the Tariff Act of 1930.

(b) All other papers, except rotogravure paper, when, but only when and only to the extent that, such other papers are manufactured and sold for regular use in the making of daily newspapers.

SCHEDULE B

Binders Board and all other Wet Machine Boards.

Bristol Boards.

Cardboard and Mill Blanks, coated or surface-treated subsequent to initial manufacture.

Lightweight Chip Boards, Bogus Wrapping, Sheathing Paper, Indented, Ham Wrapping.

Sulphate Boards and Sulphate Corrugating Materials.

Specialty Folding and Specialty Non-Folding Boards, including all boards made from prime or fresh wood pulp, jute stock, and rope stock.

SCHEDULE C

Binders Board Division

Blotting Paper Division

Book Paper Division

Bristol Board Division

Cardboard Division

Cellulose Wadding Division

Cover Paper Division

Fibreboard Division

Glassine and Greaseproof Paper Division

Groundwood Paper Division

Kraft Paper Division

Leatherboard Division

Bogus Wrapping and Packing Division

Paper Shipping Sack Division

Pulp Producers Division

Soda Pulp Division

Specialty Paper and Board Division

Sulphate Pulp and Board Division

Sulphite Paper Division

Tissue Paper Division

Vegetable Parchment Division

Writing Paper Division

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SUBORDINATE CODE OF FAIR COMPETITION FOR THE BINDERS BOARD DIVISION OF THE PAPER AND PULP INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following is hereby established as the Subordinate Code of Fair Competition of the Binders Board Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—the general code of the Paper and Pulp Industry.

“This Division”—the Binders Board Division of such industry as defined in Section 2 of Article II of the General Code.

“Executive Authority”—the body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the “Executive Authority of the Binders Board Division of the Paper Industry”, which shall consist of the Executive Committee of the Binders Board Manufacturers’ Association and of one or more members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The members of the Paper Industry Authority so designated shall have no vote.

2. The Executive Authority is charged generally with the administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE BLOTTING PAPER DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Blotting Paper Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—The General Code of the Paper and Pulp Industry.

“This Division”—The Blotting Paper Division of such industry as defined in Section 2 of Article II of the General Code.

“Executive Authority”—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Blotting Paper Division of the paper industry, which shall consist of the Executive Committee and one or more members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The one or more members so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE BOGUS WRAPPING AND PACKING DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Bogus Wrapping and Packing Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—The general code of the Paper and Pulp Industry.

“This Division”—The Bogus Wrapping and Packing Division of such industry as defined in Section II of Article II of the General Code.

“Executive Authority”—The body created by Section I of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the “Executive Authority of the Bogus Wrapping and Packing Division of the Paper Industry”, which shall consist of the Executive Committee of the Bogus Wrapping and Packing Association and of one to three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The person or persons so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE BOOK PAPER DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Book Paper Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—The general code of the Paper and Pulp Industry.

“This Division”—The Book Paper Division of such industry, consisting of the manufacturers of the products of such division as determined under Section 2 of Article II of the General Code.

“Executive Authority”—The body created by Section I of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Book Paper Division of the Paper Industry which shall consist of the Executive Committee of the Book Paper Manufacturers' Association and of such members of the Paper Industry Authority as may be designated by the Administrator pursuant to Section I of Article II of the General Code. The members so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such

additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—PRODUCTION

The Executive Authority shall, with a view to effectuating the policy of the Act, make studies and in its discretion formulate plans with a view to equalizing production in the Division with demand for its products, and, through the Paper Industry Authority, may from time to time make recommendations in relation thereto and may propose agreements or amendments to this Code designed to carry such recommendations into effect.

ARTICLE VI—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE BRISTOL BOARD DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Bristol Board Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—The general code of the Paper and Pulp Industry.

“This Division”—The Bristol Board Division of such industry as defined in Section 2 of Article II of the General Code.

“Executive Authority”—The body created by Section I, of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Bristol Board Division of the Paper Industry which shall consist of the Executive Committee and of three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The three members so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE CARDBOARD MANUFACTURERS' DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Cardboard Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—The general code of the Paper and Pulp Industry.

“This Division”—The Cardboard Division of such industry as defined in Section 2 of Article II of the General Code.

“Executive Authority”—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Section 4 of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Cardboard Division of the Paper Industry which shall consist of the Code Committee and of the three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The three members so designated shall have no vote.

2. The Executive Authority is charged generally with the administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish

such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and, after approval by the Division, may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Association to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE CELLULOSE WADDING DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the subordinate Code of Fair Competition for the Cellulose Wadding Division of the paper and pulp industry:

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of the paper and pulp industry.

This Division.—Cellulose Wadding Division of such industry consisting of the manufacturers of the product defined in Article VI hereof.

Executive Authority.—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this division and on all members of the Industry included within this division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Cellulose Wadding Division of the Paper Industry which shall consist of the Executive Committee of the Cellulose Wadding Manufacturers' Association and such members of the Paper Industry Authority as may be designated by the Administrator, pursuant to Section 1 of Article II of the General Code. The members so designated shall have no vote.

2. The Executive Authority is charged generally with the administration of this Code and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and in obtaining from members within this division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish

such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may, from time to time, submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—PRODUCTION

With a view to effectuating the policy of the Act, the Executive Authority shall make studies and, in its discretion, formulate plans with a view to equalizing production in the Division with demand for its products; and through the Paper Industry Authority may from time to time make recommendations in relation thereto and may propose agreements or amendments to this Code designed to carry such recommendations into effect.

ARTICLE VI—APPLICATION OF CODE

This Code shall cover all Cellulose Wadding regardless of its form or ultimate use. Cellulose Wadding shall be deemed to mean the basic paper product chiefly used in the manufacture of sanitary napkins and cleansing tissues, but also used for many other purposes.

ARTICLE VII—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE COVER PAPER MANUFACTURERS' ASSOCIATION DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Cover Paper Manufacturers' Association Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

“General Code”—the general code of the Paper and Pulp Industry.

“This Division”—The Cover Paper Manufacturers' Association Division of such industry as defined in Section 2 of Article II of the General Code.

“Executive Authority”—the body created by Section 4, of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the general Code.

2. The General Code is hereby recognized as binding in this Division and all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body, to be known as the Executive Authority of the Cover Paper Division of the Paper Industry, which shall consist of the Executive Committee and Industrial Control Committee of the Cover Paper Manufacturers' Association and of three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The member so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information to the Secretary as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—EFFECTIVE DATE

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.

ARTICLE VI—APPLICATION

This code in all its provisions shall inure to the benefit of and be binding upon all producers of cover paper.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE FIBRE BOARD DIVISION OF THE PAPER AND PULP INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act the following is hereby established as the Subordinate Code of Fair Competition of the Fibre Board Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

The words used herein are hereby defined as follows:

General Code.—The General Code of the Paper and Pulp Industry.

This Division.—The Fibre Board Division of such industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section 1, Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding on this division and all members of the industry included in this division.

3. In the event that any provision of this code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the "Executive Authority" of the Fibre Board Division of the paper industry, which shall consist of the Executive Committee of the Fibre Board Manufacturers' Association, together with such person or persons as may be designated by the Administrator pursuant to Section 1 of Article II of the General Code. The person or persons so designated by the Administrator shall have no vote.

2. The Executive Authority is charged generally with administration of this code and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the paper industry authority in administering the General Code and shall obtain from members within this division such reports, statistics, and other data as the paper industry authority may require.

4. The Executive 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 paper industry authority.

5. The Executive Authority may formulate such plans as they may determine to equalize production and demand in this division and may from time to time present the same to the Administrator through the paper industry authority for approval, and the same, when approved, shall have the same force and effect as if incorporated in this code.

6. Subject to the same restrictions and safeguards as provided in Article VIII of the General Code, members shall furnish such information and statistics as may, from time to time, be required by the Executive Authority.

ARTICLE IV

The Executive Authority shall formulate the recognized trade customs and fair trade practices of this division and may from time to time submit any such trade customs or fair trade practices through the paper industry to the administrator for approval and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V

The provisions of this code may, with the approval of the administrator, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this code to prevent unfair competition in price and other unfair and destructive competitive prices and to effectuate the other provisions and policies of the Act will be submitted for the approval of the President.

ARTICLE VI

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE GLASSINE AND GREASEPROOF DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition for the Glassine and Greaseproof Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of the Paper and Pulp Industry.

This Division.—The Glassine and Greaseproof Division of such Industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section 1, of Article III hereof.

Secretary.—The Secretary of the Glassine and Greaseproof Manufacturers' Association.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as "The Executive Authority" of the Glassine and Greaseproof Division of the Paper Industry which shall consist of the Executive Committee of the Glassine and Greaseproof Manufacturers' Association and of one to three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The members of the Paper Industry Authority so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information to the Secretary as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

ARTICLE VI—APPLICATION

This Code in all of its provisions shall inure to the benefit of and be binding upon all producers of Glassine and Greaseproof.

ARTICLE VII—GRADES

This Code shall cover all grades of Glassine and Greaseproof.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE GROUND WOOD PAPER DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Ground Wood Paper Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of Fair Competition for the Paper and Pulp Industry.

This Division.—The Ground Wood Paper Division of such industry as defined in Section 2, Article II, of the General Code.

Executive Authority.—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Ground Wood Paper Division of the Paper Industry which shall consist of the Board of Governors of the Ground Wood Paper Association together with such person or persons as may be designated by the Administrator pursuant to Section 1, Article II of the General Code. The person or persons so designated by the Administrator shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to the same restrictions and safeguards as provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—FAIR TRADE PRACTICES AND TRADE CUSTOMS

1. *Trade Practice Rules.*—The Executive Authority shall from time to time submit Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

2. *Trade Customs.*—The Executive Authority shall formulate the recognized Trade Customs of this Division, and may from time to time submit any such Trade Customs through the Paper Industry Authority to the Administrator for approval and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE KRAFT PAPER DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Kraft Paper Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The general code of the Paper and Pulp Industry.

This Division.—The Kraft Paper Division of such industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Kraft Paper Division of the Paper Industry which shall consist of the Executive Committee of the Kraft Paper Association, and such advisory member or members of the Paper Industry Authority as may be designated by the Administrator, pursuant to Section 2 of Article II of the General Code. The person or persons so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—AMENDMENTS

Such of the provisions of this code as are not required to be included therein by the Act, may, with the approval of the President of the United States, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this code to prevent unfair competition in price and other unfair and destructive competitive practices, and to effectuate the other purposes and policies of the Act, will be submitted for the approval of the President.

ARTICLE VI—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE LEATHERBOARD DIVISION OF THE PAPER AND PULP INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following is hereby established as the Subordinate Code of Fair Competition of the Leatherboard Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

The words used herein are hereby defined as follows:

“General Code”—the general code of the Paper and Pulp Industry.

“This division”—the Leatherboard Division of such industry as defined in Section 2 of Article II of the General Code.

“Executive Authority”—the body created by Section 1, Article III, hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding on this division and all members of the industry included in this division.

3. In the event that any provision of this code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the “Executive Authority” of the Leatherboard Division of the paper industry, which shall consist of the Executive Committee of the Eastern Leatherboard Conference, together with such person or persons as may be designated by the Administrator pursuant to Section 1 of Article II of the general code. The person or persons so designated by the Administrator shall have no vote.

2. The Executive Authority is charged generally with administration of this code and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the paper industry authority in administering the General Code and shall obtain from members within this division such reports, statistics, and other data as the paper industry authority may require.

4. The Executive Authority shall have power to investigate alleged violations of this code and acts or courses of conduct by any mem-

ber 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 paper industry authority.

5. The Executive Authority may formulate such plans as they may determine to equalize production and demand in this division and may from time to time present the same to the Administrator through the paper industry authority for approval, and the same, when approved, shall have the same force and effect as if incorporated in this code.

6. Subject to the same restrictions and safeguards as provided in Article VIII of the General Code, members shall furnish such information and statistics as may from time to time be required by the Executive Authority.

ARTICLE IV

The Executive Authority shall formulate the recognized trade customs and fair trade practices of this division and may from time to time submit any such trade customs or fair trade practices through the paper industry to the administrator for approval and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V

The provisions of this code may with the approval of the administrator be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this code to prevent unfair competition in price and other unfair and destructive competitive prices and to effectuate the other provisions and policies of the Act will be submitted for the approval of the President.

ARTICLE VI

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE PAPER SHIPPING SACK MANUFACTURERS' DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Paper Shipping Sack Manufacturers' Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of the Paper and Pulp Industry.

This Division.—The Paper Shipping Sack Manufacturers' Division of the Paper and Pulp Industry, comprising the manufacture from paper of the following classes of sacks:

1. All Paper Valve Sacks;
2. All sewn open-mouth paper sacks;
3. All pasted open-mouth sacks constructed of coated rope and/or kraft paper, or of solid white kraft paper;
4. All pasted open-mouth sacks constructed of rope or combination rope and/or jute and kraft paper;
5. All pasted open-mouth paper sacks constructed of three or more walls and having a sack surface area of more than 850 square inches;
6. All pasted open-mouth sacks, constructed of one or two walls and being made of kraft paper and having a sack surface area of more than 850 square inches, for packaging mill feed, flour, gypsum, lime, plaster, cement, and all other rock products, fertilizer, pigments, dry colors, clay, talc, chemical products, sand, metallic ores, graphite, slag, rosin size, sulphur, and salt.

"Executive Authority"—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Paper Shipping Sack Manufacturers Division of

the Paper Industry which shall consist of the Board of Governors of the Paper Shipping Sack Manufacturers' Association and of one or more members designated by the Administrator pursuant to Section 1 of Article II of the General Code. The members so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and, when approved the Division, may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE PULP DIVISION OF THE PAPER AND PULP INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following is hereby established as the Subordinate Code of Fair Competition of the Pulp Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

The definitions contained in Article I of the General Code apply to this Code also, with the following additions:

General Code.—The General Code of Fair Competition for the Paper and Pulp Industry.

This Division.—The Pulp Division of such industry as defined in Section 1 of Article II of the General Code, comprising all producers of pulp in the United States.

Subdivision.—A section of this Division as provided for by Section 2 of Article II of this Code.

Pulp Executive Authority.—The agency charged with responsibility for the administration of this Code as created by Section 1 of Article II hereof.

ARTICLE II—ORGANIZATION

1. The Executive Committee of the United States Pulp Producers' Association is hereby designated as the Agency for administering the provisions of this Code, and is hereby named and is hereinafter referred to as The Pulp Executive Authority. The Administrator may designate one or more persons as additional advisory members thereof.

2. The Pulp Division of the Industry is one of the Divisions recognized by the General Code. Subdivisions of the Pulp Division may be set up to facilitate the administration of this Code.

3. Every Member of the Industry manufacturing pulp either for his own use or for sale is eligible to membership in this Division.

ARTICLE III—SUBORDINATION

1. The General Code is hereby recognized as binding in this Division and on all members of the Industry included in this Division.

2. This Code has been adopted by the United States Pulp Producers' Association.

3. This Code is subordinate to the General Code, and in all of its provisions shall inure to the benefit of and be binding upon all producers of pulp.

4. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE IV—ADMINISTRATION

1. The Pulp Executive Authority is charged generally with the administration of this Code and shall have such other powers and duties as are prescribed herein or in the General Code.

2. Any and all disputes arising under the operation of this Code and/or any questions of interpretation thereof shall be referred to the Pulp Executive Authority whose decision shall be final and binding upon all parties involved.

ARTICLE V—ACCOUNTING—SELLING

1. The Pulp Executive Authority shall advise and cooperate with the Paper Industry Authority in carrying out the provisions of Article VII of the General Code.

2. The Pulp Executive Authority shall formulate Trade Customs and recognized Fair Trade Practices for this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE VI—STATISTICS

1. The Pulp Executive Authority shall cooperate with and assist the Paper Industry Authority and/or the Administrator in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority and/or the Administrator may require.

2. Subject to the restrictions and safeguards as provided in Article VIII of the General Code, all producers of pulp shall furnish promptly and completely such information and data as may be required by the Pulp Executive Authority.

ARTICLE VII—CONTROL OF IMPORTS

1. The Pulp Executive Authority shall make a continuing study of the relationship between the productive capacity of the pulp mills in the United States and the demand of the domestic market, and if it shall at any time appear that pulp is being imported into the United States in such quantities or at such prices as to cause curtailment of production in the United States so that employment is reduced and the effectuation of the purposes of the National Industrial Recovery Act interfered with, the Pulp Executive Authority shall formulate a complaint and recommendations to the President of the United States pursuant to the provisions of subdivision (e) of Section 3 of the Act, and shall deliver the same to the Paper Industry Authority for transmittal to the President.

ARTICLE VIII—AMENDMENTS

Such of the provisions of this Code as are not required to be included therein by the Act, may, with the approval of the President of the United States, be modified or eliminated as changes in cir-

cumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code to prevent unfair competition in price and other unfair and destructive competitive practices, and to effectuate the other purposes and policies of the Act, will be submitted for the approval of the President.

ARTICLE IX—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE SODA PULP DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the subordinate Code of Fair Competition for the Soda Pulp Division of the paper and pulp industry:

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of the Paper and Pulp Industry.

This Division.—Soda Pulp Division of such Industry as defined in Article VI hereof.

Executive Authority.—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this division and on all members of the Industry included within this division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Soda Pulp Division of the Paper Industry which shall consist of the Executive Committee of the Soda Pulp Manufacturers' Association and of such members of the Paper Industry Authority as may be designated by the Administrator, pursuant to Section 1 of Article II of the General Code. The members so designated shall have no vote.

2. The Executive Authority is charged generally with the administration of this Code and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and in obtaining from members within this division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as is incorporated in this Code.

ARTICLE V—PRODUCTION

With a view to effectuating the policy of the Act, the Executive Authority shall make studies and in its discretion formulate plans with a view to equalizing production in the Division with demand for its product; and thru the Paper Industry Authority may from time to time make recommendations in relation thereto and may propose agreements or amendments to this Code designed to carry such recommendations into effect.

ARTICLE VI—APPLICATION OF CODE

This Code shall cover all wood pulp made by the so-called caustic soda process.

ARTICLE VII—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE SPECIALTY PAPER AND BOARD AFFILIATES DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Specialty Paper and Board Affiliates Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The general code of the Paper and Pulp Industry.

This Division.—The Specialty Paper and Board Affiliates Division of such industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section I of Article III hereof. A subordinate group elected by the members of this Association.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Specialty Paper and Board Affiliates Division of the Paper Industry which shall consist of the Executive Committee of the Specialty Paper and Board Affiliates and the three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The three members so designated shall have no vote.

2. The Executive Authority is charged generally with the administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information to the Secretary of the Specialty Paper and Board Affiliates as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division after adoption by the members thereof, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

ARTICLE VI

This Code shall inure to the benefit of and be binding upon all producers of the grades now represented in this Association, and such other affiliates and grades as will from time to time be added by the Paper Industry Authority or this Association.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE SULPHATE PULP AND BOARD DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Sulphate Pulp and Board Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The general code of the Paper and Pulp Industry.

This Division.—The Sulphate Pulp and Board Division of such industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Sulphate Pulp and Board Division of the Paper Industry which shall consist of the Executive Committee of the American Sulphate Pulp and Board Association, and such advisory member or members of the Paper Industry Authority as may be designated by the Administrator, pursuant to Section 2 of Article II of the General Code. The person or persons so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in Administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

ARTICLE V—AMENDMENTS

Such of the provisions of this code as are not required to be included therein by the Act, may, with the approval of the President of the United States, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this code to prevent unfair competition in price and other unfair and destructive competitive practices, and to effectuate the other purposes and policies of the Act, will be submitted for the approval of the President.

ARTICLE VI—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE SULPHITE PAPER DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition for the Sulphite Paper Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of the Paper and Pulp Industry.

This Division.—The Sulphite Paper Division of such industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section 1, of Article III hereof.

Secretary.—The Secretary of the Sulphite Paper Manufacturers' Association.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as "The Executive Authority" of the Sulphite Paper Division of the Paper Industry which shall consist of the Board of Governors of, or any special Committee appointed for the purpose by, the Sulphite Paper Manufacturers' Association and of one to three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The members of the Paper Industry Authority so designated shall have no vote.

2. The Executive Authority shall be charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information to the Secretary as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division and may from time to time submit any such Trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this Code.

ARTICLE V—EFFECTIVE DATE

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.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE MANUFACTURERS AND CONVERTERS OF TISSUE DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Manufacturers and Converters of Tissue Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The General Code of Fair Competition for the Paper and Pulp Industry.

This Division.—The Manufacturers and Converters of Tissue Division of such industry comprising the manufacture and converting in the United States of tissue paper and allied products as specifically mentioned in Schedule A hereof.

Subdivision.—A division or section of this division specifically mentioned in Schedule A hereof, recognized as such by this Code.

Executive Authority.—The body created by Section 1 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this Code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and on all members of the industry engaged in manufacturing products falling within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Manufacturers and Converters of Tissue Division of the Paper Industry, which shall consist of the Executive Committee of this Division together with such person or persons as may be designated by the Administrator pursuant to Section I, Article II of the General Code. The person or persons so designated by the Administrator shall have no vote.

2. The Executive Authority is charged generally with administration of this Code and shall have such other powers and duties as are prescribed herein, or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code and

in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. The Executive Authority shall have power to investigate alleged violation of this Code and acts or courses of conduct by any member or subdivisional association 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 Paper Industry Authority.

5. The Executive Authority may formulate such plans as they may determine to equalize production and demand in this Division, or any Subdivision, and may from time to time present the same to the Administrator through the Paper Industry Authority for approval, and the same, when approved, shall have the same force and effect as if incorporated in this Code.

6. Subject to the same restrictions and safeguards as provided in Article VIII of the General Code, members shall furnish such information and statistics as may, from time to time, be required by the Executive Authority.

ARTICLE IV—FAIR TRADE PRACTICES AND TRADE CUSTOMS

1. The Executive Authority shall confer with the members of the industry, the consumers of its product, in respect to the stabilization of the industry and the elimination of unfair competitive practices and shall formulate the recognized fair trade practices and trade customs of this Division and shall, from time to time, submit fair trade practices and any such trade customs through the Paper Industry Authority to the Administrator for approval, and the same, when approved, shall have the same force and effect as if incorporated in this Code.

ARTICLE V—SUBDIVISIONAL ASSOCIATIONS

1. The subdivisions listed in Schedule A may, if they so desire, create subdivisional associations, which associations, however, are included in and subject to the provisions of the Code of this Division.

2. In the event that subdivisions or subdivisional associations of any two (2) or more subdivisions shall be unable to agree on any matter or matters affecting such subdivisions, the Executive Authority shall decide such matters and its decision, when approved by the Administrator, shall be binding on all concerned.

ARTICLE VI—EFFECTIVE DATE

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.

SCHEDULE A

1. The manufacture and converting of interfolded toilet paper.
2. The manufacture and converting of roll toilet paper.
3. The manufacture and converting of folded, interfolded and roll towels.
4. The manufacture and converting of paper napkins.
5. The manufacture and converting of creped tissue.
6. The manufacture and converting of fruit and vegetable wrapping paper, exclusive of waxed papers.
7. The manufacture and converting of wrapping tissues and tissue specialties (including waxed papers) including all tissue paper and light weight papers up to and including 17# basis—24 x 36—480 count, with the following exceptions:
 - (a) Facial Tissue.
 - (b) Cellulose Wadding.
8. The manufacture of jumbo rolls for sale to converters (including waxing tissue) of all papers listed in items 1 to 7 above.

SUBORDINATE CODE OF FAIR COMPETITION FOR THE WRITING PAPER MANUFACTURERS' ASSOCIATION DIVISION OF THE PAPER AND PULP INDUSTRY

The following is hereby established as the Subordinate Code of Fair Competition of the Writing Paper Manufacturers Association Division of the Paper and Pulp Industry.

ARTICLE I—DEFINITIONS

Words used herein are hereby defined as follows:

General Code.—The general code of the Paper and Pulp Industry.

This Division.—The Writing Paper Manufacturers Association Division of such industry as defined in Section 2 of Article II of the General Code.

Executive Authority.—The body created by Section 4 of Article III hereof.

The definitions contained in Article I of the General Code apply also to this code.

ARTICLE II—SUBORDINATION

1. This Code is subordinate to the General Code and is submitted pursuant to the provisions of Article III of the General Code.

2. The General Code is hereby recognized as binding in this Division and all members of the industry included within this Division.

3. In the event that any provision of this Code shall be found to be inconsistent with the provisions of the General Code, the provisions of the General Code shall prevail.

ARTICLE III—ADMINISTRATION

1. There is hereby created a body to be known as the Executive Authority of the Writing Paper Division of the Paper Industry which shall consist of the Executive Committee and Industrial Control Committee of the Writing Paper Manufacturers' Association, and of three members of the Paper Industry Authority designated by the Administrator pursuant to Section 1 of Article II of the General Code. The members so designated shall have no vote.

2. The Executive Authority is charged generally with the Administration of this Code, and shall have such other powers and duties as are prescribed herein or in the General Code.

3. The Executive Authority shall cooperate with and assist the Paper Industry Authority in administering the General Code, and in obtaining from members within this Division such reports, statistics, and other data as the Paper Industry Authority may require.

4. Subject to restrictions and safeguards similar to those provided in Article VIII of the General Code, members shall furnish such additional information to the Secretary as may from time to time be required by the Executive Authority.

ARTICLE IV—TRADE CUSTOMS

The Executive Authority shall formulate the recognized Trade Customs and Fair Trade Practices of this Division, and may from time to time submit any such trade Customs or Fair Trade Practices through the Paper Industry Authority to the Administrator for approval, and the same when approved shall have the same force and effect as if incorporated in this code.

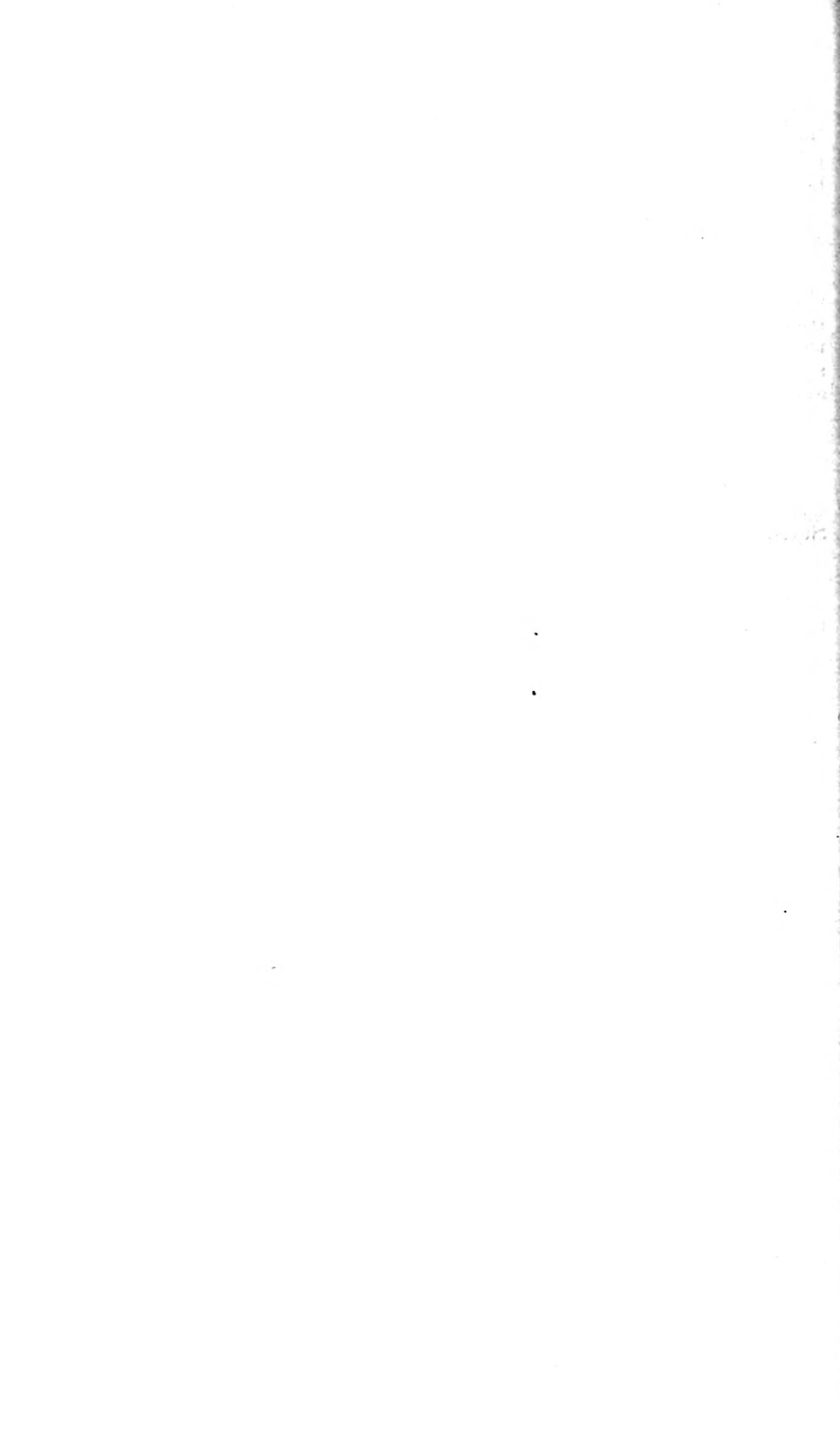
ARTICLE V—EFFECTIVE DATE

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.

ARTICLE VI—APPLICATION

This code in all of its provisions shall inure to the benefit of and be binding upon all producers of writing paper.

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CODE OF FAIR COMPETITION

FOR THE

HOTEL INDUSTRY

As Approved on November 17, 1933

BY

PRESIDENT ROOSEVELT

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 Hotel 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 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, excepting, however, subsection (d) of section 1 of article IV be, and it is hereby, approved, subject to the following conditions:

(1) That the aforesaid subsection (d) of section 1 of article IV be, and it is hereby, eliminated:

(2) That within 90 days from the effective date of this code, the Administrator shall hold such further hearing upon such notice as he, in his discretion, shall fix for the purpose of determining the adequacy of the minimum wages established in this code, after which his report and recommendation shall be submitted to me for my further order, and

(3) That such further order by me shall constitute a modification of, and shall have the effect of a further condition of, my approval of this code.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 17, 1933.

NOVEMBER 3, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the Hearing on the Code of Fair Competition for the Hotel Industry, conducted in accordance with the provisions of the National Industrial Recovery Act. The hearings were held in the Caucus Room of the new House Office Building, September 25, and in the large Ballroom of the Hotel Mayflower on September 26, 1933. The Code was presented by the American Hotel Association, which association is a confederation of some 40 local state hotel associations with about 4,300 members, and is said to represent more than 50 per cent of the industry by number of rooms, and more than 75 per cent of the industry by volume of business.

THE INDUSTRY

It is estimated that the industry comprises about 20,000 hotels, and that between 340,000 and 350,000 persons were employed in the hotel industry in September, 1933, as compared to about 290,000 in 1929. The increase of approximately 50,000 employees is due, to a considerable extent, to the completion for occupancy of a number of large hotels since 1929.

PROVISIONS OF THE CODE

The work hours may not be entirely satisfactory from a purely social standpoint, but they represent a substantial reduction from the hours which prevailed in the hotel industry.

The code provides for minimum wages for all employees, and will result in a very considerable increase in amounts paid to employees. The code further provides for review by the Administrator not later than June 1, 1934, to ascertain whether the provisions thereof have effectuated or will effectuate the policy and purposes of the National Industrial Recovery Act.

The code contains an interpretation of Section 7(a) of the National Industrial Recovery Act. I have consented to its submission to you only for the reason that its elimination by any other method would necessitate delaying the approval of this code until a national convention of the American Hotel Association might be held. I have not approved this interpretation, and recommend that you approve the code on condition that it be eliminated.

FINDINGS

I find that: (a) The code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein, and is truly representative of the Hotel Industry; and that

(c) The provisions of the code as recommended are 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.

It is recommended, therefore, that this code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
HOTEL INDUSTRY

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 Hotel Industry.

ARTICLE I—APPLICATION OF CODE

SECTION 1. *Application of Code.*—The provisions of this Code, and such other provisions as may subsequently be approved and annexed hereto, and except as specifically provided hereinafter, shall apply to each member of the Hotel Industry as hereinafter defined in Article II.

ARTICLE II—DEFINITIONS

SECTION 1. *Hotel Industry.*—The term “hotel industry” as used herein shall mean the business of operating a hotel as hereinafter defined in Section 2.

SECTION 2. *Hotel.*—The term “hotel” as used herein shall include any establishment operated for profit, which

- (a) Extends lodging to the general public;
- (b) Has at least ten (10) guest rooms, available for such lodgings in one building;
- (c) Charges not less than \$0.50 per day per person in return for transient lodging.

(d) Is equipped to provide lodging in at least twenty-five (25) percent of its rooms without prior understanding or agreement as to duration of any guest's stay.

SEC. 3. *Guest.*—The term “guest” as used herein shall mean any person duly registered in a hotel for lodging.

SEC. 4. *Guest Room.*—The term “guest room” as used herein shall mean any room offered for lodging to any duly registered guest.

SEC. 5. *Employee.*—The term “employee” as used herein shall mean any person employed by any member of the Hotel Industry.

SEC. 6. *Employer.*—The term “employer” as used herein shall mean anyone by whom any such employee is compensated or employed.

SEC. 7. *Definition of Personnel.*—

(a) ***Executive.***—The term “executive” as used herein shall mean an employee responsible for the management of a business or a recognized subdivision thereof.

(b) ***Clerical Employee.***—The term “clerical employee” as used herein shall mean any employee engaged in office work, such as desk clerks, cashiers, accountants, bookkeepers, and similar occupations.

(c) ***Service Employee.***—The term “service employee” as used herein shall mean an employee whose duties consist chiefly in rendering direct services to guests, and who is compensated therefor in part by such guests.

(d) *Operation Employee*.—The term “operation employee” as used herein shall mean all those employees not specifically otherwise defined herein.

(e) *Watchmen and Guards*.—The term “watchmen and guards” as used herein shall mean employees engaged primarily in watching and safeguarding the premises and property of the hotel.

(f) *Hotel Detective*.—The term “hotel detective” as used herein shall mean an employee engaged exclusively in detective or protective work.

(g) *Maintenance Employee*.—The term “maintenance employee” as used herein shall mean an employee essential to the upkeep or preservation of the premises and property of a hotel.

(h) *Part-time Employee*.—The term “part-time employee” as used herein shall mean an employee who works for less than the maximum work week prescribed herein.

(i) *Night Auditor*.—The term “night auditor” as used herein shall mean any night employee whose duties consist primarily in the tabulation and verification of the daily business of the hotel.

SEC. 8. *South*.—The term “South” as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico, Texas, and the District of Columbia.

SEC. 9. *Population*.—Population shall be determined by reference to the Fifteenth Census of the United States (U.S. Department of Commerce, Bureau of the Census, 1930).

ARTICLE III—EFFECTIVE DATE

The effective date of this Code shall be the second Monday after its approval by the President of the United States.

ARTICLE IV—GENERAL LABOR PROVISIONS

SECTION 1. *Collective Bargaining*.—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) 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.

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

¹(d) Hotels are and shall be open to capable workers, without regard to their membership or nonmembership in any labor organization, and the right of a hotel to employ or discharge any employee

¹ This section deleted by Executive order.

on the basis of individual merit and subject to the fluctuating conditions of the business shall not be limited or abridged.

SEC. 2. *Child Labor.*—On and after the effective date of this Code, no person under the age of sixteen (16) years shall be employed.

Where a State law prescribes a higher minimum age, this code shall not relieve any employer within such state from complying with such State laws.

ARTICLE V—HOURS OF LABOR

SECTION 1. *Basic Working Hours.*—On and after the effective date of this Code no hotel employee, not specifically exempted hereinafter, shall work more than fifty-four (54) hours per week, nor more than ten (10) hours per day, nor more than six (6) days in any one week.

No employer shall knowingly engage any employee for any time, which when totaled with that already performed with another employer, or employers, in the industry, exceeds the maximum prescribed herein.

SEC. 2. *Schedule of hours to be posted.*—On or within one week after the effective date of this Code, every hotel establishment shall post and maintain in a conspicuous place the maximum working hours for its employees.

SEC. 3. *Exceptions to maximum hours of labor.*—

(a) *Watchmen, guards and hotel detectives.*—The maximum hours of work prescribed in Section 1 of this Article shall not apply to watchmen, guards and hotel detectives.

(b) *Maintenance Employees.*—The maximum hours specified in Section 1 of this Article shall not apply to maintenance employees, provided, however, that such employees shall be paid at the rate of time and one-third for all hours worked in excess of fifty-four (54) hours in any one week.

(c) *Night Auditors.*—The maximum hours of work prescribed in Section 1 of this Article shall not apply to night auditors, provided, however, that such employees shall not be permitted to work in excess of six (6) hours in excess of the maximum hours per week prescribed in that section, and provided further that the number of hours worked by night auditors in any hotel establishment prior to June 15, 1933, shall not be increased.

(d) *Executives.*—Subject to the conditions set forth in Section 4 of this Article, executives receiving \$35.00 or more per week in cities of over 500,000 population, or receiving \$30.00 or more per week in cities of 100,000 to 500,000 population, or receiving \$27.50 or more per week in cities of 25,000 to 100,000 population, or receiving \$25.00 or more per week in cities, towns, villages, and other places under 25,000 population, may be permitted to work in excess of the maximum hours of work prescribed in Section 1 of this Article. In the South, executives paid not less than fifteen (15) percent less than the wages specified may be permitted to work in excess of such maximum periods. In Kansas and Missouri, executives paid not less than ten (10) percent less than the wages hereinbefore specified may be permitted to work in excess of the maximum periods of labor prescribed in Section 1 of this Article. For the purpose of this

subsection (d) of this Article, each city or place shall include the immediate trade area of such city or place.

(e) *Peak Periods.*—At peak times, for a period not to exceed three (3) weeks in the first six (6) months of the calendar year, and not to exceed three (3) weeks in the second six (6) months, an employee whose basic work week is fifty-four (54) hours may be permitted to work not more than sixty (60) hours per week and eleven (11) hours per day; provided, however, that in the event any hotel establishment is open for business for any period of not more than six (6) months in any calendar year, any such employee may be permitted to work not more than sixty (60) hours per week and eleven (11) hours per day for a period not in excess of six (6) weeks. All such work may be without the payment of overtime.

SEC. 4. *Limitation upon number of persons working unrestricted hours.*—Notwithstanding the provisions of the foregoing sections of this Article, and regardless of the number of persons otherwise permitted to work unrestricted hours, the total number of workers in any establishment (whether such workers are executives, proprietors, partners, persons not receiving monetary wages, or others) who shall be permitted to work unrestricted hours shall not exceed the following ratio: In establishments comprised of twenty (20) workers or less the total number of workers who may be permitted to work unrestricted hours (not including those workers specified in Section 3 (a) of this Article) shall not exceed one worker for every five (5) workers or fraction thereof; in establishments comprised of more than twenty (20) workers, the total number of workers who may work unrestricted hours (not including those workers specified in Section 3 (a) of this Article) shall not exceed one worker for every five (5) workers for the first twenty (20) workers, and shall not exceed one worker for every eight (8) workers above twenty (20).

SEC. 5. *Spread of working hours and number of shifts per day.*—Not more than twelve (12) consecutive hours shall elapse between the beginning and termination of the hours worked by any employee in any one day, and not more than one interval off duty shall be permitted during the course of any one day's employment.

Section 6. *Extra working hour on one day a week.*—On one day each week employees may be permitted to work one extra hour, but such hour is to be included within the maximum hours permitted each week.

Section 7. *Conflict with state laws.*—When any state law prescribes for any class of employees shorter hours of labor than those prescribed in this Article, this Article shall not relieve any employer within such State from complying with such State laws.

ARTICLE VI—WAGES

Section 1. *Basic schedule of wages.*—On and after the effective date of this Code the minimum weekly rates of wages which shall be paid for a work week as specified in Article V, whether such wages are calculated upon an hourly, weekly, monthly, commission, or any other basis, shall, except as hereinafter otherwise provided, be as follows:

(a) *Clerical and Operating Employees.*—

(I) Within cities of over 500,000 population, no employees shall be paid less than at the rate of \$15.00 per week for a fifty-four (54) hour work week.

(II) Within cities of from 100,000 to 500,000 population, no employee shall be paid less than at the rate of \$14.00 per week for a fifty-four (54) hour work week.

(III) Within cities of from 25,000 to 100,000 population, no employee shall be paid less than at the rate of \$13.00 per week for a fifty-four (54) hour work week.

(IV) Within cities, towns, villages, of from 2,500 to 25,000 population, the wages of all classes of clerical and operating employees shall be increased from the rates existing June 15, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$11.00 per week and provided further that no employee shall be paid less than at the rate of \$10.00 per week.

(V) Within towns, villages, and other places with less than 2,500 population, the wages of all classes of clerical and operating employees shall be increased from the rates existing on June 15, 1933, by not less than twenty (20) percent provided that this shall not require an increase in wages to more than the rate of \$10.00 per week.

For the purposes of this subsection (a) of this Section 1 of Article VI, each city or place shall include the immediate trade area of such city or place.

(b) *Service Employees.*—The wages paid to service employees by employers shall be increased from the rates existing on June 15, 1933, by not less than twenty (20) percent of such rates, provided, however, that the increase in the wages for any such employee shall be not less than one dollar (\$1.00) per week and provided further that this section shall not require an increase in wages paid by employers to such employees to more than the minimum rates specified for each classification according to population as set forth in subsection (a) of Section 1 of Article VI, and provided further that employers shall guarantee to employees not less than the minimum rates so specified for each classification according to population as set forth in said subsection (a) of Section 1 of Article VI, irrespective of by whom or on what basis service employees are compensated.

SEC. 2. *Deductions for lodging and meals.*—When it is mutually agreed between any employer and an employee that lodging and/or meals shall constitute a part of such employee's compensation, no deductions for lodging shall be in excess of two dollars and fifty cents (\$2.50) per week and no deductions for meals shall be in excess of twenty-five cents (25¢) per meal.

SEC. 3. *Southern Wage Differential.*—The minimum rates of pay prescribed in this Article may be reduced by not more than fifteen (15) percent in the South, and by not more than ten (10) percent in the states of Kansas and Missouri.

SEC. 4. *Part-time employees.*—Part-time employees shall be paid not less than at an hourly rate proportionate to the rates prescribed in the foregoing sections of this Article.

SEC. 5. *Weekly wages above the minimum not to be reduced.*—The weekly wages of all classes of employees receiving more than the

minimum wages prescribed in this article shall not be reduced from the rates existing upon June 15, 1933, because of any reduction in the number of working hours of such employees.

SEC. 6. *Conflict with State laws.*—When any State law prescribes for any class of employees of either sex a higher minimum wage than that prescribed in this Article, this Article shall not relieve any employer within that State from complying with such State law.

SEC. 7. *Schedule of wages to be posted.*—On or within one week after the effective date of this Code, every hotel establishment shall post and maintain in a conspicuous place the minimum wages for its employees.

ARTICLE VII—TRADE PRACTICE

All members of the hotel industry shall comply with the following trade practices:

SECTION 1. *Trade Practices.*—(a) No member of the hotel industry shall use advertising, whether printed, radio, or display, or of any other nature, which is inaccurate in any material particular or misrepresents the service, accommodations, credit terms, or policies of the establishment, and no member shall use advertising methods which tend to deceive or mislead guests or prospective guests.

(b) No member of the hotel industry shall secretly give anything of value to the employee or agent of a guest or prospective guest for the purpose of securing business, nor shall he render a bill or statement of account to the employee, agent, or guest which is intentionally inaccurate in any material particular.

(c) No member of the hotel industry shall use advertising which refers inaccurately in any material particular to any competitor or his prices, values, credit terms, policies, or service.

(d) No member of the hotel industry shall advertise or charge a "day rate" for any room to be occupied earlier than seven (7) A.M., and later than eight (8) P.M.

(e) No member of the hotel industry shall induce or attempt to induce the breach of an existing oral or written contract between a competitor and his guest or employee or interfere with or obstruct the performances of any such contractual agreement or service.

(f) No member of the hotel industry shall secure or attempt to secure confidential information concerning the business of a competitor by any false or misleading statement or misrepresentation of one in authority.

(g) No member of the hotel industry shall entice employees of any competitor for the purposes of harassing such competitor or interfering with his business.

(h) No member of the hotel industry shall secretly employ or secretly compensate for the solicitation of business, public taxi drivers, public porters, or public runners, or other similar public agents.

ARTICLE VIII—ADMINISTRATION

SECTION 1. *Hotel Industry Committee.*—(a) To effectuate further the policies of the Act, a hotel industry committee, hereinafter referred to as the Code Authority, is hereby designated to cooperate with the Administrator in the administration of this Code and as a

planning and fair practice agency for the hotel industry. This Code Authority shall consist of five (5) representatives of the hotel industry, three of whom shall be selected by members of the American Hotel Association, and two of whom shall be selected by non-members of the American Hotel Association, such election to be by a fair method approved by the Administrator, and not more than three (3) members, without vote, who may be appointed by the President of the United States or the Administrative authority under the National Industrial Recovery Act. Within thirty (30) days after the approval of this Code, the American Hotel Association shall submit for the approval of the Administrator, a plan for the selection of the members of the Code Authority. After the approval of such plan, the American Hotel Association shall conduct such elections as may be approved.

(b) In order that the Code Authority shall at all times be truly representative of the hotel 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 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.

(c) Such agency may from time to time present to the Administrator recommendations based on conditions in their industry as they may develop from time to time which will tend to effectuate the operation of the provisions of this Code and the policy of the National Recovery Act.

(d) Regional or local groups in the hotel industry may formulate exceptions or additions to or modifications of the Rules of Fair Trade Practices set forth in Article VII of this Code, applicable to such regions or localities, provided that such additions, exceptions or modifications are not inconsistent with any other provision of this Code, or with the National Industrial Recovery Act. Upon approval by the Administrator, such rules shall, in the respective regions or localities, have the same force and effect as any provision of this Code.

(e) The Code Authority is empowered and set up to cooperate with the Administrator, to make investigations as to the functioning and observance of any provisions of this Code, at its own instance, on request of the Administrator, or complaint by any persons affected, and to report the same to the Administrator.

(f) The Code Authority may require such reports as may be necessary to administer this code, in such force as may be approved by the Administrator. Any reports required by the Code Authority shall be submitted to an impartial agency designated by the Code Authority, and not a member of the industry, and shall not be revealed to any member of the industry, except in summary, provided however, that such information shall be available to the Administrator upon request and provided further that such information may be divulged if necessary to facilitate the administration of this Code. In addition to information to be submitted to the Code Authority, there shall be furnished to the Administrator, or such agency as he

may designate, such statistical information as the Administrator may deem necessary for the administration of this Code.

(g) Any member of the hotel industry shall be entitled to participate in the selection of the members of the Code Authority, and to participate in and share in the benefits of its activities by assenting to and complying with requirements of this Code, and by paying his reasonable share of the expenses of its administration. Such reasonable share 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 to be taken into consideration.

(h) 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 National Industrial Recovery Act, to cancel or modify from time to time 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 any provision of this Code or any conditions imposed by him upon his approval thereof.

(i) 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, or his delegated authority, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code will be submitted for the approval of the President to prevent unfair competition and to effectuate the purposes and policies of Title I of the National Industrial Recovery Act.

SEC. 2. *Exceptions in cases of unusual or undue hardships.*—

(a) Where the operation of the provisions of this Code impose an unusual or undue hardship upon any member of the hotel industry or group of such members, such member or such groups of members of the hotel industry may make application for relief to the Administrator and the Administrator may, after such public notice and hearing as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purpose of the National Industrial Recovery Act.

(b) The operation of this Code shall be reviewed by the Administrator not later than June 1, 1934, to ascertain whether the provisions thereof have effectuated or will effectuate the policy and purposes of the National Industrial Recovery Act.

ARTICLE IX—GENERAL

SECTION 1. *Membership in associations.*—Membership in the American Hotel Association, or any affiliated or state associations, or in any other trade or industrial association participating in the selection or activities of the Code Authority, or represented upon the Code Authority, shall be open to all members of the hotel industry, and said associations shall impose no inequitable restrictions upon admission to membership therein.

SEC. 2. *Prohibition against monopolies.*—The provisions of this Code shall not be interpreted or applied to promote monopolies or

monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

SEC. 3. *Prohibition against use of subterfuge.*—No member of the hotel industry shall use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to remove obstructions to commerce, to shorten hours of work and to raise wages to a living basis.

SEC. 4. *Expiration.*—This Code shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall by proclamation or the Congress shall by joint resolution, declare that the emergency recognized by Section I of the National Industrial Recovery Act has terminated.

Approved Code No. 121.

Registry No. 1728-2-09.



Approved Code No. 122

CODE OF FAIR COMPETITION

FOR THE

**SPECIAL TOOL, DIE, AND MACHINE SHOP
INDUSTRY**

As Approved on November 17, 1933

BY

PRESIDENT ROOSEVELT

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 Special Tool, Die, and Machine Shop 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 and recommendations, and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 17, 1933.

NOVEMBER 10, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Special Tool, Die, and Machine Shop Industry, held in Washington on November 2, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Employees are limited to forty (40) hours per week except during peak periods when they may work an average of forty-eight (48) hours per week for eight (8) weeks in any six (6) months' period, provided that no unemployed workers possessing the necessary skill are available. Time and one half will be paid to employees working in excess of eight (8) hours per day, or forty-eight (48) hours per week.

The above limitations do not apply to executives, managers or supervisors, receiving more than thirty-five (\$35.00) dollars per week, or to outside salesmen.

The minimum wage for factory employees will be forty cents (40¢) per hour. Superannuated or disabled employees will receive not less than eighty percent (80%) of the minimum, and such superannuated employees and learners are not to exceed five percent (5%) of the average total number of employees. The wage differentials in all classes will be equitably readjusted and will not be decreased. No distinction in wage rates shall be made between male and female employees.

A maximum average of forty (40) hours per week during any five week period is provided for employees engaged in accounting, clerical, service and sales work, and who may be employed not more than forty-eight (48) hours per week during any one week. The minimum wage will be not less than fifteen (\$15.00) dollars per week, except that office boys and girls and messengers, to a total of not more than five percent (5%) of the total number of employees, will receive not less than eighty percent (80%) of this minimum wage.

CHILD LABOR

The minimum age will be sixteen (16) years and no person under eighteen (18) years of age will be employed in any hazardous occupation.

ECONOMIC EFFECT OF THE CODE

Because of the very recent organization of this Industry into an association accurate and full statistics are not yet available. The Industry produces special tools for the production work of many

other industries, and depends upon the replacement of equipment in these industries. High and low peaks of employment exist to meet sudden demands for tools.

Approximately 11,000 employees were engaged in the work of the Industry in 1929, but this number was reduced to about 4,700 in 1931. It is estimated that approximately 25 percent additional employees will be put to work by prospective new business and through the operation of the schedule of hours provided in this code. Pay rolls, for the same reason, are expected to be increased approximately thirty-three (33) percent.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Special Tool, Die, and Machine Shop Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
SPECIAL TOOL, DIE, AND MACHINE SHOP INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act during the period of the emergency by reducing and relieving unemployment, improving the standards of labor, eliminating competitive practices destructive to the interests of the public, employees and employers, and otherwise rehabilitating the Special Tool, Die, and Machine Shop Industry, and by increasing the consumption of industrial products by increasing purchasing power, and in other respects the following provisions are established as a Code of Fair Competition for the Special Tool, Die, and Machine Shop Industry.

ARTICLE II—DEFINITIONS

The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

The term "industry" as used herein is defined to include the design, development, manufacture, repair, and/or assembly for sale of special tools, special dies, moulds, pressure moulds, special jigs, special gauging fixtures, machinery of a special custom-built nature not now or hereafter regularly produced in another product classification, and/or machined parts of like character.

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

The term "member of the code" means any member of the industry who shall have become a member of the Code as hereinafter, in Article VI, provided.

The term "Institute" as used herein means "The Special Tool, Die, and Machine Shop Institute", a national trade association.

The term "Authority" as used herein means the code authority or agency set up pursuant to the provisions of Article VI herein.

The term "Administrator" as used herein means the administrator of Title I of the National Industrial Recovery Act.

The term "Act" as used herein means the National Industrial Recovery Act.

The term "President", as used herein, means the President of the United States.

The term "learner", as used herein, means an employee without previous mechanical experience engaged to become competent on one or more machine operations but who shall not be so classified after

ninety (90) days' experience in the industry irrespective of whether they are or have been employed by one or more employers.

The term "apprentice", as used herein, shall mean a person, usually a minor, indentured to serve an employer for a specified term of years in order to learn a trade, art, or profession.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of 40 hours per week; provided, however, that during any period in which a concentrated demand upon any division of the industry shall place an unusual and temporary burden for production upon its facilities, and no unemployed workers possessing the necessary skill to perform said production work are available, an employee of such division may be permitted to work an average of not more than 48 hours for not more than 8 weeks in any 6 months' period, and provided further that these limitations shall not apply to employees on emergency, maintenance, or repair work, or to very special cases where restriction of hours of highly skilled workers would unavoidably reduce or delay production, or to employees engaged in try-out, and/or installation work where products of the industry must be tried out and/or installed or demonstrated in the user's plant.

2. Where in any case an employee, other than a salaried employee, works in excess of 8 hours per day, or 48 hours per week, such extra time shall be compensated for at not less than one and one half times the hourly rate of such employee, excepting, however, watchmen and firemen, who shall be exempt from the provisions of Section I of this Article, but who shall not work in excess of six days or more than 56 hours in any one week.

3. Employees engaged in executive, managerial, or supervisory capacities who earn not less than \$35.00 per week, and outside salesmen, shall not be limited by any provision of this Article.

4. No one employed at manual labor, and no draftsman or designer earning less than \$35.00 per week, shall be deemed to be engaged in an executive or managerial capacity, and excepted from the maximum hours provided herein.

5. No employer shall knowingly engage any employee for any time, which, when totaled with that already performed with another employer, or employers, exceeds the maximum permitted herein.

6. Accounting, clerical, service, and delivery employees may be employed an average of 40 hours per week for any five weeks period and not more than 48 hours in any one week.

ARTICLE IV—WAGES

1. The minimum rate that shall be paid to any employee in the Industry shall not be less than forty (40¢) cents per hour, excepting superannuated or disabled employees not employed on skilled operations and learners who shall receive not less than 80 percent of the minimum, provided, however, that the total number of such learners, superannuated, or disabled employees, employed by any one member of the Industry shall be restricted to five (5) percent of

the average total number of his employees operating under this Code; provided, however, that any member of the Industry may employ at least two (2) such learners and superannuated or disabled employees.

2. Nothing in this Article IV shall apply to or affect any employee apprenticed to any employer by an indenture made in pursuance of the laws of any state of the United States under any apprentice system established and maintained by any employer.

3. The minimum wage that shall be paid to any office or any other employee not covered in Section 1 of this Article IV shall not be less than \$15.00 per week, except that office or errand boys or girls or messengers, who shall be limited in number to 5 percent of the total number of office employees in any factory or plant may be paid not less than 80 percent of the minimum; provided, however, that at least two (2) such office or errand boys or girls or messengers may be employed in any factory or plant.

4. Equitable readjustment shall be made of all hourly wage rates above the minimum (unless such readjustments have been made since July 1, 1933) and a report of all such readjustments shall be made to the Code Authority within thirty (30) days of the effective date of this Code.

5. No distinction in rates shall be made between male and female employees where the same class of work is performed, regardless of whether compensation is based on a monthly, piecework, or other basis.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under 16 years of age shall be employed in the Industry, nor anyone under 18 years of age at occupations or operations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within ninety (90) days after the President's approval of this Code, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

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.

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 regu-

lating age of employees, wages, or health, fire, or general working conditions than under this Code.

6. 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.

7. Each employer shall post in conspicuous places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. Organization and constitution of Code Authority:

(a) The Code Authority shall consist of not more than seven nor less than five voting members. Five voting members of the Code Authority shall be selected by the Executive Committee of the Institute, and two by members of the Industry who are not members of the Institute, if they so desire. In addition, the Administrator may if he so desires appoint not to exceed three members without vote to represent him or such groups or interests as may be agreed upon.

(b) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The 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 to be taken into consideration.

(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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

2. The Code Authority shall have the following powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove or modify any action taken by the Code Authority.

(a) Such Code Authority may from time to time present to the Administrator recommendations based on conditions in the Industry as they may develop which will tend to effectuate the operation of the provisions of this Code.

(b) To collect from members of the Code all statistics and data required by this Code or by the President, or reasonably pertinent to the effectuation of Title I of the Act, and to compile same, and disseminate among the members of the Code summaries thereof, all in such form and manner as the Code Authority shall reasonably prescribe, subject to approval by the Administrator.

(c) To represent the members of the Industry in conference with the Administrator relative to the application of this Code and of the Act and any regulations issued thereunder. The Code Authority shall hold itself in readiness to assist and keep the Administrator fully advised, and to meet with the Administrator's representative from time to time, as requested, to consider and study any suggestions or proposals presented on behalf of the Administrator or any member of the Code, regarding the operation, observance, or administration of this Code.

(d) 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 3 (a) of the Act.

ARTICLE VII—TRADE PRACTICES

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

1. *Selling below cost.*—The willful or intentional sale of any of the products or services of the Industry below the vendor's cost, the latter to be determined in accordance with a system of accounting acceptable to or established by the Code Authority with the approval of the Administrator.

2. *Secret Rebates.*—To give or offer unearned or secret rebates, refunds, allowances, discounts, or special services, directly or indirectly, in connection with any product or service of the Industry.

3. *Subcontracting.*—To subcontract any of the products or services of the Industry, in whole or in part, to any employee upon terms or conditions which may directly or indirectly result in the payment to such employee of less than the minimum hourly rates of pay prevailing for such class of work; provided that every employee so employed be informed in advance of the minimum hourly rates to which he is entitled.

4. *Pirating.*—Appropriating or attempting to appropriate ideas, sketches, designs, or drawings originated and owned by another in the Industry without the owner's consent.

5. *False or misleading advertising.*—To make, cause, or permit to be made or published, any false, untrue, or deceptive statement in advertising, catalogue, or otherwise, concerning the grade, weight, quality, substance, character, nature, origin, size, or preparation of any product and/or services of the Industry, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

6. *Rent or lease to shop workers.*—To rent, lease, or allow the use of any floor space, bench space, and/or machine capacity, or equipment, to shop workers for the purpose of manufacturing for sale or for use any of the products and/or services of the Industry by any member of the Industry who is keeping his plant open for the purpose of operating in competition with other members of the Industry.

ARTICLE VIII—MODIFICATIONS

It is contemplated that supplementary provisions or amendments of this Code, or additional codes applicable to the Special Tool, Die,

and Machine Shop Industry, may from time to time be submitted in behalf of the Institute for the approval of the President.

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.

ARTICLE IX—MONOPOLIES

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 X—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 increase in the seller's costs.

ARTICLE XI—EFFECTIVE DATE

This Code shall become effective and binding on the fifth day after its approval by the President.

Approved Code No. 122.
Registry No. 1149-23.



Approved Code No. 123

CODE OF FAIR COMPETITION

FOR THE

STRUCTURAL CLAY PRODUCTS INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Structural Clay Products 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(197)

NOVEMBER 8, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the proposed Code of Fair Competition for the Structural Clay Products Industry, and on the public hearing conducted thereon in Washington, D.C., on August 22 and 23, 1933, in accordance with the provisions of the National Industrial Recovery Act.

GENERAL STATEMENT

Four branches of this industry, producing primarily common brick, face brick, paving brick and structural clay tile, have cooperated and participated through a joint committee of the industry, in the submission of the proposed Code.

The industry has suffered severe shrinkage since 1925, its peak year in total value of product, with an output valued at 334 million dollars. In each year since 1925, value of output has decreased, in 1932 being 56 million dollars. It appears that the industry in 1932 afforded employment to 29 percent of the workers employed in 1927. About 101,000 workers were reported in 1927, but only 29,500 in 1932. Number of plants declined from 1846 in 1927 to 1085 in 1932, as reported by the Division of Economic Research and Planning.

HOURS AND WAGES

A 36-hour week is established for all plants in the industry. The wages provided range from 37½¢ per hour in northern states to 24¢ per hour in the deep south. Rates of 35, 30, 27, and 25 cents per hour are established in intermediate states, according to their location and the economic situation of the industry, thus providing a gradual differential between wage rates in extreme north and south.

On account of the seasonal nature of much of the work in the industry, and to permit a fair living wage for those employees that can be used to satisfy the present limited demand for industry products, the 36-hour week may be averaged over a six-months' period, the maximum being limited to 48 hours in any one week.

Child labor is prohibited, and the industry undertakes to adjust wages above the minimum provided in the proposed Code, to continue existing differential.

ECONOMIC EFFECT OF THE CODE

At present this industry is operating on a schedule of about 37 hours per week. With the 36-hour week proposed a slight increase in employment should be possible. But with the necessity of a living

wage, the reemployment of 1929 workers must necessarily await greater activity in the various construction industries.

The most important economic effect of the Code, therefore, is the opportunity it should provide for self-government and for the working out of common employment and trade problems by the several groups. These groups, as represented by the American Face Brick Association, the Brick Manufacturers Association of America, the National Paving Brick Association, and the Structural Clay Tile Association, have in the past worked to a great extent independently of one another, although each has been active since 1919 or earlier in promotion and research for the benefit of its members and of the consuming public.

The proposed Code is fair to Industry, to Labor and to the Consumer, I believe, and in accordance with the intent and purpose of the National Industrial Recovery Act.

I find that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Structural Clay Products Industry; and that

(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.

Accordingly, I hereby recommend the approval of this proposed Code of Fair Competition for the Structural Clay Products Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
STRUCTURAL CLAY PRODUCTS INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act the following provisions are submitted as A Code of Fair Competition for the Structural Clay Products 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

Industry.—The term "Industry", as used herein, means and includes manufacturers who produce in the United States and sell common brick, face brick (including glazed and enameled brick), structural clay tile (including glazed tile), paving brick, and clay or shale granules, and may further include any other related groups that with the approval of the Administrator may elect to operate under this Code.

Branch.—The term "branch", as used herein, includes any one of the following branches of the industry—common brick, face brick, paving brick, structural clay tile.

Region.—The term "region", as used herein, includes any major territory established with definite boundaries by any one of the several branches of the industry for the purposes of administering this Code.

Division.—The term "division", as used herein, includes any subdivision of any region also established with definite boundaries.

Member of the Industry.—The term "member of the industry", as used herein, includes anyone engaged in the industry, as above defined, or any part thereof, either as an employer or on his own behalf.

Employee.—The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

Employer.—The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

South.—The term "South" as used herein includes the following states: Alabama, Arkansas, Arizona, California south of an east and west line drawn through Tehachapi, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia with the exception of the counties of Arlington, Fairfax, Loudoun, Clarke, and Frederick.

North.—The term "North" as used herein includes all territory in the United States except that listed above under "South."

Effective Date.—The term "effective date" as used herein shall mean the tenth day after the approval of this Code by the President.

President, Act, Administrator.—The terms “President”, “Act”, and “Administrator” as used herein, shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

ARTICLE III—MAXIMUM HOURS

(a) Except as hereinafter set forth no employee shall be permitted to work in excess of thirty-six (36) hours per week averaged over either semiannual period, January 1st to June 30th, or July 1st to December 31st, inclusive, or in excess of forty-eight (48) hours in any one week, or in excess of eight (8) hours in any twenty-four (24) hour period.

Where desirable on account of regional or local conditions, regional committees are empowered to make further restrictions on working hours, subject to review by the Administrator.

(b) The maximum hours specified in Section (a) of this Article shall not apply to employees in the following classification:

(1) Employees engaged in managerial or executive capacities and compensated on a regular salary basis in excess of \$35 per week in the North or \$30 per week in the South, or employees engaged as outside salesmen.

(2) Employees engaged in emergency maintenance or emergency repair work involving break-downs or protection of life or property, provided that in any such case, such employees shall be paid not less than one and one third ($1\frac{1}{3}$) times the hourly rate, for hours worked in excess of the eight (8) hour and forty-eight (48) hour maximum herein provided.

(3) Employees engaged at plants where employment is dependent upon favorable weather conditions when such employment is necessary to recover time lost by inclement weather.

(4) Employees engaged in continuous kiln-drying and kiln-burning processes, provided the total working hours of such employees shall not average more than forty-eight (48) hours per week in any continuous four (4) weeks period. When a sufficient number of these employees is not available such employees may work eight (8) hours in addition to forty-eight (48) hours in any one week, provided they are paid time and one third for such extra hours.

(5) Foremen, provided that foremen shall not be employed more than 15 percent longer hours than the eight (8) and forty-eight (48) hour maximums herein provided.

(6) Crews on floating equipment engaged by members of the industry solely in transportation on navigable waters.

(7) Watchmen at plants not manufacturing, provided that watchmen employed at plants that are manufacturing shall not be employed more than six (6) days in any one week.

(8) Accounting, clerical, office, service, or sales employees (except outside salesmen) provided the working hours of such employees shall not exceed (40) forty in any one week.

(c) No employer shall knowingly permit an employee to work for a total number of hours in excess of the number of hours prescribed for each week and each day, whether employed by one or more employers.

ARTICLE IV—WAGES

(a) Except as hereinafter set forth no factory or mechanical worker or artisan shall be paid less than at the rate of thirty-seven and one half (37½) cents per hour. In the following states no such employee shall be paid less than at the rate of:

(1) California, south of an east and west line drawn through Tehachapi; thirty-five (35) cents per hour.

(2) Arizona, Arkansas, Kentucky, New Mexico, Oklahoma, and Virginia with the exception of the counties of Arlington, Fairfax, Loudoun, Clarke, and Frederick; thirty (30) cents per hour.

(3) North Carolina, twenty-seven (27) cents per hour.

(4) Tennessee, twenty-five (25) cents per hour.

(5) Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas; twenty-four (24) cents per hour.

(b) The Code Authority as hereinafter established shall immediately make an investigation of the foregoing hourly rates and the differences therein, for the purpose of recommending to the Administrator an equitable revision of such rates should any inequity be proved to exist.

(c) Section (a) of this Article establishes a guaranteed minimum rate of hourly pay regardless of whether the employee is compensated on the basis of a time rate, or on a piece-work performance for the hours worked in any semimonthly pay period.

(d) Unit rates paid employees, whether employed on a time-rate or piece-work performance, shall be adjusted to continue existing wage differentials.

(e) No person employed in accounting, clerical, office, service, or sales work shall be paid less than the rate of \$15.00 per week in any city of more than 500,000 population, or in the immediate trade area of such city; nor less than at the rate of \$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; nor less than at the rate of \$14.00 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city; nor less than at the rate of \$12.00 per week in any town of less than 2,500 population. Population shall be determined by reference to the 1930 Federal Census.

(f) Employees employed on floating equipment engaged by members of the industry solely in transportation on navigable waters shall be paid not less than at the rate of \$15.00 per week.

(g) Watchmen employed at plants that are not manufacturing shall be exempt from the foregoing provisions as to minimum wages.

Watchmen employed at plants that are manufacturing shall be paid not less than at the rate of \$15.00 per week.

(h) All wages shall be paid at least twice a month and all salaries at least once a month, in cash or by negotiable check.

ARTICLE V—LABOR PROVISIONS

(a) No person under 16 years of age shall be employed in the industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. The Code

Authority shall submit to the Administrator before **January 1, 1934**, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

(b) 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.

(c) 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.

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

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

(f) Each employer shall post in conspicuous places full copies of this Code.

ARTICLE VI—OPEN-PRICE POLICY

(a) Each member of the industry shall publish openly a price list or lists containing prices, delivered at the site of consumption, to all classifications of purchasers sold by such member, for all products offered for sale by him, which list or lists shall contain such complete terms, discounts, and other conditions of sale as are provided for in Article VIII. In any region where established practice makes the filing of prices including individual transportation charges to the site of consumption impractical for any member of the industry in such region, any such member in any such region may file prices at any point or points of delivery other than site of consumption, subject to the approval of the regional committee for his branch in that region, including such terms, discounts, and other conditions of sale as are provided for in Article VIII. After such approval granted to any such member, any other member of that branch of the industry may likewise publish his prices at any such point or points of delivery in addition to the publication of prices delivered at site of consumption. Such prices, when quoted to dealers or agents, shall not cover or include the dealer's or agent's cost or profit.

Each member of the industry shall file with the branch committee for his branch of the industry all such price lists, terms, discounts, and other conditions of sale within ten (10) days after notice has been mailed of the formation of the branch committee, which lists shall be available to all interested members of the industry and to the trade. Any member of the industry, upon changing his prices, terms, discounts, or other conditions of sale, shall immediately pub-

lish and file the same with the branch committee for his branch of the industry, and such prices, terms, discounts, and other conditions of sale shall not become effective until ten (10) days after the same shall have been so published and filed, and copies thereof with notice of the effective date specified shall be immediately available to the trade and to all interested members of the industry who thereupon may file, if they so desire, revisions of their prices, terms, discounts, or other conditions of sale which shall become effective upon the date when the revised price list or lists previously filed shall go into effect.

(b) It shall be unfair competition and a violation of this Code for any member of any branch of the industry to sell, or to publish a price for, any product of any branch of the industry at less than the allowable cost of that product, except to absorb transportation charges to meet the published price of any other member of that branch of the industry for that product, such allowable cost to be the individual direct factory cost of such member plus the weighted average indirect allowable cost for such branch of the industry, as determined pursuant to Section (c) of this Article. No member of the industry shall sell any product upon a delivered basis in a market without having first published a price for that product delivered in that market as provided in Section (a) of this Article.

(c) The Code Authority shall from time to time determine, with the cooperation of each branch committee, and subject to the approval of the Administrator, the items to be included in, and the method or formula to be employed in, the computation of the individual direct factory cost of the members of such branch of the industry, and the items to be included in, and the method or formula to be employed in, the computation of the weighted average indirect allowable cost for each branch of the industry.

(d) The Code Authority shall develop or cause to be developed and submit to the Administrator for approval within 120 days after the effective date of this Code a uniform cost accounting system adaptable to the business of all members of the industry and designed to make possible the accurate determination by each member of the industry of his or its own individual cost, and upon such approval of such cost accounting system, each member of the industry shall maintain at all times an accurate record of all costs in accordance with such system or in such other manner as will clearly indicate and make available the information required thereby.

(e) During the period between the effective date of this Code and the application of the cost provisions provided for in Sections (b) and (c) of this Article each regional committee in any branch of the industry may use the following system of arriving at the allowable cost of any product in that branch. After a survey of the estimated cost, both direct and indirect, of the reasonably efficient plants then in operation within that region under the terms of this Code, the regional committee may recommend to the Code Authority for its approval, subject to review by the Administrator, an allowable cost, provided that such allowable cost shall not include any reserves for purposes other than depreciation, or any allowance for interest on invested capital or for developmental expenses, and pro-

vided further, that the distribution of indirect expenses per unit of product, shall be on the estimated basis of an average rate of utilization of plant facilities by such reasonably efficient plants during the period 1927-32. Upon approval by the Code Authority of any such allowable cost, no member of the industry shall sell, or publish a price for any such product below its allowable cost so arrived at, except to absorb transportation charges to meet the published price of any other member of the industry for such product. The provisions of this section shall not be availed of for the purpose of delaying the determination of allowable cost as provided for in Sections (b) and (c) of this Article.

(f) No unsold portions of inventories on hand on the effective date of this Code shall be sold below the current allowable replacement cost (estimated if plant is not operating) computed on a basis arrived at under the provisions of this Article.

(g) Discontinued lines, off-grade material, bankrupt stocks, or stocks in the hands of assignees for resale, out-of-date or damaged stock, and all reclaimed or used products whose sale or use tends to lessen the current employment of labor may be sold for less than cost of the new standard-grade products as determined in the foregoing sections of this Article, but only after they have been reported to the regional committee concerned and only on such terms and at such prices as the regional committee shall determine within ten (10) days after receipt of the report. The decision of the regional committee may be subject to review by the branch committee or the Code Authority or the Administrator. In case of failure of the regional committee to determine such prices within such ten (10) days, the branch committee or Code Authority shall be empowered to make such determination. In each case where such sale below cost is permitted, the member of the industry shall publish the price at which the product will be sold, as provided in Section (a) of this Article.

ARTICLE VII—CAPACITY CONTROL

Prior to the increasing of existing production capacity in the industry by starting the operation of existing plants within any branch of the industry that have been shut down continuously for a period of three years or more prior to the effective date of this Code, or starting the operation of plants not heretofore in operation within any branch of the industry, a certificate must be procured by the owner thereof from the branch committee of such branch of the industry, subject to review by the Code Authority or the Administrator, certifying that the operation of such plant is consistent with the policy of the Act. In case of a denial by a branch committee of the certificate mentioned herein, or refusal to decide within sixty (60) days such owner may appeal to the Code Authority or the Administrator for a final decision. Nothing herein, however, shall restrain any member of the industry from improving the efficiency of his plant or adopting methods or machinery to lower production costs or improve products or from resuming operation of any plant owned by him prior to October 1, 1931.

ARTICLE VIII—TERMS OF SALE AND CREDITS

(a) Any branch committee may, subject to the approval of the Administrator, establish terms of sale, maximum cash discounts, and credit practices, which shall be uniform within that branch of the industry, and which shall be binding upon all producers.

(b) All quotations and contracts for the sale of structural clay products shall be in writing and shall contain a definite statement of price, quantity, terms of payment, time and place of delivery, and all other items necessary to form a complete understanding.

(c) Credit terms shall be uniform in each branch of the industry to all purchasers in the same class and shall be uniformly enforced; provided, that nothing herein contained shall prevent any manufacturer from refusing credit to any purchaser or requiring special terms of payment, where in his judgment such refusal or requirement is necessary for the adequate protection of the account.

(d) The manufacturers of structural clay products, either on a national basis, a regional basis, or the basis of a division of a region, may exchange credit information, and by agreement control or restrict credit for the purpose of eliminating losses to the industry; and failure to give truthfully such credit information or adhere to such agreements is an unfair method of competition and a violation of this Code.

ARTICLE IX—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code.

(a) *Organization of Code Authority.*—The Code Authority shall consist of eight members, four of whom shall be presidents, from time to time, of the respective associations submitting this Code, namely American Face Brick Association, Brick Manufacturers Association of America, National Paving Brick Association, and Structural Clay Tile Association, or their successors, and four of whom shall be elected from and by the respective branch committees of the four branches coming under this Code, together with such representative or representatives without vote, but in no case to exceed three, from time to time appointed thereto by the Administrator, for such terms as he may specify, to act as his representative or representatives, or as representative or representatives of such interested groups as he may specify. Until the Code Authority is organized as above the presidents of the respective associations submitting this Code shall act as the Code Authority.

(1) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall impose no inequitable restrictions on membership, and 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.

(b) *Powers and Duties of Code Authority.*—The Code Authority shall be charged with the administration of this Code throughout

the industry and without limiting the foregoing shall have the following specific powers and duties, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Code Authority.

(1) To obtain from all members of the industry such sworn or unsworn reports, periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters pertinent to the provisions or operations of this Code, as the Code Authority may specify, or as the Administrator may from time to time require.

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 purpose recited in Section 3 (a) of the Act.

(2) To make such surveys or investigations as may be necessary to ascertain conditions in the industry and the observance or non-observance of the provisions of this Code.

(3) To coordinate the activities of the branch and regional committees hereinafter referred to.

(4) To submit to the Administrator from time to time such recommendations, based on conditions in the industry, as they develop, as, in its judgment, will improve the operation of this Code or further effectuate the policies of the Act. Any such recommendation, when approved by the Administrator, shall become effective as a part of this Code.

(c) *Branch Committees.*—Further to effectuate the policies of the Act and to cooperate with the Code Authority there shall be established for each branch of the industry an administrative agency to be known as branch committee, which shall consist of one representative for each region of each branch of the industry to be selected by each regional committee. To the end that each branch of the industry shall, so far as practicable, be self-governing under the provisions of this Code, the Code Authority shall delegate to each such branch committee such of its authority, powers, and duties as it may deem necessary therefor. The president of each association shall be a member ex officio of the branch committee of his branch of the industry. Pending the organization of branch committees, the Code Authority shall delegate directly to the regional committees such of its authority, powers, and duties as shall be necessary for the immediate conduct of the administration of the Code in the respective regions.

If any regional group fails to organize within the prescribed time and elect a member of the branch committee, the said branch committee is empowered either to name a representative for that region on the said branch committee, who shall act in place of the regional committee, or to combine that region with an adjoining region.

(d) *Regional Committees.*—Further to effectuate the policies of the Act and to cooperate with its branch committee and the Code Authority in administering this Code, there shall be established in each region of each branch of the industry an administrative agency to be known as regional committee, to be elected on a fair basis of

selection by the manufacturers in each branch of the industry in each region. To the end that each region in each branch of the industry shall, so far as practicable, be self-governing under the provisions of this Code, each branch committee shall delegate to each such regional committee such of its authority, powers, and duties as it may deem necessary therefor.

(e) A joint regional committee may be formed in any region by two or more branches of the industry if desired by the manufacturers in that region.

(f) Divisional committees may be established for a subdivision of a region by any group of manufacturers therein, with the approval of the regional committee for that region. At the option of the manufacturers involved, a divisional committee may include two or more branches of the industry. The divisional committees shall have only such powers as may be delegated to them by the regional committees.

(g) The manufacturers in each region shall convene and elect their regional committee within one month after the effective date of this Code. Each regional group shall elect from among the members of its regional committee its representative on the branch committee of its branch of the industry within six weeks after the effective date of this Code.

(h) No voting member of the Code Authority, and no member of any branch, regional, or other administrative committee or agency established pursuant to the provisions of this Code, shall hold office for a longer term than one year from the date of organization of the agency to which he is elected, except by reelection.

ARTICLE X—ADMINISTRATIVE EXPENSE

(a) Each member of the industry who shall participate in the selection of any regional committee or any other administrative agency herein established, or who shall participate in the benefits of the activities of any such administrative agencies, or who shall otherwise assent to the provisions of this Code, shall bear his proper proportionate share of the cost of the development and the administration of this Code. The Code Authority shall designate any of the trade associations submitting this Code or any other appropriate agency or agencies, to assist it in maintaining its accounts, determining such proportionate shares and in securing the collection thereof. If a manufacturer makes more than one of the several products covered by this Code he shall bear his proportionate share of the expense in each branch of the industry. Failure of any such member of the industry to pay any assessment shall be a violation of the Code. Each trade association or agency from the funds thus collected shall pay the proportionate share for its branch, of the Code Authority's expense as apportioned by the Code Authority. The basis and method of the assessments shall be established by the Code Authority, and may be reviewed by the Administrator.

(b) Each trade association or agency from the funds collected shall also pay the expense of the branch committee of its branch of the industry incurred in connection with its duties under the Code

(c) Each trade association or agency shall pay out of the funds

collected any expense authorized to be incurred by any regional committee of its branch.

(d) Every manufacturer shall report to the trade association or associations, or such agency or agencies as the Code Authority shall determine, and at such time as the Code Authority may specify, the total shipments and deliveries from his plant, or plants, of clay products classified according to requirements set by the Code Authority. To fail to report, or falsely to report, shipments shall be a violation of this Code.

ARTICLE XI—TRADE PRACTICE RULES

The following practices constitute unfair methods of competition for members of the industry and are prohibited and when employed shall be deemed violations of this Code:

(a) Withholding from, or inserting in the invoice, facts which make the invoice a false record, wholly or in any material particular, of the transaction made on the face thereof; or the payment or allowance of secret rebates, refunds, credits, or unearned discounts, directly or indirectly, whether in money or otherwise; or the giving of gratuities for the purpose of influencing sales.

(b) The sale of an inferior quality of structural clay product at a fair price for such product, with the understanding that a product of superior quality selling at a higher price will be delivered.

(c) Discrimination in price of structural clay products between purchasers of the same class, not based upon difference in grade, quantity, or quality of the product sold, or difference in cost of selling and transportation.

(d) Inducing, or attempting to induce, the breach of a contract, oral or written, between a competitor and his customer during the term of such contract.

(e) Interference with or the obstruction of the performance of a contract by the solicitation by a manufacturer or his representative, directly or indirectly, of an order for structural clay products, with knowledge that a signed order from the one in authority has previously been given a competitor. An architect's specification of a structural clay product shall not be regarded as a signed order.

(f) The renewal of sales effort by a competitor on an operation after the seller receiving the order has commenced delivery and where a difference has arisen resulting in a cessation of delivery, unless the said seller has had a reasonable opportunity to adjust said difference of opinion.

(g) The payment, secretly or openly, or offer of payment of commissions, allowance of improper credits, in any form or manner whatsoever, to any person connected either directly or indirectly with the purchase or selection of structural clay products.

(h) The payment of commissions, bonuses, or gratuities, secretly or openly, in money or otherwise, by a manufacturer to a dealer's salesman for selling or influencing the sale of such manufacturer's product.

(i) The making of lump sum bids, or installed prices by a manufacturer or his agent, on structural clay products, special shapes, and other building materials, thereby concealing the unit price of

each of the several items embraced therein; or guaranteeing that any specific quantities will do the job, which are known to be actually insufficient for the purpose.

(j) The making of any bid on any one structural clay product (either lump sum or otherwise), when its acceptance is contingent upon the acceptance of a bid on any other clay product or other building material or commodity.

(k) The employment or use of trade names, trade marks, or other marks of identification so similar to those previously adopted and established by another manufacturer as to be confusing, deceiving, or misleading to prospective purchasers.

(l) The shipment or delivery of structural clay products, which do not reasonably conform to the standard of sample submitted as representative of the material to be shipped, or to representations made prior to securing order, unless with the consent of the purchaser to such substitution prior to shipment.

(m) Acceptance of stocks and bonds, except at current marketable cash value, in payment for structural clay products.

(n) The shipment of any structural clay product on consignment.

(o) Attacking a competitor's product, by making false or misleading charges, or attacking his reputation or personal integrity, or his ability to serve the trade.

(p) Repudiation of any contract, written or oral, except for: legal cause, or in accordance with expressed terms of the contract, or by mutual consent.

(q) The practice of selling or offering for sale nonstandard grades, sizes, dimensions, or classifications of structural clay products, as determined by the branch committee of each branch of the industry, subject to review by the Administrator, for the purpose of gaining an unfair competitive advantage.

(r) Making misleading guarantees by a manufacturer of structural clay products, as regards the performance of his product or the performance of any structure in which such product is used.

(s) The giving of premiums in connection with the sales of structural clay products.

ARTICLE XII—GENERAL

(a) No provisions of this Code shall be so applied as to permit monopolies or monopolistic measures, or to eliminate, oppress, or discriminate against small enterprises.

(b) 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.

(c) This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and

such notice and hearing as he shall specify, and to become effective on approval of the President.

(d) It is the objective of the Structural Clay Products Industry not only to increase employment and improve the standard of living of the workers in the Industry, but also to spread employment. Accordingly, authority is given by this Code to the regional committee of any branch of the Industry in any region after due hearing and with the approval of the Administrator to adopt such measures as are necessary for the purpose of spreading and sustaining employment.

ARTICLE XIII—REGIONAL DIVISIONS

The territories comprising the regions into which the United States shall be divided, for administration of the Act in each of the four branches of the industry, shall be as given in Schedule A attached, subject to revision by the branch committees for the respective groups, on the basis of recommendations from the regional committees in each group. These regions are subject to coordination by the Code Authority.

ARTICLE XIV—EFFECTIVE DATE

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

Approved Code No. 123
Registry No. 1013-1-03

SCHEDULE A

REGIONS FOR COMMON BRICK

1. *New England*.—All New England States.
2. *Hudson River*.—All of New York State lying east of the counties of St. Lawrence, Herkimer, Otsego, Delaware, and Sullivan, and including more specifically Long Island and the Metropolitan Area of New York City (lying within the New York State boundaries).
3. *New Jersey*.—All of the state of New Jersey.
4. *Atlantic*.—All of the State of Pennsylvania, east of the North and South line drawn through Bellefonte in Centre County, and all of the State of Delaware.
5. *Southern*.—Maryland, District of Columbia, Virginia, West Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, and Alabama.
6. *Up-State New York*.—All of New York state not included in Region No. 2.
7. *Great Lakes*.—All of the state of Pennsylvania, west of the line drawn North and South through Bellefonte in Centre County. All of the state of Ohio except the counties of Cuyahoga and Lake.
8. *Cleveland*.—The counties of Cuyahoga and Lake in the state of Ohio.
9. *Michigan*.—All of Michigan.
10. *Central*.—All of the states of Indiana and Wisconsin and all of the state of Illinois except the counties of Cook, Will, Du Page, and Lake; and the counties of St. Louis, St. Charles, and Jefferson in the state of Missouri.
11. *Chicago*.—The counties of Cook, Will, Du Page, and Lake in Illinois.
12. *Iowa-Northwest*.—All of the states of Iowa, Minnesota, North Dakota, South Dakota, and Nebraska.
13. *Gulf States*.—All of the states of Louisiana and Mississippi.
14. *Southwestern*.—All of the States of Arkansas, Kansas, Oklahoma, Texas, and New Mexico and all of the State of Missouri, except the counties of St. Charles, St. Louis, and Jefferson.
15. *Mountain*.—All of the States of Montana, Idaho, Wyoming, Colorado, and Utah.
16. *Pacific Northwest*.—All of the States of Washington and Oregon.
17. *Southern Pacific*.—All of the States of California, Nevada, and Arizona.

REGIONS FOR FACE BRICK

1. *Eastern*.—New England States; New York; New Jersey; Delaware; Maryland east of and including Cumberland; West Virginia east of line extending south through Cumberland, Md.; District of Columbia; the counties of Arlington, Fairfax, Loudoun, Clarke, and Frederick in Virginia; and Eastern Pennsylvania, which is Pennsylvania except the territory included in Western Pennsylvania as defined under Central Region.
2. *Central*.—Ohio; Western Pennsylvania, which is Pennsylvania west of and including the counties of Warren, Forest, Jefferson except shale (red brick) plants within the county, Clearfield, Blair, Cambria, and Somerset; Northeastern Kentucky, which is Kentucky north of and including Pikeville and east of and including Winchester; Lower Peninsula of Michigan; West Virginia west of a line extending south through Cumberland, Md.; and Maryland west of Cumberland.
3. *Midwestern*.—Indiana; Northwestern Kentucky, which is Kentucky north of Pikeville and west of Winchester; Illinois; Eastern Missouri, which is Missouri east of and including the counties of Putnam, Sullivan, Linn, Chariton, Howard, Boone, Moniteau, Miller, Pulaski, Phelps, Dent, Shannon, and Oregon; Wisconsin; Northern Peninsula of Michigan; the counties of Washington, Dakota, Ramsey, Anoka, and Hennepin in Minnesota.
4. *Southeastern*.—Virginia except the five counties included in the Eastern Region; North Carolina; South Carolina; Georgia; Florida; Alabama; Mississippi; Tennessee; Southern Kentucky, which is Kentucky south of Pikeville; and Louisiana east of the Mississippi River.
5. *Southwestern*.—Kansas; Oklahoma; Texas; Arkansas; Western Missouri, which is Missouri except the territory included in Eastern Missouri as defined under Midwestern Region; and Louisiana west of the Mississippi River.

6. *Western*.—Iowa; North Dakota; South Dakota; Nebraska; and Minnesota except the five counties included in the Midwestern Region.

7. *Mountain*.—Montana; Wyoming; Eastern Idaho, which is Idaho east of and including Bliss; Colorado; Utah; and New Mexico.

8. *Pacific Coast*.—Washington; Oregon; Western Idaho, which is Idaho except the territory included in Eastern Idaho as defined under Mountain Region; Nevada; Arizona; and California.

REGIONS FOR PAVING BRICK

1. *Eastern*.—Maine; New Hampshire; Vermont; Massachusetts; Rhode Island; Connecticut; New York; New Jersey; Pennsylvania; Delaware; Maryland; District of Columbia; Virginia; that part of North Carolina lying within and east of the counties of Northampton, Bertie, Martin, Pitt, Craven, Jones, and Onslow; and the state of West Virginia, excluding the territory lying within and south of the counties of Wood, Wirt, Roane, Kanawha, Fayette, and Greenbrier.

2. *Illinois*.—Illinois, Wisconsin, that part of the state of Michigan known as the Upper Peninsula, Iowa, Minnesota, North Dakota, and South Dakota.

3. *Indiana*.—Indiana and that part of the state of Kentucky lying within and west of the counties of Gallatin, Carroll, Henry, Shelby, Anderson, Mercer, Boyle, Casey, Russell, and Wayne.

4. *Ohio*.—Ohio and the state of Michigan, except the Upper Peninsula, and that part of West Virginia lying within and south of the counties of Wood, Wirt, Roane, Kanawha, Fayette, and Greenbrier.

5. *Pacific*.—Idaho, Utah, Arizona, California, Nevada, Oregon, and Washington.

6. *Southern*.—South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, Louisiana (east of Mississippi), and that part of the state of Kentucky lying within and east of the counties of Boone, Grant, Owen, Franklin, Woodford, Jessamine, Gerrard, Lincoln, Pulaski, and McCreary, and that part of the state of North Carolina lying west of the counties of Northampton, Bertie, Martin, Pitt, Craven, Jones, and Onslow.

7. *Western*.—Montana, Wyoming, Colorado, New Mexico, Texas, Oklahoma, Kansas, Nebraska, Missouri, Arkansas, and Louisiana (west of Mississippi River).

REGIONS FOR STRUCTURAL CLAY TILE

1. *New York—New Jersey*.—New Jersey, Delaware, Eastern Peninsula of Maryland, Pennsylvania (east of and including the counties of Pike, Monroe, Northampton, Bucks, Montgomery, Delaware, Chester), Connecticut, Rhode Island (Washington County), New York (all Long Island and counties of Westchester, Putnam, Dutchess, Columbia, Rensselaer, Albany, Greene, Schenectady, Ulster, Orange, Sullivan, Rockland, all New York City).

2. *East Central*.—Michigan, Ohio, West Virginia, Kentucky east of and including counties of Meade, Breckenridge, Grayson, Butler, and Logan, Virginia, District of Columbia, Maryland excepting Eastern Peninsula, Pennsylvania west of counties included in New York-New Jersey Region, New York excepting counties in New York-New Jersey Region, all New England States excepting Connecticut and Washington County in Rhode Island.

3. *Central*.—Wisconsin east of and including counties of Iron, Price, Taylor, Clark, Jackson, LaCrosse; Iowa (counties of Allamakee, Clayton, Dubuque, Jackson, Clinton, Scott); Missouri east of and including counties of Putnam, Sullivan, Linn, Chariton, Howard, Boone, Moniteau, Miller, Pulaski, Phelps, Dent, Shannon, and Oregon; Illinois, Indiana, Kentucky west of counties in East Central Region.

4. *Iowa-Northwest*.—Montana, Wyoming, Colorado, Nebraska, North Dakota, South Dakota, Minnesota, Wisconsin west of counties in Central Region, Iowa except counties in Central Region.

5. *Southcastern*.—Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi.

6. *Southwestern*.—New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Kansas, and Missouri except counties listed in Central Region.

7. *Pacific Coast*.—Washington, Oregon, Idaho, Nevada, California, Utah, and Arizona.

Approved Code No. 124

CODE OF FAIR COMPETITION

FOR THE

MOTION PICTURE INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT .

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 Motion Picture Industry, and a hearing 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 it is hereby, approved, subject to the following conditions:

To effectuate further the policies of the act, that:

(1) Because the constituency of the code authority is named in this code, the Administrator shall have the right to review, and if necessary, to disapprove any act taken by the code authority, or by any committee named by it, and any act taken by any board named by it; and

(2) If, in the administration of this code, any member or temporary alternate of any member of said code authority, or any member of any board appointed by the code authority shall fail to be fair, impartial, and just, the Administrator shall have the

right to remove such member or temporary alternate from said code authority, and to remove such member of any such board, and, if he deems necessary, to name another member or alternate from the general class represented by such removed member or alternate to replace such removed member or alternate upon said code authority or upon any such board; and

(3) If, in the administration of this code, it shall be found by the Administrator that there has not been sufficient representation of any employer class in this industry on the code authority, the Administrator shall have the right to add members from any such class to such code authority; and

(4) Because the President believes that further investigation with respect to the problems of payment of excessive compensation to executives and other employees in this industry is required, the provisions of article V, division A, part 4, of this code are hereby suspended from operation and shall not become effective pending further report from the Administrator after investigation; and

(5) Because the President believes that writers, authors, and dramatists are engaged in purely creative work, the provisions of article V, division B, part 5, sections 1 (c), 2, 3, 4, and 6, of this code, shall not become effective with respect to such employees; and

(6) Because the President believes that further investigation is required with respect to problems generally affecting unfair competitive methods for the services of classes of employees of producers rendering services of an artistic, interpretative, technical, supervisory, or executive nature, the provisions of article V, division B, part 5, sections 1 (c), 2, 3, 4, and 6, of this code, are suspended from operation and shall not become effective pending further report from the Administrator, after investigation, as to whether such provisions should be indefinitely suspended, or modified, altered or changed, or become effective.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

NOVEMBER 4, 1933.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: The Hearing on the Code of Fair Competition for the Motion Picture Industry in the United States was conducted in the Large Auditorium of the United States Chamber of Commerce Building in Washington, D.C., commencing on September 12, 1933, and ending on September 14, 1933, in accordance with the provisions of the National Industrial Recovery Act.

The following papers are included and annexed:

1. Code submitted.
2. Notice of Hearing.
3. Statement of Procedure.
4. Transcript of Record.
5. Report of the Deputy.

The Code for this industry was formulated by representative industrial groups, because there is in this industry no trade or industrial association fairly representative of the industry.

This industry embraces all activities connected with the production, distribution, and exhibition of motion pictures in theaters.

The three economic divisions of this industry are entirely inter-related with and dependent upon each other, and this Code, therefore, embraces every step taken by the Industry from the production of motion pictures to their distribution and thereafter their exhibition before the public.

The industry assumes a position of unusual importance because of its far-reaching influence upon social and economic standards and conduct throughout the world. The total investment in all branches of the industry in the United States is estimated at \$2,000,000,000, of which investment \$95,000,000 is represented by production studios.

The labor provisions of the Code are, in my opinion, fair and equitable. Every class of labor in all the divisions of the industry is provided for as to minimum rates of pay and maximum hours of labor, the hours generally in the production field being 36 hours per week, and in the other divisions of the industry 40 hours per week.

Provision is made for safeguarding the working conditions of "extras", "free-lance" players, and actor employees in motion-picture vaudeville and presentation houses.

A Code Authority is provided for with respect to the administration of the Code, such Code Authority being named and consisting of five producers, distributors, and exhibitors with circuit theatre interests, and five producers, distributors, and exhibitors without circuit theatre interests.

I recommend such Code Authority, with the proviso, however, that the Administrator have the right upon proper showing to disapprove

any of its acts or the acts of any Committees appointed by it; and that the Administrator further have the right to remove any member or alternate from membership upon said Code Authority and to appoint his successor, if such shall be deemed advisable, and to add members to said Code Authority from any employer class in the industry should the same be advisable.

Provision is made for the seating upon the Code Authority of representatives of classes of employees whose interests may be affected, upon proper occasion; and also for the designation by the Administrator of three impartial persons to be appointed by him.

Among the proposed unfair practices is one which provides that the Code Authority may investigate whether any employer in the industry has offered an unreasonably excessive inducement to anyone to enter his employ, and that if found to have done so, such employer may be assessed the amount of the unreasonable excess payment up to the amount of \$10,000.00. However, nothing in the proposal affects the validity of the agreement of employment so entered into between the offending employer and his employee. I recommend that such proposal shall not become effective and that the same shall be indefinitely suspended from operation pending further order from the President.

Among other practices of producers regulated under this Code, is one which forbids negotiation with employees prior to thirty days before the expiration of the period of employment. Any offers made during such last thirty days must be communicated to the then employing producer if he has made a bona fide offer for the continuance of an employee in his employ, and the proposal further contemplates that with respect to certain employees receiving a stipulated sum per week, and following the expiration of the period of employment, the former employing producer shall have notice for three or six months, as the case may be, of offers made for the services of such former employee. I recommend that such provisions shall in no event apply to writers, authors, and dramatists, and that with respect to other employees embraced within such provisions that such provisions shall not become effective and shall be suspended from operation pending further report from the Administrator after investigation.

Unfair practices by the distributors and exhibitors are specifically provided for, together with the creation of certain Boards known as "Clearance and Zoning Boards and Grievance Boards." The function of the Clearance and Zoning Boards is to establish a schedule which will be binding upon all distributors and exhibitors in any exchange territory regulating the number of days which must elapse between the theatres in their showing of the same motion pictures in such territory. The Grievance Boards are set up as industrial forums before which exhibitors and distributors may take not only specified grievances and unfair practices for determination within the industry by such Boards but also may carry their grievances other than those specified in the Code to such Boards for determination. The creation of these Boards is intended particularly to care for the buying problems of exhibitors, and so that they may be assured to the greatest degree possible of

a sufficiency of motion-picture product with which to operate their theatres.

The various Advisory Boards have approved this Code, as well as labor and representative employers in the industry.

It is believed that this Code as now revised represents a great advance in dealing effectively with the problems of this industry.

I find that:

(a) The Code as revised complies in all respects with the pertinent provisions of Title I of the Act including, without limitations, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The respective Producers', Distributors', and Exhibitors' Committees, under their Coordinators, were and are industrial groups truly representative as a whole of the Motion Picture Industry; and that such groups imposed no inequitable restrictions on admission to membership therein; and that

(c) The Code 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.

Accordingly, I adopt the report of the Deputy Administrator and I hereby recommend the approval of the Code of Fair Competition for the Motion Picture Industry.

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
MOTION PICTURE INDUSTRY

PREAMBLE

This Code is established for the purpose of effectuating the policy of Title I of the National Industrial Recovery Act, and shall be binding upon all those engaged in the Motion Picture Industry.

ARTICLE I—DEFINITIONS

1. The term "Motion Picture Industry" as used herein shall be deemed to include, without limitation, the production, distribution, or exhibition of motion pictures and all activities normally related thereto, except as specifically excepted from the operation of this Code.

2. The term "Producer" shall include, without limitation, all persons, partnerships, associations, and corporations who shall engage or contract to engage in the production of motion pictures.

3. The term "Distributor" shall include, without limitation, all persons, partnerships, associations, and corporations who shall engage or contract to engage in the distribution of motion pictures.

4. The term "Exhibitor" shall include, without limitation, all persons, partnerships, associations, and corporations engaged in the ownership or operation of theaters for the exhibition of motion pictures.

5. The term "legitimate production" as used herein shall be deemed to refer to theatrical performances of dramatic and musical plays performed on the stage by living persons.

6. The term "employee" as used herein shall be deemed to refer to and include every person employed by any Producer, Distributor, or Exhibitor as hereinabove defined.

