NATIONAL RECOVERY ADMINISTRATION

CODES OF FAIR COMPETITION

Nos. 58–110

VOLUME II

OCTOBER 12 TO NOVEMBER 10, 1933

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V. 2

NATIONAL RECOVERY ADMINISTRATION

HUGH S. JOHNSON, Administrator for Industrial Recovery

CODES OF FAIR COMPETITION

Nos. 58–110

AS APPROVED

BY

PRESIDENT ROOSEVELT

OCTOBER 12–NOVEMBER 10, 1933

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

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CODES OF FAIR COMPETITION

Approved Code No. 58

CODE OF FAIR COMPETITION

FOR THE

CAP AND CLOSURE INDUSTRY

As Approved on October 20, 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 Cap and Closure 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,
October 20, 1933.

29103°——296-81——34

October 16, 1933.

The President,
The White House.

Sir: A proposed Code of Fair Competition for the Cap and Closure Industry was submitted to the Administrator on August 8, 1933, by the Cap and Closure Division of the Glass Container Association of America, representing 83% of the known members of the Industry. The hearing was conducted in Washington on September 15, 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 properly heard in accordance with statutory and regulatory requirements. Only one person, the President of the Amalgamated Lithographers of America, requested recognition and entered an objection to the labor provisions of the Code as submitted.

The Industry which is relatively small and closely interrelated with the Glass Containers Industry, experienced, during the past four years, a drop of only 10% in unit volume of sales. This was coincident, however, with a drop of 18% in the number of employees. It is estimated that the insertion of the labor provisions of this Code, which are essentially the same as those of the Glass Container Industry, will necessitate an 11% increase in employment and that $350,000 will be added to the yearly payroll.

Résumé of Code

Article I states the purpose of the Code.

Article II accurately defines specific references made in the Code.

Article III sets forth the mandatory labor provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for factory, office, and branch employees. Factory hours are permitted to be flexible over a six-months' period, but are not to be in excess of 48 hours for any one week. The minimum wage rate, varying from $15.00 to $14.00 for accounting, clerical, office, service, and sales employees (excepting outside salesmen), is based on population differentials. For factory, mechanical, and artisan employees the minimum is 40¢ per hour.

Apprentices and learners without previous experience may not constitute more than 5% of the total number of employees and their wages shall not be less than 80% of the specified minimums. The period of apprenticeship and learning is limited to three months. Higher paid employees (up to $35.00 per week) are protected by an equitable readjustment clause.

Article IV establishes a Code Authority of five members elected by the Industry with additional (not exceeding three) representatives to be appointed by the Administrator and provides machinery for obtaining statistics.

Article V sets forth the Fair Trade Practices for the Industry, including an open-price structure with no limitation placed upon the prices any firm may quote.

Article VI contains the mandatory provision respecting amendments and provides for the submission of proposed amendments by members of the Industry.

Article VII sets forth the action followed pursuant to a violation of the code.

Article VIII states the effective date.

Findings

The Administrator finds: 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 Cap and Closure Division of the Glass Container Association is truly representative of the Cap and Closure Industry, and the bylaws 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.

The Industrial and Labor Advisory Boards have approved the Code as now presented. The Consumers Advisory Board approves the Code with one additional recommendation. The Legal Department has checked the Code as to form and has approved it.

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

Respectfully,

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

CAP AND CLOSURE INDUSTRY

Article I—Purpose

To effectuate the policy and purposes of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Cap and Closure Industry, and shall be binding upon every member thereof.

Article II—Definitions

Section 1. The term "Industry" means and includes the business of producing in the United States and selling caps or closures and liners therefore of the types and kinds referred to in connection with the following Divisions of the Industry which are hereby recognized and defined:

A. The "Tinplate, Aluminum and Zinc Screw and Lug Cap" Division consists of members of the Industry producing and selling caps and closures made of tinplate, aluminum, or zinc, designed for use in connection with G.C.A. (Glass Container Association) Numbers 300, 100, 125, 150, 175, 425, 400, 410, 415, 450, 1300, 2900, 1200, 2200, 1600, and 1900 Glass Finishes, and all other screw or lug types of caps or closures made of tinplate, aluminum, or zinc for any other glass finishes than those herein specified, except cover caps for catsup bottles and screws caps designed as a unit or in combination with bands to serve as nontamperable seals and caps for use in home canning or preserving.

B. The "All Other Tinplate, Aluminum, and Zinc Cap" Division consists of members of the Industry producing and selling all types of caps and closures for glass containers made of tinplate, aluminum, or zinc other than those specified in Section 1, A, except Crown caps and milk-bottle caps.