7. The term "clearance" as used herein shall be deemed to refer to that interval of time between the conclusion of the exhibition of a motion picture at a theater licensed to exhibit such motion picture prior in time to its exhibition at another theater or theaters and the commencement of exhibition at such other theater or theaters.

8. The term "zone" as used herein shall be deemed to refer to any defined area embraced within the operations of a local clearance and zoning board.

9. The term "non-theatrical account" as used herein shall be deemed to refer to churches, schools, and other places where motion pictures are exhibited but which are not operated in the usual and ordinary course of the business of operating a theater for the exhibition of motion pictures.

10. The term "affiliated Exhibitor" as used herein shall be deemed to refer to an Exhibitor engaged in the business of operating a

motion-picture theatre which business is owned, controlled, or managed by a Producer or Distributor or in which a Producer or a Distributor has a financial interest in the ownership, control, or management thereof. The mere ownership, however, by a Producer or Distributor of any theatre premises leased to an Exhibitor shall not constitute any such Exhibitor an "affiliated Exhibitor."

11. The term "unaffiliated Exhibitor" as used herein shall be deemed to refer to an Exhibitor engaged in the business of operating a motion-picture theatre which business is not owned, controlled, or managed by any Producer or Distributor or in which no Producer or Distributor has an interest in the ownership, management, or control thereof.

12. The term "outside or associated Producer" as used herein shall refer to a Producer of motion pictures, including features, short subjects, and/or cartoons, and which Producer operates his or its own production unit independently of, though in conjunction with, another Producer or Distributor under whose trade name or trade mark the productions of said outside or associated Producer are released and distributed.

13. The term "Administrator" as used herein shall be deemed to mean the National Recovery Administrator.

14. The term "effective date" shall be, and this Code shall become effective on, the tenth day following the approval of this Code by the President of the United States.

15. Population, for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

ARTICLE II—ADMINISTRATION

1. A Code Authority of the Motion Picture Industry constituted as in this Article provided and herein referred to as the "Code Authority" shall be the agency for the administration of this Code, and shall have such powers as shall be necessary therefor, together with such other powers and duties as are prescribed in this Code.

2. (a) The Code Authority shall consist of the following:

REPRESENTING AFFILIATED PRODUCERS, DISTRIBUTORS, AND EXHIBITORS

Merlin H. Aylesworth.
 Sidney R. Kent.
 George J. Schaefer.
 Nicholas M. Schenck.
 Harry M. Warner.

REPRESENTING UNAFFILIATED PRODUCERS, DISTRIBUTORS, AND EXHIBITORS

Robert H. Cochrane.
 W. Ray Johnston.
 Ed Kuykendall.
 Charles L. O'Reilly.
 Nathan Yamins.

(b) As and when any question directly or indirectly affecting any class of employees engaged in the motion picture industry is to be considered by the Code Authority, one representative of such class, selected by the Administrator from nominations made by such class

in such manner as may be prescribed by the Administrator, shall sit with and become for such purposes a member of the Code Authority with a right to vote.

(c) The Administrator may designate not more than three additional persons without vote who shall not have any direct, personal interest in the motion picture industry nor represent any interest adverse to the interest of those engaged therein, as representatives of the Administration.

(d) In case of the absence, resignation, ineligibility, or incapacity of any member of the Code Authority to act, an alternate of the same general class of the industry and a bona fide executive, or a bona fide Exhibitor, as the case may be, designated by such member shall act temporarily in place of such member. Such designated alternate shall be certified to the Code Authority by such member but the Code Authority may reject such alternate and require another to be so designated.

(e) Each alternate designated by a member of the Code Authority to be a permanent alternate for such member shall be approved by the Administrator.

(f) In the event any member of the Code Authority is unable for any reason to designate his alternate, the Code Authority, subject to the approval of the Administrator, shall select such alternate from the same general class as that of such member.

(g) No employer in the industry shall have more than one representative at any time upon the Code Authority.

(h) A vacancy in the Code Authority subject to being filled in the same manner as above provided in subsection (f) of this Section shall exist when any member shall cease to be a bona fide executive or a bona fide Exhibitor.

3. The Code Authority may make such rules as to meetings and other procedural matters as it may from time to time determine.

4. The Code Authority may from time to time appoint Committees which may include or be constituted of persons other than members of the Code Authority as it shall deem necessary to effectuate the purposes of this Code, and may delegate to any such Committee generally or in particular instances any power and authority within the scope of the powers granted to the Code Authority under this Code, provided that the Code Authority shall not be relieved of its responsibility and duties hereunder. The Code Authority may at any time remove from any Committee any member thereof. The Code Authority shall coordinate the duties of the Committees with a view to promoting joint and harmonious action upon matters of common interest. Any action taken by any of such Committees shall be reviewed by the Code Authority.

5. (a) The Code Authority shall be empowered to collect from the members of the industry all data and statistics required by the President, or reasonably pertinent to the effectuation of Title I of the National Industrial Recovery Act to compile the same and disseminate without individual identification among the members of the industry summaries thereof, all in such form and manner as the Code Authority or the Administrator shall prescribe. No such statistics, data, and information of any one member of the industry shall be revealed to any other member. The dissemination of sum-

maries of such information shall not be deemed a disclosure thereof. 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 National Industrial Recovery Act.

(b) The Code Authority shall have the right to make independent investigations of violations or alleged violations of the Code by any branch of the industry or by any person, firm, or corporation engaged in any branch of the industry.

6. The Code Authority shall assist the Administrator in administering the provisions of this Code, in making investigations as to the functioning or observance of any of the provisions of this Code at its own instance or on the complaint of any person engaged in the industry, and shall report to the Administrator on any such matters. The Code Authority may initiate and consider such recommendations and regulations and interpretations, including those pertaining to trade practices, as may come before it.

7. The Code Authority, after notice and hearing, may prescribe additional rules governing the conduct of Producers, Distributors, and Exhibitors among themselves and with each other and with their employees, which rules shall be submitted to the Administrator and if approved by the President after such notice and hearing as he shall deem proper, shall constitute rules of fair practice for the industry, and any violation thereof shall constitute a violation of this Code.

8. The Code Authority shall, to such extent and in such manner as may seem most useful, utilize the facilities of national, regional, and local trade associations, groups, institutes, boards, and organizations in the industry.

9. No member of the Code Authority shall sit on any matter involving his company's or his own interest directly and not as a class. In such case the Code Authority, including such ineligible member, shall designate an alternate of the same general class not connected with the company or theatre of the ineligible member to sit in his place.

10. (a) The Code Authority shall have the right to appoint, remove, and fix the compensation of all persons whom it may employ to assist it in any capacity whatsoever in administering this Code.

(b) The expenses of the Code Authority in administering this Code shall be budgeted and fairly allocated among the three divisions of the industry and assessed against the respective members thereof who accept the benefits of the activities of the Code Authority or otherwise assent to this Code, in such manner as shall be determined by the Code Authority.

(c) Any person who shall fail to promptly pay any assessment or levy made pursuant to an order of the Code Authority as an expense in administering this Code shall not be entitled to file any complaint under any ARTICLE or PART thereof.

ARTICLE III—GENERAL PROVISIONS

SECTION 1. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing,

and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

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

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

SEC. 2. This Code is not designed to promote monopolies or to eliminate or oppress small enterprises and shall not be applied to discriminate against them nor to permit monopolies or monopolistic practices.

ARTICLE IV—LABOR PROVISIONS

A. On and after the effective date of this Code, in the Production of Motion Pictures:

SECTION 1. *Hours of employment.*—(a) No employee shall work more than forty (40) hours in any one week.

(b) No employee of the following classes shall work more than forty (40) hours in any one week:

Accountants; accounting machine operators; bookkeepers; clerks; firemen; garage clerks; gardeners; janitors; librarians; mail clerks; messengers; mimeograph operators; porters; readers; restaurant workers; seamstresses; secretaries (exclusive of Executives' secretaries receiving \$35.00 or more per week); stenographers; telephone and telegraph operators; timekeepers; typists; and watchmen.

(c) No studio mechanic of the following classes shall work more than thirty-six (36) hours in any one week:

Artists and sculptors; automotive mechanics; blacksmiths; carpenters; casters and mouldmakers (staff); cement finishers; chauffeurs and truck drivers; construction foremen (carpenters); electrical foremen; electrical workers; floormen (electric); foundrymen; gaffers; grips; laborers; lamp operators; machinists; marbleizers, grainers, and furniture finishers; modelers (staff); model makers (staff); moulders (metal); operating engineers; ornamental iron workers; painters; pattern makers; plasterers; plumbers; projectionists (except process projectionists); propertymen; scenic artists; set drapers, sheet-metal workers; sign writers; sprinkler fitters; steam fitters; structural steel workers; swing gang (property); upholsterers; welders; and Laboratory Workers of the following classifications; Chemical mixers, negative assemblers and breaker-downs; negative developers' assistants, negative notchers, negative splicers, positive daily assemblers, positive developers' assistants, positive release splicers, printers, processing and negative polishers, release inspectors, rewinders, sensitometry assistants, shift boss printers, and vault clerks.

(d) The maximum hours fixed in the foregoing paragraphs (a), (b), and (c) shall not apply to employees on emergency, or maintenance and repair work; nor to cases where restriction of hours of

skilled workers on continuous processes would hinder, reduce, or delay production; nor to

(1) employees in executive or managerial capacities, professional persons, actors (exclusive of so-called "extras"); attorneys and their assistants; department heads and their assistants; directors; doctors; managers; executives, their assistants and secretaries; professional nurses; producers and their assistants; purchasing agents; unit business managers; and writers; nor to

(2) employees engaged directly in production work whose working time must necessarily follow that of a production unit, including art directors; assistant directors; cameramen and assistants; company wardrobe men (women) and assistants; costume designers; draftsmen; make-up artists and hairdressers; optical experts; positive cutters and assistants; process projectionists; script clerks; set dressers; "stand-by" or "key-men"; sound mixers; sound recorders; wardrobe fitters; nor to

(3) employees regardless of classification assigned on location work; nor to

(4) employees engaged directly in news-reel production work in the following classifications: editors and subeditors; film cutters and film joiners; typesetters; cameramen and soundmen; the working hours of news-reel cameramen and soundmen shall be limited to three hundred and twenty (320) hours in any eight (8) week period, to be computed from the time such employees leave their base of operation with their equipment until the time of their return, or are required to remain in a designated place; contacting and planning shall not be computed as working hours; nor shall this limitation on working hours apply to news-reel cameramen and soundmen who make special trips of a semivacational nature on trains, ships, etc., or who shall be assigned to duty at a summer or winter resort for an extended period of time, nor to news-reel cameramen and soundmen on roving or "gypsy" assignments; nor to

(5) employees of producers of animated motion-picture cartoons in the following classifications: animators, assistant animators, cartoon photographers, story and music department employees, tracers and opaquers; the working hours of tracers and opaquers shall be limited to forty-four (44) hours in any one week, subject to the exceptions made herein in cases of emergency.

(e) With respect to those classes of employees specified within subdivision (2) of the foregoing subdivision (d) of this Section 1:

(1) such employees employed on an hourly basis or on a daily basis with overtime compensation shall at the conclusion of any single production be given a full day off without pay for each six (6) hours of work in excess of a thirty-six (36) hour weekly average during the production. Employees employed on a weekly basis, whether by agreement in writing or otherwise, shall not be deemed to be within the purview of this subsection (1).

(2) Art directors, assistant directors, company wardrobe men, women and assistants, costume designers, draftsmen, make-up artists, hair dressers, optical experts, process projectionists, script clerks, and wardrobe fitters receiving seventy dollars (\$70.00) or less per week without overtime compensation, at the conclusion of any single production shall be laid off one full day, without pay, for each six

(6) hours of work in excess of a thirty-six (36) hour weekly average during the production period, but for each six (6) hours or fraction thereof which each such employee has worked in excess of a fifty-four (54) hour weekly average during said production such employee shall receive one full day's pay. No such employee shall be permitted to work in another studio during the time of such lay-off.

SEC. 2. *Minimum wages.*—(a) No employee of any class shall be paid less than forty (40) cents per hour.

(b) The following clerical, office, and service employees shall be paid not less than fifty (50) cents per hours:

Accountants, accounting machine operators, bookkeepers, clerks, file clerks, firemen, garage clerks, readers, secretaries, stenographers, telephone and telegraph operators, timekeepers, typists.

(c) No employee of the following classes of studio mechanics shall be paid less per hour than the rates specified for each class:

Artists and Sculptors.....	\$1. 94
Automotive Mechanics.....	1. 00
Blacksmiths.....	1. 16 $\frac{2}{3}$
Carpenters.....	1. 16 $\frac{2}{3}$
Casters and Mouldmakers (staff).....	1. 16 $\frac{2}{3}$
Cement Finishers.....	1. 16 $\frac{2}{3}$
Construction Foremen (carpenter).....	1. 33 $\frac{1}{3}$
Electrical Foremen.....	1. 33 $\frac{1}{3}$
Electrical Workers.....	1. 16 $\frac{2}{3}$
Floormen (electric).....	1. 00
Foundrymen.....	1. 16 $\frac{2}{3}$
Gaffers.....	1. 16 $\frac{2}{3}$
Grips.....	1. 00
Laborers.....	. 60
Lamp Operators.....	1. 00
Machinists.....	1. 16 $\frac{2}{3}$
Marbleizers, Grainers and Fur Finishers.....	1. 40
Modelers (staff).....	1. 94
Modelmakers (staff).....	1. 25
Moulders (metal).....	1. 16 $\frac{2}{3}$
Operating Engineers.....	1. 16 $\frac{2}{3}$
Ornamental Iron Workers.....	1. 16 $\frac{2}{3}$
Painters.....	1. 16 $\frac{2}{3}$
Pattern Makers.....	1. 16 $\frac{2}{3}$
Plasterers.....	1. 25
Plumbers.....	1. 16 $\frac{2}{3}$
Projectionists.....	1. 25
Propertymen (first).....	1. 00
Propertymen (second).....	. 90
Scenic Artists.....	2. 25
Set Drapers.....	1. 00
Sheetmetal Workers.....	1. 16 $\frac{2}{3}$
Sign Writers.....	1. 66 $\frac{2}{3}$
Sprinkler Fitters.....	1. 16 $\frac{2}{3}$
Steam Fitters.....	1. 16 $\frac{2}{3}$
Structural Steel Workers.....	1. 16 $\frac{2}{3}$
Swing Gang (property).....	. 75
Upholsterers.....	1. 10
Welders.....	1. 16 $\frac{2}{3}$

When any of the above studio mechanics works more than six (6) hours per day on: (1) emergency or maintenance or repair work, or (2) to avoid hindering, reducing or delaying production, he shall be compensated at not less than time and one-half for all overtime in excess of six (6) hours.

(d) No employees of the following classes shall be paid less per hour than the rates specified for each class:

Assistant Cutters.....	\$1. 00
Chauffeurs and Truck Drivers.....	. 83½
Laboratory Workers of the following classifications:	
Chemical Mixers.....	. 70
Negative Assemblers and Breaker-downs.....	. 81
Negative Developers' Assistants.....	. 81
Negative Notchers.....	. 75
Negative Splicers.....	. 70
Positive Daily Assemblers.....	. 75
Positive Developers' Assistants.....	. 74
Positive Release Splicers.....	. 64
Printers.....	. 81
Processing and Negative Polishers.....	. 70
Release Inspectors.....	. 70
Rewinders.....	. 64
Sensitometry Assistants.....	. 81
Shift Boss Printers.....	. 93
Vault Clerks.....	. 81
Film Loaders.....	. 83½

When any of the above employees work more than thirty-six (36) hours in any one week on: (1) emergency or maintenance or repair work; or (2) to avoid hindering, reducing, or delaying production, he shall be compensated at straight time for all overtime in excess of thirty-six (36) cumulative hours.

(e) With respect to the following classifications there may be substituted a weekly wage in lieu of an hourly wage:

Construction Foreman (carpenter).....	\$76. 75
Electrical Foreman.....	76. 75
Gaffer.....	68. 50
Floormen (electric).....	60. 00
Grips.....	60. 00
Property men (first).....	60. 00

However, for "stand-by" or "key men", not more than one man of each of the above classifications shall be assigned to any one producing unit.

(f) With respect to all employees listed in paragraphs (c) and (d) of this Section, the foregoing scale of minimum wages shall prevail on all locations except that the following wage scale may be paid in lieu thereof on distant location, if so stipulated before employment commences and all such employees' expenses are paid:

Distant locations when employed less than one week of seven (7) days and subject to "call at any time":

Studio, hourly rate	Distant location, daily rate when less than 1 week	Distant location, weekly rate
\$2. 25	\$27. 25	\$161. 75
1. 94	24. 00	141. 75
1. 66½	20. 75	121. 75
1. 40	17. 25	101. 75
1. 33½	15. 75	91. 75
1. 25	14. 75	86. 75
1. 16½	13. 75	81. 75
1. 10	13. 25	78. 00
1. 00	12. 25	71. 75
. 90	11. 50	68. 75
. 83½	8. 50	51. 75
. 75	8. 00	46. 75
. 60	6. 50	37. 75

When the distant location daily rate above is employed, the total wage for any one week shall not exceed the distant location weekly wage.

(g) Every news-reel cameraman or soundman shall be given one day off with pay for every four (4) cumulative days (24 hours per day) that he is away from his base of operations, except if on roving or "gypsy" assignments.

SEC. 3. *Provisions Regarding "Extras."*—1. The Code Authority provided for in this Code shall undertake and provide for rules and regulations to be adopted by all casting agencies and/or Producers with respect to "extras", and shall appoint a standing committee representative of employers, "extra players", and the public, to effectuate the foregoing purposes and to interpret the terms of any provisions made for "extras" and to supervise the same, receive and pass on complaints and grievances, and to otherwise aid in effectuating the foregoing provisions, subject to review by the Administrator.

2. Such standing committee under the supervision of the Code Authority shall cause a reclassification of "extras" and "extra talent" to be undertaken, based upon the following qualifications for such labor:

(a) "Extra players" shall be those who by experience and/or ability are known to be competent to play group and individual business parts and to otherwise appear in a motion picture in other than atmospheric background or crowd work.

(b) Atmosphere people who are not to be classified as dependent on motion pictures for a livelihood, but who may be recorded, listed, and called upon for occasional special qualifications not possible of being filled from the registered Extra Players.

(c) Crowds not classified, including racial groups, location crowds where transportation is unpractical and crowd assemblies of a public nature.

3. The minimum pay for the foregoing classifications shall be as follows:

(a) "Extra players". \$7.50 per day, with this minimum graded upward according to the character and importance of the performance and the personal wardrobe required, the minimum for Class A "dress" people to be \$15.00 per day; provided that, if any "extra player" employed as such is required to play a part or bit with essential story dialogue, such "extra player" shall not be deemed to be an "extra player" and shall become a "bit player", and his compensation shall be fixed by agreement between such player and the Producer before the part or bit is undertaken, but the minimum compensation to such "bit player" shall not be less than twenty-five dollars (\$25.00).

(b) Atmosphere people, \$5.00 per day; provided that any "extra player" may accept atmosphere work without losing or jeopardizing his registration as an "extra player."

(c) Crowds, \$5.00 per day, provided that this minimum shall not prevent the employment of large groups under special circumstances at a rate lower than the minimum.

(d) Transportation to and from location shall be paid to "extra players." There shall also be paid to "extra players" for inter-

views and fittings the payments provided for in Order 16-A of the Industrial Welfare Commission of the State of California; except that in the event that any interview extends beyond one and one half hours, the "extra player", although not engaged, shall receive not less than one fourth of a day's pay, and if any interview shall extend beyond two hours, the "extra player" shall receive an additional one fourth of a day's pay for every additional two hours or fraction thereof.

4. The following shall be provided for by said standing committee among the working conditions to be regulated as above provided:

(a) In Casting Bureaus casting and employment interviews of women and children shall be by women casting officials, and men by men.

(b) No one shall be employed as an "extra player" or "atmosphere worker" who is a dependent member of the immediate family of any regular employee of a motion-picture company, or any person who is not obliged to depend upon extra work as a means of livelihood, unless the exigencies of production reasonably construed, require an exception to be made. And further, no one shall be employed as an "extra player" or "atmosphere worker" on account of personal favoritism.

(c) A day's work in any State shall be eight (8) hours, with overtime as provided by the existing California Statutes relating thereto.

(d) No person coming under the above classification (excepting crowds) shall be permitted to work in more than one picture for the same day's pay, including overtime.

(e) Rotation of work shall be established to such reasonable degree as may be possible and practicable.

(f) No person not a registered "extra player" shall be requested by a studio casting office from any casting agency, and each registered "extra player" shall be provided with a card of identification; suitable regulations for carrying out this provision shall be adopted.

Sec. 4. *Provisions Regarding "Free Lance" Players.*—The Code Authority provided for in this Code shall undertake and provide for rules and regulations to be binding upon all Producers with respect to "free lance" players receiving compensation of one hundred and fifty dollars (\$150.00) or less per week, and shall appoint a standing committee representative of employers, "free lance" players, and the public, to effectuate the foregoing purposes and to interpret the terms of any provisions made for "free lance" players, and to supervise the same, receive and pass on complaints and grievances, and to otherwise aid in effectuating the foregoing provisions subject to review by the Administrator.

Such standing committee, under the supervision of the Code Authority, shall make full investigation with respect to the working conditions of such "free lance" players and shall undertake and provide for by the rules and regulations hereinabove provided for with respect to hours of employment for such "free lance" players, rotation and distribution of work to such reasonable degree as may be possible and practicable, and minimum adequate compensation therefor.

Sec. 5. *Overriding provisions.*—If the prevailing wage scale and maximum number of hours per week as of August 23, 1933, as fixed

in any agreement or as enforced between the employers and associations of any such employees, however, shall be at a rate exceeding the minimum wage scale provided for or less than the number of hours per week herein provided for with respect to any of such employees, such scales and hours of labor in the localities where same were enforced shall be deemed to be, and hereby are declared to be, the minimum scale of wages and maximum number of hours with respect to these aforementioned employees in such localities under this Section of the Code.

SEC. 6. *Child labor.*—On and after the effective date of this Code, no person under sixteen (16) years of age shall be employed in the production of motion pictures, provided, however, where a State law provides a higher minimum age, no person under the age specified by said State shall be employed in that State, and provided further, however, where a role or roles are to be filled or appearances made by a child or children, a Producer may utilize the services of such child or children upon his compliance with the provisions of State laws appertaining thereto.

B. On and after the effective date of this Code, in the Distribution of Motion Pictures:

SECTION 1. *Hours of Employment.*—(a) No employee except outside salesmen shall work more than forty (40) hours in any one week.

(b) This provision for working hours shall not apply to professional persons employed in their profession nor to employees in a managerial or an executive capacity or in any other capacity of distinction or sole responsibility who now receive more than \$35.00 per week; nor to employees on emergency or maintenance and repair work.

SEC. 2. *Minimum Wages.*—No employee shall be paid:

(a) Less than fifteen dollars (\$15.00) per week in any city over 500,000 population or in the immediate trade area of such city.

(b) Less than fourteen dollars and fifty cents (\$14.50) per week in any city between 250,000 and 500,000 population or in the immediate trade area of such city.

(c) Less than fourteen dollars (\$14.00) per week in any city or place up to 250,000 population or in the immediate trade area of such city or place.

SEC. 3. On or after the effective date no person under sixteen (16) years of age shall be employed in the distribution of motion pictures, provided, however, where a State law provides a higher minimum age, no person below the age specified by such State law shall be employed within that State.

C. On and after the effective date of this Code, in the Exhibition of Motion Pictures:

Part 1. Employees Other than Actors.

SECTION 1. No person under sixteen (16) years of age shall be employed; provided, however, that where a State law provides a higher minimum age no person below the age specified by such State law shall be employed in that State.

SEC. 2. No employee, notwithstanding the provisions of Section 6 (a) hereof, shall work more than forty (40) hours in one week, except that such maximum hours shall not apply to employees in a managerial, executive, or advisory capacity who now receive thirty-

five (\$35.00) or more per week, or to employees whose duties are of general utilitarian character, or to emergencies.

SEC. 3. With respect to employees regularly employed as ticket-sellers, doormen, ushers, cleaners, matrons, watchmen, attendants, porters, and office help, such employees shall receive not less than a twenty percent (20%) increase over the wage paid to them as of August 1, 1933, in cities and places having a population of less than 15,000, provided that this shall not require a wage for these employees in excess of twenty-five (25) cents per hour.

SEC. 4. With respect to employees regularly employed as ticket-sellers, doormen, cleaners, matrons, watchmen, attendants, porters, and office help, such employees shall receive not less than thirty (30) cents per hour in cities and places having a population of more than 15,000 and less than 500,000, and not less than thirty-five (35) cents per hour in cities and towns having a population of more than 500,000.

SEC. 5. With respect to employees regularly employed as ushers, in cities and places having a population over 15,000, such employees shall receive a wage of not less than twenty-five (25) cents per hour.

SEC. 6. (a) Employees associated with organizations of or performing the duties of bill-posters, carpenters, electrical workers, engineers, firemen, motion-picture machine operators, oilers, painters, theatrical stage employees, theatrical wardrobe attendants, or other skilled mechanics and artisans, who are directly and regularly employed by the Exhibitors, shall receive not less than the minimum wage and work no longer than the maximum number of hours per week which were in force as of August 23, 1933, as the prevailing scale of wages and maximum number of hours of labor by organizations of any of such employees affiliated with the American Federation of Labor with respect to their respective type of work in a particular class of theatre or theatres in a particular location in a particular community, and such scales and hours of labor with respect to any of such employees in such community shall be deemed to be, and hereby are declared to be, the minimum scale of wages and maximum number of hours with respect to all of such employees in such communities in such class of theatre or theatres.

(b) In the event, however, that there exist in the particular community organizations of such employees above mentioned, members of which were directly and regularly employed by the Exhibitor or Exhibitors on August 23, 1933, and which organizations are affiliated as above set forth, and (1) no prevailing scale of wages and maximum number of hours for such employees exist in such community with respect to such employees, or (2) any dispute should arise as to what is a minimum scale of wages or the maximum number of hours of labor with respect to any of such employees for a particular class of theater or theaters in any particular community then and in either of those events such disputes shall be determined as follows:

(1) If the question at issue arises with an organization of such employees affiliated with the American Federation of Labor, then a representative appointed by the National President of such affiliated organization, together with a representative appointed by the Exhibitors, shall examine into the facts and determine the existing

minimum scale of wages and maximum number of hours of labor for such class of theater or theaters in such particular locality, and in the event they cannot agree upon the same, they shall mutually designate an impartial third person who shall be empowered to sit with such representatives, review the facts and finally determine such dispute, with the proviso, however, that in the event such representatives cannot mutually agree upon such third person, then the Administrator shall designate such third person; or

(2) If the question at issue arises with unorganized employees or with an organization of such employees not affiliated with the American Federation of Labor, and if in said community there exist members of such affiliated organization directly and regularly employed by an Exhibitor or Exhibitors, then a representative of such unorganized employees, or, as the case may be, a representative appointed by the President of such unaffiliated organization or both, together with a representative appointed by the National President of such affiliated organization above referred to, together with a representative appointed by the Exhibitors, shall examine into the facts and unanimously determine the existing scale of wages and maximum number of hours of labor for such class of theatre or theatres in such particular community, and in the event they cannot unanimously agree upon the same, they shall mutually designate an impartial person who shall be empowered to sit with such representatives, review the facts, and finally determine such dispute, with the proviso, however, that in the event such representatives cannot mutually agree upon such impartial person, then the Administrator shall designate such impartial person; or

(3) If the question at issue arises with unorganized employees or with an organization of such employees not affiliated with the American Federation of Labor and not subject to the foregoing provisions of subparagraphs (1) and (2) of paragraph (b) hereof, then a representative of such unorganized employees, or, as the case may be, a representative of the President of such unaffiliated organization, or both together, with a representative appointed by the Exhibitors, shall examine into the facts and determine the existing minimum scale of wages and maximum hours of labor, for such class of theatre or theatres in such particular locality, and in the event they cannot agree upon the same, they shall mutually designate an impartial person who shall be empowered to sit with such representatives, review the facts and finally determine such dispute, with the proviso, however, that in the event such representatives cannot mutually agree upon such impartial person, then the Administrator shall designate such impartial person.

(c) Pending the determination of any such dispute, the rate of wages then paid by the Exhibitor in such theatre or theatres in such community, and the maximum number of hours then in force (if not more than the hours provided for in this Code) shall not be changed so as to decrease wages or increase hours.

(d) In order to effectuate the foregoing provisions of this Section 6 hereof, and pending the determination of any dispute as above specified, the employees herein embraced and provided for agree that they shall not strike, and the Exhibitors agree that they shall not lock out such employees.

SEC. 7. In no event shall the duties of any of the employees hereinabove specified in Section 6 (a) directly and regularly employed by the Exhibitors as of August 23, 1933, be increased so as to decrease the number of such employees employed in any theatre or theatres in any community, except by mutual consent.

SEC. 8. With respect to any employee not hereinbefore provided for, such employee when directly and regularly employed by the Exhibitors shall be paid not less than forty (40) cents per hour.

SEC. 9. By reason of the professional character of their employment, the minimum wage and maximum hours of employment of employees performing the duties of musicians shall as heretofore be established by prevailing labor agreements, understandings, or practices.

SEC. 10. With respect to disputes arising between employees and employers in the Exhibition branch of the Motion Picture Industry, the parties pledge themselves to attempt to arbitrate all such disputes.

SEC. 11. The Administrator after such notice and hearing as he shall prescribe may revise or modify any determination of any dispute pursuant to Section 6 of Part 1 of Division C of this Article IV.

Part 2. Actor Employees in Vaudeville and Presentation Motion-Picture Theatres.

SECTION 1. *Definitions.*—(a) Presentation and vaudeville shall include both permanent and traveling companies of artists playing presentation and vaudeville houses, but is not intended to include: amateur shows, “rep” shows, “tab” shows, “tent” shows, “wagon” shows, “truck” shows, “medicine” shows, “show-boat” or “burlesque”, as these terms are understood in the theatre.

(b) A “traveling” company, as used in this Code, means a company which moves from theatre to theatre irrespective of locality.

SEC. 2. *Auditions*—(a) *Principals.*—It shall be an unfair trade practice for any Exhibitor or independent contractor under the guise of public audition to break in, try out, or to require a performer to render service for less than the minimum salary established by this Code. This shall not prohibit, however, the appearance or participation of any performer in benefit performances which have been approved by the performer or by any bona fide organization of the performer’s own choosing.

(b) *Chorus.*—It shall be an unfair trade practice for any manager or independent contractor, under the guise of a public audition, break-in, or try-out, to require the chorus to render services for less than the minimum salary established by this Code. This shall not prohibit, however, the appearance of the chorus or participation in benefit performances which have been approved by the chorus or any bona fide organization of the chorus’ own choosing.

SEC. 3. *Rehearsals*—(a) *Principals.*—Rehearsal period for principals shall be limited to four weeks, and they shall be guaranteed two consecutive weeks’ compensation for employment for said four weeks of rehearsals, which shall immediately follow the rehearsal period. In the event that any rehearsal over four weeks is required, there shall be compensation for an additional consecutive week’s playing time guaranteed for each week’s rehearsal. This shall not apply, however, to principals owning their own acts.

(b) *Chorus*.—No exhibitor or independent contractor shall require for an engagement of only one week any chorus person to rehearse in excess of five (5) days, nor for an engagement of two or more weeks to rehearse in excess of two (2) weeks. Any such engagement shall follow immediately such respective rehearsal periods. The chorus shall not be required to rehearse for more than forty (40) hours a week and rehearsal shall be considered to be continuous from the time the chorus is called on the first day of rehearsal until the opening day. For each additional week of rehearsal there shall be compensation for an additional week's consecutive employment.

SEC. 4. *Maximum Hours and Minimum Wages*—(a) *Principals*.—Owing to the peculiar nature of the stage presentation and vaudeville business and the unique conditions prevailing therein, the necessary policy and variations in the operation of such theatres, the changing nature of the entertainment, and the fact that such entertainment is of a character requiring the services of artists of unique and distinctive ability who cannot be replaced, it is recognized that it is impossible to fix the maximum hours per week of artists appearing in such theatres.

(1) For performers with more than two years' theatrical experience, there shall be a minimum wage of forty dollars (\$40.00) weekly net.

(2) For performers with less than two years' theatrical experience, there shall be a minimum wage of twenty-five dollars (\$25.00) weekly net.

(3) The minimum wage of performers employed on a per diem basis shall be seven dollars and fifty cents (\$7.50) per day net.

(b) *Chorus*.—No singing or dancing chorus person shall be required to work more than forty (40) hours in any week, and there shall be one day out of every seven during which the chorus shall be released from work with pay. Working time shall include the entire time of a performance or presentation in which the chorus appears in one or more numbers as an integral part of the presentation, and all rehearsal time excluding dressing and undressing time. No chorus person shall be required to report at a theatre before 9 o'clock in the morning.

On the day a chorus person is released with pay, such chorus person shall not be required to rehearse or report to the theatre or perform any service. This provision for a free day shall not apply to traveling companies.

(1) There shall be a minimum wage of thirty dollars (\$30.00) per week in any De Luxe Theatre.

(2) There shall be a minimum wage of thirty-five dollars (\$35.00) per week in traveling companies.

(3) There shall be a minimum wage of twenty-five dollars (\$25.00) per week in other than De Luxe Theatres.

(4) Wherever a theater augments the chorus by employing additional chorus persons, such additional chorus persons shall not rehearse more than five (5) days.

(5) It shall be an unfair trade practice for any Exhibitor or independent contractor to engage any chorus person under any agreement which would reduce the net salary below the minimum wage through the payment of any fee or commission to any agency

(whether such fee is paid by the Exhibitor or independent contractor or by the chorus), or by any other form of deduction.

(6) After the first two weeks of consecutive employment, if a lay-off is necessary, the Exhibitor or independent contractor shall pay each chorus person not less than three dollars (\$3.00) per day for each day of lay-off. In connection with a traveling unit after the first two weeks of consecutive employment, if lay-off is caused on account of traveling, the Exhibitor or independent contractor shall be allowed two days' traveling without pay for each four weeks of employment West of the Rockies, and one day's traveling without pay for each four weeks of employment East of the Rockies.

(7) Wherever on August 23, 1933, any theatre paid a rate to chorus persons in excess of the minimum wages or employed chorus persons for a number of hours per week of labor less than the maximum hours, said higher wage and lesser number of hours shall be deemed to be, and are hereby declared to be, the minimum scale of wages and maximum hours of labor with respect to such theatres in this Section of the Code.

SEC. 5. *General Provisions.*—(a) If in any city or place where by custom Sunday performances by living actors, or the performance of particular classes of acts, are not given, no performer or chorus person engaged to work in such city or place shall be required to perform or give performances of such particular class of act in such city or in any other place on the Sunday of the week for which such performer or chorus person was engaged to render services in such city or place.

(b) Wherever any unit, traveling company or artist is required to give more than the regular number of performances established in the theatres in which they appear, said unit, traveling company or artist, all artists and chorus persons shall be paid for said extra performances pro rata.

SEC. 6. *Chorus Transportation.*—(a) Transportation of the chorus when required to travel, including transportation from point of organization and back, including sleepers, shall be paid by the employer whether Exhibitor or independent contractor.

(b) If individual notice of contract termination is given, the chorus shall only be paid in cash the amount of the cost of transportation and sleeper of the chorus and baggage back to the point of origin whether the chorus returns immediately or not.

SEC. 7. *Wardrobe.*—(a) *Principals.*—The Exhibitor or independent contractor shall furnish to every artist in a presentation unit or traveling company (not including what is commonly known as a vaudeville act) and receiving less than fifty dollars (\$50.00) per week, without charge, all hats, costumes, wigs, shoes, tights, and stockings, and other necessary stage wardrobe, excepting street clothes.

(b) *Chorus.*—The Exhibitor or independent contractor shall furnish the chorus, without charge, with all hats, costumes, wigs, shoes, tights, and stockings and other necessary stage wardrobe.

SEC. 8. *Arbitration.*—(a) Arbitration of all disputes under this Section of this ARTICLE of the Code shall be in accordance with the arbitration provisions of this Code as hereinafter generally provided.

SEC. 9. *Child Labor.*—(a) On or after the effective date of this Code, no person under sixteen (16) years of age shall be employed as a principal or chorus person in connection with the EXHIBITION of motion pictures, provided, however, where a State law provides a higher minimum age, no person under the age specified by said State law shall be employed in that State, and provided further, however, where a role or roles are to be filled or appearances made by a child or children, an Exhibitor or independent contractor may utilize the services of such child or children upon his compliance with the provisions of State laws appertaining thereto.

SEC. 10. The Code Authority may receive complaints with respect to alleged violations by an independent contractor of any of the foregoing Sections of this PART 2 and may after notice and hearing and with the approval of the Administrator prescribe rules and regulations governing the relations between Exhibitors and independent contractors guilty of any such violations.

ARTICLE V—UNFAIR PRACTICES

A. GENERAL

Part 1. 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 motion pictures or theatres, shall be deemed to be an unfair trade practice.

Part 2. The publishing or circularizing of threats or suits or any other legal proceedings not in good faith, with the tendency or effect of harrassing competitors or intimidating their customers, shall be deemed to be an unfair trade practice.

Part 3. 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, shall be deemed to be an unfair trade practice.

Part 4. To avoid the payment of sums unreasonably in excess of the fair value of personal services which results in unfair and destructive competition, the Code Authority shall have power, with the approval of the Administrator, to investigate whether in any case any employer in the motion-picture industry has agreed to pay an unreasonably excessive inducement to any person to enter into the employ of such employer. If the Code Authority finds that such employer has done so, the Code Authority shall have the power, with the approval of the Administrator, to impose an assessment against such employer in the amount of the unreasonable excess payment to such person, not, however, to exceed the sum of Ten Thousand Dollars (\$10,000.00), and to make public its findings, but nothing in this PART shall in any manner impair the validity or enforceability of such agreement of employment. All such assessments shall be paid to the Code Authority for use by it in the Administration of its functions.

B. PRODUCERS

Part 1. It shall be an unfair trade practice for any Producer to aid, abet, or assist in the voluntary release or dismissal of any author,

dramatist, or actor employed in rendering his exclusive services in connection with the production of a "legitimate" drama or musical comedy for the purposes of securing the services of such author, dramatist, or actor.

Part 2. It shall be an unfair trade practice for a number of Producers who, in the usual and ordinary course of business, rent their respective studios or studio facilities to Producers (other than their affiliated companies), to conspire, agree, or take joint action to prevent any responsible Producer or Producers from renting such studios or studio facilities.

Part 3. It shall be an unfair trade practice for a Producer to knowingly employ as an "extra" any member of the immediate family of any employee or any person who is not obliged to depend upon "extra" work as a means of livelihood, unless the exigencies of production require an exception to be made.

Part 4. SECTION 1. No Producer, directly or indirectly, shall transact any business relating to the production of motion pictures with any agent who under the procedure hereinafter set forth shall be found by the Agency Committee:

(a) to have given, offered, or promised to any employee of any Producer any gift or gratuity to influence the action of such employee in relation to the business of such Producer;

(b) to have alienated or enticed, or to have attempted to alienate or entice, any employee under written contract of employment, from such employment, or to have induced or advised without justification any employee to do any act or thing in conflict with such employee's obligation to perform in good faith any contract of employment, whether oral or written;

(c) knowingly to have made any materially false representation to any Producer in negotiations with such Producer for or affecting the employment or contemplated employment of any person represented by such agent;

(d) to have violated or evaded or to have attempted to violate or evade, directly or indirectly, any of the provisions of Parts 4 or 5 of this Article V.

(e) to have failed or refused to have registered as an agent, in the event that such registration is required as provided for in Section 3 of this Part, or to have transacted business as an agent after his registration shall have been revoked, cancelled, or suspended.

SEC. 2. The Agency Committee shall consist of ten (10) members, five (5) of whom shall be Producers or Producers' representatives named by the Code Authority, and the other five (5) shall consist of one agent, one actor, one writer, one director, and one technician, who shall be selected by the Administrator from nominations as to each class named, respectively, by agents, actors, writers, directors, and technicians, in such equitable manner as may be prescribed by the Administrator.

SEC. 3. In order to effectuate this Part, the Agency Committee may recommend to the Administrator uniform terms and conditions for and an appropriate procedure for the registration of all agents with whom Producers may transact business relating to the production of motion pictures, and for the suspension, revocation, or cancellation of any such registration and appropriate rules and regulations affecting the agents as provided for herein. Such recommendations of the

Agency Committee, together with the recommendations of the individual members thereof, shall be submitted in writing to the Administrator, who after such notice and hearing as he may prescribe, may approve or modify such recommendations. Upon approval by the Administrator, such recommendations shall have full force and effect as provisions of this Code. No agent shall be deprived of the right of registration without affording such agent a full and fair opportunity to be heard, and without the approval of the Administrator. Should it at any time be determined to provide for the registration of agents as hereinabove set forth, then all persons regularly transacting business as agents at such time shall be entitled to registration as a matter of course, provided application is made to the Agency Committee within thirty (30) days thereafter.

SEC. 4. The Agency Committee may, after due notice and hearing, and with the approval of the Administrator, set up rules of fair practice governing relations between Producers and agents, writers, actors, directors, and technicians.

SEC. 5. The Agency Committee shall make findings of fact concerning any matter coming before it pursuant to the provisions of this Part and shall make such recommendations to the Administrator as it may deem proper if the Committee is unanimous, otherwise separate recommendations may be submitted, together with a report that the Committee has disagreed. No hearing or proceeding shall be conducted without due notice and a full and fair opportunity to all interested parties to appear and be heard. A complete transcript of all testimony and arguments shall be made and certified to the Administrator, together with the recommendations of the members of the Committee. The Administrator shall approve, reject, or modify such recommendations, or any of them, and may conduct such further investigations and hearings as to him may seem necessary or advisable. The order of the Administrator shall be final.

SEC. 6. The Agency Committee, subject to the approval of the Administrator, shall have authority to require all Producers to furnish such information as may be desired to effectuate the provisions of this Part.

SEC. 7. The Agency Committee shall have full power and authority to prescribe reasonable rules of procedure for determining all matters of dispute or controversy which may properly arise before such Committee in connection with this Part.

SEC. 8. The term "agent" as used herein shall apply to any person (including firms, corporations, or associations) who, directly or indirectly, for a fee or other valuable consideration, procures, promises, or undertakes to procure employment for any person for or in connection with the production of motion pictures.

SEC. 9. The provisions of Article II, Section 7, of this Code shall not supersede the operation of this Part 4, and the following Part 4 (A).

SEC. 10. It shall be an unfair trade practice for any Producer, or any employee of a Producer, directly or indirectly, to engage in, carry on, or in any way be financially interested in or connected with the business of an agent as herein defined, without making known such fact to the Agency Committee within twenty (20) days from the effective date, or if such interest is acquired subsequent to the

effective date, then within ten (10) days after the acquisition of such interest. The Agency Committee shall require such public disclosure to be made of such interest as it may deem advisable; and the Agency Committee may make such further rules in connection with the subject matter of this Section as it sees fit, subject to the approval of the Administrator.

Part 4 (A).—(a) Should the Administrator determine at any time upon a fair showing, after notice, that a set of fair practices should be adopted governing relations between Producers and any one of the following classes: writers, directors, technicians, actors, and agents, a special committee shall be appointed for that purpose. The Producers and the class interested in such fair practices in each instance shall be entitled to equal representation on such committee.

(b) The Committee members shall be appointed in the manner, and its proceedings and those of the Administrator shall be the same, as above provided in the case of the Agency Committee.

(c) At the same time that the findings or report of the Committee shall be sent to the Administrator, the same shall be made public in such manner as may be determined by the Administrator.

Part 5. SECTION 1. No Producer, directly or indirectly, secretly or otherwise, shall—

(a) Entice or alienate from his employment any employee of any other Producer or induce or advise any such employee to do anything in conflict or inconsistent with such employee's obligation to perform in good faith any contract of employment.

(b) Foment dissension, discord, or strife between any employee of any other Producer and his employer with the effect of securing the employee's release from employment or a change in the terms of any contract under which the employee is engaged or of causing the employee to be or become dissatisfied with his subsisting contract.

(c) In any manner whatsoever negotiate with or make any offer for or to any employee under written contract to any other Producer prior to the last thirty (30) days of the term of the contract of employment, regardless of the compensation.

SEC. 2. All production employees rendering services of an artistic, creative, technical, or executive nature, for the purpose of this Part, shall be classified as follows:

(a) Employees not under written contract who are employed at not less than \$250.00 per week or \$2,500.00 per picture.

(b) Employees under written contract, for a period, inclusive of options, if any, of less than one year, whose compensation is not less than \$250.00 per week or \$2,500.00 per picture

(c) Employees under written contract for the period of at least one year, or at least three pictures, inclusive of options, if any, whose compensation is not less than \$250.00 per week (exclusive of lay-off periods) or \$2,500.00 per picture.

The term "contract" as used in subdivisions (b) and (c) shall be deemed to mean and include not only any subsisting contract with any Producer, but also any prior contract with such Producer or with any parent, subsidiary, or predecessor corporation of such Producer, provided that the employment thereunder has been or may be continuous.

(d) Nothing hereinbefore in subdivision (c) of Section 1 or in subdivisions (a), (b), and (c) of this Section contained shall apply to so-called "free lance" players, writers, directors, or other employees who are engaged to render services of an artistic nature in connection with one or two pictures only, unless the actual period of employment of any such employee is intended to or shall cover a minimum period of one year.

SEC. 3. Should any Producer make any offer for the services of any employee of any other Producer, and such employee is classified, within either subdivision (a), (b), (c) or (d) of Section 2, and registered as hereinafter in Section 6 provided, then on the same day such offer is made, the Producer making such offer shall notify the employing Producer in writing that such offer has been made, and shall state the full and complete terms and conditions thereof, including particularly the compensation, the proposed period of employment, and any additional special terms. Simultaneously, a copy of said notice shall be delivered to the Registrar hereinafter provided for. The employing Producer thereupon shall be afforded a reasonable opportunity, not exceeding three (3) days, to be determined by the Registrar as hereinafter in Section 6 provided, within which time to negotiate for and contract with such employee for his continued services, on such terms as may be mutually acceptable, but the employee in every instance shall have the full and independent choice as to which offer he will accept. Any offer made by any Producer and reported to the employing Producer shall be conditional upon the right of the employing Producer as hereinabove provided, and shall be a firm offer not to expire until at least twenty-four (24) hours after the period permitted the employing Producer to negotiate as herein provided for.

The notice hereinabove provided for need be given, however, with reference to employees classified in subdivisions (b) and (c) of Section 2, only upon the condition that prior to the last thirty (30) day period of employment the employing Producer shall have made an offer in good faith to such employee for a renewal or extension of his contract of employment and shall have communicated that fact to the Registrar.

SEC. 4. Should any Producer desire to continue, renew, or extend the period of employment of any employee classified within subdivision (c) of Section 2 hereof, and if he shall have evidenced such desire by making an offer in good faith to such employee prior to the last thirty (30) day period of his employment and such offer be rejected, and provided the compensation of such employee last paid by the employing Producer was at least \$500.00 per week or \$5,000.00 per picture, such Producer nevertheless shall be entitled to notice of offers which may be made to such employee by other Producers, during the period hereinafter provided, following the termination of such employment. Should any other Producer make any offer for the services of any such employee within such period, then on the same day that such offer is made such Producer shall notify the former employing Producer and the Registrar in like manner as is provided for in Section 3. The same procedure, rules, and conditions shall govern with reference to offers made under this Section as are provided for in Section 3, to the end that:

(a) the former employing Producer shall be entitled to a reasonable period not exceeding three (3) days within which to negotiate and contract for the services of the employee in question;

(b) the offer of the second Producer shall continue as a firm offer for twenty-four (24) hours beyond the period referred to in subdivision (a); and

(c) the employee at all times shall have a free and independent choice as to which offer he will accept.

The period during which the first employing Producer shall be entitled to notice of offers made by other Producers, as hereinabove provided for, shall be three (3) months from the date of termination of the first employment in all cases where the compensation for the employee in connection with the former employment was at the rate of less than \$1,000 per week (exclusive of lay-off periods), or if the employee was employed on a picture basis, less than \$10,000 per picture. In all other cases where the compensation was equal to or in excess of the above amounts, the period shall be six (6) months.

SEC. 5. No Producer, Distributor, or Exhibitor shall violate or aid or abet in the violation of this Part. It shall be an unfair trade practice for any Producer to use coercion to prevent offers being made any employee by other Producers.

SEC. 6. The Code Authority shall appoint a standing committee, which shall have full power and authority to determine the good faith of any offer made by the employing Producer, so as to entitle such Producer to notice of subsequent offers, as hereinabove provided for, and to determine whether the period within which such notice must be given should be for three (3) months or six (6) months. The Registrar shall be appointed and removed by said standing committee at will, and any act or decision of the Registrar shall be subject to review, reversal, or modification by said committee or by the Code Authority on its own motion or on application of any interested party.

The Registrar shall provide an appropriate method whereby all Producers may ascertain in each instance when, and the period during which, notices of offers are to be transmitted to the employing or former employing Producer. Said Registrar shall also prescribe the procedure so as to prevent any employing or any former employing Producer from any unreasonable delay or from withholding any action or decision permitted under the provisions hereof, to the end that the immediate employment of any persons with whom any other Producer desires to contract shall not be unreasonably delayed or prevented. In such connection the Registrar shall have power in any instance to designate a reasonable period, in no event to exceed three (3) days, within which the second Producer shall be precluded from executing any proposed contract with the employee or former employee of the first employing or former employing Producer.

Notwithstanding anything contained in this Part to the contrary, the provisions of this Part shall apply only to employees whose names are registered with the Registrar by the employing Producer, and the right of registration or continued registration may be determined in any instance by the standing committee either upon its own motion or on application of any person interested, including the employee

affected. In the event of the termination for any reason whatsoever of the employment of any person whose name is registered, the former employing Producer shall notify the Registrar in writing forthwith of such termination. Any Producer may withdraw from registration the name of any employee or by written notice served on the Registrar may waive the right to be notified of offers made to any employee by any other Producer, but he shall not refrain from registering the name of any employee, withdraw any name so registered or waive any such right to notice by virtue of any agreement to that effect with the employee. The Registrar shall provide an appropriate method for notifying all Producers promptly of all registrations, withdrawal of registrations, terminations of employment and waivers.

SEC. 7. If the Code Authority, or any committee appointed by it for that purpose, after notice and hearing shall find that any employee of any Producer has refused without just cause to render services under any contract of employment, the Code Authority shall have full power and authority, with the approval of the Administrator, to order all Producers to refrain from employing any such person in connection with the business of producing motion pictures for such period of time as may be designated by the Code Authority and it shall be an unfair trade practice for any Producer to employ such person in violation of such order, or for any Distributor or Exhibitor, respectively, to distribute or exhibit any picture produced during the period prescribed by the Code Authority by or with the aid of such person. Such hearing shall be conducted only upon due notice. A full and fair opportunity shall be afforded to all interested parties to appear. A complete transcript of all testimony and arguments, together with the findings and order of the Code Authority, shall be made and certified to the Administrator, who may approve, reject, or modify such order, and in such connection conduct such further investigations and hearings as to him may seem necessary or advisable. The order of the Administrator shall be final.

SEC. 8. If any Producer deliberately, willfully, or persistently violates any of the provisions of this Part and the Code Authority so finds, and such finding is upheld by the Administrator, the Code Authority, with the approval of the Administrator, shall have power to impose such restrictions, prohibitions, or conditions as it may deem proper upon the distribution or exhibition of motion pictures produced by any such offending Producer. Due notice of the ruling of the Code Authority, as approved by the Administrator, shall be published in such manner as the Code Authority prescribes.

Part 6. (a) No cartoon Producer shall employ any person during such time as he is employed full time by another.

(b) No cartoon Producer shall make any offer directly or indirectly of any money inducement or advantage of any kind to any employee of any other cartoon Producer in an effort to entice, persuade, or induce such employee to leave or become dissatisfied or to breach any contract covering his employment.

(c) No cartoon Producer shall adapt a cartoon character of another in such manner that the use of the adapted character shall constitute an appropriation by him of the goodwill of the creator.

C. PRODUCERS-DISTRIBUTORS

Part 1. Where any contract granting the motion-picture rights in any dramatic or dramatico-musical work specifies a date prior to which no motion picture based upon such work may be publicly exhibited, it shall be deemed to be an unfair trade practice for any Producer or Distributor to permit the public exhibition of such motion picture prior to such date.

Part 2. (a) It shall be deemed to be an unfair trade practice for any Producer or Distributor, by any of its employees or through other persons who have a direct or indirect interest, whether financial or otherwise, in any such Producer or Distributor, to knowingly and intentionally directly or indirectly interfere with existing relations between an outside or associated Producer and a Producer or Distributor, or to do anything to alienate or entice any such outside or associated Producer away from a Producer or Distributor, or to do anything which would tend to create discord or strife between such outside or associated Producer and a Producer or Distributor, or foment dissension between them, for the purpose of inducing such outside or associated Producer to breach or attempt to breach any existing contracts between it and Producer or Distributor, or to secure a change in the terms and conditions of any existing contract between any such outside associated Producer and a Producer or Distributor.

(b) To effectuate the foregoing, no Producer or Distributor shall negotiate with or make any offer for or to any such outside or associated Producer at any time prior to sixty (60) days before the termination of any existing agreement between such outside or associated Producer and any other Producer or Distributor, or not prior to sixty (60) days before the date when such outside or associated Producer shall fulfill its delivery commitment to the Producer or Distributor with whom it has contractual obligations, whichever date is earlier.

D. DISTRIBUTORS

Part 1. No Distributor shall threaten or coerce or intimidate any Exhibitor to enter into any contract for the exhibition of motion pictures, or to pay higher film rentals by the commission of any overt act evidencing an intention to build or otherwise acquire a motion picture theater for operation in competition with such Exhibitor, but nothing in this ARTICLE shall in any way abridge the right of a Producer or Distributor in good faith to build or otherwise acquire a motion picture theater in any location.

Part 2. No Distributor's employee shall use his position with the Distributor to interfere with the licensing of motion pictures by an Exhibitor operating a theater in competition with a theater in which such employee may have a direct or indirect interest, provided, however, that an employee of a Distributor shall not be deemed to have an interest in any theater affiliated with such Distributor.

Part 3. (a) No Distributor shall substitute for any feature motion picture described in the contract therefor as that of a named star or stars, or named director or named well-known author, book, or play one of any other star or stars, director, author, book, or play,

nor shall such Distributor substitute any other feature motion picture for one which in the contract therefor is designated "no substitute"; and no Exhibitor shall be required to accept any such substitute motion picture.

(b) Nothing in this ARTICLE contained shall be interpreted to prohibit any Distributor from changing the title of any motion picture contracted for, from making changes, alterations, and adaptations of any story, book, or play upon which it is based and from substituting for any such story, book, or play another story, book, or play, or from changing the director, cast, or any member thereof of any such motion picture, except as hereinabove specifically prohibited.

(c) If for any such author, book, or play there is substituted another author, book, or play, notice of such substitution shall be given by a paid advertisement of not less than one quarter page in at least one issue of a national trade publication before the release date of the motion picture in which such substitution has been made.

Part 4. (a) It shall be an unfair practice for any Distributor to license the exhibition of its motion pictures for exhibition by any non-theatrical account contrary to any determination, restriction, or limitation by a Local Grievance Board where such exhibition shall be determined by such Grievance Board provided for in this Code to be unfair to an established motion-picture theatre.

(b) Nothing in this PART shall be interpreted to prohibit the licensing of motion pictures for exhibition at army posts, or camps, or on board ships of the United States Navy or ships engaged in carrying passengers to foreign or domestic ports or at educational or religious institutions or at institutions housing "shut-ins", such as prisons, hospitals, orphanages, etc.

Part 5. No Distributor shall require as a condition of entering into a contract for the licensing of the exhibition of feature motion pictures that the Exhibitor contract also for the licensing of the exhibition of a greater number of short subjects (excepting news reels), in proportion to the total number of short subjects required by such Exhibitor, than the proportion of the feature pictures for which a contract is negotiated bears to the total number of feature pictures required by the Exhibitor.

Part 6. No Distributor shall divulge or authorize or knowingly permit to be divulged by any employee or checker any information received in the checking of the receipts of its motion pictures, except that such information may be divulged in any arbitration or grievance proceeding or litigation concerning a controversy and for any Government or Code Authority report.

Part 7. No Distributor shall convey or transfer its assets for the purpose of avoiding the delivery to any Exhibitor of any feature motion picture licensed for exhibition by such Exhibitor.

Part 8. No Distributor shall refuse to make a fair adjustment of the license fees for the exhibition rights of a number of pictures licensed in a group for a stated average sum per picture and so stated in the license agreement, if the total number of pictures so licensed by any Exhibitor are not delivered by such Distributor, provided such Exhibitor shall have fully and completely performed all the terms and conditions of such license on the part of the Exhibitor to

be performed. Any dispute or controversy concerning any such adjustment shall be determined by a Local Grievance Board provided for in this Code.

Part 9. (a) No Distributor shall require any specific day or days of the week for the exhibition of specified pictures or class of pictures unless specifically provided for in the Exhibitor's contract therefor and in no event if the license fee therefor is a fixed sum only.

(b) Where under an exhibition contract which provides that the rental to be paid by the Exhibitor for any feature motion picture specified therein shall be determined in whole or in part upon a percentage basis, and that said picture shall be played by the Exhibitor upon a designated day or days of the week and the Exhibitor seeks to be relieved from the obligation to exhibit such motion picture upon such designated day or days for the reason only that the subject and character of the motion picture so designated are unsuitable for exhibition at the Exhibitor's theatre on such day or days, the claim of the Exhibitor shall be determined by the Local Grievance Board provided for by this Code, and the Distributor, if such Local Board so determines, shall relieve the Exhibitor from the obligation to play the motion picture upon the day or days designated by the Distributor; provided that the Exhibitor makes such claim within three (3) days after receipt of the notice of availability of such feature picture. In such cases the said Local Board shall proceed to determine the matter upon forty-eight (48) hours' notice if the Distributor so desires.

(c) If the said Local Board shall sustain the claim of the Exhibitor:

(1) the Distributor shall have the right to designate for the same day or dates another motion picture licensed upon a percentage basis upon the same or similar terms as the motion picture in question, if there be one licensed; and to designate the motion picture objected to for a later date or dates but upon another day or other days of the week; and (2) the award of the said Local Board shall not be deemed to apply to any other theatre in the same way or any other location.

(d) Where because of a proceeding before a Local Grievance Board, or because of an award of such Local Board, it shall be impractical to serve subsequent-run Exhibitors in compliance with any notice of availability or confirmed play dates given any such subsequent-run Exhibitors, the Distributors shall have the right to change such play dates.

Part 10. No Distributor shall refuse to deliver to any Exhibitor any feature motion picture licensed under an exhibition contract therefor because of such Exhibitor's default in the performance of any exhibition contract licensing the exhibition of short subjects of such Distributor, or *vice versa*, provided such Exhibitor has agreed to arbitrate all claims and controversies arising under all existing Optional Standard License Agreements between them.

Part 11. (a) If any Exhibitor has contracted to exhibit more than fifty percent (50%) of the total number of motion pictures announced for release during any given season by a Distributor and such Distributor shall during such season generally release any feature motion picture in addition to the number so announced,

such Distributor shall first offer to the Exhibitor for license such additional motion pictures for exhibition at the Exhibitor's theatre, provided that at the time of such offer such Exhibitor shall have duly performed all the terms and conditions of all existing exhibition contracts between such Exhibitor and Distributor and is not in default thereunder.

(b) In cases where two Exhibitors have each contracted to exhibit, respectively, an equal division (i.e. 50%) of the number of motion pictures announced for release by a Distributor during any given season, and the Distributor shall generally release during such season any feature motion picture in addition to the number so announced, such Distributor shall first offer such additional motion picture for license to one of such Exhibitors, in the discretion of the Distributor, provided that at the time of such offer such Exhibitor shall have duly performed all the terms and conditions of all existing exhibition contracts between such Exhibitor and Distributor and is not in default thereunder.

Part 12. In each territory wherein any Distributor maintains an exchange, such Distributor shall abide by the regulations promulgated by the Code Authority for the prevention of fire, for the holding of fire drills, and rigid monthly inspections, the inspection of prints, the storing of inflammable material, the maintenance and testing of sprinkler systems and fire extinguishers, the avoidance of smoking and other cautions, methods and devices to protect the lives of employees and the public, and to insure safety against fire hazards.

E. EXHIBITORS

Part 1. Any Exhibitor entering into a contract for the exhibition of motion pictures which permits the Exhibitor to select from the total number of pictures licensed less than eighty-five percent (85%) of the total number, and to reject the remainder, shall by written notice to the Distributor reject each of such motion pictures not to exceed the number which may be rejected, within twenty-one (21) days after its date of availability in the exchange territory wherein is located the Exhibitor's theatre, and upon the Exhibitor's failing to give such notice of rejection, each of such pictures shall be deemed to have been selected.

Part 2. No Exhibitor shall contract for a license to exhibit more motion pictures than such Exhibitor reasonably shall require for exhibition in any theatre or theatres operated by such Exhibitor, with the intent and effect of depriving a competing Exhibitor from contracting to exhibit such excess number of motion pictures, provided, however, that nothing herein contained shall be deemed to prohibit any Exhibitor from contracting for a reasonable number of motion pictures in excess of the number which are actually to be exhibited in the theatre or theatres of such Exhibitor in order to reasonably protect such Exhibitor against non-delivery of motion pictures.

Part 3. SECTION 1. No Exhibitor shall (a) lower the admission prices publicly announced or advertised for his theatre by giving rebates in the form of lotteries, prizes, reduced script books, coupons, throw-away tickets, or by two-for-one admissions, or by other

methods or devices of similar nature which directly or indirectly lower or tend to lower such announced admission prices and which are unfair to competing Exhibitors, or which deceive the public; or (b) fail at all times to maintain the minimum price of admission specified in any contract licensing the exhibition of any motion picture during the exhibition thereof. This Section shall not be deemed to prohibit Exhibitors from reducing or increasing their admission scales as they see fit, except as may be prohibited by exhibition contracts.

SEC. 2. The giving of rebates such as premiums in the form of gifts or other things of value shall be deemed to be included within the provisions of Section 1 of this Article in those areas as shall be defined by each Local Clearance and Zoning Board, where the Exhibitors operating not less than seventy five percent (75%) of the number of the then actively and continuously operated theatres not affiliated with Distributors or Producers and the Exhibitors operating not less than seventy five percent (75%) of the number of the then actively and continuously operated theatres affiliated with Distributors or Producers have both declared in writing that the giving of rebates in such form shall not be permitted. For the purpose of such declaration each Exhibitor shall be entitled to one vote for each theatre then actively and continuously operated by such Exhibitor.

SEC. 3. In case any Exhibitor is found after notice and hearing by a Local Grievance Board provided for in this Code, to have violated any provision of this part, and if such Local Board shall on account thereof declare that such Exhibitor shall not be permitted to license the exhibition of any motion picture unless the Exhibitor ceases and desists from such violation, the Local Grievance Board shall have power to direct that Distributors of motion pictures shall refuse to enter into license contracts for the exhibition of their respective motion pictures by such Exhibitor and shall refuse to make further deliveries of motion pictures to such Exhibitor under license agreements executed after the effective date of this Code if the Exhibitor fails or refuses to so cease and desist.

SEC. 4. Notwithstanding any action which may be taken by the Exhibitors in any area as above in this Part 3 defined ruling out the giving of rebates as defined in Section 1 hereof, such ruling shall not become effective until ninety (90) days after such action on the part of such Exhibitors as aforesaid.

Part 4. No Exhibitor shall transfer the ownership or possession of a theatre or theatres operated by any such Exhibitor for the purpose of avoiding uncompleted contracts for the exhibition of motion pictures at such theatre or theatres. Any disputes or controversies with respect to any transfer shall be submitted to and determined by a Local Grievance Board, and the findings of such Board shall be binding upon all parties concerned.

Part 5. (a) No Exhibitor licensed to exhibit a motion picture subsequent to its exhibition by another Exhibitor having the right to a prior run thereof shall advertise such motion picture by any means of advertising prior to or during its exhibition by such other Exhibitor.

(b) Notwithstanding anything herein contained, in the event any Exhibitor shall make complaint that the restrictions embraced in

this part work an unfair hardship on him, the Local Grievance Board shall have the right to hear such complaint and after determination of the facts presented shall fix and specify the time limit within which such Exhibitor may advertise such motion picture; provided, however, that should the subsequent-run Exhibitor be granted permission to advertise before the completion of said prior run, he shall not advertise prior to the commencement of said prior run, nor shall he have the right to advertise in any way, shape, manner or form, or issue any statement that the prices of admission are or will be less than the admission prices charged by the Exhibitor having the first or prior run of such motion picture; provided further, however, that such subsequent-run Exhibitor may be granted the right in cases where the run of such Exhibitor follows the prior run in or within a period of seven (7) days, to advertise upon the screen of the Exhibitor or to distribute within the Exhibitor's theatre a printed program or mail such printed program to a list of regular patrons, such programs to be limited to announcement of the motion pictures which will be there exhibited during the period of not more than seven (7) days immediately following.

(c) Nothing herein contained shall be deemed to prohibit any Exhibitor from advertising generally all of the feature motion pictures licensed for exhibition by such Exhibitor as a group, but such general advertising shall not refer to any one of such motion pictures at any time prior to its exhibition by any other Exhibitor having the first or immediately prior run thereof excepting as hereinabove provided.

Part 6. To prevent disturbance of the continued possession of a theatre by an Exhibitor, it shall be an unfair trade practice for any person engaged in the motion picture industry knowingly and intentionally, directly or indirectly, to interfere with pending negotiations between such Exhibitor and any other party pertaining to or affecting the possession, operation, or occupancy of any such theatre then actually operated by such Exhibitor, or in respect of any modification, renewal, or extension of any agreement affecting the same, for the purpose of preventing the consummation of such negotiations so as to deprive such Exhibitor of the continued operation, possession, or occupancy of such theatre.

Part 7. No Exhibitor shall exhibit a motion picture previous to dawn of the first licensed and booked day of exhibition without securing express written permission therefor under the license agreement.

F. DISTRIBUTORS—EXHIBITORS

Part 1. The so-called Optional Standard License Agreement (1933) negotiated by Exhibitors and now being used by a large number of Distributors shall be the form of license contract to be used by Distributors for licensing the exhibition of motion pictures, unless the parties mutually agree that a different form be used, and excepting that in case any condition or provision thereof is in conflict or inconsistent with any provision of this Code, such condition or provision of said Optional Standard License Agreement shall be deemed amended to conform with such provision of this Code, it being the intention that the provisions of this Code shall govern. Individual Distributor sales policy provisions may be inserted in the

Schedule of such form but shall not be contradictory of any provisions thereof.

Part 2. (a) The arbitration of all disputes between Exhibitors and Distributors arising under any exhibition contract, if the parties shall agree on arbitration, shall be in accordance with the optional arbitration clause of the so-called Optional Standard License Agreement, provided for in this Code, except as the provisions of such clause may be modified by the provisions of this Code.

(b) By stipulation of the parties to any dispute growing out of an exhibition contract, the number of arbitrators to be appointed by each party may be reduced to one, with power in the two thus appointed, if they cannot agree upon an award, to appoint an umpire as provided in said optional arbitration clause.

Part 3. No Exhibitor or Distributor shall induce or seek to induce the breach of any subsisting contract licensing the exhibition of motion pictures.

Part 4. No Exhibitor or Distributor shall give any gratuity or make any offer of any gratuity for the purpose of procuring advantages that would not otherwise be procurable, or as an inducement to influence a Distributor or Exhibitor, or representative of either not to deal with any competing or other Exhibitors, or Distributors.

Part 5. No Exhibitor or Distributor shall make any disclosure of box office receipts for publication except necessary reports to stockholders, credit and governmental agencies, and to other like bodies. No Exhibitor or Distributor shall be responsible for disclosures in violation of this Part made by agents not authorized to do so.

Part 6. If in any license agreement for the exhibition of feature motion pictures the Exhibitor has contracted to exhibit all of the motion pictures offered at one time by the Distributor to the Exhibitor and the license fees of all thereof average not more than \$250.00, the Exhibitor shall have the privilege to exclude from such license agreement not to exceed ten percent (10%) of the total number of the motion pictures so licensed; provided the Exhibitor

- (1) is not in default under such license agreement, and
 - (2) shall have complied with all of the provisions thereof, if any,
- for the exhibition of such motion pictures at specified intervals.

(b) Such privilege of exclusion may be exercised only upon the following terms and conditions:

(1) The Exhibitor shall give to the Distributor written notice of each motion picture to be excluded within fourteen (14) days after the general release date thereof in the exchange territory out of which the Exhibitor is served.

(2) The Exhibitor may exclude without payment therefor one (1) motion picture out of each group of ten (10) of the number of feature motion pictures specified in the license agreement provided he has paid for the other nine (9) of such group.

(3) If such privilege of exclusion is not exercised as provided in paragraph (b) (2) above, the Exhibitor may nevertheless exercise such privilege by paying the license fee of each motion picture excluded with the notice of its exclusion. In such case, such payment shall be credited against such tenth or succeeding tenth motion

picture, as the case may be, which the Exhibitor would otherwise be privileged to exclude as provided in paragraph (b) (2) above.

If the only or last group licensed is less than ten (10) and more than five (5) motion pictures, the privilege to exclude shall apply provided the Exhibitor has paid for all motion pictures but one in such group.

(c) Upon the failure or refusal of the Exhibitor to comply with any term or condition of such license agreement, or to comply with any arbitration award in respect thereto, the privilege of exclusion forthwith shall be revoked and the Exhibitor shall be liable for and pay to the Distributor the license fees of all motion pictures theretofore excluded.

(d) If the license fee of any feature motion picture specified in the license agreement is to be computed in whole or in part upon a percentage of the receipts of the Exhibitor's theater, such license fee (for the purpose of computing the average license fee of all the motion pictures licensed) shall be determined as follows:

(1) Average the license fees of all of the Distributor's feature motion pictures exhibited upon a percentage basis at the Exhibitor's theater during the period of one year prior to the term of such license agreement.

(2) If none of the Distributor's feature motion pictures were exhibited upon a percentage basis at such theater during said period, average the license fees of all feature motion pictures exhibited upon a percentage basis at such theater during the said period.

(e) If the rental of any motion picture excluded is to be computed in whole or in part upon a percentage of the receipts of the Exhibitor's theater, the sum to be paid by the Exhibitor as provided in paragraph (b) (3) hereof shall be determined as follows:

(1) Average the gross receipts of all the Distributor's feature motion pictures exhibited at the Exhibitor's theatre during the ninety (90) day period preceding the Exhibitor's notice of exclusion, and apply to such average the percentage terms specified in the license agreement for the picture excluded.

(2) If no feature motion pictures of the Distributor were exhibited at the Exhibitor's theatre during said ninety (90) day period, average the daily gross receipts of the Exhibitor's theatre for the period of thirty (30) operating days preceding the Exhibitor's notice of exclusion and apply to such average the percentage terms specified in the license agreement for the picture excluded.

(f) In computing the number of feature motion pictures which may be excluded hereunder, fractions of more than one half ($\frac{1}{2}$) shall be regarded as one (1).

(g) Upon the exclusion of each feature motion picture, the license therefor and all rights thereunder shall terminate and shall revert to the Distributor.

(h) The Optional Standard License Agreement referred to in Part 1 hereof shall be deemed amended by substituting in place of Article Fifteenth of such contract the provisions of this Part.

ARTICLE VI

Part 1. Clearance and Zoning Boards.—SECTION 1. To provide against clearance of unreasonable length and/or area in any ex-

change territory, fair, just, reasonable, and equitable schedules of clearance and zoning may be prescribed by a Local Clearance and Zoning Board created for such territory.

SEC. 2. Each such Board shall be appointed by the Code Authority and shall consist of two representatives of Distributors, one of whom shall be a National Distributor with theatre affiliations and one of whom shall be a Distributor without circuit theatre affiliations; two representatives of first-run theatres located in such territory, one of whom shall be an affiliated Exhibitor, if there be one, and one of whom shall be an unaffiliated Exhibitor; and two representatives of subsequent-run unaffiliated theatres operating within such territory; and one person approved by the Administrator who shall have no direct or indirect affiliation with any branch of the motion-picture industry who shall be regarded as the impartial representative of the Code Authority and who shall vote on any question before the Board only in the case where the Board is deadlocked. There shall be a Chairman of each Board, selected by a majority vote of the members of the Board. Any vacancy in the Board shall be filled from the class of members in which the vacancy occurred.

SEC. 3. Each Local Clearance and Zoning Board shall, promptly after its creation, and prior to January 1, 1934, and prior to January 1st of each year thereafter, formulate, prescribe and publish for its territory, schedules of clearance as in Section 1 above described, for the season next ensuing. Such schedules may classify theatres by zones or other classifications suited to local conditions, but for the sole purpose of fixing the maximum clearance in length of time and area after the conclusion of the prior runs of such theatres. Each Board may, after fair and reasonable notice and hearing to interested parties, change, modify, or vary any part of the schedule set up by it, provided that any such change or modification shall not in any wise apply to, affect, or modify any exhibition contract made subject to, or in reliance upon, or pursuant to any such schedules, without the prior written consent of the parties to such contract.

SEC. 4. Each Board when making any classification of theatres, or when fixing the maximum period or area of clearance in respect of any theatre shall, among other things, consider and give due regard to the following factors:

(a) that clearance to a very considerable extent determines the rental value of motion pictures;

(b) that exhibitions of the same motion picture within the same competitive area at too short an interval after the conclusion of a preceding run or runs thereof by unduly restricting the competitive area in which clearance is limited, depreciates the rental value of motion pictures; and

(c) that all such depreciations of the rental values of motion pictures tend to reduce the number of motion pictures produced, discourages the production of motion pictures of quality involving large investments of capital, labor, skill, and enterprise and thereby tend to reduce employment.

(d) that unreasonable clearance to a considerable extent affects the value of motion pictures for subsequent-run theaters.

(e) that unreasonable clearance depreciates the potential return from motion pictures to subsequent-run theaters.

(f) that unreasonable clearance as to time and area diminishes the potential revenue to the Distributor from the subsequent-run Exhibitor.

SEC. 5. The decision of each Board upon any question shall be determined by a majority vote, but in case the Board is evenly divided, such question shall be submitted for determination to the impartial representative of the Code Authority, who is provided for in Section 2 of this PART. The decision of the Board and/or the impartial representative, as the case may be, shall be in writing.

SEC. 6. It shall be the duty of each such Board to promptly publish the schedules formulated by it, and file a copy thereof immediately with the Code Authority.

SEC. 7. (a) Any party aggrieved by the schedules shall promptly and not later than thirty (30) days after publication thereof file a protest in writing with the Board issuing them. Thereupon such Board shall promptly convene and give reasonable notice of hearing to all parties concerned or having an interest in the proceeding and hear them and accept from them all papers and evidence. The Board shall have power to make reasonable rules respecting notice of the time, place, and manner of hearing. The Board shall make its decision within fifteen (15) days from the filing of the protest, or within three (3) days after the parties shall have been fully heard, whichever date is sooner. Any party aggrieved by the decision shall have the absolute right to appeal therefrom to the Code Authority, provided such appeal be filed or mailed by registered mail or delivered in writing not later than five (5) days after the decision of the Local Board is rendered, in which case the protest, with all evidence taken before the Local Clearance and Zoning Board, shall be referred to the Code Authority.

(b) All persons interested in the decision shall have the right to appear before the Code Authority and present additional evidence. The Code Authority, after investigating such protest and reviewing the evidence theretofore taken and considering the additional evidence, if any, shall promptly render its decision, and not later than fifteen (15) days from and after the date of the hearing upon the appeal. The requirement as to the various steps herein prescribed shall be mandatory in order to give full relief before the buying season commences.

SEC. 8. (a) The schedules presented and/or decisions made by any Local Clearance and Zoning Board and/or decisions of the Code Authority upon any appeal to it, shall be binding upon all Distributors and Exhibitors in the territory affected.

(b) Pending the final determination of any dispute or controversy all existing contracts between the disputants shall continue to be performed in every respect.

SEC. 9. The jurisdiction of the Local Clearance and Zoning Board shall be limited as herein specifically provided and such Board shall hear no questions other than those pertaining strictly to clearance and zoning matters.

Part 2. Grievance Boards.—SECTION 1. The complaint of any Exhibitor that a competing Exhibitor has committed any of the acts set forth in the following paragraphs (a), (b), (c), and (d) with the intention and effect of depriving, without just cause, the complaining

Exhibitor of a sufficient number of motion pictures to operate such Exhibitor's theatre, shall be referred for determination to a Local Grievance Board constituted as hereinafter provided:

(a) The licensing of more motion pictures than are reasonably required.

(b) The adoption of an unfairly competing operating policy of unnecessary and too frequent changes of motion pictures.

(c) The exaction without just cause of an agreement from any Distributor as a condition for entering into a contract for motion pictures that such Distributor refrain from licensing its motion pictures to the complaining Exhibitor.

(d) The commission of any other similar act with the intent and effect of depriving without just cause the complaining Exhibitor of a sufficient number of motion pictures to operate such Exhibitor's theatre.

SEC. 2. Each such complaint shall be in writing and made immediately after knowledge of the commission of the act or acts complained of, or in cases where an act or acts is threatened, immediately after notice thereof, and the Local Grievance Board after a fair and impartial consideration of all of the facts presented, a full, expeditious and complete hearing of all the parties concerned, including the Exhibitors directly involved, the Distributors having contracts with the Exhibitor complained against, and Exhibitors having contracts for runs subsequent to each of the Exhibitors directly involved, and if it deems it necessary, an independent investigation of the facts, shall make a prompt determination of each complaint submitted to it.

SEC. 3. The Local Grievance Board shall determine whether or not any Exhibitor complained of has committed any of the acts specified in paragraphs (a), (b), (c), and (d) of Section 1 of Part 2 hereof, and shall make findings of fact in such regard. The Local Grievance Board upon the facts found shall make an award (a) dismissing the complaint, or (b) granting such relief as the Local Board may deem appropriate. The Local Grievance Board shall not have power to award damages. No award shall be made in favor of a complaining Exhibitor unless the Local Grievance Board shall find as a fact that the complaining Exhibitor is able, ready, and willing to fully carry out and comply with all of the terms and conditions which may be fixed by the Local Grievance Board as a condition for making the award, which terms and conditions shall in no event be less favorable to the Distributor concerned than those contained in the license contract of the Exhibitor complained of, including the Distributor's loss of revenue, if any, resulting from the elimination of or reduction of revenue from any subsequent run or runs made necessary by such award, and such other terms and conditions as the Local Grievance Board may prescribe.

SEC. 4. All complaints and grievances of Exhibitors or Distributors concerning provisions of this Code or otherwise and not specifically designated to be heard or passed upon in the first instance by the Code Authority or by arbitration or by the Local Clearance and Zoning Board shall be heard by the Local Grievance Board, and if such Local Board by a majority vote of the representatives thereon shall deem that any such complaint or grievance shall be certified to the Code Authority for determination, it shall be so certified, and

the Code Authority shall consider and determine the same; otherwise such complaint or grievance shall be dismissed with a right of appeal from such dismissal to the Code Authority. Such proceedings before the Local Grievance Board and before the Code Authority shall be within the periods of time hereinafter prescribed in Sections 6 and 7 hereof.

SEC. 5. Each Distributor shall have the right to license all or any number of the motion pictures distributed by such Distributor for exhibition at theatres affiliated with such Distributor, and no Local Grievance Board shall have jurisdiction to hear or determine any complaint by any Exhibitor based upon the fact that a Distributor has licensed the motion pictures distributed by it for exhibition at theatres affiliated with such Distributor.

SEC. 6. (a) There shall be established a Local Grievance Board, appointed by the Code Authority, in each exchange territory. Each such Board shall consist of two representatives of Distributors, one of whom shall be a National Distributor with theatre affiliations and one of whom shall be a Distributor without circuit theatre affiliations, and two representatives of Exhibitors, one of whom shall be an affiliated Exhibitor, if there be one, and one of whom shall be an unaffiliated Exhibitor, and one person who shall have no direct or indirect affiliation with any branch of the motion picture industry, who shall be approved by the Administrator, who shall be regarded as the impartial representative of the Code Authority, and who shall vote on any question before the Board only in the case where the Board is deadlocked. There shall be a Chairman of each Board, selected by a majority vote of the members of the Board. Any vacancy in the Board shall be filled from the class of members in which the vacancy occurred. No member of such Board shall sit on any matter involving his own or his company's interest.

(b) The decision of each Local Board upon any question submitted to it shall be determined by a majority vote, but in case the Board is evenly divided, such question shall be submitted for determination to the impartial representative of the Code Authority, as provided in paragraph (a) of this Section. The decision of the Board and/or the impartial representative, as the case may be, shall be in writing. All decisions of the Local Board shall be made within fifteen (15) days from the filing of the protest, grievance, or complaint, or within three (3) business days after the parties shall have been fully heard, whichever date is earlier.

SEC. 7. (a) Any party aggrieved by any decision of the Local Board shall have the absolute right to appeal therefrom to the Code Authority, provided such appeal be filed or mailed by registered mail or delivered in writing not later than five (5) days after the decision of the Local Board is rendered, in which case the grievance or complaint, together with all the evidence taken before the Local Board shall be referred to the Code Authority.

(b) Pending the determination of such appeal, the determination order or other action of the Local Grievance Board shall be stayed.

(c) Any party aggrieved shall have the right to appear before the Code Authority and present additional evidence. The Code Authority, after investigating the complaint or grievance and reviewing the evidence theretofore taken, and considering the additional evidence,

if any, shall promptly render its decision not later than fifteen (15) days from and after the date when the parties have been fully heard on appeal.

SEC. 8. No Exhibitor or Distributor shall be entitled to file any complaint under this or any other Article of this Code unless such Exhibitor or Distributor shall have duly executed this Code in its entirety within forty-five (45) days after it is signed by the President of the United States, and/or forty-five (45) days after engaging in the motion picture industry, and shall have thereby agreed to comply with all the requirements of the National Industrial Recovery Act. Evidence of such compliance shall be filed with the Code Authority.

Part 3. All members appointed to serve on respective Clearance and Zoning Boards and Local Grievance Boards shall be persons of good repute and of good standing in the industry, and shall upon acceptance of appointment subscribe and file with the Administrator an oath to fairly and impartially determine whatever issue is presented to the Board to which such member has been appointed. No such Board shall contain in its membership more than one representative of any Distributor or Exhibitor.

Part 4. If a member of any Board provided for by this Article VI ceases to belong to the class he represents upon such Board, his membership shall terminate, and the Code Authority shall fill the vacancy so caused by designating a representative of the same class.

ARTICLE VII—GENERAL TRADE POLICY PROVISIONS

Part 1. The industry pledges its combined strength to maintain right moral standards in the production of motion pictures as a form of entertainment. To that end the industry pledges itself to and shall adhere to the regulations promulgated by and within the industry to assure the attainment of such purpose.

Part 2. The industry pledges its combined strength to maintain the best standards of advertising and publicity procedure. To that end the industry pledges itself to and shall adhere to the regulations promulgated by and within the industry to assure the attainment of such purpose.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

Part 1. Any Exhibitor forwarding or delivering to another Exhibitor a print of a motion picture at the request or upon the order of the Distributor thereof, shall, but only for such purpose, be deemed to be the agent of such Distributor.

Part 2. (a) Wherever in this Code arbitration of any matter is provided for, other than arbitration as provided in the Optional Standard License Agreement (1933) or as may be otherwise specifically provided for, such matter shall be submitted for determination to an Arbitration Board. Such Arbitration Board shall consist of four (4) members. Each of the groups concerned in such matter shall appoint two of such members. In any case where arbitration is to be used as provided in this Code, upon the written request of either group to the dispute or controversy the group making such request shall name therein two arbitrators, stating the

business address and business or business connection of each, and shall designate therein the date, time, and place of the hearing of such controversy. The date of such hearing shall not be earlier than seven (7) days from the date of the sending of such notice, unless it shall be claimed in such notice that irreparable injury will result unless there is a speedy determination of such controversy, in which case such hearing may be designated to be held earlier than the said seven-day period.

(b) Within five (5) days from the mailing of such request for arbitration, or within twenty-four (24) hours if the date of such hearing shall be earlier than seven (7) days from the date of the sending of such notice, the group upon whom such request is made shall name two arbitrators in a written notice mailed or delivered to the other party, stating therein the business address and business or business connection of each arbitrator. If either group fails or refuses to name the arbitrators as herein provided, or if any arbitrator so named shall fail or refuse to act, or be unable to serve, or shall be challenged, and others are or another arbitrator qualified and then available to act is not appointed, others or another arbitrator may be appointed by the other group as the case may be.

(c) No member of an Arbitration Board shall hear or determine any controversy in which he has an interest, direct or indirect, and any member having such interest shall be disqualified to act.

(d) If the arbitrators or a majority of them are unable to reach a decision, they or a majority of them shall immediately select an umpire who shall not be engaged in the motion picture business. In such case, the hearing before the umpire shall be at such time and place as the umpire shall designate and shall be had before the umpire alone, the arbitrators not to be permitted to attend the hearing before the umpire. If the arbitrators or a majority of them are unable to agree upon the selection of an umpire, the Administrator shall upon request make such selection.

Part 3. Nothing in this Code shall be deemed to apply to the production, distribution, or exhibition of motion pictures on film of recognized substandard widths, or to slide films, or to nontheatrical motion pictures designed primarily for educational, scientific, industrial, commercial, advertising, selling, or other nontheatrical purpose, or to television of motion pictures, provided that the commercial production, distribution, or exhibition of such films shall be subject to investigation by the Code Authority to determine whether such production, distribution, or exhibition of such films is unfair competition to an established motion-picture theatre or theatres. If found to be unfair competition, the Code Authority shall promulgate rules and regulations governing such unfair competition.

Part 4. The provisions of this Code shall be separable.

ARTICLE IX—MANDATORY AND AMENDING PROVISIONS

Part 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Clause 10 (b) 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

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.

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

Approved Code No. 124
Registry No. 1639-03



Approved Code No. 125

CODE OF FAIR COMPETITION

FOR THE

**UPHOLSTERY AND DRAPERY TEXTILE
INDUSTRY**

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Upholstery and Drapery Textile 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 it is hereby approved, subject to the following conditions:

(1) Any manufacturer producing upholstery and drapery fabrics, and known to the trade as a cotton manufacturer, a wool-goods manufacturer, a silk manufacturer, or a rayon manufacturer, who has been operating as of August 15th, under a code of fair competition for such industry, may elect not to be bound by any of the provisions of this code, with the exception of article IX, provided, that notice of such decision by such manufacturer shall be filed in

writing with the National Upholstery and Drapery Textile Association, Incorporated, at its offices, 185 Madison Avenue, New York, N.Y., and also filed in writing with the Cotton Textile Institute, 320 Broadway, New York, N.Y., or the National Association of Wool Manufacturers, 229 Fourth Avenue, New York, N.Y., or the Silk Association of America, 468 Fourth Avenue, New York, N.Y., or the National Rayon Weavers Association, 40 Worth Street, New York, N.Y., not later than 6:00 p.m., Eastern standard time, on the second Monday following the approval of this paragraph.

(2) The provisions of article III, section 4, of this code are hereby stayed for a period of fourteen (14) days from the effective date of this code insofar as said provisions are applicable to those looms on which are manufactured pile fabrics used exclusively for automobile upholstery.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON.

Administrator.

THE WHITE HOUSE,

November 27, 1933.

NOVEMBER 17, 1933.

The PRESIDENT,
The White House.

SIR: The Public Hearing on the Code of Fair Competition for the Upholstery and Drapery Textile Industry, as proposed by the National Upholstery and Drapery Textile Association, was conducted in Washington on August 30, 1933. Every person who requested an appearance was freely heard in accordance with statutory and regulatory requirements. The code has the approval of the great majority of manufacturers who work exclusively on upholstery and drapery fabrics or for whom these lines constitute a substantial part of their business.

DESCRIPTION OF THE INDUSTRY

Unique difficulties arose when considering this code because of special conditions inherent in this branch of the textile industry.

The production of upholstery and drapery fabrics is a business which, on equipment of great versatility, uses all types of fibers in producing fabrics to develop and meet style changes. Since its founding, it has been a separate and distinct branch of the textile industry, generally unaffiliated with the production of other textiles. This separation was the natural result of the variety of raw materials used and the special skill and art required in the manufacture of these fabrics. Sales also are made through specialized channels. Upholstery fabrics generally are sold direct to manufacturers of furniture, automobiles, railroad cars, etc. Drapery fabrics are sold direct by the mill to large retail outlets while smaller retail outlets are reached through wholesalers.

The industry realizes that it is only a small branch of the whole textile industry but because of the variety of fibers used, its specialized type of products, and its separate distribution problems, it does not fit into any of the major classifications of textiles.

The fibers employed in the manufacture of upholstery and drapery fabrics include every known natural and synthetic fiber used in the production of textiles. From year to year style and price requirements cause substantial changes to be made in the raw materials used. In one season a large amount of rayon might be used which in another year might be supplanted largely by silk, worsted, or mohair. At any one time a mill might be making several fabrics of which one might be principally of rayon, another principally of cotton, and still another principally of wool or mohair. More frequently than not, a single fabric will be composed of two or more fibers and it is not unusual for four or more fibers to be employed in the making of a single piece of goods. This industry, for example, is one of the few to employ the little known fiber, ramie, to any extent.

Thus, great confusion would be created if the industry should be required to operate concurrently or intermittently under each of the several textile codes, depending upon the predominant fiber in each particular fabric produced. Furthermore, effective cooperation would virtually be impossible.

Within recent years, mills commonly classified as cotton mills have gone into the weaving of upholstery and drapery fabrics in order to provide an additional outlet for their yarns or to utilize idle loom equipment. A number of cotton mills have limited their participation in this business to those periods in which there had been but light demand for their other products.

Upholstery and drapery fabrics are divided into two broad types, pile fabrics and flat fabrics. Flat fabrics used in this field are constructed on the same general principles as other textile materials. However, the upholstery and drapery materials necessarily have a much heavier body and more extensive and intricate designs and colorings than almost any other group of textiles. A considerable portion of both pile and flat fabrics are woven with jacquard machines and the looms in both divisions of the industry are almost entirely of a width greater than 50 inches.

To manufacture pile fabrics, specialized types of looms are needed which can weave only pile fabrics. Looms for the production of flat fabrics in an upholstery and drapery mill are also specialized as they are suitable only for the production of these more complex fabrics, and are built for quality production, rather than quantity production. As a practical matter, therefore, non-automatic shaft and jacquard looms mainly are found in mills of this kind. One weaver to a loom is customary in this industry and two or three looms to the weaver is the practical limit, due to the close attention required for the production of a complex fabric. Weavers of upholstery and drapery fabrics are highly skilled operators and a typical worker must have had and actually does have years of experience.

The industry is distinctive also, particularly in these days of mass production and standardization, in that its products are highly specialized and any one fabric, weave or design is often produced in relatively small quantities. An undetermined but important part of total production is of special designs, originated for a predetermined market and adapted to a definite use. The style life and demand for such a material is very short and the manufacturing problems are further complicated by style piracy, one of the greatest single problems of the industry and one which was stressed by the proponents of the code as a vital reason for a code of their own.

Both drapery and upholstery materials must be styled to accord with the constantly changing trends in furniture design and interior decoration. Designs alone frequently cost as high as \$500.00 to \$800.00 plus the cost of experimental runs in which the construction and composition of the fabric, its design and color treatment, are altered before the details of the final fabric are decided upon. Once a fabric has been made, it is a simple matter for any other manufacturer to put the same or a similar fabric into production at practically no expense. Pirated designs in almost every case are reproduced in cheaper fabrics and sold at a price materially lower than

the original. Design piracy is an evil which this code and administrative machinery attempt to remove.

Because of all these factors it is believed that the interests of all mills in the textile industry will be most adequately served by the Executive Order allowing mills to make a choice as to the particular code under which they will operate. Mills commonly classified as cotton mills or woolen mills, and now operating under such a code, may elect to continue operation under the basic provisions of that particular code even though they produce a certain amount of fabrics that meet the definition in this code. It is essential, however, that mills electing to operate under another code, be bound, in their selling of upholstery and drapery fabrics, by the fair trade practices of this code, namely, Article IX. This was objected to strenuously by the Cotton Textile Institute. It was deemed necessary, for the present, to overrule this objection. In this manner, the confusion of operating one plant under several codes will be minimized, and yet those who are primarily producers of these more intricate fabrics will still have a code suited to their particular problems.

LABOR PROVISIONS OF THE CODE

It is impossible to arrive at any estimates of reemployment that would be secured by the operation of this code. Practically every mill in this industry is now operating under either the cotton or the wool code and consequently their operations are on the basis of forty (40) hours for employees and eighty (80) hours for looms. Previously, the full work week was forty-eight (48) hours in the majority of the northern plants, but seasonal influences generally cut the work week to a somewhat smaller figure. With only some 10,000 employees in the whole industry, the figures for possible reemployment, even from the low point, would not be very impressive. Also, it is probable that estimates of reemployment in the textile field, as a whole, have already taken into account the upholstery and drapery industry.

The minimum wage rates for the usual upholstery and drapery mill are not a matter of great concern to either management or labor because 80 percent to 90 percent of the operators are highly skilled and already receive considerably more than the proposed scale.

Because competing mills will be bound by certain provisions of this code, it is necessary that wage and hour provisions in the Upholstery and Drapery Textile Industry conform with such provisions in the basic textile industries, until such time as they may be adjusted.

LOOM-HOUR LIMITATION

The code provides for a limitation of hours of machine operation as a measure designed to stabilize employment and production. In arriving at a basis for loom-hour limitation the sponsors of the code first gave consideration to the number of looms available for economical and effective use. The average demand for upholstery and drapery fabrics during the last few years has been considerably less than the capacity of the industry.

The loom-hour limitation clause is as follows: "No loom shall be operated for more than two shifts of forty (40) hours each per week."

Strong objections to this provision were raised by a small group of manufacturers who produce approximately 90 percent of the pile fabrics used for upholstering automobiles. They contended that there is no overproduction nor has there been any overproduction of this class of pile fabrics. In particular, this group stressed that the application of this provision would result in a curtailment of the supply of automobile upholstery fabrics which would be reflected in the production of automobiles and cause a lay-off of employees in that industry. Certain automobile body manufacturers bore out this statement.

The rest of the manufacturers in the industry, while admitting that they themselves produced but a negligible amount of automobile pile fabrics, advanced the thought that allowing unlimited operation on automobile pile fabrics looms would cause unfair competition for two reasons. First, there would result a natural reduction in overhead costs to a few in the industry by reason of longer operation of machinery which would be reflected in the production costs of fabrics made by these manufacturers for trades other than the automobile industry. Secondly, the available looms which were potential producers of these special fabrics were far in excess of the number needed to supply the annual requirements of the automobile industry.

Logical and forceful cases were made by both sides in the controversy and there was considerable merit in all the arguments advanced. The industry was unable to reach a compromise and decided to leave the final decision to the Administration. After weighing all the evidence and giving careful consideration to the probable effects on this industry, related industries, and the consumers of these fabrics, it was felt that all looms should be restricted to two shifts of forty (40) hours per week.

To give the industry opportunity to adjust its operations to this schedule, a stay for 14 days of the machinery-hour limitation is granted by Executive Order to those looms used for the exclusive production of automobile pile fabrics.

ADMINISTRATION

The provisions for administration of this code are capable of providing the N.R.A. and the Upholstery and Drapery Textile Industry with sufficient data to make recommendations for the limitation of certain provisions of the code as herewith presented and/or the addition of further provisions of this code which would be beneficial to the industry as a whole.

CONCLUSION

I find that the code complies in all respects with the pertinent provisions of Title I of the National Industrial Recovery Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof.

The National Upholstery and Drapery Textile Association is truly representative of the Upholstery and Drapery Textile Industry and the by-laws of this Association provide no inequitable restrictions to membership.

The code 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.

Accordingly, I hereby recommend the approval of the Code of Fair Competition for the Upholstery and Drapery Textile Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
UPHOLSTERY AND DRAPERY TEXTILE INDUSTRY

ARTICLE I—PURPOSES

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 Upholstery and Drapery Textile Industry, and shall be the standard of fair competition for this industry.

ARTICLE II—DEFINITIONS

SECTION 1. The term "industry", as used herein, shall include, without limitation as to materials used, the manufacture of upholstery and drapery woven pile fabrics and upholstery and drapery fabric without pile made on 4 x 4 Box Broad Looms, with a design requiring a jacquard machine having 600 hooks or more, requiring two shuttles or more.

SEC. 2. The term "employee", as used herein, includes any person engaged in any phase of the industry in any capacity in the nature of employee irrespective of the method of payment of his compensation.

SEC. 3. The term "employer", as used herein, includes any one for whom such an employee is so engaged.

SEC. 4. The term "member of the industry", as used herein, includes any employer and/or enterprise in this industry.

SEC. 5. The term "member of the code", as used herein, means any member of the industry who shall agree in writing as prescribed in Section 7, of Article VI.

SEC. 6. The term "President", as used herein, means the President of the United States of America.

SEC. 7. The term "Administrator", as used herein, means the Administrator appointed by the President under the National Industrial Recovery Act.

SEC. 8. The term "Code Authority", as used herein, means the National Administrative Agency of the Upholstery and Drapery Textile Industry as established in Section 1 of Article VI.

SEC. 9. The term "association", as used herein, means the National Upholstery and Drapery Textile Association or its successor.

SEC. 10. The term "learner", as used herein, shall include any employee who has worked in the industry less than six weeks.

ARTICLE III—HOURS

SECTION 1. No engineer, electrician, or employee working on a repair shop crew or watching crew, shall be permitted to work more than 40 hours per week, with a tolerance of ten percent; provided,

however, that in the case of emergency maintenance or emergency repair work, involving breakdowns or protection of life or property, the above maximum hours shall not apply; and provided further that all hours worked in excess of forty (40) hours per week shall be compensated for at the rate of time and one third. Emergency hours worked shall be reported monthly to the Code Authority provided for in Section 1 of Article VI.

SEC. 2. No office employee shall be permitted to work in excess of forty (40) hours per week averaged over a twelve weeks' period, but in no event in excess of forty-eight (48) hours in any one week.

SEC. 3. No other employee, except outside sales persons, and those employed in a managerial capacity and earning in excess of \$35.00 per week, cleaners, firemen, and those employed on shipping and outside crews, shall be permitted to work in excess of forty (40) hours per week; provided, however, that the Code Authority hereinafter provided for in Section 1, of Article VI, shall recommend to the Administrator on or before January 1st, 1934, the maximum hours which cleaners, firemen, and those employed on shipping and outside crews shall be permitted to work.

SEC. 4. No loom shall be operated for more than two shifts of forty (40) hours each per week.

SEC. 5. Until adoption of further provisions of this Code that may prove necessary to prevent any improper speeding up of work (stretchouts), no employee shall be required to operate or attend more machines or perform duties in addition to those prevailing on July 1, 1933, unless such increase is approved by the Code Authority, subject to review by the Administrator.

ARTICLE IV—WAGES

SECTION 1. No employees, except learners, cleaners, and those employed on outside crews, shall be paid at less than the rate of 32½ cents per hour, provided, that in the southern section, no employees except learners, cleaners, and those employed on outside crews, shall be paid at less than the rate of 30 cents per hour.

The southern section as used herein shall include the states of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, and West Virginia.

SEC. 2. No learner, cleaner, or employee engaged on an outside crew shall be paid at less than 80% of the minimum wage rates hereinabove set forth in Section 1; provided, that learners, cleaners, and those employed on outside crews shall not exceed 10% of the total employees of each plant.

SEC. 3. No employee, whether paid on a time rate, piece work, or commission basis, shall be paid less than the minimum rate per hour of employment prescribed in this Code.

SEC. 4. There shall be uniform wage rates for all shifts.

SEC. 5. To the extent practicable (a) rates of pay in excess of the minimum herein prescribed shall be increased so as to preserve equitable differentials and (b) earnings shall not be reduced by reason of a reduction in hours.

SEC. 6. In determining the classification of employees under this Code, each employee shall be entitled to claim the benefits of the classification of occupation in the industry existing on June 16th, 1933.

ARTICLE V—CHILD LABOR

SECTION 1. No person under 16 years of age shall be employed in the industry. In any State an employer shall be deemed to have complied with this provision 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.

ARTICLE VI—ADMINISTRATION

SECTION 1. To further effectuate the policies of the National Industrial Recovery Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code. Such Code Authority shall consist of not less than 8 nor more than 11 members, 8 of whom shall be representatives of the Industry elected by a fair method of selection to be approved by the Administrator, and 3 of whom without vote may be appointed by the Administrator. Such agency may present to the Administrator recommendations based on conditions in the industry as they may develop which will tend to effectuate the operation of the provisions of this Code and the policies of the National Industrial Recovery Act. Such recommendations, when approved by the Administrator, shall have the same force and effect as any other provisions of this Code.

SEC. 2. Such Code Authority shall cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint by any person affected, and shall report the same to the Administrator.

SEC. 3. The Code Authority shall provide for the formation of a committee for the administration of the provisions of Article IX of this Code. Such committee shall include representatives of all trade groups subject to the provisions of said Article. The Administrator at any time may require such committee to give representation to any such trade group in such manner as may be deemed equitable.

SEC. 4. Each employer shall furnish reports as hereinafter provided. The Association is hereby constituted the agency to provide for the collection and receipt of such reports and for the forwarding of the substance of such reports to the Administrator, the Association to provide for receiving and holding such reports themselves in confidence. Such reports shall be in such form, and shall be furnished at such intervals as shall be prescribed by the Association, subject to the approval of the Administrator, and shall contain such information relevant to the purposes of this Code, as shall be prescribed by the Association, subject to the approval of the Administrator, including information with respect to the following or related subjects:

- (a) Employment, hours, wages, and wage rates.

(b) Production, orders, filling, and stocks (in process and finished) of products manufactured.

(c) Cost data.

(d) Activity, purchases, sales, and scrapping of machinery.

(e) Consumption and stocks of raw materials.

SEC. 5. Statistics disseminated to the industry by the Code Authority shall be in the form of compilations and shall not disclose statistics of individual plants.

SEC. 6. There shall be no inequitable restrictions imposed on membership in the Association.

SEC. 7. Members of the industry who are complying with the requirements of the code; and who agree in writing either individually or through trade associations of which they are members to abide by the requirements of this code, and to pay their reasonable share of the expense of administration thereof, shall be entitled to the benefits of the activities of the Code Authority and to make use of N.R.A. Code insignia.

SEC. 8. The reasonable share of the expense of administration of the Code to be borne by the members of the code, shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business, and such other factors as may be deemed equitable to be taken into consideration.

SEC. 9. 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 3 (a) of the National Industrial Recovery Act.

ARTICLE VII—UNIFORM COST ACCOUNTING

Each member of the Code shall adopt uniform items in compiling the respective cost of production; and the Code Authority, subject to the approval of the Administrator, may determine the items which shall be included by each member of the code in determining his cost of production.

ARTICLE VIII—UNIFORM SALES CONTRACTS AND ORDER BLANKS

The Code Authority, subject to the approval of the Administrator, shall prepare a uniform sales contract for all products of the industry except fabrics sold to automobile manufacturers, which shall be in accordance with law and with the provisions of this Code, and which shall thereupon be used, in substance, by all members of the industry. This sales contract shall, in addition to other provisions, contain:

(a) A provision that the price therein is F.O.B. Mill. It shall also contain, in substance, such terms of this Code as are material to any transaction between buyer and seller.

(b) A provision that in the event that that style, color, or other specifications necessary to filling the order are not specified therein, and the buyer shall decline to furnish such specifications at least ten days before the respective shipping dates, the seller may, at his option, complete the contract upon reasonable specifications.

(c) In addition to the foregoing, members of the Code shall include in such sales contract an agreement to arbitrate disputes arising therefrom in accordance with the then rules of the American Arbitration Association.

ARTICLES IX—UNFAIR TRADE PRACTICES

The following unfair trade practices are prohibited:

SECTION 1. *Terms and Discounts.*—Giving terms of discounts on sales, which shall be in excess of net seventy days or 2% discount for cash within ten days from actual date of shipment, plus 6% per annum for actual anticipation; provided, however, that in the case of fabrics sold to automobile manufacturers, such sale may be made on a net basis, not to exceed an average of 30 days.

SEC. 2. *Gratuities.*—Paying gratuities by any member of the industry to purchasers or prospective purchasers, whether in the form of money or merchandise, directly or indirectly.

SEC. 3. *Selling on Consignment.*—Selling merchandise on memorandum or consignment.

SEC. 4. *Returns.*—Accepting for return, merchandise sold and delivered in due accordance and compliance with an order or contract, or selling any merchandise on approval or with privilege of return, or accepting or permitting the cancellation or modification as to price and terms of any order or contract for merchandise not yet delivered.

SEC. 5. *Samples.*—Giving samples of fabrics free of cost except color swatches of patterns actually purchased, which shall be no larger than 6" x 9"; provided, however, that no more than six of any color of any pattern shall be given to any customer in one season; and provided, further, that larger bona fide samples may be sent on memorandum to be returned within 30 days and if not so returned, to be billed at the regular price. No allowance or discount other than cash discount for merchandise sold is allowed for samples to be used in sample books.

SEC. 6. *Style piracy.*—The Code Authority, subject to the approval of the Administrator may provide for the definition and prevention of style piracy. It may provide for the establishment of a central bureau, to be made up of a committee, to be selected by the Code Authority, subject to the approval of the Administrator, empowered to receive and file novelty design and style registrations, to determine questions of style novelty and piracy, and to make reports thereon to the Code Authority.

SEC. 7. *Sales below cost.*—No member of the Industry shall sell or offer for sale any merchandise at a price less than the manufacturer's cost of production to be determined by the method provided in Article VII of this Code. The Code Authority, subject to the approval of the Administrator shall determine the dates upon which the usual season for sale of merchandise ordinarily commences and terminates, and shall provide a period during which members of the Industry shall be exempt from the provisions of this section. This date of sales shall be fixed so as to have as little effect as possible on the ordinary sales market during any ordinary selling season.

ARTICLE X—GENERAL PROVISIONS

SECTION 1. No provisions of this Code shall be permitted to operate in such manner as to promote or permit monopolies or monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

SEC. 2. Employees shall have the right to organize and bargain collectively, through representatives of their own choosing, and shall be free from interference, restraint, or coercion, by 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.

SEC. 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.

SEC. 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.

SEC. 5. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Sub-section (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.

SEC. 6. The Code Authority shall study the provisions of this Code and the operation thereof, and shall make to the administrator such recommendations as it may deem desirable for modifications or additions thereto, which recommendations, or modifications thereof, upon his approval and after such hearings as he shall prescribe, shall become a part of this Code and have full force and effect as provisions thereof.

SEC. 7. Within each state, members of the industry shall comply with any laws of such state imposing more stringent requirements regulating licensing, the age, wages, or hours of work of employees, than under this Code.

SEC. 8. It is contemplated that the cost of executing contracts both of purchase and sale in the industry entered into prior to the enactment of the National Industrial Recovery Act, or of the adoption of this Code, may be increased by the application of the provisions of the National Industrial Recovery Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise, and the Code Authority is hereby constituted an agency to assist in effecting such adjustments.

SEC. 9. Each employer shall post in conspicuous places full copies of this Code.

ARTICLE XI

The effective date shall be the second Monday after this Code shall have been approved by the President of the United States.

Approved Code No. 126

CODE OF FAIR COMPETITION

FOR THE

CHINAWARE AND PORCELAIN MANUFACTURING
INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Vitrified 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 Vitrified 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.

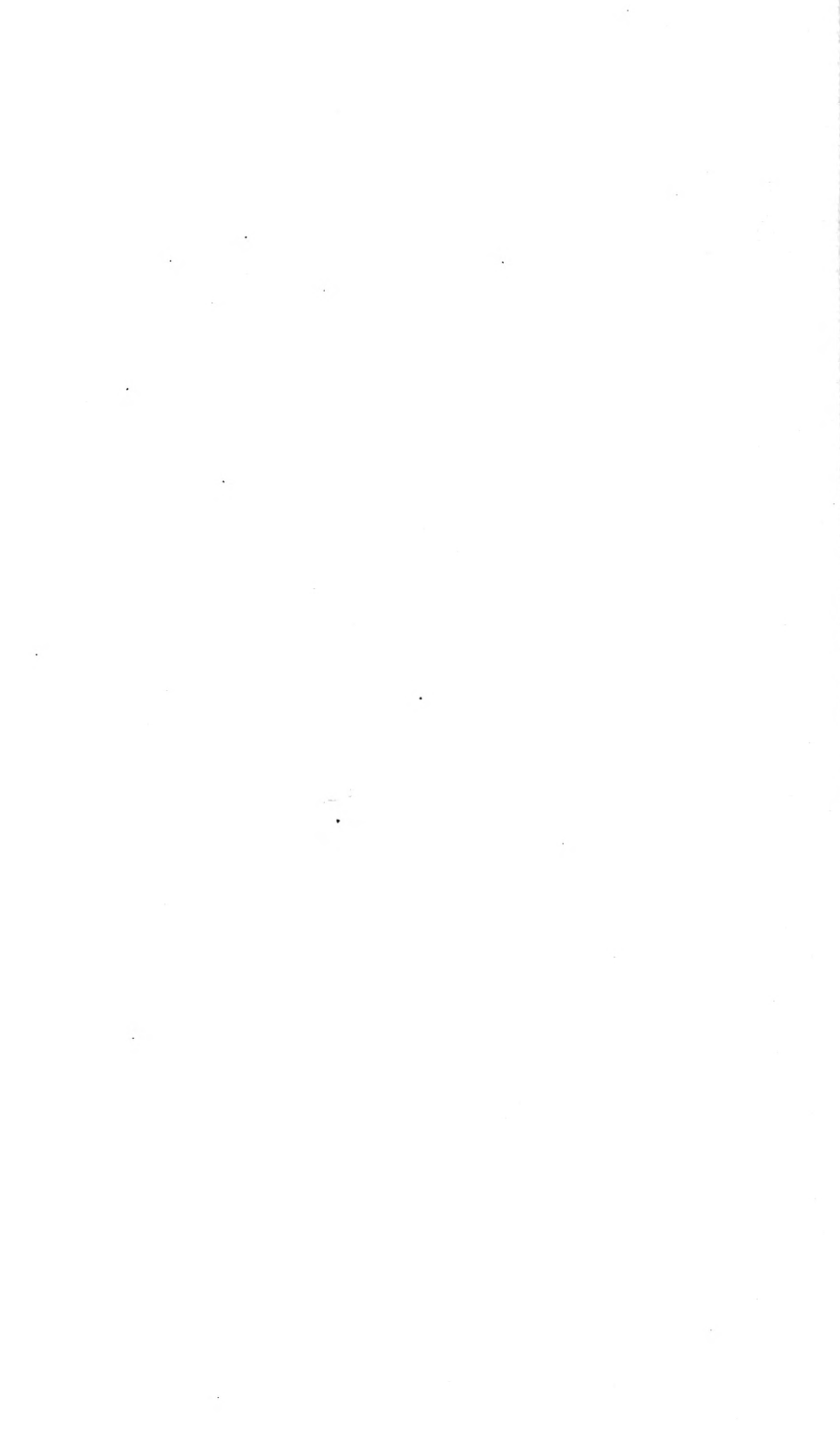
ARTICLE XII—COST ACCOUNTING SYSTEM

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.





CODE OF FAIR COMPETITION
FOR THE
REINFORCING MATERIALS FABRICATING
INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Reinforcing Materials Fabricating 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved, provided that the following be added as section 8 of article V of the code.

"The Board of Directors shall have the powers and duties elsewhere provided in this code, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Board of Directors."

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

NOVEMBER 11, 1933.

To the PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Reinforcing Materials Fabricating Industry as revised after public hearing conducted in Washington on October 23, 1933, in accordance with the provisions of the National Industrial Recovery Act.

THE INDUSTRY

This Industry developed from a group of specialist engineering organizations which twenty-five or thirty years ago were engaged in developing and promoting the use of reinforced concrete construction in this country. During the following years the members of the Industry have given much time and energy to the technical development of reinforced concrete construction. The public has greatly benefitted by the activities of the Industry in promoting new products and types of construction and will no doubt continue to do so as long as the Industry functions along these specialized lines.

PROVISIONS FOR HOURS AND WAGES

Except in the case of executives, those employed in supervisory capacities and in technical work and their respective staffs receiving more than \$35.00 per week, truck drivers and those employed in emergency work, employees in the Reinforcing Materials Fabricating Industry are limited to an average of not more than 40 hours per week in any six months' period or more than 48 hours or six days in any one week.

In the case of truck drivers or their helpers, the maximum hours of employment shall not exceed those prevailing in any district under any union agreement or regulation.

No reclassification of employees for the purpose of defeating the purpose of the Act is permitted, and no employee is permitted to work more than the specified maximum hours whether for one or more employers.

No person under 16 years of age is permitted to work in the industry, and no person under 18 years of age shall be employed in hazardous work.

The wage district and the hourly rates of pay for common labor in these districts are in exact accord with the Steel Code. There is an interchange of employees between mills and fabricating plants. If labor costs were increased under this Code, as compared to the Code for the Steel Industry, it seems quite clear that the small fabricators would be placed at a competitive disadvantage with respect to the large steel producers who operate fabricating plants for reinforcing materials in connection with their other steel-mill operations.

ECONOMIC EFFECTS OF THE CODE

The Industry at present is operating at about 20% of the 1928 volume, when employees numbered about 6,000. The present number of employees is about 47% of the number employed during that period, or about 2,800. By imposing the limitations of hours per week as proposed by the Code, it is estimated that a 60% operation of the Industry would require 100% of the number employed by the Industry in 1928, or an increase of about 3,200 employees. When the Public Works program gets fully under way, a 60% operation is expected.

It develops that the wage scale proposed under the Code has been in effect since September 1st under an approved substitution in the President's Reemployment Agreement, and represents an increase averaging roughly 20% over previous average rates.

FINDINGS

I find that:

(a) This Code complies in all respects with the pertinent provisions of Title I of the Act, including without limitation subsection (a) of Section 7 of subsection (b) of Section 10 thereof; and that

(b) The Concrete Reinforcing Steel Institute imposes no inequitable restriction on admission to membership therein, and is truly representative of the Reinforcing Materials Fabricating Industry, and that

(c) The Code 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 Recovery Act.

RECOMMENDATION

I hereby recommend the approval of the Code of Fair Competition for the Reinforcing Materials Fabricating Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
REINFORCING MATERIALS FABRICATING INDUSTRY

ARTICLE I—DEFINITIONS

Wherever used in this Code or in any schedule appertaining hereto the terms hereinafter in this Article defined shall, unless the context shall otherwise clearly indicate, have the respective meanings hereinafter in this Article set forth. The definition of any such term in the singular shall apply to the use of such term in the plural and vice versa.

SECTION 1. The term "the United States" means and includes all of the territory of the United States of America on the North American continent.

SEC. 2. The term "the President" means the President of the United States of America.

SEC. 3. The terms "Reinforcing Materials Fabricating Industry" and the "Industry" mean the business in the United States of selling reinforcing materials together with both the maintenance of a warehouse stock of such materials to serve the needs of the territory in which the warehouse is located and the operation of a plant or plants equipped with adequate machinery for at least one of the following purposes:

(a) The fabrication of reinforcing bars or spirals, or

(b) The manufacture of road strip, or accessories for reinforced concrete work, or

(c) The manufacture or conditioning of all types of permanent or removable forms for concrete joist floors or round columns or of removable metal forms for floor slabs in buildings.

SEC. 4. The term "reinforcing materials" means reinforcing bars, spirals, road strip, accessories for reinforced concrete work, all types of permanent and removable forms for concrete joist floors and round columns, and removable metal forms for floor slabs in buildings, wire mesh sold in conjunction with such materials, and expansion joints including accessories directly related to the installation thereof only when sold together with any of the preceding materials named in this section, and erection, engineering and other services rendered in conjunction with the sale of such materials.

SEC. 5. The terms "fabrication" or "fabricating" mean the cutting reinforcing bars to specified length, bending reinforcing bars, manufacturing of spirals, bundling, tagging, assembling, or processing, stocking or warehousing of any reinforcing materials, and the manufacture of road strip, reinforced concrete accessories and all types of permanent and removable forms for concrete joist floors and round columns and removable metal forms for floor slabs in buildings.

SEC. 6. The term "services" means services rendered in connection with sales of reinforcing materials and includes cutting to specified lengths, shipments from warehouse, fabricating, engineering, trucking, erection of reinforcing materials and all other services which are at any time rendered by a member of the Industry or directly or indirectly procured or arranged for by any member of the Industry in connection with any reinforcing material.

SEC. 7. The term "member of the Industry" means and includes, without limitation, any person, firm, association, corporation, or other entity engaged in the Industry in the United States.

SEC. 8. The term "the Code" means and includes this Code and all schedules annexed hereto as originally approved by the President and all amendments hereof and thereof made as hereinafter in Article XVII provided.

SEC. 9. The term "member of the Code" means any member of the Industry who shall have become a member of the Code as hereinafter in Article III provided.

SEC. 10. The term "the Institute" means the Concrete Reinforcing Steel Institute, an Illinois corporation not for profit, or any successor corporation.

SEC. 11. The term "the Board of Directors" means the Board of Directors (as from time to time constituted) of the Institute.

SEC. 12. The term "the Secretary" means the secretary of the Institute at the time in office.

SEC. 13. The term "the Treasurer" means the treasurer of the Institute at the time in office.

SEC. 14. The term "unfair practice" means and includes any act described as an unfair practice in Article VIII.

SEC. 15. The term "plant" means a plant for the fabrication of, or a warehouse for stocking one or more reinforcing materials.

SEC. 16. The term "prices" means prices for reinforcing materials sold, and prices for all types of forms for concrete joist floors and round columns or removable metal forms for floor slabs in buildings leased in the Industry, or for services rendered.

SEC. 17. The term "purchaser" means the purchaser of reinforcing materials or the lessee of all types of forms for concrete joist floors and round columns or removable metal forms for floor slabs in buildings or the person for whom any services are rendered.

SEC. 18. The terms "selling" or "sale" mean the selling or sale of one or more reinforcing materials, or the leasing thereof.

SEC. 19. The term "employee" means an employee engaged in any phase of the Industry.

SEC. 20. The term "lump sum" means a total sales price for one or more reinforcing materials.

SEC. 21. The term "base price" of any reinforcing material means the price for such reinforcing material f.o.b. a basing point, before any extras shall be added or any discounts for early payment or deductions shall be allowed or made.

SEC. 22. The term "period of free credit" means the period of time between the date of the invoice of a reinforcing material or the rendering of a service to the purchaser of such reinforcing material or service, and the date from and after which such purchaser shall be required to pay interest on the purchase price of such reinforcing

material or service or any part thereof which shall not have been paid prior to the expiration of such period.

SEC. 23. The term "date of invoice" means the date of the invoice of any reinforcing material.

SEC. 24. The term "discount for early payment" means the amount of the deduction allowed for the payment of an invoice of reinforcing materials before the expiration of the period of free credit in respect thereof.

SEC. 25. The terms "Act" and "Administrator" mean the National Industrial Recovery Act and the Administrator of Title I of said Act.

SEC. 26. The term "the effective date of the Code" means fourteen (14) days after the date on which the Code shall have been approved by the President pursuant to the National Industrial Recovery Act.

ARTICLE II—PURPOSE OF THE CODE

SECTION 1. The Code is adopted pursuant to Title I of the National Industrial Recovery Act.

SEC. 2. The purpose of the Code is to effectuate the policy of Title I of the National Industrial Recovery Act in so far as it is applicable to the Industry.

ARTICLE III—MEMBERSHIP IN THE CODE

SECTION 1. It is of the essence of the Code that all members of the Industry shall comply with the provisions of the Code and shall be entitled to participate in its benefits.

SEC. 2. Any member of the Industry is eligible for membership in the Code.

SEC. 3. Any member of the Industry desiring to become a member of the Code may do so by signing and delivering to the Secretary a letter substantially in the form set forth in Schedule A attached hereto.

SEC. 4. The rules and regulations in respect of meetings of members of the Code and of the Institute are set forth in Article XVI.

ARTICLE IV—HOURS OF LABOR, RATES OF PAY, AND OTHER CONDITIONS OF EMPLOYMENT

SECTION 1. Pursuant to subsection (a) of Section 7 of the National Industrial Recovery Act and so long as the Code shall be in effect, the Code shall be subject to the following conditions:

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

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

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

SEC. 2. The provisions with respect to hours of labor, rates of pay, and other conditions of employment, set forth in Schedule B annexed hereto, are hereby incorporated in and made a part of this Code; provided, however, that such provisions with respect to hours of labor, rates of pay, and other conditions of employment shall not apply to labor engaged in the erection of reinforcing materials. The hours, wages, and conditions of Labor provided in the separate erection code which shall hereafter be approved shall apply to the erection activities of fabricators who engage in the erection of reinforcing materials.

ARTICLE V—ADMINISTRATION OF THE CODE

SECTION 1. The administration of the Code shall be under the direction of the Board of Directors. The Board of Directors shall have all the powers and duties conferred upon it by the Code and generally all such powers and duties as shall be necessary or proper to enable it fully to administer the Code and to effectuate its purpose.

SEC. 2. The Secretary shall act as Secretary under the Code. Under the direction of the Board of Directors, he shall keep all books (except books of account) and records under the Code and, except as such Board shall otherwise provide, shall collect, file, and collate all statistics and other information required by the Board of Directors for the proper administration of the Code.

SEC. 3. The Treasurer shall act as Treasurer under the Code and, under the direction of the Board of Directors, he shall have custody of, and have charge of the disposition of, all funds collected under the Code; and he shall keep proper books of account showing the collection and disposition thereof.

SEC. 4. The Board of Directors shall have power from time to time (a) to appoint and remove, and to fix the compensation of, all such other officers and employees and all such accountants, attorneys, and experts, as said Board shall deem necessary or proper for the purpose of administering the Code and (b) to fix the compensation of the Secretary and the Treasurer for their services in acting under the Code.

SEC. 5. The expenses of administering the Code shall be apportioned among all the members of the Industry receiving the benefits of the Code or its administration in the following manner; the Board of Directors may from time to time make such assessments on account of such expenses and reserves against the members of the Industry as it shall deem proper and such assessments shall be payable as such Board shall specify. The part of such expenses and reserves which shall be assessed against each member of the Industry shall be based on the proportion which the value of shipments of reinforcing materials of such member bears to the total value of shipments of reinforcing materials of all members of the Industry in the same current accounting period as determined by the Board of Directors.

SEC. 6. No inequitable restrictions shall be imposed upon membership in the Institute or its successor and no material changes shall be made in the Constitution and/or By-Laws without the approval of the Administrator.

SEC. 7. The Administrator may appoint not to exceed three members, without vote, to serve with the Board of Directors in its administration of this Code. Such members if and when appointed shall

serve for a term of from six months to one year and their appointments shall be so arranged that they do not expire at the same time. The expenses and compensation of such representatives shall not be included as an expense of the administration of the Code.

SEC. 8. The Board of Directors shall have the powers and duties elsewhere provided in this code, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Board of Directors.

ARTICLE VI—PRICES AND TERMS OF PAYMENT

SECTION 1. None of the members of the Industry shall make any sale or lease or render any service in connection therewith of any reinforcing material at a price or on terms and conditions more favorable to the purchaser than the price, terms, or conditions established by such member in accordance with the provisions of this Article and in effect at the time of such sale or lease; nor, except as otherwise provided in this Article, shall any member of the Industry make any contract, sale, or lease with respect to any reinforcing materials at a price or on terms, and conditions more favorable to the purchaser thereof than the price, terms, and conditions established as aforesaid and in effect at the time of the making of such contract.

SEC. 2. The following places shall be the basing points for reinforcing bars and spirals and shall be used and adhered to by each member of the Industry in publishing his base prices and in the sale of such reinforcing materials, except as may be otherwise provided from time to time by the Board of Directors, or by the Administrator:

- Pittsburgh, Pennsylvania
- Buffalo, New York
- Cleveland, Ohio
- Chicago, Illinois
- Gary, Indiana
- Birmingham, Alabama
- Youngstown, Ohio
- Gulf Ports (Consisting of Mobile, Ala.; New Orleans, La.; and Orange, Port Arthur, Beaumont, Baytown, Galveston, and Houston, Texas)
- Pacific Coast Ports (Consisting of San Pedro, Calif.; San Francisco, Calif.; Portland, Oregon, and Seattle, Washington)

All other reinforcing materials shall be sold on the basis of basing points or zones filed by the members of the Industry with the Secretary and approved by the Board of Directors.

SEC. 3. Each member of the Industry shall, not later than the effective date of the Code, file with the Secretary a list showing the prices for all his reinforcing materials (including all services and all extras), and from and after such time such member shall at all times maintain on file with the Secretary a list showing the prices for all his reinforcing materials and shall not make any change in such prices except as provided in this Article. The Board of Directors may prescribe the form to be filled out by the members of the Industry in filing their individual lists of prices with the Secretary. Each such list shall state the date upon which it shall become effective, which date shall be not less than ten days after the date of filing such list with the Secretary; provided, however, that the first list of prices

fled by any member of the Industry as above provided shall take effect on the effective date of the Code. None of the prices shown in any list filed by any member of the Industry as herein provided shall be changed except by the filing by such member with the Secretary of a new list of its prices, which shall become effective on the effective date therein specified, which shall not be less than ten days after the date on which such new price list shall have been so filed, except as provided in Section 11 of this Article. All prices shown in the list so filed shall constitute the published prices of such member for the reinforcing materials and for the basing points and zones shown in such list. Lists of prices filed with the Secretary pursuant to this Section 3 shall be open to inspection at all reasonable times by anyone.

SEC. 4. Except as otherwise provided in this Article of the Code, all prices quoted and billed by any member of the Industry for any reinforcing materials sold by such member from and after the effective date of the Code shall be delivered prices, which in the case of any reinforcing material sold by zones shall be the delivered price including all extras throughout the applicable zone, and in the case of reinforcing bars and spirals shall be not less than the sum of (a) the published base prices of such member for such reinforcing materials effective at the time of the sale thereof and (b) the published extras of such member for such reinforcing materials effective at the time of sale thereof and (c) the all-rail published tariff freight charges from the basing point on which such base price is based to the place of delivery to the purchaser thereof, or, if such place of delivery shall be at such basing point, the published tariff switching charges to such place of delivery from the plant at such basing point nearest in terms of such switching charges, to such place of delivery; provided, however, that in any case in which such reinforcing bars and spirals shall be delivered by other than all-rail transportation, the member of the Industry selling such reinforcing materials may allow to the purchaser a reduction in the delivered price otherwise chargeable under this Section at a rate which shall have been previously published, and after approval by the Board of Directors, filed with the Secretary; and provided further that any member of the Industry may allow to any dealer who is a member of the Code a discount from any such list of prices or a commission to any agent to or through whom such member shall sell such reinforcing material provided such member shall have complied with the provisions of Section 5 and 6 of this article. Reinforcing material may be sold to a dealer at a dealer's discount only when purchased by such dealer for resale.

SEC. 5. Any quotation, contract of sale or sale made by any agent for a member of the Industry shall be made in the name of such member of the Industry by such agent.

SEC. 6. Each member of the Industry shall file with the Secretary five days before the effective date of the Code and thereafter maintain on file a full, correct and up-to-date list of the names and addresses of all dealers, agents or other persons to whom such member allows, pays, or is under contract to pay any discount, commission, bonus or other compensation based on the volume or value of reinforcing materials sold, except salaried employees devoting their full working time to the service of any member of the Industry which will directly or indirectly permit any such person to acquire reinforcing materials at other than the current price listed by such member as in this article

provided. The names and addresses of all such dealers, agents, or other persons shall be so placed on file not less than twenty (20) days before any member of the Industry shall sell any such dealer, agent or other person at any such discount, except that any member of the Industry may sell any dealer, agent, or other person whose name and address shall have been so placed on file five days prior to the effective date of this Code. Such member shall also list and maintain with the Secretary a full, correct and up-to-date list of the rates or amounts of all such discounts, commissions, bonuses and other compensation as specified in the preceding sentence paid to each such person. All such lists so filed shall be open to the inspection of any member of the Industry at any reasonable time. The Board of Directors shall have power to determine if any such discounts, commissions, bonus or other remuneration has been or may be used as a means of effecting a departure from any published price of such member and if the Board of Directors shall so determine, it may require any member of the Code to modify any such discount, commission, bonus or other compensation. Each such decision shall be subject to review by the Administrator and to his disapproval in whole or in part. No contract or arrangement for the payment of any discount, commission, bonus or other compensation referred to in this Section other than contracts or arrangements in effect on the effective date of the Code shall become effective until ten (10) days after the filing hereinbefore provided except that contracts or arrangements in effect at the time of the approval of this Code by the President shall be filed as herein provided at least five days prior to the effective date of the Code.

SEC. 7. The Board of Directors shall have power on its own initiative, or on the complaint of any member of the Industry, to investigate any price for any reinforcing material shown in any list filed with the Secretary by any member of the Code, and for the purpose of the investigation thereof to require such member to furnish such pertinent information concerning the cost of fabricating, handling, and selling such product as the Board of Directors shall deem necessary or proper for such purpose. If the Board of Directors after such investigation shall determine that such price is an unfair price for such reinforcing material, having regard to the cost of manufacturing, handling, and selling such reinforcing material, and that the maintenance of such unfair price will result in unfair competition in the Industry, the Board of Directors may require the member of the Code that filed the list in which such unfair price is shown to file a new list showing a fair price for such reinforcing material, which fair price shall become effective immediately upon the filing of such list. If such member of the Code shall not within ten days after notice to it of such determination by the Board of Directors file a new list showing such fair price for such reinforcing material, the Board of Directors shall have power to fix a fair price for such reinforcing material, which fair price, however, shall not be more than the price of any other member of the Code at that time effective for such reinforcing material and in respect of which the Board of Directors shall not theretofore have begun an investigation or a complaint shall not have been made by any member of the Industry. When the decision of such Board fixing such fair price shall have been filed with the Secretary and the Secretary shall have given notice thereof to such member, such fair price shall be the price of such member for such reinforcing material

until it shall have been changed as in the Code provided. A notice of all decisions of the Board of Directors under this Section 7, together with the reasons therefor, shall be filed with the Administrator, and each such decision shall be subject to his disapproval in whole or in part.

SEC. 8. Except as in Section 9 of this Article of the Code otherwise provided, the maximum rates of discount for early payment and the maximum periods of free credit which may be allowed by any member of the Industry shall be the rates and periods specified in Section 9 of this Article unless and until such rates or such periods shall be changed by the Board of Directors by the affirmative vote of two-thirds of the whole Board and filed with the Secretary. Except as aforesaid, all invoices for reinforcing materials sold by any member of the Industry after the effective date of the Code shall bear interest from and after the expiration of the period of free credit at a rate which shall be not less than the then current rate established by the Board of Directors and filed with the Secretary. Nothing in the Code contained shall prevent any member of the Industry from allowing credit to any purchaser or allowing any purchaser to delay payment in respect of any invoice for a longer period than the maximum period of free credit specified in Section 9 of this Article; but, if any member of the Industry shall allow credit to any purchaser or allow any purchaser to delay payment in respect of any invoice for a period longer than such maximum period of free credit, then such member shall charge and collect interest on the amount in respect of which credit shall be so allowed or the payment of which shall have been so delayed at a rate not less than the current rate established and filed as aforesaid.

SEC. 9. Maximum rates of discount for early payment shall be as follows: (except for erection or removal services) one half of one percent ($\frac{1}{2}$ of 1%) if the invoice of such reinforcing materials shall be paid within ten (10) days from the date of such invoice; provided, however, in the latter cases, that any member of the Industry may allow such discount of one half of one percent ($\frac{1}{2}$ of 1%) for payment within ten (10) days on the basis of settlements three (3) times in each month, as follows:

(a) On invoices for reinforcing materials dated from the 1st to the 10th, inclusive, in any month, such discount may be allowed on payment of such invoices on or before the 20th of such month;

(b) On invoices for reinforcing materials dated from the 11th to the 20th, inclusive, in any month, such discount may be allowed on payment of such invoices on or before the 30th day of such month;

(c) On invoices for reinforcing materials dated from the 21st to the end of any month, such discount may be allowed on payment of such invoices on or before the 10th of the next following month.

Any discount allowed in accordance with the provisions of this Article shall apply only to the invoiced value of the reinforcing materials specified or service rendered therein and not to any part of the transportation charges on such products.

All reinforcing materials shall be invoiced on terms of net cash within 30 days from date of invoice—except where the sale of such products call for their erection and/or removal, in which case the terms of payment shall be on a net monthly estimate basis as follows: On or before the last of each calendar month an estimate shall be

made by the seller of the value of material and work performed. 85% of such estimate shall be paid on or before the 15th of the following month. The balance of such estimate shall be paid within 30 days after substantial completion of the work covered by the seller's contract.

SEC. 10. For all purposes of this Article, a delivery of any reinforcing material made pursuant to a contract of sale shall be regarded as a sale thereof made at the time of the making of such contract. Except in the case of reinforcing material required for a specified definite project, none of the members of the Industry shall make any contract of sale of any reinforcing material by the terms of which the shipment of or rendering any service in connection with such reinforcing material is not required to be completed before the end of the calendar quarter-year ending not more than four months after the date of the making of such contract.

SEC. 11. Any member of the Industry may change his published prices by filing with the Secretary in the manner hereinbefore provided, to become effective in less than ten days after such filing in order to equal the prices published by any other member of the Industry on the effective date of such prices.

SEC. 12. In the event of an increase in the published prices of any member of the Industry, such member may make a contract of sale at his published price in effect prior to such increase, provided such member shall have filed with the Secretary on or before the effective date of such increase a copy, in such form as may be required by the Board of Directors, of a provisional contract with the purchaser. Such provisional contract shall require the purchaser to purchase the reinforcing materials covered by such contract within thirty (30) days (except where the requirements of governmental invitation to bid call for a longer period) after the effective date of such increase in published prices and use such reinforcing materials in the construction of an identified project, in the event such purchaser shall be awarded the contract under a bid whereby such purchaser is obligated to a third party if the bid is accepted.

SEC. 13. Each member of the Industry shall publish size extras and trucking charges. Such rates may be revised from time to time by the Board of Directors with the approval of the Administrator to conform with the trade practice customary in the Industry.

SEC. 14. A sale made by any member of the Industry through any agent or other company or person affiliated with or representing such member shall be deemed to be a sale made by such member.

SEC. 15. Nothing in this Article contained shall be deemed to apply to or affect the sale of any reinforcing material for direct shipment in export trade by any member of the Industry within the meaning of the term "export trade" as it is used in the Export Trade Act or, unless and to the extent that the Board of Directors shall otherwise determine, the sale of any product by any such member for direct shipment to the Philippines, Hawaii, or Puerto Rico or other insular possessions of the United States of America.

SEC. 16. All contracts for reinforcing materials shall be in writing and all verbal orders or sales calling for more than one shipment shall be immediately confirmed in writing.

ARTICLE VII—ESTIMATING BUREAUS

SECTION 1. Each member of the Industry submitting a lump sum bid on a specified project where the total value of all the reinforcing materials on such project is over three hundred dollars (\$300.00) located in a district in which a quantity Estimating Bureau has been established or approved by the Board of Directors shall purchase an estimate of quantities of reinforcing materials required on such project from such Bureau. Each member of the Industry selling reinforcing materials in such district shall deposit a copy of his individual current price list currently applicable in such district with such Bureau, and such Bureau shall apply the price lists of the individual member of the Industry to the various items and kinds of reinforcing materials included in the Bureau's estimate on any specified project, and such quantity estimate so priced shall be used by the individual member in submitting his lump sum bid on any specified project.

SEC. 2. No member of the Industry shall guarantee any quantity or lump sum price on a project in a territory where an Estimating Bureau has been established or approved by the Board of Directors except the quantity or lump sum price secured by such member from a Bureau established or approved by the Board of Directors.

SEC. 3. No member of the Industry shall quote any "average unit price" where the approximate total value of all the reinforcing materials on such project is over three hundred dollars (\$300.00) on a project in a territory where an Estimating Bureau has been established or approved by the Board of Directors unless the quantity estimate on which such average unit price is based has been secured by such member for the project or order in question from an Estimating Bureau established by or approved by the Board of Directors. Wherever a member of the Industry sells on a unit price, he shall not guarantee any lump sum or quantity.

SEC. 4. When quoting to a purchaser, no member of the Industry shall revise the design or specifications or request an alternate or revised estimate from any Estimating Bureau except in the event of a material structural change approved as such by the appropriate local Estimating Bureau.

SEC. 5. For any specified territory, upon the complaint of any member of the Industry, or upon its own initiative the Board of Directors may issue a ruling changing the minimum specified limit above which the purchase of a quantity estimate is required in accordance with the provisions of this Article VII from the value of three hundred dollars (\$300.00) for the total value of all the reinforcing materials on a project as set forth in Sections 1 and 3 of this Article VII, if, in the opinion of the Board of Directors, the maintenance of such limit would disrupt the normal course of business in any specified territory or work undue hardship upon the members of the Industry operating in such territory. All such rulings and decisions of the Board of Directors shall be published immediately by the Secretary to all members of the Industry and shall become effective not less than ten days after the date of such publication by the Board of Directors.

SEC. 6. Each approved Estimating Bureau shall maintain on file a copy of the summary of each quantity estimate together with any extensions thereof, made by it which shall be open for examination

by any member of the Industry only after a contract has been closed for the sale on a lump sum basis of the materials called for by the respective estimate.

ARTICLE VIII—UNFAIR PRACTICES

SECTION 1. For all purposes of the Code the following acts shall constitute unfair practices and shall be deemed to be unfair methods of competition in commerce within the meaning of the Federal Trade Commission Act as amended, and the using or employing of any of them shall be deemed to be a violation of the Code, and any member of the Industry which shall directly, or indirectly through any officer, employee, agent, or representative, use or employ any of such unfair practices shall be guilty of a violation of the Code.

(a) Making or promising to any purchaser or prospective purchaser of any reinforcing material, or to any officer, employee, relative, agent, or representative of any such purchaser or prospective purchaser or to any governmental employee or representative, any bribe, gratuity, gift, or other payment of remuneration, directly or indirectly.

(b) Procuring, otherwise than with the consent of any member of the Industry, any information concerning the business of such member with knowledge that such information is properly regarded by it as a trade secret or confidential within its organization, other than information relating to a violation of any provision of the Code.

(c) Imitating or simulating any design, style, mark, or brand used by any other member of the Industry.

(d) Using or substituting any material superior or inferior in quality to that specified by the specifier and purchaser of any reinforcing material or using or substituting any material or any method of manufacture not in accord with any applicable law, rule, or regulation of any governmental authority.

(e) Cancelling in whole or in part, or permitting the cancellation in whole or in part of, any contract of sale of any reinforcing material, except for a fair consideration.

(f) Paying or allowing or offering to any purchaser in connection with the sale of any reinforcing material any rebate, commission, credit, discount, adjustment or similar concession other than as is permitted by the Code and specified in the contract of sale.

(g) Disseminating, publishing, or circulating any false or misleading information relative to any reinforcing material or price for any product of any member of the Industry, or the credit standing or ability of any member thereof to perform any work or fabricate or produce any reinforcing material, or to the conditions of employment among the employees of any member thereof.

(h) Inducing or attempting to induce by any means any party to a contract with a member of the Industry to violate such contract.

(i) Aiding or abetting any person, firm, association, or corporation in any unfair practice.

(j) Making or giving to any purchaser of any reinforcing material any guaranty or protection in any form against decline in the market price of such reinforcing material.

(k) Stating in the invoice of any reinforcing material as the date thereof a date later than the date of shipment of or the rendering of

any service in connection with such reinforcing material, or including in any invoice any reinforcing material shipped or service rendered on a date earlier than the date of such invoice. In the case of lump-sum contracts, the invoices of partial shipments or services shall be at least proportionate to the shipments or services rendered.

(l) Making any sale or contract of sale of any reinforcing material under any description which does not fully describe such reinforcing material in terms customarily used in the Industry.

(m) Rendering to any person any engineering or other service in connection with any reinforcing material unless compensation shall be made for such service at the published rate of the renderer.

(n) Making any misrepresentation as to the quality, quantity, origin, or other material condition of any reinforcing material or service.

(o) Where different reinforcing materials or other materials are contracted for sale or bid on at the same time or for the same job, failure to separately itemize each different kind and class of reinforcing material or failure to state the kind and quality or grade of such material, provided that lump-sum prices may be quoted on reinforcing bars and spirals including fabricating, engineering, and transportation charges and these materials and services shall be deemed of the same kind and class.

(p) Submission of more than one bid or quotation whether verbal or written to any purchaser or prospective purchaser on any specified material on a definite project except in the event of a material change in the plans and/or specifications of the project, and except in the event of a decrease in the published prices of the producers of the raw material in question notification of which shall have been given by the Secretary to the Industry or in the event of a change in the published price of any other member of this Industry. Nothing in this rule shall be deemed to prevent a member of the Industry from correcting any typographical or other unintentional mistake provided that notice of any such correction shall first be given to the Secretary.

(q) Acceptance of any form of paper or security in payment at more than the true value thereof.

(r) Any offer or agreement to finance any purchaser of reinforcing materials other than the extension of credit for materials sold by the member of the Industry extending such credit.

(s) The shipment of any foreign steel not marked in accordance with the requirements of the Treasury Department of the United States, with the full name of the country of origin on each piece, provided, however, that this rule shall not be applicable to stocks of foreign steel in the possession of or owned by members of the Industry at the effective date of the Code and listed with the Secretary on or before such date, who shall also be notified of all shipments from such stocks and the date they are exhausted.

(t) Entering into contracts for reinforcing materials without actual obligation on the part of the buyer to purchase any specific quantity for delivery within a specified time, or for any particular job or jobs.

(u) Making the acceptance of a separately priced nonreinforcing material in a quotation or the making of another quotation for a nonreinforcing material contingent upon the acceptance of a quotation for reinforcing materials.

(v) To ship or receive reinforcing materials on consignment or enter into any agreement, subsequent to the effective date of the Code, which would result in the shipment of reinforcing materials on consignment.

(w) To render or secure inspection services (except regular mill test reports or retests after rejection) at other than the actual and customary rate charged for such inspection by established inspection organizations.

ARTICLE IX—REPORTS AND STATISTICS

SECTION 1. The Board of Directors shall have power from time to time to require each member of the Industry to furnish to the Secretary, in confidence, such information concerning the reinforcing materials production, shipments, sales, and unfilled orders of such member and the hours of labor, rates of pay, and other conditions of employment at the plant or plants of such member and such other information as the Board of Directors shall deem necessary or proper in order to effectuate the purpose of the Code and the policy of Title I of the National Industrial Recovery Act. The Board of Directors may require that any such information be furnished periodically at such times as it shall specify and may require that any or all information furnished be sworn to or otherwise certified or authenticated as it shall prescribe. Failure of any member of the Industry promptly to furnish to the Secretary information required by the Board of Directors and substantially in the form prescribed shall constitute a violation of the Code. The Board of Directors shall not require any information regarding trade secrets or publication of the names of the customers of any member of the Industry. In the case of members of the Industry rolling reinforcing bars, the Board of Directors shall have no authority to call for information relative to any mill operation prior to the time that reinforcing bars leave the hot beds.

SEC. 2. Any or all information furnished to the Secretary by any member of the Industry shall be subject to checking for the purpose of verification by an examination of the books and accounts and records of such member by any disinterested person or persons mutually agreed upon by the Board of Directors and the member of the Industry whose books and accounts and records are to be examined or by a person or persons nominated by the Board of Directors and approved by the Administrator. The cost of each such examination shall be treated as an expense of administering the Code; provided, however, that, if upon such examination any such information shall be shown to have been incorrect in any material respect, such cost shall be paid by the member of the Industry which furnished such information.

SEC. 3. To the extent that any information furnished to the Secretary in accordance with the provisions of the Code is of confidential character, such information shall be treated by the Secretary as strictly confidential; and no publication thereof to anyone or in any manner shall be made other than in combination with similar information of the Industry in which case the publication shall be made only in such manner as will avoid the disclosing separately of such confidential information.

SEC. 4. In addition to information required to be submitted to the Board of Directors, there shall be furnished to the Administrator such statistical information as he may require pursuant to the provisions of Section 3 (a) of the National Industrial Recovery Act.

ARTICLE X—BACKCHARGES

SECTION 1. No backcharges or other refund or allowance of a claim of any purchaser shall be granted or paid by any member of the Industry if the purpose or effect thereof is to effect a secret or discriminatory allowance, or a discount from any published price.

SEC. 2. A statement of each backcharge, refund or allowance for claim granted or paid by any member of the Industry shall be filed with the Secretary as may be required by the Board of Directors.

ARTICLE XI—REINFORCING MATERIALS PRODUCED BELOW ESTABLISHED EMPLOYMENT CONDITIONS

SECTION 1. On any complaint of any violation of this Article accompanied by a prima facie showing of such violation, the Board of Directors may require the party complained of to assume the burden of showing that such reinforcing material was produced or fabricated at hours of labor, rates of pay and other conditions in accordance with the applicable Code.

ARTICLE XII—SERVICES

SECTION 1. Where any member of this Industry renders, procures or arranges for, directly or indirectly, any service whatsoever in connection with the sale or contract for sale of any reinforcing material, such member of the Industry must publish his prices, file them, and adhere to all conditions hereinbefore set forth as applying to reinforcing materials, as if the sale of such services were in fact the sale of reinforcing materials.

ARTICLE XIII—STANDARD PRACTICE AND FORM OF CONTRACT

SECTION 1.—The Rules of Standard Practice attached hereto as Schedule C, subject to such modifications as may be made from time to time by the Board of Directors shall control the interpretation of plans, specifications, and contracts.

SEC. 2. All contracts entered into by any member of the Industry for the sale of reinforcing materials and any quotations thereof shall contain the provisions of the Standard Form of Contract attached hereto, as Schedule D, subject to such modifications as may be made from time to time by the Board of Directors.

ARTICLE XIV—PENALTIES AND DAMAGES

SEC. 1. Recognizing that the violation by any member of the Industry of any provision of the Code will disrupt the normal course of fair competition in the Industry and cause serious damage to other members of the Code and that it may be difficult fairly to assess the

amount of such damage to any member of the Industry or the public, it is hereby agreed by and among all members of the Code that each member of the Code who shall violate any such provision shall unless otherwise specified by the Board of Directors pay to the Institute as and for liquidated damages the sum of \$10.00 per ton of any reinforcing material or twenty percent (20%) of the entire sales price of any contract for sale of reinforcing materials, whichever is the larger, sold or contracted for sale by such member in violation of any such provision.

SEC. 2. Upon the complaint of any member of the Code that any act of any member of the Code constitutes an unfair practice under the Code, the Board of Directors may provide for the investigation, hearing and decision of such complaint through such committee, impartial tribunal or otherwise as it may from time to time determine and except as otherwise in this Article provided the Board of Directors or such committee or other tribunal may assess such liquidated damages or other penalty or take such other action to refer the complaint to the American Iron and Steel Institute or any committee or tribunal established by such Institute as it may deem necessary or desirable in order to effectuate the policy of Title I of the National Industrial Recovery Act or the provisions of this Code.

SEC. 3. All amounts so paid to or collected under this Article shall be used by the Institute for the more effective Administration and application of the Code and may be applied in the reduction of the assessments pro rata, of all members of the Code hereinbefore provided for.

SEC. 4. Each member of the Industry who makes application to become a member of the Code shall agree with every other member that the Code constitutes a valid and binding contract by and among all members of the Code and that, in addition to all penalties and liabilities imposed by statute, any violation of any provision of the Code by any such member thereof shall constitute a breach of such contract and shall subject the member guilty of such violation to liability for liquidated damages pursuant to the provisions of the Code.

SEC. 5. Anything in the Code to the contrary notwithstanding, the Board of Directors by the affirmative vote of two thirds of the whole Board may waive any liability for liquidated damages imposed by or pursuant to any provision of the Code for any violation of any provision thereof, if in its discretion it shall decide that such violation was innocently made and that the collection of such damages will not to any material extent tend to effectuate the policy of Title I of the National Industrial Recovery Act.

ARTICLE XV—GENERAL PROVISIONS

SECTION 1. Any notice, demand, or request required or permitted to be given to or made upon any member of the Industry shall be sufficiently given if mailed postage prepaid addressed to such member at the address of such member on file with the Secretary. A waiver in writing signed by any member of the Industry of any such notice, demand or request and delivered to the Secretary shall be deemed to be the equivalent of a notice, demand, or request duly given or made, whether or not such waiver was signed and delivered before the time

when such notice, demand, or request was required or permitted to be given or made.

SEC. 2. Nothing contained in the Code shall be deemed to constitute the members of the Code or of the Industry partners for any purpose. None of the members of the Code or of the Industry shall be liable in any manner to anyone for any act of any other member of the Code or of the Industry or for any act of the Board of Directors, the Treasurer, or the Secretary, or any committee, officer or employee appointed under the Code.

SEC. 3. Pursuant to subsection (b) of Section 10 of the National Industrial Recovery Act, the President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act.

SEC. 4. Any action taken by the Board of Directors for the purpose of making effective the provisions of the Code shall be reported to the Administrator.

ARTICLE XVI—MEMBERSHIP MEETINGS AND VOTING POWER IN THE INSTITUTE

SECTION 1. Every member of the Industry who shall become a member of the Code in the manner provided for in Article III and who shall not be in default in the payment of any assessment or the observance of any provision of the Code shall be a member of the Institute.

SEC. 2. A meeting of members of the Institute may be called and held at any time by order of the Board of Directors, or by members of the Institute having the right to cast at least 50% of all the votes that might be cast at such meeting, if all the members of the Institute were present thereat, or not less than six days' notice to each of such members stating the time and place of such meeting and the purposes thereof.

SEC. 3. At each meeting of the members of the Institute, each member thereof shall have as many votes as shall equal the quotient obtained by dividing by 100,000 the aggregate amount in dollars of the invoiced value of the reinforcing materials delivered by such member for consumption within the United States during the preceding calendar year. Fractions in such quotient shall be disregarded; provided, however, that each member of the Institute shall have at least one vote. All questions as to the number of votes which each member of the Institute shall be entitled to cast at any meeting of the members thereof shall be determined in such manner as may be provided by the Board of Directors. Any person or firm who shall be a member of the Institute may, and any association or corporation which shall be a member of the Code shall, vote at meetings of the members of the Institute by proxy in writing duly executed by such member and filed with the Secretary. Such proxy shall not be effective for more than one specified meeting or any adjournment thereof.

SEC. 4. At each meeting of the members of the Institute, members thereof present in person or by proxy having the right to cast at least fifty percent (50%) of all the votes that might be cast at such meeting, if all the members of the Institute were present thereat, shall constitute a quorum for the transaction of business at such meeting

but less than a quorum may adjourn any meeting until such time as a quorum is present.

SEC. 5. The Board of Directors shall at all times maintain its representative character as the governing body of the Industry. If at any time any member, members, or division of the Industry shall, as the result of any provision of the Code or any interpretation thereof or decision thereunder, be deprived of its or their fair representation in the governing body of the Industry (on the basis of the invoice values in this Article set forth), the Board of Directors shall make such further provision in order that the governing body shall at all times be truly representative of the Industry. For this purpose the Board of Directors shall provide for such amendments to the Bylaws of the Institute or for the creation of a new or enlarged code authority as may be necessary or desirable to constitute the governing body of the Industry truly representative of all members and divisions of the Industry. Such new or enlarged code authority shall have all the powers and be subject to all the obligations set forth in the Code with respect to the Board of Directors.

ARTICLE XVII—AMENDMENTS—TERMINATION

SECTION 1. The Code may be amended at any time in the manner hereinafter provided. The changing of any Schedule hereto or the addition hereto of any new Schedule shall constitute an amendment of the Code. All amendments shall be proposed by the Board of Directors by vote of the majority of the members thereof at the time in office. Each amendment so proposed shall be submitted to a meeting of the members of the Institute which shall be called for such purpose upon notice given in accordance with the provisions of the Code. If at such meeting at least 75% of all the votes cast at such meeting shall be in favor of the adoption of such amendment, such amendment shall be submitted by the Board of Directors to the President for approval, if approval thereof by him shall then be required by law. Every such amendment shall take effect as a part of the Code upon the adoption thereof by the members of the Code as above provided and the approval thereof by the President, if approval thereof by him shall be required as aforesaid. Any member of the Industry may recommend amendments of the Code to the Board of Directors or to the Administrator.

SEC. 2. Upon the termination of the Code all obligations and liabilities under the Code shall cease, except those for unpaid assessments theretofore made in accordance with the provisions of the Code and those for liquidated damages theretofore accrued under any provision of the Code.

Approved Code No. 127.
Registry No. 1118—08.

SCHEDULE A

FORM OF LETTER OF ASSENT TO THE CODE

To the SECRETARY OF CONCRETE REINFORCING STEEL INSTITUTE,
333 North Michigan Boulevard, Chicago, Illinois.

DEAR SIR: The undersigned desiring to become a member of the Code of Fair Competition of the Reinforcing Materials Fabricating Industry, a copy of which is annexed hereto marked Annex A, hereby assents to all of the provisions of said Code (hereinafter referred to as the Code), and, effective as of the date on which the Code shall have been approved by the President of the United States of America as therein provided, or as of the date on which this letter shall have been delivered, if delivery thereof shall have been made subsequent to the date on which the Code shall have been approved by said President as aforesaid, by the signing and delivery of this letter becomes a member of the Code and effective as aforesaid hereby agrees with every person, firm, association and corporation who shall then be or thereafter become a member of the Code, that the Code shall constitute a valid and binding contract between the undersigned and all such other members.

For all purposes of the Code, the address of the undersigned, until written notification of change shall be filed with you, shall be as set forth at the foot of this letter.

Very truly yours,

Name of Company.

Name of officer.

Address.

SCHEDULE B

HOURS OF LABOR, RATES OF PAY AND OTHER CONDITIONS OF EMPLOYMENT

SECTION 1. Except in the case of executives, those employed in supervisory capacities and in technical work and their respective staffs receiving more than \$35.00 per week or over, truck drivers, and those employed in emergency work involving breakdowns or requiring the protection of life or property and so long as employees qualified for the work required shall be available in the respective localities where such work shall be required, none of the members of the Industry shall cause or permit any employee to work at an average of more than 40 hours per week in any six months period, or to work more than forty-eight (48) hours or more than six (6) days in any one week. For the purposes of this Section 1 the first six months period for each employee in the employ of any member of the Industry at the effective date in the Code shall begin with that date, and the first six months period for any employee thereafter employed by any member of the Industry shall begin with the date of employment of such employee by such member. After the date of the employment by any member of the Industry of any employee such member shall not knowingly permit such employee who also shall have performed work for one or more other employers to work for such member such number of hours as would result in a violation of the Code, had all such work been performed for such member.

SEC. 2. None of the members of the Industry shall employ in or about its plants in the Industry any person under 16 years of age and no one under 18 years shall be employed on hazardous work. Within each state, members of the Industry shall comply with any laws of such state imposing more stringent requirements regulating the age of employees, wages, hours of work or health, fire, or general working conditions, than under the Code.

SEC. 3. For the purposes of this Schedule the wage districts described in Section 5 of this Schedule B have been established.

SEC. 4. Until changed by amendment of the Code as hereinbefore in Article XVII provided, the minimum rates of pay per hour which shall be paid by members of the Industry for common labor in the Industry in the respective wage districts described in such Section 5 shall be the rates set forth in Section 6 of this Schedule B. None of the members of the Industry shall pay common laborers in its employ in the Industry in any such districts any rate of pay less than the rate specified for such district in Section 6, and any violation of this provision of the Code shall be deemed an unfair practice. Such rates of pay shall not, however, be understood to be the maximum rates of pay for their respective districts; but, until changed as aforesaid, none of the members of the Industry shall be required to pay its common laborers in the Industry in any of such districts a rate of pay higher than the rate specified for such districts in Section 6, except as such member shall have agreed to pay such higher rate in any agreement heretofore or hereafter made by such member with its employees. Until this provision shall have been changed by amendment as aforesaid, each member of the Industry will pay to each of its employees in the Industry who on July 14th, 1933, was receiving a rate of pay per hour in excess of the rate of pay per hour then being paid by such member for common labor a rate of pay per hour which shall be at least 15% greater than that which such employee was then receiving; provided, however, that the foregoing provision shall not be so construed as to require any member of the Industry to make any increase in the rate of pay per hour to be paid by such member to any of its employees in any wage district that will result in a rate of pay per hour which shall be higher than the rate of pay per hour paid to employees doing substantially the same class or kind of labor in the same wage district by any other member of the Industry which shall have increased its rates of pay per hour in accordance with such provisions. In the case of employees performing work for which they are paid per piece of work performed, the minimum rate of pay which each member of the Industry shall pay such employee for such work shall, at the average production rate of any such employee, produce at least the minimum rate of pay per hour provided in this Code for the same class of labor at such plant.

SEC. 5. The description of the wage districts is as follows:

1. *Eastern District*.—Comprises that part of the United States which is north of the State of Virginia and east of a line drawn north and south through the most easterly point of Altoona, Pennsylvania; that part of the State of Maryland which is west of such line; and the Counties of Monogalia, Taylor, Preston, Randolph, Tucker, Pendleton, Grant, Mineral, Hardy, Hampshire, Morgan, Berkeley, Marion, and Harrison in the State of West Virginia.
2. *Johnstown District*.—Comprises Cambria County and the City of Altoona in the State of Pennsylvania.
3. *Pittsburgh District*.—Comprises the Counties of Warren, McKean, Forest, Elk, Clarion, Indiana, Somerset, Westmoreland, Fayette, Greene, Washington, Allegheny, Beaver, Butler, Armstrong, and Jefferson, and that remaining part of the State of Pennsylvania which is west of a line drawn north and south through the most easterly point of Altoona, except the parts which are included in the Eastern Johnstown, and Youngstown Valley Districts and including that part of the County of Clearfield west of such line.
4. *Youngstown Valley District*.—Comprises the Counties of Lawrence, Mercer, Crawford, and Venango in the State of Pennsylvania, and the Counties of Trumbull, Mahoning, and Columbia in the State of Ohio.
5. *North Ohio River District*.—Comprises the cities along the Ohio River north of the City of Parkersburg, West Virginia, and the Counties of Belmont, Harrison, Monroe, and Jefferson in the State of Ohio, and the remainder of the State of West Virginia which is not included in the Eastern and South Ohio River Districts.
6. *Canton, Massillon, and Mansfield District*.—Comprises the remainder of the State of Ohio which is not included in the Cleveland, Youngstown Valley, Detroit-Toledo, North Ohio River, and South Ohio River Districts.
7. *Cleveland District*.—Comprises the Counties of Ashtabula, Geauga, Lake Cuyahoga, and Lorain in the State of Ohio.
8. *Buffalo District*.—Comprises that part of the State of New York west of a line drawn north and south through the most easterly point of Altoona, Pennsylvania and Erie County in the State of Pennsylvania.
9. *Detroit-Toledo District*.—Comprises the Counties of Seneca, Wood, Huron, Sandusky, Ottawa, Williams, Fulton, Henry, Defiance and Lucas, in the State of Ohio, and the State of Michigan.
10. *South Ohio River District*.—Comprises the State of Kentucky, the City of Parkersburg, West Virginia, and cities along the Ohio River south of said City, the Counties of Guernsey, Muskingum, Jackson, Noble, Washington, Morgan, Athens, Meigs, Vinton, Gallia, Lawrence, Scioto, Adams, Brown, Clermont, Hamilton, and Butler in the State of Ohio, and the County of Wood in the State of West Virginia.
11. *Indiana-Illinois-St. Louis District*.—Comprises all the State of Indiana, except the County of Lake; all the State of Illinois, except the Counties of Lake and Du Page and the Chicago Switching District; all of the State of Missouri except Jackson County; all of the State of Wisconsin except the Counties of Milwaukee, Racine, and Kenosha; and the State of Iowa.
12. *Chicago District*.—Comprises the Chicago Switching District; the Counties of Lake and Du Page in the State of Illinois; the County of Lake in the State of Indiana; and the Counties of Kenosha, Racine, and Milwaukee in the State of Wisconsin.
13. *Southern District*.—Comprises all that part of the United States south of the States of Maryland, West Virginia, Kentucky, Missouri, Kansas, and Colorado and south and/or east of the State of New Mexico, but does not include the County of Jefferson in the State of Alabama.
14. *Birmingham District*.—Comprises the County of Jefferson in the State of Alabama.
15. *Kansas City District*.—Comprises the County of Jackson in the State of Missouri, and the States of Kansas and Nebraska.
16. *Duluth District*.—Comprises the States of Minnesota, South Dakota, and North Dakota.
17. *Colorado District*.—Comprises the State of Colorado.
18. *Utah District*.—Comprises the State of Utah.
19. *Seattle District*.—Comprises the States of Washington, Oregon, Idaho, Montana, and Wyoming.
20. *San Francisco District*.—Comprises the counties of Monterey, Kings, Tulare, Fresno, Madera, Mariposa, Tuolumne, and Alpine in the State of California, and all of the State of California north of these counties and that portion of the State of Nevada north of a line drawn due east from the intersection of the Mono County, California line and the Nevada State line.

21. *Los Angeles District*.—Comprises the counties of Inyo, Mono, San Luis Obispo, and Kern, in the State of California, and all of the State of California south of these counties, that portion of the State of Nevada south of a line drawn due east from the intersection of the Mono County, California line, and the Nevada State line, and the States of Arizona and New Mexico.

SEC. 6. The minimum rates of pay, as noted in previous sections of this Schedule, shall be as follows:

DISTRICT	<i>Cents per Hour</i>
1. Eastern District.....	35
2. Johnstown District.....	37
3. Pittsburgh District.....	40
4. Youngstown Valley District.....	40
5. North Ohio River District.....	40
6. Canton, Massillon, and Mansfield District.....	37
7. Cleveland District.....	40
8. Buffalo District.....	38
9. Detroit-Toledo District.....	40
10. South Ohio River District.....	37
11. Indiana-Illinois-St. Louis District.....	37
12. Chicago District.....	40
13. Southern District.....	25
14. Birmingham District.....	27
15. Kansas City District.....	35
16. Duluth District.....	37
17. Colorado District.....	40
18. Utah District.....	39
19. Seattle District.....	38
20. San Francisco District.....	37
21. Los Angeles District.....	35

SEC. 7. In the case of truck drivers or their helpers, the maximum hours of employment shall not exceed those prevailing in any district under any labor agreement or regulation.

SEC. 8. All employers shall post complete copies of the labor provisions of this Code in conspicuous places accessible to employees.

SEC. 9. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SCHEDULE C

(Part I)

RULES OF STANDARD PRACTICE

I—PURPOSE

1. *Scope.*—The practices and customs contained in these Rules are in accordance with good engineering practice, tend to insure safety in reinforced concrete construction and are standard within the Industry. The Rules are made a part of every contract entered into between the Buyer and Seller of reinforcing steel and related materials unless specific provision to the contrary is made.

2. *Application.*—The Rules of Standard Practice are to govern as a standard in those cases where the provisions of building codes, architects' and engineers' plans and specifications, or contracts are not complete or clear. There shall be no conflict between these Rules and any legal building regulations; these Rules shall only supplement and amplify such laws.

II—ENGINEERING SERVICE

3. *Types.*—In no way is the engineering service rendered by the Seller intended to displace the necessary work of architects and consulting engineers. The engineering assistance rendered by the Seller has for its object making more speedy and more economical the handling of reinforcing steel and related products. To that end the type of engineering service falls into one of the three following classes of contracts:

(a) *List.*—(Bar lists only). Where the architect's plans or engineer's drawings are sufficiently complete to serve as placing plans, the engineering service of the Seller will be limited to that of preparing bills of bent and straight bars only.

(b) *Detail.*—(Details and bar lists.) Where the architect's plans or engineer's drawings show the complete design but are not in sufficient detail to constitute working drawings, the engineering service of the Seller will consist in preparing detailed placing plans, showing the number, size, length, mark, location, and bending diagrams for all reinforcing steel, together with bills of bent and straight bars as in II-3-(a).

(c) *Design.*—(Design, details, and bar lists.) Where the architect's plans do not show the structural design, the engineering service furnished by the Seller is to include the preparation of a design in accordance with "Tentative Building Regulations for Reinforced Concrete", as adopted jointly with the American Concrete Institute and promulgated by the Concrete Reinforcing Steel Institute except as may be modified by local building code restrictions or by such standard recommendations for reinforced concrete design as the architects' specifications may designate. In addition to furnishing the structural design, the Seller will provide detailed placing plans, together with bills of bent and straight bars as in II-3-(b).

4. *Responsibility.*—Each proposal involving engineering service on the part of the Seller shall specify which of these three types is included. No responsibility can be assumed by the Seller for the correctness of structural designs or dimensions furnished by others. The Seller's plans are intended merely to supplement the architectural and structural plans and are to be used only in conjunction with them.

III—ESTIMATING

5. *General.*—Where the design is complete, and full details of all bends, dimensions, quantities, etc., are provided, estimates are to be taken off in conformity with the details shown. Where such full information is not available, the following rules will be used as a basis for the estimate. Where the word "joist" is used in this section, it is intended also to include members sometimes referred to as "ribs."

6. *Hooks*.—No hooks or bends are to be estimated on the ends of bars except where shown on the plans or called for in the specifications.

(a) *Longitudinal Bars or Truss Bars*.—Where the design requires hooks at the ends of longitudinal bars or truss bars, a length of bar equal to fifteen (15) bar diameters shall be allowed for the semicircular hook and straight end beyond the point of tangency of the hook. The hook is to have an outside diameter of approximately eight bar diameters. The straight end beyond the hook is to have a length of approximately three inches (3''). A 90° bend of equivalent length may be substituted for the above hook if placing conditions require.

(b) *Stirrups*.—Hooks on stirrups are to be six inches (6'') in length.

(c) *Column Ties*.—Hooks on column ties are to be four inches (4'') in length.

7. *Dimensions*.—Lengths of bars are to be estimated to the nearest three inches (3'').

(a) *Beams and Slabs*.—Straight longitudinal bars in beams, joists, or slabs are to extend six inches (6'') into the support, but need not extend beyond the center of support, except where required for compression at the support.

Truss bars in continuous construction are to extend into the adjacent span to a point one fourth ($\frac{1}{4}$) of the center-to-center span length beyond the center of support, plus full allowance for inclined portions. On noncontinuous ends, truss bars are to extend to within three inches (3'') of the outer faces of members into which they frame.

Where the ratio of over-all depth to span, center-to-center of supports, is not greater than one to ten (1 to 10), in continuous beams and slabs of approximately equal spans and carrying uniformly distributed loads, the lower points of bend of truss bars are to be at points approximately one fourth ($\frac{1}{4}$) of the center-to-center span from the centers of supports, and the angle of bend is to be approximately forty-five degrees (45°). The ends of the bar are to be detailed as required above.

Bars provided for furnishing additional compression area in a beam reinforced for compression are to have a length equal to three fourths ($\frac{3}{4}$) of the center-to-center distance between supports. When a beam is reinforced for compression, vertical ties are to be estimated as not less than one-fourth inch ($\frac{1}{4}$ '') round bars spaced eight inches (8'') center-to-center and distributed over the middle half of the length of compression steel.

(b) *Columns*.—Column bars are to extend from floor to floor plus a lap of twenty-four (24) bar diameters, but not less than eighteen inches (18''). Column bars for the top story are to stop at a point three inches (3'') below the top of roof slab.

Column bars are to be estimated as bent bars on all faces where the face of the next column above is offset two inches (2'') or more from the face of the column section being considered.

(c) *Footings*.—Footings bars are to extend to within three inches (3'') of the sides or ends of footings.

(d) *Dowels*.—Dowels are to be not less than forty-eight (48) bar diameters but not less than thirty-six inches (36'') in length.

(e) *Spirals*.—Where less than four (4) beams frame into columns, spirals are to extend from the top of lower floor slab to within three inches (3'') of the floor slab above.

Where four (4) beams frame into columns, spirals are to extend from the top of lower floor slab to the under side of shallowest beam framing into the column above.

Where flat slabs are supported by columns, spirals are to extend from the top of lower floor slab to the under side of dropped panel above, or to the under side of floor slab above, if no dropped panel is used.

The out to out diameter of spirals is to be three inches (3'') less than the outside diameter of the column.

(f) *Column ties*.—The out to out dimensions of column ties are to be three inches (3'') less than the outside dimensions of the column.

(g) *Stirrups*.—The out to out width of stirrups in beams ten inches (10'') or more in width is to be three inches (3'') less than the width of the beam.

The out to out width of stirrups in beams less than ten inches (10'') in width, but heavier than joists in ribbed floors, is to be two inches (2'') less than the width of the beam.

The out to out width of stirrups in joists in ribbed floors is to be one and one half inches (1½'') less than the width of the rib.

8. *Temperature reinforcing*.—Where no temperature reinforcing is called for, none is to be estimated. Where temperature reinforcing is called for but no amount shown, it is to be estimated as one fourth inch ($\frac{1}{4}$ '') round bars spaced

twelve inches (12") center to center, or their equivalent in bars of larger area, spaced not more than eighteen inches (18") center to center. The minimum area will, however, be satisfactory in all cases.

9. *Slab bar spacing*.—Where slab bars are parallel to supporting beams or joists, the first slab bar is to be spaced, from the parallel support, a distance equal to the specified interval between slab bars. From this as a base, slab bars are to be spaced at the specified interval across the slab.

10. *Joists adjoining beams or walls*.—Where a joist or a portion of one, which is eight inches (8") or less in width, is parallel to and monolithic with, or is supported by a beam or wall for its entire length, no steel is to be estimated in the joist. No extra steel is to be estimated in the beam, floor slab, or next parallel joist because of the omission of steel in such joist.

11. *Number of stirrups*.—Where stirrups are called for and either the number or size is not indicated, the weight of the stirrups is to be twelve (12) percent of the total weight of longitudinal straight and truss bars in the beam. In such cases bar sizes of stirrups are to be three eighths inch ($\frac{3}{8}$ ") round.

12. *Truss Bars in Beams or Joists*.—In continuous or restrained beams or joists approximately half the bars should be estimated as truss bars. The area of steel over the support should be not less than that at the center of the longest span on either side of the support. Any deficiency in negative moment steel remaining after the area of truss bars has been determined may be supplied by straight bars of proper area.

13. *Column Ties*.—Where column ties are called for but no amount shown, they are to be one-fourth inch ($\frac{1}{4}$ ") rounds spaced twelve inches (12") center to center.

14. *Laps*.—In walls, or footings under walls, longitudinal temperature bars, where lapped, are to have a lap of twenty-four (24) bar diameters, but not less than eighteen inches (18").

15. *Bar Supports and Spacers*.—It is strongly recommended that bar supports and spacers be used. Where they are to be furnished but no specific number or location given, they are to be estimated as provided in Section IV—19.

16. *Spiral Spacers*.—Spiral spacers are to be estimated in all cases, and are to be figured at their theoretical weight, but not less than 0.75 pounds per foot of vertical height for each spacer used. Their number shall not be less than that indicated in Section IV—18—(d).

IV—MATERIALS

17. *Reinforcing Bars*. (a) *Type*.—All reinforcing bars, except one-fourth inch ($\frac{1}{4}$ ") round bars are to be of a deformed type. Sizes and areas are to be limited to those recommended by the Division of Simplified Practice of the Department of Commerce of the United States in their Bulletin No. R26-30 dated September 2d, 1930, as follows:

<i>Sizes</i>	<i>Plain or Deformed Bars</i>	<i>Areas (Sq. in.)</i>
$\frac{1}{4}$ " round.....		0.05
	<i>Deformed Bars</i>	
$\frac{3}{8}$ " round.....		.11
$\frac{1}{2}$ " round.....		.20
$\frac{5}{8}$ " square.....		.25
$\frac{3}{4}$ " round.....		.31
$\frac{7}{8}$ " round.....		.44
1" round.....		.60
1" square.....		.79
1" square.....		1.00
1 $\frac{1}{8}$ " square.....		1.27
1 $\frac{1}{4}$ " square.....		1.56

(b) *Mill Marks*.—Every deformed reinforcing bar is to be marked in the process of manufacture with an identifying letter, which definitely determines the mill of origin. These raised letters are to be rolled on the bar between deformations during the finishing pass once in each turn of the rolls [or approximately 4 feet (4') apart]. This paragraph applies only to bars manufactured in the United States.

(c) *Weights*.—Reinforcing bars sold at unit prices per pound, hundredweight or ton are to be invoiced on the calculated weights as shown by the detailed shop drawings and shop bills.

(c) *Lengths.*—Reinforcing bars are to be sheared to length with a tolerance of 1 inch (1"). Where exact lengths with no tolerance, or where finished ends are required, it shall be so specified and in that case the bars must be machine cut by either cold sawing or shearing and grinding, for which there is an extra charge.

(e) *Bending.*—As a measure of adequate workmanship the bending of bars is to be considered satisfactory when the diameter of pin or lug about which they are bent complies with the following:

Truss Bars (all bends).

Diameter of pin equals not less than four (4) times the diameter or side of bar.

Stirrups and Column Ties (135 deg. to 180 deg. bend).

Diameter of pin or lug equals not less than three times (3) diameter or side of bar.

Stirrups and Column Ties (90 deg. to 135 deg. bend).

Diameter of pin or lug equals not less than two (2) times diameter or side of bar.

Dimensions of bent bars are to be out to out of bar, with an under tolerance of one half inch ($\frac{1}{2}$ ") and no over tolerance. Where exact dimensions, with no tolerance, are required, it shall be so specified, in which case there will be an extra charge.

(f) Where fabrication other than in Section IV-17-(e) is required, such work shall be charged for.

18. *Spirals* (a) *Sizes.*—Spirals are to be manufactured from plain round rods of intermediate grade steel or from cold drawn wire in the following standard sizes and areas as recommended by the Division of Simplified Practice of the Department of Commerce in their Bulletin R53-32 dated December 15th, 1932.

Size	Area		Weights	
	Sq. in.	Lbs. per foot		
$\frac{1}{4}$ " round.....	0.05	0.167		
$\frac{3}{8}$ " round.....	.11	.376		
$\frac{1}{2}$ " round.....	.20	.668		
$\frac{3}{4}$ " round.....	.31	1.043		

(b) *Dimensions.*—The diameter of column spirals is to be taken to mean the outside diameter. The minimum pitch of any spiral is to be $1\frac{1}{2}$ " and pitch is to vary by $\frac{1}{4}$ " intervals.

(c) *Finishing.*—Spirals will be furnished with one fourth ($\frac{1}{4}$) extra turn at top and bottom for finishing. Where it is necessary to splice spirals it is to be done either by welding or lapping. The amount of lap furnished is to be 50 bar diameters.

(d) *Spiral Spacers.*—The number of spacers to be used for maintaining the proper pitch of spiral is as follows:

Core diameter:	Number of spacers
Over 0 in. to 24 in.....	2
Over 24 inches.....	3

(e) *Shipping and Invoicing.*—Shop-fabricated spirals are to be shipped with two spacers attached, and in those cases where more than two spacers are called for, extra spacers over two may be attached with two spacers side by side or bundled loose with the spiral for proper attachment in the field. Unfabricated spirals are to be shipped with the spiral rod or wire coiled to the proper diameter, bundled with the proper number of turns with spacers bundled separately, for assembly in the field. Spirals, unless specifically ordered unfabricated, will be shipped shop fabricated. Spirals are to be invoiced at the theoretical weight of the rods or wire used in the spiral plus the weight of the spacers used.

19. *Bar Supports and Spacers.*—Bar Supports and Spacers are to be estimated sufficient in number and sufficiently heavy to carry properly the steel they support. The number shall be such as to give support not less than the following:

One-way slab construction

Span	Rows of slab bar spacer for panel	High chairs in slabs 4" and thicker ¹
0' to 6' steel continuous.....	1	1-row—4'0" O.C. at beam.
0' to 14' steel not continuous.....	2	2-rows—4'0" O.C. at beam.
14' to 20'.....	3	2-rows—4'0" O.C. at beam.
20' to 26'.....	4	2-rows—4'0" O.C. at beam.

¹ Continuous Hy Chairs may be substituted for individual high chairs and support bars.

Ordinary beam and joist construction

[Beam and bars 1 inch square and smaller]

Clear spans, beam (or joist)	Number of beam (joist) chairs					
	Single layer of bars	Two layers		Three layers		
		Lower	Top	Lower	Middle	Top
Over 0 ft. to 14 ft.....	2	2	2	2	2	2
Over 14 ft. to 23 ft.....	4	3	2	3	2	2
Over 23 ft. to 30 ft.....	4	4	3	4	3	2
Over 30 ft.....	(1)	(1)	(1)	(1)	(1)	(1)

¹ See table below.

Heavy beam and girder construction

[Beams or girders with large number of 1½- or 1¼-inch bars]

Clear spans	Number of beam chairs					
	Single layer of bars	Two layers		Three layers		
		Lower	Top	Lower	Middle	Top
Over 0 ft. to 15 ft.....	2	3	2	3	2	2
Over 15 ft. to 23 ft.....	4	5	2	6	2	2
Over 23 ft. to 30 ft.....	4	6	3	7	3	2
Over 30 ft. to 40 ft.....	6	7	4	8	4	3
Over 40 ft. to 50 ft.....	7	8	4	9	5	4
Spacing of beam chairs in spans other than above:						
All spans.....	7'0"	6'0"	10'0"	5'0"	8'0"	10'0"

Flat slabs

[Two and four way flat slabs]

Spans (center to center of columns)	Supporting spacers		High chairs (to support $\frac{3}{8}$ inch bar under ends of bent bars) ¹	
	Column strip or direct band	Middle strip or diagonal band, bottom layer	Support for column head reinforcement	Support for negative reinforcement, middle strip
Over 0 ft. to 18 ft.....	3	2		
Over 18 ft. to 26 ft.....	3	3		
Over 26 ft. to 36 ft.....	4	4		
Around interior columns.....			8	
Around exterior columns.....			5	
Around corner columns.....			4	
In interior panels.....				12
In exterior panels.....				15
In corner panels.....				18

¹ Continuous Hy Chairs may be substituted for individual high chairs and support bars.

In roof slabs use one (1) more supporting spacer under column strips, direct bands, and bottom layers of middle strips or diagonal bands, and one more $\frac{3}{8}$ -inch chair bar at column heads, than the number shown in the table above.

20. *Wire fabric.*—Wire fabric, unless specifically ordered galvanized, will be furnished in rolls of plain wire. Sufficient wire fabric will be supplied to provide a side lap of two inches (2") and an end lap of six inches (6").

21. *Floor forms.*—Contracts providing for the furnishing of removable floor forms do not include the furnishing or erecting of any supporting wood form work. The proposal is based on the assumption that the floor forms may be removed in from 4 to 5 days after the concrete is poured. Specifications for a longer period before removal requires additional equipment and consequently an extra charge.

22. *Other materials.*—Contracts for furnishing reinforcing bars and related materials do not include any of the following items: charges for surety bonds or insurance not required by law or any other general charge such as building permits, license fees, taxes for permission to work in City or State, or Municipal, County, State or Federal Sales Taxes or governmental taxes of any nature.

23. *Unspecified items.*—Clauses in the specification to the effect that all reinforcing items necessary to complete the structure shall be furnished by the Seller whether or not they are shown on the plans or called for in specifications, being obviously unfair, will not be recognized or subscribed to.

V. EXECUTION

24. *Shop drawings.* (a) *Submission.*—When contract involves engineering such diagrams or plans as outlined in Section II are to be made by the Seller and submitted in duplicate, for approval, to the appointed representative of the Buyer, who is to examine and return them. Such plans, when approved without change, are to be considered the correct interpretation of the materials to be furnished.

(b) *Corrections.*—When the Buyer returns the Seller's plans with corrections, the Seller is to correct the drawings and may thereupon begin fabrication of the materials. Changes from the contract plans and specifications are to be considered as extras and treated as outlined in paragraph V-29.

(c) *Approved Copies.*—Corrected copies of the Seller's drawings in triplicate are to be returned to the Buyer for his use. Additional copies of the Seller's drawings or cloth prints will be furnished the Buyer at the cost of printing. The Buyer is to be responsible for delays resulting from the lack of complete data and from changes or revisions, or the tardy approval of drawings.

25. *Delivery.*—Contract providing for delivery f.o.b. cars, means delivery on board cars at the nearest public railroad siding. Delivery by truck, means delivery on truck alongside curb at the job site. No deliveries are to be made except over a passable road. On highway projects a definite accessible point of

delivery must be furnished by the Buyer to the Seller in advance of delivery date or dates. All cost of unloading either cars or trucks is to be borne by the Buyer.

26. *Bundling and Tagging.* (a) *General Rules.*—Reinforcing bars are to be furnished bundled and tagged in accordance with the "Rules for Standard Practice in Bundling and Tagging," as follows:

NOTE: The following rules apply to carload and less than carload lots, except where difference is specifically set forth.

	Straight bars	Bent bars
(a) Weight of bundle.....	Bundles limited to one size and one length not to exceed 150 lbs.	150 lbs.
(b) Gauge of wrapping wire to be used.	No. 12 or heavier.....	No. 12 or heavier.
(c) Wrapping wires per bundle.	One wire every 10 ft. or fraction thereof with a minimum of two wires.	Not less than requirements for Straight Bars.
(d) Tag to be made of.....	Linen or rope.....	Linen or rope tags for address. Zinc tags for identification.
(e) Number of tags on each bundle.	One.....	One linen or rope tag and at least two zinc tags.
(f) Information to be put on tag.	Name of customer or order number. Number of pieces, size, length, mark if any. On less than carload lots the following should appear: Name and address of customer. Number pieces, size, length, and mark if any.	Linen or rope tag. Customer's name or order number. Zinc tag: Mark. On less than carload lots customer's name and address must appear on linen or rope tag and mark on zinc tag.
(g) Information to be affixed to tag by.	Tag addressing machine or Higgins water-proof ink.	On linen or rope tag; Same as straight bars. On Zinc tag: Stencil press or embossing machine.
(h) Tags attached to bundles by.	Linen or rope tag to be attached by running bundling wire through eyelet before twisting.	Zinc tags to be tied to bar with No. 18 wire. Linen or rope tags to be attached by running bundling wire through eyelet before twisting.

(b) *Metal Tags.*—Metal tags are strongly recommended for use on all bundles of bars, either bent or straight, for all purposes of identification, except as address tags.

27. *Quality.*—Rust which does not scale off or pit the bar and/or mill scale are not objectionable and shall not constitute cause for rejection.

28. *Inspection.*—All inspection for quality of reinforcing steel and related materials is to be made at the Seller's rolling mill or fabricating warehouse prior to cutting or fabrication for shipment, and total cost of same, including any expense for operation of testing machine, is to be borne by the buyer.

29. *Extra Work or Materials.*—Any work or materials desired outside of that specifically called for in the contract will not be furnished until instructions in writing have been issued by the Buyer to the Seller, at an agreed extra cost. The Buyer will be credited for omissions of or deductions from the materials to be furnished. The Seller is not to be required nor expected to make the same unit price for additions to as for deductions from the materials required by the original contract.

VI. STANDARD PROCEDURE

30. *Proposals.* (a) *Presentation.*—All proposals for furnishing reinforcing steel and related materials are to be made on standard contract forms as adopted by the Concrete Reinforcing Steel Institute, incorporated herein. After acceptance by the Buyer, these proposals must be approved or executed by a qualified official of the Seller, upon which the proposal becomes a contract.

(b) *Acceptance.*—All proposals are intended for prompt acceptance and are subject to change without notice.

31. *Invoices.*—The invoices are to be governed by the conditions set forth in Section IV and by the provisions of the contract between Buyer and Seller.

32. *Billing.*—Contracts on lump-sum basis are to be billed proportionately as shipments are made.

33. *Arbitration.*—All business controversies which cannot be settled by direct negotiation between the parties should be submitted to arbitration. Both parties shall sign a submission to arbitration and, if possible, agree upon an arbitrator. If they are unable to agree upon one arbitrator, each shall appoint an arbitrator, at once sending a written notice thereof to the other party. The two arbitrators so appointed shall agree on a third arbitrator or, failing such

agreement, the arbitrator first appointed (as evidenced by the date of the written notice of the appointment mailed to the other party) shall submit the names of not less than five (5) persons to the other arbitrator, from among whom such arbitrator shall select the third arbitrator. The expenses of the arbitration shall be divided equally between the parties unless otherwise provided for in the agreement to submit to arbitration. Unless otherwise provided for in the agreement to submit to arbitration, the arbitrators shall pass finally on all questions, both of law and fact.

34. *Contracts.*—The following are the standard contract forms as adopted by the Concrete Reinforcing Steel Institute.

NOTE.—Pages 28 and 30 were initialed by R. W. Johnson, Secretary, Concrete Reinforcing Steel Institute and Secretary of the Code Committee of the Reinforcing Materials Fabricating Industry.

R. W. JOHNSON,
Secretary.

SCHEDULE C

(Part II)

RULES OF STANDARD PRACTICE, CONCRETE JOIST CONSTRUCTION—FLOOR FORMS

I—PURPOSE

1. *Scope.*—The practices and customs contained in these Rules are in accordance with good engineering practice, tend to insure safety and economy for Concrete Joist Construction floors, and are standard within the Industry. The Rules are made a part of contracts entered into between the Buyer (or Lessee) and Seller (or Lessor) of removable or permanent forms for Concrete Joist Construction floors and related materials unless specific provision to the contrary is made.

2. *Application.*—The Rules of Standard Practice are to govern as a standard in those cases where the provisions of building codes, architects' and engineers' plans and specifications, or contracts are not complete or clear. There shall be no conflict between these Rules and any legal building regulations; these Rules shall only supplement and amplify such laws.

II—ENGINEERING SERVICE

3. *Responsibility*—(a) *Correctness of Designs.*—No responsibility can be assumed by the Seller for the correctness of structural designs or dimensions furnished by others. Any plans furnished by the Seller are intended merely to supplement the architectural and structural plans and are to be used only in conjunction with them.

(b) *Discrepancies.*—In case of discrepancies between the drawings and the specifications prepared by either the Seller or the Buyer, the specifications shall govern; and in case of discrepancies between the scaled dimensions on the drawings and the figures written on them, the figures shall govern. Should the Seller in the execution of his work find discrepancies in the information furnished by the Buyer, he shall refer such discrepancies to the Buyer before proceeding further with work which would be affected.

III—ESTIMATING

4. *General.*—In estimating the area of floor and roof construction specified of Concrete Joist Construction requiring removable or permanent forms, no deductions are to be made for beams or for tees of beams, or for wide joists. Openings fifty (50) square feet or over are to be deducted except that when the Seller proposes to furnish the wood centering in addition to the forms, all openings one hundred (100) square feet or over are to be deducted. Concrete Joist Construction may be supported by any one of three types of structural members, and in addition to the above general estimating rules, shall be subject to the following special rules:

5. *Reinforced Concrete Frame.*—Areas are to be figured out to out of concrete frame.

6. *Structural Steel Frame.*—Areas are to be figured center to center of spandrel beams.

7. *Bearing Wall Construction.*—Areas are to be figured clear inside brick walls plus a bearing on all walls of six inches (6").

IV—MATERIALS

8. *Standard Widths of Forms.*—The widths of removable and permanent forms are to be limited to two dimensions, twenty inches (20") and thirty inches (30"). Special width filler forms, to be used only in filling odd spaces are to be confined to widths of ten inches (10") and fifteen inches (15"). These widths are adopted by the Industry as standard and are included among those approved by the Division of Simplified Practice of the Department of Commerce of the United States through their Simplified Practice Recommendations R 87-32.

9. *Standard Depths of Forms.*—The depths of all removable and permanent forms are to be limited to the following: six inches (6''), eight inches (8''), ten inches (10''), twelve inches (12''), and fourteen inches (14''). These depths are adopted by the Industry as standard and are approved by the Division of Simplified Practice of the Department of Commerce of the United States through their Simplified Practice Recommendation R 87-32.

10. *Standard Tapered and Straight Ends.*—Joists or ribs may be of one width throughout their length or tapered at the ends to resist maximum shear and negative compressive stresses. Where joists tapered at the ends are required, the length of the taper shall be three feet (3'-0''), and the total contraction of the taper two inches (2'') or four inches (4'') for twenty inch (20'') wide forms; and four inches (4'') or six (6'') for thirty inch (30'') wide forms. Tapers shall not be provided for special width filler forms.

11. *Quality of Material*—(a) *Condition of Forms.*—Forms, whether removable or permanent, shall be of sufficient strength to carry without undue deflection the weight of concrete supported thereon, and also any ordinary loads during the placing of the steel and concrete. Removable forms are at all times to be clean and sufficiently straight to provide joists of the widths and depths shown on the drawings.

(b) *Hanger Holes.*—Where ceilings supported from metal hangers are specified, one three-sixteenths inch (3/16'') round opening will be provided in the top surface of each three foot (3'-0'') intermediate removable steel form and at each end of each three foot (3'-0'') end form; if such holes are not provided or if this does not provide sufficient hanger holes to meet the requirements of the architect's and engineer's designs, the Buyer may, at his own expense, punch such openings to be not larger than nine-thirty seconds inch (9/32'') round holes as directed by and after receiving the written approval of the Seller. Similar holes may be provided in removable wood forms under the same conditions.

(c) *Concrete Workmanship.*—The Seller shall not be responsible for careless concrete placing by the Buyer nor for the finish obtained by the Buyer's use of the forms and shall not be held liable for any charges for removing fins, pointing up, retouching, plastering, nor whitewashing of finished surfaces.

12. *Other Materials.*—Contracts for furnishing forms for Concrete Joist Construction and related materials do not include any of the following items: charges for surety bonds or insurance not required by law or any other general charge such as building permits, license fees, etc.

13. *Unspecified Items.*—Clauses in the specifications to the effect that all Concrete Joist Construction floor forms necessary to complete the structure shall be furnished by the Seller whether or not they are shown on the plans or called for in specifications, being obviously unfair, will not be recognized or subscribed to.

V—EXECUTION

14. *Shop Drawings*—(a) *Submission.*—When the contract involves engineering, such diagrams or plans as outlined in Section II are to be made by the Seller and submitted in duplicate, for approval, to the appointed representative of the Buyer, who is to examine and return them. Such plans, when approved without change, are to be considered the correct interpretation of the materials to be furnished.

(b) *Corrections.*—When the Buyer returns the Seller's plans with corrections, the Seller is to correct the drawings and may thereupon begin shipment or installation of the materials. Changes from the contract plans and specifications are to be considered as extras and treated as outlined in paragraph V-20.

(c) *Approved Copies.*—Corrected copies of the Seller's drawings in triplicate are to be returned to the Buyer for his use. The Buyer is to be responsible for delays resulting from the lack of complete data and from changes or revisions, or the tardy approval of the drawings.

15. *Lease only basis*—(a) *Care of Forms.*—Where removable forms are leased without including the labor of placing and removing same, said forms are to remain the property of the Seller (Lessor) and reasonable care is to be exercised in their use. Parts cut or damaged other than as specified in the contract shall be paid for by the Buyer. Cutting of forms for installation of mechanical trades equipment is not considered as ordinary wear and tear. Forms are to be thoroughly oiled (if steel) or wetted (if wood) by the Buyer (Lessee) each time before steel is set and concrete is placed.

(b) *Delivery.*—Contracts providing for delivery F.O.B. cars, mean delivery on board cars at the nearest public railroad siding. Delivery by truck means delivery on truck alongside curb at the job site providing there is a road pass-

able to a loaded truck. In case there is no passable road, the delivery is to be made as close to the job site as it is possible to drive a loaded truck.

(c) *Return*.—At the completion of the work, forms are to be loaded on cars or trucks in a similar manner. All costs of unloading and loading cars or trucks are to be borne by the Buyer.

(d) *Bundling and Tagging for Return*.—Where return shipments are less carload, Buyer (Lessee) is to bundle and tag forms to insure shipment at the lowest possible freight rate, and in all cases shall consult Seller (Lessor) for proper freight classification.

16. *Lease and erect basis*—(a) *Workmanship*.—Where steel or wood forms are furnished on a rental, erection and removal basis, the Seller shall use reasonable care in his work to produce joists of the width and depth shown on plans. Sufficient time shall be allowed for the performance of said work on the basis of a normal eight-hour day. Unless specifically stated to the contrary in the contract, it is understood that the open wood centering is to be furnished erected complete in place by the Buyer.

(b) *Overtime Work*.—In the event the Buyer, or any subcontractor, requires the Seller to perform such labor on an overtime basis, then such additional expenses of every kind and character as the Seller may be required to incur on account of said overtime labor shall constitute an additional charge.

(c) *Use of Hoist*.—The Buyer is to permit the free use of the hoist including the engineer's time.

17. *Permanent forms*.—When permanent forms are furnished by the Seller to be erected by the Buyer, the delivery conditions shall be the same as those under paragraph 15 (b). When permanent forms are furnished to be erected by the Seller, the overtime work and use of hoist conditions shall be the same as under paragraphs 16 (b) and (c).

18. *Quantity furnished*.—Unless otherwise especially stated, it is understood that for removable forms one maximum floor of forms is to be furnished.

19. *Bridging joists*.—End forms for bridging joists shall be provided only when specifically shown on the drawings.

20. *Extra work or materials*.—Any work or materials desired outside of those specifically called for in the contract will not be furnished until instructions in writing have been issued by the Buyer to the Seller, at an agreed extra cost. The Buyer will be credited for omissions of or deductions from the materials to be furnished. The Seller is not to be required nor expected to make the same unit price for additions to as for deductions from the materials required by the original contract.

VI—ARBITRATION

21. *Arbitration*.—All business controversies which cannot be settled by direct negotiation between the parties should be submitted to arbitration. Both parties shall sign a submission to arbitration and, if possible, agree upon an arbitrator. If they are unable to agree upon one arbitrator, each shall appoint an arbitrator, at once sending a written notice thereof to the other party. The two arbitrators so appointed shall agree on a third arbitrator or, failing such agreement, the arbitrator first appointed (as evidenced by the date of the written notice of the appointment mailed to the other party) shall submit the names of not less than five (5) persons to the other arbitrator, from among whom such arbitrator shall select the third arbitrator. The expenses of the arbitration shall be divided equally between the parties unless otherwise provided for in the agreement to submit to arbitration. Unless otherwise provided for in the agreement to submit to arbitration, the arbitrators shall pass finally on all questions both of law and fact.

VII—CONTRACTS

22. *Contracts*.—The contract forms used by the Concrete Reinforcing Steel Institute incorporate these Rules of Standard Practice by reference and they thereby become a part of agreements to lease or lease and erect forms.

SCHEDULE D

UNIFORM SALES CONTRACT ADOPTED BY THE CONCRETE REINFORCING STEEL INSTITUTE, MARCH 10, 1926

THE ABC COMPANY,
Chicago, Ill.

To _____, Office _____, Date _____,
Address _____, Structure _____, Location _____,
City _____, State _____, Architect _____.

We propose to furnish the following described materials required for the above structure, in accordance with the conditions of the Rules of Standard Practice of the Concrete Reinforcing Steel Institute, subject to the provisions of the National Industrial Recovery Act Code governing this Industry, and the following terms, including those printed on the reverse side of this sheet, which upon acceptance by you of this proposal are agreed to and accepted by you:

Prices are f.o.b. _____.

Terms: Net cash 30 days, or 1/2 of 1% discount if paid in 10 days from date of each invoice, payable in funds par at _____.

We will commence shipment within _____ days from date of approval of this quotation by our Home Office or, where required, from receipt of approval of placing drawings or lists of material by our Office.

All lists of material or approvals of placing drawings shall be furnished by you to our Office to permit us to complete shipment on or before _____.

Prompt acceptance of this quotation by you and the written approval of our Home Office shall constitute a binding contract.

The above proposal is accepted:

_____,
_____,

Date _____.

Consign to _____.

Charge to _____.

By THE ABC COMPANY,
Approved at Home Office.

THE ABC COMPANY,

By _____,
Contract No.—

This quotation is sent to you in duplicate. If accepted, sign and return one copy, and retain the duplicate for your files.

(On Reverse Side of Contract)

GENERAL CONDITIONS OF SALE

You agree to carefully check material against shipping papers upon unloading at destination. No claims for shortages or for improper, defective, or damaged material will be recognized by us unless written notice specifying in detail the nature and extent of the shortage, defect or damage be mailed to our Office within five days from unloading accompanied, in the case of claim for shortage or damage, by original freight bill with a notation on the face thereof by the local agent of the carrier as to the items and quantity short or damaged. When we deliver by truck, all claims for shortages or damaged material must be sent to us on date of delivery.

Upon receipt by us of the above notice, so substantiated, we agree to replace such shortages and material not up to contract requirements. We will in no case pay or be liable for any claims resulting from use of improper, defective, or damaged material, and no claims will be allowed on account of any purchases or returned material, unless authorized in writing by our Home Office.

Contingencies beyond our reasonable control (including lockouts for reasonable cause) shall be sufficient excuse for any delay in delivery.

Material shall be at your risk from delivery by us to the carrier at f.o.b. shipping point. Title to material shall remain in us until payment in full by you.

Your failure to furnish lists of material, to approve placing drawings, or to make payments as provided herein will entitle us to stop shipments without notice to you, to retake possession of any shipments already made, and, upon notice to you, to cancel the unexecuted portion of the contract and to hold you for damages.