C. The "Molded Cap" Division consists of members of the Industry producing or selling caps or closures of every type and kind of molding compounds.

D. "The Cap and Closure Liner" Division consists of members of the Industry processing and selling liner pasteboard and paper liner material for use in metal and molded caps as defined in Section 1. Paragraph A, B, and C.

Other divisions may be formed from time to time by interested groups of members on application to and approval by the Code Authority and of the Administrator. When so approved the definition of the division shall be added to the list of divisions recognized by this section.

Sec. 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 said Act.

Sec. 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.

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

Sec. 5. The term "plant" means a plant engaged in the Industry as herein defined.

Sec. 6. "Majority vote." Each member of the Industry shall have one vote. At any meeting of members of the Industry, members thereof having the right to cast at least 51 percent of all the votes and whose sales volume for the preceding calendar year equals at least 51 percent of the total sales volume shall constitute a quorum. Sixty percent of the members present at each qualified meeting shall constitute a majority vote; provided, however, that the total sales volume of the preceding calendar year of such number of members shall also equal at least 60 percent of the total sales volume of all members present at such meeting.

Sec. 7. The term "Code Authority" means the Administrative body provided for in Article IV of this Code.

Sec. 8. The term "The Association" means the Glass Container Association of America.

Article III—Labor 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.

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.

Sec. 2. No member of the Industry shall employ any person under the age of sixteen (16) years, and no person under 18 years of age shall be employed or allowed to work on or in connection with any hazardous manufacturing processes.

Sec. 3. The maximum number of working hours for all employees in the Industry except as hereinafter provided shall not be in excess of 40 hours per week averaged over a six months' period, and not in excess of forty-eight (48) hours in any one week. For the purpose of this section the balance of the year 1933, from the effective date of this Code to December 31, 1933, inclusive, shall be considered the first period. Subsequent periods shall begin on January 1st and July 1st, to end on June 30th and December 31st, respectively.

The maximum number of working hours for office or branch employees in the Industry shall not be in excess of an average of forty (40) hours per week over any one month's period, and not in excess of forty-eight (48) hours in any one week. Provided, however, that the provisions of this section shall not apply to executives and supervisors, outside salesmen, technical and laboratory staffs, watchmen, and those employed in emergency maintenance and emergency repair work.

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

Sec. 4. No employee shall be permitted to work for two or more employers for a longer period in any week than is specified herein for a single employer.

Sec. 5. No employer shall pay any accounting, clerical, office, service, or sales employee (except outside salesmen) less than at the rate of $15.00 per week in any city of over 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 town or city of 250,000 population or less.

Sec. 6. No employer shall pay any factory or mechanical worker or artisan less than forty (40¢) cents per hour unless the hourly rate for the same class of work on July 15, 1929, was less than forty (40¢) cents per hour, in which latter case not to pay less than the hourly rate on July 15, 1929, and in no event less than thirty (30¢) cents per hour. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piece work performance.

Female employees doing the same work as that performed by male employees shall receive a rate of compensation equal to that of such male employees.

Apprentices and learners without previous experience in the Industry shall be excepted from the provisions of this Section; provided, however, that the total number of such apprentices and learners shall not constitute more than five (5%) percent of the total number of employees subject to the provisions of this Code in any one plant; and provided further, that the wages paid to such apprentices and learners shall not be less than eighty (80%) percent of the minimum rates of pay specified in this Code; and provided further, the period of apprenticeship or learning shall not exceed one month.

Sec. 7. The existing amounts by which wages in the higher-paid classes of employees, up to employees receiving thirty-five ($35.00) dollars per week, exceed wages in the lower-paid classes of employees, shall be maintained; provided, however, that where the foregoing provision results in rates that are inequitable as between plants, for the same work, revision or wage rates for higher-paid classes shall be adjusted in a reasonable manner, subject to the supervision of the Code Authority.

Sec. 8. Any employee excepted in Article III, Section 3 of this Code other than executives and supervisors who receive more than thirty-five dollars ($35) per week, watchmen, and outside salesmen,

shall be paid overtime at the rate of time and a half for all hours in excess of 40 hours per week averaged over a six months' period.

Sec. 9. Each employer shall post in a conspicuous place full copies of the labor provisions of this Code. (Article III and Article VI, Section 2.)

Article IV—Administration

Section 1. To effectuate the policies of the National Industrial Recovery Administration and to provide for administration of this Code within the Industry, a Code Authority of five members shall be established by the Industry and upon request of the Administrator such additional non-voting representatives of the Administrator, not to exceed three, to be appointed by him shall be added to such Code Authority. All persons engaged in the Industry as herein defined shall be entitled to participate in the election of such members of the Code Authority. Such election shall be by a majority as defined in Section 6 of Article II. The method of selection shall be subject to review by the Administrator.