We may at any time decline to make further shipments except on receipt of satisfactory security.

All material shipped from warehouse shall be invoiced in accordance with our current published schedules of weight, areas, bundles, and standard lengths, which shall govern all settlements.

We assume no responsibility for the design on those jobs where we prepare placing drawings from designs furnished by others.

No conditions or representations altering, detracting from, or adding to the terms hereof, shall be valid unless printed or written hereon or evidenced in writing from our Home Office and accepted by you.

All accounts not paid when due shall bear interest at the rate of — percent (—%) per annum.

Uniform Contract for Leasing of Forms Adopted by the Concrete Reinforcing Steel Institute

THE ABC COMPANY

CHICAGO, ILLINOIS

----- Office.
Date.

To
Address
City State

We propose to furnish, on a LEASE ONLY BASIS, -----
(Trade name)

forms, in accordance with the conditions of the Rules of Standard Practice of the Concrete Reinforcing Steel Institute, subject to the provisions of the National Industrial Recovery Act Code governing this Industry and the following terms, to be used to pour ----- as per schedule below, for use only in the proposed building known as ----- at ----- (Architect -----) for the sum of ----- Dollars (\$-----) f.o.b. shipping point with freight allowed to railroad station nearest to job. Forms to be returned by you, bundled, loaded on cars at your expense, and shipped, freight collect, as directed by us.

We will furnish forms to pour at one time -----
Shipment to be made within ----- days from date of approval of this quotation by our Home Office or, where required, from receipt of approval of placing drawings.

SCHEDULE

Terms: Net cash thirty days from date of shipment, payable in funds par at -----

Should the forms be retained more than ----- months after arrival at job, you are to pay us monthly for each additional or fraction of a month twenty (20) percent of the total contract price.

Forms are to be cleaned and oiled after each use, protected from damage, and returned in good condition; ordinary wear and tear excepted. Parts cut or damaged, other than as specified on the face of this contract, will be charged to you at Eight Cents (\$0.08) per pound. Cutting of forms for installation of mechanical trades' equipment is not considered as ordinary wear and tear.

The forms supplied for this work are to remain at all times our property.

Column forms shall not be poured to fill more than ten (10) vertical feet at one time, and an interval of two (2) hours shall be allowed before continuing the fill. The agreement is subject to contingencies beyond our reasonable control, including lockouts for reasonable cause.

You agree to check materials against shipping list upon arrival at destination, and to report in writing to us, within five (5) days after delivery, any shortage or damage, with a notation on the face of the original freight bill, signed by the railroad agent, as to the quantity short or damaged. When we deliver by truck, all claims for shortages or damaged material must be sent to us on date of delivery. No claim for shortage or damaged material will be allowed unless reported as above.

Prompt acceptance of this proposal by you and the written approval of our Home Office shall constitute a binding contract.

THE ABC COMPANY,

The above proposal is accepted:

By -----

Approved at Home Office:

THE ABC COMPANY,

Date ----- Contract No. -----

By -----

Uniform Contract for Leasing and Erection of Forms Adopted by the Concrete Reinforcing Steel Institute

THE ABC COMPANY

CHICAGO, ILLINOIS

To _____ Office
Address _____ Date
City _____ State _____

We propose to LEASE, ERECT, AND REMOVE _____ (Trade name)

forms, in accordance with the conditions of the Rules of Standard Practice of the Concrete Reinforcing Steel Institute, subject to the provisions of the National Industrial Recovery Act Code governing this Industry and the following terms, to be used to pour _____ as scheduled below, for use only in the proposed building known as _____ at _____ (Architect _____) for the sum of _____ Dollars (\$ _____) f.o.b. shipping point with freight and cartage allowed to job.

We will furnish forms to pour at one time _____ Shipment to be made within _____ days from date of approval of this quotation by our Home Office or, where required, from receipt of approval of placing drawings.

SCHEDULE

Terms: _____ net thirty days from date of shipment and the balance on the _____ of each month for _____ percent of work completed during the previous month, the _____ percent retained to be payable on the _____ of the month following the completion of the work under this contract, payable in funds par at _____

We agree to furnish all labor necessary to erect our forms so as to keep at all times ahead of your schedule for pouring concrete, provided we are given three (3) days' notice and provided you then have your work ready for the placing of at least two thousand (2,000) square feet of floor area for steel floor forms, or your work is ready to receive not less than ten (10) column forms, and provided we are permitted to remove steel floor forms in from four (4) to five (5) days and column forms in from twenty-four (24) to forty-eight (48) hours after the concrete is poured. We are to be given a reasonable time to place and oil forms before steel or other materials are installed which would interfere with the erection of our forms.

You are to build your form work in accordance with our standard details, and you will be responsible for all elevations, grades, and locations. You are to provide suitable storage space at the building site, and the free use of a hoist. Cutting of forms for installation of other equipment is not considered as ordinary wear and tear, and parts so damaged will be charged to you at eight cents (\$.08) per pound.

Steel forms are subject to your approval, and if they are used as erected, we shall not be responsible for any chipping, finishing, or retouching of concrete surfaces.

The forms supplied for this work are to remain at all times our property and in our possession.

Concrete in column forms shall not be poured to fill more than ten (10) vertical feet at one time, and an interval of two (2) hours shall be allowed before continuing the fill.

Should there be any stoppage of work for which we are not responsible, or breach of this contract, we reserve the right to remove our forms and you agree to pay all handling and transportation expenses from and to the nearest other available job if forms are returned or replaced on this job.

This agreement is subject to contingencies beyond our reasonable control, including lockouts for reasonable cause.

Prompt acceptance of this proposal by you and the written approval of our Home Office shall constitute a binding contract.

The above proposal is accepted:

_____ Date _____ Contract No _____

THE ABC COMPANY, By _____

Approved at Home Office. THE ABC COMPANY, By _____





Approved Code No. 128

CODE OF FAIR COMPETITION

FOR THE

CEMENT INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Cement 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(325)

NOVEMBER 3, 1933.

The PRESIDENT,
The White House.

SIR: A proposed Code of Fair Competition for the Cement Industry was submitted to the Administrator on July 19, 1933, by the Cement Institute. The hearing was conducted in Washington on September 15, 1933. The Code was revised during the recess of the hearing and is submitted in its present form for approval. Every person who requested an appearance was properly heard in accordance with statutory and regulatory requirements.

Provisions of Code as to Wages and Hours.—Hours of employment are permitted to be flexible over any half calendar year, but are not permitted to be in excess of an average of more than thirty-six (36) hours per week during this period, nor more than eight (8) hours in any one day. The maximum hours of work are limited to forty-two (42) hours per week for employees other than clerical and office employees who are limited to forty (40) hours per week. Employees engaged in the work of packing and shipping are limited to ten (10) hours in any one day and thirty-six (36) hours per week averaged over any half calendar year.

The following are exempted from the preceding provisions:

- (a) Employees engaged in executive, administrative, technical and sales staff work, and employees in supervisory capacities.
- (b) Employees engaged in emergency work involving breakdowns or protection of life or property.

No evasion of this Code by reclassification of workers is permitted.

Minimum wages are established in twelve geographical districts as defined by the Bureau of Mines. In two Southern districts a minimum hourly rate of thirty (30) cents per hour is established. In a portion of two districts a minimum of thirty-seven (37) cents, and in a portion of one district a minimum of thirty-eight (38) cents. In all other districts a minimum of forty (40) cents is established.

The above minimum rates are excepted only when the rate for the same class of work on July 15, 1929, was less than forty (40) cents per hour, in which case the hourly rate shall be not less than the hourly rate on July 15, 1929, and in no event less than thirty (30) cents per hour.

No minor under the age of sixteen (16) years shall be employed and no minor under the age of eighteen (18) years shall be employed in any hazardous occupation.

ECONOMIC EFFECT OF THE CODE

Comparison of the production of Portland Cement in the years 1928 and 1932, shows a decline of 54%. Comparison of number of persons employed by the Industry shows a decrease from 34,244 employees in 1928, to 11,941 in February 1933, or a decline in employment of 68.8%. It is estimated that based on employment in 1932, the adoption of the average thirty-six (36) hour week as

proposed in the Code will cause absorption by the Industry of 5,618 additional workers and a payroll increase of approximately 40%.

The approval of this Code is expected to:

- (1) Stabilize the Industry and prevent economic disturbance due to price wars.
- (2) Protect dealers and the consumer against undue monopolistic tendencies of the Industry.
- (3) Preclude the possibility of uncontrolled abuses due to the multiple basing system.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Cement Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE CEMENT INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Portland Cement 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

1. The term "Portland Cement Industry" as used herein includes the manufacture and sale by manufacturers of Portland Cement.

2. The term "employee" as used herein includes anyone engaged in the Portland Cement Industry, in any capacity, receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

3. The term "employer" includes any enterprise by whom any such employee is compensated or employed.

4. The term "member of the industry" as used herein includes any enterprise engaged in the industry as above defined.

5. The term "district" as used herein means the geographical producing district as now or hereafter designated by the United States Bureau of Mines or other Governmental Agency, or as may hereafter be determined by the Code Authority.

6. The term "productive capacity" as used herein shall mean the productive capacity of the industry as determined by the United States Bureau of Mines.

7. The term "Institute" as used herein shall mean The Cement Institute.

8. The term "Board" as used herein shall mean the Board of Trustees of The Cement Institute.

9. The term "plant" as used herein shall mean a Portland Cement Manufacturing Plant.

10. The terms "President" and "Act" and "Administrator" as used herein, shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

ARTICLE III—LABOR

A. General.—1. Pursuant to subsection (a) of Section 7 of the Act, and so long as this Code shall be in effect:

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

(b) 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;

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

2. No person under 16 years of age shall be employed, and no person under 18 years of age shall be employed in any hazardous occupation, in the industry.

3. Within each State, no provisions of this Code shall supersede any laws of such State imposing more stringent requirements, regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than are imposed under this Code.

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

B. Hours.—1. Except as hereinafter otherwise provided, on and after effective date no employee shall work or be permitted to work in excess of forty-two (42) hours in any one week or eight (8) hours in any one day; nor more than thirty-six (36) hours per week averaged over any half calendar year, excepting, however (a) employees engaged in emergency maintenance and repair work involving breakdowns or protection of life and property, and (b) employees in packing and shipping departments, who shall not, however, work more than ten (10) hours in any one day or thirty-six (36) hours per week averaged over any half calendar year. If any employee on an hourly rate works in excess of 36 hours per week averaged over any half calendar year the wages paid for such excess shall be at the rate of not less than one and one third ($1\frac{1}{3}$) times the regular hourly rate.

2. No clerical or office employee shall work or be permitted to work in excess of forty (40) hours in any one week.

3. The maximum hours specified in the foregoing sections of this Article shall not apply to executive, administrative, supervisory, or technical employees who are paid thirty-five (\$35) dollars or more per week, nor to sales staff employees.

4. No employee shall be permitted to work for a total number of hours in excess of the maximum hours specified in the foregoing sections of this Article whether employed by one or more employers.

C. Wages.—1. Except as hereinafter otherwise provided, no employee shall be paid at less than the hourly rates specified for each

of the twelve geographical districts as set forth in exhibit "A" of this Code, as follows:

District Number:	Minimum Wage per Hour
1-----	40¢
2-----	40¢
3-----	40¢
4-----	40¢
5 Except (a)-----	40¢
(a) Jefferson and Meade Counties, Ky-----	38¢
6-----	30¢
7 Except (a) and (b)-----	40¢
(a) St. Louis Co., Minn-----	37¢
(b) Ralls County, Mo-----	37¢
8-----	40¢
9-----	30¢
10-----	40¢
11-----	40¢
12-----	40¢

2. When the hourly rate for the same class of work on July 15, 1929, was less than 40 cents per hour, employers shall not pay less than the hourly rate on said date and in no event less than 30 cents per hour.

3. Untrained labor for a period not exceeding three (3) months and employees who by reason of old age or physical infirmities are not capable of normal productive effort shall be paid not less than 80 percent of the minimum wage rates, but the total number thereof at any one plant shall not exceed 5 percent of the total number of employees engaged by any employer in any one plant at any one time.

4. The foregoing provisions of this section established a minimum rate of pay regardless of whether an employee is compensated on a time rate, piece rate, or other basis. The rates of pay hereinbefore provided shall not be understood to be the maximum rates of pay for the respective districts.

5. The amounts by which wages in the higher paid classes of employees have exceeded wages in the lower paid classes of employees, shall be maintained, having in view long-standing wage differentials.

6. Female employees shall not be employed after 6:00 p.m.

7. Each employer shall post at a conspicuous place at each plant the minimum wages and maximum hours under this Code.

ARTICLE IV—ADMINISTRATION

To effectuate further the policy of the Act a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

A. Organization and Constitution of the Code Authority.—The Code Authority shall consist of seven individuals, or such other larger number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The President, in his discretion, may appoint not more than three additional members without vote to represent the Administrator.

1. The Board shall elect the Code Authority. The persons so elected shall, subject to changes at any time by the Board, serve on such Code Authority for such term as the Board shall determine.

The Board shall be made up as follows:

(a) One member to be chosen from each district.

(b) Trustees at Large, not to exceed seven (7) in number, shall be chosen by those members of the Board who represent the cement districts.

(c) The President, the Vice Presidents, and the Treasurer of the Institute shall be ex-officio members of the Board with full power to vote.

The members of the Board to represent the cement districts shall be elected by the members of the industry who participate in the activities of the Code Authority, as provided in Section B, subsection 8 below, in the respective districts by a majority vote of such members in each such district to serve for the term of one year and until their successors are elected and have qualified, and the members of the Board, so elected, shall elect the Trustees at Large; provided, however, that any member of the Board elected to represent any cement district may be recalled by a majority vote of the members of the industry in any such cement district in the event of the change in status of such Trustee or if, for any other reason, any such Trustee is not considered to be representative of the members of the industry in such district and, in the event of such recall, such members shall elect, by a majority vote, a Trustee to fill the unexpired term of the Trustee who has been recalled; a majority of the members of the Board shall have like power with respect to any Trustee at Large.

In the event of a vacancy in the Board, such vacancy shall be filled for the unexpired term of the Trustee whose vacancy is to be filled in the same manner as such Trustee was elected a member of the Board.

In the event of the inability of any Trustee elected to represent a cement district, or of any Trustee at Large to attend any meeting of the Board or of the Institute or of any committee or committees thereof, the members of the industry in such district, with respect to Trustees representing cement districts and the other Trustees at Large, with respect to any such Trustee at Large, shall have the right, from time to time as the occasion may require, to elect an Alternate Trustee to attend any such meeting or meetings who shall have such authority to represent the members of such district or to act as Trustee at Large as may be prescribed by such members or by such other Trustees at Large. Within the limits of the authority conferred upon him, as herein provided, any such Alternate Trustee shall have the right to vote and to act in all respects in the place of the member of the Board whose place he fills.

2. The Institute or its successors or any trade or industrial association participating in the selection or activities of the Code Authority, shall:

- (1) Impose no inequitable restrictions on membership;
- (2) Submit to the Administrator true copies of its Articles of Association, By-Laws, Regulations, and any amendments when made thereto, together with any other information relating to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

3. 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 shall provide such hearings as he may deem proper; thereafter if he shall find that the Code Authority is not truly representative, or does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selection of the Code Authority.

B. Powers and Duties of the Code Authority.—In addition to the powers and duties herein specifically conferred upon the Code Authority, it shall have the following duties and powers to the extent permitted by the Act and subject to the right of the Administrator by review to disapprove or modify any action taken by the Code Authority pursuant to this Code.

1. The Code Authority shall be the general planning, coordinating, and administering agency of this Code. It may make such rules and regulations as may be necessary for the conduct of its business in the administration of this Code.

2. The Code Authority may designate the Institute or such other committees or agents, and may delegate to them such of its powers as it may deem necessary for the administration of this Code; provided, however, that the Code Authority shall not be relieved of final responsibility with respect to any such delegated powers.

3. The Code Authority shall, upon complaint of interested parties, upon request of the Administrator, or upon its own initiative, make such inquiry and investigation as to the operation and observance of this Code as may be necessary and report the results thereof to the Administrator for such action by him as may be in accordance with law.

4. No member of the Code Authority or of any committee designated by it shall participate as such member in a proceeding in which he is interested, either as complainant or as respondent, or in which he is in any other manner directly interested; and in the event of any such disqualification, the remaining members of such Code Authority or committee shall certify such disqualification, together with the reasons therefor, to the President of the Institute, who shall promptly designate a person to sit as a special member of such Code Authority or committee for the purposes of any such proceedings; provided, however, that any such special member so appointed shall be selected from the same group of the industry as is represented by the member whom he replaces.

5. In order that the President may be informed of the extent of the observance of the provisions of this Code and of the extent to which the declared policies of the National Industrial Recovery Act are being effectuated in the industry, the Code Authority and members of the industry shall make such reports as the Administrator may require periodically or as often as he may direct. Each member of the industry shall make such sworn or unsworn reports to the Code Authority or to such agency as it may designate as to wages, hours of labor, number of employees, and such other matters as the Code Authority may require for the administration of this Code; provided, however, that any information furnished hereunder of a confidential nature as between competitors in the industry shall not be available to competitors nor published in such form as shall reveal the identity of any member of the industry furnishing such reports.

In addition to the information required to be submitted to the Code Authority, there shall be furnished to governmental agencies, such statistical information as the Administrator may deem necessary for the purposes recited in Section 3(a) of the Act.

6. Any interested party shall have the right to complain to the Code Authority under such rules and regulations as it may prescribe in respect of any rule, regulation, order or finding made or course of action pursued by the Code Authority, and any interested party shall have the right to appeal to the Administrator under such rules and regulations as he may prescribe in respect to any decision, rule, regulation or course of action of the Code Authority, pursuant to any provision of this Code.

7. The Code Authority and/or the Board may, from time to time, make such recommendations to the President as it may deem advisable or necessary to effectuate the policy of the Act and to develop and maintain conditions of fair competition in the Industry; and any modification or additions to this Code recommended by the Code Authority and/or the Board shall, upon approval by the President, become part of and shall have the same force and effect as other provisions of this Code.

8. Any member of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority, and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and by either paying his reasonable share of the expenses of its administration or by becoming a member of the Institute. The reasonable share of 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 to be taken into consideration.

ARTICLE V—SAFETY WORK

As an evidence of the general attitude of the industry toward its employees, the industry points with pride to its achievements in the field of safety. For many years the industry has occupied the premier position in safety accomplishments. It has been regarded as an exemplar in safety technic; it received the Joseph A. Holmes awards for the years 1930 and 1932, which is more notable because during those declining and depression years, great difficulties were experienced in maintaining normal safety morale in plant organizations. Such results, in the opinion of the industry, can be attained only by the cooperative effort of constructive management and satisfied, intelligent employees. The safety movement in the industry is conducted by, and for many years has been one of the constructive activities of, the Portland Cement Association, an organization of the industry which is devoted to research, education and improvement and extension of the use of concrete. So far as practicable, the safety movement will be continued.

ARTICLE VI—PLAN FOR SHARING AVAILABLE BUSINESS

1. The Board is hereby authorized to formulate a plan or plans, within thirty (30) days after the effective date of this Code, unless

such time shall be extended by the Administrator, for the equitable allocation of available business among all members of the industry or among members of the industry operating in one or more Districts, and for the control of cement inventory and to submit the same either to a meeting of all members of the industry or to meetings of members in the Districts affected, as the Board may determine, for approval, modification or rejection. Each member of the industry shall be entitled to receive notice of any such plan and to participate in any meeting or meetings of all members of the industry or of members in the District in which such member operates and, further, shall have the right to appear before the Board at any meeting at which any such plan is being considered for the purpose of presenting any facts or arguments relative thereto.

When any such plan shall have been formulated by the Board, the Code Authority shall present the same to the Administrator for consideration and the Code Authority shall represent the industry and the Board in conference with the Administrator with respect to any such plan; provided, however, that as regards any such plan the Code Authority shall have only such power to bind the industry or any subdivision thereof as shall have been conferred upon it by majority vote of the industry or of any subdivision thereof, and each member shall have the right to present his objections, if any, to the Administrator. The Code Authority shall collect and present to the Administrator such data and statistics as may be required in connection with any such plan together with a statement of the names of those members of the industry that approve and of those that disapprove such plan in whole or in part.

2. Any such plan shall be based on the following principles:

(a) It shall be fair and its benefits shall be equitably apportioned to all plants.

(b) It shall give due consideration to all pertinent factors including demonstrated productive capacity based on the clinker and/or cement production performance of non-obsolete plants and equipment.

(c) It shall in no way reduce the total production of all plants below what is necessary amply to supply demand.

(d) It shall not promote monopoly or monopolistic practices or oppress small enterprises.

ARTICLE VII—INCREASE IN PRODUCTIVE CAPACITY

Prior to the construction or operation of a new plant, or the increase in the productive capacity of an existing one, or the movement of all or part of such a plant from one place to another, The Cement Institute, on receipt of such information, shall promptly collect complete information concerning existing productive capacity in the area in which the proposed new plant is to be located, together with data concerning consumption of cement in that area. If these data disclose that such new plant will result in further increasing the problem of over-production or over-capacity in such area, The Cement Institute may petition the President to prohibit the construction, or operation, of the proposed new plant, or the increase in manufacturing capacities of such existing plants. The provisions

hereof shall not be construed to prevent the modernization of existing plants to improve quality of product and/or operating efficiency.

The Board may study the problem of permanent excess of productive capacity in any area and may from time to time prepare and submit to the Administrator for consideration plans for the closing down or amortization of the less economical plants.

ARTICLE VIII—COST PROTECTION

1. It shall be an unfair method of competition for any member of the industry to sell or offer to sell cement at less than his expenses of manufacture, provided, however, that any member of the industry may sell or offer to sell cement at below his own expenses to meet the competition of any other member of the industry whose price is not less than the expenses of manufacturing of such other member.

Manufacturing expenses as used herein, shall include all direct labor and material (which do not greatly vary per unit of production with volume of output), at cost or market whichever is lower, plus a proportionate share of all indirect expenses, inclusive of maximum depreciation and/or depletion allowances computed according to Federal Income Tax procedure, but exclusive of any capital reserves, for purposes other than depreciation and/or depletion, and exclusive of interest paid and development expenses. Provided that the distribution of such indirect expenses per unit of product produced shall be on the basis of an average rate of utilization of plant facilities by efficient producers.

Unless and/or until some other formula is submitted to, and approved by the Administrator, the average rate of utilization of plant facilities shall be determined as follows, to wit:

Each member of the industry shall send to an impartial agency appointed by The Institute, a consolidated income-tax return for that portion (or all) of his operations, devoted to the manufacture of Portland Cement for each of the years 1927-1932, or such other period as, upon presentation of official data, may be determined to be fair and as will better effectuate the purpose hereof and be approved by the Administrator, together with a record of physical production, productive capacity, and sales in each of these years.

From these reports will be calculated the average rate of utilization of productive capacity by the one third ($\frac{1}{3}$) portion of the industry which reported the lowest average per unit cost of production for such period.

This percentage of productive capacity (rather than full capacity) shall become standard for the distribution of indirect expenses and fixed charges for the purpose of determining the per unit manufacturing expenses, by every member of the industry.

2. In case of any complaint that a member of the industry has violated the above provisions of this Code, the Code Authority shall give to such member of the industry not more than seven (7) days, or such other reasonable time as may be fixed by the Code Authority, in which to present evidence of its compliance with the foregoing provisions. If the Code Authority is not satisfied by the proof furnished by such member, the matter shall be promptly referred to the Administrator who shall immediately select a certified public ac-

countant to examine the cost accounting of the member of the industry complained against and notify such member of the selection made and request the consent of such member to the examination of its cost accounting by the certified public accountant so selected. If such member shall not, within two (2) days after receipt of notice from the Administrator, as above provided, furnish to the Administrator written consent to such examination or shall not thereafter make available to such certified public accountant all books and records necessary to complete the examination of the cost accounting of such member of the industry, then, and in either event, the Administrator shall forthwith refer the matter to the Federal Trade Commission which shall audit the cost accounting of such member of the industry and report to the Administrator, who may transmit a copy of such report to the Code Authority and to the member of the industry complained against, with the least practicable delay. In the event that the member of the industry complained against shall consent to the examination of its cost accounting by the certified public accountant selected by the Administrator after such accountant shall complete his report, such accountant shall report his findings to the Administrator and transmit a copy thereof to the Code Authority and to the member of the industry complained against. If, in the opinion of the Administrator, the report of such accountant shall sustain the contention of the Code Authority but is not acceptable to the member of the industry complained against, then the matter shall be referred by the Administrator to the Federal Trade Commission, as above provided. The decision of the Administrator on the report of the accountant selected by him or on the report of the Federal Trade Commission shall be final regarding the costs of the member of the industry complained against.

3. *Uniform Cost Accounting.*—The Code Authority shall prepare and adopt for general use throughout the industry, and submit to the Administrator for approval within thirty (30) days of the effective date hereof, a standard method or system of uniform cost accounting which shall specify all items and include all elements of manufacturers cost. When so prepared, adopted, and approved, all members of the industry shall apply the principles and include all the elements thereof in determining their respective costs.

ARTICLE IX—OPEN PRICE—MARKET STABILIZATION

1. Each member of the industry shall file its prices and all terms and conditions of sale with the Code Authority within five (5) days after the effective date of this Code and make same public by broadcast quotations to the trade, so that competitors, the trade, and the buying public may at all times have accurate information relative thereto, and no member of the industry shall deviate therefrom except in the manner hereinafter provided.

2. Any member of the industry may from time to time change or revise its prices by filing notice thereof with the Code Authority; and no member of the industry shall anticipate, by quotation, sale, contract, or otherwise, any change or revision until after the same shall have been on file at least five (5) days at the office of the Code

Authority. At the expiration of such five (5) day period the said changes or revisions may, unless the effective date thereof shall be extended, be made effective, and thereupon shall be made public in the manner provided in Section 1 hereof.

3. Any member of the industry may meet the prices, terms, and conditions of sale, established by the above method, as of their effective date, and no member of the industry shall deviate from the prices, terms, and conditions of sale, so established, except in the manner above stated, and all members meeting such changes shall make same public in the manner provided in Section 1 hereof.

4. *Manner of Procedure on Price Changes.*—(a) (1) Declines shall be retroactive on all shipments made within five (5) calendar days before the effective date thereof.

(2) Advances shall be made effective five (5) calendar days after expiration of the notice period and the trade shall be given such notice.

(b) During the five (5) days prior to the effective date of an advance, current market orders may be booked at the prior price for shipment not more than 15 days from the date the advance becomes effective.

(c) Each specific work quotation shall contain a provision permitting withdrawal on five days' notice.

(d) After an advance in price all outstanding quotations on work for which bids have been opened, which quotations extend longer than fifteen days from the effective date of the new price, shall be withdrawn or revised to expire on such fifteenth day.

(e) All quotations at the prior price, made during the five-day notice period shall be confined to jobs on which bids are to be opened prior to ten days from the effective date of the new price. Such quotations may be closed by contract not later than fifteen days from the effective date of the new price.

(f) All quotations outstanding on jobs on which bids are to be opened later than ten days from the effective date of the new price shall be withdrawn, and any quotations made on such jobs during the five-day-notice period shall be at the new price.

5. If the Code Authority has reasonable cause to believe, and the member filing same shall have been so notified, that any price filed at its office, as above provided, represents a price made pursuant to a violation of any provision of this Code, the Code Authority may, by notice to such member, extend the effective date of such price for a period of not more than ten (10) days in order that investigation may be made by the Code Authority pursuant to the provisions of Section 2, Article VIII.

ARTICLE X—UNFAIR COMPETITION

For the purposes of this Code, the following acts shall constitute unfair trade practices and a violation of this Code:

1. Making or promising any bribe, gratuity, gift, or other remuneration, not filed and published in accordance with Article IX hereof, directly or indirectly to any purchaser or prospective purchaser or to any officer, employee, or representative thereof, for the purpose or with the effect of making a sale of cement; imitating any

brand or trademark used by any competitor; inducing or attempting to induce in any manner the violation of any existing future sales order or future sales contract, or other existing contract between a member of the industry and his customer, with the purpose or effect of inducing or causing a breach of any such contract; circulating or disseminating false or misleading information by words or acts relative to the prices, credit standing, business integrity, or ability to perform contracts, of any competitor or the grade, quality, count, character, nature, origin, manufacture, weight, or preparation of his products.

2. To compensate salesmen in any manner other than upon a fixed salary and full-time basis.

3. To divert or permit purchasers or users of cement to divert shipments of cement from one destination to another destination, the result of which will enable the purchaser or user to secure cement at less than the member of the industry's published market price at the point of final destination.

4. The following practices, undertaken for the purpose or with the effect, directly or indirectly, of furthering the sale or use of a particular brand of cement shall constitute unfair trade practices and a violation of this Code:

(a) Except with permission of the Code Authority (and such permission, when given, shall apply to all companies in the marketing area affected) the purchase, by any member of the industry, of bonds, or other securities, issued for the financing of constructive work, either in the name of the member of the industry, its subsidiaries, or of individuals, or officers, connected therewith, or the acceptance of such bonds, or other securities, in payment, wholly or in part, for cement, or the advance, loan, or payment of any monies by a member of the industry for the purpose of inducing the purchase of cement, or to assume cost of Bidders' Bonds or to endorse or guarantee or in any way relieve a Bidder of the responsibility for or the expense of providing such bonds, unless such conditions shall have been filed and published in accordance with Article IX.

(b) For the purpose or with the effect of evading the provisions of Article IX of this Code, the purchase of fuel or other supplies, either directly or indirectly, or in the name of the company, or its subsidiaries, or of individuals, or officers connected therewith at prices above the market price thereof at the time of purchase.

(c) To make or permit to be made, either directly or indirectly, any secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts in the form of money or otherwise, or to secretly extend to certain purchasers special services or privileges not extended to all purchasers on like terms and conditions.

(d) The prepayment of transportation charges on shipments consigned to other than the member of the industry itself, except in the case of railroad freight charges to stations to which regulations require prepayment from any shipping point, or the payment of demurrage charges by any member of the industry on such shipments; provided, however, that the foregoing provision, except as to demurrage charges, shall not apply to shipments purchased directly by and consigned to departments of the United States or State Govern-

ments, unless such conditions shall have been filed and published in accordance with Article IX.

(e) Knowingly diverting or permitting to be diverted to other uses, cement shipped for a specific work project nor knowingly shipping on a specific work order or contract, an amount of cement in excess of the actual needs of such work.

(f) To entice maliciously the employees of a competitor with the intent or effect of interfering with the conduct of the business of such competitor.

(g) Knowingly to ship cement by any transportation agency which, for the purpose or with the effect of inducing or influencing the sale or purchase of cement, makes payments or concessions by rebates or otherwise.

(h) The payment, or offer to pay, directly or indirectly, any advertising expenses of purchasers or users of cement.

(i) Lavish, excessive, or undignified entertainment of purchasers or users of cement, or others connected therewith; donating funds, or providing banquets or other similar lavish entertainment for purchasers or users, or associations thereof; giving or offering to give premiums, personal gifts, gifts of cement, or gifts of any other commodity of substantial value to purchasers or users of cement.

(j) The sale by any member of the industry, directly or indirectly, of any commodity at a discriminatory price.

(k) Services to purchasers or users are proper under fair competition, if confined within the limits of advice and consultation. The furnishing of articles or facilities of a definite physical nature, whether by way of loan, lease, gift, or otherwise, resulting in monetary benefit to purchasers or users is discriminatory and shall constitute unfair competition.

(l) No member of the industry shall maliciously refuse to sell to, or maliciously interfere with the business of, dealers or users of portland cement purchased from a competitor, for the purpose of interfering with the conduct of the business of such competitor.

ARTICLE XI—METHOD OF SELLING AND MARKETING CEMENT¹

The Code Authority may, after the approval of the Administrator has been secured, authorize and approve such exceptions to or modifications of any of the following provisions as it may see fit for all members of the industry in the marketing area affected.

No member of the industry shall discriminate in prices, terms, and conditions of sale at the same time and place of delivery between purchasers or users of cement in the same class and similarly situated.

1. Except as otherwise specified, portland cement shall be marketed in each community through the building material dealers regularly serving such community.

2. Except as otherwise specified, the following buyers shall be sold direct by members of the industry at the same price and under the same terms and conditions of sales as to dealers:

United States Government.

State Governments, Counties, and Parishes when properly authorized to purchase cement for public improvements or maintenance.

¹ Modified by Administrative Order No. 128-4 approved January 23, 1934.

Contractors doing any of the foregoing classes of work, except where such work is located entirely within cities, towns, or villages.

Railroads filing tariffs with State or Interstate Commissions, and contractors doing work for such railroads.

Owners or contractors buying for power development, flood control, and water-supply projects that do not require dealer service.

Concrete Products Manufacturers, including block, tile, roofing, pipe, piling, and all other precast concrete units when for their own manufacturing operations, but not for resale.

Commercial concrete mixing plants for their own processing operations, but not for resale.

3. Definition of a dealer: A cement dealer as used herein is one who has an established place of business where he is regularly engaged in selling portland cement and other building materials to the public, with facilities to serve the retail trade in a given territory and able and willing to perform all functions devolving upon him in securing, performing, and protecting contracts for the delivery of portland cement for specific work on his account.

No member of the industry shall pay to any dealer any commissions or other remunerations for the sale of such member's cement.

4. Cement shall be marketed on the basis of a barrel, weighing 376 pounds net; and shall be delivered in the following manner:

(a) In cloth or paper sacks, four (4) sacks of 94 pounds net each constitute a barrel, or

(b) In bulk computed on weights on scales at the plants or en route.

5. Cement shall be marketed either on current or market orders for delivery within fifteen days, or on orders or contracts for future delivery beyond fifteen days.

Orders entered for fifteen days' shipment shall be subject to shipment on the fifteenth day without notice to the purchaser. Quotations on current orders shall be for immediate acceptance.

Cement purchased for delivery beyond fifteen days from date of purchase shall be sold either to cover "specific work" or for period requirements.

6. Application of Exhibits B and C. The booking of either specific work orders or period requirement contracts from the various groups of purchasers listed in sections 1 and 2 of this article shall be as follows:

(a) United States Government: Sell under contracts for delivery periods as specified in formal requests for bids.

(b) States: Projects on which construction contracts are awarded. Sell under specific work contracts. Such contracts shall be closed only after definite award of construction contracts. On request from States for cement prices on such projects, the prices quoted shall be not higher than the prices in effect fifteen days prior to the date on which such States receive construction bids and such prices shall be good for acceptance within fifteen days after such date for receiving construction bids.

Purchases for use by State Forces: If any department of the State undertakes construction work conforming to the general definition of a specific work project, sell under specific work contract. For

requirements of the character of repairs and maintenance, sell under calendar quarterly contracts.

(c) Counties, Parishes, and Cities: Sell on calendar quarterly requirement contracts.

(d) Railroads: Sell on calendar quarterly basis for general requirements. Specific jobs requiring extended delivery may be sold under the plan outlined below for specific work contracts, provided the jobs are covered by appropriations, plans prepared and it is possible to definitely check the job for location and quantity. Contracts for such specific job shall be limited to shipment for such work only and shall be closed for a period of not to exceed one year from date of contract. Cement under such specific job contracts shall not be shipped to any town other than that provided in the contract nor shall it be diverted for use in general repair or maintenance work.

(e) Owners and Industrials: This title includes industrial projects and owners thereof, such as coal companies, manufacturing companies, street railways, packing houses, stockyards, cemeteries, light and power companies, and all public utilities except railroads having published tariffs and recognized by public service commissions as common carriers.

Sell for fifteen days' shipment only, on current or market orders; when work is done by the owner or industrial specific contracts shall not be made; when an owner or industrial awards a specific job to a contractor and the contractor buys the cement requirements, specific work contract shall be closed provided the job may be checked definitely as to location and quantity.

(f) Conduit construction or repair work by public utilities shall not be sold for extended delivery but shall be sold for fifteen day shipment only on current or market orders.

(g) Speculative residential work shall be sold for current delivery only. Any project involving more than one residence for one owner constitutes a speculative operation.

(h) Products Manufacturers: (1) Manufacturers of blocks, tile, roofing, and all Products manufacturers not included in (2) below, shall be sold on calendar quarterly contracts.

(2) Pipe manufacturers and concrete pile manufacturers: For specific jobs which can be definitely checked for quantity and location, sales shall be made on specific contract basis. In general such specific contracts shall be confined to public work awarded by contract where the cement requirements can be accurately figured.

An order held by a pipe manufacturer for the year's requirements of a city, county, state, industrial, or contractor shall not constitute a specific job. Such orders as well as general requirements of the plant shall be sold only on calendar quarterly contracts.

(i) Commercial Concrete Mixing Plants: Shall be sold for fifteen days delivery or for specific job requirements as herein provided; but shall not be sold for general or period requirements.

7. Time of closing calendar requirement contracts. Contracts for any quarter shall be quoted or closed not earlier than the first day of the last month of the preceding quarter.

The basis of a contract (except on sales direct from member of the industry to user) shall be a binding order placed by the user with a dealer and a corresponding order placed by the dealer with the member of the industry.

8. Time and Manner of Closing Specific Work Orders. When a contractor has an order with a building material dealer for a specific work project, the member of the industry shall book from the dealer a purchase order for the required amount of cement to be invoiced at the member's market price at time of shipments. This order shall be binding on both parties. The parties shall agree in this order that if the member's price should advance, a specific work contract shall be entered into at the price prevailing prior to such advance, for the quantity of cement then required to complete the project. The dealer shall furnish the member of the industry, as the basis for such contract, his record of the amount of cement delivered to the contractor prior to the advance in price, together with a verified written estimate from a responsible representative of the contractor of the amount of cement still required to complete the work.

Specific work orders at prices prior to an advance in prices, but closed during the period immediately following an advance, as described in paragraph 8, shall be covered immediately by specific work contracts, but such contracts shall be supported by the dealer's record of prior deliveries and the contractor's written estimate of requirements as above stated.

9. The provisions of this Article XI are designed to meet present industrial and social conditions as they relate to the cement industry. But the Administrator and the Code Authority with the approval of the Administrator reserve the right from time to time, and after such hearing as they or either of them may deem necessary, to modify the foregoing provisions of this Article as conditions and circumstances may indicate to be necessary to effectuate the policy and provisions of the Act.

ARTICLE XII—TERMS AND CONDITIONS OF SALE

1. All future sales orders and future sales contracts for the sale of portland cement shall contain a definite statement of price, quantities, terms of payment, time and place of delivery, and all other terms of sale necessary to form a complete and unambiguous contract.

2. No member of the industry shall substitute for a contract or purchase order already executed and in force, a new contract or purchase order for the same requirements at a lower price or on more favorable terms to the purchaser than are contained in the original contract or purchase order.

3. Attached hereto and marked Exhibits B and C are forms of future specific sales orders, and contracts, the provisions, terms, and conditions of which have been agreed to by members of the industry as representing in substance the best practices within the industry.

4. Terms of payment shall be as follows: A cash discount of not in excess of 10¢ per barrel may be deducted from invoices paid in full within fifteen days from date of issue. Invoices not discounted are payable net thirty days from date of issue.

(a) Where purchases involve frequent shipments, a plan of semi-monthly remittance, based on a fifteen-day average, may be used as follows:

All invoices dated from first day of month to fifteenth day of month, inclusive, to be paid by the 22d of that month; and all in-

voices dated 16th to 31st, inclusive, to be paid by the 7th day of the following month.

(b) Cash discount shall not be allowed if remittance is forwarded after the expiration of the 15-day period, or semimonthly period; or if deduction is made in the remittance for cloth sacks to be returned or in transit and not yet credited; or if the remittance consists in whole or in part of notes, trade acceptances, scrip, warrants (whether interest bearing or not), or any medium other than cash or bankable check for the full amount of the invoices upon which cash discount is deducted.

(c) The postmark date at point of mailing shall determine the date of remittance.

(d) No unearned discounts shall be allowed.

5. Package charges and allowances:

(a) When cement is shipped in cloth or paper sacks the price shall include the member of the industry's published deposit or leasing charges for cloth sacks or the selling charge for paper sacks and payment of such charges shall be required at the same time as the cement.

(b) When used cloth sacks are returned empty to the member of the industry the credit or allowance shall at all times be in accordance with the member's published terms and conditions of sale.

6. Invoices: Invoices shall be dated as of the date of shipment (provided where special and unusual conditions prevail, the members of the industry in the district or districts concerned, may, subject to the approval of the Code Authority, change this provision to conform to such special and unusual conditions) and shall contain full information as to price, quantity, kind of package, terms of payment, place of deliveries, routing, amount of freight allowed, and any other data necessary to show fully all conditions entering into the sale. Any deviation or concession from these conditions is an unfair practice.

ARTICLE XIII—STANDARDIZATION OF PRODUCTS

1. All Portland Cement marketed by members of the industry shall comply with the standard specifications for Portland Cement of the American Society for Testing Materials, and the American Standards Association, and/or the Federal Specification Board. Members of the industry may sell cement under modified Portland Cement specifications that are designed to meet special or unusual conditions not adequately or properly covered by the specifications hereinabove referred to, provided, however, that the price at which such modified Portland Cements are sold shall be filed with the Code Authority.

2. Every member of the industry shall guarantee his products to comply with all of the conditions of the specifications under which they are sold, but shall not be responsible for the improper use of cements and therefore shall not guarantee finished work, nor shall the member of the industry be responsible for condition of product after delivery.

3. No member of the industry shall pay or absorb, directly or indirectly, any charges for inspection or tests made by or on behalf of the purchaser to determine compliance with specifications therefor.

ARTICLE XIV

It is the concensus of opinion of the industry that each member thereof should bear his proportionate share of the burden of the cost of constructive cooperative activities approved and supported by the majority of the Industry and whose benefits are common to all manufacturers.

ARTICLE XV

Nothing in this Code contained, excepting, however, the provisions of Article III, shall be deemed to apply to or affect the sale by any member of the industry of any products of the industry for direct shipment in export trade.

ARTICLE XVI—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 N.I.R.A. 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 any provision of this Code or any conditions imposed by him upon his approval thereof.

2. Whenever the Administrator shall determine such action by him to be necessary to effectuate the policy of the Act, he may modify or cancel any action pursuant to this Code by any agency established thereunder.

3. Except as to the provisions required by the Act, this Code may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator, on such notice and hearing as he shall specify and to become effective on approval by the President.

ARTICLE XVII—MONOPOLIES

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

ARTICLE XVIII—EFFECTIVE DATE

The effective date of the Code shall be ten days after approval thereof by the President.

Approved Code No. 128.
Registry No. 1010-1-02.

EXHIBIT A

DISTRICTS

The twelve (12) geographical districts as described by the United States Bureau of Mines are as follows:

- District No. 1—Eastern Pennsylvania, New Jersey, Maryland.
- No. 2—New York, Maine.
- No. 3—Western Pennsylvania, Ohio, West Virginia.
- No. 4—Michigan.
- No. 5—Wisconsin, Illinois, Indiana, Kentucky.
- No. 6—Virginia, Tennessee, Alabama, Georgia, Florida, Louisiana.
- No. 7—Eastern Missouri, Iowa, Minnesota, South Dakota.
- No. 8—Western Missouri, Nebraska, Kansas, Oklahoma, Arkansas.
- No. 9—Texas.
- No. 10—Colorado, Montana, Utah, Wyoming, Idaho.
- No. 11—California.
- No. 12—Oregon, Washington.

EXHIBIT B

(Specific sales order)

To _____
Name and Address of Cement Company

We have sold to _____ Contractor _____
Barrels of (Brand) _____ Portland Cement for _____
(Fraction or all)

_____ of his requirements on the following specific work awarded him:
(Character, description, and location of work, and name of owner)

We hereby place with you our order for the above quantity of (Brand) _____
Portland Cement, to be packed in _____ (sacks),
for use on the above work, at your prevailing market price at time of shipment,
subject to the conditions stated on both sides hereof.

We will desire delivery made, as the work requires, upon our instructions in
carload lots, F.O.B. cars _____ deliveries to be complete prior
to _____.

It is expressly understood and agreed:

1. That if you advance your market price prior to the completion of ship-
ments on this order, you will, within ten (10) days of the effective date of such
advance, enter into your standard form of specific work contract with us, at
the price prior to such advance, for the quantity of cement that may at that
date be required for the completion of the work covered by this order.

2. That as a basis for such specific work contract, we will supply you with
our record of cement delivered to the contractor prior to the time of your
advance in price, together with a written estimate from the contractor, or a
responsible employee of the contractor, of the quality of cement then required
to complete the work.

Signed: _____
Date: _____

Accepted: _____
_____ Cement Company.
(Officer)

Date: _____

Terms of Payment.—On approved credit net cash 30 days, from date of in-
voice, or 10 cents per barrel discount for cash in 15 days from date of invoice.

If at any time the financial responsibility of Buyer becomes impaired or
unsatisfactory to Seller, it reserves the right to require payments in advance or
satisfactory security or guarantee that invoices will be promptly paid when due.

If Buyer fails to comply with terms of payment, or with any of the other
terms of sale, Seller reserves the right to cancel unfilled portion of this order,
without notice, Buyer remaining liable for all unpaid accounts. No waiver of
such right shall be implied from any failure by Seller to exercise the same.

Packing.—Cloth sacks bearing Seller's brands, in which cement herein con-
tracted for is packed, are the property of Seller and are for a period of 90 days
from the delivery by Seller of the said cement, leased by it to Buyer at a charge
of 10 cents each, which charge is included in price for cement packed in cloth
sacks and which charge Buyer agrees to pay at same time and on same terms
as payment for cement is made.

Buyer agrees within 90 days of delivery of the cement to deliver to Seller,
the owner, at its nearest plant, freight charges collect, as provided by railroad
classifications and tariffs, properly bundled and so marked as to insure complete
identification, the cloth sacks bearing Seller's brands, in which the said cement
is packed, and Seller agrees to refund to Buyer 10 cents for each said cloth
sack so delivered in good condition, subject to Seller's count and inspection, and
to assume freight charges thereon. If for any reason freight charges (per
railroad tariffs) are prepaid, they will be refunded by Seller upon presentation
of Railroad Company's receipted freight bill or bill of lading.

For useless cloth sacks which have been wet, no refund will be made. Cloth sacks bearing other than Seller's brands will be held by Seller for 30 days subject to Buyer's order.

In the event that any of the said empty cloth sacks bearing Seller's brands are sold or otherwise disposed of by Buyer to any person other than Seller, the owner, Buyer agrees to pay Seller, as liquidated damages, 10 cents for each cloth sack so sold or disposed of.

If during the life of this order, Seller shall change its present charge for the lease of cloth sacks, or the liquidated damages, or both, it is expressly agreed that the said amount or amounts in the preceding paragraphs shall be changed accordingly, and the gross price specified herein for cement packed in cloth sacks shall be changed in accordance with the change in charge for lease of cloth sacks.

Price on cement packed in paper bags includes the paper bags, which are not returnable. Shipments in paper bags are made at Buyer's risk of breakage and resultant loss of cement.

(If cement company requires a deposit for cloth sacks, instead of leasing them, the following clauses are suggested):

Package.—The cloth sacks, bearing Seller's brand, containing the cement are not sold, but remain the property of Seller. Buyer agrees to return said cloth sacks, properly bundled and marked so as to secure complete identification, to Seller's nearest mill, within ninety (90) days from the date shipment of cement has been made.

Seller agrees to refund to Buyer the deposit of ten cents for each cloth sack so returned. This deposit has been included in the price herein stated and Buyer agrees to include it when payment for the cement is made.

It is, however, expressly understood that such cloth sacks must be delivered to Seller's mill in good condition and will be subject to mill count and inspection, and that no refund will be made for useless cloth sacks, nor for cloth sacks not of Seller's brand. Such cloth sacks, if received, will be held by Seller for thirty (30) days subject to Buyer's order and risk.

Seller agrees to pay carrier's freight charges on returned empty cloth sacks of Seller's brand after delivery to its nearest mill or to refund Buyer for freight charges prepaid on such shipments upon presentation of original bill of lading properly executed or original receipted freight bill.

If Seller shall change its present deposit required for cloth sacks, it is expressly agreed that the said amounts in the preceding paragraphs shall be changed accordingly and the gross price specified herein for cement packed in cloth sacks shall be changed in accordance with the change of deposit required.

Price on cement packed in paper bags includes the paper bags which are not returnable. Shipments in paper bags are made at Buyer's risk of breakage and resultant loss of cement.

Claims.—Claims for loss or damage will not be considered unless supported by seal record and railroad agent's acknowledgment on freight bill. Freight overcharge claims must be accompanied by original receipted freight bill.

Time of delivery.—Buyer shall give Seller shipping instructions in writing a reasonable time before shipments are to be made. If Buyer fails to order shipment within the time specified Seller shall have the right to extend the time for delivery of such cement, but shall not be obligated to do so, except at its option.

The Seller reserves the right to select the route and method by which shipments shall be forwarded, but no Seller can be required to favor any one route or method of transportation as against another by any joint action of the members of the industry or the Code Authority. Transportation charges per tariff applying from shipping point to place of delivery for route and method of shipment used, will be paid by the Buyer for the account of the Seller.

Seller shall not be liable to Buyer for any delays in manufacturing, shipping, or delivering said cement, caused by fire, strikes, lockouts, differences with workmen, accidents, war, insurrection, inability to secure cars, coal, or other material, governmental interference or regulation, delays in transportation or contingencies beyond Seller's control; and during the time of such delays Seller shall have the right to pro rate among its various customers such cement as it may be able to manufacture and ship.

Specifications.—The cement shipped under this order shall conform to the present standard specifications for Portland Cement of the American Society

for Testing Materials and the American Standards Association and/or the Federal Specification Board, and no other warranty is made in respect thereof. Seller having no control over the use of cement will not, therefore, guarantee finished work in which it is used, nor shall the Seller be responsible for the condition of cement after delivery to Buyer. Any charges incident to inspection or tests made by or on behalf of Buyer to determine compliance with specifications shall be paid by Buyer.

Seller's prevailing market price may be advanced by the amount of any increase in freight rates and/or any additional Government tax on freight and/or the amount of any tax on sales or contracts of sale effective after the date hereof without imposing on Buyer the obligation to enter into Seller's standard form of specific work contract, as provided in paragraph 1 hereof.

EXHIBIT C

(Form of future specific sales contract)

Agreement made this _____ day of _____ 193____, between _____ Cement Company, hereinafter called Seller and _____ of _____ hereinafter called Buyer:

Seller hereby sells and agrees to furnish and deliver and Buyer hereby buys and agrees to receive and pay for Portland Cement in the quantity and on the terms and conditions hereinafter and on the back hereof set forth.

Description and quantity.—The purpose of this contract is to cover the purchase and sale of all the Portland Cement required to complete the work hereinbefore described, whether more or less than the quantity stated herein.

Buyer represents that the aforesaid number of barrels of cement will be used in the construction of the above-described work and agrees that no portion of such cement will be used for any other purpose without the written consent of Seller. If any of the cement shipped hereunder is reconsigned or diverted by Buyer from the place of delivery specified herein or used for any other purpose, Seller may cancel this contract and refuse to ship any more cement and Buyer agrees to pay Seller's market price at the place of final destination for such cement as has been diverted by Buyer from the place of delivery specified herein or has been used by Buyer for any other purpose than the purpose above specified; Buyer remaining liable for all unpaid accounts.

Place of delivery.—F.O.B. _____

Time of delivery.—Prior to _____ as required by the progress of the work. Buyer shall give Seller shipping instructions in writing a reasonable time before shipments are to be made. If Buyer fails to order shipment within the time specified Seller shall have the right to extend the time for delivery of such cement, but shall not be obligated to do so, except at its option.

Price.—

Per standard barrel, in cloth sacks _____	\$ _____
Per standard barrel, in paper bags _____	\$ _____
Per standard barrel, in bulk _____	\$ _____

Price includes freight at present rates and will be increased by the amount of any increase in freight rate and/or any additional Government tax on freight and/or by the amount of any tax on sales or contracts of sale effective during the life of this contract. All shipments made on this contract will be at the current destination price of Seller on the date of shipment, if this price is below the contract destination price mentioned herein.

Terms of payment.—On approved credit net cash 30 days from date of invoice, or 10 cents per barrel discount for cash in 15 days from date of invoice.

If at any time the financial responsibility of Buyer becomes impaired or unsatisfactory to Seller, it reserves the right to require payments in advance or satisfactory security or guarantee that invoices will be promptly paid when due.

If Buyer fails to comply with terms of payment, or with any of the other terms of sale, Seller reserves the right to cancel unfilled portion of this contract, without notice. Buyer remaining liable for all unpaid accounts. No waiver of such right shall be implied from any failure by Seller to exercise the same.

This contract is not assignable by Buyer without the consent of Seller in writing.

_____ CEMENT COMPANY.

By _____
(Buyer)

By _____
(Seller)

Package.—Cloth sacks bearing Seller's brands, in which cement herein contracted for is packed, are the property of Seller and are for a period of 90 days from the delivery by Seller of the said cement, leased by it to Buyer at a charge of 10 cents each, which charge is included in price of cement packed in

cloth sacks and which charge Buyer agrees to pay at same time and on same terms as payment for cement is made.

Buyer agrees within 90 days of delivery of the cement to deliver to Seller, the owner, at its nearest plant, freight charges collect, as provided by railroad classifications and tariffs, properly bundled and so marked as to insure complete identification, the cloth sacks bearing Seller's brands, in which the said cement is packed, and Seller agrees to refund to Buyer 10 cents for each said cloth sack so delivered in good condition subject to its count and inspection, and to assume freight charges thereon. If for any reason freight charges (per railroad tariffs) are prepaid, they will be refunded by Seller upon presentation of Railroad Company's receipted freight bill or bill of lading.

For useless cloth sacks which have been wet, no refund will be made. Cloth sacks bearing other than Seller's brands will be held by Seller for 30 days subject to Buyer's order.

In the event that any of the said empty cloth sacks bearing Seller's brands are sold or otherwise disposed of by Buyer to any person other than Seller, the owner, Buyer, agrees to pay Seller, as liquidated damages, 10 cents for each cloth sack so sold or disposed of.

If during the life of this contract, Seller shall change its present charge for the lease of cloth sacks, or the liquidated damages, or both, it is expressly agreed that the said amount or amounts in the preceding paragraphs shall be changed accordingly, and the gross price specified herein for cement packed in cloth sacks shall be changed in accordance with the change in charge for lease of cloth sacks.

Price on cement packed in paper bags includes the paper bags, which are not returnable. Shipments in paper bags are made at Buyer's risk of breakage and resultant loss of cement.

(If cement company requires a deposit for cloth sacks, instead of leasing them, the following clauses are suggested):

Package.—The cloth sacks, bearing Seller's brand, containing the cement are not sold, but remain the property of Seller. Buyer agrees to return said cloth sacks, properly bundled and marked so as to insure complete identification, to Seller's nearest mill, within ninety (90) days from the date of shipment of cement has been made.

Seller agrees to refund to Buyer the deposit of ten cents for each cloth sack so returned. This deposit has been included in the price herein stated and Buyer agrees to include it when payment for the cement is made.

It is, however, expressly understood that such cloth sacks must be delivered to Seller's mill in good condition and will be subject to mill count and inspection, and that no refund will be made for useless cloth sacks nor for cloth sacks not of Seller's brand. Such cloth sacks, if received, will be held by Seller for thirty (30) days subject to Buyer's order and risk.

Seller agrees to pay carrier's freight charges on returned empty cloth sacks of Seller's brand after delivery to its nearest mill or to refund Buyer for freight charges prepaid on such shipments upon presentation of original bill of lading properly executed or original receipted freight bill.

If Seller shall change its present deposit required for cloth sacks, it is expressly agreed that the said amounts in the preceding paragraphs shall be changed accordingly and the gross price specified herein for cement packed in cloth sacks shall be changed in accordance with the change of deposit required.

Price on cement packed in paper bags includes the paper bags which are not returnable. Shipments in paper bags are made at Buyer's risk of breakage and resultant loss of cement.

Claims.—Claims for loss or damage will not be considered unless supported by seal record and railroad agent's acknowledgement on freight bill. Freight overcharge claims must be accompanied by original receipted freight bill.

The Seller reserves the right to select the route and method by which shipments shall be forwarded, but no Seller can be required to favor any one route or method of transportation as against another by any joint action of the members of the industry or the Code Authority. Transportation charges per tariff applying from shipping point to place of delivery for route and method of shipment used, will be paid by the Buyer for the account of the Seller.

Specifications.—The cement shipped under this contract shall conform to the present standard specifications for Portland Cement of the American Society for Testing Materials and the American Standards Association and/or the Federal Specifications Board, and no other Warranty is made in respect thereof.

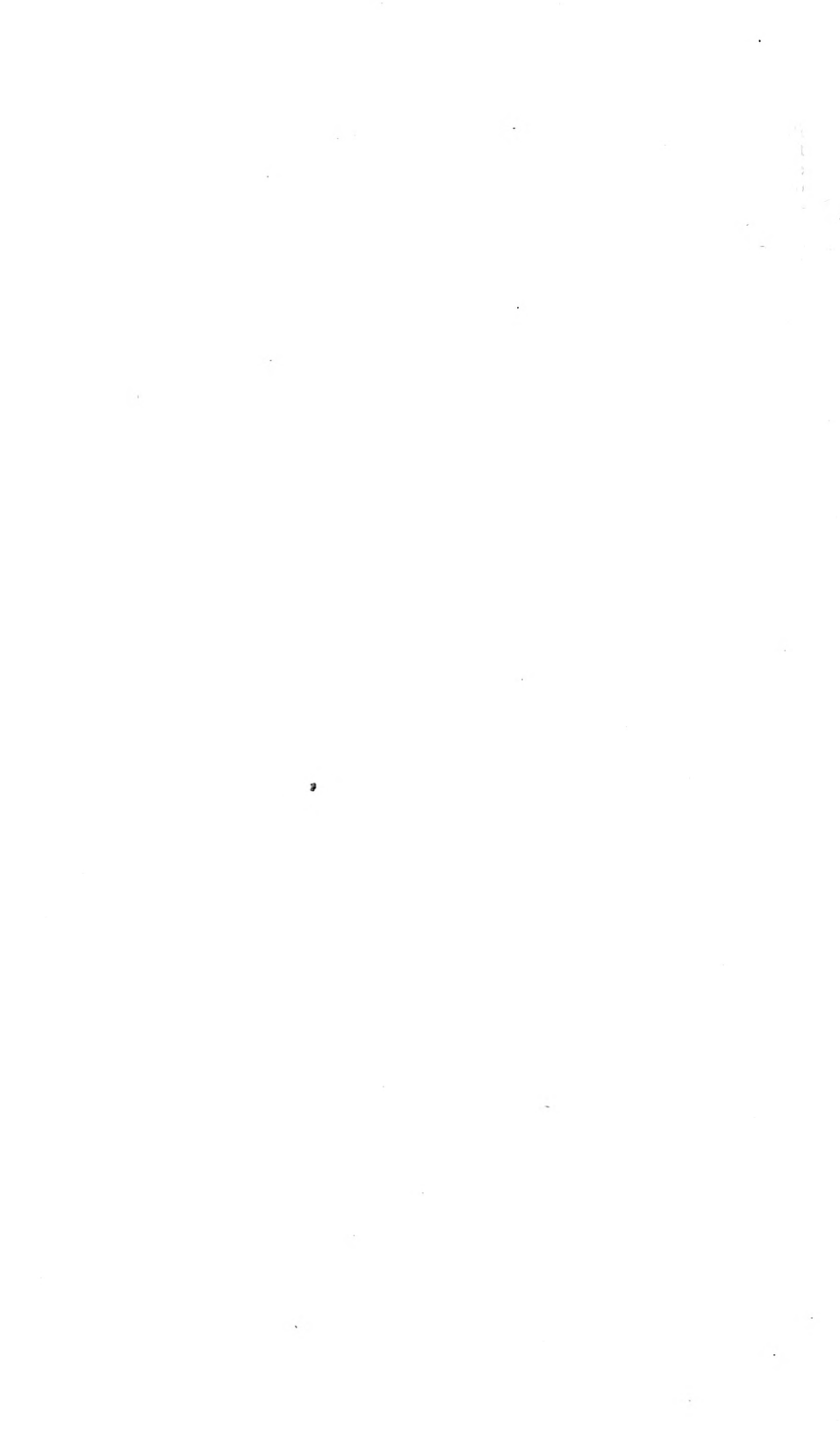
Seller having no control over the use of cement will not, therefore, guarantee finished work in which it is used, nor shall the Seller be responsible for the condition of cement after delivery to Buyer. Any charges incident to inspection or tests made by or on behalf of Buyer to determine compliance with specifications shall be paid by Buyer.

Seller shall not be liable to Buyer for any delays in manufacturing, shipping, or delivering said cement, caused by fire, strikes, lockouts, differences with workmen, accidents, war, insurrection, inability to secure cars, coal, or other material, governmental interference or regulation, delays in transportation, or contingencies beyond Seller's control; and during the time of such delays Seller shall have the right to prorate among its various customers such cement as it may be able to manufacture and ship.

Seller shall have the right, but shall not be obligated, to ship from any plant other than the one normally supplying the delivery point specified herein.

Bulk cement.—Shipments of bulk cement shall be invoiced and collected for on a basis of track scale weights nearest to point of origin.





Approved Code No. 129

CODE OF FAIR COMPETITION

FOR THE

RADIO BROADCASTING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Radio Broadcasting 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 approve the report and recommendations, and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(353)

NOVEMBER 23, 1933.

The PRESIDENT,
The White House.

SIR: A proposed Code of Fair Competition for the Radio Broadcasting Industry was submitted to the Administrator on August 29, 1933, by the National Association of Broadcasters, Inc. The Association is an established trade association of long standing and is the only trade association in the Industry. It represents approximately forty-five (45%) percent of the stations by numbers and over eighty-three (83%) percent of the volume of business done within the Industry.

A Hearing was conducted in Washington, D.C., on September 27, 1933, and the Code was revised during the recess of this Hearing and is submitted in its present form for approval. Every person who requested an appearance was heard in accordance with statutory and regulatory requirements. Communications received from interested parties who had not requested to be heard were read into the record.

Radio Broadcasting in its present form is a comparatively new development. It embraces the complete operation of all stations or networks designed for broadcasting, including, in connection with such operations, the preparation and production of programs both sponsored and unsponsored for the purpose of providing entertainment, instruction, and general service through the agency of radio broadcasting.

ARTICLE III—HOURS

This Article provides that no employee shall be permitted to work in excess of 40 hours in any one week, except that such hourly limitations do not apply to employees in managerial or executive capacity who receive not less than \$35 per week in the larger stations, nor to the same class of employees who receive not less than \$25 per week in radio broadcasting stations in which, on July 1, 1933, not more than ten persons were regularly employed. Further, such hourly and daily limitations do not apply to employees on emergency maintenance or emergency repair work, but overtime is to be paid for hours worked in excess of the maximum. Broadcast technicians are permitted to work 48 hours per week. Regarding this class of employees there was a lack of reliable statistics covering the number of hours which they now work, and faced with this lack of statistics it was deemed necessary to allow a 48-hour week pending the report of the Code Authority on a study to be made within ninety (90) days. The hours of such employees now vary from a minimum of 36 hours to a maximum of over 80. Approval of a 48-hour week for the next ninety (90) days has been given by the Advisers to the Deputy.

Those stations which now operate on the basis of a lesser number of hours per week are limited to those hours and may not increase their

working week for broadcast technicians to 48. Overtime is not permitted within the Industry except in the case of an emergency worker.

It is the first time within the Industry that there has been a classification of workers, minimum rates of pay, or maximum number of hours of employment. The reduction in hours will require the re-employment of some 765 men, or an increase of 350 men over the total employed within the Industry for any previous period.

ARTICLE IV—WAGES

Nontechnical employees are guaranteed the wages provided in the President's Reemployment Agreement. The guaranteed wage for broadcast operators and control men varies in amount according to the Federal Radio Commission classification of the station by which they are employed, as follows:

(a) Clear channel or high-power regional stations not less than \$40 per week;

(b) Clear channel part-time or low-power regional stations not less than \$30 per week;

(c) Low-power part-time regional, local unlimited, or local part-time stations not less than \$20 per week. Such employees in the past have been paid as little as \$9 per week in some of the small stations. Announcers and program production employees are to receive not less than \$20 per week, except in the very small stations where they are to receive not less than \$15.

The employers agree not to reduce the compensation for employment now in excess of minimum wages, notwithstanding that the hours may be reduced, and to increase the pay for such employment by an equitable readjustment.

There is no discrimination between the sexes in rates of pay.

ARTICLE V—GENERAL LABOR PROVISIONS

No one under sixteen years of age is to be employed within the Industry, except as talent on programs and then for not more than three hours per day, and those hours to be such as will not interfere with school hours.

This Article embodies Paragraph (a) Section 7 of Title I of the National Industrial Recovery Act. It further provides that working conditions shall not be changed to frustrate the intent and purpose of this Code.

In the proposed Code there is constituted a named Code Authority of nine (9) comprising representatives of independent stations, the Special Adviser, the Industrial Adviser, and the Labor Adviser on the Code, two representatives of the broadcasting networks, and in addition not more than three members to be appointed by the Administrator. The members of the Code Authority, with long experience and training within the Industry, were named so that there might be no delay in instituting the investigations which are required of that body, and in making recommendations to the Administrator for a permanent form of organization for the administration of the Code.

ECONOMIC EFFECT

The provisions of the Code will require reemployment of 765 men and will increase existing pay rolls and the buying power of this group at the estimated rate of \$1,328,000 per year. The total pay rolls under the Code will be more than double those of 1929. More stations are now in operation and more individuals employed than there were in 1929. My information indicates that there will be no increase in rates charged for facilities, so the consumer should not be adversely affected. The Industry will be required to absorb the greater operating costs.

The Research and Planning Division reports that the Code is designed to improve conditions in the Radio Broadcasting Industry, and that they are satisfied with the Code as it stands.

FINDINGS

The Administrator finds that:

(a) This Code complies in all respects with the pertinent phrases of Title I of the Act, including without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof;

(b) The Committee which proposes the Code is truly representative of the Radio Broadcasting Industry, and the By-Laws of the Association representing the divisions thereof provide no inequitable restrictions to membership;

(c) The Code 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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
RADIO BROADCASTING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Radio Broadcasting Industry, and upon approval by the President shall be the standard of fair competition for such Industry and shall be binding on every member thereof.

ARTICLE II—DEFINITIONS

1. *Radio Broadcasting*, as used herein, means the transmission through space by means of any radio frequency of signals intended to be received, whether audibly or visually, directly by the public.

2. *Radio Broadcasting Industry*, as used herein, embraces the complete operations of all broadcasters, or networks designed for broadcasting as above defined, including, in connection with such operations, the preparation and production of programs, both sponsored and unsponsored, for the purpose of providing entertainment, instruction, and general service through the agency of radio broadcasting.

3. *Broadcaster*, as used herein, means any individual, partnership, corporation, association, or other form of enterprise engaged in the radio-broadcasting industry as above defined.

4. *Network*, as used herein, means any individual, partnership, corporation, association, or other form of enterprise in the business of regularly supplying, by wire or wireless, programs for broadcasting, simultaneously to two or more radio-broadcasting stations.

5. *Employee*, as used herein, means any person engaged in the industry and employed by a broadcaster or network at a regular hourly, daily, weekly, or monthly salary or wage, as distinguished from an independent contractor or a professional person who is paid by the job or performance.

6. *Employer*, as used herein, means any broadcaster or network engaged in the industry.

7. *Broadcast Technician*, as used herein, means any person employed for the operation or maintenance of any transmitting, control, or input equipment used in radio broadcasting.

8. *Act* and *Administrator*, as used herein, mean respectively Title I of the National Industrial Recovery Act and the Administrator for Industrial Recovery.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty hours in any one week, except those included in the classes enumerated in paragraph number two hereof.

2. The maximum hours fixed in the foregoing paragraph number one shall not apply to:

(a) Employees in a managerial or executive capacity (including announcers, production men, and chief operators) who receive more than thirty-five dollars per week; employees in a managerial or executive capacity (including announcers, production men, and chief operators) who receive more than twenty-five dollars per week in radio broadcasting stations in which on July 1, 1933, not more than ten persons were regularly employed.

(b) Outside salesmen.

(c) Employees on emergency maintenance and emergency repair work but at least one and one-half times the normal rate shall be paid such employees for hours worked in excess of the maximum hours provided in Section 1 of this article.

(d) Broadcast Technicians, with respect to whom the maximum hours of work shall not exceed forty-eight hours per week.

(e) Persons employed on special event programs of public interest, with respect to whom the maximum hours of work shall not exceed the number of hours herein prescribed for their class of work averaged over any six weeks' period.

ARTICLE IV—WAGES

1. No employee, except those enumerated in paragraphs (a), (b), and (c) hereof shall be paid at less than the weekly rate of fifteen dollars per week in any city of over 500,000 population or in the immediate retail trade area of such city; or at less than the rate of fourteen dollars and fifty cents per week in any city of between 250,000 and 500,000 population or in the immediate retail trade area of such city; or at less than the rate of fourteen dollars per week in any city of between 2,500 and 250,000 population or in the immediate retail trade area of such city; or at less than the rate of twelve dollars per week in any town or place of less than 2,500 population. Population for the purpose of this Code, shall be determined by the 1930 Federal Census.

(a) Broadcast operators and control men shall be paid at a rate of not less than forty dollars per week when they are employed at any radio broadcasting station classified by the Federal Radio Commission as a clear channel or high-power regional station; or at a rate of not less than thirty dollars per week when they are employed at any broadcasting station classified by the Federal Radio Commission as a clear channel part-time or low-power regional station, unless such station on July 1, 1933, regularly employed not more than three broadcast operators and control men, in which case the rate of pay shall be not less than twenty dollars per week; and at a rate of not less than twenty dollars per week at any broadcasting station classified by the Federal Radio Commission as a low-power part-time regional, local unlimited, or local part-time station. Employers shall be entitled to employ as apprentices persons learning the technique of radio broadcasting control and transmission. Such apprenticeship within the Industry shall not exceed a cumulative period of twelve months. The number of persons so employed, if more than one, shall not exceed five percent of the total number of

regular employees of each employer. The rate of pay of apprentices shall be not less than twelve dollars per week.

(b) Announcers and program production employees shall be paid at a rate of not less than \$20 per week, except that where a broadcaster regularly employed not more than ten persons on July 1, 1933, such announcers and program production employees may be paid not less than \$15 per week.

(c) The minimum rate of pay herein provided shall not apply to outside salesmen working on commission only.

2. Employers agree not to reduce the compensation for employment now in excess of the minimum wages hereby agreed to (notwithstanding that the hours worked in such employment may be hereby reduced) and to increase the pay for such employment by an equitable readjustment of all pay schedules. Where a State law provides a higher minimum wage than is provided in this Code, no person employed within that State shall be paid a wage below that required by such State law.

ARTICLE V—GENERAL LABOR PROVISIONS

1. After the effective date of this Code, employers will not employ any person under sixteen years of age, except that persons under sixteen may be used as talent on programs for not more than three hours per day, and those hours to be such as will not interfere with their schooling. Provided, however, that where a State law provides a higher minimum age, such State law shall be controlling.

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.

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

5. Working conditions in any broadcasting station or network shall not be changed to frustrate the intent and purpose of this Code. Where on November 1, 1933 any broadcaster paid broadcast technicians wages in excess of the minimum herein provided for or worked such employees a lesser number of hours per week than herein permitted, such higher wages and such lesser number of hours shall be deemed to be and are hereby declared to be the minimum scale of wages and maximum number of hours with respect to such stations.

6. Nothing herein contained shall be construed to apply to employees whose rates of wages, hours, and/or weekly full-time wages are established by labor agreement, understandings or practices now in force, where such minimum rates of pay are higher and the maxi-

mium number of hours per week are lower than those set forth herein above.

7. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. The Code Authority shall consist of James W. Baldwin, Isaac Z. Buckwalter, John Elmer, James Kiernan, Alfred J. McCosker, Edward N. Nockels, N. R. Runyon, Frank M. Russell, John Shepard, III, and in addition thereto there may be three members without vote to be appointed by the Administrator, who, together with the Administrator, shall be given notice of and may sit at all meetings of the Code Authority.

2. 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

3. The Code Authority shall investigate the hours of labor and the wages of radio artists and performers (other than musicians), and upon the completion of its investigation shall report thereon to the Administrator.

4. The Code Authority shall investigate the hours of labor, wages, and working conditions of broadcast technicians and the relation thereof to general conditions within the industry, and within a period of ninety days from the effective date of this Code, shall report thereon to the Administrator.

5. As and when any question directly or indirectly affecting any class of employees engaged in the Radio Broadcasting Industry is to be considered by the Code Authority, one representative of such class, selected by the Administrator from nominations made by such class in such manner as may be prescribed by the Administrator, shall sit with and become for such purposes a member of the Code Authority with a right to vote.

6. In addition to information required to be submitted to the Code Authority there shall be furnished such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

7. The Code Authority shall recommend to the Administrator a permanent form of organization for the administration of this Code.

8. Members of the broadcasting industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall

be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

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

10. The Code Authority shall have the following powers and duties in addition to those elsewhere provided in this Code, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Code Authority:

(a) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and to submit the same to the Administrator for his approval together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such other information as to its activities as the Administrator may deem necessary to effect the purposes of the Act.

(b) To obtain from members of the industry for use of the Code Authority, for the Administrator in the administration and enforcement of the Code, and for the information of the President, reports based on such periods as may be determined by the Code Authority as soon as the necessary readjustment within the industry can be made and to give assistance to members of the industry in improving methods, or in prescribing a uniform system, of accounting and reporting. All individual reports shall be kept confidential as to the members of the industry and only general summaries thereof may be published.

(c) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations, and information relative to unadjusted violations; in no event shall the Code Authority proceed to prosecute without notice to and approval by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To coordinate the administration of this Code with such other codes, if any, as may be related to the industry, or any subdivision thereof, 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 secure an equitable and proportionate payment of the expenses of maintaining the Code Authority and its activities from members of the Industry.

(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) Where the operations of the provisions of this Code impose an unusual or undue hardship upon any broadcaster or network such broadcaster or network may make application for relief to the Administrator or to his duly authorized agent, and the Administrator or his agent may, after such public notice and hearing as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purpose of the National Industrial Recovery Act.

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

11. An appeal from any action by the Code Authority affecting the rights of any employer or employee in the Industry may be taken to the Administrator.

ARTICLE VII—TRADE PRACTICES

1. *Rates, Commissions, and Discounts.*—(a) Each broadcaster and network shall forthwith publish and file with the Code Authority a schedule of all its rates regularly and currently charged to advertisers for the use of broadcasting time, together with all discounts, rebates, refunds, and commissions which shall be allowed to the users of such time or to their recognized agents, such schedule to be known as the Rate Card. No Rate Card or rate charged thereunder shall be modified until fifteen days after the filing with the Code Authority of the Rate Card with the proposed modifications. Charges for the use of broadcasting time, and discounts, rebates, refunds, and commissions allowed to the users of such time or their recognized agents shall be in exact accordance with such Rate Card except that under conditions not specifically covered by the Rate Card, charges for the use of broadcasting time may be at special rates provided a full written statement of such special rates and conditions is filed immediately with the Code Authority, which authority shall be authorized to publish such statement in full. In no event shall modifications of the Rate Card, special rates or special conditions violate any of the terms of this Code.

(b) Any attempt to evade the provisions of this Code through the offer or payment of excessive or unearned commissions, discounts, rebates, refunds, gratuities, or free time (other than legitimate program announcements) and any business done on a cost per-inquiry, contingent, or percentage basis shall be deemed unfair trade practice within the meaning of this Code.

2. *Special Services and Facilities.*—(a) No broadcaster or network shall supply for commercial programs special technical facilities, including outside pickups or wire lines, at less than the actual cost to it of such special services or facilities unless a full written report is filed immediately with the Code Authority and in no event shall such facilities be supplied below cost for the purpose of evading the provisions of this Code.

3. *Sales of Talent, Literary and Musical Rights, Recordings, Etc.*—(a) No broadcaster or network shall sell or furnish for commercial

programs, talent, or special recordings, or literary or musical rights of any sort, not provided for in the Rate Card at less than the actual cost to the broadcaster or network of such talent or special recordings, or literary or musical rights unless a full written statement of such sale below cost is filed immediately with the Code Authority, and in no event shall such sale below cost be for the purpose of evading the provisions of this Code.

4. *General Provisions.*—(a) This Code shall apply to all contracts made on or after the date on which this Code becomes effective and after that date shall apply to all renewals or extensions made of contracts made prior thereto unless there is vested in a party other than the broadcaster or network a right to renew or extend the then-existing contract.

(b) No broadcaster or network shall defame or disparage a competitor, directly or indirectly, by words or acts which untruthfully call in question such competitor's business integrity, ability to perform contracts, credit standing, or quality of service.

(c) No broadcaster or network shall claim for its service a character, scope, or quality which cannot be substantiated, nor shall it claim as regular characteristics of its service features which it knows to be purely temporary or accidental.

(d) No broadcaster or network shall accept or knowingly permit any performer, singer, musician, or orchestra leader regularly employed by such broadcaster or network to accept any money, gift, bonus, refund, rebate, royalty service, favor, or any other thing or act of value from any music publisher, composer, author, copyright owner, or the agents or assignees of any such persons for performing or having performed any musical or other composition for any broadcaster or network when the purpose is to induce such persons to sing, play, or perform, or to have sung, played, or performed any such works.

(e) No broadcaster or network shall knowingly permit the broadcasting of any advertisement of, or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes.

(f) Where a station or network is broadcasting a sustaining program utilizing the services of any band or orchestra, it shall be deemed an unfair practice under this Code to make any commercial announcement advertising any commodity either before, during, or after the program the effect of which is to create falsely the impression that the music is furnished or paid for by any persons or firm other than the actual employer of such band or orchestra.

(g) It shall be considered an unfair trade practice under this Code for any station or network to destroy fair competition among bands or orchestras by causing booking offices, artist bureaus, or agents to demand that any hotel, night club, restaurant, or similar establishment employ any specific band or orchestra.

(h) It shall be considered an unfair trade practice under this Code for any broadcaster to broadcast without being duly authorized by the United States Government.

(i) No broadcaster or network shall use any subterfuge to frustrate the spirit and intent of this Code, and the violation of any of the provisions of this Article VII of this Code shall be deemed an unfair trade practice.

ARTICLE VIII—MODIFICATION

1. The President of the United States may, from time to time, cancel or modify any order, approval, license, rule, or regulation issued under Title I of the Act.

2. Nothing in this Code, however, shall be construed as authorizing or consenting to the imposition of any requirement which is in conflict with the Radio Act of 1927, as amended, or the rules and regulations promulgated thereunder.

ARTICLE IX—MONOPOLIES, ETC.

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 X—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 129
Registry No. 1742-09



Approved Code No. 130

CODE OF FAIR COMPETITION

FOR THE

PRECIOUS JEWELRY PRODUCING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Precious Jewelry Producing 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, subject to the following condition:

That the application of the provision of section 1, article III to the manufacturers and distributors of jewelry for schools, colleges, fraternities, and other educational institutions, insofar as such section provides for the payment of time and one third for all hours over 40 per week worked by employees to whom such provision applies, shall be stayed until ninety days after the effective date of this code, at which time such provision shall become effective and have the same force and effect as any other provision of the code.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

NOVEMBER 21, 1933.

The PRESIDENT,
The White House.

SIR: A Public Hearing on the Code of Fair Competition for the Precious Jewelry Producing Industry, submitted by the Congress of Precious Jewelry Producers, Inc., 608 Fifth Avenue, New York City, was conducted in Washington on the 25th of September, 1933, in accordance with the provisions of the National Industrial Recovery Act. This association claims to represent eighty-five percent (85%) of the Industry.

The maximum hours fixed under this Code are forty (40) with special provisions for seasonal demands of one hundred forty-four (144) hours extra spread over one year, however, no more than forty-eight (48) hours are to be worked by any employee in any one week.

The minimum wage is forty cents (40¢) per hour. Provision is made for learners to be paid eighty percent (80%) of the minimum wage for a six weeks' learning period, after which they are to be raised to the minimum wage rate. Such learners shall at no time exceed five percent (5%) of the total number of employees employed by any one employer, except that every employer of less than twenty people shall be entitled to one learner.

In 1929 there were 2,630 firms engaged in the manufacture of Precious Jewelry. In 1933 this number had been reduced to 1,840. This mortality of concerns will give a partial indication of the extent to which this Industry has been affected by the economic depression. Sales in this Industry in 1932, were only seventeen percent (17%) of the 1929 level. The production of previous jewelry requires a large amount of invested capital. The character of work performed in this Industry requires considerable skill and workmanship, resulting in high wage scales. This is purely a luxury industry and thus has suffered considerably from the depression. The Jewelry Industry is also very seasonal, as the products are largely gift merchandise. The uncertainty of the market makes it extremely difficult in dull times to anticipate future needs for the purpose of building up a standing stock.

The forty (40) hour maximum will act to absorb only a small part of the unemployed workers. A further shortening of hours, with the inevitable increased labor costs, is not recommended, however. An additional burden on the financial structure of the industry would doubtless increase the large number of bankrupt concerns. Lack of demand prevents the passing of any part of the cost on to the consumer. The inclusion of importers, which are merchandising establishments, within the jurisdiction of this Code renders a shorter work week impractical.

The minimum wage rate will apply to only a small portion of the workers as the requirements are for workers of a high degree of skill.

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 limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof; and that

(b) The Congress of Precious Jewelry Producers, Inc., the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Precious Jewelry Producing Industry; and that

(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
PRECIOUS JEWELRY PRODUCING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Precious Jewelry Producing 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

1. The term "Precious Jewelry Producing Industry" as used herein is defined to mean any manufacturer of platinum jewelry, gold jewelry, and any importer, wholesaler or cutter of diamonds, pearls and other precious or semiprecious stones or imitations thereof, and such branches or subdivisions as may from time to time be included under the provisions of this Code.

2. The term "gold jewelry" as used herein shall mean jewelry of the fineness of ten karat (10 kt) or better.

3. The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

4. The term "employer" as used herein includes any person or persons by whom any such employee is compensated or employed.

5. The term "Manufacturer" shall mean any person who, within or without his premises, engages in the manufacture, production, assembly or in the setting and/or finishing of jewelry; and/or in the cutting or polishing of stones.

6. 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. No employee shall be permitted to work in excess of forty (40) hours in any one week, except that during seasonal or peak demands, employees, other than office and clerical employees, may work not to exceed one hundred and forty-four (144) hours per year in excess of the maximum herein established, or forty-eight (48) hours in any one week, or more than eight (8) hours in any one day; provided, however, that the maximum hours worked shall not exceed forty (40) in any one week when averaged over a period of any three consecutive calendar months; and provided further that time and one third shall be paid for all hours in excess of forty (40) in any one week.

(a) The maximum hours fixed in the foregoing section shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least one and one third times the normal rate shall be paid for all hours worked in excess of the maximum herein established.

(b) The provisions for maximum hours herein established shall not apply to employees engaged in a managerial or executive capacity who now receive over thirty-five dollars (\$35.00) per week, or to outside salesmen.

2. Employers (including individuals, partners, and officers or stockholders of corporations) or individual manufacturers while working as producers shall adhere to the working hours above prescribed.

ARTICLE IV—WAGES

1. The minimum wage that shall be paid by any employer to any employee shall be not less than forty (40) cents per hour, except learners, who shall have had no previous experience or employment in this industry, shall be paid not less than eighty percent (80%) of the minimum hourly rate, provided, however, that such learners shall be limited to a six (6) weeks' learning period, after which learning period they shall receive at least the minimum wage, and provided further, that the number of learners employed by any one employer in any one month shall not exceed five percent (5%) of the total number of employees of such employer, except that an employer of less than twenty (20) employees shall be entitled to employ one learner.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

3. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

4. 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, unless since such date such adjustments have been made, 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.

GENERAL LABOR PROVISIONS

1. Employers shall not employ or have in their employ any person under the age of sixteen (16) years; nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator a list of such occupations. In any state an employer shall be deemed to have complied with this provision 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.

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. 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.

6. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work or health, fire, or general working conditions than under this Code.

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

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

9. If any employer in the Precious Jewelry Producing 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 the business which is included in the Precious Jewelry Producing Industry.

ARTICLE V—HOME WORK

On and after the effective date of this Code home work in this industry shall be prohibited.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. Organization and constitution of Code Authority.

(a) The Code Authority shall consist of six (6) members of the Precious Jewelry Producing Industry and one (1) member of the Medium and Low Priced Jewelry Producing Industry. The Administrator, in his discretion, may appoint, to represent the Administration, not more than three (3) additional members, without vote, to serve for such period of time as he may designate.

(b) Each trade or industrial association directly or indirectly participating in the selection of activities of the Code Authority shall submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments 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 thereafter if he shall find that the Code Authority is not truly representative, or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

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 on review to disapprove or modify any action taken by the Code Authority.

(a) There shall be filed with the Code Authority, at such times and in such manner as may be prescribed, with the approval of the Administrator, records showing in detail the number of employees, wage rates, employee earnings, hours of work, and such other data or information as the Code Authority may from time to time require.

(b) Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in accordance with the provisions of subparagraphs (a) and (b) of this Article shall be confidential, and the statistics, data, and information of one employer shall not be revealed to any other employer except that for the purpose of administering or enforcing the provisions of this Code, the Code Authority by their duly authorized representatives (who shall not be in the employ of any employer affected by this Code) with the approval of the Administrator, shall have access to any and all such statistics.

(c) When complaint in writing is made to the Code Authority that any of the provisions of this Code have been violated by any employer, the Code Authority shall promptly investigate the facts and may cause such investigation to be made as may be deemed necessary to determine the facts set forth therein, and if said complaint is verified by such investigation, the Code Authority shall issue an order to cease and desist from such violation, provided, that upon the refusal of any member of this industry to comply with such order of the Code Authority, the Code Authority shall call the same to the attention of the Administrator and make such recommendations with reference thereto, as it may deem necessary to effectuate the purposes of the Act.

(d) No inequitable restrictions on admission to membership in the Congress of Precious Jewelry Producers, Inc., 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 bylaws 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, sub-

ject to the Administrator's approval, shall prescribe as fair and equitable.

3. Each member of the industry shall keep detailed records of all purchases, imports, and sales made by him, either as principal or agent, the date thereof, and the names and addresses of the parties from whom acquired or to whom sold and shall submit such records, including consular invoices covering imports, to the Administrator upon request.

4. In addition to the information required to be submitted to the Code Authority, there shall be furnished to the Administrator such statistical information as he may deem necessary for the purposes recited in Section 3(a) of the Act.

ARTICLE VII—STANDARDS

1. No article of merchandise shall be stamped, branded, marked, or invoiced with any word, symbol, mark, or quality mark in violation of Federal or State stamping laws governing the stamping and marking of articles made of platinum, gold, and other precious metals, or in violation of any Commercial Standard issued by the United States Department of Commerce, nor shall any merchandise be advertised in a manner which will violate State advertising laws or of the rulings of the Federal Trade Commission.

2. No article of merchandise shall be marked or stamped with a quality mark indicating gold or the fineness of gold unless the gold content shall be ten karat (10 Kt.) fine or over.

3. The term "Solid Gold" shall be applied only to gold of twenty-four karat (24 Kt.) fineness.

4. No article, including raw material and finished or unfinished merchandise, purporting to be, or to be made of platinum, in whole or in part, shall be bought or sold unless the transaction be covered by an invoice accurately stating the quality of the metal.

5. When any quality mark, descriptive of the quality, purity, fineness, quantity, weight, and/or percentage of the platinum, gold, or other precious metal of which an article is made, is stamped or branded on said article itself, there must also be stamped or branded on said article: (1) the trade mark duly applied for or registered under the laws of the United States of the manufacturer of such article or (2) if the manufacturer has sold or contracted to sell such article to a jobber, wholesaler, or retail dealer regularly engaged in business, the trade mark duly registered or applied for under the laws of the United States of such purchaser.

6. All pearls, precious and semi-precious stones (diamonds not included), either sold loose or mounted, shall be designated on invoices by the proper descriptive trade terms, such as "Australian Sapphire", "Siam Ruby", "Natural Pearl", "Cultured Pearl", etc.

7. Synthetic, reconstructed, doublet, or imitation stones, cultured and imitation pearls, sold either loose or mounted, shall be designated as such on all invoices, tags, or other descriptive medium.

ARTICLE VIII—TRADE PRACTICES

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

1. 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.

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

3. The giving, delivering, loaning, consigning, or otherwise placing of any merchandise in the control or custody of any person, either directly or indirectly, for the purpose of conducting a sale (whether or not advertised) or for the purpose of placing the same in any retailer's stock.

(a) The foregoing paragraph shall not prohibit: (1) the consignment of any single item, exceeding in value two thousand dollars (\$2,000) to any retailer not conducting a price reduction sale; or (2) the delivery, upon memorandum, of merchandise for purpose of selection for a period not exceeding fifteen (15) days from date of the receipt of the merchandise, or upon specific call.

4. The sending or delivering of merchandise as samples, except upon the condition that same shall be returned within fifteen (15) days following receipt, except when a selection is sent for the purpose of preparing a catalogue.

5. Accepting for credit, exchange, or for any other reason, articles of jewelry, finished or unfinished, returned by a purchaser, unless such article is defective, or is not in accordance with specifications or approved sample; this provision shall not apply to settlements made with any insolvent or embarrassed debtor.

6. The copying of any original design produced by another manufacturer, or estimating upon or making up an article in imitation of another's design, without the permission or consent of the owner of such design.

(a) The memorandum on which such merchandise is delivered shall bear the following: "The above itemized articles forwarded herewith shall not be copied or duplicated, or altered or caused to be copied, duplicated, or altered by anyone except the owner of said merchandise."

7. Directly or indirectly to give or permit to be given, or offer to give, money, lavish entertainment, 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.

8. 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.

9. The selling by any manufacturer of findings to jobbers or others, who do not maintain facilities for assembling these findings, or who do not send such findings to assemblers who come within the provisions of this Code, so far as wages and hours are concerned.

10. The renting or loaning of bench space by any manufacturer and/or other manufacturing facilities for the purpose of manufacturing jewelry, thus enabling the user to compete unfairly with manufacturers who are obliged to maintain such facilities.

ARTICLE IX—TERMS

1. No merchandise shall be sold on terms longer than six (6) months net average.

(a) Mountings and articles of jewelry which do not contain diamonds, precious stones, or pearls, shall not be sold on terms longer than four (4) months net or season settlement January 1st or July 1st net.

(b) Loose stones of a price of \$3.00 per karat or less, or the equivalent thereof, shall not be sold on terms more favorable than three percent (3%) cash discount on or before the 15th of the following month—four months net.

2. No datings shall be allowed, except that a fifteen (15) day tolerance is permitted for adjustment of payment to customary monthly or seasonal disbursement dates.

3. Interest at the rate of six percent (6%) per annum shall be charged from due date, unless otherwise provided by State laws.

4. No marcasites, chatons, or imitations of precious or semi-precious stones of any kind or description, suitable for the manufacture of jewelry or ornamentation of other material of any kind, shall be sold on any terms more favorable to the purchaser than the following:

(a) Three percent (3%) discount for payment within fifteen (15) days from the end of the month in which merchandise is delivered, subject to a tolerance of ten (10) days.

(b) No datings shall be allowed, except that merchandise sold after the 25th of the month may be dated as of the first of the month immediately following.

(c) Interest at the rate of six percent (6%) per annum, unless otherwise provided by State laws, shall be charged on all accounts unpaid within sixty (60) days from the end of the month in which delivery of merchandise was made.

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

ARTICLE XI—MONOPOLIES, ETC.

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 XII—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 XIII—EFFECTIVE DATE

This Code shall become effective on the 3rd day after its approval by the President.

ARTICLE XIV—SUPPLEMENTARY PROVISIONS

The following Divisions (Schedules A and B) are supplementary to, and constitute part of, the Code of Fair Competition for the Precious Jewelry Producing Industry. Such schedules apply to only those particular Divisions as are indicated by the specific headings.

Any provision of the supplementary Codes that may be inconsistent with the provisions of the Basic Code shall prevail.

Approved Code No. 130.
Registry No. 1215-06.

SCHEDULE A

DIVISION FOR THE MANUFACTURERS AND DISTRIBUTORS OF JEWELRY FOR SCHOOLS, COLLEGES, FRATERNITIES, AND OTHER EDUCATIONAL INSTITUTIONS

1. *Contracts.*—(a) In order to meet the increased cost of gold, following the Executive Order of the President of August 28, 1933, it is recognized that prices in contracts for purchase of gold products which were made prior to said Executive Order and are in full force and effect between members of this Division and their customers, should be increased to such an extent as is necessary to allow for the actual increased cost of gold in such products.

(b) No member of this Division shall induce or attempt to induce the breach of a bona fide existing contract between a competitor and the customer of such competitor during the term covered by such contract, or interfere with or obstruct the performance of any duty or service provided by the terms thereof.

(c) Where a fraternity controls the manufacture and distribution of its insignia under contract, it is an unfair trade practice for unauthorized persons to manufacture, solicit, or accept orders for such insignia.

2. *Discounts.*—(a) Discounts on all orders sold direct from any manufacturer of this Division to retail stores, where no salesman works on such order, shall be uniform as to purchasers of the same class, grade, quality, and/or quantity and at such amount off of the list price filed with the Code Authority as may, with the approval of the Administrator, be determined by such Code Authority.

(b) Discounts on all orders placed through local dealers by salesmen shall be uniform as to purchasers of the same class, grade, quality, and/or quantity and at such amount off of the list price filed with the Code Authority, as may, with the approval of the Administrator, be determined by such Code Authority.

(c) Cash and trade discounts, other than provided for in sections (a) and (b) of this Article, are hereby prohibited.

3. *Deposits.*—(a) Deposits on the purchase price of class emblems and fraternity jewelry shall be required with the order, as follows:

(1) On each class emblem order, not less than one dollar (\$1.00) deposit where the retail selling price exceeds three dollars (\$3.00) but is less than ten dollars (\$10.00).

(2) On each class emblem order not less than three dollars (\$3.00) deposit where the retail selling price exceeds ten dollars (\$10.00).

Provided, however, that no deposit shall be forfeited except for arbitrary cancellation or rejection of the order, or any part thereof.

(3) Not less than ten percent (10%), and in no case less than one dollar (\$1.00) deposit on all regular orders for fraternity jewelry, and on special orders for fraternity jewelry at least fifty percent (50%) of the purchase price thereof.

4. *Special charges and commissions.*—(a) On all orders for high-school rings and pins the actual cost of the necessary dies shall be charged in accordance with a schedule submitted by the Code Authority and approved by the Administrator.

(b) Commissions in any form allowed or paid to any salesman, representing a member of this Division, shall be filed with the Code Authority in the same manner as provided for the filing of net current price lists and discount sheets, and no salesman shall give to a purchaser any deduction from his commission as shown by the schedule thereof filed with the Code Authority.

5. *Sales provisions.*—(a) No member of this Division shall sell, exchange, or offer for sale, any product of this Division at a price below his own individual cost, as determined by an adequate cost-finding system, capable of uniform application to the Industry, to be developed and set up by the Code Authority, subsequent to the effective date of this Code, and when approved by the Administrator, shall be used by all members of this Division as the basis for determining their individual cost.

6. *Price lists.*—(a) Each member of this Division shall, within five (5) days after the effective date of this Code, file with the Code Authority, a schedule

of his net current price lists and discount sheets, on forms prescribed by the Code Authority, and approved by the Administrator.

(b) Revised schedules of price lists and discount sheets may be filed from time to time thereafter with the Code Authority by any member of this Division, to become effective upon the date specified by such member, which date shall be not less than ten (10) days after the filing of such revised schedules with the Code Authority.

(c) No member of this Division shall sell, exchange, or offer for sale any product of this Division at a price less than set forth in the schedule of such member on file with the Code Authority.

(d) Members of this Division shall keep accurate records of their individual costs, which records shall, upon request, with the approval of the Administrator, be available to the Code Authority.

(e) No member of this Division shall submit a price list in which the price of any particular article is less than the individual cost of such member, as determined by the uniform cost accounting system provided for in Section 5 (a) of this schedule, and such submitted price list, representing the price of any particular article below the individual cost of the member submitting the same, as shown by his certified cost sheets, shall be held in abeyance by the Code Authority, pending submission of a revised price list based on the individual cost of each article to such member.

7. *Trade Practices.*—In addition to the Trade Practices set forth in the Basic Code, the following constitute unfair methods of competition for members of this Division and are prohibited:

(a) The giving of gratuities of every description, such as keys, plaques, cups, and any article of merchandise or anything of value, as well as all gratis rings or pins, bribes, special discounts, or rebates.

(b) To guarantee a cash payment or installment payments as an inducement to secure a contract.

(c) Advertising allowances, which have the effect of a concession in price, provided that this provision shall not be so interpreted as to prohibit legitimate advertising, or the purchase of a reasonable space in a school or college publication, based on approximately three percent (3%) of the business secured by the member of the Division, as advertising, from such school or college.

(d) Where no standard or special design has been adopted by any school or institution, and suggested designs are requested by such school or institution, that will require a special shank die, no member of this Division shall submit a special sample of the design without first receiving a bona fide and definite signed order.

(e) Making repairs or refinishing any products of the Industry without a fair charge unless defective in material or manufacture.

8. *Consignment.*—(a) Nothing contained in the basic Code relative to the prohibition of delivery of goods on consignment or memorandum shall apply to members of this Division.

SCHEDULE B

DIVISION FOR MANUFACTURERS OF FRATERNAL AND EMBLEMATIC JEWELRY

Trade Practices.—In addition to the Trade Practices set forth in this Code, the following constitute unfair methods of competition for the members of this Division and are prohibited:

- (a) To prepay any shipping charges on merchandise.
- (b) To accept a note or notes in payment which do not bear interest at the prevailing contract rate as provided by the law of the State in which said note may be executed.

(378)



Approved Code No. 131

CODE OF FAIR COMPETITION

FOR THE

PIPE NIPPLE MANUFACTURING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

Executive Order

**CODE OF FAIR COMPETITION FOR THE PIPE NIPPLE 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 my approval of a Code of Fair Competition for the Pipe Nipple 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 it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(379)

NOVEMBER 16, 1933.

THE PRESIDENT,
The White House.

SIR: 1. This is a report on the Code of Fair Competition for the Pipe Nipple Manufacturing Industry in the United States as revised after the hearing conducted in Washington on September 26, 1933, and reconvened on November 14, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO HOURS, WAGES, AND GENERAL
LABOR PROVISIONS

ARTICLE III—HOURS

2. This Article provides that no employee shall be permitted to work in excess of thirty-five (35) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period, beginning at midnight, except that such hourly and daily limitations do not apply to employees engaged in a managerial or executive capacity who earn not less than thirty-five dollars (\$35.00) per week, or to travelling salesmen or to employees engaged in emergency maintenance or emergency repair work. Further, an exception is made providing that no person employed in clerical or office work shall be permitted to work in excess of forty (40) hours in any seven (7) day period or nine (9) hours in any twenty-four (24) hour period.

ARTICLE IV—WAGES

3. This Article establishes a minimum rate of pay at the rate of forty (\$0.40) cents per hour, except that persons employed in clerical or office work shall be paid not less than fourteen dollars (\$14.00) per week. This Article also establishes a minimum rate of pay irrespective of whether the employee is actually compensated on a time-rate, piecework, or other basis. Further, female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

This Article also provides for an equitable adjustment of all wages in excess of the minimum. Further, this Article also provides that the Code Authority shall present to the Administrator for approval within thirty (30) days after the effective date of this Code and after notice and hearing, recommendations as to upward adjustments in wage rates for specified occupations by localities in order to effectuate the purposes of the Act.

Overtime pay for all work in excess of the normal number of hours per day or the normal number of hours per week, but not to exceed six (6) hours in any seven (7) day period, except in cases of emergency maintenance or emergency repair work involving breakdowns or the protection of life or property, at the rate of one and one half (1½) times the normal rate of pay, is provided for all employees with the exception of those employees who earn more than thirty-five (\$35.00) dollars per week.

ARTICLE V—GENERAL LABOR PROVISIONS

4. This Article provides that no person under sixteen (16) years of age shall be employed in the industry and no person under the age of eighteen (18) years shall be employed in operations or occupations which are hazardous in nature or dangerous to health, and that the Code Authority must submit to the Administrator within sixty (60) days after the effective date of this Code a list of such operations or occupations.

This Article embodies subparagraph (a) of Section 7 of Title I of the National Industrial Recovery Act.

This Article further provides that employers shall not 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.

This Article further provides that every employer shall provide for the safety and health of his employees at the place and during the hours of their employment.

This Article further provides that all employers shall post complete copies of this Code in conspicuous places accessible to employees.

ECONOMIC EFFECT OF THE CODE

5. The members of this industry manufacture pipe nipples for heating, ventilating, plumbing, and other equipment made from wrought steel (including copper-bearing steel), genuine wrought iron, brass, and copper pipe. These products are largely consumed in the construction, alteration, and repair of buildings and similar structures.

In view of the fact that data regarding man-hour production and wages existing in this industry in the past are rather meager, it is difficult to forecast the economic effect of this code. However, the minimum rate of pay of forty (\$0.40) cents per hour established by this code should materially increase the purchasing power of the employees of this industry.

FINDINGS

The Administrator finds that:

(a) The code as recommended complies in all respects with the mandatory provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof, and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Pipe Nipple Manufacturing Industry; and that

(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.

It is recommended, therefore, that this code be adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
PIPE NIPPLE MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, this Code is submitted as a Code of Fair Competition for the Pipe Nipple Manufacturing Industry, and upon approval by the President, its provisions shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Pipe Nipple Manufacturing Industry" or "Industry" as used herein means the manufacturing (for sale) of pipe nipples.

SEC. 2. The term "pipe nipple" or "product" as used herein means and includes a mechanical fitting used in connection with heating, ventilating, plumbing, and other equipment made from wrought steel (including copper bearing steel), genuine wrought iron, brass and copper pipe of various diameters up to and including twelve (12) inches and of various lengths up to and including twenty-four (24) inches in length and threaded on both ends or otherwise threaded or cut to the specifications of the purchaser.

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

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

SEC. 5. The term "trade" as used herein means all channels of distribution for the products of this industry.

SEC. 6. The term "Association" as used herein means "The National Association of Pipe Nipple Manufacturers, Inc."

SEC. 7. The term "Board of Directors" as used herein means the Board of Directors of the Association.

SEC. 8. The terms "Act" and "Administrator" as used herein mean, respectively, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

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

ARTICLE III—HOURS

SECTION 1. Maximum hours.—No employee shall be permitted to work in excess of thirty-five (35) hours in any one week (seven (7)

days period) or eight (8) hours in any twenty-four (24) hour period, beginning at midnight, except as herein otherwise provided. A normal work day (twenty-four (24) hour period) shall not exceed eight (8) hours, and a normal work week (seven (7) day period) shall not exceed thirty-five (35) hours.

SEC. 2. *Hours for Clerical and Office Employees.*—No person employed in clerical or office work shall be permitted to work in excess of forty (40) hours in any one week (seven (7) day period) or nine (9) hours in any twenty-four (24) hour period. A normal work day (twenty-four (24) hour period) shall not exceed nine (9) hours, and a normal work week (seven (7) day period) shall not exceed forty (40) hours.

SEC. 3. *Exceptions as to Hours.*—The provisions of this Article shall not apply to travelling salesmen, or to persons employed in a managerial or executive capacity who earn not less than thirty-five dollars (\$35.00) per week, or to employees engaged in emergency maintenance or emergency repair work, provided, however, that the provisions respecting a normal work day and a normal work week, as provided in Section 1 of this Article, shall apply to all employees in emergency maintenance or emergency repair work.

SEC. 4. *Employment by Several Employers.*—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

SECTION 1. *Minimum Wage.*—No employee shall be paid in any pay period less than at the rate of forty cents (\$0.40) per hour, except as herein otherwise provided.

SEC. 2. *Minimum Wage for Clerical and Office Employees.*—No person employed in clerical or office work shall be paid in any pay period less than at the rate of fourteen dollars (\$14.00) per week.

SEC. 3. *Piecework Compensation—Minimum Wages.*—This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is actually compensated on a time-rate, piecework, or other basis.

SEC. 4. *Minimum Wage Rates for Specified Occupations.*—Within thirty (30) days after the approval of this Code, the Code Authority shall present for approval to the Administrator, after notice and hearing, recommendations as to upward adjustments in wages for specified occupations by localities, in order to effectuate the purposes of the Act.

SEC. 5. *Wages Above Minimum.*—Employers shall not reduce the rates of wages for employees whose rates are now in excess of the minimum rate of wages herein provided (notwithstanding that the number of hours worked in such employment may be hereby decreased), and where in any case an employer has not increased the rates of wages for such employees prior to the effective date of this Code by an equitable readjustment of all such wage rates, such employer shall readjust all such wage rates. This provision shall be interpreted in the same manner that paragraph 7 of the President's Reemployment Agreement has been interpreted by the Administrator in Interpretations Nos. 1 and 20.

SEC. 6. *Female Employees.*—Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 7. *Handicapped Persons.*—A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SEC. 8. *Evasion Through Reemployment.*—No employee now employed at a rate in excess of the minimum shall be discharged and reemployed at a lower rate for the purpose of evading the provisions of this Code.

SEC. 9. *Overtime.*—All employees who work more than the normal number of hours per day in any twenty-four (24) hours, or more than the normal number of hours per week in any seven (7) days, provided in this Code, shall be paid not less than one and one half ($1\frac{1}{2}$) times their normal rate of pay for said excess. Such overtime shall not exceed six (6) hours in any one week, except in cases of emergency maintenance or emergency repair work involving breakdowns or protection of life or property, provided that all such cases of emergency work shall be reported to the Code Authority.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor Provision.*—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 issued by the Agency in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SEC. 2. *Provisions from the Act.*—In compliance with Section 7 (a) of the Act, it is provided:

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

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

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

SEC. 3. *Reclassification of Employees.*—No employer shall reclassify employees or duties of occupations performed for the purpose of defeating the provisions of the Act or of this Code.

SEC. 4. *Standards for Safety and Health.*—Every employer shall provide 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.

SEC. 5. *State Laws.*—No provisions in this Code shall supersede any State or Federal law which imposes more stringent requirements on employers as to age of employees, wages, hours of work, or as to safety, health, sanitary, or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SEC. 6. *Posting.*—All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

SECTION 1. *Organization and Constitution.*—A Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

SEC. 2. The Code Authority shall consist of seven (7) members of the industry to be selected as follows:

Members of the industry shall elect the industry members of the Code Authority by a majority vote of the members of the industry, provided, however, that five (5) of such members of the Code Authority shall be members of the Association and two (2) of such members of the Code Authority shall be elected from nonmembers of the Association, if any, eligible to such representation as provided in Section 8 of this Article.

SEC. 3. The Association is hereby designated as the agency to conduct an election of the members of the Code Authority within twenty (20) days after the effective date of this Code, and any other elections of members of the Code Authority which may thereafter be held. Members of the Code Authority shall be elected to serve for a term of one (1) year or until their successors are elected at the next annual meeting of the industry. In the event of any vacancy in the membership of the Code Authority, a special meeting of the members of the industry for an election to fill the incomplete terms of such members shall be called. Notice of time and place of each election shall be sent by registered mail to all members of the industry at least ten days in advance of such election, and voting at such election may be by person, by proxy, or by letter ballot. Each member of the industry shall have one (1) vote.

SEC. 4. In addition to membership as above provided, there may be three (3) members, without vote, to be appointed by the Administrator, to serve for terms of from six months to one year, so arranged that the terms do not expire at the same time.

SEC. 5. The representatives who may be appointed by the Administrator, together with the Administrator, shall be given notice of and may sit at all meetings of the Code Authority.

SEC. 6. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall

(1) impose no inequitable restriction on membership, and (2) submit to the Administrator true copies of its articles of associations, 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.

SEC. 7. 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 prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

SEC. 8. Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

SEC. 9. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or nonfeasance.

SEC. 10.—*Powers and duties.*—The Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove or modify any action taken by the Code Authority.

(a) To insure the execution of the provisions of this Code and provide for the compliance of the industry with the provisions of the Act.

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

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

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

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

(f) To secure from members of the industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

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

(h) To recommend to the Administrator further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

ARTICLE VII—PUBLICITY OF PRICES, TERMS, AND CONDITIONS OF SALE

SECTION 1. Within ten (10) days after the effective date of this Code each member of the industry shall publish his list prices and maximum discounts applying thereto, terms, and conditions of sale on all products of his trade, each class of trade being furnished with list prices and maximum discounts applying thereto, terms, and conditions of sale affecting each such class of trade to which such list prices and maximum discounts applying thereto, terms, and conditions of sale apply. Coincident with such publication, each member of the industry shall file with the Code Authority and the Code Authority shall immediately distribute to all members of the industry, a complete schedule of such list prices and maximum discounts applying thereto, terms, and conditions of sale.

SEC. 2. In the event of any change by any member of the industry in any list price and maximum discounts applying thereto, terms, or conditions of sale, he shall file full and complete copies of every such change with the Code Authority within such periods as may have been designated by the Code Authority but not exceeding five days in advance of the effective date of any such change. Copies thereof shall be immediately distributed by the Code Authority to the members of the industry. On the effective date of any such change, the industry member shall publish the same to the trade concerned and coincidentally file such information with the Code Authority for immediate distribution by the Code Authority to the members of the industry.

SEC. 3. No member of the industry shall sell, pay a rebate, or allow a deduction at any time to any person except in accordance with his list prices and maximum discounts applying thereto, terms, and conditions of sale then in effect and published in the manner described herein. Each member of the industry shall have the right, individually, to publish new list prices and maximum discounts

applying thereto, terms, and conditions of sale, from time to time as herein provided.

SEC. 4. No member of the Industry shall protect a purchaser on prior prices or discount lists after new prices or discount lists shall have been effective, unless such purchaser shall have first entered into a binding contract for a determinable quantity of the products of the industry, or for a specified and identified project. Copies of all original contracts for specific and identified projects and of all orders unfilled for more than thirty (30) days after entering into of any contract for immediate delivery, shall be at once filed with the Code Authority. Such contracts and orders shall be kept confidential by the Code Authority.

ARTICLE VIII—TRADE PRACTICE RULES

General Definition.—For all purposes of the Code the acts described in this Article shall constitute unfair practices. Any member of the industry who shall directly or indirectly, through any officer, employee, agent, or representative, knowingly use, employ, or permit to be employed any of such unfair practices shall be guilty of a violation of the Code.

Rule 1. Inaccurate Advertising.—No member of the industry shall use or publish advertising (whether printed, radio, display, or of any other nature) or other representation which is inaccurate in any material particular or in any way misrepresent any commodity (including its use, trade mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

Rule 2. "Bait" Advertising.—No member of the industry shall use advertising or selling methods or credit terms which have the capacity or tendency to deceive or mislead the customer or prospective customer.

Rule 3. False Billing.—No member of the industry shall withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

Rule 4. Inaccurate Labelling.—No member of the industry shall brand or mark or pack any commodity in any manner which tends to deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, material content, or preparation of such commodity.

Rule 5. Inaccurate References to Competitors, etc.—No member of the industry shall use advertising or other representation which refers inaccurately in any material particular to any competitors or their commodities, prices, values, credit terms, policies, or services.

Rule 6. Selling Below Cost.—No member of the industry shall sell below his cost except to meet the quoted price of lower cost producers.

Pursuant to the provisions of Article VI, the Code Authority shall formulate or cause to be formulated standard methods or systems of cost accounting for use in this industry, which methods or systems shall be adaptable to the cost accounting procedure of and to the business of this industry. Such methods or systems shall specify the

factors that shall determine the cost for each member of the industry pursuant to the provisions of this section. Upon approval of such methods or systems by the Administrator, the Code Authority shall furnish to each member of the industry complete details of such methods or systems. Thereafter, in determining its costs, each member of the industry shall use a cost accounting system which shall be at least as complete and detailed as the cost accounting method or system recommended by the Code Authority and approved by the Administrator.

Rule 7. *Threats of Lawsuits.*—No member of the industry shall publish or circularize unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

Rule 8. *Secret or Discriminatory Rebates.*—No member of the industry shall offer or make any secret or discriminatory payment or allowance of a rebate, refund, commission, credit, unearned discount, or excess allowance, whether in the form of money or otherwise, nor shall a member extend to any customer any secret or discriminatory service or privilege not extended to all customers of the same class.

Rule 9. *Selling on Consignment.*—No member of the industry shall ship goods on consignment, except under circumstances to be defined by the Code Authority subject to review and disapproval by the Administrator.

Rule 10. *Offering Rewards or Gratuities to Employees.*—No member of the industry shall give, permit to be given, or 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 or the principal of such agent; provided, however, that nothing herein shall prohibit the free and general distribution of articles used solely for advertising.

Rule 11. *Interference with Another's Contracts.*—No member of the industry shall induce or attempt to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services.

Rule 12. *Repudiating One's Own Contracts.*—No member of the industry shall repudiate a contract entered into in good faith when the purpose of such repudiation is to create for such member an unfair price advantage.

Rule 13. *Coercion.*—No member of the industry shall require that the purchase or lease of any commodity be a prerequisite to the purchase or lease of any other commodity.

Rule 14. No member of the industry shall sell or offer to sell any product of the industry by any false means or device which has the tendency and capacity to mislead or deceive customers or prospective customers as to quantity, quality, substance, or size of such product and the tendency to injuriously affect the business of competitors.

Rule 15. No member of the industry shall sell pipe nipples made from imperfect, rejected, or reclaimed pipe unless all containers in which such pipe nipples are sold are clearly marked indicating the

grade of such pipe, and if any pipe nipples of such pipe are sold otherwise than in containers, each pipe nipple of such grade of pipe shall be clearly marked indicating the grade of such pipe.

All quotations, invoices, and other communications in respect to pipe nipples of such grade of pipe shall clearly state the grade of such pipe.

This provision shall not apply to pipe nipples of such grades of pipe made prior to the effective date of this Code, but each member of the industry shall furnish the Code Authority within thirty (30) days after the effective date of this Code a complete report of all such pipe nipples on hand as of the date of such report.

Rule 16. No member of the Industry shall represent any product of the industry as complying with the commercial standards for pipe nipples promulgated from time to time by the Bureau of Standards of the United States Department of Commerce, unless such pipe nipples are manufactured in accordance with such standards.

ARTICLE IX—REGISTRATION OF MEMBERS OF THE INDUSTRY

Each member of the industry shall within thirty (30) days of the effective date of this Code register with the Code Authority. All members of the industry who may engage in the industry thereafter shall likewise register with the Code Authority. Registration of a member of the industry shall include the full name and mailing address of the member. The time limit for the registration by any member of the industry may be extended whenever, in the opinion of the administrator, the time limit as provided herein might cause an injustice to any member of the industry.

ARTICLE X—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 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. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE XI—MONOPOLIES

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 XII—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual cost should be delayed. But when made, such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

ARTICLE XIII—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 131.
Registry No. 1128-02.



Approved Code No. 132

CODE OF FAIR COMPETITION
FOR THE
MALLEABLE IRON INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Malleable Iron 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 approve the report and recommendations and adopt the findings of the Administrator, and do order that the said Code of Fair Competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

NOVEMBER 14, 1933.

The PRESIDENT,
The White House.

SIR: This is a report upon the Code of Fair Competition proposed by the Malleable Iron Industry, and on the hearing conducted thereon in Washington, D.C., on October 2, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

The Code provides for a 40-hour week, applicable to all employees, including clerical and office employees, with certain exceptions carefully limited both as to hours and numbers by the Code.

Child labor is prohibited and employment of persons less than 18 years of age in hazardous occupations.

Minimum rates of pay are 35¢ and 40¢ per hour in the North and 30¢ and 32½¢ per hour in the South.

Equitable adjustment of all pay schedules above the minimum is provided, and the same minimum rates for piece work as for work upon an hourly basis.

Processes involved in production in this industry cannot always be completed within eight hours and may require an additional half or full hour in a working day. For a large part of this time the workers are not actively engaged because they must wait for furnace operations to develop. Therefore, while the industry recognizes the principle of the eight-hour day and has so stated in the Code proposed, it appears that an absolute requirement of eight hours would work an undue hardship.

ECONOMIC EFFECT OF THE CODE

The Malleable Iron Industry includes all manufactures of malleable iron castings, whether for consumption by the producer, for transfer, or for sale. The industry is cyclical and unstable, its operations having dropped from 87% of capacity in early 1929 to 8% of capacity in August 1932. The present rate of capacity is 35%.

The Code is presented by the Malleable Founders' Society, which represents about 95% of the industry, with a total invested capital of about \$105,000,000 and an estimated annual payroll in a normal year of approximately \$55,000,000.

Pertinent figures with respect to workers, hours, and wages, as presented by the industry, are as follows:

	Number of persons employed by companies assenting to the Code	Minimum wages paid common labor per hour (cents)	Average wages paid per hour of all companies covering all plant employees (cents)
Mar. 1926 (peak month).....	33,453	32	56.4
July 1926.....	26,610	32	56.1
Nov. 1926 (low month).....	22,809	32	57.0
Mar. 1929 (peak month).....	42,957	30	55.1
July 1929.....	36,114	30	54.9
Dec. 1929 (low month).....	22,809	30	53.9
Jan. 1933.....	14,110	18	38.2
Mar. 1933.....	13,800	18	38.2
July 1933.....	22,200	18	37.0
Aug. 1933.....	22,320	23	37.5
Sept. 1933.....	24,105	23	40.5

	Average work week per wage worker (hours)	Approximate aggregate weekly pay roll of all companies assenting to the Code	Average rate of operations in the industry (percent of capacity)
Mar. 1926 (peak month).....	50	\$943,375	68.9
July 1926.....	47	701,626	52.9
Nov. 1926 (low month).....	45	585,054	45.9
Mar. 1929 (peak month).....	51	1,207,136	87.7
July 1929.....	51	1,011,154	73.5
Dec. 1929 (low month).....	49	602,408	47.3
Jan. 1933.....	29	156,311	14.9
Mar. 1933.....	28	147,605	11.4
July 1933.....	36	295,704	36.3
Aug. 1933.....	37	309,690	36.6
Sept. 1933.....	40	390,501	* 34.0

* Estimated.

These figures show an increase in employment since March 1933, of 10,305 workers, or approximately 80%; an increase in the average week of 12 hours, which is approximately 43%; and an increase in the aggregate weekly pay roll from \$147,605 to \$390,501, or about 160%. While this latter increase is largely due to the increased number of workmen and the increased work week, it is estimated that under operation under the Code as submitted, there will be an additional increase in employment of approximately 3,400 and a further increase in the aggregate weekly pay roll of about \$70,000. The rate of operation in the industry has not changed materially since June 1933, and therefore, it may reasonably be assumed that operation under the Code, based on the above comparison, will show an increase in employment in this industry as an effect of the National Recovery Act of approximately 5,300 persons, or 24%, and an increase in the weekly pay roll of \$164,797, or 55%, and in the annual pay roll of approximately \$8,000,000. A return to operation at 56% of capacity, it is estimated will put back to work all who were employed in 1929.

The Board of Directors of the Society is constituted the Code Authority, and it is provided that three members, without vote, may in addition be appointed by the Administrator, to serve with the Board.

The Deputy 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 applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Malleable Iron Industry; and that

(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.

I believe that the Code as proposed is fair to Industry, to Labor, and to the Consumer, and in accordance with the intent and purpose of the National Industrial Recovery Act.

Accordingly, I hereby recommend the approval of this proposed Code of Fair Competition for the Malleable Iron Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

MALLEABLE IRON INDUSTRY

ARTICLE I—PURPOSE

SECTION 1. The Code is adopted pursuant to Title I of the National Industrial Recovery Act.

SEC. 2. The purpose of the Code is to effectuate the policy of Title I of the National Industrial Recovery Act insofar as it is applicable to the Industry.

ARTICLE II—DEFINITIONS

Wherever used in this Code or in any schedule appertaining hereto the terms hereinafter in this Article defined shall, unless the context shall otherwise clearly indicate, have the respective meanings hereinafter in this Article set forth.

SECTION 1. The term "the United States" means and includes all of the territory of the United States of America on the North American continent.

SEC. 2. The term "the President" means the President of the United States of America.

SEC. 3. The term "the Administrator" means the Administrator appointed by the President to administer Title I of the National Industrial Recovery Act and at the time in office.

SEC. 4. The term "the Industry" means and includes the business of producing, in the United States, malleable-iron castings regardless of whether such castings are sold or used for the purposes of the producer, or used for the purposes of an affiliate, subsidiary, or parent company of the producer.

SEC. 5. The term "member of the Industry" means and includes, but without limitation, any person, firm, association, corporation, or other entity operating a plant or plants in the United States for the production of malleable-iron castings.

SEC. 6. The term "the Code" means and includes this Code and all schedules annexed hereto as originally approved by the President and amendments hereof made as hereinafter in Article IX provided.

SEC. 7. The term "Society" means the Malleable Founders' Society.

SEC. 8. The term "Board of Directors" means the Board of Directors of the Society.

SEC. 9. The term "member of the Society" means any member of the Industry who has assented to the Code by signing and delivering to the Secretary a letter substantially in the form set forth in Schedule A. Nothing in such Schedule A shall be construed to restrict the right of any member of the Industry to express his adherence to or participation in the Code in any other appropriate manner.

SEC. 10. The term "the effective date of the Code" means the tenth day after the date on which the Code shall have been approved by the President pursuant to the National Industrial Recovery Act

ARTICLE III—HOURS OF LABOR, RATES OF PAY, AND OTHER
CONDITIONS OF EMPLOYMENT

SECTION 1. Pursuant to subsection (a) of Section 7 of the National Industrial Recovery Act and so long as the Code shall be in effect:

(a) 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 purposes of collective bargaining or other mutual aid or protection;

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

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

SEC. 2 (a) No member of the Industry shall cause or permit any employee, including clerical and office employees, to work more than forty (40) hours per week, subject to the following exceptions:

(1) In peak periods of production factory employees may be employed not to exceed forty-eight (48) hours per week for a period of not more than four (4) weeks in any six (6) months and not more than six (6) days in any one week.

(2) Melters and firemen, the number of whom employed by any member of the Industry shall not exceed 3% of the total number of its employees, may be employed not more than 10% longer hours than other factory employees.

(3) Repair-work employees, to the extent required by an emergency, may be employed not more than 10% longer hours than other factory employees.

(4) Watchmen may be employed not more than fifty-six (56) hours per week.

(5) All executives employed in directing or supervisory capacities and in technical work, and members of their respective staffs, individually receiving pay at the rate of \$35.00 or more per week.

(6) Outside Salesmen.

(b) Whenever sufficient employees qualified for any type of work are not available to any member of the Industry in a particular locality, such hours of labor may, with the approval of the Board of Directors and the Administrator, be increased to the extent required by such member of the Industry to perform such work.

(c) After the date of the employment by any member of the Industry of any employee, such member shall not knowingly permit such employee who shall also have performed work for one or more other employers, to work for such member such number of hours as would result in a violation of the Code had all such work been performed for such member.

SEC. 3. No member of the Industry shall employ in the Industry any person under sixteen (16) years of age, and no one under eighteen (18) years of age shall be employed in hazardous work.

SEC. 4. It is recognized that geographical wage differentials have existed in the Industry. For the purpose of providing for geographical

wage differentials, the United States is divided into two districts. District No. 1 comprises all that part of the United States except the states of Tennessee, Mississippi, North Carolina, South Carolina, Georgia, Alabama, and Florida. District No. 2 comprises all of the above-named states.

SEC. 5. (a) The minimum rate of pay per hour which shall be paid by members of the Industry for male plant labor (not including watchmen, learners, minors between 16 and 18 years of age, superannuated and maimed employees) in its employ in the Industry in District No. 1 shall not be less than 40¢ per hour, and in District No. 2 shall not be less than 32½¢ per hour.

(b) The minimum rate of pay per hour which shall be paid by members of the Industry for watchmen, learners, minors between 16 and 18 years of age, superannuated and maimed employees shall not be less than 80% of the minimum rate of pay as hereinbefore specified in paragraph (a) of this Section.

(c) The minimum rate of pay per hour which shall be paid by members of the Industry for female labor in District No. 1 shall not be less than 35¢ per hour, and in District No. 2 not less than 30¢ per hour. Where women perform in all respects the same kind and amount of work as men, they shall receive the same wages.

(d) The number of learners, superannuated, and maimed employees employed by any member of the Industry shall not exceed 5% of the total number of its employees. Learners shall not be employed as such for a period in excess of 90 days irrespective of whether they are employed by one or more employers.

(e) Equitable adjustment in all pay schedules of employees above the minimums herein prescribed shall be made on or before the effective date of the Code by employers who have not theretofore made such adjustments and the first monthly reports of wages required to be filed under the Code shall contain all wage increases made since June 16, 1933.

(f) In the case of employees performing work for which they are paid for piecework performed, the minimum rate of pay which each member of the Industry shall pay for such work shall produce the minimum rates of pay per hour provided in paragraphs (a), (b), and (c) of this Section.

(g) On and after the effective date of the Code, the minimum wage which shall be paid by any employer to clerical and office employees shall be at the rate of fifteen dollars (\$15.00) per week; provided, however, that office boys or girls may be paid not less than eighty (80) percent of such minimum wage. The number of office boys and girls employed by any member of the Industry shall not exceed five (5) percent of the total number of its employees.

SEC. 6. Within each state members of the Industry shall comply with any laws of such state imposing more stringent requirements regulating the age of employees, wages, hours of work or health, fire, or general working conditions, than under the Code.

SEC. 7. The Industry recognizes the desirability of the eight (8) hour working day for labor and insofar as it reasonably can will endeavor to employ its labor on that basis.

SEC. 8. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE IV.—ADMINISTRATION OF THE CODE

SECTION 1. The administration of the Code shall be under the direction of the Board of Directors.

SEC. 2. Any member of the Industry subject to the jurisdiction of this Code and receiving the benefits of the Code and/or the benefits of the activities of the Board of Directors shall pay to the Board of Directors his proportionate share of the expense incurred in the preparation and/or administration of this Code. The Board of Directors shall from time to time make such assessments upon account of such expenses against members of the Industry as it shall deem proper and shall apportion such assessments upon the basis of the average annual shipments in net tons of each member of the Industry, including all malleable castings produced by any member of the Industry for its own use or that of any affiliated, parent or subsidiary company, for the three preceding calendar years. Such assessments shall be payable as such Board shall specify. In the event any member of the Industry shall not have been in operation during all of the three preceding calendar years such assessments shall be based on such period as the member was in operation.

SEC. 3. The Board of Directors may, from time to time, appoint such committees as it shall deem necessary or proper, in order to effectuate the purpose of the Code, and it may delegate to any such committee generally, or in particular instances, such of the powers and duties of the Board of Directors under the Code as such Board shall deem necessary or proper in order to effectuate such purpose. Any member of any such committee may be a member of the Board of Directors or an officer, director, or representative of a member of the Society.

SEC. 4. There shall be no inequitable restrictions imposed on membership in the Society or its successor, and the Society shall 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.

SEC. 5. The Administrator may appoint not to exceed three members, without vote, to serve with the Board of Directors in its administration of this Code. Such members, if and when appointed, shall serve for a term of from six months to one year and their appointments shall be so arranged that they do not expire at the same time.

ARTICLE V—SELLING BELOW COST

Subject to the approval of the Administrator, the Board of Directors shall prescribe a cost-accounting system which conforms to the principles of and is at least as detailed and complete as the uniform and standard method of cost finding set forth in the Manual of Accounting issued by the Society, with such modifications therein as may be promulgated from time to time by the Board. The Board of Directors shall in accordance with such cost-accounting system and with the approval of the Administrator determine periodically fair and reasonable costs of production in the Industry for different types of malleable iron castings.

Each member of the Industry shall install and use such cost-accounting system as prescribed and, subject to the approval of the Administrator, shall be furnished by the Board of Directors with the periodical tabulations of costs and cost differentials arrived at in accordance with such cost-accounting procedure. Any member of the Industry who shall fail to install and use the cost-accounting system so prescribed or who shall sell malleable iron castings below the fair and reasonable costs of production as shown by the aforesaid tabulations shall be guilty of a violation of the Code.

ARTICLE VI—UNFAIR PRACTICES

For all purposes of the Code, the acts described in Schedule B annexed hereto shall constitute unfair practices. Such unfair practices shall be deemed to be unfair methods of competition in commerce within the meaning of the Federal Trade Commission act as amended, and the using or employing of any of them shall be deemed to be a violation of the Code and any member of the Industry who shall directly or indirectly, through any officer, employee, agent, or representative, use or employ any of such unfair practices, shall be guilty of a violation of the Code.

ARTICLE VII—REPORTS AND STATISTICS

SECTION 1. The Board of Directors shall have power to require each member of the Industry to furnish to the Secretary of the Society such information concerning the production, shipment, sales, and past sale prices of such member, and the hours of labor, rates of pay, and other conditions of employment at the plant or plants of such member, and such other information as the Board of Directors shall deem necessary or proper in order to effectuate the purpose of the policy of Title I of the National Industrial Recovery Act, and to enable the Board of Directors to determine costs of production as set forth in Article V. The Board of Directors may require that any such information be furnished periodically at such times as it shall specify and may require that any or all information furnished be sworn to or otherwise verified or authenticated, as it shall prescribe. Failure of any member of the Industry promptly to furnish to the Secretary of the Society information required by the Board of Directors and substantially in the form prescribed by it, shall constitute a violation of the Code. The Board of Directors shall not have power to require any information regarding trade secrets or the names of the customers of any member of the Industry.

SEC. 2. Any or all information furnished to the Secretary of the Society by any member of the Industry shall be subject to checking for the purpose of verification by an examination of the pertinent books and accounts and records of such member by any disinterested person or persons mutually agreed upon by the Board of Directors and the member of the Industry whose books and accounts and records are to be examined or by a person or persons nominated by the Board of Directors and approved by the Administrator. The cost of such examination shall be treated as an expense of administering the code; provided, however, that if upon such examination any such information shall be shown to have been incorrect in any material respect,

such costs shall be paid by the member of the industry which furnished such information.

SEC. 3. To the extent that such information is of a confidential character and that the publication thereof is not essential in order to effectuate the policy of Title I of the National Industrial Recovery Act, such information shall be treated as strictly confidential and no publication thereof shall be made in any other manner than in combination with similar information furnished by other members of the Industry, in which case the publication shall be made only in such manner as will avoid the disclosing separately of such confidential information.

SEC. 4. In addition to the information required to be submitted to the Board of Directors 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 National Industrial Recovery Act.

ARTICLE VIII—GENERAL PROVISIONS

SECTION 1. Any notice, demand, or request required or permitted to be given to or made upon any member of the Industry shall be sufficiently given if mailed, postage prepaid, addressed to such member at the address of such member on file with the Secretary of the Society; provided, however, that any member of the Industry may waive, in writing, the making or giving of any such notice, demand, or request.

SEC. 2. Except as otherwise specifically provided herein the provisions of the Code shall apply to and be binding upon every member of the Industry, whether or not such member shall be a member of the Society. No member of the Industry which shall not also be a member of the Society shall be entitled to vote at any meeting of members of the Society or to any other right, power, or privilege provided in the Code for the members of the Society.

SEC. 3. The Board of Directors shall have the power to interpret the provisions of the Code, provided that nothing herein shall be construed to limit the rights of any member of the Industry or other person or entity to appeal to the Administrator to modify or rescind any interpretation of the Board of Directors.

SEC. 4. The Code and 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 the Code or any conditions imposed by him upon his approval thereof.

SEC. 5. Any action taken by the Board of Directors or other group within the Industry relative to the administration of this Code except where otherwise specifically provided in this Code may, in the discretion of the Board of Directors or such other group, be submitted to the Administrator for review and shall in any case be subject to the disapproval of the Administrator.

ARTICLE IX—AMENDMENTS

Such of the provisions of the Code as are not required to be included therein by the National Industrial Recovery Act may be amended at any time in the manner in this Article provided. The amendments shall be proposed by the Board of Directors by vote of the majority of the members thereof at the time in office, which amendments shall be submitted to a duly called meeting of the members of the Society. If at such meeting, two thirds of the voting power of the Society, without regard to number present, shall vote in favor of the adoption of such amendment, such amendment shall be submitted by the Board of Directors to the President for approval if approval thereof by him shall be then required by law. Every such amendment shall take effect as part of the Code upon the adoption thereof by the members of the Society as above provided and the approval thereof by the President if approval by him shall be required as aforesaid. Any member of the Industry may recommend amendments of the Code to the Board of Directors or to the Administrator.

Upon termination of the Code all obligations and liabilities under the Code shall cease except those for unpaid assessments theretofore made in accordance with the provisions of the Code.

Approved Code No. 132.
Registry No. 1106-02.

SCHEDULE A—FORM OF LETTER OF ASSENT TO CODE

-----, 193-----
ROBERT E. BOLT, *Secretary,*
Malleable Founders' Society,
Union Trust Building, Cleveland, Ohio.

DEAR SIR: The undersigned, desiring to participate under the Code of Fair Competition in the Malleable Iron Industry, hereby assents to all of the provisions of said Code, and to such changes in the same as may be made by the Board of Directors of the Society in order to meet the requirements of the National Recovery Administration. Effective on the date on which the Code is approved by the President of the United States as therein provided, or as of the date on which this letter is delivered, if delivery is made after such date of approval by the President, the undersigned, by the signing and delivery of this letter, becomes a participant under the Code and hereby agrees with every other person, firm, and corporation who shall then be or thereafter become a participant under said Code, that the Code shall constitute a valid and binding contract between the undersigned and all such other participants.

For all purposes of the Code, the address of the undersigned, until written notification of change shall be filed with the Malleable Founders' Society, shall be as set forth at the foot of this letter.

Very truly yours,

(Name of official) (Title)

SCHEDULE B

UNFAIR TRADE PRACTICES

For all purposes of the Code, the following described acts shall constitute unfair practices:

1. Selling castings other than F.O.B. the plant of the member of the Industry; provided, however, that railroad freight, or trucking charges may be allowed to destination, at the option of the seller, and provided further that no allowance exceeding the prevailing carrying charges may be made where the buyer elects to call at the plant of the member for castings.

2. Allowing terms of payment more favorable to the purchaser than net thirty (30) days from date of shipment or beyond the last day of the month following shipment, or granting any cash discount greater than one half of one percent for payment made within ten (10) days from date of shipment.

3. Making piece prices based on stated weights without a revision of the price on any variation between the stated weight and the actual weight.

4. Making, altering, or repairing pattern equipment (when repairs are not due to negligence of the member of the Industry) except at the expense of the customer; provided, however, that if patterns in existence at the effective date of the Code are owned by members of the Industry and such members of the Industry furnish castings from such patterns without an adequate pattern charge, other members of the Industry may have the right to also furnish such patterns at their own cost, and provided further that if castings are made by a member of the Industry for the general trade, as distinguished from a specific customer, the patterns from which such castings are furnished may be made by such member at his own expense.

5. Making or promising to any purchaser or prospective purchaser of malleable iron castings which require special finishing, straightening, machining or other operations not commonly included in the manufacture of a commercial casting without making a charge for the cost of the dies, jigs, tools, or other special equipment used in such operations; provided, however, that if said special equipment in existence at the effective date of the Code is owned by members of the Industry and such members of the Industry furnish castings from such special equipment without an adequate charge, other members of the Industry may have the right to also furnish such special equipment at their own cost.

6. Extending to purchasers without charge special privileges, concessions, or services not extending to all buyers under like terms and conditions, or rendering any free service of machining, painting, galvanizing, or tinning.

7. Making or promising to any purchaser or prospective purchaser of any product, or to any officer, employee, agent, or representative of any such purchaser or prospective purchaser, any bribe, gratuity, gift, or other payment or remuneration, directly or indirectly, for the purpose of influencing a sale.

8. Procuring any information concerning the business of such member which is properly regarded by it as a trade secret or confidential within its organization, other than information relating to a violation of any provision of the Code with the intent of injuring a competitor.

9. Imitating or simulating any design, style, mark, or brand used by any other member of the Industry with the intent of injuring a competitor.

10. Paying or allowing to a purchaser in connection with the sale of any product a secret or discriminatory rebate, commission, credit, discount, adjustment, or other secret or discriminatory concession.

11. Canceling, in whole or in part, any contract for the sale of a product except for a fair consideration, or effecting an adjustment of the claim of any purchaser in such a manner as to result in a secret or discriminatory allowance or concession.

12. Disseminating, publishing, or circulating any false or misleading information relative to any product or price for any product of any member of the Industry or the credit standing or ability of any member thereof to perform any work or manufacture or produce any product, or to the conditions of employment among the employees of any member thereof.

13. Inducing or attempting to induce by any means any party to a contract with a member of the Industry to violate such contract.

14. Making or giving to any purchaser of any product any guaranty or protection in any form against decline in the market price of such product.

15. Stating in the invoice of any product as the date thereof a date later than the date of shipment of such product, or including in any invoice any product shipped on a date earlier than the date of such invoice.

16. Purchasing from customers goods and/or services at prices higher than the market for such goods and/or services, for the purpose of influencing or inducing the purchase of malleable castings.

17. Selling machined castings without charging for the cost of machining such castings.

18. Voluntarily making any payment or allowing any credit or back charges for machine work, labor charges, or other expense incurred by the purchaser on castings rejected as defective.

19. The giving of quantity discounts without obligation on the part of the buyer to take delivery of the quantities specified on the contract.

20. Any misrepresentation in connection with the sale or advertisement for sale and/or marking of any malleable castings with the intent or effect of misleading or deceiving purchasers or prospective purchasers regarding their quality, composition, or service features.



Approved Code No. 133

CODE OF FAIR COMPETITION

FOR THE

CONCRETE MASONRY INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Concrete Masonry 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval Recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(407)

NOVEMBER 13, 1933.

THE PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Concrete Masonry Industry in the United States, a public hearing on which was conducted in Washington on October 5, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

This code provides for a maximum work week of forty hours, except that during fifteen weeks of the year, forty-eight hours per week may be worked, although the maximum daily limit permissible in any event is eight hours.

Managerial or administrative employees earning more than \$35.00 per week are not subject to these hourly limitations. Further exceptions are provided for employees engaged in emergency work, who may work forty-eight hours per week averaged over any fifteen-week period; watchmen, who may work sixty-four hours per week; and shipping clerks, who may work fifty-two hours per week. Not more than six days may be worked in any seven-day period.

This code provides a minimum hourly rate of forty cents per hour, except that in specified Southern States a minimum rate of thirty cents per hour is provided, whether the compensation is based on a time rate, piecework, or other basis. Accounting, clerical, office, service or sales employees are to be paid at not less than \$15.00 per week. Managerial or administrative employees may be paid not less than \$35.00 per week.

For all time worked in excess of eight hours per day or forty hours per week, employees are to be paid at one and one third the regular hourly rate. Provision is made for maintaining existing wage differentials. No person under eighteen years of age may be employed in the Industry. Maximum continuity of employment is to be provided insofar as practicable.

ECONOMIC EFFECTS OF THE CODE

As indicated by data furnished by the Industry, the production and sale of concrete masonry units increased rapidly from 1921 to 1928, at which time there were about 5,000 plants in the business, representing invested capital of one hundred million dollars, employing 50,000 plant workers and producing 387 million units per year. Being largely dependent on the erection of new buildings, and on industrial and public works developments, this Industry experienced a serious decline following the year 1928. In 1932 the number of establishments had decreased 30%, employees 84%, capital invested 25%, and production 85%.

From all available information, the average hourly wage in 1929 was about fifty-five cents per hour, while in 1932 the average was thirty-nine cents per hour, representing a decrease in the average hourly rates of about 30%. Since the labor provisions of this code establish a minimum rate of forty cents per hour in the North and thirty cents per hour in the South, it is evident that the average hourly wage will be materially raised as soon as the code becomes effective.

It is further evident that the provisions in the code with respect to maximum hours and conditions of employment, conformity to fair trade practices, and conditions of sale, will serve to stabilize the Industry and reflect benefits to the Industry and employees alike.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Concrete Masonry Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
CONCRETE MASONRY INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Concrete Masonry 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

SECTION 1. *Industry.*—The term “Industry” as used herein includes the manufacture, and sale by those who manufacture, of block, brick, or tile building units made of Portland Cement Concrete, primarily for structural use.

SEC. 2. *Employee.*—The term “employee” as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of his compensation.

SEC. 3. *Employer.*—The term “employer” as used herein includes any individual, partnership, association, corporation, or other person or enterprise by whom any such employee is compensated or employed.

SEC. 4. *Member of the Industry.*—The term “member of the industry” as used herein includes any one engaged in the industry as above defined, either as an employer or on his own behalf.

SEC. 5. *President, Act and Administrator.*—The terms “President”, “Act”, and “Administrator” as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

ARTICLE III—HOURS

SECTION 1. *Hours of Labor.*—No employee shall be permitted to work more than 40 hours per week. Due to the seasonal nature of this Industry an employee may be permitted to work 48 hours per week but not more than 8 hours per day for a period of not to exceed 15 weeks during any one calendar year.

SEC. 2. *Exceptions.*—The maximum hours prescribed in Section 1 of this Article shall not apply to the following:

(a) Managerial or administrative employees earning more than \$35.00 per week.

(b) Employees engaged in emergency work occasioned by breakdowns in production machinery or in work requiring the protection of life or property, provided no such employee shall be permitted to

work in excess of forty-eight (48) hours per week averaged over any fifteen (15) weeks' period.

(c) Watchmen, provided no such employees shall be permitted to work in excess of sixty-four (64) hours in any one week.

(d) Shipping clerks, provided no such employees shall be permitted to work in excess of fifty-two (52) hours in any one week.

SEC. 3. *Employers*.—Employers who personally perform manual work or are engaged in mechanical operations shall be subject to the same maximum hours provided in this section as to employees.

SEC. 4. *Dual Employment*.—No employer shall engage any employee for any time, which when totaled with that already performed with another employer, or employers, exceeds the maximum permitted herein.

SEC. 5. *Agreements*.—Nothing herein shall be construed to apply to employees whose hours of labor, wages or working conditions are established for specific projects by competent governmental authority acting in accordance with law or with hours of work, wages, or terms of employment which are established by labor agreements or understandings now in force, where such hours are less or wages are more or both than those set forth hereinabove.

SEC. 6. *Day of Rest*.—No employee shall be permitted to work more than six (6) days in any seven (7) day period.

ARTICLE IV—WAGES

SECTION 1. *Rates of pay*.—(a) No factory or mechanical worker or artisan shall be paid at less than the rate of forty (40) cents per hour, except that in region number 4 as defined in Article VI of this Code, the minimum shall be thirty (30) cents per hour.

(b) No accounting, clerical, office, service, or sales employee, or any other employee not included in subsection (a) or (c) of this section shall be paid at less than the rate of \$15 per week.

(c) No managerial or administrative employee shall be paid at less than the rate of \$35.00 per week.

SEC. 2. *Overtime, Piece Work, etc.*—(a) Any employee working in excess of eight (8) hours in any twenty-four (24) hour period or in excess of 40 hours in any 7-day period shall be paid not less than one and one third ($1\frac{1}{3}$) times his regular hourly rate, for all such excess time.

(b) This Article establishes a minimum rate of pay for the actual time worked regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

(c) The amounts by which hourly wages in the higher paid classes of employees exceeded hourly wages in the lower paid classes of employees on June 16, 1933, shall be maintained.

(d) All hourly wages shall be paid at least twice a month and all salaries at least once a month, in lawful currency or by negotiable check therefor payable on demand.

ARTICLE V—LABOR PROVISIONS

SECTION 1. *Child Labor*.—No person under eighteen (18) years of age shall be employed in the industry. In any State an employer

shall be deemed to have complied with this provision 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.

SEC. 2. *Statutory Provisions.*—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

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

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

SEC. 3. *State Laws.*—Within each State no provision of this Code shall supersede any law of such State which imposes more stringent requirements on employers regulating the age of employees, wages, hours of work, or safety, health, sanitary, or general working conditions, or insurance, or fire protection than are imposed by this Code.

SEC. 4. *Reclassification.*—Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act or of this Code.

SEC. 5. *Accident Prevention.*—Each employer shall provide for the welfare and safety of his employees. He shall not be relieved from complying with all national, state, and local ordinances and provisions of safety measures referring to safety and health measures and the welfare of employees insofar as the same may apply to his special type of work and from protecting his employees by workmen's compensation insurance.

SEC. 6. *Publicity.*—Each employer shall post in conspicuous places at each job and at offices the provisions relating to labor conditions, minimum wages, and maximum hours under this Code.

SEC. 7. *Continuity of Labor.*—An employer shall so administer work in his charge as to provide the maximum practicable continuity of employment for his work force.

ARTICLE VI—ADMINISTRATION

SECTION 1. *Regions.*—To facilitate administration, the industry shall be divided into five regions, as follows:

(1) Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island.

(2) Pennsylvania, Maryland, New Jersey, Delaware, District of Columbia, West Virginia.

(3) Indiana, Michigan, Wisconsin, Kansas, Illinois, Minnesota, Iowa, Ohio, Missouri, North Dakota, South Dakota, Nebraska.

(4) Texas, Oklahoma, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida.

(5) Arizona, California, Colorado, Idaho, Montana, Nevada, Wyoming, New Mexico, Oregon, Utah, Washington.

SEC. 2. *Code Authority*.—The Code Authority as hereinafter defined and constituted may divide each region into regional subdivisions hereinafter termed subregions to further facilitate the administration of this Code.

SEC. 3. *Administration*.—Further to facilitate administration, the industry may be divided into sections according to productive capacity as follows:

(a) Plants with a productive capacity of less than 250,000 units annually.

(b) Plants with a productive capacity of more than 250,000 units annually but less than 500,000 units annually.

(c) Plants with a productive capacity of more than 500,000 units annually.

Productive capacity is defined to be actual production of equivalent of 8 x 8 x 16-inch units.

For the purposes of the first election of the Code Authority, as hereinafter provided for, the determining productive capacity shall be the productive capacity in the year 1929, and the members of this Code Authority so elected shall serve for the duration of the Act. For the purpose of subsequent annual elections, in the event that the duration of the Act is extended by Congress beyond its present expiration date, the productive capacity shall be the productive capacity for the year immediately preceding the election. If a plant was not in operation for the full year of 1929, its determining productive capacity shall be its first full year of operation.

SEC. 4. *Code Authority*.—A Code Authority is hereby designated to cooperate with the Administrator as a planning and fair practice agency for the industry. Each trade association representing a group (as defined in Section 6 of this article) shall so modify its constitution and by-laws as to provide for the election of a Board of Directors of eight members, one member to be selected from each group, in accordance with the regional and productive capacity schedules of Sections 1 and 3 of this article, or by some other fair method of election approved by the Administrator.

The Code Authority shall be composed of eight members. These members shall be designated by the respective boards of directors above mentioned from among the membership of such respective boards. The proportion of representation by each trade association on the Code Authority shall be based upon the relative production of the membership of these associations.

In addition to said representatives of the industry, three or less members may be appointed to said Code Authority by the Administrator, and shall serve for terms of six (6) months to one (1) year as designated in the order of appointment. The representatives so appointed by the Administrator shall be without vote, shall serve without expense to the industry, and shall be given notice of and may sit at all meetings of the Code Authority. Similar notice shall also be given to the Administrator.

SEC. 5. *Regional and Subregional Committees*.—Members of the industry in each region may establish regional committees by means

of some fair system of election, subject to the approval of the Code Authority and the Administrator.

If the Code Authority in pursuance of Section 2 of this Article shall divide any region into subregions, each such subregion may establish a subregional committee by means of some fair system of election, subject to the approval of the Code Authority and the Administrator.

SEC. 6. *Group Committees.*—Whenever members of the industry representing two thirds of the production of concrete masonry units in which the aggregate is composed chiefly of one material shall petition the Code Authority to constitute the members of the industry using such aggregate a division of the industry (such division being based upon common interests and common problems), the Code Authority, subject to the approval of the Administrator, shall designate such members a division of the industry and thereupon the group so designated shall elect a Group Committee from its membership by some fair method of election, subject to the approval of the Code Authority and the Administrator.

SEC. 7. *Divisions.*—If, prior to the signing of this Code by the President, members of the industry shall have submitted proof to the Administrator that they represent two thirds of the production of industry products in which the aggregate is composed chiefly of one material, and shall petition the Administrator to constitute the members of the industry using such aggregate a division of the industry, the Administrator shall designate such members a division of the industry, with all of the functions of a group as outlined in this Article. Under this section the Cinder Unit Group is hereby constituted a division of the industry.

SEC. 8. *Duties of Associations.*—Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority or of any regional or subregional administrative committee shall:

(1) Impose no inequitable restriction on membership, and (2) 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.

SEC. 9. *Code Authority Representative.*—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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

SEC. 10. *Powers and Duties of Code Authority and Committees.*—In addition to the powers herein specifically conferred, the Code Authority shall have the following powers and duties to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by any agencies pursuant to this Code.

(a) *Duties of Code Authority.*—The Code Authority shall be the general planning, coordinating, and administering agency for the industry. The Code Authority may present to the Administrator recommendations based upon conditions in the industry as they may develop from time to time, which recommendations will tend to effectuate the operation of this Code and the policies of the Act. Such recommendations, upon approval by the President, shall become operative as a part of this Code. The Code Authority shall cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code and shall report the results of such investigations to the Administrator. The Code Authority shall draft a safety and health manual for the industry. The Code Authority may use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(b) *Duties of Committees.*—(1) *Regional and Subregional Committees.*—The duties of such committees shall be to administer the provisions of this Code within the regions or parts thereof. Provided, however, that their actions shall be subject to approval of the Code Authority and to review by the Administrator.

(2) *Group Committees.*—The duties of such committees shall be to administer the provisions of this Code within their respective groups irrespective of the regional or subregional committees. Provided, however, that their action shall be subject to the approval of the Code Authority and to review by the Administrator.

(3) Where conflicts arise between decisions of group committees and regional or subregional committees such conflicts shall be settled by the Code Authority, subject to review by the Administrator.

SEC. 11. *Voting.*—(a) *Code Authority.*—Each member of the Code Authority may vote in meeting assembled or by letter ballot. If a meeting is called notice shall be sent out not less than ten (10) days before the date of meeting. A majority of the voting members of the Code Authority shall constitute a quorum at any assembled meeting. Each member of the Code Authority, excepting members appointed by the Administrator, shall be entitled to one vote. A majority of the votes cast shall constitute a sanctioning vote.

(b) *By Committees.*—Rules governing the voting by the Code Authority shall govern the voting by committees, except that five (5) days' notice shall be adequate for a meeting of subregional committees.

(c) *By members of the Industry.*—On national questions voting by members of the industry shall be by letter ballot. A sanctioning vote shall be a majority of the votes cast.

(d) *Within Regions or Groups.*—A meeting of members of the industry within a region or group may be called at the instance of the Code Authority or at the instance of members of the industry representing 25 percent of the plants, or at the instance of members of the industry representing 25 percent of the production, within the region or group respectively. Each member of the industry

within a region or group shall have one vote and a sanctioning vote shall be a majority of those voting. Such sanctioning vote shall bind the regional committee of such region, or the group committee of such group, except that the action authorized or required by such vote shall be subject to the approval of the Code Authority and the Administrator; and except further, that any action taken on which there is a disagreement by members of the industry (whether or not they have participated in the voting), representing either 25 percent of the number of producers, or 25 percent of the production within such region or group shall be reviewed by the Code Authority.

(e) *Within Subregions.*—A meeting of members of the industry within any subregion of any region may be called by the Code Authority or by members of the industry representing either 25 percent of the producers, or 25 percent of the production, within such subregion. The regulations governing the voting by regions shall apply to voting within a subregion of any region, except that disagreements shall be reviewed by the regional committee subject to the right of any party to secure a further review by the Code Authority.

(f) *Notices of Meeting.*—Whenever a meeting is called for a region, group, or subregion, reasonable notice of said meeting shall be given to all members of the industry within that region, group, or subregion at least seven days (7) prior to the date of such meeting.

SEC. 12. *Arbitration.*—Complaints between groups within the industry or controversies involving labor, consuming interests, or parties outside of the industry shall, by and with the consent of both parties concerned, be submitted to the Code Authority. Or at the instance of any such consenting party, such complaints may be referred to an arbitration board composed of equal representation of each of the parties involved in the complaint or controversy with a neutral arbitrator selected by the appointed members of such arbitration board.

SEC. 13. *Statistics.*—In order that the President may be informed as to the extent of the observance of the provisions of this Act and of the extent to which the declared policy of the Act is being effectuated in the industry as herein defined, the Code Authority shall make such reports as the Administrator may require. Each member of the industry shall make such sworn reports to the Code Authority as to wages, hours of labor, number of employees, production, stocks on hand, sales, and such other matters as the Code Authority, subject to review by the Administrator, may require for the administration of this Code.

In addition to the information required to be submitted to the Code Authority, there shall be furnished to governmental agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

SEC. 14. *Assessment.*—Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The 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 to be taken into consideration.

Such reasonable share of the expense incidental to administering this Code shall be paid to such person or agency as the Code Authority shall designate.

SEC. 15. *Liability*.—Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or nonfeasance.

SEC. 16. *Handling of Violations*.—The Code Authority shall have the power to receive complaints of violations of this code, make investigations thereof, provide hearings thereon and adjust such complaints, and bring to the attention of the Administrator for prosecution recommendations and information relative to unadjusted violations.

ARTICLE VII—TRADE PRACTICES

SECTION 1. *Unfair Methods*.—The following practices constitute unfair methods of competition for members of the industry and are prohibited.

(a) *Secret Rebates*.—To make a secret prepayment of transportation charges or permit the payment or allowance of secret rebates, refunds, credits, or unearned discounts, whether in the form of money or otherwise, or to give secret premiums for the purpose of influencing a sale, or secretly extend to certain purchasers special services or privileges not extended to all purchasers of industry products under like terms and conditions.

(b) *Interference in Existing Contracts (Breach)*.—To willfully interfere by any means or device whatsoever, in any existing contract or order between a seller and a purchaser in or concerning the production, manufacture, transportation, purchase, or sale of any industry product, or the performance of any contractual duty or service connected therewith, destroying or appropriating in whole or in part the patronage, property, or business of another member of the industry.

(c) *Defamation of competitor*.—To define a competitor by words or acts, falsely imputing to him dishonorable conduct, inability to perform contracts, or questionable credit standing, or by the false disparagement of the grade or quality of his products.

(d) *Price Misrepresentation*.—To represent deliberately, either directly or by inference, that a competitor is quoting lower prices than those actually quoted by such competitor, without first establishing the accuracy of such representation.

(e) *Conformity with Specifications*.—To sell or offer for sale any product of the industry with intent to deceive customers or prospective customers as to the quality, quantity, size, grade, or substance of such product. All products shall meet the specifications of the American Concrete Institute or American Society for Testing Materials for concrete masonry units.

(f) *Delivery of Grade Superior to that Ordered.*—To sell an inferior quality of industry product at a fair price, with the understanding that a superior quality selling at a higher price will be delivered.

(g) *Shipping According to Samples.*—To ship or deliver any industry product which does not reasonably conform to the standard or specification of sample submitted as representative of the Material to be shipped, or to representations made prior to securing an order therefor, unless the consent of the purchaser to such substitution is obtained prior to shipment.

(h) *Misbranding.*—To mark, brand, or advertise products of the industry for the purpose or with the effect of misleading or deceiving purchasers with respect to the quality, quantity, size, grade, or substance of the materials purchased.

(i) *Payment of Commission.*—To pay or promise to pay, to an employee of a customer or prospective customer without the knowledge of his principal, a commission or consideration of any character for the purpose of inducing, or compensating for a sale.

(j) *Commercial Bribery.*—To secretly or otherwise offer or give commissions, prizes, premiums, gifts, excessive entertainment, or other benefits as an act of commercial bribery to any person connected directly or indirectly with the purchase, selection, or use of industry products, as an inducement thereto.

(k) *Consignment of Shipments.*—To ship any industry product to an agent on consignment, at an indeterminate price.

(l) *Lump-Sum Bidding.*—To sell any industry product, except on a unit price basis.

(m) *Contingent Selling.*—To enter into any contract for furnishing any industry products contingent upon the sale or purchase of any other thing, the performance of any other service or any other contingency not appearing in the contract or complying with this Code.

SEC. 2. *Selling Below Cost.*—No member of the industry shall sell any commodities at a price below his own individual cost. However, any member may meet the price competition of any other member of the industry provided that notice of this fact is immediately sent to the Code Authority, and provided, further, that any such sales below cost may be continued only until notice is received from the Code Authority that such sales are no longer necessary to meet competition. Cost shall be determined in accordance with the principles enumerated in a standard cost system which shall be formulated by the Code Authority with the approval of the Administrator.

SEC. 3. *Published Prices.*—Each member of the industry shall publish and distribute to the trade his price lists for sales to consumers and/or middlemen for various types, kinds, and grades of products of the Industry, which shall include credit terms, trade and cash discounts, schedules of freight and cartage charges; copies of which shall at the same time be submitted to the Code Authority.

The Code Authority shall immediately send copies thereof to interested members of the industry. Any revision of such price lists or other such information which may be thereafter made, shall be published to the trade and filed with the Code Authority to become effective on the date specified, but such revised price lists shall be

filed at least five days in advance of the effective date. Failure to adhere to such published price lists, discounts, terms, or other conditions of sale, shall constitute an unfair method of competition.

SEC. 4. *Contracts and Quotations.*—All quotations and contracts, except petty sales to individuals or small sales for local consumption not exceeding 100 units, for the sale of products of the industry, shall be made or confirmed in writing and shall contain a definite statement of price, quantity, terms of payments, time and place of delivery, and all other items necessary to form a complete understanding.

SEC. 5. *Credit Practices.*—In any region, group, or subregion, the regional, group, or subregional committee may, subject to the approval of Code Authority, and with the approval of the Administrator, establish credit practices uniform within its respective region, group, or subregion, which shall be binding upon the members of the industry selling in that region, group, or subregion.

ARTICLE VIII—MODIFICATIONS

SECTION 1. *Cancellation.*—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 Act, from time to time to cancel or modify any order, approval, license, rule, or regulations 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.

SEC. 2. *Amendments.*—This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE IX—MONOPOLIES

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

ARTICLE XI—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 133.
Registry No. 1011-1-02.

Approved Code No. 134

CODE OF FAIR COMPETITION

FOR THE

GAS APPLIANCES AND APPARATUS INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Gas Appliances and Apparatus Industry, and hearings have 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 the 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 approve the report and recommendations and adopt the findings of the Administrator, and do order that the said code of fair competition be, and it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

NOVEMBER 14, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the proposed Code of Fair Competition for the Gas Appliances and Apparatus Industry in the United States, and on the hearing conducted thereon in Washington, D.C., on October 19, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

The Code provides for a 40-hour week and an 8-hour day, with allowances for peak periods, and overtime at the rate of time and one half for additional hours of labor.

Minimum wages of 40¢ and 35¢ are provided for male and female labor respectively in the North. In the South the rates provided are 35¢ and 30¢ respectively, unless the hourly rate for the same class of work on July 15, 1929, was less than the respective one of these minima, in which case the minimum shall not be less than the hourly rate on July 15, 1929, and in no event less than 32¢ and 27¢. Not less than eighty percent of the minima provided may be paid to apprentices and learners, who may constitute not more than 5% of the total number of employees in any one month.

Where female labor is used to replace male labor the rates of pay applicable to male labor are to be paid for the work.

Rates of pay provided are to be paid whether the work is performed on a piece- or time-work basis.

Equitable adjustment is to be made of all pay schedules above the minima.

Child labor is prohibited, and no person under 18 years of age may be employed in a hazardous occupation.

GENERAL STATEMENT

The Gas Appliances Institute, which sponsors the Code, includes the Gas Range Institute, Gas Space Heater Institute, Gas Water Heater Institute, Gas Boiler, Furnace and Conversion Burner Institute, Gas Apparatus and Accessories Institute, Tank Water Heater Association, and members at large representing over 80% of the production and sales volume of the Industry.

The invested capital is estimated at approximately \$85,000,000 and the annual pay roll at about \$9,000,000.

The manufacture of gas appliances is not centralized in any one section of the country but is widely scattered, manufacturing units being located in New England, Eastern, Southern, Midwest, and Pacific coast sections of the country. The depression has been uniformly felt in all sections of the United States and during the years 1932 and 1933 practically all the companies engaged have operated at substantial losses.

Members of the Gas Appliances Institute in the northern district report pertinent data with respect to wages and hours as follows:

	Number employed	Minimum rate of pay per hour	Hours of work per week
1926.....	16, 086	<i>Cents</i> 20	50
1929.....	20, 285	20	43
January 1933.....	11, 513	17½	46
October 1933.....	16, 769	35	43

The minimum hourly rates provided in the Code represent a substantial increase in rates of pay for common labor over those previously existing in the Industry. Minimum rates of twenty cents and lower per hour were commonly reported in this Industry for the years 1926 to 1929. As indicated, a substantial increase in wage payments has been effected through the operation of code hours and rates of pay. The Industry estimates that approximately 6,000 employees will have been added through the operation of the Code provisions, and that with the equitable adjustments in wages above the minimum, there will be added to its pay roll at least \$500,000 a year.

FINDINGS

The Deputy Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Gas Appliances and Apparatus Industry, and that

(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.

Accordingly, I recommend the approval of this proposed Code of Fair Competition for the Gas Appliances and Apparatus Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
GAS APPLIANCES AND APPARATUS INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Gas Appliances and Apparatus Industry, and, upon approval by the President, shall be the standard of fair competition for this Industry.

ARTICLE II—DEFINITIONS

The term "gas appliances", as used herein, means gas ranges, gas water heaters, gas space heaters, domestic gas boilers, domestic gas furnaces, domestic gas conversion burners, gas refrigerators, gas meters, gas thermostat controls, gas mantles, and, generally, gas appliances and gas apparatus of all styles, types, and kinds for use in the production, distribution, and utilization of natural gas, liquefied petroleum gases, and of manufactured gas, including uses in cooking, heating, refrigeration, and lighting, excluding, however, any products covered by other codes approved by the President.

The term "gas appliances industry" as used herein includes the manufacturing and assembling within the United States of gas appliances and gas apparatus, and the manufacturing and assembling of parts therefor, including repair parts and repairs, and the selling of such appliances to retailers, wholesalers, and consumers, but does not include the selling at retail.

The term "Administrator" as used herein means the Administrator appointed by the President to administer Title I of the National Industrial Recovery Act at the time of office.

The term "Institute" as used herein means Gas Appliances Institute, a trade association, having its office at 3900 Board of Trade Building, Chicago, Illinois.

The term "Committee" as used herein means the Committee established in Article VI of this Code.

The term "employee" as used herein includes anyone engaged in the trade/industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

The term "effective date" as used herein means the 10th day after this Code shall have been approved by the President of the United States.

The term "expiration date" as used herein means the expiration date indicated in the Act, or the earliest date prior thereto on which

the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Title I of the National Industrial Recovery Act has ended.

The Southern Wage District is defined as comprising North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Mississippi, Virginia, and Louisiana; and the Northern Wage District is defined as comprising all other States in the United States, proper, including the District of Columbia and Alaska.

ARTICLE III—MANDATORY PROVISIONS AS TO LABOR

Employers in this Industry shall comply with the requirements of the National Industrial Recovery Act, as follows:

(1) 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;

(2) 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

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

ARTICLE IV—CONDITIONS OF EMPLOYMENT

WAGES

On and after the effective date the minimum wage which shall be paid by any employer to common labor shall be 40¢ per hour for males and 35¢ per hour for females in the Northern Wage District; provided, however, that for a period of 60 days from the effective date of this Code the minimum rates for female employees shall be 33½¢ per hour in the Northern Wage District.

On and after the effective date the minimum wage which shall be paid by any employer to common labor shall be 35¢ per hour for males and 30¢ per hour for females in the Southern Wage District, unless the hourly rate for the same class of work on July 15, 1929, was less than the respective one of these minima, in which latter case the minimum shall not be less than the hourly rate on July 15, 1929, and in no event less than 32¢ for males and 27¢ for females.

Provided, further, that employees apprenticed under, and in accordance with, the laws of any State, and learners may be paid not less than 80% of the minimum wages established in paragraph one of this Article for the Northern Wage District, and paragraph two of this Article for the Southern Wage District, and the total number of such apprentices and learners shall not exceed 5% of the total number employed by any such employer in any calendar month; and

Provided, further, all learners shall receive not less than the minimum rate of pay after three months' employment.

Provided, further, that where any State Law requires any higher minimum wages than those specified in this section, such higher minimum wages shall apply in all cases.

Equitable adjustments in all pay schedules of factory employees (and other employees receiving less than \$35.00 per week) above the minima, shall be made on or before fifteen days subsequent to the effective date of this Code by any employers who have not heretofore made such adjustments or who have not maintained rates comparable with such equitable adjustments; and the first reports of wages, required to be filed under this Code, shall contain all wage increases made since May 1, 1933.

In the case of an employee whose compensation is based upon a measure other than time, the minimum compensation paid shall be no less than such employee would be entitled to receive if the compensation were measured by time rate.

The principle of equal rates of pay for male and female employees under like conditions of employment, performing substantially the same work is accepted herein; and, where female employees are used to replace male employees performing certain classes of work such female employees shall be paid the rates of pay in effect for the male employees at the time of such replacement.

On and after the effective date, the minimum wage that shall be paid by any employer to all other employees, except commission sales people and all employees covered by Section 4, Paragraphs 1, 2, and 3, shall be not less than at the rate of \$15.00 per week.

Office boys and girls shall be exempted from the provisions of this Section, provided they are paid at the rate of not less than 80% of the above minimum wages, and provided that they do not exceed in number more than one to every ten office employees.

HOURS

On and after the effective date employers shall not operate on a schedule of hours of labor in excess of 40 hours per week per employee.

Provided, however, that these limitations shall not apply to branches of this Industry in which seasonal or peak demands or break-downs place an unusual and temporary burden upon such branches; and that in no case shall the hours worked in any one week exceed 48 hours during such seasonal or peak periods; and

Provided, further, that the number of excess hours worked in any six (6) months' period, without the payment of overtime, may not exceed 32 hours, in the case of employees engaged in the processing of products in the Industry and labor incident thereto; and may not exceed 48 hours, in the case of all other employees except executive, administrative, and supervisory employees who receive \$35.00 or more per week and outside salesmen, commission salesmen, and service men; and

Provided, further, that any employee at the request of the employer may work additional hours beyond those specified in the two preceding paragraphs, provided such additional hours shall be paid for at the rate of time and one half. Employees working more than eight hours in any 24-hour period shall be paid time and one half for all time in excess of eight hours during such period.

No employee shall knowingly be permitted to work in the aggregate in excess of the above prescribed number of hours irrespective of whether such employee be on the pay roll of more than one employer; and

Provided, further, that nothing in the foregoing employment provisions shall apply to executive, administrative, and supervisory employees who receive \$35.00 or more per week; and outside salesmen.

GENERAL LABOR PROVISIONS

It is understood, however, that old and partially disabled employees are not included in the above labor provisions, except that they shall in no case be paid less than 80% of the above minimums, and provided that the total number of such employees shall not exceed two employees in plants having less than 100 employees; nor more than 2% of the total number of employees in such plants employing 100 or more.

It is further understood that watchmen are not included in the hours provisions of this Article, except that in no case shall they be permitted to work longer than 56 hours in any one week unless they are paid time and one half for any hours in excess of 56 hours per week.

Employers shall not reclassify employees, or duties, or occupations of employees so as to defeat the purposes of this Act.

ARTICLE V—CHILD LABOR

Employers shall not employ or permit to be employed any person under the age of sixteen (16) years, provided that no person under the age of eighteen (18) years shall be employed in a hazardous occupation and provided, further, that where a State Law specifies a higher minimum age, no person below the age so specified by such State Law shall be employed within that State.

ARTICLE VI—ADMINISTRATION

1. *Agency for Administration.*—The agency for administering, supervising, and promoting the performance of this Code by the Gas Appliances and Apparatus Industry, shall be the Gas Appliances Committee. The membership of the Committee shall include the members of the Governing Committee of the Institute. In addition thereto (a) the Administrator may cause an election to be held under regulations, prescribed by the Administrator, for the selection of a member of this Committee by employers of the Industry who are not members of the Institute, provided that in any such election members eligible to vote shall be employers accepting the proper pro rata share of the cost and responsibility of administering this Code as defined in Article VII hereof, (b) also, the Administrator may appoint not to exceed three members, without vote, to serve with the Gas Appliances Committee in its administration of this Code. Such members if and when appointed shall serve for a term of from 6 months to 1 year and their appointments shall be so arranged that they do not expire at the same time, and such members shall serve without expense to the gas appliances industry.

2. *Functions of the Agency.*—The Committee is appointed the agency for the Industry and for the following purposes:

(a) To collect, compile, and distribute such data and statistics as may be required under this Code, or as may be requested by the Administrator, or, in the opinion of the Committee, are pertinent to effectuate the National Industrial Recovery Act and to require such

records in the offices of the members of the Industry as may be necessary or advisable in procuring or furnishing such data or statistics; such information shall be confidential, except insofar as disclosure may be necessary for the effective administration and enforcement of the Code.

(b) In addition to information required to be furnished to the Committee, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act.

(c) To represent the Industry in conferring with the Administrator with respect to the application of this Code and of said Act and of any regulations issued thereunder, and further to represent the Industry in filing amendments or supplementary provisions to this Code or additional Codes, with the Administrator, and the representation of the Industry at public hearings.

(d) To cooperate with the Administrator and other proper government officials in the administration and enforcement of this Code.

(e) To hear, determine, and settle complaints between members of the Industry.

(f) To hear complaints from employers and employees in the Industry and if possible to adjust the same.

(g) To perform such other acts as may be necessary or proper to enable the Industry to function under this Code and under the National Industrial Recovery Act.

ARTICLE VII—PARTICIPATION

SECTION 1. *Membership in Institute.*—Membership in the Gas Appliances Institute shall be open to all employers in the Industry and no inequitable restrictions shall be imposed upon admission to membership.

SEC. 2. *Cost of Administration.*—Any employer subject to the jurisdiction of this Code and receiving the benefits of the Code and/or the benefits of the activities of the Committee shall pay to the Committee his equitable proportionate share of the expense of formulating and putting into effect and administering this Code, and any other costs which may be incurred in the preparation and/or administration of the Code by said Committee. The part of such expenses which shall be assessed against such employers shall be assessed by the Committee, which Committee in making such assessment shall take into account the number of employers, the volume and class of business, and an equitable consideration of any and all matters which should be taken into account in determining the proper assessment.

Failure of any assenting employer to pay any such assessment for a period of thirty days after the date on which it shall become payable shall entitle the Committee to deprive such employer of his participation in the administration of the Code as therein or herein provided, and such employer shall continue to be liable for his proportionate share of all due and unpaid assessments.

ARTICLE VIII—BASES FOR PRICES

No employer shall sell or exchange any product of his manufacture at a price or upon such terms or conditions that will result in the customer paying for the goods received less than the cost to the seller,

determined in accordance with the standard method of accounting to be prescribed by the Committee, subject to the approval of the Administrator; provided, however, that dropped lines, seconds, or inventories which must be converted into cash to meet emergency needs may be disposed of in such manner and on such terms and conditions as the Committee and the Administrator may approve and as are necessary to move such product into buyers' hands, and provided further, that selling below cost in order to meet existing competition on products of equivalent design, character, quality, or specifications shall not be deemed a violation of this Article if provision therefor is made in supplemental codes hereafter prepared for any branch or subdivision of the Industry.

ARTICLE IX—SALES PRICES AND TERMS

Each employer shall publish and file with the Committee his sales prices and terms. Such sales prices and terms may provide reasonable differences as to:

- (a) Export Sales.
- (b) Sales to Large Purchasers.
- (c) Sales to Wholesalers, Jobbers, and Brokers.
- (d) Sales to Retailers.
- (e) Direct Sales to Consumers.

The published sales prices and terms of any employer applicable to one class are not applicable to any other class, and if so used shall be a violation of this Code. Sales terms shall be published by each employer to the Committee under rules established by the Committee.

On and after the effective date, no employer shall offer any product of the Industry for sale at less than his published sales prices and terms except as provided in Article VIII.

ARTICLE X—TRADE PRACTICES

The practices and methods as set forth in the following paragraphs 1 to 12, inclusive, including the subparagraphs thereof, in this Article X, are hereby designated as unfair methods of competition, and indulgence by any member of the Industry in any of the same shall be violation of this Code:

(1) Making any agreement or contract after the effective date of this Code the effect of which will amount to the sale and/or delivery of gas appliances on consignment; provided, however, that this subsection shall have no binding force and effect as applying to contracts existing prior to the approval of this Code.

(2) Allowing terms of payment other than those stated in the published sales terms of each employer except as otherwise provided herein.

(3) Selling or offering to sell any merchandise with a repurchase agreement.

(4) Allowing the return of merchandise at other than the fair market value at the time of its return, except merchandise having manufacturing defects may be returned for full credit.

(5) Purchasing or allowing credit for second-hand merchandise at an amount greater than its fair market value.

(6) Using premiums in the sale of merchandise.

(7) Giving gratuities or making payments to any employee or agent of a customer or prospective customer.

(8) Selling or offering for sale any article containing false marking or branding with the intent or the effect of misleading or deceiving purchasers with respect to rating, quality, grade, or substance of the merchandise.

(9) Defaming competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or other false representations or the false disparagement of the grade or quality of their products for the purpose or with the effect of misleading or deceiving purchasers or prospective purchasers.

(10) Using excessive inducements or entertainment or other practices for their agents, dealers, or distributors which tend to add unduly to sales costs.

(11) Imitating or simulating any trade mark, trade name, slogan, or other marks of identification of a competitor, having the tendency and capacity to deceive or mislead purchasers or prospective purchasers.

(12) So long as the maker of any trade-marked "Gas Appliance" (or his successor in business) continues to make and supply repair parts therefor, it shall be an unfair method of competition for any other person to make and supply repair parts for such "Gas Appliances" unless (a) the name of the maker of such repair parts is plainly marked on each part (or if this is impracticable on the package or tag) and unless (b) said parts are otherwise marked, packaged, and sold without imitative labels, and in such a manner as to clearly indicate to the ultimate user that they are not made by the maker of the original "Gas Appliance."

ARTICLE XI.—POWERS RESERVED TO THE PRESIDENT

1. This Code and all the provisions thereof are expressly subject to the right of the President, in accordance with the provisions of Clause 10 (b) 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 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.

ARTICLE XII—GENERAL PROVISIONS

1. *Amendments.*—Such of the provisions of this Code as are not required by the National Industrial Recovery Act to be included herein may, with the approval of the President of the United States, be modified or eliminated as changed circumstances or experience may indicate. This Code is intended to be a basic code, and study of the trade practices of the gas appliances and apparatus industry will be continued by the Committee with the intention of submitting, from time to time, additions to this Code applicable to all employers in the gas appliances and apparatus industry and supplemental codes applicable to one or more branches or subdivisions or product classifications of the gas appliances and apparatus industry; such supple-

mental codes, however, to conform to, and be consistent with, the provisions of this code as now constituted or hereafter changed:

2. *Monopolies not encouraged.*—No provisions in this Code shall be interpreted or applied in such manner as to:

- (a) Promote monopolies or monopolistic practices;
- (b) Permit or encourage unfair competition;
- (c) Eliminate or oppress small enterprises; or
- (d) Discriminate against small enterprises.

3. *Restriction of Liability.*—Nothing contained in this Code shall be deemed to constitute the members of this Code partners for any purpose.

4. *Application of the Code.*—If any employer in this Industry is also an employer in any other industry, the provisions of this Code shall apply to and affect only that part of the business of such an employer which is a part of the Industry covered by this Code.

5. *Approval of the Administrator.*—All action taken by the Committee in the administration of the Code shall be subject upon review by the Administrator to his disapproval or modification.

Approved Code No. 134
Registry No. 1129-1-11



Approved Code No. 135

CODE OF FAIR COMPETITION

FOR THE

CIGAR CONTAINER INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Cigar Container Manufacturers Code, 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 and recommendations, and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(433)

NOVEMBER 1, 1933.

The PRESIDENT,
The White House,

SIR: This is a report on the Code of Fair Competition for the Cigar Container Industry in the United States, as revised after a hearing conducted in Washington on October 19, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

The maximum is 40 hours a week with the following exceptions:

Executives and Supervisors receiving \$35 per week or more. Watchmen, firemen, delivery, or repair crews, not to exceed 10 percent of employees in any one plant; time and one-half for hours in excess of 40 hours per week. During the peak season from September 10th to December 10th employees may be employed 48 hours per week provided the average weekly hours over any six-month period shall not exceed an average of 40 hours per week. Productive machinery may not be operated more than 8 hours per day except during the three-month peak season when machinery and employees may not be employed more than nine and one half hours in any one day.

The minimum wage provided for employees shall be 40 cents per hour in the Northwest, 32½ cents per hour in the North, and 30 cents per hour in the South. Persons working on piece work are guaranteed minimum hourly wages. Weekly compensations which were higher as of June 15, 1933, than minimum provided for in the Code shall not be reduced. Differentials existing between common labor and skilled labor before enactment of Code are to be maintained. Females performing men's work shall receive men's wages. Learners shall receive 80 percent of minimum wage and shall not be employed as learners for a period longer than eight weeks.

CHILD LABOR

The age limit is 16 years, except in hazardous positions where the age limit shall be 18 years.

ECONOMIC EFFECTS OF THE CODE

The average weekly hours in the industry have been 50 to 55 hours per week. The hour schedule fixed by the Code should increase employment in the industry from 20 percent to 25 percent.

The minimum wages represent an increase of from 42 percent to 81 percent from present low levels and from 15 percent to 41 percent above the levels of 1929. The members of the industry have evidenced a readiness to comply with the spirit of the Act in every way.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Cigar Container Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
CIGAR CONTAINER INDUSTRY

ARTICLE I—PURPOSES

This Code is an undertaking in self government subject to the supervision of the Administrator of Title I of the National Industrial Recovery Act for the purpose of increasing employment, establishing fair and adequate wages, effecting necessary reduction of hours, improving standards of labor, and eliminating unfair trade practices, to the end of rehabilitating the Cigar Container Industry, avoiding further depletion and destruction of capital assets and enabling it to do its part toward establishing that balance of industries which is necessary to the restoration and maintenance of the highest practical degree of public welfare. Upon being approved by the President, this Code shall constitute the standards of Fair Competition for the Cigar Container Industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

(a) The term "Cigar Container Industry" as used herein includes the manufacture for sale or for use by the manufacturer of all types of cigar containers which are required by federal laws or regulations to bear a factory number and which are subject to the provisions of the Internal Revenue acts of the United States and regulations issued thereunder, as now in force or as hereafter amended.

(b) The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his service irrespective of the nature or method of payment of such compensation.

(c) The term "employer" as used herein includes anyone by whom such employee is compensated or employed.

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

(e) The terms "President", "Act", and "Administrator", as used herein, shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

(f) The term "Association" as herein used means the National Cigar Box Manufacturers Association.

ARTICLE III—HOURS OF LABOR

(a) Except as hereinafter otherwise provided no employee shall be permitted to work in excess of 40 hours in any one week.

(b) The maximum hours fixed in the foregoing provision shall not apply:

1. To employees in an executive or supervisory capacity receiving \$35.00 or more per week;

2. To watchmen, firemen, delivery or repair crews; provided, however, that the number of such employees shall not exceed 10 percent of the total number of employees in any single plant; and provided further, that one and one half times their normal rate shall be paid to all such employees for hours worked in excess of the maximum weekly hours (40 hours) hereinabove provided.

(c) The members of the industry may, if necessary to meet customers' requirements, during the season of peak demand beginning September 10th and ending December 10th, after application to and approval of the Authority, permit employees to work not more than 48 hours in any one week; provided, however, that the average weekly hours of any employee in any six months' period shall not exceed the maximum hours specified in section (a) of this Article.

(d) Members of the Industry shall not operate productive machinery in the industry nor engage employees for more than one shift of eight hours per day; provided, however, that during seasons of peak demand hereinabove referred to, productive machinery may be operated and employees engaged not more than nine and one-half hours in any one day.

(e) No employer shall knowingly engage any employee for any time which when totaled with that already performed with another employer or employers, exceeds the maximum permitted herein.

ARTICLE IV—MINIMUM WAGES

(a) No employee shall be paid less than the rate hereinbelow set forth for the territory designated:

1. Washington, Oregon, California, Utah, Nevada, and Colorado (North of 38 degrees north latitude), 40¢ per hour.

2. All the remainder of the United States north of 39 degrees, 43 minutes north latitude, 32½¢ per hour.

3. All the remainder of the United States south of 39 degrees, 43 minutes north latitude 30¢ per hour.

(b) Persons who are limited in their earning power through physical or mental defects, age, or other infirmities, may be employed on lighter duties below the minimum wage hereinabove provided and for longer hours than are herein authorized if the employer obtains from the State Labor Commission a certificate authorizing the employment of such employees in such manner; provided, however, the number of such employees shall not exceed five percent of the total number of employees in any plant nor receive less than 80% of the minimum wage required by this Code.

(c) This article establishes a minimum rate of pay regardless of whether an employee is compensated on a piece rate, time rate, or other basis.

(d) The weekly compensation effective June 15, 1933, in excess of minimum wage hereinabove specified shall not be reduced, notwithstanding that the hours of work in any such employment may be reduced.

(e) The wages of all employees receiving more than the minimum rates herein prescribed shall be equitably adjusted and the differentials existing prior to the date of the approval of this Code maintained.

(f) Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

(g) The minimum wages hereinabove specified shall not apply to apprentices or learners; provided, however, that the total number of such apprentices and learners shall not exceed five percent of the total number of employees engaged by a member of the industry in any one plant; and provided further that the wages paid to such apprentices and learners shall not be less than eighty percent of the minimum rates hereinabove specified; and provided further that the period of apprenticeship or learning shall not exceed eight weeks.

ARTICLE V—GENERAL LABOR PROVISIONS

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

(b) 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.

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

(d) No person under 16 years of age shall be employed in this Industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate duly issued by the authority empowered to issue employment certificates showing that the employee is of the required age.

(e) Home work shall not be permitted.

(f) Within each State no provision of this Code shall supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than provided under this Code.

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

(h) Each employer shall post in conspicuous and accessible places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To effectuate further the policies of the Act, a Code Authority, hereinafter referred to as the Authority, is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. *Organization and constitution of Code Authority.*

(a) The Code Authority shall consist of seven individuals or such other members as may be approved from time to time, by the Administrator, to be selected by a fair method. The Administrator, in his discretion, may appoint additional nonvoting members to represent the President. The Code Authority shall be the official agency of the Industry for the Administration of this Code.

(b) The Code Authority shall be selected as follows:

Within thirty days after the approval of this Code by the President, the proponents of the Code, the National Cigar Box Manufacturers' Association, after due and reasonable notice to the Industry, shall call a meeting of the members of the Industry for the purpose of selecting the members of the Code Authority. At such meeting and election, each member of the Industry shall be entitled to one vote either in person or by proxy and the notice of such meeting shall so specify.

One member of the Code Authority shall be selected by the National Cigar Box Manufacturers' Association, one member of the Code Authority shall be selected by the Eastern Cigar Box Manufacturers' Association; one member of the Code Authority shall be selected by the Western Cigar Box Manufacturers' Association; and one member of the Code Authority shall be selected by members of the Industry who are not members of any of the Associations hereinabove named.

Each member so selected shall be the representative of the group by whom such member is elected. The remaining three members of the Code Authority shall be elected by a majority vote of all members of the Industry present in person or by proxy.

(c) Each trade or industrial association directly or indirectly participating in the selection or activity of the Authority shall—

1. Impose no inequitable restriction on membership, and

2. Submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments made thereto, together with such other information as to membership, organization, and activity as the Administrator may deem necessary to effectuate the purposes of this Act.

(d) 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 hearing as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative and does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selecting the Code Authority.

2. *The Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Authority.*

(a) The Authority shall be the General Planning and Administering Agency of this Code.

(b) The Authority may make such rules and regulations and impose upon members of the Industry such restrictions as may be necessary to administer this Code.

(c) The Authority is also set up to cooperate with the Administrator in making investigation as to the functioning and observance of any provisions of this Code, at its own instance, at the request of the Administrator, or on complaint of any person affected, and report the same to the Administrator.

(d) The Authority shall coordinate the Administration of this Code with such codes, if any, as may affect this Industry, or any related industry, with a view to promoting joint and harmonious action upon matters of common interest.

(e) The Authority shall designate such divisional agencies to assist in the proper supervision and operation of this Code as it may deem wise and may delegate to said agencies such power granted by this Code to the Authority as in its judgment may be necessary to the efficient and effective operation thereof. The Authority may from time to time change the personnel of any agency which it has appointed, or modify the powers delegated thereto. The Authority shall, however, reserve final responsibility with respect to any powers or duty delegated by it.

ARTICLE VII—CODE REPORTS AND PARTICIPATION

(a) In order that the President may be informed of the extent of the observance of the provisions of this Code and of the extent to which the declared policy of the National Industrial Recovery Act is being effectuated in the Cigar Container Industry, the Authority shall make such reports as the Administrator may require, periodically, or as often as he may direct, and each member of the Industry shall make such sworn or unsworn reports to the Authority, periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters necessary for the Administration of this Code as the Authority may require.

(b) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof. Those who participate or accept the benefits of the activities of the Authority shall pay their reasonable share of the expense of its administration of this Code. The 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 to be taken into consideration.

(c) Statistical information required by the Code Authority in accordance with the provisions of this Code shall be deemed confidential and shall not be divulged to any member of the Industry, or any other person, except in summary, but shall be made available to the Administrator upon request and may be used to facilitate the administration of this Code. In the event that summary information in effect divulges the identity of individual members of the Industry it shall not be revealed to any other member of the Industry except upon the written permission of said member.

(d) 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 3 (a) of the Act.

ARTICLE VIII—COST PROTECTION

(a) The Authority shall employ a firm of representative certified public accountants to formulate and submit to it a uniform method of cost inclusion and application, and when this shall have been adopted by the Authority, and approved by the Administrator, each member of the industry shall immediately proceed definitely to determine the cost of each type of container he produces in accordance with the method so adopted, and with regulations issued by the Authority thereunder. Members of the Industry shall be entitled, if they so desire, to employ their own certified public accountants, provided that in ascertaining their costs through their own certified accountants they shall comply with the requirements of the uniform method of cost inclusion adopted and approved as herein provided.

(b) Whenever and so long as the Authority determines that it will contribute toward the accomplishment of the declared purposes of the Code, and whenever it is satisfied that it is able to determine the costs under the uniform method hereinabove mentioned, the Authority is authorized to establish, and from time to time revise, minimum prices, to protect the cost of the various types of containers manufactured by the Industry. Such minimum prices shall be established with due regard to the maintenance of free competition among the various types of containers, with the products of other industries, and to the encouragement of the use of said products; and shall be not more nor less than the weighted average costs determined as provided in this Article and under such rules and regulations as the Authority may from time to time adopt and issue. The original average weighted cost and any revisions thereof as provided for herein shall be approved by the Administrator as equitable and fair before being announced by the Authority.

(c) Until the Authority shall have established minimum prices as provided in Section (b) hereof, no member of this Industry shall sell any type of container below his own cost as established in paragraph (a) excepting to meet the competition of a lower cost producer, and, upon being notified by the Authority that it has established a minimum price for any type of container, as provided in paragraph (b), no member of the Industry shall sell any such container below that minimum price.

ARTICLE IX—CANCELLATION OR MODIFICATION

This Code, and all the provisions thereof, are expressly made subject to the rights 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.

After due notice and hearings this Code may be amended upon the recommendation of the Code Authority or any interested party or group, or upon the Administrator's own notice, and any modification so arrived at shall be effective when approved by the President.

ARTICLE X—MONOPOLIES

(a) This Code shall not be construed, interpreted, or applied so as to promote or permit monopolies or monopolistic practices, and shall not be availed of for that purpose.

(b) The provisions of this Code shall not be so interpreted or administered as to eliminate or to oppress, or to discriminate against small enterprises.

ARTICLE XI—VIOLATIONS

Violation by any person of any provisions of this Code, or the submission of any false statement or report to the President, or to the Authority, shall constitute an unfair method of competition, and the offender shall be subject to the penalties imposed by the National Industrial Recovery Act.

ARTICLE XII—RULES OF FAIR TRADE PRACTICE

(a) No member of the Industry shall make, or permit to be made, direct quotations of prices, terms, or quantities guaranteed for a period in excess of thirty days.

(b) No member of the Industry shall grant cash discounts in excess of "2%, ten days, e.o.m.", or "thirty days net, e.o.m.", nor extend credit in excess of sixty days from net due date.

(c) No member of the industry shall secretly offer, allow, or permit to be given any rebates, commissions, refunds, credit, free goods, unearned discounts, whether in the form of money, material, or otherwise, for the purpose of influencing a sale, nor shall a member of the industry secretly extend to any customer any special service or privilege not extended to all customers of the same class.

(d) No member of the industry shall sell cigar containers on consignment.

(e) *Commercial Bribery.*—No member of the Industry shall directly or indirectly, 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.

(f) No member of the Industry shall use or substitute in the sale of any cigar containers any materials of a superior or inferior quality to that specified by the customer, or specified in any quotation made prior to any such sale, and accepted by the customer.

(g) *Defamation.*—No member of the Industry shall defame 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. Any person, firm, or corporation engaged in supplying material to members of the Industry, or any employee of any such person, firm, or corporation, making or permitting to be made any false representations as to any member of the Industry, his financial standing, personal integrity, commodities, prices, or ability to serve his trade, may be reported to the Authority which shall promptly report such false representations to the proper agency of the Code of Fair Competition, if any has been theretofore approved by the President, which constitutes the standards of Fair Competition for such person, firm, or corporation.

ARTICLE XIII—EFFECTIVE DATE

This Code shall be effective on the second Monday after the date of its approval by the President.

Approved Code No. 135
Registry No. 303-02



Approved Code No. 136

CODE OF FAIR COMPETITION

FOR THE

VITRIFIED CLAY SEWER PIPE MANUFACTURING
INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Vitrified Clay Sewer Pipe 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 hereby adopt and approve the report, recommendations, and findings of the Administrator and order that the said Code of Fair Competition for the Vitrified Clay Sewer Pipe Manufacturing Industry be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,

Administrator.

THE WHITE HOUSE,

November 27, 1933.

(445)

NOVEMBER 6, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Vitrified Clay Sewer Pipe Manufacturing Industry in the United States, as revised after the hearing conducted in Washington on October 30, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

This code provides for a maximum work week of 40 hours, averaged over a thirty-day period, and a maximum work day of eight hours for plant employees; and for other employees, a maximum work week of forty hours, with a ten percent tolerance for emergencies provided that this does not result in an average of more than forty hours of work per week in any thirty-day period. The following are excepted:

(1) Traveling salesmen, employees whose wage is \$35.00 or more per week and who are engaged in technical work or in managerial, executive, or supervisory capacities;

(2) Watchmen, who are not to be employed in excess of twelve hours a day nor more than one hundred and forty-four hours in any two-week period;

(3) Employees engaged in continuous processes, those whose work requires their presence prior to or after the regular hours of operation or those whose work is dependent upon climatic conditions. These are not to be employed in excess of forty-eight hours per week;

(4) Employees engaged in emergency maintenance or emergency repair work due to breakdown or required for the protection of life or property, who are to be compensated at the rate of one and one-third times the normal rate for time worked over forty-eight hours per week averaged over a thirty-day period.

The employees enumerated in (3) and (4) above may not exceed fifteen percent of the total employees in any operating plant.

The code provides for minimum rates of pay of thirty-seven cents per hour in the North and twenty-seven cents per hour in the South, whether payment be made on a time rate or piece work basis. So far as practicable, earnings are not to be decreased and rates of pay in excess of these minima are to be increased so as to preserve equitable differentials.

The minimum pay for accounting, clerical, and office employees is to range from \$16.00 to \$14.00 per week, depending upon the size of the city, in the trade area of which they are employed.

Watchmen are to be paid not less than \$15.00 per week. Aged or infirm may be paid not less than eighty percent of the minimum

wages provided for other employees, but these may not exceed five percent of the employees in any plant.

Employment of any person under sixteen years of age, or in a hazardous occupation, of any person under eighteen years of age, is prohibited.

ECONOMIC EFFECTS OF THE CODE

According to figures presented at the hearing, the sales for this industry have declined from approximately \$19,000,000 in the year 1928 to an estimated \$3,300,000 in the year 1933, a decline of approximately eighty-three percent. The number of employees has decreased from 10,284 in 1928 to 4,349 in 1933, a decrease of approximately fifty-eight percent.

In the continuous process occupations, a substantial increase in employment should result from the code. In the non-continuous occupations, the result will be rather a shortening of the lay-off periods, due to the intermittent type of operation which prevails in this industry.

The minimum wages proposed in the code are from fifty percent to sixty percent higher than those in effect in June of this year. The proposed southern minimum wage is higher than that in effect in that section in 1929.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Vitrified Clay Sewer Pipe Manufacturing Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
VITRIFIED CLAY SEWER PIPE MANUFACTURING
INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Vitrified Clay Sewer Pipe 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

The term "Vitrified Clay Sewer Pipe Manufacturing Industry" as used herein includes the manufacture, and sale by the manufacturer, of vitrified clay sewer pipe, clay ring pipe, clay underdrains, clay wall coping, clay segment sewer blocks, clay liner plates, clay chimney pipe, clay flue lining, salt glazed clay drain tile which is fabricated in vitrified clay sewer pipe plants, and such branches and subdivisions thereof as may from time to time be included under the provisions of this Code; provided, however, that any sewer pipe manufacturer may elect to operate under the code of the Drain Tile Industry for his drain tile production, upon giving notice in writing to the Code Authority of such intention.

The term "employee" as used herein includes any one engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

"Plant" means any establishment engaged in the manufacture of vitrified clay sewer pipe as defined above.

"Associations" means the regional association, or organizations of Regions or Districts set up for the purpose of making effective the terms, provisions, and policy of the National Industrial Recovery Act.

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.

"North" means all territory in the United States except that listed below under "South."

"South" means the following States: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North and South Carolina, Oklahoma, Tennessee, Texas, District of Columbia, and Virginia.

“Region” means a major territory established with definite boundaries for the purpose of administering this Code in accordance with powers delegated by the Code Authority.

“District” means a subdivision of a Region, with definite boundaries, established for the purpose of administering this Code in accordance with powers delegated by the Regional Committee.

The terms “President”, “Act”, and “Administrator” as used herein mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

ARTICLE III—HOURS

Recognizing the importance of achieving the maximum practicable stability of employment, members of the Industry establish the following provisions:

1. Except as provided for in subsection 3 below, no employer shall cause or permit any plant employee to work at an average of more than forty hours per week in any thirty-day period, nor more than eight hours in any one day.

2. Except as provided for in subsection 3 below, no member of the Industry shall employ any accounting, clerical, office, service, or sales employees, except commercial traveling salesmen, or any other employee not mentioned above for more than forty hours in any one week, with a ten percent tolerance for emergencies, provided that in no event shall such employment average over forty hours a week in a thirty-day period.

3. The maximum hours of labor provided for in subsections 1 and 2 of this Article shall not apply to the following:

(a) Employees whose wage is \$35 or more per week and who are engaged in technical work or in managerial, executive, or supervisory capacities.

(b) Employees acting as watchmen, who shall not work in excess of twelve hours a day or more than 144 hours in any two-weeks period.

(c) Employees whose labor requires their presence prior to or after the regular hours of operation, whose maximum hours shall be forty-eight hours in any one week.

(d) Employees whose labor is dependent upon climatic conditions, whose maximum hours shall be forty-eight hours in any one week.

(e) Employees engaged in continuous processes, whose maximum hours shall be forty-eight hours in any one week.

(f) Employees engaged in emergency maintenance or emergency repair work due to breakdown or required for the protection of life or property, who shall be compensated at the rate of one and one third times the normal rate for time worked over forty-eight hours per week, averaged over a thirty-day period.

Employees enumerated in items (c) to (f), inclusive, shall not exceed in number fifteen percent of the total employees in any operating individual plant.

4. No employer shall knowingly engage any employee for any time which when totaled with that already performed for other employers exceeds the maximum permitted herein.

ARTICLE IV—WAGES

1. No employee shall be paid less than thirty-seven cents per hour in the North and twenty-seven cents per hour in the South.

2. This paragraph establishes a guaranteed minimum rate of hourly pay regardless of whether the employee is compensated on the basis of a time rate or of a piece-work performance for the hours worked in any pay period.

3. To the extent practicable, earnings shall not be decreased and rates of pay in excess of the minimum herein prescribed shall be increased so as to preserve equitable differentials.

4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

5. Accounting, clerical, or office employees shall not be paid less than 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 \$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 \$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 \$14.00 per week in any city under 10,000 population.

6. Watchmen, in either the plant or the office, shall not receive less than \$15.00 per week.

7. Persons whose earning capacity is limited because of physical or mental defect, age or other infirmity may be employed on light work at not less than 80 percent of the minimum wage set by this Code; provided, however, that the total number of such employees in any one plant shall not exceed five percent of the total of such plant.

8. All wages shall be paid at least twice a month, and all salaries at least once a month, in cash or by negotiable check. Those wages shall be free from any deductions for payments for pensions, insurance or sick benefits other than those voluntarily authorized by the wage earners or required by State laws.

9. No employer shall, either in person or through agents, solicit or accept rebates, directly or indirectly, on such wages or any other consideration of value except work for such wages, and neither shall he extend favors or any other consideration to any person for the purpose of influencing the wages or working conditions of his employees.

ARTICLE V—GENERAL LABOR PROVISIONS

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 before January 1, 1934, 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.

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 employers regulating the age of employees, wages, hours of work, or health, fire protection, or general working conditions than under this Code.

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

7. Each employer shall post in his plant the wage, hour, and labor provisions of this Code.

8. No employee shall be required as a condition of employment to trade at any store specified by the employer.

ARTICLE VI—ADMINISTRATION

1. The Industry shall be divided into four Regions, namely, the Eastern Region, the Middle-Western Region, the Southern Region, and the Pacific Coast Region, respectively, consisting of the following States:

(a) *Eastern Region*.—Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, District of Columbia, Virginia, West Virginia, Ohio, Michigan, that part of Indiana east of the 86th principal meridian, and insular possessions of the United States in the Atlantic Ocean.

(b) *Middle-Western Region*.—That part of Indiana west of the 86th principal meridian, Illinois, Wisconsin, Minnesota, Iowa, Missouri, that part of Kentucky south of the Louisville & Nashville Railroad from Louisville to Winchester and west of the same railroad from Winchester south, Arkansas, Louisiana, North and South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Utah, and Idaho.

(c) *Southern Region*.—North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, that part of Kentucky not included in the Middle-Western Region, and the Panama Canal Zone.

(d) *Pacific Coast Region*.—California, Oregon, Washington, Nevada, Arizona, Alaska, and insular possessions of the United States in the Pacific Ocean.

2. A Code Authority, to be elected by the Industry as hereinafter provided, is hereby constituted as follows:

- One member from the Eastern Region
- One member from the Middle-Western Region
- One member from the Southern Region
- One member from the Pacific Coast Region

In addition, the Administrator may in his discretion appoint a member, without vote, to represent the Administration, without expense to the Industry.

3. Regional Committees. A Regional Committee of not more than eight members shall be elected in each Region by a majority vote of the members of the Industry in the Region. Each Region shall, as far as practicable, be self-governing under the provisions of this Code, and, to that end, the Code Authority, subject to review and modification by the Administrator, shall delegate to each such Regional Committee such of its authority, powers, and duties as may be necessary therefor, including the right to submit to the Administrator recommendations for amendments to this Code, applicable only to such Regions, within the scope of the powers granted under this Code.

4. The members of the Industry in each Region shall convene, upon notice as hereinafter provided, on or before the expiration of one month from the effective date of this Code for the purpose of electing one member of the Code Authority and also of electing their Regional Committee.

5. District Committees. With the approval of its Regional Committee, any group of members of the Industry may establish a subdivision or district for the purposes of effectuating the policies of the Act and administering the Code within its district. The members of the Industry within each such district shall appoint a District Committee as a governing body, such committee to have only such powers as may be delegated to it by the Regional Committee of its respective Region.

6. The Code Authority shall be charged with the administration of this Code throughout the Industry and shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any of its orders, rules, regulations, or enactments:

(a) To obtain from all members of the Industry such sworn or unsworn reports, either periodically or intermittently, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters pertinent to the provisions or operation of this Code as it may specify or as the Administrator may from time to time require.

(b) To make such surveys or investigations as may be necessary to ascertain conditions in the Industry and the observance or non-observance of the provisions of this Code.

(c) To submit to the Administrator from time to time such recommendations concerning: Methods and conditions of trading; the promotion of stabilization of the Industry; the prevention and elimination of unfair and destructive competitive prices and practices; the gathering and dissemination of credit information so that, during the period of emergency, available credit may be adapted to the needs of the Industry considered as a whole and to the needs of the small as well as the large units; dealing with any inequalities that may in any way arise to endanger the stability of the Industry and of production and employment; the regular auditing of statistical reports, costs, prices, and terms to assure accuracy, prevent misrepresentation, and verify the Industry's reports to the Adminis-

tration; such rules and regulations regarding standardization, uniform cost accounting, reduction of styles and sizes, and branding of products as may serve the interests of the public and otherwise effectuate the purposes of the Act; and such other recommendations as may from time to time appear necessary to effectuate the purposes of Title I of the Act, such recommendations, when approved by the Administrator, to have the same force and effect as any other provision of this Code.

(d) To regulate, subject to review, modification or disapproval by the Administrator, the sale of discontinued lines, off-grade materials, and inventories which must be converted into cash to meet emergency needs, at or below the cost of production, in special cases if the member files adequate proof of necessity, a detailed record of such surplus stocks to be filed with and checked by the respective regional or district committees at the time of application for such approval.

(e) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon, and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations, and other action concerning unadjusted violations.

(f) To coordinate the administration of this Code with such other codes, if any, as may be related to the Industry, or any subdivision thereof, and to delegate to any other administrative authority, with the approval of the Administrator, such powers as will promote joint and harmonious actions upon matters of common interest.

7. Each association, as herein defined, or any other trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall:

(a) Impose no inequitable restrictions on membership; and

(b) 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.

8. 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, thereafter, if he shall find that the Code Authority is not truly representative, or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

9. Any decision, rule, regulation, order, or finding made, or course of action followed, pursuant to this Code, may be canceled or modified by the Administrator whenever he shall determine such action by him to be necessary to effectuate the provisions of Title I of the Act.

10. Members of the Industry shall be entitled to participate in, and share the benefits of, the activities of the Code Authority, and to participate in the selection of the members thereof, by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The

reasonable share of the expenses of administration shall be determined by the Code Authority, or Regional or District Committees, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration. Where Regional or District Committees collect such funds, provision shall be made for the payment of a proportionate share of the Code Authority's expense as apportioned by the Code Authority.

11. In addition to the information required to be submitted to the Code Authority, there shall be furnished to governmental agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

12. When the Administrator or his duly authorized agent, or the Code Authority or its agents, or the Regional Committee or the District Committees shall obtain confidential information, it shall be assembled by a disinterested neutral party who shall keep it confidential except that it may be disclosed upon the lawful demand of either House of Congress or lawful committees thereof, or upon demand of any court. Totals or subtotals of any data may be disclosed publicly, providing no individual enterprise supplying such information be revealed. Information obtained in the course of investigation shall not be disclosed to any members, including those on the Code Authority, unless such disclosure shall be required by the Administrator.

ARTICLE VII—TRADE PRACTICES

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

1. 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 for a manufacturer to ship his products under the name of any nonmanufacturing buyer; or delivering of a higher priced product when a lower priced product was sold and/or charged to the customer.

2. 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 terms, prices, or credit terms, values, policies, or services of any member of the Industry, or making misleading guarantees as regards the performance of a manufacturer's products or the structures in which they are used, or making any guarantees other than standard guarantees as adopted by manufacturers of their respective regions or districts, or otherwise having the tendency or capacity to mislead or deceive customers or prospective customers, or for the purpose of gaining an unfair competitive advantage.

3. Directly or indirectly to give, or permit to be given, or offer to give, money or anything else 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 offers or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

4. 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; solicitation by a manufacturer or his representative, directly or indirectly, of an order for his product with the knowledge that a signed order from one in authority has previously been given a competitor, or the renewal of sales effort by a competitor on an operation after the seller receiving the order has commenced delivery and where differences have arisen resulting in a cessation of delivery, unless the said seller has had a reasonable opportunity to adjust such differences; or cancellation or repudiation of contracts by either the buyer or seller of vitrified clay sewer pipe, except for legal cause, or in accordance with express terms of the contract, or by mutual consent.

5. The secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

6. 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, unless prices published make clear that such prizes, premiums, or gifts will be given.

7. 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.

8. The publishing or circularizing of threats of 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.

9. 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.

10. The making of installed or lump-sum prices by a manufacturer or his agent, thereby concealing the unit price of the items embraced therein; or guaranteeing that any specific quantities will do the job which are actually insufficient for the purpose; or the making of any bid when its acceptance is contingent upon the acceptance of a bid on any other clay products or other building material or commodities.

11. The shipment of vitrified clay sewer pipe on consignment.

12. The practice of accepting, in payment for vitrified clay sewer pipe, securities such as mortgages, bonds, stocks, or tax bills or certificates, except at current marketable cash value.

13. Furnishing any contractor, subcontractor, or agent with a certified bidding check or bidding bond; or directly or indirectly financing such buyers by prepaying freight or otherwise.

14. Delivering by truck or otherwise of less than carload lots of vitrified clay sewer pipe at carload prices, or delivering carload quantities by truck or otherwise f.o.b. site or f.o.b. dealer's yard at the same or at a lower price than carloads f.o.b. nearest station or spur, except when specifically approved by the respective Regional or District Committees.

15. The Regional Committees may make and administer plans, subject to review and modification or disapproval thereof by the Administrator, whereby contractors', dealers', or jobbers' discounts will not be extended to those who do not perform the functions of contractors, dealers, or jobbers, and for the regulation of commission salesmen.

16. Selling below allowable cost, as hereinafter provided, unless such selling below allowable cost is approved in writing by the proper Regional or District Committee in advance of such sale.

17. Selling or offering for sale for delivery in the Industry member's own Region, or any other Region or District, of any vitrified clay sewer pipe at less than the producer's allowable cost, plus transportation charged to points of delivery, for the product involved as determined in accordance with the principles described in Article VIII; provided, however, that any producer may sell at below his allowable cost to meet the competition by any other producer whose price is not less than his allowable cost.

18. To fail to comply with any or all of the provisions of Article XI and XIII of this Code.

19. Nothing in this Code shall limit the effect of any adjudication by the courts or any 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—SELLING BELOW COST

1. Allowable cost in each respective Region or District shall include the following elements:

Direct labor.

Materials, at cost.

Proportionate share of indirect expenses and fixed charges.

Indirect expenses are to include depreciation and/or depletion, computed according to maximum rates allowed to the respective members of the Industry by Federal Income Tax Procedure, but to exclude the following items:

Any reserves other than for depreciation and/or depletion.

Interest paid.

Executive salaries in excess of \$10,000 per annum for each executive.

Salesmen's salaries and expenses.

Commissions.

Advertising.

Other selling expenses.

The proportionate part of indirect expenses and fixed charges to be included in allowable cost shall be determined on the following basis:

Each member of the Industry shall report to his Regional Committee the following information covering business transacted in the years 1927 to 1932, inclusive, in separate totals for each year:

Sales in tons and amounts.

Production in tons.

Direct labor.

Material costs.

Indirect expenses and fixed charges, exclusive of exceptions enumerated above.

From these reports there shall be calculated the average tonnage produced, the average cost of production per ton, and the average indirect expenses and fixed charges per ton produced, as defined above, for the one-third part of the Industry which had the lowest cost of production per ton for the six-year period; and the resulting average per ton of indirect expenses and fixed charges shall become the standard charge of burden to be included in production costs for the respective Regions or Districts by every producer covered by this Code, for the purpose of determining whether or not sales or offers of sale are made below cost.

In the case of any complaint by an interested party that a member of the Industry is violating the foregoing cost provision, the burden of proof of compliance shall rest upon the accused member. If the Code Authority or the Administrator is not satisfied by the proof furnished by the defendant member, the matter shall be referred to the Federal Trade Commission which may audit the defendant's cost accounting and otherwise review his allocation of burden; and the report of that Commission shall be final regarding the costs of the defendant member.

2. For the purpose of adjusting costs in the future in the respective Regions or Districts, a uniform accounting and cost-finding basis shall be formulated for the Industry by the Code Authority and applied by each Regional Committee as hereinabove provided, subject to review and modification or disapproval by the Administrator.

ARTICLE IX—MODIFICATION

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

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

ARTICLE X—STANDARDIZATION

Vitrified clay sewer pipe should be standardized for the elimination of unnecessary cost, waste, and loss, and no change in dimensions of a kind likely to upset Industry standards shall be made by any manufacturer until after he has filed notice of his intention thereto in the office of his Regional Committee. The standards of the American Society for Testing Materials can be a scientific guide with reference to sizes and strength, absorption, and other physical qualities.

ARTICLE XI—TERMS OF SALE, AND CREDITS

1. The Regional Committee may establish standard terms of sale and cash discounts and credit practices which shall be uniform in each respective Region and which shall be binding upon all producers, subject to review by the Code Authority and the Administrator.

2. All quotations and contracts for the sale of vitrified clay sewer pipe shall be in writing and shall contain a definite statement of prices, quantities, terms of payment, time and place of delivery, and all other items necessary to form a complete understanding.

3. The terms of sale of each member of the Industry, including credit terms, shall be uniform in the Region to all purchasers of the same class, and shall be uniformly enforced, provided that nothing herein contained shall prevent any member of the Industry from refusing credit to any purchaser or requiring special terms of payment when in his judgment such refusal or requirement is necessary for the adequate protection of the account.

4. Members of the Industry may exchange credit information for the purpose of eliminating losses to the Industry, and failure to give truthfully such credit information is an unfair method of competition.

ARTICLE XII—MONOPOLIES

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 XIII—PRICE

1. The Regional or District Committee may require that each member of the Region or District shall file with the Committee's Secretary a net price and/or a price list or discount sheet individually prepared by him showing his current prices and/or prices and discounts, including all special discounts, freight allowances, and terms of payment. The Secretary shall immediately send copies or revisions thereof to all other members of the Industry in the Region or District.

2. Each member of the Industry shall be free to change his published prices or conditions and terms of sale from time to time as

conditions warrant, but he shall file with his Regional or District Committee at least five (5) days prior to the effective date thereof such new, amended, or revised prices or terms or conditions of sale before making any quotation, offering for sale, or sale in accordance with such revision; except that the time required for prior filing may be shortened to afford opportunity to meet a newly published price, or to meet legitimate competition from competitive materials other than vitrified clay sewer pipe. Changes of prices or conditions and terms of sale shall be deemed to be filed with Regional or District Committees, as hereinabove provided, when an acknowledgment by wire, by telegraph, or by mail shall have been issued by the secretary of such Regional or District Committees.

3. No member of the Industry shall sell, directly or indirectly through an affiliated company or otherwise, by any means whatever, any of the products of the Industry at a price lower, or at discounts greater, or on more favorable terms of payment than those provided in his current net price and/or price lists and discount sheets, so filed with the Committee as aforesaid; provided, however, that at any time any member of the Industry may meet the lawful price of any competitor for products of an equal grade or quality. Any such meeting of a lower price must be reported at once to the Committee. An "Affiliated" company for the purpose of this section means a company the majority of whose voting stock is owned or controlled by a member of the Industry.

ARTICLE XIV

Any notice, demand, or request required or permitted to be given to or made on any member of the Industry shall be sufficiently given if mailed, postage prepaid, addressed to such member at the address of such member on file with the Regional Committee. Notice of meetings shall be issued by the Secretary of each respective association at least seven days prior to the dates thereof. A waiver in writing signed by any member of any such notice, demand, or request and delivered to the Regional Committee shall be deemed to be the equivalent of a notice, demand, or request duly given or made, whether or not such waiver was signed and delivered at the time such notice, demand, or request was required or permitted to be given or made. Any member of the Industry may cast his vote on any subject by written proxy.

ARTICLE XV

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

ARTICLE XVI

This Code shall become effective on the second Monday after its approval by the President, and such date shall be known as the "effective date" of this Code.

Approved Code No. 138
Registry No. 1013-05

○

Approved Code No. 137

CODE OF FAIR COMPETITION

FOR THE

WARM AIR FURNACE MANUFACTURING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Warm Air Furnace 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 27, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

(461)

NOVEMBER 15, 1933.

THE PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Warm Air Furnace Manufacturing Industry, and on the public hearing conducted thereon in Washington, D.C., on October 23, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

All employees, except office employees, shall be paid a minimum rate of forty cents per hour in the North and thirty cents per hour in the South.

Learners shall be paid eighty percent of the above minimum, but shall not exceed in number five percent of the total number of such employees.

Office employees shall be paid a minimum of fifteen dollars per week except that office boys or girls, not to exceed one to every ten office employees, shall be paid at least eighty percent of the above rates.

Old and disabled employees, not exceeding in number five percent of an employer's total number, shall be paid at least eighty percent of the above minimum rates.

Forty hours is the maximum number of working hours for any week and eight hours for any day. At certain intervals forty-eight hours in one week is permissible.

A tolerance of ten percent is allowed for maintenance and repair workers.

Watchmen shall not be employed in excess of fifty-six hours in any one week.

All employees, except office employees, shall be paid at the rate of time and one half for hours in excess of the normal daily or weekly maximum.

Office employees shall not be employed in excess of forty hours a week or more than forty-eight hours in any one week.

Employers shall equitably adjust the compensation of employees receiving more than the minimum rates of pay provided and report readjustments to the Code Authority.

ECONOMIC EFFECTS

This Industry depends chiefly upon new residential building for consumption of its products ordinarily but now is largely dependent upon replacement demand. Between 1929 and 1931 there has been a decline of almost forty percent in the value of this Industry's products.

Of the two hundred and six of this Industry's concerns operating in 1929, only seventy-six now remain. This Code will not therefore effect the reabsorption of all former employees but will increase the number of employees over that of September 1933 by twenty-two percent.

A substantial increase in employment has occurred in this Industry since January 1, 1933, due partially to seasonal variations but principally because some plants were operating under the President's Reemployment Agreement.

This Code provides for the upward adjustment of this Industry's employees' wages to the extent practicable.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Warm Air Furnace Manufacturing Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

WARM AIR FURNACE MANUFACTURING INDUSTRY

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

ARTICLE I—DEFINITIONS

(a) "The Industry" means and includes the business of manufacturing and selling by manufacturers of cast iron or steel warm air heating furnaces in the United States.

(b) "National Industrial Recovery Act" means the National Industrial Recovery Act approved by the President on June 16, 1933.

(c) "Act" means National Industrial Recovery Act.

(d) "Institute" means the Warm Air Furnace Manufacturers' Institute, a Trade Association.

(e) The term "Employee" as used herein includes any person engaged in any phase of the Industry in any capacity in the nature of employee, irrespective of the method of payment of his compensation.

(f) The term "Employer" as used herein includes anyone by whom such an employee is so engaged.

(g) "Effective Date" means the second Monday after this Code is duly approved by the President of the United States.

(h) "Jobber" means anyone whose sole business is to sell to dealers, heating contractors, and/or installers, and who does not perform, directly or indirectly, the functions of a dealer, heating contractor, or installer. If any application of this definition should work hardship upon any member of the Industry, or any customer, such member of the Industry, or such customer, may apply to the Code Authority, which shall have power to grant such exemption as justice may require.

(i) "Dealer" and/or "Heating Contractor", and/or "Installer" means anyone who buys the products of the Industry for resale to the consumer and/or installation in connection with such sale. If any application of this definition should work hardship upon any member of the Industry, or any customer, such member of the Industry or customer may appeal to the Code Authority, which shall have power to grant such exemption as justice may require.

(j) The term "Member of the Industry" means anyone engaged in the Industry, whether as an employer or on his own behalf.

ARTICLE II—CONDITIONS OF EMPLOYMENT

SECTION 1. (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing,

and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) 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.

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

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

(e) Each employer shall post in conspicuous places full copies of this Code.

SEC. 2. *Minimum Wages.*—On and after the effective date the minimum wage which shall be paid by employers in the Industry to employees other than office employees shall be at the following rates:

(a) In all States of the United States, except Tennessee, North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, and Louisiana, the minimum rate of pay shall be not less than forty (40) cents per hour.

(b) In the States excepted in the above paragraph (a) the minimum rate of pay shall be not to exceed ten (10) cents per hour less than that prescribed for other States.

(c) The minimum rate of pay for learners shall not be less than eighty percent (80%) of the minimum wage provided herein, and the total number of such learners shall not exceed in any calendar month five (5) percent of the total factory employees of any employer, provided that no one shall be employed in the capacity of learner who has been employed within the industry for one year, whether by one or more employers.

(d) The minimum wage which shall be paid by any employer to office employees, except employees covered in Section 2, paragraph (e) of this Article II, shall not be less than at the rate of fifteen (15) dollars per week.

Office boys and girls shall be exempt from the foregoing provisions of this paragraph (d), provided they are paid at the rate of not less than eighty (80) percent of the minimum wage provided in this paragraph (d) for office employees, and provided that they shall not exceed in number more than one to every ten office employees.

(e) Old and partially disabled employees shall in no case be paid less than eighty (80) percent of the within minimum wage rates of pay, and provided that the total of such employees shall not exceed five (5) percent of the total number of employees employed by any employer.

SEC. 3. *Maximum Hours.*—No employee, except office employees, shall be employed in excess of forty (40) hours in any one week, or eight (8) hours in any twenty-four (24) hour period, except during any twelve (12) weeks in a twelve (12) months' period when employees may be employed not more than forty-eight (48) hours during any one (1) week, but such limitations shall not apply to:

(a) Employees engaged solely at maintenance and repair work and shipping crews, firemen, engineers, and electricians, as to whom there shall be a tolerance of ten (10) percent.

(b) Employees engaged in an executive or supervisory capacity receiving thirty-five (35) dollars or more per week, and outside salesmen.

(c) Watchmen, who may be employed not more than fifty-six (56) hours in any one week.

(d) All employees, except office employees and except employees covered by Paragraphs (a) and (b) of this Section 3, who work more than eight (8) hours in any twenty-four (24) hours period, or more than forty (40) hours per week, shall be paid not less than one and one half times their normal pay for said excess.

SEC. 4. (a) Office employees shall not be employed for more than forty (40) hours in any one (1) week, nor eight (8) hours in any twenty-four (24) hour period, subject to the following exceptions:

(b) During any twelve (12) weeks of any twelve (12) months' period, such office employees may be employed for not more than forty-eight (48) hours in any one (1) week; provided, however, that the average of weekly hours of employment of any such employee over such twelve (12) months' period shall not exceed forty (40) hours per week.

SEC. 5. (a) This Article establishes minimum rates of pay, regardless of whether the employee is compensated on the basis of a time rate or on a piecework basis or otherwise.

(b) Equitable adjustment of compensation of employees receiving more than the minimum rates of pay herein prescribed shall be made by all employers, who have not heretofore made such adjustments, and all employers shall within ninety (90) days after the approval of this Code, report in full to the Code Authority concerning such adjustments whether made prior to or subsequent to such approval.

SEC. 6. Employers in the Industry shall not employ any minor under the age of sixteen (16) years, nor any person under the age of eighteen (18) in any hazardous foundry operations. The Code Authority shall submit to the Administrator within ninety (90) days after the approval of this Code a list of such operations.

SEC. 7. (a) No employer shall engage any employee for any time, which, when totaled with that already performed in the employ of another employer or employers, exceeds the maximum permitted herein; provided, that if any employee should be employed by more than one employer for an aggregate period in excess of such maximum without the knowledge or connivance of any one of such employers, such employers shall not be deemed to have violated this paragraph.

(b) An employer shall administer work in his charge so as to provide a maximum practicable continuity of employment for his personnel.

(c) An employer shall make payment of all wages due in lawful currency or by negotiable check, payable on demand. No deductions from such wages shall be made for pensions, insurance, or sick benefits, but employees may voluntarily make such payments.

(d) The employer shall accept no rebates, directly or indirectly on wages, nor give anything of value or extend favors to any person for the purpose of influencing rates of wages or working conditions of his employees.

(e) Within each State this Code shall not supersede any laws of such State which impose more stringent requirements on employers, regulating the age of employees, wages, hours of work, health, or general working conditions than under this Code.

ARTICLE III—RULES COVERING INDUSTRY

SECTION 1. Unfair Trade Practice Rules. To accomplish the purpose contemplated by the Act the following practices are hereby declared to be unfair methods of competition.

(a) Giving or promising to give to any purchaser or prospective purchaser of any product, or to any officer, employee, agent, or representative of any such purchaser or prospective purchaser in connection with any sale or prospective sale, any bribe, gratuity, gift, or other payment or remuneration, directly or indirectly.

(b) Paying or allowing to be paid to any purchaser in connection with the sale of any product, any rebate, commission, credit, discount, adjustment, or similar concession other than as specified in the price sheet of the member of the Industry published pursuant to Article III, Section 2.

(c) Disseminating, publishing, or circulating any false or misleading information relative to any product or price for any product, of any member of the Industry, or the credit standing or ability of any member of the Industry to perform any work or produce any product, or to the conditions of employment among the employees of any Member.

(d) 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.

(e) Making false representations or falsely marking or branding products of the Industry for the purpose or with the effect of misleading or deceiving purchasers.

(f) Stating in the invoice of any product, as the date thereof, a date later than the date of shipment of such product, or including in any invoice any product shipped on a date earlier than the date of such invoice for the purpose of evading the Code.

(g) Accepting orders for large quantities of products of the Industry, and then making small quantity deliveries at the large quantity price, for the purpose and with the effect of unjustly discriminating between different purchasers.

(h) Granting quantity discounts which have not been earned under the terms of the published price schedule.

(i) Making any allowances for advertising in any form to dealers or jobbers except pursuant to specific provision therefor in the member's price sheets, published pursuant to Section 2 of this Article III, so that such allowance is available to all customers in the same class.

(j) Making shipments to dealers on consignment, unless such terms are offered publicly on the duly published price list of the member of the Industry and are available to all dealers alike.

(k) Accepting orders from the classes of trade herein defined, not specified for immediate shipment, unless such orders shall be subject to the prices and terms in effect at the time shipment is made.

(1) Selling products of the Industry at a net realized price below the member's own individual cost; provided, however, that nothing herein contained shall prevent any member of the Industry from meeting the price of any competitor who is not himself selling below cost. For the purpose of determining cost, the Code Authority shall prepare and recommend to the Administrator a uniform system of cost accounting. Upon approval thereof by the Administrator, each member of the Industry shall immediately proceed to adopt such system of cost accounting in the determination of his own individual costs. If any member of the Industry should find it a hardship to adopt such cost accounting system, such member may appeal to the Code Authority, which shall have the power to permit such modifications or grant such exemptions as justice may require.

SEC. 2. *Open Price Policy.*—(a) An open price policy shall be maintained at all times by all members of the Industry and each member shall issue price lists applying to any products offered for sale to jobbers, dealers, heating contractors and/or installers, as herein defined. These price lists shall be dated, as of date of issue, and shall contain the then prevailing prices, discounts and terms of sale applying, as well as all other conditions of sale, and nothing in addition shall be allowed. Each member's price list shall remain in effect until such time as the member shall make any change in prices, terms, or any conditions of sale, in which event the member shall immediately issue a new price list and send it to the Code Authority and to all members of the Industry, and to its jobbers, dealers, heating contractors and/or installers.

(b) No member of the Industry shall make any sale of any product at a lower price or on terms or conditions more favorable than provided in his price lists, issued as aforesaid, nor extend to any purchaser prices or terms more favorable than to any other purchaser of the same trade class.

(c) Many members of the Industry sell part of their products direct to dealers and/or heating contractors, and the balance of their products through jobbers. In order to prevent indirect evasion of the provisions of this Section 2 by such members, it is hereby provided that no such member shall sell any product to or through any jobber who is selling such product to any dealer and/or heating contractor at a lower price or on terms more favorable than the prices and terms provided in the price list of such member for sales by such member direct to dealers and/or heating contractors.

(d) 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, provided that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

ARTICLE IV—ADMINISTRATION

SECTION 1. *The Code Authority of the Industry.*—To cooperate with the Administrator in the administration of this Code, there

shall be a Code Authority consisting of seven representatives of the Industry elected by a fair method of selection by the Industry, subject to review by the Administrator.

To effectuate further the policies of the National Industrial Recovery Act the Code Authority is hereby designated to cooperate with the Administrator as a planning and fair-practice agency for the Industry.

The President or the Administrator may appoint not more than three nonvoting members of such Code Authority, without expense to the Industry. Said Code Authority shall, from time to time, present to the Administrator recommendations, based on conditions in the Industry as they may develop, which will tend to effectuate the operations of the provisions of this Code and the policy of the National Industrial Recovery Act.

Any act or decision of the Code Authority shall be subject to the right of the Administrator upon review to disapprove or modify such act or decision. In the event of omission by the Code Authority to act in any case in which action should be taken by it, anyone affected by such omission to act may appeal to the Administrator who shall have power to take the necessary action.

The Code Authority shall, when requested by the Administrator or his representative, cause to be obtained from the members of the Industry statistical data and information pertinent to the operation of this Code, in such form and manner as not to disclose the individual figures and data of the respective members of the Industry, that the Administrator shall require and as may be necessary to enforce and effectuate the provisions of this Code and the policy of the Act.

The Code Authority shall cause to be made available to the Administrator such reports, data, and information as may be required by the Administrator and which will assist in keeping the Administrator or any representative designated by him fully advised concerning such matters and confer with the Administrator or his representative from time to time to consider and study any recommendations presented by such persons on behalf of the National Recovery Administration or any member of the Industry regarding the operation, observance, and administration of this Code.

In addition to the information to be submitted to the Code Authority, there shall be furnished to government agencies such statistical data as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

The Code Authority may delegate any of its duties to such agencies as it may appoint, which would not involve the disclosure of the individual data or information of any member of the Industry, except as otherwise herein permitted or required to be disclosed, provided, that such agencies shall be under the supervision of the Code Authority.

SEC. 2. The Warm Air Furnace Manufacturers' Institute of Columbus, Ohio, is hereby constituted an agency to receive reports as herein above provided. The Institute shall provide for the receiving and holding of such reports in confidence. Such reports shall be in such form, and shall be furnished at such intervals, as shall be prescribed by the Code Authority and shall contain such information

relevant to the purposes of this Code as shall be prescribed by the Code Authority from time to time including information with respect to the following subjects:

- (a) Employment, hours, wages, and wage rates.
- (b) Production and billing.
- (c) Financial and cost data.
- (d) Activity, purchases, and sales.

SEC. 3. The Warm Air Furnace Manufacturers' Institute is organized to enable the Warm Air Furnace Manufacturing Industry to subscribe to the provisions of the Act, and places no inequitable restrictions on membership, which is open to all employers engaged in the Industry. There shall be no future amendments to "the Standard Code and By-Laws of the Warm Air Furnace Manufacturers' Institute", which will tend to make the Institute not truly representative of and/or which shall impose any inequitable restrictions on membership.

ARTICLE V

SECTION 1. By assenting to this Code, the applicants shall not be deemed to have assented to any modification thereof.

SEC. 2. *Amendments.*—(a) Amendments to or revisions of this Code may be proposed by the Code Authority and when approved in accordance with the provisions of the Act shall become binding upon the Industry.

(b) This Code and all the provisions thereof are expressly made subject to the right of the President of the United States, in accordance with the provision 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 of the United States to cancel or modify his approval of this Code or any conditions imposed by him, upon his approval thereof.

(c) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The 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 to be taken into consideration.

SEC. 3. *Provisions Against Monopoly.*—None of the provisions of this Code shall be construed or applied in such a way as to promote a monopoly or monopolistic practices or to eliminate or oppress small enterprises or discriminate against them.

ARTICLE VI

Any violation of this Code shall render the violator liable to the penalties prescribed by Section 3 (f) of the Act, as follows:

“When a Code of Fair Competition has been approved or prescribed by the President under this title any violation of any provision thereof in any transaction in or affecting interstate or foreign commerce shall be a misdemeanor, and, upon conviction thereof, an offender shall be fined not more than five hundred (500) dollars for each offense, and each day such violation continues shall be deemed a separate offense.”

ARTICLE VII—EFFECTIVE DATE

This Code shall become effective on the second Monday after the approval by the President of the United States.

Approved Code No. 137.
Registry No. 1103-07.

EXHIBIT A

To the CODE AUTHORITY OF THE WARM AIR FURNACE MANUFACTURERS' INSTITUTE,
50 West Broad Street, Columbus, Ohio.

GENTLEMEN: The undersigned engaged in the business of manufacturing and selling by manufacturers of cast iron or steel warm air heating furnaces in the United States, as defined by the Code of Fair Competition for the Warm Air Furnace Manufacturing Industry, hereby makes application for membership in the Code and agrees that it will be subject to and will comply with all the provisions of the Code of Fair Competition of such Industry as approved by the President of the United States under the National Industrial Recovery Act.

Date -----

Name -----

Address -----

By -----

President.

(472)

○

Approved Code No. 138

CODE OF FAIR COMPETITION

FOR THE

ANTI-FRICTION BEARING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Anti-Friction Bearing 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 and recommendations, and findings of the administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(473)

NOVEMBER 14, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Anti-Friction Bearing Industry in the United States, the hearing having been conducted in Washington on October 24, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

Factory employees are limited by the Code to 40 hours per week and 8 hours per day; except during periods of unusual production demand, when 48 hours per week will be permitted in any 6 weeks of any 6-month period, provided that the average over a 6-month period is no more than 40 per week. These employees, as well as those engaged in emergency maintenance and repair work (to whom the hour limitation will not apply) will be paid time and a half overtime rate for all hours worked in excess of 8 per day or 40 per week. A tolerance of 10 percent over 40 hours per week is provided for employees engaged in preparation, care, and maintenance, stock and shipping clerks, and deliverymen.

The hour limitation will not apply to service men, traveling salesmen, nor to persons in a managerial, executive, or supervisory capacity receiving \$35.00 per week or more. Watchmen will be limited to 56 hours per week. Accounting, clerical, service, sales, or other salaried employees are limited to 40 hours per week averaged over any one-month period, and 48 hours in any one week.

The minimum wage provided for factory workers will be 40 cents per hour; except for work not requiring the strength and skill of adult male labor, for which the minimum will be 35 cents an hour. The minimum wage for office employees will be \$15.00 per week in cities of over 500,000 population and fractionally less in proportion to the population in smaller cities down to \$14.00 per week. The minimum to office boys and girls, messengers, and old or partially disabled employees will be not less than 80 percent of the rates for their class of work. No distinction in rates will be made between male and female employees in the same occupation.

CHILD LABOR

No person under 16 years will be employed in this Industry, and not under 18 years in hazardous occupation.

ECONOMIC EFFECT OF CODE

The 40-hour week prescribed in this Code and adopted under the President's Re-employment Agreement, in addition to improved business, has increased the number of employees 46 percent since June 1933 when the hours averaged 46 per week.

After the application of the President's Re-employment Agreement, the number of employees in the Industry increased to 13,700 in August, or an increase of about 39 percent since June and 95 percent since March 1933. In September the addition of 800 employees brought the total to nearly 90 percent of the 1929 level.

The average wage rate for female employees in August 1933 was about 28 cents; so that the minimum rate of 35 cents for female labor prescribed by the Code is higher than the old average and well above the previous minimum.

The automobile industry is the largest user of anti-friction bearings. The bearings are also used in electric motors, machine tools, bicycles, and for many other devices. In 1929 the total sales amounted to \$107,767,000. By 1932 sales had declined to \$25,984,000, or 76 percent. The ratio of sales to capacity in 1929 was approximately 98 percent; and in 1932 this ratio had declined to 26 percent. At present there are 26 concerns in the Industry.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Anti-Friction Bearing Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
ANTI-FRICTION BEARING 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 Anti-Friction Bearing Industry, and shall be binding on every member thereof.

ARTICLE II—DEFINITIONS

The following words are used in this Code with the meanings set forth below:

The term "the Industry" as used herein shall mean and include the manufacturing or the sale by manufacturers or by directly owned or controlled selling affiliates of manufacturers of anti-friction bearings of the ball or roller type or any of their several parts such as: races, balls, rollers, needle rollers, separators, or other parts included in the assembly of an anti-friction bearing as an integral part thereof.

The term "employee" as used herein includes any person engaged in any phase of the Industry in any capacity in the nature of employee, irrespective of the nature or method of payment of his compensation.

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

The term "member of the Industry" includes any individual, firm, association, or corporation, or other person operating a plant or plants in the United States for the production of anti-friction bearings of the ball or roller type of any of their several parts, such as: races, balls, rollers, needle rollers, separators, or other parts included in the assembly of an anti-friction bearing as an integral part thereof.

The term "member of the Code" includes any member of the Industry who shall signify assent to this Code.

The term "effective date" as used herein means the tenth day after this Code shall have been approved by the President of the United States.

The term "apprentice" as used herein means a person (usually a minor) bound by indenture to serve an employer for a term of years at a predetermined wage for the period of the indenture in order to learn a trade, art, or profession.

The term "Act" means Title I of the National Industrial Recovery Act.

The term "President" means the President of the United States.

The term "Administrator" means the National Industrial Recovery Administrator.

The term "Administration" means the National Industrial Recovery Administration.

The term "Association" means the Anti-Friction Bearing Manufacturers' Association, a trade association having its office at the Hotel Biltmore, 43d Street and Madison Avenue, New York, New York.

The term "Board of Directors" means the Board of Directors of the Association.

Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

On and after the effective date of this Code:

(a) Factory employees, mechanical workers or artisans in the Industry, except as hereinafter provided, shall not be employed in excess of forty (40) hours per week, nor more than eight hours in any 24-hour period; provided, however, that during any period in which a concentrated demand upon any division of the Industry shall place an unusual and temporary burden for production upon its facilities, an employee of such division may be permitted to work not more than forty-eight (48) hours per week in not more than six (6) weeks of any six months' period; provided that such employee shall be paid one and a half ($1\frac{1}{2}$) times his normal rate of pay for any time worked in excess of eight (8) hours in any 24-hour period or of forty (40) hours in any seven (7) days.

There shall be a tolerance of ten percent (10%) additional hours over forty (40) hours per week or 8 hours in any twenty-four (24) hour period for employees engaged in the preparation, care, and maintenance of plant, machinery and production facilities; stock and shipping clerks; and delivery employees.

The maximum hours fixed in the foregoing section shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special cases one and one half times the normal rate shall be paid for hours worked in excess of the normal hours herein provided.

(b) The limitation as to hours of labor shall not apply to watchmen, service men, commercial travelling salesmen, or to persons in a managerial, executive or supervisory capacity who now receive thirty-five (\$35) dollars or more per week, provided, however, that watchmen shall not work in excess of fifty-six (56) hours in any one week.

(c) No employer shall work any accounting, clerical, service, or sales employee more than forty (40) hours per week on a one month average, nor more than forty-eight (48) hours in any one week.

(d) No employee shall work or knowingly be permitted to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

ARTICLE IV—WAGES

On and after the effective date of this Code:

(a) The minimum wage that shall be paid factory employees in this Industry shall be forty (40) cents per hour; except that for light repetitive work and such other light factory work as does not usually require the strength and skill of adult male labor (provided that no adult male labor shall be used for such work except at the rate above provided), the minimum rate shall be thirty-five (35) cents per hour.

(b) No distinction in rates stipulated in this Article IV shall be made between male and female employees where the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, monthly, or piecework basis; but in no case shall the rate for adult male labor be less than forty (40) cents per hour. In any operation where female employees displace adult male employees such female employees shall receive at least the same rate as the adult male employees they displace.

(c) All employees mentioned in paragraph (c) of Article III shall be paid at the following rates in cities of the sizes listed below and their immediate trade areas: Over 500,000 population, not less than \$15 per week; between 250,000 and 500,000 population, not less than \$14.50 per week; under 250,000 population, not less than \$14.00 per week.

(d) No employees of the classes mentioned in paragraph (c) of Article III now receiving compensation at a rate in excess of the minimum provided in paragraph (c) of this Article IV shall have their compensation reduced on account of any reduction in the weekly hours of employment made to conform with the requirements of paragraph (c) of Article III.

(e) This Article IV establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis, and in no case shall the rates of pay provided herein be decreased.

(f) 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

(g) The provisions in paragraphs (a) and (c) of this Article IV relating to rates of wages shall not apply to apprentices, office boys and girls, messengers, or to old or partially disabled employees, not exceeding five percent (5%) in number of the employees of any employer.

(h) The minimum wage that shall be paid to office boys and girls, messengers, or to old or partially disabled employees by any member of this Industry shall be not less than 80% of the minimum wage stipulated in paragraph (c) of this Article IV.

(i) The wage rates for all operations and duties which are in excess of the minimum, herein prescribed, shall be equitably adjusted and in no case shall they be decreased. The action taken shall be

reported to the Code Authority not later than sixty (60) days after this effective date and to the Administrator at his request.

(j) In determining his classification under this Code, each employee shall be entitled to claim the benefit of the classification of occupation existing on June 16, 1933.

(k) Nothing in this Article IV shall apply to or affect any employee apprenticed to any employer by an indenture made in pursuance of the laws of any State of the United States, or by a written contract under any apprentice system established and maintained by any employer, provided that such contract is filed with the Code Authority, and subject to review by the Administrator.

ARTICLE V—CHILD LABOR

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. 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 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.

ARTICLE VI—ADMINISTRATION

1. To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the administration of this Code.

(a) The Code Authority shall consist of six members of the Association (no two of whom shall represent the same manufacturer), appointed by the Board of Directors of the Association; and one representative of members of the Industry who are not members of the Association (providing they desire such representation, and signify their willingness to pay their pro rata share of the cost of administering this Code). In addition to the members of the Code Authority appointed by members of the Industry, the Administrator may appoint not more than three representatives of the Government. Such Government Representatives are to be appointed for terms of from six (6) months to one (1) year and if more than one (1) such representative is appointed, their terms shall be so arranged that they will not expire at the same time. The Board of Directors may change its appointees from time to time as it may desire, and shall advise the Administrator of any such changes. The appointee or appointees of the Administrator shall act in an advisory capacity only, and shall have no vote. The representative of the nonmembers shall be elected by the nonmembers in any fair manner approved by the Administrator.

(b) The Association shall impose no inequitable restrictions on membership, and shall submit to the Administrator true copies of its articles of association, and bylaws or 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

(d) Any member of the Industry is eligible for membership in the Code, and there shall be no inequitable restrictions on such membership. Any such member may participate in the preparation of and any revision or additions or supplements to this Code by assuming his pro rata share of the cost and responsibility of administering it, either by becoming a member of the Association and paying the annual dues and assessments of the Association, or by paying to the Code Authority his pro rata share of the costs of administering the Code.

2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to review and disapproval or modification by the Administrator.

(a) To collect from members of the Industry, directly or through an impartial agency, all data, reports, and statistics when and as required by the President and/or the Administrator and/or their agent or agents; also to collect such data, reports, and statistics as may be required from time to time by the Code Authority; also to collect and furnish to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act. All such information shall be confidential, except insofar as disclosure may be necessary for the effective administration and enforcement of this Code. Such data as may be requested by the Administrator shall be made available to him. Reports submitted by the Code Authority to the President or the Administrator shall be in the form prescribed or provided by the President or the Administrator. Nothing in this subdivision shall be considered as limiting the powers conferred on the President or the Administrator by Title I of the Act.

(b) The Code Authority may require from the members of the Industry reports regarding prices, or prices and discounts on closed transactions, or such other pertinent data on closed transactions as in its opinion may be necessary to effectuate Title I of the Act, and may publish the same should such procedure be deemed advisable.

(c) To represent the Industry in conferring with the President or his agents with respect to the administration of this Code and in respect of the National Industrial Recovery Act and any regulations issued thereunder.

(d) To hear complaints and attempt to adjust the same.

(e) To coordinate the Administration of this Code with such Codes, if any, as may be adopted by any subdivision of this Industry or any related industry, with a view to providing joint and harmonious action on all matters of common interest, all with approval of the Administrator.

(f) To study the trade practice provisions of Article VII hereof, and the operation thereof, and make recommendations from time to time to the Administrator which it deems desirable for modifica-

tion or addition thereto, which, upon the approval of the Administrator, after such hearing as he may prescribe, shall become a part of this Code and have full force and effect as provisions hereof.

(g) To make rules and regulations necessary for the administration and enforcement of this Code, subject to the right of any affected person to appeal to the Administrator.

(h) Any notice, demand, or request required or permitted to be given to or to be made upon any member of the Industry shall be sufficiently given if mailed, postage prepaid, addressed to such member of the Industry, at his address on file with the Secretary of the Code Authority.

ARTICLE VII—UNFAIR PRACTICES

For the purpose of the Code, the following shall constitute unfair practices:

(a) The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other misrepresentations with the tendency and capacity to mislead and deceive purchasers or prospective purchasers.

(b) Enticing away the employees of competitors with the purpose and effect of unduly hampering, injuring, or embarrassing competitors in their business. Nothing in this paragraph will prevent any employee from offering his services to a competitor or prevent any employer from employing an employee of another member of the Industry when the initiative of such change of employment is taken by the employee.

(c) Paying or allowing to any purchaser in connection with the sale of any product any secret rebate, commission, credit, discount, adjustment, or similar concession, other than as specified in the contract of sale.

(d) False disparagement of the weight, substance, strength, grade, or quality of the goods of competitors, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

(e) To sell any product at a price or upon such terms or conditions as will result in the customer paying for the goods received less than cost, arrived at by a uniform system of accounting, or uniform accounting formulas established or adopted by the Code Authority to become effective not less than thirty (30) days after adoption by the Code Authority. The Code Authority shall study the operation of such system of accounting or accounting formulas and may from time to time make such modifications therein as it may deem necessary.

Any action taken by the Code Authority under this subsection (e) shall be subject to review and disapproval by the Administrator.

(f) Selling or offering to sell any product with intent to deceive purchasers or prospective purchasers as to the quantity, quality, grade or substance of such product.

(g) Making or promising to any purchaser or prospective purchaser of any product, or to any officer, employee, agent, or representative of any such purchaser or prospective purchaser, any bribe,

gratuity, or other payment or remuneration, directly or indirectly, for the purpose of influencing a sale.

(*h*) Any additional practices which shall be declared to be unfair by an amendment to the Code.

(*i*) Using or employing any unfair practice hereinbefore specified shall be deemed to be a violation of the Code, and any member of the Industry who shall directly or indirectly, through any officer, employee, agent, or representative, knowingly use or employ any of such unfair practices, shall be guilty of a violation of the Code.

ARTICLE VIII—GENERAL PROVISIONS

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

(*b*) No employees 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.

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

(*d*) All employers shall post complete copies of this Code in conspicuous places accessible to employees.

(*e*) This Code and all the provisions hereof are expressly made subject to the right of the President, in accordance with the provision 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.

(*f*) Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or general working conditions, than under this Code.

(*g*) Such of the provisions of this Code as are not required to be included herein 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 to this Code or additional Codes may be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

(*h*) No provision in this Code shall be interpreted or applied in such manner as to: (*a*) promote monopolies or monopolistic practices; (*b*) permit or encourage unfair competition; (*c*) eliminate

or oppress small enterprises; or (d) discriminate against small enterprises.

(i) Nothing contained in this Code shall be deemed to constitute the members of this Code partners for any purpose. None of the members of the Code shall be liable in any manner to anyone for any act of any other member of the Code, or for any act of the Code Authority, the Association, the Board of Directors, or of any committee, or of any officer or employee appointed under the Code. None of the members of the Code Authority or of the Association or of any committee appointees under the Code shall be liable to anyone for any action or omission to act under the Code, except for his own wilful misfeasance or nonfeasance.

(j) If any member of this Industry is also a member of any other Industry, the provisions of this Code shall apply to and affect only that part of the business of such member as is a part of the Industry covered by this Code.

(k) This Code shall be in effect beginning on the tenth day after its approval by the President and shall be binding upon all members of the Industry.

Approved Code No. 138.
Registry No. 1318-1-02.



Approved Code No. 139

CODE OF FAIR COMPETITION

FOR THE

**MACHINE TOOL AND EQUIPMENT DISTRIBUTING
TRADE**

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Machine Tool and Equipment Distributing Trade, 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 and recommendations, and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(485)

NOVEMBER 21, 1933.

THE PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Machine Tool and Equipment Distributing Trade, the hearing having been held in Washington, October 27, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS ON HOURS AND WAGES

Employees in the Trade are limited to a working day of 8 hours, with 40 hours as a maximum work week. At inventory and other peak periods employees may work 48 hours per week for not more than 3 weeks in any six months' period, but the average shall not be more than 40 hours per week in such six months' period. These hours conform closely to the hours of the industries which are served by this Trade.

The above limitations do not apply to persons in a managerial, executive, or supervisory position regularly receiving more than \$35.00 per week, nor to outside salesmen. Employees engaged in plant maintenance or as stock-room employees will receive time and one third for all hours over 8 per day or 40 per week.

The majority of employees in the Trade are engaged in clerical work and as outside salesmen. Their minimum rates of pay will be not less than \$15.00 per week in cities of over 500,000 population, \$14.50 per week in cities of from 250,000 to 500,000 population, and \$14.00 per week in cities of less than 250,000 population. Junior employees will receive \$2.00 less per week than these rates for the first six months of their employment.

No person under 16 years of age will be employed in the Trade, and no one under 18 will be engaged in any hazardous occupation.

ECONOMIC EFFECT OF THE CODE

This Trade distributes machine tools and equipment, the basic tools of industry. All resales are made on a commission basis, and sales are usually based on engineering studies. While small in the number of employees, it is important from the standpoint of being a service Trade.

This Trade is not only subject to the usual fluctuations which take place in the capital goods industries, but, in addition, has suffered from the depression because of the stoppage of buying of basic tools by other industries. But because of the progress of invention in this class of equipment during the period of stagnation, a rapid recovery in buying is expected when general manufacturing plants increase operation.

A total of 1,800 employees were engaged in the Trade in 1929, but this total has dropped to approximately 800 at the beginning of 1933. The sales volume for the year 1929 was approximately \$135,000,000 but this had declined until the sales during the first six months of 1933 were at a rate only 10 percent of normal. The retention of 40 percent of the normal number of employees with only 10 percent of the volume of business has indicated a liberal sharing of employment. The cut in normal working hours from an average of more than 50 to the maximum of 40 prescribed in this Code should mean an immediate rapid rise in employment with increased sales volume.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Machine Tool and Equipment Distributing Trade; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
MACHINE TOOL AND EQUIPMENT DISTRIBUTING
TRADE

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Machine Tool and Equipment Distributing Trade, and, upon approval by the President, shall be the standard of Fair Competition for this Trade, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Act" as used herein means Title I of the National Industrial Recovery Act.

SEC. 2. The term "Administrator" as used herein means the Administrator of the Act.

SEC. 3. The term "Association" as used herein means the Associated Machine Tool Dealers.

SEC. 4. The term "Machine Tool and Equipment Distributing Trade" as used herein includes for resale the warehousing, selling, and distribution of new machine tools and attachments, equipment and parts thereof, including such jigs and fixtures, die heads, and small tools and accessories as are now, or may hereafter be made by manufacturers of machine tools for machine tools of their own manufacture.

SEC. 5. The term "machine tools and equipment" as used herein means power driven metal working machines which perform generally the function of changing the form of metal by the use of one or more cutting tools, abrasives, forming dies, rolls, etc., including all attachments, parts, jigs and fixtures, die heads, and such small tools and accessories as are now, or may hereafter be made by manufacturers of machine tools for machine tools of their own manufacture.

SEC. 6. Distributors in the Machine Tool and Equipment Distributing Trade shall be classified as:

"Machine tool dealer" is one who purchases new machine tools and equipment for resale to industrial users, public service corporations, educational institutions, government or political subdivisions and other trade outlets; maintains an adequate selling organization and accounting system, and performs all other functions pertaining to the sale and distribution of machine tools and equipment for same.

(b) "Manufacturers' agent" is one who sells new machine tools and equipment to industrial users, public service corporations, educational institutions, government or political subdivisions and other trade outlets for the account of one or more machine tool manufacturers.

(c) "Importer of machine tools" is one who imports machine tools and equipment for same and sells to industrial users, public service corporations, educational institutions, government or political subdivisions and other trade outlets.

SEC. 7. The term "employee" as used herein means anyone engaged in the Trade in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 8. The term "employer" as used herein means anyone by whom any employee is compensated or employed.

SEC. 9. The term "member of the Trade" as used herein includes machine tool dealers, manufacturers' agents and importers of machine tools who are engaged in the distribution of new machine tools and equipment for same.

SEC. 10. The term "member of the Code" as used herein includes any member of the Trade who shall expressly signify assent to this Code.

SEC. 11. The term "President" means the President of the United States.

SEC. 12. The term "trading areas" as used herein means the several territories outlined in agreements between machine tool dealers and machine tool manufacturers.

SEC. 13. Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

SECTION 1. No employee, except as hereinafter provided, shall be permitted to work in excess of eight (8) hours per day or in excess of forty (40) hours per week, or in excess of six (6) days in any one week; provided, however, that during inventory and other peak periods, any employee may be permitted to work not to exceed forty-eight (48) hours per week in any three (3) weeks in any six (6) months period; provided, further, that the average hours worked by any employee shall not exceed forty (40) hours per week in any six (6) months' period.

SEC. 2. The limitation of Section 1 of this Article III as to hours of work shall not apply to employees engaged in a managerial, executive, or supervisory capacity, who receive more than \$35.00 per week, or to watchmen and outside salesmen.

SEC. 3. The limitation of Section 1 of this Article III as to hours of work shall not apply to employees engaged in outside delivery service, plant maintenance, outside repair, and/or installation service or to employees engaged in stock receiving and shipping service, who shall be permitted to work not more than forty-eight (48) hours per week, provided time and one-third is paid for all hours worked in excess of forty (40) hours per week.

SEC. 4. No person under the age of sixteen (16) years shall be employed by any member of the Trade, and no person under the age of eighteen (18) years shall be employed in any hazardous occupation.

SEC. 5. The total number of hours which shall be worked by any employee, whether with one or more employers, shall not exceed the maximum as prescribed herein.

ARTICLE IV—WAGES

SECTION 1. (a) The minimum rates of pay except as prescribed in Section 3 of this Article IV shall be as follows in cities of the population listed below and their immediate trade areas: Over 500,000 population not less than \$15.00 per week; 250,000 population or over, but less than 500,000 population not less than \$14.50 per week; under 250,000 population not less than \$14.00 per week.

SEC. 2. No part-time employee shall be paid at a rate less than the minimum rates prescribed in Section 1 of this Article IV.

SEC. 3. Junior employees between the ages of sixteen (16) and eighteen (18) years, inclusive, with less than six (6) months' experience in the Trade, may be paid at a rate of \$2.00 less per week than the minimum rates prescribed in Section 1 of this Article IV; provided, however, that such junior employees shall not exceed in number five (5) percent of the total number of employees of any one employer; and provided, further, that each employer may have at least one junior employee in each district office.

SEC. 4. No employee now receiving compensation at a rate in excess of the minimum herein prescribed shall have his weekly compensation reduced on account of any reduction in the weekly hours of employment to conform with the requirements of Article III.

SEC. 5. The hourly wage rate or salary of all employees receiving more than the minimum rate or salary herein prescribed shall be equitably adjusted, if such adjustments have not already been made.

SEC. 6. No distinction in rates shall be made between male and female employees, where the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, or other basis.

SEC. 7. No employee shall be included in one of the classifications excepted from the provisions of this Code unless the identical functions were identically classified on June 16, 1933.

SEC. 8. No person who has worked as a junior employee in the Trade for the period of time prescribed in Section 3 of this Article IV may thereafter be classified as a junior employee.

SEC. 9. This Article establishes minimum rates of pay for all employees regardless of whether the employees' compensation is calculated on an hourly, weekly, or other basis.

ARTICLE V—ADMINISTRATION

SECTION 1. To effectuate the policies of the Act a Supervisory Agency is hereby constituted to cooperate with the Administrator in the administration of this Code.

SEC. 2. During the sixty (60) day period following the effective date of this Code, the Code Committee of the Associated Machine Tool Dealers shall constitute a Temporary Supervisory Agency. This Committee shall consist of five (5) members, and the Administrator in his discretion, may appoint not more than three (3) additional members (without vote) to represent the Administrator or such groups or interests as may be agreed upon.

SEC. 3. To permit representation of members of the Trade, not members of the Associated Machine Tool Dealers, the latter shall,

within sixty (60) days after this Code becomes effective, set up a permanent Supervisory Agency to succeed the Temporary Agency. Such permanent Agency shall be elected by the members of the Trade, each member of the Trade to have equal vote. Such election shall be by mail ballot, which ballot shall be sent to all known members of the Trade. This permanent Agency shall consist of seven (7) voting members of which at least five (5) shall be members of the Association, and Administrator's appointees (if any) as referred to in Section 2 of this Article V.

SEC. 4. In order that the Supervisory Agency shall at all times be truly representative of the Trade, 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 Supervisory Agency 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 Supervisory Agency.

SEC. 5. Any member of the Trade may become a member of the Associated Machine Tool Dealers, and there shall be no inequitable restrictions on such membership. Any member of the Trade may participate in the preparation or any revision of, or additions or supplements to, this Code by accepting his prorata share of the cost and responsibility of creating and administering it by paying to the Supervisory Agency his prorata share of the cost of creating and administering this Code, as determined by the Supervisory Agency, subject to the right of the Administrator, on review, to disapprove or modify such determination of the Supervisory Agency.

SEC. 6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code; except for his own willful misfeasance or nonfeasance.

SEC. 7. The Supervisory Agency shall have the following duties and powers to the extent permitted by this Act and subject to the right of the Administrator, upon review, to disapprove or modify any action taken by the Supervisory Agency.

(a) To collect from members of the Trade all data, reports, and statistics when and as required by the President and/or the Administrator and/or their agent or agents; also to collect such data, reports, and statistics as may be required from time to time by the Supervisory Agency. All such information shall be kept confidential, except insofar as disclosure may be necessary for the effective administration and enforcement of this Code. Such data as may be requested by the Administrator shall be made available to him. Reports submitted by the Supervisory Agency to the President or the Administrator shall be in the form prescribed or provided by him. Nothing in this subdivision shall be considered as limiting the powers conferred on the President or the Administrator by Title I of the Act.

(b) In addition to information required to be submitted to the Supervisory Agency, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act.

(c) To hear and investigate complaints and attempt to adjust the same in accordance with law.

(d) To study the trade-practice provisions of Article VI hereof, and the operations thereof, and make such recommendations from time to time to the Administrator as it deems desirable for modification or addition thereto, which, upon the approval of the Administrator, after such hearing as he may prescribe, shall become a part of this Code and have full force and effect as provisions hereof.

(e) To represent the Trade in conferring with the President or his agents with respect to the administration of this Code and in respect to the Act and any regulations issued thereunder.

(f) To make rules and regulations necessary for the administration of this Code.

(g) To coordinate the administration of this Code with such codes, if any, as may be adopted by any subdivision of this Trade or any related Trade or Industry, with a view to providing joint and harmonious action on all matters of common interest, all with the approval of the Administrator.

(h) Any notice, demand, or request required or permitted to be given to or to be made upon any member of the Trade shall be sufficiently given if mailed, postage prepaid, addressed to such member of the Trade, at his address on file with the Supervisory Agency.

(i) Whenever in the judgment of the Administrator and the Supervisory Agency of the Machine Tool and Forging Machinery Industry and the Supervisory Agency herein established it becomes advisable to appoint an arbitration board, such action shall be taken.

ARTICLE VI—TRADE PRACTICES

SECTION 1. Unfair practices shall be deemed to be practices or acts which by subterfuge, concealment, misrepresentation, or by any form of discrimination, result in selling below published prices, or in deceiving or misleading purchasers, or in misrepresenting the goods of competitors. The following specific practices constitute unfair methods of competition for members of the Trade and shall be prohibited:

SEC. 2. *False Marking or Brandings.*—The false marking or branding of any goods 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 such goods or otherwise.

SEC. 3. *Misrepresentation or False or Misleading Advertising.*—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 goods of the Trade, or the credit terms, values, policies, or services of any member of the Trade, or otherwise having the tendency or capacity to mislead or deceive customers or prospective customers.

SEC. 4. *Commercial Bribery*.—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 competitor's 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 gifts or offers, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

SEC. 5. *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.

SEC. 6. *Secret Rebates*.—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

SEC. 7. *Giving of Prizes, Premiums, or Gifts*.—The offering or giving of prizes, premiums, or gifts in connection with the sale of goods, or as an inducement thereto, by any scheme which involves lottery, misrepresentation, or fraud.

SEC. 8. *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.

SEC. 9. *Threats of Litigation*.—The publishing or circulating of threats of suits for infringement of patents or trade marks or of any other legal proceedings not in good faith, with the tendency or effect of harrassing competitors or intimidating their customers.

SEC. 10. This Trade is engaged in the business of distributing machine tools to industrial users and not to the general public. Some of the product is sold directly by the manufacturer, and some by commission salesmen and agents, and all resales are on a commission basis. In order that open prices may be maintained without discrimination, it is established that the individual manufacturers' published prices shall govern. Therefore, no member of the Trade in selling goods on a commission, as above outlined shall deviate from the manufacturers' f.o.b. factory price lists and discounts, or sell directly or indirectly by any means whatsoever, any of such goods at a price lower or at discounts greater than those provided in the manufacturer's current net price lists or price lists and discount sheets, except damaged and obsolete goods, and then only after being reported to the Supervisory Agency.

SEC. 11. To quote a lump sum price on any schedule of goods which does not show unit prices, or to make any additions or reductions on any other basis than the unit prices shown.

SEC. 12. To quote delivered prices or invoice purchaser without adding to the f.o.b. factory prices, transportation, and other charges and to fail to state in quotation where freight is prepaid that such prepaid freight will be charged as a separate item and billed net cash.

ARTICLE VII—TRADING AREA COMMITTEE

SECTION 1. The Supervisory Agency shall establish in each Trading Area a Trading Area Committee of not more than three members of the Trade to assist in administering this Code within such trading area, subject to review of the Administrator.

SEC. 2. Each Trading Area Committee may establish subject to the approval of the Supervisory Agency and the Administrator, a trade-in plan to govern all members of the Trade within the jurisdiction of such Trading Area Committee.

ARTICLE VIII—GENERAL PROVISIONS

SECTION 1. 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.

SEC. 2. 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.

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 4. 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 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 thereof.

SEC. 5. Within each State, members of the Trade shall comply with any laws of such State imposing more stringent requirements regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than under this Code.

SEC. 6. Such provisions of this Code as are not required to be included herein by the 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 to this Code or additional codes may be submitted for the approval of the President to prevent unfair competition in price or other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the Act consistent with the provisions thereof.

SEC. 7. No provisions in this Code shall be interpreted or applied in such a manner as to:

- (a) Promote monopolies or monopolistic practices;
- (b) permit or encourage unfair competition;
- (c) eliminate or oppress small enterprises; or
- (d) discriminate against small enterprises.

SEC. 8. If any member of this Trade is also a member of any other Trade or Industry, the provisions of this Code shall apply

and affect only that part of the business of such member which is a part of the Trade covered by this Code.

SEC. 9. 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 they should so far as is reasonably possible be limited to actual increases in the seller's cost.

SEC. 10. Each member of the Trade shall post in a conspicuous place full copies of this Code.

SEC. 11. This Code shall be in effect beginning on the eleventh day after its approval by the President and shall be binding upon all members of the Trade.

Approved Code No. 139
Registry No. 1149-12



Approved Code No. 140

CODE OF FAIR COMPETITION

FOR THE

**WATERPROOFING, DAMPPROOFING, CAULKING
COMPOUNDS, AND CONCRETE FLOOR TREAT-
MENTS MANUFACTURING INDUSTRY**

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Waterproofing, Dampproofing, Caulking Compounds, and Concrete Floor Treatments 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 approve the report and recommendations and adopt the findings of the Administrator, and do order that the said code of fair competition be, and it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(497)

NOVEMBER 17, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Waterproofing, Dampproofing, Caulking Compounds, and Concrete Floor Treatments Manufacturing Industry in the United States, as revised after a hearing conducted in Washington on November 3, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

Employees shall not work more than forty hours in any one week or eight hours in any one day except that employees may work a maximum week of forty-eight hours during six weeks within a period of six months.

Factory employees who work more than eight hours a day or more than forty hours a week shall be paid at least one and one-half times their normal rates of pay. Except in cases of emergency, such overtime shall not exceed eight hours in any one week.

Employees shall not work more than five days a week, except that employees may work six days a week during six weeks within a period of six months.

The maximum hours provisions do not apply to employees in managerial, executive, or professional capacity who receive regularly thirty-five dollars or more per week.

No employee except outside salesmen shall be paid at less than the rate of forty cents per hour. Accounting, clerical, office, or delivery employees shall be paid at least fifteen dollars per week.

To the extent practicable, weekly earnings shall not be decreased, though the hours of work may be reduced. Rates of pay for occupations in excess of the minimum shall be increased so as to maintain differences in full-time weekly earnings existing on June 1, 1933.

Disabled employees, not exceeding in number five percent of any employer's total number, shall not be paid less than eighty percent of the minimum wages provided.

ECONOMIC EFFECTS OF THE CODE

Sixty-hour working weeks which have prevailed in this Industry during peak periods in the past will be abolished by this Code. The dull-period work weeks will be lengthened, because a larger inventory stock must be provided to meet the peak-period demands.

Though there has been a reduction in the number of working hours, because of the increase in the hourly wage rate, the employees' annual income will not be reduced.

The number of employees in this Industry will be increased by approximately twenty percent. The Industry's pay rolls will be increased by approximately twenty to twenty-five percent.

This Code will eliminate many unfair practices and facilitate the rendition of better service by this Industry to the construction industry in the future. A guarantee evil detrimental to the Industry, which has prevailed in the past, will be eradicated.

An effort has been made to synchronize this Code with that of the Builders Supplies Trade so that harmonious relations between these two industries can be promoted in the future.

This Code will beneficially affect this Industry, its employees, and the public.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Waterproofing, Dampproofing, Caulking Compounds, and Concrete Floor Treatments Manufacturing Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

WATERPROOFING, DAMPPROOFING, CAULKING COMPOUNDS, AND CONCRETE FLOOR TREATMENTS MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

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 waterproofings, dampproofings, caulking compounds, and concrete floor treatments industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "Waterproofings, Dampproofings, Caulking Compounds, and Concrete Floor Treatments Industry", as used herein, includes the manufacturing, selling, and distributing by manufacturers to all classes of trade, and the furnishing by manufacturers of sales-engineering services of products known as "waterproofings, dampproofings, caulking compounds, concrete floor treatments" plus engineering service pertaining to design, method of installation for building maintenance and construction industries, and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

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

The term "Association" as used herein shall mean "The Associated Manufacturers of Waterproofings, Dampproofings, Caulking Compounds, and Concrete Floor Treatments."

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

The term "members of the Code" includes any employer who has subscribed to this Code or complied with the provisions of Art. VI, paragraph 4.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty (40) hours in any one (1) week or eight (8) hours in any twenty-four

(24) hour period, provided, however, that any employee may work a maximum week of forty-eight (48) hours for six (6) weeks within a period of six (6) months. For the purpose of this section, a six (6) months' period shall begin on January 1st and July 1st, respectively.

2. All factory employees who work more than eight hours in any twenty-four (24) hours or more than forty (40) hours in any seven (7) days shall be paid not less than one and one half ($1\frac{1}{2}$) the normal rate of pay for said excess. Such overtime shall not exceed eight (8) hours in any one (1) week except in cases of emergency maintenance or emergency repair work involving breakdowns or protection of life or property.

3. No employee shall be permitted to work more than five (5) days in any seven (7) day period, except that employees shall be permitted to work six (6) days in any seven (7) day period of six (6) weeks within a period of six (6) months.

4. The maximum hours fixed in the foregoing paragraphs shall not apply to employees in a managerial, executive, or other professional capacity who receive in no week less than thirty-five (35) dollars.

ARTICLE IV—WAGES

1. No employee shall be paid at less than the rate of forty (40) cents per hour, except that:

(a) The provision of this article shall not apply to outside salesmen.

(b) Employers in the Industry, shall not pay any accounting, clerical, office, or delivery employee in any office, or in any other place, less than fifteen (15) dollars per week.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time rate, piecework, or other basis.

3. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

4. To the extent practicable, weekly earnings shall not be decreased, notwithstanding that hours of work may be reduced and rates of pay for occupations in excess of the minimum herein prescribed shall be increased so as to maintain differences in full-time weekly earnings existing on June 1, 1933.

5. Within thirty (30) days after the effective date of this Code, each employer shall report to the Administrator through the Code Authority all such readjustments made by him since June 16, 1933; provided, however, that these rates shall be subject to readjustment by the Administrator if the adjustments made by an employer are not suitable in obtaining uniformity for this industry.

6. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

ARTICLE V

1. No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator a list of such occupations, if any. In any State, an employer shall be deemed to have complied with this provision 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.

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 of employment regulating the age of employees, wages, hours of work, or health, fire, 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. No employer shall engage any employee for any time, which, when totaled with that already performed with another employer, or employers, exceeds the maximum permitted herein.

8. An employer shall so administer work in his charge as to provide a maximum practicable continuity of employment for his personnel.

9. No employer shall pay an employee less than for the full schedule daily hours of work for any employment in any one day. If an employee is required or permitted to wait for work, he shall be paid at his normal rate for such time. No increases in the amount of production work shall be required of employees, for the purpose of avoiding the benefits to employees prescribed in this Code, in respect to wages and hours of employment. All new requirements shall be reported to the Code Authority.

10. Every employer shall provide for the health and safety of his workmen. He shall comply with all National, State, and local ordinances and provisions of safety and health; and to protect his employees by Workmen's Compensation Insurance, according to the amounts required in his State or jurisdiction or the United States Employees' Compensation Insurance, if that State has not established a compensation scheme for this Industry.

11. Each employer shall post in conspicuous places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. *Organization and Constitution of Code Authority.*—(a) The Code Authority shall consist of seven (7) persons who shall be officers or executives of an employer engaged in the Industry, five (5) of whom shall be appointed by the Directors Association, and two (2) of whom shall be appointed by a majority vote of the members of the Code who are not members of the Association, present at a meeting duly called for that purpose (and for such other business as may be found desirable), which meeting shall be held during the month of September in each year at the call of the Board of Directors of the Association, who shall fix the time and place of the meeting. Notice of the time and place of holding said meeting shall be sent by registered mail by the Secretary of the Association at least ten (10) days before the meeting to every member of the Code who is not a member of the Association who shall have signified his or its intention to participate under this Code, and to all other such members in this Industry not a member of the Association whose names and addresses are known to the Code Authority. Each person present at the meeting shall cast one vote for the employer he represents, but not more than one representative of each employer shall vote. Voting by proxy shall be permitted. Until such meeting shall be had, said two members shall be elected by majority vote of the nonmembers of the Association by a vote taken by mail under conditions made by the Association and approved by the Administrator.

(b) The Administrator may appoint (not to exceed three) additional members, to serve without expense and without vote, to represent the Government. They are to be appointed for terms of from six (6) months to one (1) year, and, if more than one is appointed, their terms are to be so arranged that they do not expire at the same time.

(c) 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, 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.

(d) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

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 on review to disapprove or modify any action taken by the Code Authority.

(a) The Code Authority shall be the general planning and fair practice agency for the Industry. The Code Authority shall have the powers and duties specifically provided herein, shall make such reports as the Administrator may require, and in addition thereto shall have full power and authority, subject to review by the Administrator, from time to time to require such reports from members of the industry with respect to capacity, production and orders for shipment, persons employed, wages and hours of labor, prices, costs and methods of costing, and other items as may be necessary to advise the Administrator adequately in the administration and enforcement of the provisions of this Code; and to provide for the standardization of products by the members of the Industry. It shall also have the power and authority to make rules and regulations for its own conduct and the administration of this Code, subject to the approval of the Administrator, and to do all things necessary or proper to enable the Industry to function under this Code and to give effect to the rules, regulations, and conditions herein contained or promulgated hereunder, subject, however, to review by the Administrator.

(b) In order to assure confidential treatment of individual figures, all reports, data, and information which the said Code Authority is empowered to collect or receive shall be collected or received by an agent appointed by the Code Authority, not a member or connected with a member of the Industry. The Code Authority shall likewise appoint such an agent or agents to make such investigations to the extent permitted by the Act on complaints of violation of this Code as may be deemed necessary. All reports, data, and information so collected or received, or so obtained on any such investigation, shall be kept confidential by such agent or agents collecting, receiving, or obtaining the same, except that any such reports, data, or information shall be available to the Administrator upon demand and except that in the event any such reports, data, or information shall substantiate any claimed violation of this Code, then the Code Authority shall be informed and may present evidence of any such violation to the Administrator.

3. The Code Authority may delegate any of its powers or functions to subcommittees or to such other agents as it may specifically determine, provided, however, that the Code Authority shall not be relieved of responsibility with respect to any such delegated powers or functions; that such subcommittees or other agents in the exercise of such delegated powers or functions shall comply with all applicable provisions of this Code.

4. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Authority, on the basis of volume of business or such other factors as may be deemed equitable to be taken into consideration.

5. In addition to the information required to be submitted to the Code Authority, there shall be furnished to governmental agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

ARTICLE VII—UNIFORM COST ACCOUNTING

1. It is the judgment of this Industry that accurate knowledge of costs is indispensable to the proper administration of the provisions of this Code. Each manufacturer subject to the jurisdiction of this Code may install such simplified uniform system of accounting as may be recommended by the Code Authority (or its properly authorized agent).

2. There shall be no selling below allowable cost. It shall constitute a violation of this Code for any member of the Industry to sell below his allowable cost, which "allowable cost" shall be the sum of:

(a) *Material Costs*.—The seller's original cost of material, or if replacement be lower, then the replacement cost (based on cost furnished monthly or oftener if necessary by authority of the Code Authority, or its properly authorized agent), and if any materials are used for which costs are not furnished monthly or oftener, as herein provided, the cost used for such item or items shall be the seller's total current delivered replacement cost; plus

(b) Cost of containers and/or packages, plus

(c) *Cost of Processing*.—To include all direct costs (such as power and labor), depreciation figured in accordance with provisions of the Federal Income Tax laws, plus a proper proportion of all indirect factory expenses (excepting interest on investment), in accordance with the share each product should bear, provided that the distribution of indirect factory expense per unit of production shall be on the basis of the average rate of utilization of plant facilities of the members of the Association, during the years of 1928 to 1932 inclusive, and provided that such average rate shall not include any plants not in operation, plus

(d) A reasonable percentage to be determined by the Code Authority of the "Manufactured Cost", the sum of (a) plus (b) plus (c), provided that taxes, insurance, reserves of any nature, accumulated unearned burden, interest on investment, interest or charges on funded or other debt shall not be included under (c) Cost of Processing.

3. In the case of any complaint by an interested party that a manufacturer is violating the above cost provisions, the Code Authority shall request proof of compliance from the accused manufacturer. If the Code Authority or the Administrator is not satisfied by the proof furnished by the defendant manufacturer the matter is to be referred to the Federal Trade Commission who shall audit the cost accounting of the defendant and review his allocation of burden. The report of the Federal Trade Commission regarding the costs of the defendant manufacturer shall be final insofar as the Code Authority is concerned, and upon the receipt of such report the Code Authority shall act in accordance with the National Recovery Act.

ARTICLE VIII—TRADE PRACTICES

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

1. *False Marking or Branding*.—The false marking, invoicing, 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.

2. *Misrepresentation or False or Misleading Advertising.*—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, performance, 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.

3. *Commercial Bribery.*—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, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gifts or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

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 interference with or obstructing the performance of any such contractual duties or services.

5. *Secret Rebates.*—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

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 thereto, by any scheme which involves lottery, misrepresentation, or fraud.

7. *Threats of Litigation.*—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.

8. *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.

9. All prices quoted and all sales made shall be upon the basis of freight-on-board, either job or factory, as the member of the Industry may elect.

10. The terms of sale shall uniformly be established at not to exceed two percent discount for payment within ten days, or end of month, with net terms of not to exceed sixty days.

11. No sales shall be influenced under the guise of reciprocity. There shall be no false invoicing of any nature whatsoever and no giving of free merchandise.

12. It shall be proper for any member to invoice its subsidiary companies or a fellow member in any manner whatsoever for resale but not for contract installation; provided, however, that the parent company shall be responsible for the adherence of such subsidiaries to the standards of fair competition as set up in this Code. Products of the Industry, supplies for contract application to subsidiary companies, to fellow members, to contract departments or divisions, or in any other manner, shall be supplied subject to all provisions of this Code.

13. The practice of supplying trade sales accounts on consignment is prohibited. No member of the Industry shall indirectly violate this Article by any subterfuge such as that commonly known as warehousing arrangements. Every manufacturer who has such consignment stocks in the hands of buyers on the effective date of this Code may continue the same but he shall file a detailed list of such accounts with the Code Authority where references may be made to it at any reasonable time by interested parties. If any manufacturer finds it necessary to take over a stock on a consignment basis for legitimate credit reasons, he shall be permitted to do so, but shall immediately report the circumstances to the Code Authority. No merchandise of a liquid chemical nature shall be subject to return for credit or exchange, and all other returns must be in unopened original containers within thirty days after delivery, prepaid by the customer and credit shall be subject to a 10% deduction for handling charges.

14. In addition to warranties implied by law, the manufacturer may assume full guarantee for the quality of his products, which guarantee shall be limited in amount to the sum of money received for such products. But in no event shall the manufacturer issue a guarantee covering the performance of the product in work where he does not supply the workmanship.

15. There shall be no deviation for the purposes of influencing a customer or prospective customer from the published and previously established specifications and recommendations of a particular member for a particular product.

16. No member shall agree or guarantee to furnish sufficient quantities of the materials covered by this code for any building or construction operation at a lump sum price. To quote such lump sum bid shall constitute an unfair trade practice.

17. Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by one 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 IX—MODIFICATION

1. This Code and all 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.

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

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 first Monday after its approval by the President.

Approved Code No. 140
Registry No. 1610-06



Approved Code No. 141

CODE OF FAIR COMPETITION

FOR THE

INVESTMENT BANKERS

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Investment Bankers, 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 the 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.

(509)

NOVEMBER 20, 1933.

The PRESIDENT,
The White House.

SIR: I have the honor to transmit herewith the report of the Hearing on the Code of Fair Competition for Investment Bankers conducted in accordance with the requirements of the National Recovery Administration, in the Auditorium, United States Chamber of Commerce Building, on November 6, 1933. The sponsor of this Code is the Investment Bankers Association of America. Although its present membership consists of only 392 out of some 6376 security dealers, these members comprise the leading investment houses of the United States and Canada. For the year 1932 the business of members of the Association approximated 90 percent of the total volume according to reliable records.

It is important to note that the underwriting business of investment banking has declined to a negligible amount at this time. This may be attributable to various causes and particularly to the excess flotation of new securities during the years culminating with 1929. In that period underwriting houses keenly competed in combing the field for new issues and abnormally large sales organizations were created by the dealers to dispose of the securities. Trade practices developed which resulted in the enactment of the Securities Act of 1933. The investment bankers definitely realize the need for fair practice provisions to govern their business and at their recent annual convention decided that adequate provisions be made a part of the Code. They have voluntarily agreed to submit Fair Practice provisions in a supplementary code within ninety days of your approval of this Code.

To this end a National Committee, composed of twenty-two outstanding investment bankers under whom are seventeen regional Group Chairmen, is working in conjunction with the officers and the Board of Governors of the Investment Bankers Association of America. In addition invitations have been issued to a number of State Security Commissioners and others to collaborate with the National Committee. Trade Practices which will be filed will assure the operation of the Code and will place the investment banking business on a far sounder and fairer basis than it has been in the past.

If in your judgment the Fair Trade Practice Provisions when submitted either eliminate entirely or correct the abuses that affect the public interest, the flow of investment capital into business and industry, which is an essential element in the recovery program, will have been expedited.

Supplementary data submitted by the Association in regard to employment and wages revealed a startling contrast to the prevailing inactivity in the investment field. A wide and thorough canvas of members as of November 1, 1933, who were in business on November 1, 1929, showed that there were 15,070 employees in these houses on November 1 this year as compared to 24,406 employees on the corresponding date in 1929, or a reduction in numbers of 38%.

The canvas further showed a wide divergence for a number of groups in the average reduction in wages of employees receiving \$150.00 per month or less on November 1, 1929, compared with the amounts they received on November 1, 1933. One group reported average increases of from $\frac{1}{2}$ % to 45%, while the lowest group reported decreases over 30%. On the basis of the complete survey it seems reasonably clear that the average net reduction in wages of all employees receiving \$150.00 per month or less on November 1, 1929, will not exceed 15%.

The Labor provisions of this Code coincide with those of the Code for Stock Exchange Firms because of the inseparable relationship of the two businesses. Here again the provision for overtime payment is, in fact, of minor importance compared to the known generosity of employers to employees during prosperous periods.

The only available record as to the volume of the investment banking business is in the compilation of capital issues publicly offered. Using figures taken from the table submitted, the 1929 volume of such financing exceeded \$11,500,000,000 as against a possible \$1,000,000,000 for 1933. The severity of this shrinkage in business may be better understood when it is realized that the estimated \$1,000,000,000 of publicly offered issues is only 25% of the volume done in 1920, the low point of the previous depression, and only about 10% of the average volume of the years 1927, 1928 and 1929. In no year since 1919, except 1932 and 1933 has the volume been less than \$4,000,000,000, hence it is reasonable to assume that the normal annual capital requirement of the country is somewhat in excess of that figure.

From a summary of the foregoing, it will be seen that although the volume of recorded business decreased over 90% in the past four years, the number of employees decreased but 38%, and the wages of employees mentioned decreased on an average only 15%. Probably no other business in the country finds itself in a comparable position. The members do not hesitate to say that the average investment banker is today maintaining an organization far in excess of his present needs, due partly to the need for technically trained employees, even though their retention has not been justified during the past two years.

No objectors from the business or from the public appeared at the Hearing, nor have any objections since been filed.

The Code has been accepted by the Investment Bankers Association of America and has received the approval of the several Advisory Boards of the National Recovery Administration with the exception of a qualification by the Consumers' Advisory Board, included in this report.

I find that the Code complies with the pertinent provisions of clauses (1) and (2), subsection (a) of Section 3 of the National Industrial Recovery Act. I recommend, therefore, that you approve the Code of Fair Competition for Investment Bankers as submitted herewith.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

INVESTMENT BANKERS

PREAMBLE

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for Investment Bankers.

ARTICLE I—DEFINITIONS

(1) The term "investment banking business" as used herein shall mean the business of underwriting or distributing issues of bonds, stocks, or other securities, or of purchasing such securities and offering the same for sale as a dealer therein, or of purchasing and selling such securities upon the order and for the account of others; provided, however, that the term "investment banking business" shall not include transactions on regularly organized exchanges, but such term shall include all business relating to such transactions to the extent that such business is not conducted by a member of such exchange or by any person or organization having the privilege of any such exchange for itself or any of its partners or executive officers.

(2) The term "employer" as used herein shall include every natural person, co-partnership, corporation, association, or other entity that is engaged in doing any investment banking business. If the major part of the business of any employer consists of any business other than investment banking business which other business is governed by any other code or codes, such employer shall not be bound as to his investment banking business by the wage and hour provisions of this Code, but shall be governed as to his investment banking business by the wage and hour provisions of such other code or codes; but all other provisions of this Code shall apply to such employer as to his investment banking business.

(3) The term "employee" as used herein shall mean anyone employed by any employer, regardless of the nature or method of payment of his compensation.

(4) The term "Administrator" as used herein shall mean the Administrator appointed by the President of the United States under the National Industrial Recovery Act.

(5) Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

ARTICLE II—LABOR PROVISIONS

(1) (a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall

be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) 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.

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

(2) No person under sixteen years of age shall be employed by any employer; provided, however, where a state law requires higher minimum age, no person below the age so specified shall be employed within that state.

(3) (a) No employer shall employ any person for more than 40 hours in any one week, provided, however, that in order to meet contingencies which cannot be anticipated and over which the employers have no control, the said hours of employment may be increased to meet such contingencies, but in no event shall such employees work more than a total of 44 hours per week averaged over a period of four (4) months without the payment of overtime.

(b) The maximum hours fixed in the foregoing paragraph (a) shall not apply (1) to guards and watchmen employed at night to safeguard securities or assets (provided such guards and watchmen do not work more than six (6) days each week), or (2) to partners in any copartnership, or (3) to outside salesmen, or (4) to employees in a managerial or executive capacity or in any other capacity of distinction or sole responsibility who receive more than \$35 per week.

(c) No employee, except outside salesmen working solely on a commission basis, shall be paid (1) less than \$16 per week in any city of over 2,000,000 population; (2) less than \$15 per week in any city between 500,000 and 2,000,000 population; (3) less than \$14.50 per week in any city between 250,000 and 500,000 population; (4) less than \$14 per week in any city between 2,500 and 250,000 population; and (5) in any town of less than 2,500 population all wages of employees shall be increased by not less than 20% provided that this shall not require the payment of wages in excess of \$12 per week; provided, however, that where a State law provides a higher minimum wage than is provided in this Code, no person employed within that State shall be paid a wage below that required by such State law.

(d) All employees, except employees mentioned in paragraph (b) above, if employed for more than a total of 44 hours per week averaged over a period of four (4) months, shall be paid for all such excess time of employment at the rate of 133 $\frac{1}{3}$ % of the regular hourly rate at which such persons shall then be employed; but regardless of the calculation of such overtime averaged over a four months' period, all such employees if employed for more than 48 hours in any one week shall be paid for such time in excess of 48 hours at the rate of 133 $\frac{1}{3}$ % of the said regular rate. The amount paid for overtime for any weekly period shall be credited on the amount of overtime paid at the end of any four months' period, and

in computing the amount of overtime to be paid as herein provided the regular hourly rate at which any person shall be employed shall be determined by dividing the amount per week which he shall regularly be paid by 40.

(e) The wages of employees (except employees mentioned in the foregoing subdivisions (2), (3), and (4) of paragraph (b)) being paid on September 1, 1933, in excess of the established minimum shall not be decreased, notwithstanding that the hours worked in such employment may be hereby reduced.

ARTICLE III—ADMINISTRATION

(1) To cooperate with the Administration in the administration of this Code there is hereby constituted an Investment Bankers Code Committee. Such Committee shall consist of three members appointed by the President of the Investment Bankers Association of America; two members chosen by a fair method approved by the Administrator to represent employers not members of the Investment Bankers Association of America; and a representative or representatives without vote appointed by the President of the United States. The five voting members of said Committee shall be appointed or chosen from assenting employers.

(2) The Investment Bankers Code Committee herein provided for shall be the representative body from the employers subject to this Code, to act on their behalf in the administration and enforcement of this Code, and shall have, in addition to the specific powers herein provided for, all general powers necessary for such administration and enforcement: such general and specific powers shall be at all times subject to the right of the Administrator to veto or modify any action taken by such Committee.

(3) The Investment Bankers Code Committee may from time to time appoint such committee or committees as it may deem necessary or proper to carry out its powers and duties under the Code and may delegate to any such committee such of its powers and duties as it may deem necessary and proper to effectuate such purposes. The representative or representatives appointed by the President of the United States shall be given notice of all meetings of any committee or committees appointed by the Investment Bankers Code Committee and shall have the right to participate without vote in the activities of such committee or committees.

(4) The Investment Bankers Code Committee may from time to time present to the Administrator recommendations which will tend to effectuate the administration of the provisions of this Code and the policies of the National Industrial Recovery Act.

(5) In order to keep the President of the United States and the Administrator informed as to the observance or nonobservance of this Code, each employer shall prepare and file with the Investment Bankers Code Committee, at such time and in such manner as said Committee may prescribe, statistics covering the number of persons employed, wage rates, hours of working, and such other data or information as the Investment Bankers Code Committee may require, provided such other data or information shall also be required by the Administrator. All information so furnished shall be treated as confidential and used only for the sole purpose herein set forth.

(6) The expenses of administering this Code shall from time to time be equitably assessed and collected by the Investment Bankers Code Committee from employers assenting to this Code in accordance with a plan to be approved by the Administrator; but no such employer shall be liable for any payment in excess of said assessment.

(7) Any employer may voluntarily assent to this Code by signing and filing his assent with the Investment Bankers Code Committee, No. 33 South Clark Street, Chicago, Illinois.

ARTICLE IV—FAIR TRADE PRACTICES

Within 90 days after the approval of this Code, the Investment Bankers Code Committee shall submit, in accordance with the procedure set forth in paragraph (1) of Article V, supplementary provisions relating to fair trade practices.

ARTICLE V—AMENDMENTS AND TERMINATION

(1) Any employer assenting to this Code that may hereafter desire to have the Code amended or any supplementary provisions added shall take the following procedure: Propose the amendment to the Investment Bankers Code Committee which shall, if a majority of the Committee shall approve the proposed amendment, submit it to a meeting of the employers assenting to this Code especially called for that purpose upon due notice; and if at any such meeting a majority of such employers shall be present or represented and if a majority of such employers as are present or represented at said meeting shall vote in favor of the adoption of such proposed amendment, such amendment shall be submitted by the Investment Bankers Code Committee to the President of the United States for approval, and such proposed amendment shall take effect as a part of this Code upon such approval thereof by the President of the United States. Employers voting on such amendments as above provided may vote in person, by proxy in writing, or may vote in writing without being personally present.

(2) This Code shall continue in effect as long as the National Industrial Recovery Act shall be in effect, but in no event after June 16, 1935, and shall in all respects be subject to the provisions and conditions of the National Industrial Recovery Act.

(3) This Code and all the provisions thereof are expressly made subject to the right of the President of the United States, 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 the National Industrial Recovery Act, and specifically, but without limitation, to the right of the President of the United States to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE VI—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President of the United States.

Approved Code No. 141.
Registry No. 1707-04.

Approved Code No. 142

CODE OF FAIR COMPETITION

FOR THE

RETAIL JEWELRY TRADE

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 16th, 1933, for my approval of a Code of Fair Competition for the Retail Jewelry Trade, 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 16th, 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 it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(517)

NOVEMBER 17, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the Hearing on the Code of Fair Competition for the Retail Jewelry Trade conducted at the United States Chamber of Commerce, on November 10, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Code which is attached was presented by duly authorized and qualified representatives of the Trade, complying with the statutory requirements, said to represent approximately 3,500 retail jewelers or 80% in number and 95% in volume of sales of the Trade.

THE TRADE

Complete statistics on the Retail Jewelry Trade are contained in the Census of Retail Distribution, 1930, conducted by the United States Department of Commerce, Bureau of the Census.

According to this source there were in 1929, 19,998 retail jewelry establishments, which figure includes a large number of single proprietorships, service and repair establishments. The Jewelers' Board of Trade, New York, New York, states that it has credit ratings for only 12,000 jewelers in the United States, with a merchandise inventory of \$1,000 or more, which would indicate that approximately 40% of those classified as retail jewelers carry inventory of less than \$1,000.

According to the Census figures the total net sales of retail jewelry establishments were \$536,280,697 in 1929. Sales in 1932 are estimated to have been approximately 70% less than in 1929.

The number of employees in the retail jewelry establishments included in the Census are given as follows:

Number of Employees, 1929

Full time.....	38, 273
Part time.....	7, 321
Total.....	<u>45, 594</u>
Proprietors and firm members not on pay roll.....	19, 982

It is estimated that the number of employes in 1932 was approximately 25% less than the number in 1929.

PROVISIONS OF THE CODE

Labor Provisions.—The hour and wage provisions of the Code are substantially the same as those adopted and approved in the Code of Fair Competition for the Retail Trade. The only departures from the Retail Code are as follows:

(1) A more elastic provision for the reduction of store hours for the summer months to conform with the practices in the Trade.

(2) A slightly more elastic provision for peak periods to allow for peculiar requirements of the jewelry trade.

(3) A provision for suspension of maximum store hours in cases of emergency or to allow the completion of a transaction with a specific customer.

(4) A departure from the provisions of the Retail Code regarding the limitations upon number of persons working unrestricted hours to allow for one additional worker employed in a managerial capacity to qualify under this section.

It is expected that improvement in employment conditions similar to that resulting from the Retail Code will obtain under this Code.

Administration.—Administration of the Code is to be accomplished by a National Code Authority and local committees which shall cooperate with the Code Authority administering the Retail Code.

Provision is made for reports to the Administrator and investigations by the Code Authority of trade problems which may arise.

Trade Practices.—Trade Practice provisions of the Code are unusually excellent and eminently fair. The provisions are designed to establish a common terminology and a definite set of standards or measures for the Retail Jewelry Trade, and to prohibit a number of parasitic and deceptive practices in the trade. The clauses supply a much needed and heretofore lacking common standard of quality and terminology to be used in the trade and giving a uniform measuring rod for the testing of retail jewelers' wares and practices.

The enforcement of the trade practice provisions should result in extra high standards of competition in this Trade with the consequent protection of the interests of the consuming public.

FINDINGS

I find that—

(a) This Code complies in all respects with the pertinent provisions of Title I of the Act, including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof.

(b) The American National Retail Jewelers Association to be truly representative of the Retail Jewelry Trade. The By-laws of this Association provide no inequitable restrictions to membership.

(c) The Code 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.

I recommend that the Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
RETAIL JEWELRY TRADE

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 Retail Jewelry Trade.

ARTICLE I—DEFINITIONS

1. *Retail Jewelry Trade.*—The term “retail jewelry trade” as used herein shall mean all selling to the consumer, and not for the purpose of resale in any form, of jewelry as defined herein or services or repairs to jewelry, in the continental United States, excluding the Panama Canal Zone.

2. *Retail Jeweler.*—The term “retail jeweler” as used herein shall mean any individual or organization engaged wholly or partially in the retail jewelry trade.

3. *Retail Jewelry Establishment.*—The term “retail jewelry establishment” as used herein shall mean any store or department of a store engaged in the retail jewelry trade, but shall not include stores or departments in which the principal business is the selling at retail of products other than jewelry, or services or repairs to jewelry.

4. *Jewelry.*—The term “jewelry” as used herein shall mean diamonds and other precious and semiprecious stones, pearls, cultured pearls, synthetic stones, and any imitations of any of these articles, articles for personal wear and adornment of any character whatsoever commonly and commercially known as “jewelry”, watches, clocks, silverware, goldware, and precious metal ware of the platinum group, and wares plated with any of the precious metals.

5. *Employee.*—The term “employee” as used herein shall mean any person employed by any retail jeweler but shall not include persons employed principally in the selling at retail of products not included within the definition of retail jewelry trade.

6. *Definitions of Personnel.*—(a) *Executive.* The term “executive” as used herein shall mean an employee responsible for the management of a business or a recognized subdivision thereof.

(b) *Professional Person.*—The term “professional person” as used herein shall mean lawyers, doctors, nurses, research technicians, advertising specialists, and other persons engaged in occupations requiring a special discipline and special attainments.

(c) *Outside Salesmen.*—The term “outside salesmen” as used herein shall mean a salesman who is engaged not less than sixty (60) percent of his working hours outside the establishment, or any branch thereof, by which he is employed.

(d) *Outside Collector*.—The term “outside collector” as used herein shall mean a collector of accounts who is engaged not less than sixty (60) percent of his working hours outside the establishment, or any branch thereof, by which he is employed.

(e) *Watchmen and Guards*.—The terms “watchmen” and “guards” as used herein shall mean employees engaged primarily in watching and safeguarding the premises and property of a retail establishment.

(f) *Store Detective*.—The term “store detective” as used herein shall mean an employee engaged exclusively in detective work.

(g) *Maintenance Employee*.—The term “maintenance employee” as used herein shall mean an employee essential to the upkeep and/or preservation of the premises and property of a retail establishment.

(h) *Outside Service Employee*.—The term “outside service employee” as used herein shall mean an employee engaged primarily in delivering, installing, or servicing merchandise outside the establishment, and shall include stable and garage employees.

(i) *Junior Employee*.—The term “junior employee” as used herein shall mean an employee under eighteen (18) years of age.

(j) *Apprentice Employee*.—The term “apprentice employee” as used herein shall mean an employee with less than six (6) months experience in the retail Jewelry trade.

(k) *Part-time Employee*.—The term “part-time employee” as used herein shall mean an employee who works for less than the maximum work week.

7. *South*.—The term “South” as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico, Texas, and the District of Columbia.

8. *Population*.—Population shall be determined by reference to the Fifteenth Census of the United States (U.S. Department of Commerce, Bureau of Census, 1930).

ARTICLE II—EFFECTIVE DATE

The effective date of this Code shall be the second Monday after its approval by the President of the United States.

ARTICLE III—GENERAL LABOR PROVISIONS

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

(b) 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.

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

2. *Child Labor.*—On and after the effective date of this Code no person under the age of sixteen (16) years shall be employed except that persons fourteen (14) and fifteen (15) years of age may be employed either—

(a) For a period not to exceed three (3) hours per day on six (6) days per week, or

(b) For one day per week, such day not to exceed eight (8) hours. In either case, all such hours of work shall be between 7 a.m. and 7 p.m. and shall not conflict with the employee's hours of day school. It is provided, however, that no person under the age of sixteen (16) years shall be employed in delivering merchandise from motor vehicles.

It is further provided that where a State Law prescribes a higher minimum age no person below the age specified by such State Law shall be employed within such State.

ARTICLE IV—STORE HOURS AND HOURS OF LABOR

1. *Basic Store and Working Hours.*—On and after the effective date of this Code establishments in the retail jewelry trade shall elect to operate upon one of the following schedules of store hours and hours of labor:

Group A.—Any establishment may elect to remain open for business less than fifty-six (56) hours but not less than fifty-two (52) hours per week, unless its store hours were less than fifty-two (52) hours prior to June 1, 1933, in which case such establishment shall not reduce its store hours; no employee of these establishments shall work more than forty (40) hours per week, nor more than eight (8) hours per day, nor more than six (6) days per week.

Group B.—Any establishment may elect to remain open for business fifty-six (56) hours or more per week but less than sixty-three (63) hours per week; no employee of such establishment shall work more than forty-four (44) hours per week, nor more than nine (9) hours per day, nor more than six (6) days per week.

Group C.—Any establishment may elect to remain open for business sixty-three (63) hours or more per week; no employee of such establishment shall work more than forty-eight (48) hours per week, nor more than ten (10) hours per day, nor more than six (6) days per week.

No employee shall work for two or more establishments a greater number of hours, in the aggregate, than he would be permitted to work for that one of such establishments which operates upon the lowest schedule of working hours.

No employee not included in the foregoing paragraphs, and not specifically excepted hereinafter, shall work more than forty (40) hours per week, nor more than eight (8) hours per day, nor more than six (6) days per week.

2. *Schedule of Hours to be Posted.*—On or within one week after the effective date of this Code every retail establishment shall designate under which of the Groups set forth in the preceding Section it elects to operate and shall post and maintain in a conspicuous place

in the establishment a copy of such election showing its store hours and employee working hours.

3. *Changes in Store Hours and Employee Working Hours.*—(a) No establishment may change from the Group in which it has elected to operate except upon December 31 of every year.

(b) Any establishment, however, may at any time increase its store hours, provided it maintains the basic employee work week of the Group in which it originally elected to operate.

(c) Any retail jewelry establishment may, during the months of May to September, inclusive, temporarily reduce its store hours, but the weekly wages of its employees shall not on that account be reduced.

4. *Exceptions to maximum periods of labor.*—(a) Professional persons, outside salesmen, outside collectors, watchmen, guards, and store detectives. The maximum periods of labor prescribed in Section 1 of this Article shall not apply to professional persons employed and working at their profession, or to outside salesmen, outside collectors, watchmen, guards, and store detectives.

(b) *Maintenance and outside service employees.*—The maximum periods of labor prescribed in Section 1 of this Article shall not apply to maintenance and outside service employees: but such employees shall not work more than six (6) hours per week above the maximum hours per week otherwise prescribed by Section 1 unless they are paid at the rate of time and one third for all hours over such additional six (6) hours per week.

(c) *Executives.*—Subject to the conditions set forth in Section 5 of this Article, executives receiving \$35.00 or more per week in cities of over 500,000 population, or receiving \$30.00 or more per week in cities of 100,000 to 500,000 population, or receiving \$27.50 or more per week in cities of 25,000 to 100,000 population, or receiving \$25.00 or more per week in cities, towns, villages, and other places under 25,000 population, may work in excess of the maximum periods of labor prescribed in Section 1 of this Article. In the South executives paid not less than ten (10) percent below the wages just specified may work in excess of such maximum periods.

(d) *Peak periods.*—At Christmas, inventory, and other peak times, for a period not to exceed five (5) weeks in the calendar year, an employee whose basic work week is forty (40) hours may work not more than forty-eight (48) hours per week and nine (9) hours per day; an employee whose basic work week is forty-four (44) hours may work not more than fifty-two (52) hours per week and nine and one half (9½) hours per day; an employee whose basic work week is forty-eight (48) hours may work not more than fifty-six (56) hours per week and ten (10) hours per day. All such work may be without the payment of overtime.

(e) The maximum hours prescribed in this Article shall not apply in cases of very special emergency where the limitation, if imposed, would preclude the satisfactory completion of a transaction with a specific customer, or the satisfaction of requirements as to reports to any Federal, State, or Trade Agency, or in emergencies threatening damage or destruction to the plant or assets of retail jewelry establishments.

5. *Limitation upon number of persons working unrestricted hours.*—Notwithstanding the provisions of the foregoing sections of this Article, and regardless of the number of persons otherwise permitted to work unrestricted hours, the total number of workers in any establishment (whether such workers are executives, proprietors, partners, persons not receiving monetary wages, or others) who shall be permitted to work unrestricted hours shall not exceed the following ratio: In establishments comprised of twenty (20) workers or less the total number of workers who may work unrestricted hours (not including those workers specified in Section 4 (a) of this Article) shall not exceed one worker for every five (5) workers or fraction thereof; provided that in retail jewelry establishments with five or less workers, two workers qualifying under this section may, but only in a managerial capacity, work unrestricted hours; in establishments comprised of more than twenty (20) workers the total number of workers who may work unrestricted hours (not including those workers specified in Section 4 (a) of this Article) shall not exceed one worker for every five (5) workers for the first twenty (20) workers, and shall not exceed one worker for every eight (8) workers above twenty (20).

6. *Hours of work to be consecutive.*—The hours worked by any employee during each day shall be consecutive, provided that an interval not longer than one hour may be allowed for each regular meal period, and such interval not counted as part of the employee's working time. Any rest period which may be given employees shall not be deducted from such employee's working time.

7. *Extra working hour on one day a week.*—On one day each week employees may work one extra hour, but such hour is to be included within the maximum hours permitted each week.

8. *Conflict with State laws.*—When any State law prescribes for any class of employees shorter hours of labor than those prescribed in this Article, no employee included within such class shall be employed within such State for a greater number of hours than such State allows.

ARTICLE V—WAGES

1. *Basis schedule of wages.*—On and after the effective date of this Code, the minimum weekly rates of wages which shall be paid for a work week as specified in Article IV—whether such wages are calculated upon an hourly, weekly, monthly, commission, or any other basis—shall, except as hereinafter provided, be as follows:

(a) Within cities of over 500,000 population, no employee shall be paid less than at the rate of \$14.00 per week for a forty (40) hour work week, or less than at the rate of \$14.50 per week for a forty-four (44) hour work week, or less than at the rate of \$15.00 per week for a forty-eight (48) hour work week.

(b) Within cities of from 100,000 to 500,000 population, no employee shall be paid less than at the rate of \$13.00 per week for a forty (40) hour work week, or less than at the rate of \$13.50 per week for a forty-four (44) hour work week, or less than at the rate of \$14.00 per week for a forty-eight (48) hour work week.

(c) Within cities of from 25,000 to 100,000 population, no employee shall be paid less than at the rate of \$12.00 per week for a

forty (40) hour work week, or less than at the rate of \$12.50 per week for a forty-four (44) hour work week, or less than at the rate of \$13.00 per week for a forty-eight (48) hour work week.

(d) Within cities, towns, villages of from 2,500 to 25,000 population, the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$11.00 per week and provided further that no employee shall be paid less than at the rate of \$10.00 per week.

(e) Within towns, villages, and other places with less than 2,500 population, the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$10.00 per week.

The minimum wages paid to professional persons, outside salesmen, outside collectors, watchmen, guards, store detectives, and maintenance and outside service employees shall be upon the basis of the basic employee work week upon which the establishment by which they are employed has elected to operate.

The minimum wages of any employee not included in the foregoing paragraphs and not specifically excepted hereinafter shall be upon the basis of a forty (40) hour work week.

2. *Juniors and apprentices.*—Junior and apprentice employees may be paid at the rate of \$1.00 less per week than the minimum wage otherwise applicable; it is provided, however, that no employee shall be classified both as a junior and as an apprentice employee, and it is further provided that the number of employees classified as junior and as apprentice employees, combined, shall not exceed a ratio of one such employee to every five employees or fraction thereof up to twenty (20), and one such employee to every ten (10) employees above twenty (20).

3. *Southern wage differential.*—In the South, within cities of over 25,000 population, the minimum wages prescribed in the foregoing sections may be at the rate of \$1.00 less per week; within cities, towns, and villages of from 2,500 to 25,000 population the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$10.00 per week, and provided further that no employee shall be paid less than at the rate of \$9.00 per week except as provided in Section 2 of this Article; within cities, towns, villages, and other places under 2,500 population the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$9.00 per week.

4. *Part-time employees.*—Part-time employees shall be paid not less than at an hourly rate proportionate to the rates prescribed in the foregoing sections of this Article.

5. *Weekly wages above minimum not to be reduced.*—The weekly wages of all classes of employees receiving more than the minimum wages prescribed in this Article shall not be reduced from the rates existing upon July 15, 1933, notwithstanding any reduction in the number of working hours of such employees.

6. *Conflict with State laws.*—When any State law prescribes for any class of employees of either sex a higher minimum wage than that prescribed in this Article, no employee of such class of either sex employed within that State shall be paid less than such State law requires.

ARTICLE VI—LIMITATIONS UPON PRICE INCREASES; PRIOR CONTRACTS

1. *Limitations upon price increases.*—No retail jeweler shall increase the price of any merchandise sold after the effective date of this Code over the price existing June 1, 1933, by more than is made necessary by the amount of increases in production, operating, replacement, and/or invoice costs of merchandise; and/or by taxes; and/or by other costs resulting from action taken pursuant to the National Industrial Recovery Act and/or the Agricultural Adjustment Act since June 1, 1933, and in setting such price increases retail jewelers shall give full weight to probable increases in sales volume. It is provided, however, that if any price on June 1, 1933, was a distress price, an equitable adjustment may be made.

2. *Adjustment of prior contracts.*—Where costs of executing contracts entered into before June 16, 1933, by any retail jeweler for the purchase of goods at fixed prices for delivery during the duration of this Code are increased by the application of the provisions of the National Industrial Recovery Act and/or the Agricultural Adjustment Act, it is deemed equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs actually incurred be arrived at by mutual agreement or arbitral proceedings or otherwise, and the National Retail Jewelry Trade Council provided for in Article IX hereinafter is constituted an agency to assist in effecting such adjustments.

ARTICLE VII—LOSS LIMITATION PROVISION

1. *Loss Limitation Provision.*—In order to prevent unfair competition against local merchants, the use of the so-called "loss leader" is hereby declared to be an unfair trade practice. These "loss leaders" are articles often sold below cost to the merchant, which means the actual net delivered cost or current replacement cost whichever is lower, for the purpose of attracting trade. This practice results, of course, either in efforts by the merchant to make up the loss by charging more than reasonable profit for other articles, or else in driving the small merchant with little capital out of legitimate business. It works back against the producer of raw materials on farms and in Industry and against the labor so employed.

This declaration against the use of "loss leaders" by the storekeeper does not prohibit him from selling an article without any profit to himself. But the selling price of articles to the consumer should include an allowance for actual wages of store labor, to be fixed and published from time to time by the Trade Authority hereinafter established.

Such an allowance for labor need not be applied by retail jewelers doing business only in communities of less than 2,500 population (according to the 1930 Census) which are not part of a larger trade area.

Provided, however, That any retail jeweler may sell any article of merchandise at a price as low as the price set by any competitor in his trade area on merchandise which is identical or essentially the same, if such competitor's price is set in conformity with the foregoing provisions. A retail jeweler who thus reduces a price to meet a competitor's price as above defined shall not be deemed to have violated the provisions of this Section if such retail jeweler immediately notifies the nearest local retail jewelry trade committee as hereinafter provided in Article IX, Section 2 (e) of such action and all facts pertinent thereto.

2. *Exceptions.*—(a) Notwithstanding the provisions of the preceding Section, any retail jeweler may sell at less than the prices specified above, merchandise sold as a bona fide clearance, if advertised, marked, and sold as such; imperfect or actually damaged merchandise, or bona fide discontinued lines of merchandise, if advertised, marked, and sold as such; merchandise sold upon the complete final liquidation of any business; merchandise sold in quantity on contract to public carriers, departments of government, hospitals, schools and colleges, clubs, hotels, and other institutions for their own specific use and not for resale and not for redistribution to individuals; merchandise sold or donated for charitable purposes or to unemployment relief agencies.

(b) Where a bona fide premium or certificate representing a share in a premium is given away with any article the base upon which the minimum price of the article is calculated shall include the cost of the premium or share thereof.

ARTICLE VIII—TRADE PRACTICES

All retail jewelers shall comply with the following trade practices:

1. *Advertising and Selling Methods.*—(a) No retail jeweler shall use advertising, whether printed, radio, or display or of any other nature, which is inaccurate in any material particular or misrepresents merchandise (including its use, trade mark, grade, quality, quantity, size, origin, material, content, or preparation) or credit terms, values, policies, or services; and no retailer shall use advertising and/or selling methods which tend to deceive or mislead the customer.

(b) No retail jeweler shall use advertising which refers inaccurately in any material particular to any competitor or his merchandise, prices, values, credit terms, policies, or services.

(c) No retail jeweler shall use advertising which inaccurately lays claim to a policy or continuing practice of generally underselling competitors.

(d) No retail jeweler shall secretly give anything of value to the employee or agent of a customer for the purpose of influencing a sale, or in furtherance of a sale render a bill or statement of account to the employee, agent, or customer which is inaccurate in any material particular.

(e) No retail jeweler shall place obstacles in the way of the purchase of a product which a consumer orders by brand name by urging upon the consumer a substitute product in a manner which disparages the product ordered.

(f) Violation by a retail jeweler of the applicable state stamping laws relating to articles made wholly or in part of gold, silver, metals of the platinum group, or alloys thereof; or, where there are no applicable state laws relating to said articles, violation by a retail jeweler of the National stamping laws or of the standards of quality approved by the United States Bureau of Standards, shall be a violation of this code.

(g) No retail jeweler shall use the word "perfect" or any other word or expression of similar meaning, in any way, in connection with, or as descriptive of, any diamond, ruby, sapphire, or emerald which discloses flaws, cracks, carbon, spots, clouds, cloudy texture, or blemishes of any sort when examined by a trained eye under a diamond loupe of not less than 7 power.

(h) No retail jeweler shall use the word "diamond" "emerald", "ruby", "sapphire", or "pearl" in selling, offering for sale, or advertising for sale any article or articles that are manufactured, produced or artificially cultured or cultivated as an imitation of, or substitute for, any real or natural diamond, emerald, ruby, sapphire, or pearl, as defined hereafter, without using a word or words conspicuously and clearly portraying that the article is manufactured, produced, or artificially cultured or cultivated, as the case may be.

DEFINITIONS

Diamond.—A mineral consisting essentially of pure carbon crystallized in the isometric system, generally in octahedron form, either colorless or variously tinted. Its hardness is 10 and its specific gravity about 3.525.

Emerald.—A bright-green variety of beryl which crystallized in the rhombohedral system, almost always in six-sided prisms. Its color is due to the presence of chromium. Its hardness is about 7.8 and its specific gravity very nearly 2.7.

Ruby.—The name "ruby" is given to the transparent red variety of the mineral corundum, which is nearly pure alumina (Al_2O_3). The color is due to the addition of minute quantities of metallic oxides to the alumina. Its hardness is about 8.8 and its specific gravity varies from 3.97 to 4.05.

Sapphire.—The name "sapphire" is given to the transparent blue variety of the mineral corundum, which is nearly pure alumina (Al_2O_3). The color is due to the addition of minute quantities of metallic oxides to the alumina. Its hardness is about 8.8 and its specific gravity varies from 3.97 to 4.05. Sapphires may be of other colors than blue, but in that case are commercially classed as semi-precious stones.

Pearl.—Pearls are lustrous concretions, consisting essentially of concentric layers of carbonate of lime interstratified with animal membrane, found in the shells of certain mollusks, the result of an abnormal secretory process caused by an irritation of the mantle of the mollusk consequent on the natural intrusion into the shell of some foreign body, as a grain of sand, an egg of the mollusk itself, or perhaps some cercarian parasite, or an excess of carbonate of lime in the water.

(i) No retail jeweler shall use the words "real", "genuine", "natural", or any other words of similar meaning, in any way in con-

nection with, or as descriptive of, any article or articles that are manufactured, produced, or artificially cultured or cultivated, as an imitation of, or substitute for, any precious or semiprecious stones or pearls.

(j) No retail jeweler selling jewelry to the ultimate consumer shall refer his customers to the establishment of another retailer with the suggestion that the customer make a selection but no purchase, thus parasitically using the facilities of the latter retailer, such as stock and salesmen's time, to create sales for himself by offering and delivering the identical goods to his customers at greater profit to himself, because others bear a substantial part of the cost of his effecting such sale.

(k) No retail jeweler shall, in the retail jewelry trade, represent himself as other than a retailer.

(l) No retail jeweler shall issue price lists and/or catalogues the tendency of which, in connection with the offering of discounts, is to give to the consumer the impression that the prices are bargain prices, when such in fact is not the case.

(m) No retail jeweler shall grant discounts, rebates, refunds, commissions, or credits, whether in the form of money or otherwise, and shall not extend to certain purchasers special services or privileges not extended to all purchasers (individuals directly connected with his establishment excepted, and then only when merchandise is for their personal use and not for resale) on like terms and conditions.

Nothing in this section shall be construed to prevent price differentials from being allowed on the basis of a sale in quantity, or such other factors as the Administrator shall deem proper, provided such differentials do not exceed the savings actually enjoyed by the seller by reason of selling and handling the larger quantities.

(n) No retail jeweler shall sell or offer for sale directly or through an agent, at auction, in the retail jewelry trade, any jewelry except for the purpose of legitimate liquidation, or in case of dire need, in either of which cases an application must be made to and approved by the local Retail Jewelry Trade Committee. In such instances, no special purchases of jewelry shall be made for the purpose of this auction and all jewelry offered at auction must be stock legitimately owned in the natural course of the conduct of said Retail Jewelry Business. It shall be further required that an accurate inventory of jewelry to be auctioned be filed with the local retail jewelry trade committee at least fifteen days before the auction, or as otherwise provided by the local or state laws.

(o) No retail jeweler shall advertise or offer to repair watches or clocks at a uniform price irrespective of the cost of such repairs.

(p) No retail jeweler shall sell, offer for sale, or advertise for sale, rebuilt watches unless such articles are clearly designated as such.

(q) No retail jeweler shall appraise any article of jewelry unless such appraisal is in writing over his signature.

2. *N.R.A. Label.*—No retail jeweler shall purchase, sell, or exchange any merchandise manufactured under a Code of Fair Competition which requires such merchandise to bear an N.R.A. label, unless said merchandise bears such label. Any retail jeweler rightfully possessing the insignia of the N.R.A. who has in stock or purchases similar merchandise which has been manufactured before the

effective date of the Code of Fair Competition requiring such merchandise to bear an N.R.A. label may attach thereto the N.R.A. insignia.

3. *Prison-made Goods*.—Pending the formulation of a compact or code between the several States of the United States to insure the manufacture and sale of prison-made goods on a fair competitive basis with goods not so produced, the following provisions of this Section will be stayed for ninety (90) days, or further at the discretion of the Administrator.

(a) Where any penal, reformatory, or correctional institution, either by subscribing to the code or compact hereinbefore referred to, or by a binding agreement of any other nature, satisfies the Administrator that merchandise produced in such institution or by the inmates thereof will not be sold except upon a fair competitive basis with similar merchandise not so produced, the provisions of paragraph (b) hereof shall not apply to any merchandise produced in such manner in the institutions covered by such agreement.

(b) Except as provided in the foregoing paragraph, no retail jeweler shall knowingly buy or contract to buy any merchandise produced in whole or in part in a penal, reformatory, or correctional institution. After May 31, 1934, no retailer shall knowingly sell or offer for sale such merchandise. Nothing in this Section, however, shall affect contracts, which the retailer does not have the option to cancel, made with respect to such merchandise before the approval of this Code by the President of the United States.

(c) Nothing in this Section shall be construed to supersede or interfere with the operation of the Act of Congress approved January 19, 1929, being Public No. 669 of the 70th Congress and entitled "An Act to Divest Goods, Wares, and Merchandise Manufactured, Produced, or Mined by Convicts or Prisoners of their Interstate Character in Certain Cases", which Act is known as the Hawes-Cooper Act, or the provisions of any State Legislation enacted under, or effective upon, the effective date of the said Hawes-Cooper Act, the said effective date being January 19, 1934.

4. *Company scrip*.—The following provisions of this Section shall not become effective until March 1, 1934. Pending such effective date the Administrator shall appoint a Committee of not more than three persons to investigate the economic and social implications of these provisions. Said Committee may make recommendations based upon its investigations, and such recommendations shall, upon approval by the President of the United States, become effective in the place of these provisions:

(a) No retail jeweler shall accept as payment for merchandise any nonnegotiable scrip, company checks, or other evidence of wage payment issued by any individual or private profit organization in payment of wages or as an advance upon unearned wages. A negotiable instrument issued by any individual or private profit organization in payment of wages shall be accepted only if it is payable in cash within one month of the date of issue. This paragraph shall not apply in cases where the cash funds of any individual or organization are rendered temporarily unavailable due to the closing by state or federal order of the bank in which such funds are deposited.

(b) No retail jeweler shall extend credit in the form of goods, money, or services to any person other than its own employees engaged exclusively in the retail trade, upon any employer's guarantee of part or all of said person's future wages, or pursuant to a wage-deduction arrangement entered into with said employer, unless an identical guarantee or wage-deduction arrangement is available to all retailers.

ARTICLE IX—ADMINISTRATION

1. *Retail Jewelry Trade Authority.*—The Retail Jewelry Trade Authority shall consist of the Administrator or his Deputy, or not more than three members appointed by the Administrator, who shall advise and assist the Administrator or his Deputy. Members of the Retail Jewelry Trade Authority shall be members, without vote, of the National Retail Jewelry Trade Council, provided for hereinafter, and without expense to said Council.

2. *National Retail Jewelry Trade Council.*—

(a) *Composition.*—To effectuate further the policies of the Act, a National Retail Jewelry Trade Council hereinafter referred to as the Code Authority is hereby designated to cooperate with the Administrator as a planning and fair-practice agency for the retail jewelry trade. This Code Authority shall consist of 5 representatives of the retail jewelry trade, designated by a fair method to be approved by the Administrator. Where more than one national trade association each represents a portion of a single division of the retail jewelry trade, the Administrator shall, for the purpose of establishing the membership of the National Retail Jewelry Trade Council in the first instance, determine whether such associations are truly representative and what shall be the number and proportionate vote of such associations upon the Council; after the initial establishment of the Council such decisions shall be made by the Council subject to an appeal to the Administrator. The National Retail Jewelry Trade Council may issue regulations providing for the local administration of this Code through cooperation with the local Retail Trade Councils set up under the supervision of the National Retail Trade Council, such regulations to be subject to the approval of the Administrator.

(b) *Recommendations.*—The National Retail Jewelry Trade Council may from time to time present to the Administrator recommendations (including interpretations), based on conditions in the retail jewelry trade, which will tend to effectuate the operation of the provisions of this Code, and the policy of the National Industrial Recovery Act. Such recommendations shall, upon approval by the Administrator, become operative as part of this Code.

(c) *Investigations.*—The Code Authority is empowered and set up to cooperate with the Administrator to make investigations as to the functioning and observance of any provision of this Code, at its own instance, on request of the Administrator, or on complaint by any persons affected, and to report the same to the Administrator.

(d) *Reports.*—The Code Authority may require such reports as may be necessary to administer this Code, in such form as may be approved by the Administrator. Any reports required by the Code Authority shall be submitted to an impartial agency designated by

the Administrator, and not a member of the industry, and shall not be revealed to any member of the industry, except in summary; provided, however, that such information shall be available to the Administrator upon request; and provided further, that such information may be divulged if necessary to facilitate the administration of this Code. In addition to information to be submitted to the Code Authority, there shall be furnished to the Administrator such statistical information as the Administrator may deem necessary for the administration of this Code.

(e) *Local Committees.*—The National Retail Jewelry Trade Council shall, subject to the approval of the Administrator, supervise the setting up within local trading areas of local committees for the purpose of assisting in the administration and enforcement of this Code within such local areas insofar as it relates to the retail jewelry trade.

(f) The expenses of the National Retail Jewelry Trade Council and its local committees shall be equitably assessed and collected from retail jewelers, subject to the approval of the Administrator. This assessment shall not exceed the sum of three dollars per annum per employee. For this purpose the number of employees of any retail jewelry establishment shall be the average annual number of persons engaged in the retail jewelry trade in its establishment in any capacity, receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

3. *Interpretations.*—The Administrator may from time to time, after consultation with the National Retail Jewelry Trade Council, issue such administrative interpretations of the various provisions of this Code relating to the retail jewelry trade as are necessary to effectuate its purposes, and such interpretations shall become operative as part of this Code, unless the Administrator shall otherwise specify.

4. *Exceptions in cases of unusual or undue hardship.*—Where the operation of the provisions of this Code imposes an unusual or undue hardship upon any retail jeweler or group of retail jewelers, such retail jewelers or group of retail jewelers may make application for relief to the Administrator or to his duly authorized agent, and the Administrator or his agent may, after such public notice and hearings as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purposes of the National Industrial Recovery Act.

ARTICLE X—GENERAL

1. *Membership in associations.*—Membership in the national retail associations represented upon the National Retail Jewelry Trade Council, or in any affiliated association, shall be open to all retail jewelers of that portion of the retail jewelry trade which said associations respectively represent, and said associations shall impose no inequitable restrictions upon admission to membership therein.

2. *Prohibition against monopolies.*—The provisions of this Code shall not be interpreted or applied to promote monopolies or monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

3. *Prohibition against use of subterfuge.*—No retail jeweler shall use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to remove obstructions to commerce, to shorten hours of work, and to raise wages to a living basis.

4. *Right of President to cancel or modify.*—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 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.

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

6. *Expiration.*—This Code shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall, by proclamation, or the Congress shall, by joint resolution, declare that the emergency recognized by Section 1 of the National Industrial Recovery Act has ended.

7. *Information to be furnished government agencies.*—In addition to information required to be submitted to the National Retail Jewelry Trade Council, 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 National Industrial Recovery Act.



Approved Code No. 143

CODE OF FAIR COMPETITION

FOR THE

WOOL FELT MANUFACTURING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

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 Wool Felt 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 it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE.
November 27, 1933.

(535)

NOVEMBER 20, 1933.

The PRESIDENT,
The White House.

SIR: This is the report on the Code of Fair Competition for the Wool Felt Manufacturing Industry as proposed by the United States Felt Manufacturers Institute.

The hearing was conducted in Washington, D.C., on November 15, 1933. Every person who requested an appearance was freely heard in accordance with statutory and regulatory requirements. The code was presented by duly qualified and authorized representatives of the industry complying with the requirements as representing 100 percent of the volume of business.

DESCRIPTION OF INDUSTRY

The Wool Felt Manufacturing Industry is one of the numerous examples of the differences existing among the various subdivisions of the textile industry. The preparatory stages of felt manufacturing closely follow the same processes as the manufacture of clothing materials and other woven wool goods. The first break in the similarity of operations occurs at the carding machine. The felt manufacturer takes the full-width webs of fibre from the card and builds these into a mattresslike formation. When the approximate finished weight is obtained, the entire mass is steam saturated. Oscillating and vibrating plates then tangle the fibres, making a matted layer. At this stage the material lacks strength, but may be dried and used for a certain limited number of purposes, mainly insulation and sound deadening.

The next manufacturing stage is fulling, which is the true felting process. A lubricating agent, such as soap, is introduced and this, combined with controlled heat and moisture, shrinks the fabric. The operation is performed in a fulling mill, which is a large wooden bowl equipped with vibrating hammers. After fulling, the fabric is scoured, dyed if color is required, and then dried and finished.

The thickness of a piece of finished felt may range from one thirty-second inch to three inches, while it may vary in weight from three ounces to 65 pounds per square yard. In the same manner, the price range per square yard is from ten cents to \$150.00, while on a poundage basis, it may vary from 25 cents to \$5.00. As may be judged from these extreme variations in manufacturing possibilities, the use of the finished product is equally varied.

Felt is used in some way by practically all industries, either for mechanical purposes during the process of manufacturing or as a component part of a finished article.

The industry is not large and at the present time is composed of 13 firms employing approximately 1,600 workers. Since 1928 the industry has suffered a severe contraction in sales. In that year, sales

amounted to 17½ million pounds, which have declined to slightly more than 5 million pounds at the present. During this period the productive capacity of the industry has remained constant at 24 million pounds.

LABOR PROVISIONS

The industry proposes to pay a minimum wage of 35 cents per hour. Hours of labor are limited to 40 hours per week and eight hours in any one day. A tolerance of two hours per day will be allowed for certain employees such as hardeners, fullers, washers, extractors, and dryers who will receive time and one third compensation for the excess hours worked.

This flexibility is to prevent any possible spoilage of materials during wet or chemical processes.

ADMINISTRATION

The provisions for the administration of this code are capable of providing the N.R.A. and the Wool Felt Manufacturing Industry with sufficient data to recommend any modifications or amendments that may be indicated by experience.

CONCLUSION

I find that the code complies in all respects with the pertinent provisions of Title I of the National Industrial Recovery Act, including without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof.

The United States Felt Manufacturers Institute is duly representative of the Wool Felt Manufacturing Industry and the bylaws of this association provide no inequitable restriction upon membership.

Accordingly, I recommend the approval of the Code of Fair Competition for the Wool Felt Manufacturing Industry.

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
WOOL FELT MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

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 Wool Felt Manufacturing Industry, and shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "wool felt", as used herein, is defined to mean a non-woven material composed principally of wool or wool and cotton, manufactured by a hardening and fulling process.

2. The term "industry", as used herein, is defined to mean the manufacture or original sale of wool felt, whether as a final process or as a part of a larger or further process, and/or the preparation of wool felt for use.

3. The term "employee", as used herein, includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

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.

6. The term "Institute", as used herein, is defined to mean the United States Felt Manufacturers Institute, or its successor.

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

ARTICLE III—HOURS

1. No employee, except executives and those engaged in a managerial capacity receiving \$35 per week or more, outside salesmen, and watchmen, and except as hereinafter provided for shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any 24-hour period.

2. Repair and maintenance crews, electricians, engineers, firemen, and shipping and outside crews may work a tolerance of 10% per week in excess of the aforesaid maximum hours; provided that time and one third shall be paid for the excess hours so worked.

3. The maximum hours fixed in the foregoing section shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least time and one third shall be paid for hours worked in excess of the maximum hours herein provided. Emergency hours worked shall be reported monthly to the Code Authority.

4. Hardeners, fullers, washers, extractors, and dryers may work a tolerance of two (2) hours per day in excess of the aforesaid maximum hours per day; provided that time and one third shall be paid for the excess hours so worked, and provided, further, that the total amount of excess hours worked per week by such employees of any employer shall not exceed 10% of the total man hours (exclusive of such excess hours) worked per week by all productive employees of such employer.

ARTICLE IV—WAGES

1. No employee shall be paid at less than the rate of 35¢ per hour.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time rate, piecework, or other basis.

3. There shall be an equitable adjustment of the wages of employees receiving above the minimum herein prescribed, to the end that, so far as may be equitable, the differentials which now exist between the wage rates paid to skilled workers and those paid to unskilled labor shall be maintained.

4. Nothing contained in Article IV or Article V herein shall be construed to reduce the wages or hours of labor for employees whose wages or hours of labor are established for specific projects by competent governmental authority, acting in accordance with the law, or whose wages or hours of labor are established by labor agreements now in force.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations which, upon his approval, shall be deemed hazardous in nature or detrimental to health within the meaning of this section. In any State an employer shall be deemed to have complied with the age provisions of this section, 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.

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 employers regulating the age of employees, wages, hours of work, or health, fire, 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 in conspicuous places full copies of this Code.

8. To prevent any improper speeding up of work (stretch-outs), no employee in the industry shall be required to do any work in excess of the practice as to the class of work of such employee prevailing on July 1, 1933, unless such increase is submitted to and approved by the Administrator.

ARTICLE VI—ADMINISTRATION

1. To effectuate further the policies of the Act, a Code Authority is hereby designated to cooperate with the Administrator in the administration of this Code. The Code Authority shall consist of five representatives of the industry elected by a fair method of selection, to be approved by the Administrator, and of not more than three members (without vote) appointed by the Administrator. Such agency may present to the Administrator recommendations based on conditions in the industry as they may develop which will tend to effectuate the operation of the provisions of this Code and the policies of the Act. Such recommendations, when approved by the Administrator, shall have the same force and effect as any other provision of this Code.

2. Such agency is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint by any person affected, and to report the same to the Administrator.

3. Any member of the industry may become entitled to participate in the endeavors of the Institute relative to the administration of, revisions of, and additions to this Code (a) by becoming a member of the Institute and paying the dues and assessments thereof, or (b) by paying to the Institute its equitable pro rata share of the expenses of administering the Code (such pro rata share to be determined on the basis of labor employed). The Institute shall defray the expenses incurred by the Code Authority.

ARTICLE VII—REPORTS AND STATISTICS

1. With a view to keeping the President informed as to the observance or nonobservance of this Code of Fair Competition, and as to whether the industry is taking appropriate steps to effectuate the declared policy of the Act, each member of the industry will furnish duly certified reports to such certified public accountants as the Code

Authority may designate. These reports shall be in substance and in such form as the Code Authority may require. Except as otherwise provided under the Act, reports furnished in accordance with this Code shall be confidential, and that data of one employer shall not be revealed to any other employer; provided, however, that for the purpose of enforcing this Code the Code Authority, through its duly authorized representatives, shall have access to such portions of said reports as are pertinent to such enforcement.

2. Every member of the industry shall furnish to any governmental agency or agencies designated by the President, such statistical information as the President may, from time to time, deem necessary for the purposes recited in Section 3 (a) of the Act; and any reports and other information collected and compiled by the Code Authority, as heretofore provided, shall be transmitted to such governmental agencies as the President may direct.

ARTICLE VIII—UNFAIR TRADE PRACTICES

For all purposes of the Code the acts described in this Article shall constitute unfair practices. Any member of the industry who shall directly, or indirectly through any officer, employee, agent or representative, knowingly use, employ, or permit to be employed, any of such unfair practices shall be guilty of a violation of the Code.

1. No member of the industry shall use advertising (whether printed, radio, display or of any other nature) or other representation which is inaccurate in any material particular or in any way misrepresent any commodity (including its use, trade mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material content or preparation or other specification thereof) or credit terms, values, policies, services, or the nature or form of the business conducted.

2. No member of the Industry shall give, permit to be given, or 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 or the principal of such agent without the knowledge of such employer or principal, provided that nothing herein shall prohibit the free and general distribution of articles used solely for advertising.

3. No member of the Industry shall withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

4. No member of the Industry shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise, for the purpose of influencing a sale, nor shall a member secretly extend to any customer any special service or privilege not extended to all customers of the same class.

5. No member of the Industry shall attempt to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services. Nothing in this rule shall qualify Section 7 (a) of the National Industrial Recovery Act or obstruct the free exercise of the rights of collective bargaining therein guaranteed.

6. No member of the industry shall repudiate a contract entered into in good faith when the purpose of such repudiation is to create for such member an unfair price advantage.

ARTICLE IX—MONOPOLIES

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

ARTICLE X—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 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 this Code or any conditions imposed by him upon his approval thereof.

2. Such of the provisions of this Code as are not required by the Act to be included herein may, with the approval of the President of the United States, be modified or eliminated as changed circumstances or experience may indicate. This Code is intended to be a basic code, and study of the trade practices of the industry will be continued by the Code Authority with the intention of submitting from time to time additions to this Code applicable to all employers in the industry, and supplemental codes applicable to one or more branches of the industry; such supplemental codes, however, to conform to and be consistent with the provisions of this Code as now constituted or hereafter changed.

ARTICLE XI—GENERAL

1. After notice to members of the industry, the Code Authority may submit recommendations with respect to restrictions on selling below cost, the disposition of substandard merchandise, the publication and listing of prices, and the establishment of standard selling terms for the industry; such recommendations, when approved by the Administrator, to have the same force and effect as other provisions of this Code.

2. The Code Authority shall secure current information concerning the competition in domestic markets of imported felt products, and if it shall find that such products are being imported into the United States in substantial quantities or increasing ratio to domestic production, and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of this Code, it shall complain to the President pursuant to the provisions of Section 3 (e) of the National Industrial Recovery Act and petition for suitable restrictions on the importation of such felt products.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 143.
Registry No. 232-1-04.

Approved Code No. 144

CODE OF FAIR COMPETITION

FOR THE

PAPER MAKING MACHINE BUILDERS' INDUSTRY

As Approved on December 7, 1933

BY

PRESIDENT ROOSEVELT

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 Paper Making Machine Builders' 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 and recommendations, and findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

NOVEMBER 23, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Paper Making Machine Builders' Industry, the hearing having been held in Washington, October 12, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Under this Code hours for work are limited to forty (40) per week with a tolerance of ten (10) percent for employees engaged in care, protection, and maintenance of plant and machinery and employees engaged in stock keeping and shipping. Under conditions of seasonal or peak demand a maximum of forty-eight (48) hours per week can be worked during not over eight (8) weeks in a six (6) months' period. Time and one half is paid for this overtime. These limitations of hours do not apply to executives, their immediate assistants, heads of administrative departments, and field men, who are receiving not less than thirty-five (35) dollars per week. Accounting, clerical, office service, earning less than thirty-five (35) dollars per week are limited to forty (40) hours per week on a monthly average.

Minimum wages have been set at forty (40) cents per hour for employees engaged in shop operations, excepting duly indentured apprentices who are limited to five (5) percent of the factory employees. Provision also is made for employment on light work at wages below the minimum, of those who because of age or mental or physical handicaps are certified for such employment by the United States Department of Labor.

The minimum wage paid to any other employees shall be not less than fifteen (15) dollars per week, except in the case of office boys and girls who may be paid not less than eighty (80) percent of the minimum wage. They are not to exceed five (5) percent of the office force.

CHILD LABOR

The minimum age for employment is set at sixteen (16) years, with eighteen (18) years the minimum where operations or occupations are hazardous or detrimental to health.

ECONOMIC EFFECT OF THE CODE

This industry has suffered severely from the depression. However, since operating under the President's Reemployment Agreement, employment has increased approximately 50 percent, more than 1,000 employees having been added. Pay rolls through reemployment and wage adjustments have been increased proportionally since June.

The industry is engaged in the design, building, and sale of complete machines used in the manufacture of paper and paper board. There are ten (10) companies in this industry and while sales declined from \$17,000,000 in 1929 to an estimated \$3,500,000 in 1933, wage rates in line with the Code provisions generally have been maintained.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Paper Making Machine Builders' Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
PAPER MAKING MACHINE BUILDERS' INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, this Code is submitted as a Code of Fair Competition for the Paper Making Machine Builders' Industry, and upon approval by the President, its provisions shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Paper Making Machine Builders' Industry" as used herein shall mean the building and sale by builders of complete paper making or paper board making machines.

SEC. 2. The term "employee" as used herein includes any person engaged in any phase of the industry in any capacity in the nature of employee irrespective of the method of payment of his compensation.

SEC. 3. The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

SEC. 4. The term "member of industry" includes any builder of paper-making machines who shall be subject to this Code.

SEC. 5. The term "Member of the Code" includes any member of the industry who shall expressly signify assent to this Code.

SEC. 6. The term "Administrator" shall mean the Administrator of the National Industrial Recovery Act.

ARTICLE III—HOURS

SECTION 1. No employer shall employ any employee engaged in the making of the products of the industry, and in labor operations directly incident thereto, in excess of forty (40) hours per week or eight (8) hours in any twenty-four (24) hour period; provided that there shall be a tolerance of ten (10) percent for employees engaged in the care, protection, and maintenance of plant and machinery and employees engaged in stock keeping and shipping, time and one half being paid for all time worked in excess of eight (8) hours per day or forty (40) hours per week.

SEC. 2. The above limitations of hours shall not apply to conditions of seasonal or peak demand, for any department or departments, which create an unusual and temporary burden for production

or installation. In such cases such number of hours may be worked as are required by the necessities of the situation, but not to exceed forty-eight (48) hours per week for any eight (8) weeks in any calendar six (6) months' period, beginning October 1, 1933, and each April 1 and October 1 thereafter; provided that in such special cases at least time and one half shall be paid for hours worked in excess of eight (8) hours in any one day or forty (40) hours in any one (1) week.

SEC. 3. The above limitations of hours shall not apply to employees on emergency maintenance or repair work, or to very special cases, where restrictions of hours of highly skilled workers would unavoidably reduce or delay production, but in any such special case at least time and one half shall be paid for hours worked in excess of eight (8) hours in any one day or forty (40) hours in any one (1) week.

SEC. 4. The above limitations of hours shall not apply to executives, their immediate assistants, heads of administrative departments, factory and office supervisors, technical engineers, outside service men, and field salesmen (provided that no person receiving less than thirty-five (35) dollars per week shall be considered to come under any of the foregoing exempted classifications in this section), and watchmen, provided that the maximum hours of labor for watchmen shall not exceed fifty-six (56) hours in any one week performed in six (6) days out of any seven (7).

SEC. 5. No employer shall work any accounting, clerical, office service, office sales, express or delivery, or other employee not described in Sections 1, 3, and 4 of this Article more than forty (40) hours a week on a monthly average, nor more than forty-eight (48) hours in any one week.

SEC. 6. No employee shall work or be permitted to work for a total number of hours in excess of the number of hours prescribed for each week and day whether employed by one or more employers.

ARTICLE IV—WAGES

SECTION 1. The minimum wage that shall be paid by any employer to any employee engaged in the making of the products of the industry, and in labor operations directly incident thereto, shall be forty (40) cents per hour.

SEC. 2. This Article IV establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance.

SEC. 3. The minimum wage that shall be paid by any employer, to any other employee shall not be less than fifteen dollars (\$15.00) per week; provided, however, that office boys and girls may be paid not less than eighty (80) percent of the minimum wage established in Section 2, but the total number of such office boys and girls shall not exceed in any calendar month five (5) percent of the total number of office employees employed by such employer during such month but each employer shall be entitled to two (2) such employees.

SEC. 4. Nothing in this Article IV shall apply to, or affect, any employee apprenticed to any employer by an indenture made in pursuance of the laws of any state of the United States, or by a

written contract under any apprentice system established and maintained by an employer, provided that each indenture and contract shall be filed with the Code Authority, and provided further that this exception shall apply to an employee only during the period that he is receiving less than the minimum rate; provided further that such apprentices employed by any employer shall not exceed 5% of the total number of factory employees employed by such employer, but each employer shall be entitled to employ two such apprentices.

SEC. 5. Where not already made, equitable adjustments of rates of pay shall be made for employees in higher classifications than those receiving the minimum wage, and in no case shall they be decreased as a result of this adjustment of hours.

SEC. 6. No employer shall change the classification of occupation of any employee as existing on June 16, 1933, for the purpose of defeating the purposes of the Act.

SEC. 7. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

ARTICLE V—CHILD LABOR

No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision, 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.

ARTICLE VI—CODE AUTHORITY

SECTION 1. To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the Administration of this Code.

SEC. 2. The Code Authority shall consist of a Code Committee of three members appointed by the Board of Directors of the Paper Machine Builders' Association and one or more nonvoting members appointed by the Administrator in his discretion.

SEC. 3. In order that the Code Authority shall be at all times truly representative of the industry and in all respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem necessary, and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act he may require an appropriate modification in the method of selection of the Code Authority.

SEC. 4. Any member of the industry is eligible for membership in the Paper Machine Builders' Association and there shall be no inequitable restrictions on such membership.

SEC. 5. All members of the industry shall be entitled to share the benefits of its activities, and all who accept such benefits shall bear their proportionate share of the expense of maintaining the Code Authority and its activities.

SEC. 6. With a view to keeping the President informed as to the observance or nonobservance of this Code, and as to whether the industry is taking appropriate steps to effectuate the declared policy of this Act, each member of the industry, if and when required by the Administrator, shall prepare and file with such person or organization as the Code Authority may designate, and at such times and in such manner as the Code Authority may prescribe, statistics as to number of employees, wage rates, employee earnings, and hours of work, which information shall be confidential, except that for the purposes of administering this Code, and subject to the approval of the Administrator, the Code Authority may have access to such information.

SEC. 7. In addition to the information required to be submitted to the Code Authority, there shall be furnished to the Government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

ARTICLE VII—UNFAIR TRADE PRACTICES

SECTION 1. The secret payment of or allowance of rebates, refunds, credits, subsidies, or unearned discounts, whether in the form of money, material, or otherwise, is an unfair trade practice.

SEC. 2. The willful interference by any member of the industry by any means or device whatsoever with any existing contract between a member of the industry and his seller or a purchaser, is an unfair trade practice.

SEC. 3. The defamation of a competitor by words or acts which falsely impute to him dishonorable business conduct, inability to perform his contracts, questionable credit standing, or which misrepresent or falsely disparage the grade, quality, or prices of his goods, is an unfair trade practice.

ARTICLE VIII—GENERAL

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from 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.

SEC. 2. 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

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 4. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision 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 limitations, 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.

SEC. 5. Within each State, members of the industry shall comply with any laws of such State imposing more stringent requirements, regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than under this Code.

SEC. 6. 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 to this Code or additional codes may be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions hereof.

SEC. 7. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE IX—EFFECTIVE DATE AND TERMINATION

This Code shall become effective on the second Monday after its approval by the President of the United States and shall cease to be operative when Title I of the National Industrial Recovery Act shall cease to be in effect.

Approved Code No. 144.

Registry No. 1399-23.



Approved Code No. 145

CODE OF FAIR COMPETITION

FOR THE

FURNITURE MANUFACTURING INDUSTRY

AS APPROVED ON DECEMBER 7, 1933

BY

PRESIDENT ROOSEVELT

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 Furniture 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 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 the findings and approve the report and recommendations of the Administrator and do order that the said Code of Fair Competition be, and it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

(551)

NOVEMBER 18, 1933.

The PRESIDENT.

The White House.

SIR: This is a report on the Code of Fair Competition for the Furniture Manufacturing Industry in the United States as revised after a hearing conducted in Washington, D.C., on October 9, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO HOURS AND WAGES

The Code provides for an average forty-hour week and an eight-hour day. Though a maximum work week of forty-five (45) hours is established to provide for seasonal production requirements, all hours worked in excess of eight in any one day must be paid for at the rate of time and one half with certain exceptions. Hourly tolerances are provided for emergency repair crews, firemen, engineers, shipping crews, watchmen, truck drivers, designers, traveling salesmen, and persons engaged in executive or supervisory capacities, who earn \$35.00 a week or more.

A minimum hourly rate of 34 cents is provided for all employees except those in the southern states where the minimum rate is 30 cents an hour, and for employees in factories, the output of which consists of more than 90% of chairs with double woven cane seats, who shall be paid at the rate of not less than 30 cents an hour.

Apprentices for a period not to exceed four months shall be paid not less than 80% of the minimum rates, but the total number of apprentices is limited to 5% of the total number of factory employees in any establishment. Factory watchmen, gate watchmen, yard men, and yard lumber handlers may also be paid at the rate of not less than 80 percent of the minimum rates, but the total of such employees is limited to 5 percent of the total number of factory workers. The minimum rates are established regardless of whether the employee is compensated on a time rate, piecework, or other basis, and it is provided that no employee shall be paid a wage rate which shall yield a less wage for a week of forty hours than employees were receiving for the same class of work for the normal working week of forty-eight hours or more immediately preceding June 16, 1933.

The minimum wage rates apply only to employees engaged on the single daylight shift occurring between the hours of 7 A.M. and 5 P.M. Employees working on a shift, any part of which occurs after 5 P.M. or before 7 A.M. shall be paid at the rate of not less than one and one half times the rate paid employees engaged in the daylight shift for the same class of work. This provision does not become effective until thirty days after the approval of this Code.

Employees shall not be reclassified for the purpose of defeating the provisions of the Act or of the Code.

No person under 16 shall be employed and no person under 18 shall be employed in hazardous occupations.

ECONOMIC EFFECTS OF THE CODE

The Furniture Industry is a highly competitive one and the return upon capital invested has been low even in the most prosperous times. In 1928, which probably could be called an average year, the profits were 3.42 percent of the sales and 4.07 percent on capital invested. Since 1928 there has been a steady decline in the industry, and the average operating loss in 1932, based on net sales, was 20 percent. However, the response of the industry to the President's Reemployment Agreement and its presentation of this Code has demonstrated a splendid spirit of cooperation with the purposes of the National Industrial Recovery Act.

Available statistical data indicate that because of the provisions of the Code reducing the number of hours that employees may be worked, the industry will absorb all of the workers normally employed in factories now in operation, and, in addition, a very large proportion of the furniture workers who have been unemployed as a result of the closing of several hundred plants in the past few years.

In June 1933 more than 58 percent of the employees in northern factories and 68 percent of employees in southern factories, more than 54,000 workers in all, earned less than the minimum rates established by the Code. The increase in wages that these employees will receive in many cases amounts to more than twice the wages that they have heretofore been receiving. Adjustment of salaries of those receiving more than the prescribed minimum-wage rates will increase the salaries of approximately 36,000 workers.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof, and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Furniture Manufacturing Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
FURNITURE MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

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

ARTICLE II—DEFINITIONS

1. The term "*Industry*", as used herein means the manufacture or production for sale of products, other than mattresses, pillows, and box springs, commonly known as "household furniture", whether used in the home or elsewhere; wood office chairs, wood office desks, and wood office tables, parlor frames, chairs in the white, furniture parts made of wood, and other unfinished household furniture; provided, however, that organizations or groups of manufacturers representing kinds or types of furniture or furniture parts not specifically named herein, may become parties to or be exempted from this Code upon approval by the Administrator.

The term "furniture parts made of wood" as used in the first paragraph of this article, means wood parts for furniture where the process of manufacture has advanced so far that the product can be used only in the production of furniture, but not including hardwood dimension stock nor plywood, as defined in the Code for the Lumber and Timber Products Industry, and for sale as such.

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

3. The term "*manufacturer*", as used herein, includes anyone engaged in the industry as above defined, either as an employer or on his own behalf.

4. The term "*employee*", as used herein, includes any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

5. The term “*employer*”, as used herein, includes anyone by whom any such employee is compensated or employed.

6. The term “*furniture*”, as used herein, means any product of the Industry.

ARTICLE III—HOURS

1. No employee in the industry shall be permitted to work in excess of an average of forty (40) hours per week during the period prior to April 1, 1934, and each six months' period thereafter, but not more than forty-five (45) hours in any one week, provided that all hours worked in excess of eight (8) in any day shall be paid for at one and one half times the regularly hourly rate, except as follows:

(a) No employee in the industry shall be permitted to work in excess of forty (40) hours per week during the period prior to January 1, 1934, except as otherwise provided in paragraphs (b), (c), (d), (e), and (f) of this Article.

(b) A tolerance of twenty-five percent in the hours specified above shall be permitted in any week for emergency maintenance and emergency repair crews, provided that no such employees shall be permitted to work in excess of an average of forty hours per week in each two weeks' period.

(c) A tolerance of ten percent in the hours specified above shall be permitted for firemen, engineers, and shipping crews.

(d) Designers and persons engaged in executive and/or supervisory capacity, who are earning \$35.00 or more per week, and traveling salesmen. Working foremen are not excepted from the minimum hours specified above.

(e) Watchmen and night firemen shall be permitted to work not to exceed an average of forty-eight hours per week in each two weeks' period.

(f) Truck drivers operating on trips normally requiring more than eight hours, except in cases of unavoidable delay due to breakdown or accident, shall be subject to hours of labor of a code hereafter to be adopted for the trucking industry.

2. No manufacturer availing himself of the averaging privilege may use the device of temporarily laying off of successive groups of workers for the purpose of operating his entire plant forty-five hours per week continuously through the full averaging period.

ARTICLE IV—WAGES

1. Except as provided in subsection (b) of this Section:

(a) No employee in the States of Virginia, North Carolina, South Carolina, Tennessee, Kentucky, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas, and that part of the State of Missouri south and west of an air line beginning at Thayer in Oregon County to Buffalo in Dallas County, thence directly west to the Kansas State line; and no employee in any factory, the output of which consists of more than 90% of chairs with double woven cane seats, shall be paid at less than the rate of 30 cents per hour.

(b) No other employee shall be paid at less than the rate of 34 cents per hour.

2. *Exceptions.*—No employee covered in paragraphs (a) and (b) of this Section shall be paid at less than 80% of the minimum wage rates prescribed in Section 1 of this Article, provided that in no case shall the weekly wage of factory watchmen be less than \$12.00 per week of forty (40) hours or more.

(a) Apprentices for a period of four months which shall be served not more than once in a lifetime of each apprentice; provided, that the total number of apprentices shall not exceed five percent of the total number of factory workers employed by any employer.

(b) Factory watchmen, gate watchmen, yardmen, and yard lumber handlers; provided, that the total number of such employees shall not exceed five percent of the total number of factory workers employed by any employer.

3. No employee shall be paid a wage rate which will yield a less wage for a week of forty hours than employees were receiving for the same class of work for the normal working week of 48 hours or over immediately preceding June 16, 1933.

4. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

5. The minimum wage rates provided for in Sections 1 and 2 of this Article apply only to employees engaged on the single daylight shift occurring between the hours of seven o'clock A.M. and five o'clock P.M.; any employee, with the exceptions specified, viz, subparagraphs (a), (b), (c), (d), and (e) of Section 1, Article III, working on a shift all or any part of which occurs after five o'clock P.M. or before seven o'clock A.M., shall be paid at the rate of not less than one and one-half times the rate paid employees engaged in the daylight shift for the same class of work. The provisions of this Section shall not become effective until 30 days after approval of this Code by the President.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under 16 years of age shall be employed in the industry nor anyone under 18 years of age at operations or occupations, hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 15, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision 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.

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 States imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions than under this Code.

6. No employer shall reclassify employees or duties of occupations performed for the purpose of defeating the provisions of the Act or of this Code.

7. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

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

ARTICLE VI—ADMINISTRATION

1. To effectuate further the policies of the Act a Code Authority is hereby constituted to cooperate with the Administrator as the Administrative, Planning, and Fair Practice Agency for the Industry.

(a) The Code Authority shall consist of not less than twenty members, eleven to be selected by the National Association of Furniture Manufacturers, Incorporated, and seven to be selected by the Southern Furniture Manufacturers Association, together with the Managing Director of the National Association of Furniture Manufacturers, Incorporated, and the Secretary of the Southern Furniture Manufacturers Association, and such additional members as may be necessary to represent other groups as may come under this Code; all to be elected by a fair method of selection to be approved by the Administrator. The Government is to be represented on the Code Authority by two members without vote to be appointed by the Administrator for terms of from six months to one year arranged so that the terms do not expire at the same time.

(b) Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The 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 to be taken into consideration.

(c) 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.

(d) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

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 on review to disapprove or modify any action taken by it:

(a) To present to the Administrator from time to time recommendations based on conditions in the furniture industry as they may develop which will tend to effectuate the operation of the provisions of this Code and the policy of the Act.

(b) To cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code at its own instance or on complaint by any person affected, and to report same to the Administrator.

(c) To issue rules, regulations, procedure, and interpretations as may be necessary to effectuate the provisions of this Code.

(d) In individual cases where the enforcement of this Code would create undue hardships, to modify, with the approval of the Administrator, the application of provisions of this Code except those which are mandatory under the Act and the provisions of Articles III, IV (except Section 5), and V hereof.

(e) To investigate and inform the Administrator as to the importation of competitive products into the United States in substantial quantities or in increasing ratio to domestic production on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of this Code and as an agency for making complaint to the President on behalf of the furniture industry under the provisions of the Act, with respect thereto.

(f) To issue schedule of maximum trade discounts or allowances for volume purchases to govern the sales of furniture by furniture manufacturers, which, with the approval of the Administrator, after such notice and hearing as he shall prescribe, shall thereafter become a part of this Code.

(g) To designate an executive committee consisting of the Managing Director of the National Association of Furniture Manufacturers, Incorporated, and the Secretary of the Southern Furniture Manufacturers Association and two others from its membership, and such representation as may be designated by the President. The Code Authority may delegate to the Executive Committee such of its powers as it may deem necessary to effectuate the purposes of this Code and to represent the industry before the Administrator.

(h) To designate agencies or subcommittees for the various manufacturing areas or divisions, which agencies or subcommittees shall be representative of their respective areas or divisions, to assist it in making investigations as to the functioning and observance of the

provisions of this Code, under rules prescribed by the Code Authority and approved by the Administrator.

(i) From time to time to make to each association and/or division recognized or to be recognized as a part of the Industry under the provisions of this Code, such recommendations, including proposed amendments of the Code, as in their judgment will aid the effective administration of this Code or may be necessary to effectuate within the Industry the purpose of the Act.

3. Within sixty days after this Code goes into effect the Code Authority shall investigate and report to the Administrator concerning the question of home work.

4. In order to provide data necessary for the administration of the Act, as provided in paragraph (a) of Section 3 of the Act, members of the industry shall furnish certified statistical information with full protection to each member of the Industry as to the confidential nature of the data, such as reports dealing with wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, and other data pertinent to the purposes of this Code and of the Act as may be required by the Administrator or by the Code Authority, subject to approval of the Administrator. The agencies collecting such statistics shall be the National Association of Furniture Manufacturers, Incorporated, the Southern Furniture Manufacturers Association, the National Association of Manufacturers of Wood Office Desks and Tables, and the Wood Office Chair Manufacturers Association, or any other agencies as may be designated by the Code Authority, subject to the approval of the Administrator. The Code Authority is hereby named as the agency for coordination of such statistics for the Administrator. All such information or copies thereof shall be furnished to the Administrator upon his request.

In addition to the information required to be submitted to agencies provided for in paragraph (1) of this Article, 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 VII—COST PROTECTION

1. It is hereby declared to be the policy to be followed by all members of the industry to refrain from destructive price cutting. No furniture manufacturer, nor any partnership, corporation, firm, association, or institution owned or controlled by a furniture manufacturer, shall offer, sell, or exchange, or agree to sell or exchange, products of the furniture industry at a price or upon such terms or conditions that will result in the customer paying for such products less than their cost to the furniture manufacturer, except:

(a) To meet existing competition of lower cost producers on products of the same or equivalent design, character, quality, or specifications;

(b) As provided in Section (2) of this Article. In the case of orders for future delivery, the term "cost" shall be based upon the cost at the time of acceptance of the order.

2. Nothing in this section shall prevent any furniture manufacturer from selling at any price discontinued patterns (close-outs), which he shall not again manufacture. The Code Authority may require reports of all such sales, and, with the approval of the Administrator, may adopt rules to prevent the use of close-outs as an unfair trade practice.

3. The Code Authority is hereby empowered to establish uniform cost accounting methods for the Industry, subject to the approval of the Administrator.

4. For the purpose of encouraging accurate ascertainment of costs, furniture manufacturers may report costs of furniture to their trade associations to be summarized and which may be made available in consolidated form to those contributing to the summary provided that the name of those reporting shall not be divulged to any other furniture manufacturer.

ARTICLE VIII—TRADE PRACTICES

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

1. *Misrepresentation or False or Misleading Advertising.*—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 otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

2. *Secret Rebates.*—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

3. *Commercial Bribery.*—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.

4. *Piracy of Design.*—The copying and/or reproducing of any exclusive design or pattern, original in design or treatment, owned by another furniture manufacturer, within two years of its introduction.

5. *Failure to Describe Products.*—The failure to furnish to the buyer on request a description of products, including the principal materials of which it is made and other important attributes.

6. *False Invoicing.*—The withholding from or insertion in any invoice of any statement making the invoice inaccurate in any mate-

rial particular, or which misrepresents the price or character of the material content of the merchandise billed.

7. *Terms of Sale.*—Selling on more favorable terms than net 60 days or 2% cash discount within 30 days from date of shipment; provided, that where it is the practice of a buyer to make monthly settlement of all invoices, the manufacturer may allow the deduction of the cash discount if payment is made not later than the 15th of the calendar month following dates of shipment.

Notes may be accepted at the option of the seller, but must carry interest at the rate of not less than 6 percent per annum to be paid by the maker, and the invoices of such cases shall not be subject to the cash discount. Anticipation of payment is permitted at the rate of one half of one (1) percent per month for the unexpired cash discount period. This provision shall not supersede any State law on the subject.

8. *Shipments.*—The making of sale other than on the basis of F.O.B. the factory, except where the buyer and seller are located in the same city or metropolitan trading area.

9. *Dating of Invoices.*—The pre-dating or post-dating of invoices except that the Code Authority may upon investigation issue such regulations as it finds necessary with respect to datings on seasonal items.

10. The provisions of paragraph seven, eight, and nine of this Article and the Provisions of Article VII shall not apply to sales for export outside of Continental United States.

ARTICLE IX—MODIFICATION

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

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

ARTICLE X—MONOPOLIES, ETC.

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

ARTICLE XI—PRICE INCREASES

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 in-

creases 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 first Monday after its approval by the President.

Approved Code No. 145.
Registry No. 312-1-10.



Approved Code No. 146

CODE OF FAIR COMPETITION

FOR THE

EXCELSIOR AND EXCELSIOR PRODUCTS
INDUSTRY

As Approved on December 7, 1933

BY

PRESIDENT ROOSEVELT

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 Excelsior and Excelsior Products 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,
December 7, 1933.

NOVEMBER 20, 1933.

The PRESIDENT,

The White House.

SIR: A Public Hearing on the Code of Fair Competition for the Excelsior and Excelsior Products Industry, submitted by the National Excelsior Products Association, located at 111 West Washington Street, Chicago, Illinois, was conducted in Washington on the 17th of October 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 70 percent of the Industry.

The maximum hours permitted under this Code for factory employees are forty (40) hours per week, except that for two (2) periods each year consisting of not more than four (4) weeks each, the maximum hours of employment shall be not more than forty-eight (48) hours per week. For clerical and office employees a maximum of forty-eight (48) hours per week is permitted. However, overtime at the rate of time and one third is provided for all hours per day over eight (8) and all hours per week over forty (40).

The minimum wage for male factory employees is thirty cents (30¢) per hour in the North and twenty-two and one half cents (22½¢) per hour in the South. The minimum wage for female factory employees on such light nonhazardous work as has customarily been performed by female employees is twenty-five cents (25¢) per hour in the North and twenty cents (20¢) per hour in the South. The minimum wage for clerical or office employees is fourteen dollars (\$14.00) per week. However, female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

This Industry has two extreme peaks during the year, one prior to and including the Christmas season and the other in the spring of the year. Owing to the fact that these commodities are so bulky and involve such a serious fire hazard, it is practically impossible to build for storage in anticipation of future demands.

Since the world war, cotton linters have been taking the place of excelsior in low-priced mattresses. Corrugated and fiber board box partitions and shredded paper compete with excelsior. Straw, hay, wood shavings, sawdust, shingle tow and old newspapers are serious factors of competition since these commodities are byproducts of other industries and require no further processing to become packing and upholstering material.

The increased cost of material together with the competition of byproduct articles requiring no further processing present little hope for more than a slight increase in the sale of excelsior products and it is not expected that this industry will increase employment to any extent beyond that which is now being made in compliance with this Code.

On the basis of the forty (40) hour week, 278 wage earners should benefit through reemployment, bringing the total number of wage earners to 1,205.

The value of products in the Excelsior and Excelsior Products Industry in 1929 was \$5,008,769 and in 1931 was \$2,982,864, a decrease of 40.4 percent.

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 limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof; and that

(b) The National Excelsior Products Association, the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Excelsior and Excelsior Products Industry; and that

(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
EXCELSIOR AND EXCELSIOR PRODUCTS INDUSTRY

ARTICLE I—PURPOSES

To effect the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Excelsior and Excelsior Products 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

1. The term "excelsior" as used herein is defined as a packing or upholstering material composed of long, fine wood or paper shavings or shreds.

2. The term "excelsior products" as used herein shall include packing pads consisting of a paper wrapper filled with excelsior as defined in the preceding paragraph.

3. The term "industry" as used herein is defined to mean all members engaged in the manufacture for sale of Excelsior or Excelsior Products.

4. The term "member of the industry" includes any individual, partnership, association, corporation, or other person engaged in the industry, either as an employer or on his own behalf.

5. The term "employee" as used herein includes any and all persons engaged in the industry, except a member of the industry, however compensated.

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

7. Whenever used herein the "South" shall be understood to mean the following states: Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, Kentucky, Arkansas, Oklahoma, and Texas. The "North" shall be understood to mean all other states and the District of Columbia.

ARTICLE III—HOURS

1. No employee, except as otherwise specified in this article, shall be permitted to work in excess of forty (40) hours in any one week, except that for two periods each year consisting of not more than four (4) weeks each, the maximum hours of employment may be not more than forty-eight (48) hours per week.

2. No person employed in clerical or office work shall be permitted to work in excess of forty-eight (48) hours in any one week.

3. Employees covered in sections 1 and 2 above shall be compensated at the rate of time and one third for all hours per day over eight (8) and all hours per week over forty (40).

4. The provisions of this article shall not apply to executives, supervisors, and their immediate assistants who receive more than thirty-five (\$35.00) dollars per week, nor to outside salesmen.

5. The provisions of Section one (1) of this article shall not apply to watchmen, who shall be employed in pairs, and shall not be permitted to work in excess of thirty-six (36) hours per week and forty-eight (48) hours per week in alternate weeks, nor more than an average of forty-two (42) hours per week in a two (2) week period.

6. The provisions of Section one (1) of this article shall not apply to truck drivers, who shall not be permitted to work in excess of forty-eight (48) hours per week.

7. The maximum hours fixed in the foregoing sections shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least one and one third ($1\frac{1}{3}$) times his normal rate of compensation shall be paid for hours worked in excess of the maximum hours herein provided.

ARTICLE IV—WAGES

1. (a) No male employees shall be paid less than twenty-two and one half ($22\frac{1}{2}\text{¢}$) cents per hour in the South, and not less than thirty (30¢) cents per hour in the North.

(b) No female employees on such light, nonhazardous work as has customarily been performed by female workers shall be paid less than twenty (20¢) cents per hour in the South, and not less than twenty-five (25¢) cents per hour in the North.

(c) No person employed in clerical or office work shall be paid less than fourteen (\$14.00) dollars per week.

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

3. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

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 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 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.

2. (a) 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 repre-

sentatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

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

(c) 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 employer shall reclassify employees or duties of occupations performed for the purpose of defeating the provisions of the Act or of this Code.

4. Every employer shall provide 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.

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

6. Each employer shall post in conspicuous places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby established to cooperate with the Administrator in the administration of this Code.

1. Organization and Constitution of Code Authority.

(a) The Code Authority shall consist of three (3) members, or such other number as may be approved from time to time by the Administrator, elected by a fair method of selection and approved by the Administrator; and three (3) members to be appointed by the Administrator who shall be without vote.

(b) In each of the divisional groups of the National Excelsior Products Association, the Code Authority shall designate some one individual, to be approved by the Administrator, who shall act as its representative in such Division; and shall be designated as the Regional Advisor for such Division. Such Regional Advisor shall be the representative in his Division of the Code Authority, and the Code Authority, with the approval of the Administrator, may delegate any of its functions and powers under this Code to such Regional Advisor, provided that nothing contained herein shall relieve the Code Authority from its duties and responsibilities under this Code.

(c) The National Excelsior Products Association is hereby designated the Administrative Agency for the Code Authority.

(d) The National Excelsior Products Association shall:

(1) Impose no inequitable restrictions on membership, and

(2) 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.

(e) In order that the Administrative Agency and the Code Authority shall at all times be truly representative of the Excelsior Products 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 Administrative Agency and/or the Code Authority 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 Administrative Agency and/or Code Authority.

(f) Any member of the industry may participate in any endeavors of the Code Authority and/or the National Excelsior Products Association in the preparation of any revisions of, or additions or supplements to this Code, either by becoming a member of the National Excelsior Products Association or by sustaining its reasonable share of the expense of administration of this Code.

(g) Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority be liable to anyone for any action or omission to act under the Code, except for his own wilful misfeasance or nonfeasance.

2. The Code Authority shall have the following duties and powers to the extent permitted by the Act:

(a) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and to submit the same to the Administrator for his approval together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such other information as to its activities as the Administrator may deem necessary to effect the purposes of the Act.

(b) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon, and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations and information relative to unadjusted violations.

(c) To coordinate the administration of this Code with such other codes, if any, as may be related to the industry, or any subdivision thereof, 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.

(d) In order to keep the President of the United States and the Administrator informed as to the observance or nonobservance of this Code, each member shall prepare and file with the statistical department of the National Excelsior Products Association, at such times and in such manner as may be prescribed, statistics covering the number of persons employed, wage rates, earnings, hours of work, and such other data or information as the Code Authority may from time to time require. All such information shall be kept confidential, as to members of the industry, and only general summaries thereof may be published.

(e) The Code Authority shall establish and publish to the industry within sixty (60) days after this Code becomes effective, standards for and classifications of the industry's products, which standards and classifications, when approved by the Administrator, shall thereafter be followed by all members of the industry.

(f) The Code Authority shall establish, within sixty days after this Code becomes effective, a uniform system of cost finding, which, when approved by the Administrator, shall be the basis for determining costs of each member of the industry.

(g) Each member of the industry shall, within fifteen days after the effective date of this Code, file with the Code Authority his net price lists, or price lists and discount sheets as the case may be, individually prepared by him, showing his current prices or prices and discounts, and terms of payment. Revised price lists, or revised price lists and discount sheets, may be filed from time to time thereafter with the Code Authority by any member to become effective upon a date specified by such member, which date shall be not less than ten (10) days nor more than twenty (20) days after the filing of such revised lists. Copies thereof, with notice of the effective date specified shall be sent immediately by the Code Authority to all known members of the industry, who may file, if they so desire, revisions of their price lists and/or discount sheets which, if filed in less than five (5) days previous to such effective date shall take effect upon the date when the revised price lists or discount sheets first filed shall go into effect.

3. In addition to information required to be submitted to the Code Authority, there shall be furnished to government agencies such information and reports as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act. No individual reports shall be disclosed to any other member of the industry or any other party except to such governmental agencies as may be directed by the Administrator.

ARTICLE VII—TRADE PRACTICES

For all purposes of the Code the acts described in this Article shall constitute unfair practices. Any member of the industry who shall, directly or indirectly, through any officer, employee, agent, or representative, knowingly use, employ, or permit to be employed any of such unfair practices shall be guilty of a violation of the Code.

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 a product of the industry, or otherwise.

2. *Misrepresentation or False or Misleading Advertising.*—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 otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

3. *Commercial Bribery.*—No member of the Industry shall directly or indirectly 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.

4. *Interference with Contractual Relations.*—No member of the industry shall maliciously induce or attempt to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply, or interfere with or obstruct the performance of any such contractual duties or services.

5. *Secret Rebates.*—No member of the industry shall make the secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

6. *Giving of Prizes, Premiums, or Gifts.*—No member of the industry shall give or offer to give prizes, premiums, or gifts through any scheme which involves lottery, misrepresentation, or fraud and which are calculated to induce the sale of any product.

7. *Defamation.*—No member of the Industry shall cause 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.

8. *Threats of Litigation.*—The publishing or circularizing of threats of suits for infringement of patents or trade marks or of any other legal proceedings which are not made in good faith but with the intent and having the effect of harassing competitors or intimidating their customers.

9. *Espionage of Competitors.*—No member of the industry shall secure or attempt to secure confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority whether by bribery, or by any other unfair or fraudulent method.

10. *Inequitable Contracts.*—No member of the industry shall make any contract of sale which permits the buyer to cancel same or which provides for a lesser price to be paid in the event of a market decline, unless such contracts shall also permit the seller to cancel same or provide for a greater price in the event of a market rise.

11. *Failure to Mark or Brand.*—No member of the industry shall sell or offer to sell a product of this industry without clearly stating and marking visibly the grade thereon.

12. *Cost Protection.*—(a) No member of the industry shall sell or offer to sell directly or indirectly, any product of the industry at a price lower or at a discount greater, or on terms more favorable than those set forth in his current price lists and discount sheets on file with the Code Authority, or (b) sell, or offer to sell any products, merchandise or service at prices below the lowest cost of any repre-

sentative member of the industry, as determined by the Code Authority subject to the approval of the Administrator.

13. *Terms of Sale.*—No member of the industry shall sell or offer to sell on more favorable terms of sale than net 30 days, without deduction of discount for prepayment.

14. *False Billing.*—No member of the industry shall withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

15. *Repudiating One's Own Contract.*—No member of the industry shall repudiate a contract entered into in good faith when the purpose of such repudiation is to create for such member an unfair price advantage.

16. *Coercion.*—No member of the industry shall require that the purchase or lease of any goods be a prerequisite to the purchase or lease of any other goods.

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

ARTICLE IX—MONOPOLIES, ETC.

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 X—CONTROL OF PRODUCTION

Based on conditions in the industry in this period of emergency and to effectuate the operation of the provisions of this Code and the policy of the National Industrial Recovery Act, the following regulations are established:

1. All persons engaged in this industry shall register their productive machinery with the Code Authority within fifteen (15) days after the effective date of the Code and in such form as may be specified by the Code Authority.

2. No person engaged in this industry or for the purpose of engaging in this industry shall purchase, manufacture, lease or otherwise obtain or use productive machinery not owned, leased or otherwise held by such person prior to the effective date of this Code, except by securing a certificate of public convenience and necessity from the Administrator that the obtaining, manufacturing or use of such additional productive machinery is consistent with effectuating the policy of the National Industrial Recovery Act; but nothing contained herein shall be construed to prevent the replacement by a member of the industry of productive machinery of equal productive capacities existing on the effective date of this Code or the transfer of productive machinery from one manufacturer to another person, provided same was in use prior to the effective date of this Code, and provided further that such transfer does not have the effect of creating additional productive machinery within the industry.

3. The provisions of this article shall cease to be effective on the expiration of six months from the effective date of this Code. Provided, however, that prior to that time the Code Authority may submit to the Administrator its recommendation that said period be extended, based on such information as may be required, and if the Administrator finds upon such information and facts that a further extension of this period is consistent with and further effectuates the policy of the National Industrial Recovery Act he may declare the provisions of this article to be operative for such longer period and under such conditions as may be necessary to fully effectuate the policy last herein mentioned.

ARTICLE XI—EFFECTIVE DATE

This Code shall be effective ten (10) days after its approval by the President.

Approved Code No. 146.
Registry No. 310-02.



Approved Code No. 147

CODE OF FAIR COMPETITION

FOR THE

MOTOR VEHICLE STORAGE AND PARKING TRADE

AS APPROVED ON DECEMBER 7, 1933

BY

PRESIDENT ROOSEVELT

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 Motor Vehicle Storage and Parking Trade, 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 recommendation 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 it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

DECEMBER 2nd, 1933.

The PRESIDENT,
The White House.

SIR: The proposed Code of Fair Competition for the Motor Vehicle Storage and Parking Trade was submitted to the Administrator on September 27, 1933, by the International Garage Association, representing approximately 80% of the Trade. A hearing was conducted in Washington on Friday, October 27, 1933, and the Code was revised during the recess of the hearing and is submitted in its present form for approval. All persons who requested appearances were properly heard in accordance with statutory and regulatory requirements.

The Association presenting the Code represents that its invested capital at the present time is in excess of two billion dollars and that its certified membership represents in excess of one hundred ten million square foot area of parking or garage space. The number of employees is in excess of one hundred thousand men employed by members presenting the Code and it is estimated that the number of employees presently employed or to be employed under the hours provided in the Code will increase approximately twenty-five percent.

Article I.—Purposes.

Article II.—Definitions.

Article III.—Provides a maximum of 44 hours in any one week, limitation of not to exceed, in peak or emergency periods, 48 hours in any one week or more than 10 hours in any one day; that the average hours of weekly employment within a four-week period will not exceed 44 hours. Outside salesmen are exempt from the provision of hours and watchmen not rendering service to the public are exempt from hours but limited to a six-day week. In addition, the usual safety clauses for both employer and employee are included.

Article IV.—Provides a minimum wage from \$13.00 to \$14.00 per week in the southern area and from \$14.00 to \$15.00 per week in northern areas, and further provides that the hourly rate shall not be less than 50¢ per hour. Female employees engaged in similar kinds of work shall receive the same rate of pay.

Article V.—No person under 16 years of age may be employed.

Article VI.—Provides a Code Authority of 17 members with the right of the Administrator to appoint three additional nonvoting members; provides for four of the members to be elected at large and geographical districts are set forth in detail.

Article VII.—Contains mandatory provisions as provided in the National Recovery Act and includes the right of modification.

Article VIII.—Provision against additional capacity.

Article IX.—Defines cost recovery.

Article X.—Provides unfair trade practice and includes a section covering violence, intimidation and coercion.

Article XI.—Monopolies.

The Administrator finds:

(A) This Code contains in all respects the pertinent phrases of Title I of the Act, including without limitation Sub-Section A of Section 7 and Sub-Section B of Section 10 thereof.

(B) The International Garage Association is truly representative of the Motor Vehicle Storage and Parking Trade, and the bylaws of this Association contain no inequitable restriction on membership.

(C) The Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them but will tend to effectuate the policies of Title I of the National Recovery Act. It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE MOTOR VEHICLE STORAGE AND PARKING TRADE

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Motor Vehicle Storage and Parking Trade, and upon approval by the President shall be the standard of fair competition for this trade, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

Wherever in this Code, or in any proceeding under or in connection with this Code, the following words or terms are used, they shall be deemed and taken to have the meaning ascribed to them as follows:

SECTION 1. The term "the Trade" means and includes parking, the rendering of parking service, and/or keeping for a consideration, expressed or implied, motor vehicles placed on parking lots or stations or within public garage buildings or on or within any other place where motor vehicles are kept or parked for a consideration, expressed or implied, and includes supplementary services and maintenance only insofar as such are incidental to the principal business of storage and parking as aforesaid.

SEC. 2. The term "supplementary services" shall mean the washing and other cleaning, lubrication, repairing, towing and maintenance of every description of motor vehicles, the driving of customers' cars, and the sale of automotive accessories, such as are customarily performed in a garage, parking lot or parking station.

SEC. 3. The term "employee" includes any person engaged in any phase of the trade in any capacity in the nature of employee irrespective of the method of payment of his compensation.

SEC. 4. The term "employer" includes anyone for whose benefit such an employee is so engaged.

SEC. 5. The term "member of the Trade" means, but without limitation, any person, partnership, association, corporation or other legal entity engaged in the Trade.

SEC. 6. The term "member of the Code" includes any member of the trade who shall signify assent to this Code.

SEC. 7. The term "district" shall mean any territorial sub-division set up under the Code Authority subject to the approval of the Administrator.

SEC. 8. The term "Act" means Title I of the National Industrial Recovery Act.

SEC. 9. The term "President" means the President of the United States of America.

SEC. 10. The term "Administrator" means the Administrator for Industrial Recovery.

SEC. 11. "Effective date" means the first Monday after this Code shall have been approved by the President.

SEC. 12. Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

SEC. 13. The "Northern Area" shall consist of the following states: Arizona, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, Wisconsin, Wyoming, and the District of Columbia.

SEC. 14. The "Southern Area" shall consist of the following states: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

ARTICLE III—HOURS

SECTION 1. No office employee (other than employees in a managerial, executive, or supervisory capacity who receive not less than \$35 per week in the Northern Area of the United States, and not less than \$25 per week in the Southern Area of the United States) shall work or be permitted to work in excess of 44 hours in any one week, or in excess of 9 hours in any one day; provided, however, that in emergencies or peak periods, such employees may work not more than 48 hours in any one week, or not more than 10 hours in any one day, but the average hours of weekly employment during a four-week period shall not exceed 44.

SEC. 2. Outside salesmen shall be exempt from any provision of maximum hours of employment. Watchmen, not rendering any service whatsoever to the public, are exempt from the maximum hours provided, but shall not work more than six days in any one week.

SEC. 3. Cashiers (those employees spending at least two thirds of their time performing cashier's duties) may be employed for not more than 48 hours in any one week.

SEC. 4. Employees engaged for one third or more of their hours of labor at filling station work shall not be employed for more than 48 hours in any one week.

SEC. 5. Mechanical workers (those engaged in mechanical work for one third or more of their working hours) shall not work or be permitted to work more than 44 hours in any one week.

SEC. 6. No other employees shall work or be permitted to work more than 54 hours in any one week.

SEC. 7. The maximum workday for employees other than those defined in Section 1, Article III, shall not exceed ten hours.

SEC. 8. No employee shall work or be permitted to work for a total number of hours in excess of the number of hours prescribed for each week and day, whether employed by one or more employers.

SEC. 9. The maximum hours herein above described refer to the availability of the employee in the establishment or on the premises

of the employer at the latter's request, whether or not the employee is actively engaged in specific tasks throughout these hours.

SEC. 10. Every employer and every partner in any partnership engaged in the Trade shall be subject to the provisions as to hours of labor prescribed for employees in this Code insofar as they perform the functions of such employees.

ARTICLE IV—WAGES

SECTION 1. The minimum rates of pay per week in the Trade except for mechanical workers or artisans, shall be as follows:

Population of city or town, including trade area thereof	Northern area	Southern area
	<i>Per week</i>	<i>Per week</i>
Over 500,000.....	\$15.00	\$14.00
Between 250,000 and 500,000.....	14.50	13.50
Less than 250,000.....	14.00	13.00

SEC. 2. No mechanical worker or artisan employed in this Trade shall be paid less than at the rate of 50¢ per hour of actual work on some specific task unless the hourly rate for the same class of work on July 15, 1929, was less than 50¢ per hour, in which latter case such mechanical worker or artisan shall be paid not less than the hourly rate of July 15, 1929, and in no event less than at the rate of 40¢ per hour. Provided, however, that no such mechanical worker or artisan who is available for normal full time to his employer in the establishment or on the premises of the employer, at the latter's request, shall be paid at less than the rates set forth in Section 1 of this Article IV for the respective areas therein described, without regard to actual work by such mechanical worker or artisan upon any specific tasks.

SEC. 3. No employee whose normal full-time weekly hours for the four weeks ending *July 1, 1933*, are reduced by less than 20 percent shall have his or her full-time weekly earnings reduced. No employee whose full-time weekly hours are reduced by 20 percent or more shall have his or her said earnings reduced by more than 10 percent.

SEC. 4. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 5. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SEC. 6. In determining his classification under this Code, each employee shall be entitled to claim the benefit of the classification of occupations existing on June 16, 1933.

SEC. 7. This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

ARTICLE V

No person under 16 years of age shall be employed in the Trade.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administration in the administration of this Code as a planning and fair practice agency for the Trade. Said Code Authority shall have the powers and duties prescribed in this Code, the exercise of which shall be subject to the right of the administrator, upon review, to disapprove or modify any action taken by the Code Authority.

DIVISION A—ORGANIZATION AND CONSTITUTION OF THE CODE AUTHORITY

SECTION 1. The Code Authority shall consist of 17 members representative of the Trade. Not more than three additional nonvoting members may at any time be appointed by the Administrator.

SEC. 2. The members of the Code Authority shall be elected by vote of the members of the Code. One member shall be elected from each of the 13 geographical regions, as defined in Section 10; four members shall be elected at large.

SEC. 3. To serve from the effective date until the election of the Permanent Code Authority, a temporary Code Authority of 7 members shall be appointed by the President.

SEC. 4. In a fair manner prescribed by the Code Authority, with the approval of the Administrator, and not later than February 10th of each year, the members of the Code in each state may nominate by ballot a candidate for the Code Authority from their election region. Said nominating ballots shall be returned to a disinterested and impartial agency appointed by the Code Authority, and approved by the Administrator.

SEC. 5. Candidates for election at large may be placed in nomination by the filing with the said impartial agency before noon of February 10th of petitions signed by not less than 200 members of the Code, either individually or in groups. No member of the Code shall endorse by petition more than one such candidate. The said disinterested agency shall certify the eligibility of the signers of the petitions and shall for this purpose have access to the pertinent records of the Code Authority.

SEC. 6. After February 10th the said disinterested agency shall publish without delay and in form and manner directed by the Code Authority, and subject to review by the Administrator, the list of candidates nominated by the states and nominated by petition.

SEC. 7. Immediately upon the publication of the names of said candidates, said disinterested and impartial agency shall prepare and mail to each member of the Code of record as of noon of February 10th of the same year, two letter ballots and a self-addressed postcard, together with notice that such ballots to be counted must

be in the hands of said disinterested and impartial agency not later than five weeks from the date of publication of the names of said candidates, which return date shall be specified. One letter ballot shall list the candidates reported by the state or states in said member's region; the other shall list the candidates at large. There shall be indicated by said disinterested and impartial agency on the letter ballot listing the regional candidates the number of votes to which said member is entitled, said number of votes to be determined by the Code Authority in proportion to the assessments levied upon and paid by said member of the Code during the previous twelve months or any part thereof, pursuant to Section 2 of Division C of this Article VI; provided, that each member of the Code shall have not less than one vote. Each member of the Code, irrespective of floor space or land area, shall be entitled to cast one vote for four of the nominated candidates at large.

SEC. 8. These ballots shall be properly marked and returned to the aforesaid disinterested and impartial agency. With said ballots, each member of the Code shall return the postcard with a simple signed statement to the effect that said member of the Code has voted on the ballot for regional candidates, or on the ballot for candidates at large, or both, as the case may be. Immediately upon receipt of such ballots and postcard, the disinterested and impartial agency shall record the fact that such member has voted, but not how he has voted, and destroy said postcard. All ballots in the hands of said agency at noon of the specified return date shall be counted and the results reported by said agency directly to the Administrator.

SEC. 9. The candidate approved by the Administrator, receiving the highest number of votes from his region, shall forthwith be declared elected to membership on the Code Authority and shall serve for a period of one year or until his successor shall have been elected. The four candidates at large approved by the Administrator, receiving the highest total number of votes of all the members of the Code shall likewise be declared elected and shall serve concurrently with candidates elected by the regions.

SEC. 10. If any date set forth in this Article VI falls upon a Sunday or upon a legal holiday, then the next following business day shall be substituted therefor.

SEC. 11. The geographical regions for the purpose of election of the Code Authority shall be constituted as follows:

Election region #1:	Election region #4:
Washington	N. Dakota
Oregon	S. Dakota
Idaho	Nebraska
Montana	Minnesota
Election region #2:	Iowa
California	Election region #5:
Nevada	Kansas
Election region #3:	Missouri
Wyoming	Oklahoma
Utah	Texas
Colorado	Election region #6:
Arizona	Arkansas
New Mexico	Louisiana

Election region #6—Continued	Election region #10—Continued
Tennessee	West Virginia
Mississippi	Election region #11:
Alabama	Pennsylvania
Election region #7:	Maryland
N. Carolina	Delaware
S. Carolina	District of Columbia
Georgia	Virginia
Florida	Election region #12:
Election region #8:	New York
Wisconsin	New Jersey
Illinois	Election region #13:
Election region #9:	Maine
Michigan	New Hampshire
Indiana	Vermont
Kentucky	Massachusetts
Election region #10:	Rhode Island
Ohio	Connecticut

SEC. 12. In the selection of nominees for the Code Authority the District of Columbia and Maryland shall be considered as one state.

SEC. 13. In order that the Code Authority shall at all times be truly representative of the Trade and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

DIVISION B.—DUTIES AND POWERS OF THE CODE AUTHORITY

SECTION 1. For the purpose of supplying the President and the Administrator with requisite data as to the observance and effectiveness of the Code, in order that the President may be kept informed with respect to observance of the Code, each member of the Trade shall submit through the Code Authority, reports concerning such relevant matters, and in such form, and at such times as the Code Authority may prescribe. No publication thereof to anyone or in any manner shall be made other than in combination with similar information furnished by other members of the Code, in which case the publication shall be made only in such manner as will avoid the disclosing separately of such confidential information.

SEC. 2. 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.

SEC. 3. In the event that the Code Authority should have reason to believe that the reports submitted by any member of the Trade are inaccurate, such reports shall be subject to verification by an examination of pertinent books and accounts and records of such member by a disinterested and impartial agency designated by the Code Authority.

SEC. 4. The Code Authority shall study the trade-practice provisions set forth in Article X and the operation thereof and shall make any recommendations from time to time to the Administrator which it deems desirable for modification or addition thereto, which upon the approval of the President, after such hearing as may be prescribed, shall become a part of this Code and have full force and effect on provisions hereof.

SEC. 5. The Code Authority shall establish regional divisions and subdivisions and shall delegate to proper Trade Associations or other local agencies in such divisions or subdivisions as it deems proper the duties of the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code, and that such trade associations and agencies shall at all times be subject to, and comply with, the provisions hereof.

SEC. 6. It shall be the function of the Code Authority to act as the general planning and coordinating body for the Motor Vehicle Storage and Parking Trade. To the end of effecting a balanced national economy, the Code Authority may cooperate with the International Garage Association in the collection, compilation, and publication of pertinent data.

SEC. 7. The Code Authority shall adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of this Code.

SEC. 8. The Code Authority shall make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to the Trade.

SEC. 9. The Code Authority shall cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the Trade who have assented to, and are complying with this Code.

DIVISION C—GENERAL

SECTION 1. Any member of the Trade is eligible to membership in the International Garage Association and/or in any participating trade association representing his local trade area and there shall be no inequitable restriction on such membership. Each participating association shall submit to the Code Authority, for transmission to the Administrator, true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SEC. 2. Members of the Trade shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to this Code either individually or in conjunction with other members of a trade association, and by 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 may be determined by the Code Authority subject to review by the Administrator on the basis of gross area of floor space and/or land area available for and utilized for the parking of motor vehicles.

SEC. 3. Said declaration of assent shall be delivered or mailed to the Code Authority, shall be in writing, and shall certify as to the full name, legal address, location of each establishment operated by, and bear the signature of each member making or joining in said assent.

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

ARTICLE VII—GENERAL

SECTION 1. 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.

SEC. 2. 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

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SEC. 4. All employers shall post copies of Article III and Article IV of this Code in conspicuous places accessible to employees.

SEC. 5. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Subsection (b) of Section 10 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 this Code or any conditions imposed by him upon his approval thereof.

SEC. 6. Such of the provisions of this Code as are not required to be included therein by the 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 Codes, will be submitted for approval of the President to prevent unfair competition and other unfair destructive competitive practices and to effectuate the other purposes and policies of Title I of the Act.

SEC. 7. Within each State, the provisions of this Code shall not supersede any laws of such State imposing more stringent requirements, regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than under this Code.

ARTICLE VIII—NEW CAPACITY

Any group of members of the Trade may agree that they shall not participate in the providing of additional storage or parking facilities for public use through the construction of new buildings, the conversion of buildings not now used as public storage or parking garages, or the opening up of vacant land of any description to be used as parking lots and/or stations, except where needed. The terms of any such agreement shall be subject to the approval of the Administrator. Each such agreement shall provide, among other things, that any dispute between the parties to such agreement as to whether expansion is justified by need for new facilities shall be submitted to the Administrator, whose determination shall be final. It is, of course, understood that any such agreement shall be binding only on the parties thereto.

ARTICLE IX—COST RECOVERY

SECTION 1. Members of the Code under the direction of, and subject to the approval of the Code Authority, may by vote of said members elect District Committees. Each District Committee shall operate with reference to a district, the boundaries of which shall be determined on the basis of competitive areas. The determination of a district and the method of voting shall be subject to the approval of the Administrator.

SEC. 2. The Code Authority shall establish a uniform system of accounting, with the approval of the Administrator. Upon approval by the Administrator each member of the Trade shall adopt such uniform system of accounting for the purpose of determining his own individual costs; provided that there may be such variations therefrom and exceptions thereto as may be required by the individual conditions affecting each member of the Trade and as may be approved by the Code Authority. Each member of the Trade within each district determined as aforesaid, shall report his own individual costs determined on the basis of such system of accounting, to a disinterested and impartial agency designated by the Code Authority. Such agency shall keep secret such information so submitted.

SEC. 3. This agency shall from such reports ascertain the costs of that representative member of the Trade in such district whose cost is lowest and shall publish such costs to the members in such district. No member of the Trade shall sell his services below the costs so determined for his district.

SEC. 4. Within each such district there shall be a reasonable periodic revision of costs by the designated impartial authority herein before provided. The Code Authority shall prescribe with the approval of the Administrator the period during which such published costs shall remain in force.

ARTICLE X—TRADE PRACTICE RULES

The following described acts shall constitute unfair methods of competition and shall constitute violations of this Code:

Rule 1—Inaccurate Advertising.—Publishing advertising (whether printed, radio, display, or of any other nature) which is misleading

or inaccurate in any material particular, or misrepresenting any goods (including but without limitation its use, trade mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

Rule 2—Inaccurate References to Competitors, Etc.—Publishing advertising which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies, or services.

Rule 3—False Billing.—Knowingly withholding from or inserting in any quotation or invoice any statement that makes it inaccurate in any material particular.

Rule 4—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.

Rule 5—Interference with Contracts of Customers or Prospective Customers.—Attempting to induce the breach of an existing contract between a competitor and his employee or customer or source of supply; or interference with or obstruction of the performance of such contractual duties or services.

Rule 6—Cancellation of Contracts.—Canceling in whole or in part, or permitting the cancellation in whole or in part, of any contract of sale of any service including storage or parking, except for a fair consideration.

Rule 7—Payment of Rebates.—Paying or allowing to any purchaser in connection with the sale of any service including storage and parking, any rebate, commission, credit, discount, adjustment, or similar concession other than as is specified by him in his own established and/or published and/or posted prices or in any contract of sale, provided that the existence and terms of such contracts shall be disclosed to the Code Authority.

Rule 8—Circulating False Information.—Disseminating, publishing, or circulating any false or misleading information whatsoever concerning any member of the Trade.

Rule 9—Incomplete Description.—Making any sale or contract of sale of any service or automotive product under any description which does not fully and fairly describe such service or product.

Rule 10—Rendering Service Below Cost.—Rendering to any purchaser in connection with the sale of any service or product any other service or product, either voluntarily or by agreement of the parties, unless fair compensation for each service or product shall be paid by such purchaser.

Rule 11—Securing Competitors' Employees.—Inducing or attempting to induce employees to leave the service of a competitor for the purpose of securing the trade or customers of such competitor.

Rule 12—Failure to Publish Prices.—The failure to publish in form available for inspection on the premises by any member of the Trade the schedule of prices charged by the member to the public for each service or combination of services performed, or rendered, at each place of business operated by such member.

Rule 13—Rendering Free Service.—The offering or giving of any free service or free goods in connection with the sale of services rendered. But nothing herein shall prevent the giving to customers of articles having merely an advertising value.

Rule 14—Failure to Secure License.—Engaging in the Trade without having complied with all city, county, state, or national laws with reference to permits, business licenses, and/or privilege licenses.

Rule 15—Failure to Pay Wages.—Failure to pay all wages in cash or by check without deductions, except in the case of bonafide claims by the employer either for money advanced or damage done by the employee and for which such employee is legally liable.

Rule 16—Selling Below Posted Prices.—Selling below one's own established and/or published and/or posted prices.

Rule 17—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 provision of the Act or of this Code.

Rule 18—Violence, Intimidation, or Unlawful Coercion.—(a) Any use of violence to person or property, intimidation, or unlawful coercion by a member of the Trade against a member of the Trade.

(b) Any threat by a member of the Trade to use such violence intimidation, or unlawful coercion.

(c) Any conspiracy among members of the Trade, or among members of the Trade and others, to use or to threaten to use such violence, intimidation, or unlawful coercion.

(d) Any combining or cooperating by a member of the Trade with anyone who is using or threatening to use such violence, intimidation, or coercion.

Rule 19—Violation of Code Provisions.—The violation of any other provisions of this Code.

ARTICLE XI—MONOPOLIES, ETC.

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.

Approved Code No. 147.
Registry No. 1724-10.



Approved Code No. 148

CODE OF FAIR COMPETITION

FOR THE

PYROTECHNIC MANUFACTURING INDUSTRY

As Approved on December 7, 1933

BY

PRESIDENT ROOSEVELT

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 Pyrotechnic 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,
December 7, 1933.

(591)

NOVEMBER 27, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Pyrotechnic Manufacturing Industry in the United States, a hearing on which was conducted in Washington on the thirty-first of October 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

This Code provides for a maximum workweek of forty (40) hours or eight (8) hours in any twenty-four (24) hour period in the Commercial Fireworks Division, except that factory employees may be permitted to work a maximum of forty-eight (48) hours per week for seasonal periods not exceeding two months in the first six-month period and one month in the second six-month period of any calendar year.

In the Display Fireworks Division a maximum workweek of forty (40) hours or eight (8) hours in any twenty-four (24) hour period is provided, except that for the period from April 15 to September 15 factory employees may be permitted to work a maximum of forty-eight (48) hours per week.

In the Fusee Division a maximum workweek of thirty-five (35) hours or seven (7) hours in any twenty-four (24) hour period is provided.

Exceptions to these limitations on working hours are provided for executives, supervisory staffs, and clerical workers receiving at least \$35.00 per week. Further exceptions are provided for traveling sales persons, watchmen, and persons engaged on emergency maintenance and repair work, clerical workers receiving less than \$35.00 per week, janitors and boiler-house employees, and truckmen.

In all divisions overtime shall be paid for at the rate of time and one third.

This Code provides for a minimum wage of thirty-seven and one half (37½) cents per hour for males and thirty-two and one half (32½) cents per hour for females in the Commercial Fireworks Division, forty (40) cents per hour for males and thirty-five (35) cents per hour for females in the Display Fireworks Division, and forty (40) cents per hour in the Fusee Division. This establishes minimum rates of pay regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

Female employees performing substantially the same duties as male employees shall receive at least the minimum wage prescribed for male employees.

No person under eighteen (18) years of age shall be employed in the industry.

With permission of State Authority, persons physically or mentally handicapped may be employed below the minimum wage provided.

Based upon changes in minimum pay necessitated by the foregoing paragraphs of this Article each employer shall in each establishment make fair and equitable readjustment of all pay schedules.

ECONOMIC EFFECT OF THE CODE

The attached Code covers the manufacturing, assembling and display of all kinds of fireworks and the manufacture of fuses, railway torpedoes, and flares. The industry has developed from small home manufacturing units into large concerns with a considerable amount of invested capital and employs at the present time approximately 1,500 wage earners indicating a decline, based on the 1929 level of employment, of about 500 persons. The industry is divided into three Divisions: Commercial Fireworks, which includes the manufacture of all kinds of fireworks such as roman candles, pin wheels, sparklers, and flares; Display Fireworks Division, which includes the business of manufacturing, assembling, and displaying of fireworks at exhibitions, fairs, and pageants, etc.; and the Fusee Division, which includes the manufacture of pyrotechnic signals, commonly known as fuses, and railway torpedoes used as warning or distress signals by various transportation units, particularly for the protection of life and property.

The industry, with the exception of the Fusee Division, is highly seasonal. The product of the Commercial Fireworks Division is intended for use on two days, namely, the Fourth of July and Christmas. The production peak for the Commercial Fireworks Division comes in May and June in preparation for the Fourth of July, followed by a lull until the fall revival in preparation for the Christmas business.

In the Display Fireworks Division the production peak comes during the summer and early fall months, when fireworks are displayed at various exhibitions, fairs, and pageants. Production in the Fusee Division depends entirely upon the prosperity of our transportation systems and is governed by the economic condition of the country.

The Pyrotechnic Industry reached its peak in 1929, at which time the volume of production was valued at approximately \$6,584,000. Since that time there has been a steady decline in the number of establishments and in production. Possibly the most serious causes of this decline have been restrictive municipal legislation and destructive competitive practices within the industry.

Imports of fireworks over the period from 1929 to 1931 amounted to approximately 11 or 12 percent of the domestic production. These importations have affected the industry seriously. Unfair practices in the distribution of imported fireworks also have contributed to a certain extent to the demoralization of the industry.

The Code contains a number of unfair trade practices which are to be prohibited in order to eliminate destructive competition now prevalent. These provisions should enable the manufacturers to proceed on a sound, competitive basis.

In order to maintain the proper differential between the three Divisions separate Wage and Hour provisions are established for each. The Code will establish a work week of 35 hours in the Fusee Division. In the Commercial Fireworks Division the Code will reduce the hours from 50 a week to an effective 42-hour week, as approximately 50 percent in the past have operated in excess of 48 hours, which is the maximum permitted for the seasonal peak, and 70 percent in the past have worked in excess of the 40 hours maximum established for other periods. The Display Fireworks Division will be reduced from a 60- to an effective 44-hour week, as 50 percent in the past have worked over 48 hours, which is the maximum permitted for the seasonal peak, and 80 percent in the past have worked in excess of the 40 hours maximum established for the other period. In the Fusee Division approximately 30 percent of the employees have worked in excess of the 35 hours maximum established for this Division. The reduction of hours throughout the country should mean an increase of employment to approximately the 1929 level with an additional 200 employees during the seasonal peaks in the Commercial Fireworks and Display Divisions. Further increases in employment should be noted in the Fusee Division with increasing operations of our transportation system. This means a definite reversal of the descending trend of employment since 1929.

The rates of wages established in the Commercial Fireworks Division will increase the pay of 85 percent of these employees, and increase pay rolls 42 percent. In the Display Fireworks Division the minimum rates of pay established will benefit 65 percent of their employees and will result in an increase in pay rolls of from 30 to 35 percent. Approximately 53 percent of the employees in the Fusee Division will receive an increase in rates because of the minimum established for this Division with an estimated 30 percent increase in the pay rolls for this Division.

It is evident therefore that not only will the Code increase employment but when coupled with the resultant increase in purchasing power and the elimination of destructive competitive practices will result in the stabilization of the industry and an increase in purchasing power.

It is believed that for the ultimate good of the industry that the control prescribed and permitted in the Code is essential. It is highly important, however, that the government representation in the Administration and operation of the provisions of this Code exercise carefully its functions.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant groups impose no inequitable restrictions on admission to membership therein and are truly representative of the Pyrotechnic Industry; and that

(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.

It is recommended, therefore, that this Code be immediately adopted.

Respectfully.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
PYROTECHNIC MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Pyrotechnic 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

The term "Pyrotechnic Industry", as used herein, includes the business of manufacturing and the assembly and display of all kinds of fireworks, and the manufacture of fuseses, railway torpedos, and flares.

The term "Fireworks" includes all articles producing audible or visible display, and includes Roman candles, pin wheels, Catherine wheels, skyrocketes, sparklers, bombs, caps, jerbs and shells, flares, bengal and colored lights of all kinds, salutes and firecrackers of all kinds, smoke candles, smoke lights, signal lights, and all kinds of novelty articles containing chemicals to be exploded or ignited.

The term "Commercial Fireworks Division" includes the manufacture of fireworks.

The term "Display Fireworks Division" includes the displaying of fireworks at exhibitions, the manufacture or assembly of fireworks solely for the purpose of display, and presenting fireworks spectacles and pageants.

The term "Fusee Division" means the manufacture of friction-cap igniting, time-burning pyrotechnic signals, commonly known as fuseses, used as warning or distress signals, particularly for the protection of life and property by various transportation units, and of railway torpedos.

The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

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

The terms "President", "Act", and "Administrator", as used herein, shall mean, respectively, the President of the United States,

the National Industrial Recovery Act, and the Administrator of said Act.

For the purpose of this Code the term "jobber" shall mean a wholesale dealer; the term "stockjobber" shall mean a jobber who maintains a permanent warehouse, stocks fireworks, employs a sales force, and ships merchandise to his customers from such stock; the term "drop-shipment jobber" shall mean a jobber who does not stock fireworks but sells to a retailer, the goods being shipped direct to such retailer by a manufacturer, stockjobber, or branch.

The term "branch" shall mean a separate establishment of a member of the industry located in a different place from his main office, where a separate sales force is maintained and a stock of merchandise for sales purposes is carried.

ARTICLE III—HOURS OF LABOR

SECTION 1. *Provisions Applicable to the Commercial Fireworks Division only.*—Except as hereinafter and in Section 4 of this Article provided, no employee shall be permitted to work in excess of forty hours in any one week or eight hours in any twenty-four-hour period, except that factory employees may be permitted to work a maximum of forty-eight hours per week for seasonal periods not exceeding two months in the first six-month period and one month in the second six-month period of any calendar year.

SEC. 2. *Provisions Applicable to the Display Fireworks Division only.*—Except as hereinafter and in Section 4 of this Article provided, no employee shall be permitted to work in excess of forty hours in any one week or eight hours in any twenty-four-hour period, except that for the period from April 15 to September 15 factory employees may be permitted to work a maximum of forty-eight hours a week and employees receiving \$35 a week or more engaged in the actual work of attending to or supervising a display of fireworks at an exhibition spectacle or pageant may be permitted to work until a display upon which they are engaged is concluded.

SEC. 3. *Provisions Applicable to the Fusee Division only.*—Except as in Section 4 of this Article provided, no employee shall be permitted to work in excess of thirty-five hours in any one week or seven hours in any twenty-four hour period.

SEC. 4. *Provisions Applicable to All Divisions of the Industry.*—(a) Executives, supervisory staffs, and clerical workers receiving \$35.00 per week or more, traveling sales persons, watchmen, and persons engaged in emergency, maintenance, and repair work, shall be exempt from the provisions of Sections 1, 2, and 3 of this Article, provided, however, that emergency, maintenance, and repair work in excess of the maximum hours hereinabove provided shall be compensated by overtime payment at the rate of not less than time and one third, and, provided further, that emergency employment by reason of fires and/or explosions shall be compensated by payment at not less than the regular rate of pay for the employees so engaged.

(b) Clerical workers receiving less than \$35.00 per week may be permitted to work an average of 40 hours per week during any three months' period, but not more than 48 hours in any one week.

(c) Janitors and boiler house employees may be permitted to work a maximum of forty-eight hours per week.

(d) Truckmen may be permitted to work a maximum of forty-four hours per week, with a ten percent tolerance during the seasonal periods provided in Sections 1 and 2 of this Article.

SEC. 5. For the purpose of exceptions contained in Sections 1 and 2 of this Article, each member of the industry, who is a member of both the Commercial Fireworks Division and Display Fireworks Division, shall classify his plant or plants, by notice in writing to the Code Authority Board, as coming within either the Commercial Fireworks Division or the Display Fireworks Division.

SEC. 6. In the Commercial Fireworks Division time in excess of eight hours a day and forty hours per week for employees whose hours are limited in Section 1 of this Article, shall be paid for at time and one third.

ARTICLE IV—WAGES

SECTION 1. *Commercial Fireworks Division.*—No male employee shall be paid at less than the rate of 37½ cents per hour. No female employee shall be paid less than the rate of 32½ cents per hour.

SEC. 2. *Display Fireworks Division.*—No male employee shall be paid at less than the rate of 40 cents per hour. No female employee shall be paid at less than the rate of 35 cents per hour.

SEC. 3. *Fusee Division.*—No employee shall be paid at less than the rate of 40 cents per hour.

SEC. 4. This Article establishes minimum rates of pay regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

SEC. 5. Female employees performing substantially the same duties as male employees shall receive at least the minimum wage herein prescribed for male employees.

SEC. 6. Employers shall adjust wage schedules in equitable relation to the minimum hourly rates provided in this Article, so far as such adjustments have not been made subsequent to June 16, 1933. Each member of the Industry shall promptly report all such adjustments to the Code Authority Board.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under eighteen years of age shall be employed in the industry.

SEC. 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.

SEC. 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.

SEC. 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.

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

SEC. 6. There shall be no evasion of this Code by reclassification of the functions of workers. A worker shall not be included in any of the exceptions enumerated in Article III hereof unless the identical functions which he performs were identically classified on June 16, 1933.

SEC. 7. No employer shall knowingly engage any employee for any time for which, when totalled with that already performed for another employer or employers, exceeds the maximum permitted herein.

SEC. 8. An employer shall make payment of wages due in lawful currency or negotiable check payable on demand. Wages shall be paid at the end of the regular pay-roll period. These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earner.

SEC. 9. A person whose earning capacity is limited because of age or physical or mental 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 and for such hours as shall be stated in this certificate, provided that the number of such employees shall not exceed five percent (5%) of the total number of employees on the pay roll. Each employer shall file with the Code Authority Board a list of all such persons employed by him.

SEC. 10. Each employer shall post in conspicuous places accessible to employees copies of Articles III, IV, and V of this Code.

ARTICLE VI—ADMINISTRATION

SECTION 1. *Code Authority Board.*—To further effectuate the policies of the Act, a Code Authority shall be established and known as the Code Authority Board of the Pyrotechnic Manufacturing Industry. The industry shall be classified into three divisions known as (1) Commercial Fireworks Division, (2) Display Fireworks Division, and (3) Fusee Division.

Additional divisions may be organized, or existing divisions consolidated, upon recommendation of the Planning and Fair Practice Agencies of the divisions affected, and the Code Authority Board, with the approval of the Administrator.

SEC. 2. *Organization and Constitution of Code Authority Board.*—The Code Authority Board shall be composed of members of the industry. Three members shall be elected by each respective division according to the following rules and subject to the approval of the President.

1. Each member of the industry shall have one vote in each division of which he is a member.

2. The vote of a majority in number of members of the division representing in the aggregate more than one half of the gross sales of such division in the previous calendar year shall be necessary to elect.

The Code Authority Board shall act as a coordinating agency for the divisions of the industry. The President may appoint not more than three members, without vote, to the Code Authority Board.

The Code Authority Board so organized is hereby constituted the agency for cooperating with the Administration or the Administrator as an administrative, planning, and fair-practice agency for the Pyrotechnic Manufacturing Industry. Such agency may from time to time present to the Administrator recommendations based on conditions in the industry as they may develop, which will tend to effectuate the operation of the provisions of this Code and the policy of the Act.

SEC. 3. *Divisional Planning and Fair Practice Agencies.*—Each division of the Pyrotechnic Manufacturing Industry shall, by the method above prescribed for election of members of the Code Authority Board, elect its own separate and distinct divisional Planning and Fair Practice Agency. Each such divisional Planning and Fair Practice Agency shall present in writing to the Code Authority Board, and each member thereof individually, its recommendations. If the Code Authority Board fails to disapprove thereof within twenty days after the same shall have been presented, said recommendations shall be deemed approved by it. If the Code Authority Board disapproves thereof, then and in that event the divisional Planning and Fair Practice Agency shall be entitled to present its recommendations direct to the Administrator for his approval. Recommendations made under this Article shall not become effective until approved by the Administrator.

Each division may carry out the approved recommendations of its Planning and Fair Practice Agency, subject to supervision by the Code Authority Board, all to the end that each division may be self-governing in all problems, including trade terms and trade practices, relating exclusively to itself.

In order that the Code Authority Board 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 Board 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 thereof.

SEC. 4. *Powers and Duties of the Code Authority Board.*—The Code Authority Board shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by it:

(a) The Code Authority Board shall administer the Code and shall maintain all activities pertinent thereto, such as obtaining from employers reports requested by the President or his authorized representative in respect to wages, hours of labor, conditions of employment, and number of employees. In addition to the information required to be submitted to the Code Authority Board, 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.

(b) Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority Board and to participate in the selection of the members thereof by assent-

ing to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of the administration. The reasonable share of the expenses of the administration shall be determined by the Code Authority Board, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(c) The Code Authority Board shall investigate and report to the Administrator as to the importation of competitive articles into the United States of America, in substantial quantities or increasing ratio to domestic production, or under such terms or conditions as to render ineffective or seriously endanger the maintenance and enforcement of this Code, and shall make complaint on behalf of the Pyrotechnic Industry, under the provisions of Section 3 (e) of the Act with respect thereto.

SEC. 5. *Trade Association*.—Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority Board shall (1) impose no inequitable restrictions on membership, and (2) 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.

ARTICLE VII—TRADE PRACTICES

SECTION 1. *Provisions Applicable to all Divisions of the Industry*.—

A. SALES BELOW COST.—Under the direction of the divisional Planning and Fair Practice Agencies studies shall be made in an effort to determine fair and uniform cost-finding procedures for members of the respective divisions of the industry. If and when such cost-finding systems are recommended by any Planning and Fair Practice Agency and are approved by the President or his authorized representative, sales below cost, so determined, shall be unfair competition.

B. It shall be unfair competition for any manufacturer engaged in the industry—

(1) To give rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or to extend to certain purchasers special services or privileges not extended to all purchasers on like terms and conditions; give guarantees against decline in prices or protection against price advances, except in the Fusee Division;

(2) To indulge in commercial bribery in any form, such as the giving of gratuities, commissions, or rewards to purchasing agents or other employees of customers or by lavish entertainment of such employees;

(3) To misrepresent merchandise with respect to size, substance, weight, or quality, or to use false, deceptive, untrue, or misleading statements in advertising, printing, or otherwise;

(4) To maliciously entice away the employees of a competitor for the purpose of hampering, injuring, or embarrassing a competitor in his business; but nothing in this paragraph shall prevent any em-

ployee from offering his services to another employer, nor prevent any employer from employing the employee of another employer.

(5) To defame a competitor by falsely imputing to him or it dishonorable conduct, inability to perform contracts, questionable credit standing, or by any other misrepresentation calculated to mislead or deceive customers.

(6) To disparage falsely the quantity, grade, quality, or substance of a competitor's products by any statement calculated to mislead or deceive customers.

C. **PIRACY OF STYLES AND DESIGNS.**—Copying of lines, items, or effects originated by a competitor during the calendar year in which they were originated, shall be unfair competition. Any member of the industry claiming to have originated a design, style, pattern, or effect, may register the same by furnishing plans and/or models thereof to the Code Authority Board together with an affidavit setting forth his exclusive claim thereto and he shall have the exclusive right to the use thereof for two years from the date of such registration. The fact that such registration has been made shall be prima facie evidence that the use of such designs, style, pattern, or effect by a competitor is a violation of this Code.

D. **MATERIALS.**—No domestic materials shall be used in the manufacture of pyrotechnics unless the same have been manufactured under and in accordance with the provisions of a code of fair competition duly approved by the President, or the President's Reemployment Agreement.

SEC. 2. *Provisions Applicable to the Commercial Fireworks Division only—*

A. **TERMS OF SALE.**—Full details of all terms of sale, including date of delivery and payment, quantity, price, freight, terms, etc., shall be set forth in a written order and shall be strictly adhered to.

B. **TRADE DISCOUNTS.**—The following trade discounts shall prevail throughout the division:

1. Regular trade discount shall be fifty percent (50%) of list price, f.o.b. Main Factory.

2. On all drop shipment orders from the factory there shall be an additional service charge of not less than ten percent (10%) of the net amount of the invoice.

3. Subject to the approval of the Administrator, if and when the jobbers dealing with members of this division shall, through a duly approved code of fair competition or otherwise, agree to sell on substantially similar terms:

a. Stock orders to jobbers from branches shall be at price, f.o.b. Branch, not less than factory price plus actual transportation charges from main factory, plus ten percent (10%).

b. On all drop shipment orders from branches there shall be an additional service charge of not less than five percent (5%) of the net amount of the invoice.

c. No manufacturer shall allow any discount on quantity sales to retailers in excess of twenty-five percent (25%) of list price, f.o.b. shipping point.

4. No manufacturer shall ship in carload or by truck from factory to any jobber merchandise especially packed or marked for distribution to such jobbers' retail customers; provided, however, that

nothing in this section shall be so construed as to prohibit any manufacturer from including, in any carload, shipments to more than one jobber.

C. TERMS OF PAYMENT.—Goods sold for the Fourth of July trade shall be billed for payment July 10th net cash. Goods sold for the Christmas trade shall be billed for payment January 10th net cash. If cash payment is made before the due date as herein provided, discount at the rate of one percent (1%) per month shall be allowed for such cash prepayment up to a maximum allowance of six percent (6%). On all goods not sold for the usual Fourth of July and Christmas trade the terms of payment shall be thirty days net cash with an allowance of two percent (2%) for payment within ten days of date of shipment.

D. CONSIGNMENTS AND RETURNED MERCHANDISE.—No goods shall be sold upon consignment and no goods shall be sold with any understanding, open or secret, that payment therefore shall be deferred beyond the time of the regular terms of payment. Merchandise delivered by the manufacturer within the time agreed upon and in compliance with the specifications of an order shall not be accepted in return by the manufacturer except with the approval and consent of the divisional Planning and Fair Practice Agency, subject to review by the Administrator.

E. BLANKET ORDERS.—No requirement contracts or blanket orders, that is, orders for a gross amount without specifying the kind and quantity of goods to be delivered, shall be accepted by any member of this division.

F. STAPLE GOODS AND PRICES.—The divisional Planning and Fair Practice Agency is empowered to designate certain items that are generally manufactured by the division as staple goods. On items so designated it shall, subject to the approval of the Administrator, prescribe limits or size, weight, and other specifications necessary for a reasonable standardization. At the beginning of each season, not later than August 1st for the Christmas trade and November 1st for the Fourth of July trade, each manufacturer shall file in writing with the Code Authority Board a full and complete schedule of net selling prices, such schedule to be accompanied by a full description of the items as to weight, size, and other details. No net selling prices or specifications applying to such items may be changed during the season to figures on any item lower than the lowest net selling price on file with the Code Authority Board without giving ten days' notice in writing to the divisional Planning and Fair Practice Agency. Upon the filing of such reduced prices, the divisional Planning and Fair Practice Agency shall immediately notify all members of the division of such reduction. Nothing herein contained shall permit the sale of any item in violation of the provisions of subdivision A of Section 1 of this Article.

G. DELIVERED PRICES.—Nothing herein contained shall prevent any manufacturer from selling similar articles at the same delivered price as any other manufacturer, unless such sale shall violate subdivision A of Section 1 of this Article.

H. TRANSACTIONS BETWEEN MEMBERS OF THE DIVISION.—The provisions of this Article as to terms of sale, terms of payment, freight,

freight terms, and trade discounts shall not apply to transactions between members of this division, nor to sales of caps to manufacturers of pistols.

I. DISTRESS MERCHANDISE.—Inventories which must be converted into cash to meet emergencies and abandoned lines may be disposed of in such manner and on such terms and conditions as may be prescribed by the divisional Planning and Fair Practice Agency, subject to review by the Administrator.

ARTICLE VIII—STABILIZATION

SECTION 1. *Commercial and Display Fireworks Divisions.*—In view of the surplus of production facilities in these divisions, before any additions to or expansions of present manufacturing plants or equipment shall be made or any new manufacturing plant shall be constructed, application shall be made to the Administrator, who shall take such action after notice and hearing as may seem necessary to effectuate the policy of the Act.

SEC. 2. *Fusee Division.*—Until, in the opinion of the Administrator, the demand for the products of the industry from the railroads of the United States cannot adequately be met by the use of existing production facilities, no additions to, or expansion of, present manufacturing plant or equipment shall be made and no new manufacturing plant shall be constructed unless the Administrator, after notice and hearing, shall find that public necessity and convenience require same.

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 1 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.

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

ARTICLE X—MONOPOLIES, ETC.

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

ARTICLE XI—PRICE INCREASES

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 in-

creases should be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's cost.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the first Monday after its approval by the President.

Approved Code No. 148.
Registry No. 611-02.



Approved Code No. 149

CODE OF FAIR COMPETITION

FOR THE

MACHINED WASTE MANUFACTURING INDUSTRY.

As Approved on December 7, 1933

BY

PRESIDENT ROOSEVELT

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 Machined Waste 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 it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

NOVEMBER 25, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Hearing on the Code of Fair Competition for the Machined Waste Manufacturing Industry, held in accordance with the provisions of the National Industrial Recovery Act in the Caucus Room of the Old House Office Building, on November 6, 1933. The Code which is attached was presented by duly qualified and authorized representatives of the Industry, complying with statutory requirements, said to represent 60 percent in number and 85 percent in volume of the Industry.

In accordance with the customary procedure every person who had filed a request for an appearance was freely heard in public, and all statutory and regulatory requirements were complied with.

THE INDUSTRY

The Industry comprises about 40 concerns, having an investment in 1933 of \$4,500,000. In 1928 and 1929 the Industry provided employment for 1,600 full-time workers. This figure has declined to about 900 full and part-time workers in 1933. The aggregate annual sales have fallen from 130,000,000 pounds in 1928 to an estimated 65,000,000 pounds in 1933.

The wages specified in this Code according to testimony are in excess by more than 30% of the highest 1929 wages paid in the South. The increase from the low of 1933 is considerably in excess of 100% according to testimony given. While the same percentage increase is not to be found in the other districts, the improvement is all that could be expected in the situation.

Hours of work have been reduced from 48 and more than 50, in some instances, to 40, and employment is thereby increased in the same proportions.

PROVISIONS OF THE CODE

The Code provides for a minimum wage in the North of 32½¢ an hour, and 30¢ an hour in the South. Hours of work are limited to 40 hours in any one week and 8 hours in any 24-hour period with the following exceptions: maintenance employees are permitted to work 44 hours per week; truckmen, 48 hours per week; watchmen, 56 hours per week; employees in a supervisory capacity receiving \$35.00 per week or more, and outside salesmen are not limited to hours; employees on emergency repair work are excepted but are to be paid time and one third for hours worked in excess of 44 hours per week. Provision is made for the maintenance of differentials between wages above the minimum. Operations are limited to one shift of 40 hours.

Representation on the Code Authority is provided for all members of the industry.

There are no highly restrictive provisions in the Code itself. Provision is made for recommendations by the Code Authority to the Administrator for licensing all new installations and in other ways to regulate the industry. No such provisions, however, will become effective without further approval of the Administrator.

FINDINGS

I find that:

(a) This Code complies in all respects with the pertinent provisions of Title I of the National Industrial Recovery Act, including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof and further provides for the reporting of any pertinent statistical information desired by the Administration.

(b) The Waste Manufacturers Association to be truly representative of the Machined Waste Manufacturing Industry. The By-Laws of this Association provide no inequitable restrictions to membership.

(c) The Code 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.

(d) The wages specified in this Code are substantially higher than those prevailing prior to June 16, 1933.

(e) The trade practices have the support of the preponderant majority of the industry and should increase uniformity of practice.

I recommend that the Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
MACHINED WASTE MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Machined Waste 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

1. The term "Industry" as used herein includes the manufacture and sale of machined wiping waste and journal-box packing, and branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

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

3. The term "Association" means the Waste Manufacturers Association.

4. The term "President", "Act", and "Administrator" as used herein, shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of title I of said Act.

5. The term "employee" as used herein includes anyone engaged in the Industry in any capacity receiving compensation for his service, irrespective of the nature or method of payment of such compensation.

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

7. The term "productive machinery" as used herein is defined to mean waste pullers.

ARTICLE III—HOURS

1. No employee shall work or be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period, except that:

(a) executives and employees in a managerial or supervisory capacity who receive thirty-five (\$35.00) dollars or more per week and outside salesmen are excepted from the maximum-hour provisions of this Section.

(b) repair-shop crews, firemen, engineers, electricians, outside crews, and cleaners shall be permitted to work 10% in excess of the maximum hours specified above.

(c) truckmen shall be permitted to work forty-eight (48) hours per week.

(d) watchmen are permitted to work not in excess of fifty-six (56) hours per week.

(e) employees on emergency maintenance or emergency repair work involving breakdowns or protection of life or property may work in excess of the maximum hours specified above, but in any such special case at least time and one-third shall be paid for all overtime work. At the end of each calendar month every employer shall report to the Code Authority, hereinafter provided for, in such detail as may be required, the number of man-hours worked in that month for emergency reasons and the ratio which said emergency man-hours bear to the total number of man-hours of labor during said month.

2. Members of the Industry shall not operate productive machinery in the Machined Waste Manufacturing Industry for more than one shift of forty (40) hours per week.

ARTICLE IV—WAGES

1. No employee shall be paid at less than the rate of thirty-two and one-half ($32\frac{1}{2}\text{¢}$) cents per hour in the North and thirty (30¢) cents per hour in the South. The South shall include the states of Virginia, North Carolina, South Carolina, Georgia, Tennessee, Alabama, Mississippi, Louisiana, Texas, and Florida. The North shall mean the rest of the United States.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

3. The compensation for employment now in excess of the minimum wages hereby provided shall not be reduced (notwithstanding that the hours worked in such employment may be hereby reduced). Wage differentials existing prior to June 16, 1933, shall be maintained for all employees receiving thirty-five (\$35.00) dollars or less per week.

4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under 16 years of age shall be employed in this Industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within ninety (90) days after approval a list of such occupations. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate duly issued by the authority empowered to issue employment certificates, showing that the employees are 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.

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.

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 members of the Industry shall comply with any laws in such State imposing more stringent requirements, regulating the age of employees, wages, hours of work, or health, welfare, or general working conditions than are provided in this Code.

6. Each employer shall post in conspicuous places full copies of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. Organization and constitution of Code Authority.

(a) The Code Authority shall consist of five (5) individuals, or such other number as may be approved from time to time by the Administrator, to be selected by a fair method of election approved by the Administrator. The President, in his discretion, may appoint from one (1) to three (3) additional members without vote.

Each member of the industry shall have one vote in selecting the members of the Code Authority.

(b) 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 thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

(c) 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, 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.

2. The Code Authority shall have the following duties and powers to the extent permitted by this Act. The Administrator shall have the right to review and veto or modify any action taken by the Code Authority.

(a) The Code Authority may from time to time present to the Administrator recommendations based on conditions in this Industry as they may develop which will tend to effectuate the operation of the provisions of this Code. Such recommendations when approved by the Administrator after such notice or hearing as he shall specify shall have the same force and effect as any provision of this Code. Such recommendations may include:

(1) Recommendations (a) for the requirement by the Administrator of registration by persons engaged in the Machined Waste Manufacturing Industry of all productive machinery, (b) for the requirement by the Administrator that prior to the installation of additional productive machinery by persons engaged or engaging in this Industry (except for the replacement of machinery of equal capacity or to establish balance in existing machinery) such persons shall secure certificates that such installation shall be consistent with effectuating the policy of the National Industrial Recovery Act during the period of emergency, and (c) for the granting or withholding by the Administrator of such certificates as so required by him.

(2) Recommendations for a plan to prevent demoralization in the Industry whenever operations are below 35 percent of registered capacity and after approval by members of the Industry representing 80 percent of the volume of production.

(b) The Code Authority shall cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint by any person, and to report the same to the Administrator.

(c) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their proper share of the reasonable expenses of its administration. The proper share of the expenses of administration shall be determined by the Code Authority, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(d) Members of the Industry shall file with the Code Authority, at such time and in such manner as may be prescribed, statistics covering number of employees, wage rates, employee earnings, hours of work, production, shipments, stocks, prices, and such other data pertinent to the effectuation of the purposes of this code as may be required by the Administrator. Such information shall be received, assembled, and reported to the Code Authority by a confidential agency in no way connected with the Industry. This agency shall disclose to the Code Authority only the general findings.

(e) 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 3 (a) of the Act.

(f) The Code Authority may from time to time appoint such subcommittees or designate such agencies, and may delegate to any of them such of its powers and duties, as it shall deem necessary or proper in order to carry out the provisions of this Code.

(g) Any interested party shall have the right of appeal to the Administrator, under such rules and regulations as he may prescribe in respect to any rule, regulation, or other course of action issued or taken by the Code Authority.

ARTICLE VII—TRADE PROVISIONS

1. No member of this Industry shall sell or exchange any product of the Industry below his own cost as may be determined as hereafter provided. When a uniform and standard system of Cost Accounting, prescribed by the Code Authority, shall be approved by the Administrator, every member of the Industry shall install a system of accounting which conforms to the principles of and is at least as detailed as such system. The Code Authority shall, subject to the approval of the Administrator, determine the cost factors to be included in such system, and the manner of calculating raw material cost.

2. Any violation of the unfair trade practices set forth in Schedule A attached hereto, or hereafter approved by the President, shall constitute a violation 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 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. After due notice and hearing, this Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances; such modifications shall be based on the recommendation of the Code Authority or of any interested party or group or on the Administrator's own initiative and shall become effective on approval of the President.

ARTICLE IX—MONOPOLIES

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 X—EFFECTIVE DATE

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

Approved Code No. 149.
Registry No. 299-1-16.

SCHEDULE A

1. *Open Price Provisions.*—Members of this Industry shall file with the Code Authority a schedule of prices, terms, discounts, and conditions of sale for the products of the Industry within twenty (20) days after the effective date of the Code. Such price lists may be revised only upon 5 days' notice to the Code Authority. The Code Authority shall immediately send copies of all price lists so filed to all members of the Industry.

Members of the Industry shall not sell their products at other prices or on other terms or conditions than set forth in their own price list. When any member of the Industry revises his price list, any other member of the Industry may revise his price list accordingly, to become effective on the same date as the revised price list first filed.

Obsolete merchandise and merchandise that must be sold in emergencies may be sold at other than the price list of the member of the Industry, with the approval of the Code Authority.

The Code Authority shall have the power to suspend the operation of the provisions of this Section.

2. *Terms of Sale.*—The terms of sale shall be: To railroads and the Government—1% 10 days, net 30 days;

To other customers—not more than 2% 25th proximo.

3. *Commissions.*—On shipments made direct to consumers, commissions may be paid to those whose business is not regularly that of selling wiping waste and/or journal-box packing, at the rate of not more than 4%, and at the rate of 5% to bona fide salesmen of such products. On shipments to be carried in stock by representatives, the commission may be $\frac{3}{4}$ ¢ per pound based on listed selling prices.

4. *Price Changes.*—Members of the Industry shall not make guarantees against decline in prices.

5. *Quotations.*—Protection on quotations shall be limited to forty-eight (48) hours from the receipt thereof, or from closing date of the inquiry covered. All quotations shall bear the following notation:

"The price quoted herein is subject to acceptance on (date); otherwise quotation is subject to market change and our acceptance."

6. *Contracts.*—(a) Shipment on contracts shall be released within the contract period and in no case shall members of the Industry make shipment on any contract after thirty (30) days from its expiration date.

(b) Contracts shall be either for the entire requirements of the customer for the contract period, or for a specified poundage, with a tolerance of not over 15%.

7. *Unfair Trade Practices.*—The following unfair trade practices are prohibited.

(a) The secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

(b) Entering into any contract for furnishing any products of the Industry contingent upon the sale or purchase of any other thing, the performance of any other service or any other contingency not appearing in the contract.

(c) Obtaining or soliciting orders from railroads directly or indirectly on the basis of traffic considerations, by means of practices which have been condemned by the Federal Trade Commission.



Approved Code No. 150

CODE OF FAIR COMPETITION

FOR THE

ASPHALT AND MASTIC TILE INDUSTRY.

As Approved on December 7, 1933

BY

PRESIDENT ROOSEVELT

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 Asphalt and Mastic Tile 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 approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

(617)

NOVEMBER 18, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Asphalt and Mastic Tile Industry in the United States as revised after the hearing held in Washington on November 14, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THE CODE AS TO WAGES AND HOURS

This Code provides for a maximum of forty hours of work per week, averaged over a twenty-six-week period, and for a maximum of forty-eight hours in any one week, with one and one third times the normal wage rate for time worked in excess of eight hours per day. The following are excepted:

(a) Executive, supervisory, and technical employees, receiving no less than \$35.00 per week, outside salesmen and personal secretaries of executives;

(b) Employees on emergency maintenance or repair work, who are to be paid one and one third times the normal wage rate for time worked in excess of forty-eight hours per week;

(c) Watchmen, who are not to be employed more than twelve hours per day nor six days per week.

The Code provides for minimum rates of pay of 40 cents per hour in the North, 30 cents per hour in the extreme South, and 35 cents per hour in an intermediate zone. It provides for minimum rates of pay for office employees ranging from \$15.00 to \$14.00 per week, according to the population of the city, in the trade area of which they are employed.

The employment of persons under 18 years of age in manufacturing operations and under 16 years of age in other operations is prohibited.

Provision is made for the employment of aged or disabled employees at such wages and for such hours as stated in a certificate issued by a State authority designated by the United States Department of Labor, provided that the number of such employees does not exceed 5% of the total employed by any employer.

ECONOMIC EFFECTS OF THE CODE

This is a small industry employing less than 400 persons, but one which was growing rapidly until the year 1931. Present employment is approximately 25% less than in 1931 and approximately the same as in 1929. The volume of sales has declined approximately 50% since 1931 and income from sales has declined by a much higher percentage due to the lower unit prices now prevailing.

Most of the labor provisions of this Code have already been adopted by the industry. Since June of this year, the number of employees has increased approximately 25%, the average hourly earnings about 20% and the total weekly earnings of employees about

5%. The minimum wages proposed in the Code are from 80% to 100% higher than the lowest wages paid by some manufacturers in June of this year.

Price cutting in this industry has reached a point where sales are frequently made below the actual cost of materials. The Code should help to correct this evil.

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 limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Asphalt and Mastic Tile Industry; and that

(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.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
ASPHALT AND MASTIC TILE INDUSTRY

ARTICLE I—PURPOSES

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 Asphalt and Mastic Tile Industry.

ARTICLE II—DEFINITIONS

SECTION 1. The term "Products" means Asphalt Tile, Asphalt Tile Bases, Tile Adhesives, Underlayment Materials (including Felt and Primer), and Finishes. Asphalt Tile is a thermoplastic material manufactured of asphalts, or plastics, or resins, or any combination of these materials, together with mineral and/or vegetable fillers or reinforcing materials, and mineral and/or vegetable color pigments, in the shape of tiles or sheets in its finished form, and less than one half inch in thickness and used for flooring purposes.

SEC. 2. The term "Industry", as used herein, includes the business of manufacturing, and selling by manufacturers, the Products, and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

SEC. 3. The term "Member of the Industry" includes anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

SEC. 4. The term "Member of the Code" includes anyone who has signified his assent to this Code by complying with the provisions of Paragraph (g) of Section 1 of Article VI.

SEC. 5. The term "Employee", as used herein, includes anyone engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 6. The term "Employer", as used herein, includes anyone by whom any such employee is compensated or employed.

SEC. 7. The term "Association" means the Asphalt and Mastic Tile Association, an unincorporated association having an office at 41 East 42nd Street, New York City.

SEC. 8. The terms "President", "Act", and "Administrator" as used herein, shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

SEC. 9. The term "The effective date of the Code" means the second Monday after the Code shall have been approved by the President.

SEC. 10. Population, for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

SECTION 1. Except as provided for in Section 2 of this Article no employee shall work or be permitted to work in excess of an average of more than forty (40) hours per week in any twenty-six (26) week period—that is, 1,040 hours in any twenty-six (26) week period—and in no event more than forty-eight (48) hours in any one week, nor more than six (6) days in any one week. In the event an employee is worked more than eight (8) hours in any one day, one and one third times the normal wage rate shall be paid for the time worked in excess of eight hours in one day.

SEC. 2. The provisions of the foregoing section shall not apply to:

(a) Any employee on emergency maintenance, or emergency repair work involving break-downs or protection of life or property, who, however, shall be paid at the rate of one and one third times the normal wage rate for time worked in excess of forty-eight (48) hours in any one week.

(b) Employees regularly employed in an executive, supervisory, or technical capacity receiving in no week in which they are employed less than Thirty-Five Dollars (\$35.00) per week. This exception, however, shall not apply to foremen regularly engaged in manual labor.

(c) Outside salesmen, and personal secretaries of executives.

(d) Watchmen, with the reservation, however, that they shall not work more than twelve (12) hours in any one day, nor more than six (6) days in any one week.

SEC. 3. No employer shall knowingly permit any employee to work any time which when totalled with that already performed with another employer or employers exceeds the maximum specified in this Article III.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid at less than the following rates:

30¢ per hour in the Southern Section of the Industry.

35¢ per hour in the Middle Section of the Industry.

40¢ per hour in the Northern Section of the Industry.

This minimum wage shall apply to common labor or other totally unskilled labor. Other classes of labor, including all pieceworkers, shall be compensated at a rate above this minimum. The above minimum rate shall be exempt from any charge and/or deduction by the employer.

SEC. 2. The Southern Section of the Industry shall be defined as follows: The States of Florida, Georgia, Alabama, Mississippi, Louisiana, Texas, Arizona, New Mexico, and South Carolina.

The Middle Section of the Industry shall be defined as follows: The States of North Carolina, Tennessee, Arkansas, Oklahoma.

All of the other States of the Union are designated as the Northern Section of the Industry.

SEC. 3. Accounting, clerical, office, or sales employees (excluding outside salesmen) in any office, department, or establishment shall not be paid less than at the rate of Fifteen Dollars (\$15.00) 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 Fourteen Dollars and Fifty Cents (\$14.50) per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; and not less than at the rate of Fourteen Dollars (\$14.00) per week in any city of less than 250,000 population.

SEC. 4. This Article establishes a minimum rate of pay regardless of whether an employee is compensated on a time-rate, piece-work, or other basis.

SEC. 5. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

SEC. 6. Employers shall make payments of all wages due in lawful currency or by negotiable check therefor payable on demand at least twice a month.

SEC. 7. Employers shall not reduce the rates of wages for employees whose rates are now in excess of the minimum rate of wages herein provided (notwithstanding that the number of hours worked in such employment may be hereby decreased) and where in any case an employer has not increased the rates of wages for such employees prior to the effective date of this Code by an equitable readjustment of all such wage rates such employer shall readjust all such wage rates. This provision shall be interpreted in the same manner that paragraph 7 of the President's Reemployment Agreement has been interpreted by the Administrator in Interpretations Nos. 1 and 20.

ARTICLE V—GENERAL PROVISIONS

SECTION 1. No persons under 16 years of age shall be employed in the Industry nor anyone under 18 years of age in manufacturing operations.

In any State an employer shall be deemed to have complied with this provision 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.

SEC. 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 purposes of collective bargaining or other mutual aid or protection.

SEC. 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.

SEC. 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.

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

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

SEC. 7. Each employer shall post in conspicuous places in each department full copies of this Code.

SEC. 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 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 and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him; the number of such employees shall not exceed five (5%) percent.

SEC. 9. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act a Code Authority is hereby constituted to administer the Code.

SECTION 1. Organization and Constitution of Code Authority:

(a) The Code Authority shall consist of three individuals or such other member as may from time to time be approved by the Administrator, who shall be representatives of the Asphalt and Mastic Tile Industry. The Administrator, in his discretion, may appoint from one to three additional members to represent the Administrator, who shall not, however, be vested with voting rights and shall serve without expense to the Members of the Code.

(b) All voting members of the Code Authority shall be selected from Members of the Code and shall be elected by a vote of two thirds of all the Members of the Code, and said members shall be selected between the date of approval of the Code by the President and the effective date thereof.

(c) Every member of the Industry shall be eligible to membership in the Association, and there shall be no inequitable restrictions upon such members. Any member of the Industry desiring to become a Member of the Association may do so by signing and delivering to the Asphalt and Mastic Tile Association a letter substantially in the following form, to wit:

The PRESIDENT, ASPHALT AND MASTIC TILE ASSOCIATION,

41 East 42nd Street; New York, New York.

DEAR SIR: The undersigned, desiring to become a member of the Association and of the Code of Fair Competition of the Asphalt and Mastic Tile Industry, a copy of which is annexed hereto and marked "A", hereby assents to all of the provisions of said Code.

In consideration of the benefits conferred by such membership, the undersigned agrees to become a member of the Association and of the Code and agrees to be bound by all of the provisions of the Code and of the Constitution and By-Laws of the Association, effective as of the date on which the Code shall have been approved by the President of the United States, or as of the date on which this letter shall have been delivered, if delivery thereof shall have been made subsequent to the date on which the Code shall have been approved by the President.

Yours very truly,

By -----

Its-----

(d) The Asphalt and Mastic Tile Association shall (1) impose no inequitable restrictions upon members, and (2) shall submit to the Administrator two copies of its Articles of Association, Bylaws, and Regulations, and any amendments when made thereto, together with any other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(e) 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 thereafter, if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

(f) The Code Authority shall adopt its own rules of procedure and may delegate its authority or such part thereof to such agencies as it shall select, subject to review and approval or modification by the Administrator.

(g) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and bearing their proportionate share of the reasonable expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator. Such expenses shall be determined on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

SEC. 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 on review to disapprove or modify any action taken by the Code Authority.

(a) With a view to keeping the President and the Members of the Code informed as to the observance or nonobservance of the Code, and as to whether Members of the Code are taking appropriate steps

to effectuate the declared policy of the Act, the Code Authority shall:

Study conditions in the Industry and from time to time, subject to approval of two thirds ($\frac{2}{3}$) of the members of the Industry, make such recommendations to the Administrator as it deems desirable to further the policies of the Act, and which, after such hearing as the President may prescribe, and upon his approval, shall become a part of this Code and shall have full force and effect as provisions hereof; and

Report to the Administrator at such times and concerning such conditions in the Industry as the Administrator may from time to time require, and every Member of the Code shall file in the office of the Asphalt and Mastic Tile Association at such time, in such form, and for such periods as required by the Code Authority, duly certified reports with respect to wages, hours of labor, conditions of employment, number of employees, production, and other matters pertinent to the proper supervision of the Industry as determined by the Code Authority.

(b) All confidential information of any nature requested by the Code Authority shall be collected by the Manager of the Asphalt and Mastic Tile Association or other agency not a member of the Industry selected by the Code Authority, and such information shall be kept confidential except when required by the Code Authority for the proper enforcement of the Code, and with the further exception that all such information shall be fully available to the Administrator. Only such information may be so requested by the Code Authority which is appropriate to the proper supervision of the Industry or to the enforcement of this Code.

(c) The Code Authority shall designate an agent or agents, not members of the Industry, to investigate complaints of violations of the Code. The members of the Code shall facilitate all such investigation by opening their correspondence, books, and accounts relating to alleged violation for examination by such authorized agent and by furnishing relevant information.

If, upon investigation, any complaint by a Member of the Code of a violation of the Code shall be determined by the Code Authority to be substantiated in any material respect, the Member of the Code guilty of such violation shall pay the cost thereof; otherwise the cost thereof shall be borne by the complainant.

All such information shall be kept confidential by the agent, except that in the event of any such violation being substantiated by the investigating agency the Code Authority shall be informed and shall present evidence thereof to the proper department, agency, or judicial branch of the Government.

The guilty member shall also be subject to all penalties provided for in the Act.

SEC. 3. *Appeals*.—(a) Any interested party shall have the right of complaint to the Code Authority, and a prompt hearing and decision shall be made thereon under such rules and regulations as it shall prescribe, in respect to any act of any agent or agency designated by the Code Authority to act in its behalf.

(b) Any interested party shall have the right of appeal to the Administrator, under such rules and regulations as he shall pre-

scribe, with respect to any decision, rule, regulation, order or finding made by the Code Authority.

SEC. 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 purpose recited in Section 3 (a) of the National Industrial Recovery Act.

ARTICLE VII—PUBLICITY OF PRICES

SECTION 1. On or before the effective date hereof each manufacturer shall publish and file with the Code Authority his current prices, discounts, and other conditions of sale, if any, which shall be uniform throughout the United States, and the Code Authority shall cause copies thereof to be immediately sent to all members of the Industry. Revised prices, discounts, and other conditions of sale shall be published and filed from time to time thereafter with the Code Authority by any member of the Industry to become effective upon the date specified therein, which shall not be later than ten (10) days after filing, and any reduced prices, or more favorable discounts or other conditions of sale shall be filed with the Code Authority ten days in advance of the effective date of the lower prices and/or more favorable discounts or other conditions of sale unless the Code Authority shall authorize a shorter period. Copies of revised price lists and more favorable discounts and other conditions of sale with notice of the effective date specified shall immediately be sent by the Code Authority to all members of the Industry, who thereupon may file, if they so desire, revisions of their price lists and/or discounts and other conditions of sale, which shall become effective upon the date when the revised price lists and/or discounts and other conditions of sale first filed shall go into effect, provided the price lists and/or discounts and other conditions of sale are not lower or more favorable than the revised price lists and/or discounts and other conditions of sale first filed. Any prices that are lower or discounts and other conditions of sale more favorable than the price lists and/or discounts and other conditions of sale already filed with the Code Authority shall not become effective until they shall have been filed with the Code Authority ten days in advance of the effective date of such new revised price lists and/or discounts and other conditions of sale.

SEC. 2. All price lists or changes in price lists filed with the Code Authority and all price lists or changes in price lists forwarded by the Code Authority to members of the Industry shall be forwarded by registered mail with a return receipt requested.

SEC. 3. The price list of every Member of the Industry shall show prices for each classification or definition of customer described in Section 1 (a), (b), and (c) of Article XII of this Code of Fair Competition and shall also include prices covering the installation of the Products of this Industry and accessories necessary to complete installation.

ARTICLE VIII—PROTECTION OF CUSTOMERS

SECTION 1. In the event of an advance in price by any Member of the Industry his flooring contractors and/or dealers shall have protection in price on all bids actually outstanding and closed contracts, provided the flooring contractor and/or dealer shall—

(a) Within 14 days of such price increase notify in writing the Member of the Industry with whom he may have executed a flooring contractors' agreement of such bids as the flooring contractor and/or dealer has outstanding;

(b) Within 10 days of the contract award, which in no event shall exceed 45 days after the date of such price increase, place a firm order with the Member of the Industry, with whom he may have executed a flooring contractors' agreement, for the quantity of the Products required to complete said contract.

SEC. 2. Every Member of the Industry shall file with the Code Authority the details of all bids that have been filed with said Member of the Industry by his flooring contractors and/or dealers in order to secure price protection as defined above within 20 days of such price increase.

ARTICLE IX—APPLICATION OF TILE BY MEMBERS OF THE INDUSTRY

SECTION 1. Every member of the Industry who applies any material shall designate and operate that part of his business as a separate department, which department shall operate in all respects as a flooring contractor and shall be subject to all of the terms and conditions of any form of flooring contractors' agreement which may be approved by the Code Authority and the Administrator, and no member of this Industry shall sell any Product through any such department at lower prices than published under Article VII of this Code.

ARTICLE X—PUBLICITY OF TRADE CLASSIFICATIONS

SECTION 1. Within ten (10) days after the effective date of this Code, each Member of the Industry shall publish to his trade and file with the Code Authority all classifications which have been established by him to determine the prices, terms, or conditions of sale made applicable by him to the different classes of his trade, for products covered by this Code. He shall publish to the trade and file promptly with the Code Authority any changes made by him in such classifications and any additional classifications.

Each member shall file at such times, in such manner, and at such places as may be designated by the Code Authority the names and locations of his trade, grouped according to his own stated classifications then in effect. The names and locations so filed shall be available to the trade and to the members of the Industry, provided, that the name of the manufacturer submitting any such names and locations shall not be disclosed without consent except to the extent necessary to prevent violations of this Article.

ARTICLE XI—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.

SEC. 2. *Misrepresentation or False or Misleading Advertising.*—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 otherwise having the tendency or capacity to mislead or deceive customers or prospective customers.

SEC. 3. *Commercial Bribery.*—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.

SEC. 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.

SEC. 5. *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 thereto, by any scheme which involves lottery, misrepresentation, or fraud.

SEC. 6. 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.

SEC. 7. *Threats of Litigation.*—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.

SEC. 8. *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.

SEC. 9. *Selling at Less than Published Prices.*—The selling of any Product to any purchaser thereof at less than the published price applicable to such class of purchaser; or to effect a lower price by

any means whatsoever, either directly or indirectly, or by any subterfuge, or to use or effect a lower price than that published for all customers of the same class.

SEC. 10. *Secret Rebates.*—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned 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.

SEC. 11. *Selling Below Cost.*—The selling of the Product below the manufacturer's individual cost except to meet any price published by another manufacturer in accordance with Article VII; in meeting these prices the manufacturer shall comply with all the provisions of Article VII. Cost shall be determined by such method as is prescribed by the Code Authority and approved by the Administrator.

SEC. 12. *Consignment, Free Goods, or False Billing.*—Shipping goods on consignment or storing goods in any place where a flooring contractor or dealer has any interest, or hiring a warehouse from customer except where the customer may have or own an interest in a public warehouse in which the customer's place of business is not located; or in any way delivering free goods to any customer or prospective customer; or invoicing goods to any other person than the person by whom payment is to be made; or making any fictitious invoice for any shipment; paying a price in excess of the prevailing open-market price for any product of this Industry; paying for materials of his own manufacture more than the original net delivered cost thereof.

SEC. 13. Informing any customer or prospective customer, directly or indirectly, of any change or contemplated change in any price and/or discount prior to the date on which such price and/or discount is to be published to the trade.

SEC. 14. *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 provision of the Act or of this Code.

ARTICLE XII—MERCHANDISING PLAN

The following shall constitute the Merchandising Plan of the Industry:

SECTION 1. *Classification of Customers.*—The following classifications of customers shall be used by all members of the Industry when publishing to the trade and filing with the Code Authority schedules of prices, discounts, allowances, rebates, or terms of sale and notices of changes therein. If said classification by virtue of its application works hardship on any customer, such customer may appeal to the Code Authority which shall have power to reclassify such customer as justice requires.

(a) **Flooring Contractor:** A flooring-covering Contractor who actively engages in the solicitation and installation of the Product, who possesses a good reputation for high quality workmanship and business integrity; who will sign a standard form of contract with a single member of the Industry for the purchase of his entire requirements, which standard form of contract shall be designed to conform to the practice under and the provisions of the Code, and to be approved by the Code Authority and the Administrator.

(b) **Dealer:** A floor-covering contractor who engages in the solicitation of and/or installation of the Product; who possesses a good reputation for high quality workmanship and business integrity, but who otherwise does not comply with the qualifications of a flooring contractor.

(c) **Consumer:** Any customer who purchases the Product for use and installation for himself and not for resale.

SEC. 2. *Method of Listing Flooring Contractors.*—Each member of the Industry shall determine his own trade classification of customers, and when determined shall file with the Code Authority lists of flooring contractors and dealers classified.

SEC. 3. *Segregation of Items.*—In all bids, proposals, quotations, and invoices involving materials other than the Product, the price to be charged on each shall be segregated so that the product shall be separate and distinct from all other items.

ARTICLE XIII—GENERAL

SECTION 1. Nothing contained in the Code shall be deemed to constitute any of the members thereof partners for any purpose. No member of the Code shall be liable in any manner to anyone for any act of any member or agent of the Code Authority or of the Association. No member of the Code, except as otherwise provided herein, and no member of the Industry or of the Code Authority and no agent of the Industry or of the Association, shall be liable to anyone or in any manner other than as provided in the Act, or in the Code, for any act or failure to act under the Code.

SEC. 2. 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 Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under said Act.

SEC. 3. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator, and such notice and hearing as he shall specify, and to become effective on approval of the President. The Members of this Industry assenting to this Code do not thereby consent to any modification thereof, and they reserve the right to object individually or jointly to any such modification.

The provisions of this Code shall remain in effect until and unless modified or eliminated in accordance with the foregoing provisions

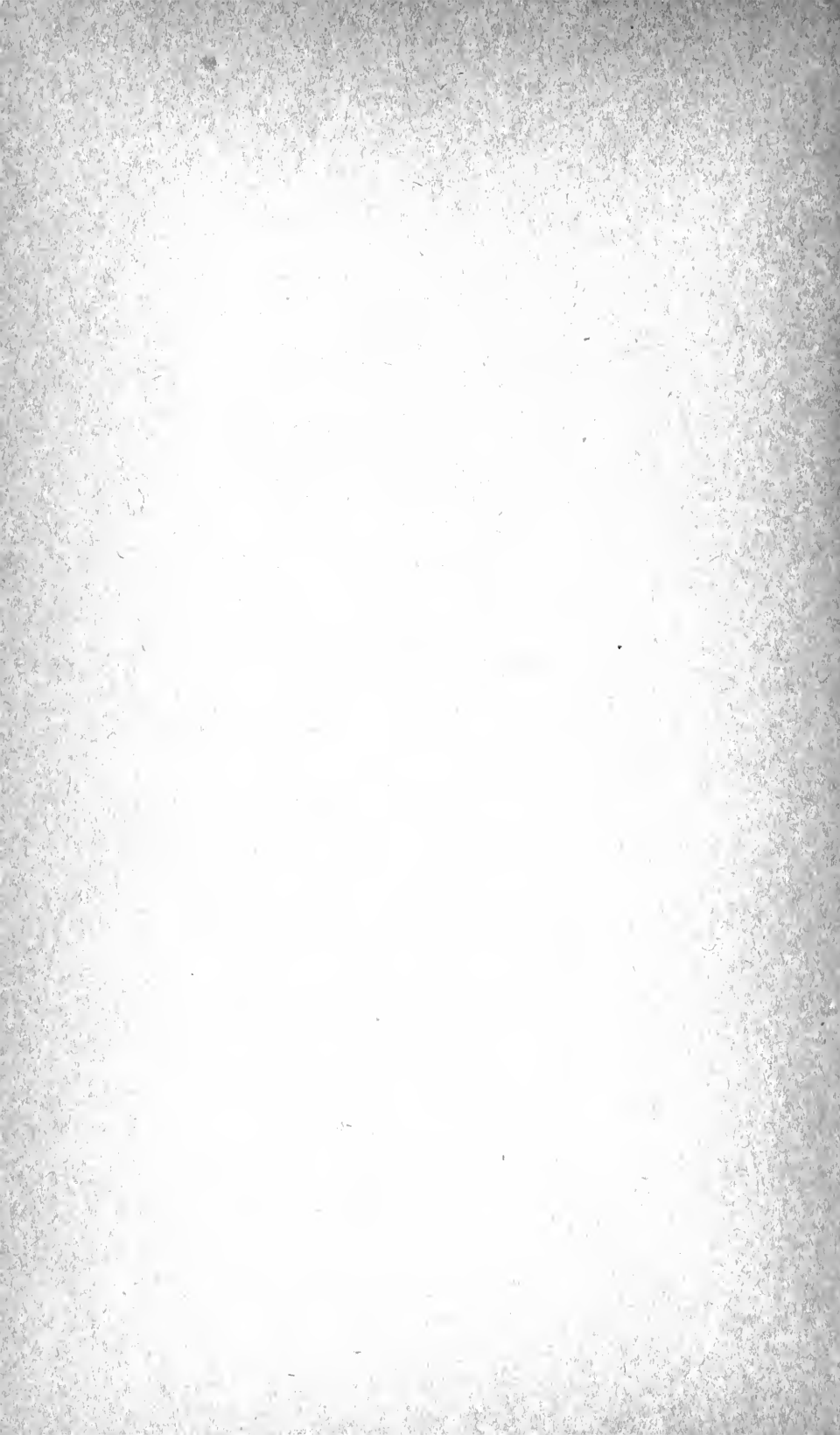
of Section 2 hereof and of this Section 3, or until the expiration of the Act, namely, June 16, 1935, or sooner, if the President shall, by proclamation, or Congress shall, by joint resolution, declare the emergency recognized by Section 1, Title 1, of the Act, has ended.

ARTICLE XIV—EFFECTIVE DATE

This code shall become effective on the second Monday after its approval by the President.

Approved Code No. 150.
Registry No. 1003-03.





LABOR PROVISIONS

EXECUTIVE ORDER

LABOR PROVISIONS FOR THE CODE OF FAIR COMPETITION FOR THE
RETAIL FOOD AND GROCERY TRADE

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 labor provisions for the retail food and grocery trade, and hearings having been held thereon by the Administrator pursuant to Executive order of June 26, 1933, and amendment thereto of October 20, 1933, and an application having been duly made to the Administrator for approval of the labor provisions for the retail food and grocery trade at this time, and the Administrator having rendered his report containing an analysis of said labor provisions, together with his recommendations and findings with respect thereto, and the Administration having found that the said labor provisions comply in all respects with the pertinent provisions of title I of said act, and that the requirements of subsection (a) of section 7 and subsection (b) of section 10 of the 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 labor provisions for the retail food and grocery trade be and are hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 15, 1933.

LETTERS OF TRANSMITTAL

NOVEMBER 4, 1933.

The formal hearing on these Labor Provisions was held on October 5, 1933, pursuant to a notice issued by the Secretary of Agriculture September 27, 1933, under Title I of the National Industrial Recovery Act.

In conformity with the procedure as agreed upon by the Legal Divisions of the Agricultural Adjustment Administration and the National Recovery Administration, it is requested that these provisions should be transmitted to the President through the Secretary of Agriculture, and a letter of transmittal has been prepared for the Administrator's convenience.

The Secretary of Agriculture will simply transmit these provisions to the President.

NOVEMBER 4, 1933.

HONORABLE HENRY A. WALLACE,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: The Labor Provisions for the Retail Food and Grocery Trade have been submitted to me for recommendation to the President, for his approval, pursuant to Executive Order of June 26, 1933.

I am advised that, inasmuch as the hearing on these provisions was held pursuant to Notice issued by you on September 28, 1933, it is in order for you to formally transmit these Labor Provisions for the Retail Food and Grocery Trade to the President.

I therefore request that the Labor Provisions and supporting documents enclosed herewith be forwarded now to the President. I will greatly appreciate your kind offices in this matter.

Very truly yours,

HUGH S. JOHNSON,
Administrator.

NOVEMBER 4, 1933.

THE PRESIDENT,
The White House.

SIR: I have the honor to submit and recommend for your approval the Labor Provisions for the Retail Food and Grocery Trade.

By Executive Order of June 26, 1933, and amendment thereto of October 20, 1933, the power to approve or disapprove provisions of any Code of Fair Competition referring to "the determination and administration of provisions relating to hours of labor, rates of pay, and other conditions of employment" in trades, industries, or subdivisions thereof, and engaged principally in the handling of all foods and foodstuffs, are reserved to the President pursuant to the authority vested in him by Title I of the National Industrial Recovery Act. Pursuant to this Executive Order the National Recovery Administration held a public hearing on the Labor Provisions for the Retail Food and Grocery Trade on October 5, 1933, in the Auditorium of the Chamber of Commerce of the United States of America, and the Deputy Administrator in charge has recommended the approval of these provisions in the report transmitted herewith, which I approve and adopt.

In the report of the Deputy Administrator it appears that:

(1) The provisions relating to maximum hours of labor are believed to be such that employment and purchasing power in the trade will be restored to at least the 1929 level.

(2) No employer in the trade will employ any minor under the age of (16) years, except that persons fourteen (14) and fifteen (15) years of age may be employed during such hours as will not conflict with hours of day school; provided, however, that when a State law specifies a higher minimum age, no member of the trade shall employ within said State any person below the age specified by such State law.

(3) Briefs were filed and statements were made at the hearing on these provisions which describe conditions of employment in the retail stores, and living conditions, and the provisions as contained in the Code will, it is believed, raise the standard of living above that of any previous period in the history of the Retail Food and Grocery Trade.

I find that:

(1) The Labor Provisions for the Retail Food and Grocery Trade submitted herewith comply in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(2) The associations submitting the Code impose no inequitable restrictions on admission to membership and are truly representative of the Retail Food and Grocery Trade; and that

(3) The Labor Provisions are not designed to promote monopolies or monopolistic practices 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.

Accordingly, I hereby recommend the approval of the Labor Provisions for the Retail Food and Grocery Trade.

Respectfully,

HUGH S. JOHNSON.
Administrator.

LABOR PROVISIONS FOR THE RETAIL FOOD AND GROCERY TRADE

To effectuate the policies of Title I of the National Industrial Recovery Act, and pursuant to the Executive Order of the President of the United States, dated June 26, 1933, and amendment thereto of October 20, 1933, reserving to the National Recovery Administration the power and function to determine and administer provisions relating to hours of labor, rates of pay, and other conditions of employment with respect to trades engaged in the handling of food and foodstuffs, the following provisions are established as a Code of Labor Provisions for the Retail Food and Grocery Trade.

ARTICLE I—REQUEST FOR SEPARATE CODE

Any division of the retail food and grocery trade which has not participated in the formation or establishment of this Code may make application to the Administrator to operate under a separate Code of Labor Provisions. The Administrator shall determine whether such division of the retail food and grocery trade shall operate under this Code or under a separate Code and may, if justice requires, stay the application of this Code to such division pending his decision or pending the approval by the President of the United States of a Code of Labor Provisions for such division.

ARTICLE II—DEFINITIONS

SECTION 1. *Retail food and grocery trade.*—The term “retail food and grocery trade” as used herein shall mean all selling of food and/or grocery products to the consumer and not for purposes of resale in any form, in the continental United States excluding the Panama Canal Zone, but shall not include the selling of food in restaurants for consumption upon the premises, or in confectioners’ stores, or the selling of milk or its products by delivery from house to house upon regular routes. It is provided, however, that the term shall not include the selling of any food or grocery products which is now or may hereafter be governed by a separate code approved by the President of the United States; and provided further, that this Code shall not apply to employers engaged only locally in retail trade who do not employ more than five persons and who are located in towns of less than 2,500 population (according to the 1930 Federal Census), which are not in the immediate trade area of a city of larger population.

SEC. 2. *Food and grocery retailer.*—The term “food and grocery retailer” as used herein shall mean any individual or organization engaged wholly or partially in the retail food and grocery trade.

SEC. 3. *Retail food and grocery establishment.*—The term “retail food and grocery establishment” or “establishment” as used herein

shall mean any store, department of a store, shop, stand, or other place where a food and grocery retailer carries on business other than those places where the principal business is the selling at retail of products not included within the definition of retail food and grocery trade.

SEC. 4. *Employee*.—The term “employee” as used herein shall mean any person employed by any food and grocery retailer, but shall not include persons employed principally in the selling at retail of products not included within the definition of retail food and grocery trade.

SEC. 5. *Executive*.—The term “executive” as used herein shall mean an employee responsible for the management of a business or a recognized subdivision thereof.

SEC. 6. *Maintenance employee*.—The term “maintenance employee” as used herein shall mean an employee essential to the upkeep and/or preservation of the premises and property of a retail food and grocery establishment.

SEC. 7. *Outside service employee*.—The term “outside service employee” as used herein shall mean an employee engaged primarily in delivering merchandise outside the store, and shall include stable and garage employees.

SEC. 8. *Outside salesman*.—The term “outside salesman” as used herein shall mean a salesman who is engaged not less than sixty (60) percent of his working hours outside the establishment, or any branch thereof by which he is employed.

SEC. 9. *Watchman*.—The term “watchman” as used herein shall mean an employee engaged primarily in safeguarding the premises and property of a retail food and grocery establishment.

SEC. 10. *Junior employee*.—The term “junior employee” as used herein shall mean an employee under eighteen (18) years of age.

SEC. 11. *Apprentice employee*.—The term “apprentice employee” as used herein shall mean an employee with less than six (6) months’ experience in any division of the retail food and grocery trade.

SEC. 12. *Part-time employee*.—The term “part-time employee” as used herein shall mean an employee who works for less than the maximum work week.

SEC. 13. *South*.—The term “South” as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico, Texas, and the District of Columbia.

SEC. 14. *Population*.—Population shall be determined by reference to the Fifteenth Census of the United States (United States Department of Commerce, Bureau of the Census, 1930).

ARTICLE III—EFFECTIVE DATE AND EXPIRATION DATE

This Code shall become effective on the seventh day after it shall have been approved by the President of the United States, and shall continue in effect until December 31, 1933, provided that if prior to such date the associations presenting this Code shall request that the same shall be continued, then it shall continue in effect until the expiration of the time contained in such request.

ARTICLE IV—GENERAL LABOR PROVISIONS

SECTION 1. *Collective bargaining.*—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) 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.

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

SEC. 2. *Child labor.*—On and after the effective date of this Code, no person under the age of sixteen (16) years of age shall be employed, except that persons fourteen (14) and fifteen (15) years of age may be employed either—

(a) For a period not to exceed three (3) hours per day on six (6) days per week; or

(b) For one day per week, such day not to exceed eight (8) hours.

In either case, all such hours of work shall be between 7 a.m. and 7 p.m., and shall not conflict with the employee's hours of day school.

It is provided, however, that no persons under the age of sixteen (16) years shall be employed in delivery merchandise from motor vehicles.

It is further provided that where a State law prescribes a higher minimum age, no person below the age specified by such State law shall be employed within such State.

ARTICLE V—STORE HOURS AND HOURS OF LABOR

SECTION 1. *Basic hours of labor.*—No employee, except as hereafter provided, shall work more than forty-eight (48) hours per week, nor more than ten (10) hours per day, nor more than six (6) days per week.

SEC. 2. *Exception to maximum hours of labor.*—(a) *Watchmen and outside salesmen.*—The maximum periods of labor prescribed in Section 1 of this Article shall not apply to watchmen or outside salesmen, but in no case shall such employees work more than six (6) days per week.

(b) *Maintenance and outside service employees.*—The maximum periods of labor prescribed in Section 1 of this Article shall not apply to maintenance and outside service employees; but such employees shall not work more than six (6) hours per week above the maximum hours per week otherwise prescribed in Section 1 unless they are paid at the rate of time and one third for all hours over such additional six (6) hours per week.

(c) *Executives.*—Subject to the conditions set forth in Section 3 of this Article, executives receiving \$35 or more per week in cities

of over 500,000 population, or receiving \$30 or more per week in cities of 100,000 to 500,000 population, or receiving \$27.50 or more per week in cities of 25,000 to 100,000 population, or receiving \$25 or more per week in cities, towns, and villages and other places under 25,000 population may work in excess of the maximum periods of labor prescribed in Section 1 of this Article.

It is provided, however, that an establishment which operates a grocery and meat department as separate units shall be permitted to exempt one worker in addition to the proprietor or executive as provided above from all restrictions upon hours, provided that such additional worker shall not receive less than \$25 per week.

In the South executives receiving not less than 10 percent below the salaries stipulated above may work in excess of the maximum periods of labor.

It is provided, however, that in no case shall executives work in excess of one half hour above the established daily store-operating hours.

SEC. 3. Limitation upon number of persons working in excess of the maximum periods of labor prescribed in Section 1.—Notwithstanding the provisions of the foregoing Sections of this Article, the total number of workers in any grocery or meat department (whether such workers are executives, proprietors, partners, persons not receiving monetary wages, or others), which shall be permitted to work in excess of the maximum periods of labor prescribed in Section 1 of this Article shall not exceed the following ratio:

In grocery or meat departments comprised of twenty (20) workers or less, the total number of workers permitted to work in excess of the maximum periods of labor prescribed in Section 1, except watchmen, outside salesmen, and maintenance and outside service employees) shall not exceed one (1) worker for every five (5) workers or fraction thereof; in departments comprised of more than twenty (20) workers, the total number of workers permitted to work in excess of the maximum period of labor prescribed in Section 1 (except watchmen, outside salesmen, and maintenance and outside service employees) shall not exceed one (1) worker for every five (5) workers for the first twenty (20) workers, and one (1) worker for every eight (8) workers above twenty (20).

SEC. 4. Peak periods.—At Christmas, inventory, and other peak times, for a period not to exceed two weeks in the first six months of the calendar year and not to exceed three weeks in the second six months, all employees may work eight (8) hours per week above the basic work week prescribed in Section 1 of this Article, but not more than ten (10) hours per day. Such work may be without the payment of overtime.

SEC. 5. Hours of work to be consecutive.—The hours worked by any employee during each day shall be consecutive, provided that an interval not longer than one hour may be allowed for each regular meal period, and such interval not counted as part of the employee's working time. Any rest period which may be given employees shall not be deducted from such employee's working time. In communities where a longer lunch period has been customary, any establishment may with permission of the local Food and Grocery Council allow employees a longer period than one

hour for lunch, but such period shall in no event exceed one and a half hours.

SEC. 6. *Extra working hour one day a week.*—On one day each week' employees may work one extra hour, but such hour is to be included within the maximum hours permitted each week.

SEC. 7. *Conflict with State laws.*—When any State law prescribes for any class of employee shorter hours of labor than those prescribed in this Article, no employee included within such class shall be employed within such State for a greater number of hours than such State law allows.

SEC. 8. *Agreement for uniformity of hours.*—In any retail trade area, town, or city, the retail food and grocery establishments may by mutual agreement of seventy five (75) percent of such establishments, subject to the approval of the Administrator, establish uniform store operating hours which shall be binding upon all retail food and grocery establishments within such area, town, or city, for a period not to exceed one year, subject to renewal by similar mutual agreement.

Hours so established shall not be less than sixty three (63) hours per week, except that any establishment which was operating upon a schedule of less than sixty three (63) hours per week on June 1, 1933, may continue to operate upon such basis but shall not reduce such hours. Hours so established shall be continuous, but every establishment shall have the right to select the days and the hours when it shall operate.

It is provided, however, that any delicatessen store whose principal business is serving, preparing, and selling foods ready for immediate consumption, may operate longer hours than those prescribed by such local agreement.

All establishments shall register the operating hours they select with the local administrative committee, and shall post such hours in a conspicuous place in the establishment.

ARTICLE VI—WAGES

SECTION 1. *Basic schedule of wages.*—On and after the effective date of this Code, the minimum weekly rates of wages which shall be paid for a work week as specified in Article IV—whether such wages are paid upon an hourly, weekly, monthly, commission, or any other basis—shall, except as provided hereafter, be as follows:

(a) *Within cities of over 500,000 population* no employee shall be paid less than at the rate of \$15 per week.

(b) *Within cities of from 100,000 to 500,000 population* no employee shall be paid less than at the rate of \$14 per week.

(c) *Within cities of from 25,000 to 100,000 population* no employee shall be paid less than at the rate of \$13 per week.

(d) *Within cities, towns, and villages of from 2,500 to 25,000 population* the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$11 per week, and, provided further, that no employee shall be paid less than at the rate of \$10 per week.

(e) *Within cities, towns, villages, and other places with less than 2,500 population* the wages of all classes of employees shall be

increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$10 per week.

(f) The minimum wage paid to watchmen, maintenance, and outside service employees shall be upon the basis of a forty-eight (48) hour employee work week.

SEC. 2. *Outside salesmen.*—The minimum wages specified above shall not apply to outside salesmen when employed on a commission basis.

SEC. 3. *Juniors and apprentices.*—Junior or apprentice employees may be paid at the rate of \$1 less per week than the minimum wage otherwise applicable; it is provided, however, that no individual employee shall be classified as both a junior and an apprentice employee; and it is further provided that the number of employees classified as junior and apprentice employees, combined, shall not exceed a ratio of one such employee to every five (5) employees or fraction thereof up to twenty (20), and one such employee for every ten (10) employees above twenty (20).

SEC. 4. *Messenger and delivery boys.*—The minimum wage prescribed in the foregoing Section shall not apply to messenger and delivery boys in the South; provided, however, that an increase of twenty (20) percent in the rate of pay as of June 1, 1933, of such classes of employees shall become operative upon the effective date of this Code up to the minimum rate of pay established in the preceding Section.

SEC. 5. *Part-time employees.*—Part-time employees shall be paid not less than at an hourly rate proportionate to the rate specified in the foregoing Sections of this Article.

SEC. 6. *Southern wage differential.*—In the South, within cities of over 25,000 population, the minimum wages prescribed in the foregoing Sections may be at the rate of \$1 less per week; within cities, towns, and villages of from 2,500 to 25,000 population, the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent; provided that this shall not require an increase in wages to more than the rate of \$10 per week, and provided further that no employee shall be paid less than at the rate of \$9 per week except as provided in Sections 2 and 3 of this Article; within cities, towns, villages, and other places under 2,500 population, the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$9 per week.

SEC. 7. *Weekly wages above minimum not to be reduced.*—The weekly wages of all employees receiving more than the minimum wages specified in this Article shall not be reduced below the rates on June 1, 1933, notwithstanding any reduction in the number of working hours of such employees.

SEC. 8. *Conflict with State laws.*—When any State law prescribes for any class of employee of either sex a higher minimum wage than that prescribed in this Article, no employee of such class of either sex employed within that State shall be paid less than such State law requires.

ARTICLE VII—ADMINISTRATION

SECTION 1. *National Food and Grocery Distributors' Council.*—

(a) *Composition.*—The National Food and Grocery Distributors' Council shall consist of one member, elected by a fair method of selection approved by the Administrator, by each of the national trade associations presenting this Code of Labor Provisions, one member similarly elected from any other association which the Administrator upon application shall recognize as representing an important branch of the retail food and grocery trade, and such other members as may be elected from the wholesale food and grocery trade in accordance with a Code of Labor Provisions for such trade approved by the President of the United States.

The Administrator may appoint a representative or representatives who may participate without vote in all activities of the Council.

The National Food and Grocery Distributors' Council shall serve until a successor body shall have been set up and approved by the President of the United States to assist in the joint administration of this Code of Labor Provisions and such other Code of Fair Competition as may subsequently be approved by the President.

(b) *General powers.*—The National Food and Grocery Distributors' Council shall represent the retail food and grocery trade in the administration of this Code, and shall have, in addition to the specific powers herein conferred, all general powers necessary to assist the Administrator or his deputy in such administration.

(c) *Reports and investigations.*—The National Food and Grocery Distributors' Council, subject to the approval or upon the request of the Administrator, shall require from all retailers such reports as are necessary to effectuate the purposes of this Code and may, upon its own initiative or upon complaint of any person affected, make investigation as to the functioning and observance of any provisions of the Code and report the results of such investigation to the Administrator.

(d) *Recommendations.*—The National Food and Grocery Distributors' Council may from time to time present to the Administrator recommendations based on conditions in the trade, which will tend to effectuate the operation of the provisions of this Code, and the policy of the National Industrial Recovery Act. Such recommendations shall, upon approval by the Administrator, become operative as part of this Code.

(e) *State and local councils.*—The National Food and Grocery Distributors' Council shall, subject to the approval of the Administrator, supervise the setting up of State and local councils for the purpose of assisting in the administration of this Code within the States and local trading areas.

(f) *Expenses.*—The expenses of the administration of this Code shall be equitably assessed and collected by the Council, subject to the approval of the Administrator.

SEC. 2. *Interpretations.*—The Administrator may from time to time, after consultation with the National Food and Grocery Distributors' Council, issue such administrative interpretations of the

various provisions of this Code as are necessary to effectuate its purposes, and such interpretations shall become operative as part of this Code.

SEC. 3. *Exceptions in cases of unusual or undue hardship.*—Where the operation of the provisions of this Code imposes an unusual or undue hardship upon any retailer or group of retailers, such retailer or group of retailers may make application for relief to the Administrator or to his duly authorized agent, and the Administrator or his agent may after such public notice and hearing as he may deem necessary, grant such exceptions to or modification of the provisions of this Code as may be required to effectuate the purposes of the National Industrial Recovery Act.

ARTICLE VIII—GENERAL

SECTION 1. Membership in the national retail associations represented upon the National Food and Grocery Distributors' Council shall be open to all retailers of that branch of the retail food and grocery trade which said associations respectively represent, and said associations shall impose no inequitable restrictions upon admission to membership therein.

SEC. 2. The provisions of this Code shall not be interpreted or applied to promote monopolies or monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

SEC. 3. No establishment shall use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to shorten hours of work, and to raise wages to a living basis.

SEC. 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 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.

SEC. 5. Such of the provisions of this Code as are not required to be included herein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in conditions or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code, or additional codes, will be submitted for the approval of the President, to prevent unfair competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act.

EXECUTIVE ORDER

LABOR PROVISIONS FOR THE CODE OF FAIR COMPETITION FOR THE WHOLESALE FOOD AND GROCERY TRADE

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 Labor Provisions for the Wholesale Food and Grocery Trade, and hearings having been held thereon by the Administrator pursuant to Executive order of June 26, 1933, and amendment thereto of October 20, 1933, and an application having been duly made to the Administrator for approval of the Labor Provisions of the Wholesale Food and Grocery Trade at this time, and the Administrator having rendered his report containing an analysis of said Labor Provisions, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Labor Provisions comply in all respects with the pertinent provisions of Title I of said act, and that the requirements of subsection (a) of section 7 and subsection (b) of section 10 of the 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 Labor Provisions for the Wholesale Food and Grocery Trade be and are hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 15, 1933.

LETTERS OF TRANSMITTAL

NOVEMBER 4, 1933.

The formal hearing on these Labor Provisions was held on October 6, 1933, pursuant to a notice issued by the Secretary of Agriculture September 27, 1933, under Title I of the National Industrial Recovery Act.

In conformity with the procedure as agreed upon by the Legal Divisions of the Agricultural Adjustment Administration and the National Recovery Administration it is requested that these provisions should be transmitted to the President through the Secretary of Agriculture, and a letter of transmittal has been prepared for the Administrator's convenience.

The Secretary of Agriculture will simply transmit these provisions to the President.

NOVEMBER 4, 1933.

HONORABLE HENRY A. WALLACE,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: The Labor Provisions for the Wholesale Food and Grocery Trade have been submitted to me for recommendation to the President, for his approval, pursuant to Executive Order of June 26, 1933.

I am advised that, inasmuch as the hearing on these provisions was held pursuant to Notice issued by you on September 28, 1933, it is in order for you to formally transmit these Labor Provisions for the Wholesale Food and Grocery Trade to the President.

I therefore request that the Labor Provisions and supporting documents enclosed herewith be forwarded now to the President. I will greatly appreciate your kind offices in this matter.

Very truly yours,

HUGH S. JOHNSON,
Administrator.

NOVEMBER 4, 1933.

The PRESIDENT,
The White House.

SIR: I have the honor to submit and recommend for your approval the Labor Provisions for the Wholesale Food and Grocery Trade.

By Executive Order of June 26, 1933, and amendment thereto of October 20, 1933, the power to approve or disapprove provisions of any Code of Fair Competition referring to "the determination and administration of provisions relating to hours of labor, rates of pay, and other conditions of employment" in trades, industries, or subdivisions thereof, and engaged principally in the handling of all foods and foodstuffs, are reserved to the President pursuant to the authority vested in him by Title I of the National Industrial Recovery Act. Pursuant to this Executive Order the National Recovery Administration held a public hearing on the Labor Provisions for the Wholesale Food and Grocery Trade on October 6, 1933, in the Auditorium of the Chamber of Commerce of the United States of America, and the Deputy Administrator in charge has recommended the approval of these provisions in the report transmitted herewith, which I approve and adopt.

In the report of the Deputy Administrator it appears that:

(1) The provisions relating to maximum hours of labor are believed to be such that employment and purchasing power in the trade will be restored to at least the 1929 level.

(2) No employer in the trade will employ any minor under the age of sixteen (16) years; provided, however, that when a State law specifies a higher minimum age no member of the trade shall employ within said State any person below the age specified by such State law.

(3) Briefs were filed and statements were made at the hearing on these provisions which describe conditions of employment in the wholesale stores, and living conditions, and the provisions as contained in the Code will, it is believed, raise the standard of living above that of any previous period in the history of the Wholesale Food and Grocery Trade.

I find that:

(1) The Labor Provisions for the Wholesale Food and Grocery Trade submitted herewith comply in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(2) The associations submitting the Code impose no inequitable restrictions on admission to membership and are truly representative of the Wholesale Food and Grocery Trade; and that

(3) The Labor Provisions are not designed to promote monopolies or monopolistic practices 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.

Accordingly, I hereby recommend the approval of the Labor Provisions for the Wholesale Food and Grocery Trade.

Respectfully,

HUGH S. JOHNSON,
Administrator.

LABOR PROVISIONS FOR THE WHOLESALE FOOD AND GROCERY TRADE

To effectuate the policies of Title I of the National Industrial Recovery Act, and pursuant to the Executive Order of the President of the United States, dated June 26, 1933, and amendment thereto of October 20, 1933, reserving to the National Recovery Administration the power and function to determine and administer provisions relating to hours of labor, rates of pay, and other conditions of employment with respect to trades engaged in the handling of food and foodstuffs, the following provisions are established as a Code of Labor Provisions for the Wholesale Food and Grocery Trade.

ARTICLE I—REQUEST FOR SEPARATE CODE

Any division of the wholesale food and grocery trade which has not participated in the formation or establishment of this Code may make application to the Administrator to operate under a separate Code of Labor Provisions. The Administrator shall determine whether such division of the wholesale food and grocery trade shall operate under this Code or under a separate Code, and may, if justice requires, stay the application of this Code to such division pending his decision or pending the approval by the President of the United States of a Code of Labor Provisions for such division.

ARTICLE II—DEFINITIONS

SECTION 1. *Wholesale food and grocery trade.*—The term “wholesale food and grocery trade” as used herein shall mean all selling or supplying to retailers, industrial buyers, restaurants, or institutions, of food and/or grocery products in the Continental United States, excluding the Panama Canal Zone, provided the term shall not include the selling or supplying of any food or grocery products which is now or may hereafter be governed by a separate code approved by the President of the United States.

SEC. 2. *Food and grocery wholesaler.*—The term “food and grocery wholesaler” as used herein shall mean any individual or organization engaged wholly or partially in the wholesale food and grocery trade.

SEC. 3. *Wholesale food and grocery establishment.*—The term “wholesale food and grocery establishment” or “establishment” as used herein shall mean any warehouse, office, or department of any other establishment where a food and grocery wholesaler carries on business, other than those places where the principal business is the selling of merchandise at retail or the selling at wholesale of products not included within the definition of wholesale food and grocery trade.

SEC. 4. *Employee*.—The term “employee” as used herein shall mean any person employed by any food and grocery wholesaler, but shall not include persons employed principally in the selling or handling of products not included within the definition of wholesale food and grocery trade.

SEC. 5. *Executive*.—The term “executive” as used herein shall mean an employee responsible for the management of a business or a recognized subdivision or department thereof.

SEC. 6. *Professional person*.—The term “professional person” as used herein shall mean research technicians, advertising specialists, and other persons engaged in occupations requiring a special discipline and special attainments.

SEC. 7. *Outside salesman*.—The term “outside salesman” as used herein shall mean a salesman who is engaged not less than sixty (60) percent of his working hours outside the establishment, or any branch thereof, by which he is employed.

SEC. 8. *Outside collector*.—The term “outside collector” as used herein shall mean a collector of accounts who is engaged not less than sixty (60) percent of his working hours outside the establishment, or any branch thereof, by which he is employed.

SEC. 9. *Maintenance employee*.—The term “maintenance employee” as used herein shall mean an employee who, through special training or mechanical ability, is essential to the upkeep and/or preservation of the premises and property of the establishment, and shall not include such workers as porters, elevator operators, janitors, and cleaners.

SEC. 10. *Outside service employee*.—The term “outside service employee” as used herein shall mean an employee engaged primarily in delivering, installing, or servicing merchandise outside the establishment, and shall include stable and garage employees.

SEC. 11. *Watchman*.—The term “watchman” as used herein shall mean an employee engaged primarily in safeguarding the premises and property of the establishment.

SEC. 12. *Junior employee*.—The term “junior employee” as used herein shall mean an employee under eighteen (18) years of age.

SEC. 13. *Apprentice employee*.—The term “apprentice employee” as used herein shall mean an employee with less than six (6) months’ experience in the wholesale food and grocery trade.

SEC. 14. *Part-time employee*.—The term “part-time employee” as used herein shall mean an employee who works for less than the maximum workweek.

SEC. 15. *South*.—The term “South” as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Texas, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico, and the District of Columbia.

SEC. 16. *Population*.—Population shall be determined by reference to the Fifteenth Census of the United States (United States Department of Commerce, Bureau of the Census, 1930).

ARTICLE III—EFFECTIVE DATE

The effective date of this Code shall be the second Monday after its approval by the President of the United States.

ARTICLE IV—GENERAL LABOR PROVISIONS

SECTION 1. *Collective Bargaining.*—(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) 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.

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

SEC. 2. *Child labor.*—On and after the effective date of this Code, no person under the age of sixteen (16) years shall be employed.

It is provided, however, that where a State Law prescribes a higher minimum age, no person below the age specified by such State law shall be employed within such State.

ARTICLE V—OPERATING HOURS AND HOURS OF LABOR

SECTION 1. *Operating hours.*—No wholesale grocer shall operate on a schedule of less than fifty-two (52) hours per week, except that where any wholesaler was operating less than fifty-two (52) hours per week prior to June 1, 1933, the minimum requirement shall not apply nor shall such hours be reduced.

SEC. 2. *Basic hours of labor.*—No employee, except as hereafter provided, shall work more than forty-four (44) hours per week, nor more than nine (9) hours per day, nor more than six (6) days per week.

SEC. 3. *Exceptions to maximum hours of labor.*—(a) *Professional persons.*—The maximum periods of labor prescribed in Section 2 of this Article shall not apply to professional persons employed and working at their profession.

(b) *Outside salesmen, outside collectors, and watchmen.*—The maximum periods of labor prescribed in Section 2 of this Article shall not apply to outside salesmen, outside collectors, and watchmen, but in no case shall such employees work more than six (6) days per week.

(c) *Outside service and sales department employees.*—The maximum periods of labor prescribed in Section 2 of this Article shall not apply to outside service employees, nor to billing and shipping clerks and cashiers working in conjunction with the outside service employees in work of such nature that any inequality of hours would interrupt the routine of the outside service department, but such employees shall not work more than forty-eight (48) hours per week unless they are paid at the rate of time and one third for all hours over forty-eight (48) hours per week.

(d) *Maintenance employees.*—The maximum periods of labor prescribed in Section 2 of this Article shall not apply to maintenance employees, but such employees shall not work more than forty-eight

(48) hours per week, unless they are paid at the rate of time and one third for all hours over forty-eight (48) hours per week.

(e) *Executives.*—The maximum periods of labor prescribed in Section 2 of this Article shall not apply to executives receiving not less than \$35.00 per week.

(f) *Peak periods.*—At Christmas and other peak times, for a period not to exceed two weeks in the first six months of the calendar year and not to exceed three weeks in the second six months, employees may work not more than fifty-two (52) hours per week and ten (10) hours per day.

For inventory purposes employees may work during one week in each calendar year (8) hours in excess of the maximum hours prescribed in Section 2 of this Article.

All such work may be without the payment of overtime.

SEC. 4. *Hours of work to be consecutive.*—The hours worked by any employee during each day shall be consecutive, provided that an interval not longer than one hour may be allowed for each regular meal period, and such interval need not be counted as part of the employee's working time. Any rest period which may be given employees shall not be deducted from such employee's working time. In communities where a longer lunch period has been customary any establishment may, with permission of the local Food and Grocery Council, allow employees a longer period than one hour for lunch, but such period shall in no event exceed one and a half hours.

SEC. 5. *Extra working hour one day a week.*—On one day each week, employees may work one extra hour, but such hour is to be included within the maximum hours permitted each week.

SEC. 6. *Conflict with State laws.*—When any State law prescribes for any class of employees shorter hours of labor than those prescribed in this Article, no employee included within such class shall be employed within such State for a greater number of hours than such State law allows.

SEC. 7. *Agreement for uniformity of store hours.*—Any wholesale trade area, containing ten (10) or more wholesale grocers, within a town or city, may by mutual agreement of two thirds ($\frac{2}{3}$) of its wholesale grocers, subject to the approval of the Administrator, establish uniform operating hours which shall be binding upon all wholesale grocers within such area.

ARTICLE VI—WAGES

SECTION 1. *Basic schedule of wages.*—On and after the effective date of this Code, the minimum weekly rates of wages which shall be paid for a work week as specified in Article IV—whether such wages are paid upon an hourly, weekly, monthly, commission, or any other basis—shall, except as provided hereafter, be as follows:

(a) *Within cities of over 500,000 population*, no employee shall be paid less than at the rate of \$14.50 per week for a forty-four (44) hour work week, or less than at the rate of \$15 per week for a forty-eight (48) hour work week.

(b) *Within cities of from 100,000 to 500,000 population*, no employee shall be paid less than at the rate of \$13.50 per week for a forty-four (44) hour work week, or less than at the rate of \$14 per week for a forty-eight (48) hour work week.

(c) *Within cities of from 25,000 to 100,000 population*, no employee shall be paid less than at the rate of \$12.50 per week for a forty-four (44) hour work week, or less than at the rate of \$13 per week for a forty-eight (48) hour work week.

(d) *Within cities, towns, villages under 25,000 population*, the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$11 per week, and provided further that no employees shall be paid less than at the rate of \$10 per week.

(e) The minimum wages of professional persons, outside collectors, watchmen, maintenance and outside service employees shall be upon the basis of a forty-eight (48) hour employee work week.

SEC. 2. *Outside salesmen.*—The minimum wages specified above shall not apply to outside salesmen, when employed on a commission basis.

SEC. 3. *Juniors and apprentices.*—Junior employees and apprentice employees may be paid at the rate of \$1 less than the minimum wage otherwise applicable. It is provided, however, that no individual employees shall be classified as both a junior and an apprentice employee, and it is further provided that the number of employees classified as junior and apprentice employees combined shall not exceed a ratio of one such employee to every five (5) employees or fraction thereof up to twenty (20), and one such employee for every ten (10) employees above twenty (20).

SEC. 4. *Employees physically incapacitated.*—Employees who are physically incapacitated may, of their own volition, waive their right to minimum wages, but no employer shall employ such workers at less than the rate of \$8 per week, and no employer shall include within the classification of physically incapacitated employees more than one employee for every twenty (20) employees, or fraction thereof.

SEC. 5. *Part-time employees.*—Part-time employees shall be paid not less than at an hourly rate proportionate to the rates specified in the foregoing Sections of this Article.

SEC. 6. *Southern wage differential.*—In the South all minimum wages specified in the foregoing Sections may be at the rate of \$1 less per week.

SEC. 7. *Weekly wages above minimum not to be reduced.*—The weekly wages of all employees receiving more than the minimum wages specified in this Article shall not be reduced below the rates existing on June 1, 1933, notwithstanding any reduction in the number of working hours of such employees.

SEC. 8. *Conflict with State laws.*—When any State law prescribes for any class of employees of either sex a higher minimum wage than that prescribed in this Article, no employee of such class of either sex employed within that State shall be paid less than such State law requires.

ARTICLE VII—ADMINISTRATION

SECTION 1. *National Food and Grocery Distributors' Council*—(a) *Composition.*—The National Food and Grocery Distributors' Council shall consist of one member, elected by a fair method of selection approved by the Administrator, by each of the national trade associa-

tions presenting this Code of Labor Provisions, one member similarly elected from any other association which the Administrator upon application shall recognize as representing an important branch of the wholesale food and grocery trade, and such other members as may be elected from the retail food and grocery trade in accordance with a Code of Labor Provisions for such trade approved by the President of the United States.

The Administrator may appoint a representative or representatives who may participate without vote in all activities of the Council.

The National Food and Grocery Distributors' Council shall serve until a successor body shall have been set up and approved by the President of the United States to assist in the joint administration of this Code of Labor Provisions and such other Code of Fair Competition as may subsequently be approved by the President.

(b) *General Powers.*—The National Food and Grocery Distributors' Council shall represent the wholesale food and grocery trade in the administration of this Code, and shall have, in addition to the specific powers herein conferred, all general powers necessary to assist the Administrator or his deputy in such administration.

(c) *Reports and investigations.*—The National Food and Grocery Distributors' Council, subject to the approval or upon the request of the Administrator, shall require from all wholesalers such reports as are necessary to effectuate the purposes of this Code and may, upon its own initiative or upon complaint of any person affected, make investigation as to the functioning and observance of any provisions of the Code and report the results of such investigation to the Administrator.

(d) *Recommendations.*—The National Food and Grocery Distributors' Council may from time to time present to the Administrator recommendations based on conditions in the trade, which will tend to effectuate the operation of the provisions of this Code, and the policy of the National Industrial Recovery Act. Such recommendations shall, upon approval by the Administrator, become operative as part of this Code.

(e) *State and local councils.*—The National Food and Grocery Distributors' Council shall, subject to the approval of the Administrator, supervise the setting up of State and local councils for the purpose of assisting in the administration of this Code within the States and local trading areas.

(f) *Expenses.*—The expenses of the administration of this Code shall be equitably assessed and collected by the Council, subject to the approval of the Administrator.

SEC. 2. *Interpretations.*—The Administrator may from time to time, after consultation with the National Food and Grocery Distributors' Council, issue such administrative interpretations of the various provisions of this Code as are necessary to effectuate its purposes, and such interpretations shall become operative as part of this Code.

SEC. 3. *Exceptions in cases of unusual or undue hardship.*—Where the operation of the provisions of this Code imposes an unusual or undue hardship upon any wholesaler or group of wholesalers, such wholesaler or group of wholesalers may make application for relief to the Administrator or to his duly authorized agent, and the Administrator or his agent may, after such public notice and hearing as he

may deem necessary, grant such exceptions to or modification of the provisions of this Code as may be required to effectuate the purposes of the National Industrial Recovery Act.

ARTICLE VIII—GENERAL

SECTION 1. Membership in the national wholesale associations represented upon the National Food and Grocery Distributors' Council shall be open to all wholesalers of that branch of the wholesale food and grocery trade which said associations, respectively, represent, and said associations shall impose no inequitable restrictions upon admission to membership therein.

SEC. 2. The provisions of this Code shall not be interpreted or applied to promote monopolies or monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

SEC. 3. No wholesaler shall use any subterfuge to frustrate the spirit and intent of this Code, which is, among other things, to increase employment by universal covenant, to shorten hours of work, and to raise wages to a living basis.

SEC. 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 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.

SEC. 5. Such of the provisions of this Code as are not required to be included herein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in conditions or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code, or additional codes, will be submitted for the approval of the President to prevent unfair competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act.

EXECUTIVE ORDERS

EXECUTIVE ORDER

An Executive order issued by me November 6, 1933, terminates on November 13, 1933, the stay now in effect of the provisions limiting machine hours in the Code of Fair Competition for the Cotton Textile Industry, insofar as such provisions apply to the production of tire yarns or fabrics for rubber tires. Upon application by parties affected, and it appearing to me that such parties require further opportunity for adjustment to the termination of said stay, and pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, the above-mentioned Executive order is hereby modified by extending the termination date of said stay to November 20, 1933, and said order is in all other respects affirmed.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

By R. W. LEA.

THE WHITE HOUSE,
November 13, 1933.

[No. 6424]

EXECUTIVE ORDER

DELEGATING AUTHORITY UNDER SECTION 2 (B) AND PRESCRIBING
RULES AND REGULATIONS UNDER SECTION 10 (A) OF TITLE I OF
NATIONAL INDUSTRIAL RECOVERY ACT

By virtue of the authority vested in me by sections 2 (b) and 10 (a) of title I of the National Industrial Recovery Act, approved June 16, 1933, Public, No. 67, Seventy-third Congress, I hereby delegate authority and prescribe rules and regulations necessary for carrying out the purposes of title I of said act as follows:

(a) The Administrator for Industrial Recovery shall cause to be made and shall adopt for the National Recovery Administration a seal of such device as he shall approve.

(b) Copies of any books, records, papers or documents of the National Recovery Administration and copies of any codes, agreements, orders, rules, or regulations approved, entered into, issued or prescribed under or in relation to title I of the National Industrial Recovery Act, authenticated under the seal of the National Recovery Administration by the Administrator for Industrial Recovery, or by anyone duly authorized to act for him, shall be admitted in evidence equally with the originals thereof.

(c) The Administrator for Industrial Recovery, and any officer or agency designated by him for the purpose, are authorized to certify or exemplify for any purpose for which certification or exemplification may be required or necessary, copies of any books, records, papers, or documents of the National Recovery Act, and copies of any codes, agreements, orders, rules, or regulations enumerated in paragraph (b) of this order.

(d) The Administrator for Industrial Recovery is authorized to prescribe such further rules and regulations as may be necessary to effectuate the purposes of this order.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 18, 1933.

[No. 6439]

EXECUTIVE ORDER

AUTHORIZING THE ADMINISTRATOR FOR INDUSTRIAL RECOVERY TO
MODIFY AGREEMENTS ENTERED INTO OR APPROVED BY THE
PRESIDENT UNDER TITLE I OF THE NATIONAL INDUSTRIAL RE-
COVERY ACT

WHEREAS I have heretofore issued certain Executive orders whereby, by virtue of authority vested in me by title I of the National Industrial Recovery Act of June 16, 1933 (Public, No. 67, 73d Cong.), I have entered into agreements with members of certain trades or industries providing that, upon specified conditions, they should operate under, and be bound by, certain provisions of certain codes of fair competition approved, or submitted for approval, under said title I of said act; and

WHEREAS it appears desirable to make provision for the modification of, or the granting of exceptions to, or exemptions from, said agreements in particular instances where compliance therewith would, on account of peculiar circumstances, cause undue hardship;

NOW, THEREFORE, by virtue of authority vested in me by said title I of said act, I hereby authorize and empower the Administrator for Industrial Recovery to make such modifications of, and grant such exceptions to, and exemptions from, said agreements, or any similar agreements hereafter entered into or approved by me by Executive order, as he may, after investigation, find necessary in particular instances in order to avoid undue hardship.

Nothing contained herein shall be construed to relate to modifications of, exceptions to, or exemptions from, codes of fair competition approved under said title I of said act.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 22, 1933.

[No. 6443]

EXECUTIVE ORDER

Executive orders issued by me November 6, 1933, and November 13, 1933, terminate on November 20, 1933, the stay now in effect of the provisions limiting machine hours in the Code of Fair Competition for the Cotton Textile Industry, insofar as such provisions apply to the production of tire yarns or fabrics for rubber tires. Upon application by parties affected further hearings have been set for November 27, 1933, upon the issues raised with respect to such provisions. Pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, the above-mentioned Executive orders are hereby modified by extending the termination date of said stay until the completion of said hearings and determination by me of the issues raised with respect to the above provisions.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator

THE WHITE HOUSE,
November 27, 1933.

[No. 6463]

EXECUTIVE ORDER

In order to effectuate the policy of title I of the National Industrial Recovery Act, approved June 16, 1933, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of said National Industrial Recovery Act, hereby prescribe the following rules and regulations which shall have the effect of modifying any inconsistent provisions of any order, approval, rule, or regulation heretofore issued under title I of said act.

1. By reason of confusion and misapprehension which has arisen regarding the meaning of certain commercial bribery provisions included in codes heretofore approved by me, I hereby interpret all such provisions to mean the following:

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

2. I further order that if commercial bribery provisions are hereafter included in codes they shall conform to the foregoing.

3. This order is intended to relate only to commercial bribery provisions and is not intended to interfere with an industry, if it so desires, dealing specifically with the subject of premiums in any way it may or shall have proposed if approved by me.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

[No. 6464]

EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE RETAIL TRADE, ORDER No. 7,
EXTENSION OF EFFECTIVE DATE OF ARTICLE IX, SECTION 4

A Code of Fair Competition for the Retail Trade was approved by me October 21, 1933. Upon application by parties affected, and it appearing to me that justice requires a postponement of the effective date of article IX, Section 4 of said code, in order to allow manufacturers of coupons and other forms of scrip the opportunity to adjust their business and in order to avoid a reduction of employment among such manufacturers, and pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, it is hereby ordered that the effective date of article IX, section 4, be extended to July 1, 1934, this order to become effective within 10 days of the date hereof unless cause to the contrary shall have been shown to the Administrator before that date.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
*Administrator.*THE WHITE HOUSE,
November 27, 1933.

[No. 6467]

EXECUTIVE ORDER

A Code of Fair Competition for the Cotton Textile Industry has been heretofore approved by me on certain terms and conditions. In accordance with the provisions of further Executive orders culminating in an Executive order, dated November 27, 1933, hearings have been granted by the Administrator to certain persons directly affected by the said code who have claimed that applications thereof have been unjust to them and have applied for an exemption therefrom with reference to the limitation of the use of productive machinery as applied to the production of tire yarns or fabric for rubber tires. The application of said code with reference to said limitation has been stayed pending a determination by me of the issues raised.

It appearing to me on the basis of the showing made at the hearings granted the applicants above mentioned, as set forth in the report thereon rendered to me by the Administrator, which is hereby adopted and approved, that no case of injustice and extreme hardship requiring special treatment has been made out by the above applicants,

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority and discretion vested in me under title I of the National Industrial Recovery Act approved June 16, 1933, and otherwise, do order that the application for exemption above described be and it is hereby denied, and that said stay shall be terminated and the provisions of said code with reference to the limitation of the use of productive machinery as applied to the production of tire yarns or fabrics for rubber tires shall be in full force and effect from and after December 11, 1933.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 4, 1933.

[No. 6476]

EXECUTIVE ORDER

PROVIDING FOR THE SUBMISSION OF STATISTICAL INFORMATION BY
PERSONS SUBJECT TO CODES OF FAIR COMPETITION

Pursuant to the authority vested in me by title I of the National Industrial Recovery Act, upon due consideration of the facts, and upon the report and recommendation of the Administrator for Industrial Recovery,

I, Franklin D. Roosevelt, President of the United States, do hereby order that every code of fair competition, agreement, and license heretofore approved be, and hereby is, modified to provide that, and every code of fair competition, agreement, and license hereafter approved be upon condition that, in addition to information required to be submitted to any code authority, all or any of the persons subject to such code, agreement, or license furnish such statistical information as the Administrator may deem necessary for the purposes recited in section 3 (a) of said act to such Federal and State agencies as the Administrator may designate; nor shall anything in any code, agreement, or license relieve any person of any existing obligation to furnish reports to Government agencies.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 7, 1933.

[No. 6479]

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