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.

In order that the Code Authority shall at all times be truly representative of the trade/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. 2. Each division shall have authority to prepare and from time to time recommend revisions of its own schedule of Trade Practices by majority vote of such division. Recommendations as to schedules or revisions adopted by any division shall be submitted by such division to the Code Authority. If the recommendations so submitted relate solely to the interests of the division, the Code Authority shall approve such action forthwith, subject only to review by the Administrator. If the recommendations so submitted affect other divisions of the Industry, then the Code Authority shall take such action as it deems necessary; all to the end that each division shall be independent and self-governing on all matters relating exclusively to such division. Any action taken pursuant to this Section shall be subject to approval by the Administrator after such notice and hearing as he may prescribe.

Sec. 3. In addition to the powers herein specifically conferred upon the Code Authority, it 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.

(a) The Code Authority shall be charged with the supervision, administration and enforcement of this Code and may issue such rules and regulations as may be necessary to effectuate the purposes of this Code. The Code Authority shall have the right to establish its own rules for the conduct of its business.

(b) In order that the President may be informed of the extent of 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 Industry as herein defined, the Code Authority shall make such reports as the Administrator may require, and each employer shall make such sworn or unsworn reports to the Code 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 pertinent to the purposes of this Code as the Code Authority may require, and each employer subject to the jurisdiction of this Code and accepting the benefits of the activities of the Code Authority hereunder shall either become a member of the Association or pay to the Code Authority his proportionate share of the amounts necessary to defray the cost of the assembly, analysis, and publication of such reports and data, and of the maintenance of the said Code Authority and its activities. Said proportionate share shall be based upon value of net sales.

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) Any and all information furnished to the Code Authority shall be deemed confidential and shall not be divulged to any member except in summary, but shall be available to the Administrator upon request.

(d) The Code Authority may designate the Glass Container Association or any other appropriate agency to assist it in carrying out the powers and duties conferred upon it by this Code, provided, that the Code Authority shall not be relieved of responsibility and that when such Association acts in such capacity, it shall comply with all the provisions of this Code applicable to the Code Authority.

(e) 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 effectuate the provisions and purposes of this Code.

(f) The Code Authority shall receive, and if it shall approve, shall present for the approval of the Administrator, any proposals for supplementary provisions or amendments of this Code or additional Codes, applicable to the Industry defined herein or to any part thereof, with respect to wages, hours, trade practices, or related matters or conditions in the Industry.

Sec. 4. (a) Any interested party shall have the right of complaint to the Code Authority and of a prompt hearing and decision thereon in respect to any decision, rule, regulation, or other course of action

of such Code Authority. Such complaint must be filed in writing with the Code Authority within a reasonable period of time after said decision, rule, regulation, or course of action is issued or taken. The decision of such Code Authority may be appealed by any interested party to the Administrator.

(b) 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 decision, rule, regulation, or other course of action, issued or taken by the Code Authority. The Administrator may cancel or modify any such action of the Code Authority.

Article V—Trade Provisions

Section 1. The rules of fair trade practice for the Tinplate, Aluminum and Zinc Screw, and Lug Cap Division and the Cap and Closure Liner Division of the Cap and Closure Industry as set forth in Schedule A attached hereto, are specifically made a part of this Code.

Sec. 2. Where the costs to a member of the Industry of executing contracts entered into prior to approval of this Code by the President are increased by the application of the provisions of this Code, it is equitable and promotive of the purposes of the National Industrial Recovery Act that appropriate adjustments of such contracts to reflect such increased costs be determined by arbitral proceedings or otherwise. The Code Authority shall assist in effecting such adjustments.

Article VI—General

Section 1. No provision of this Code shall be construed, interpreted, or applied in such a manner as to—

(a) Promote monopolies or monopolistic practices.

(b) Promote or encourage unfair competition.

(c) Eliminate or oppress small enterprises.

(d) Discriminate against small enterprises.

Sec. 2. 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 health, fire, or general working conditions than under this Code.

Sec. 3. Prior to December 31, 1933, no member of the Industry shall increase the sale price of his product sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution and material costs, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this code since July 1, 1933, and in setting such price increases, full weight shall be given to probable increases in sales volume. In case a member of the Industry on July 1, 1933, was selling his product at less than actual cost, he may take his cost price on that date as the base for such increase in selling price as is permitted by this section.

Sec. 4. Any member of the Industry shall be eligible to membership in the Association and there shall be no inequitable restrictions imposed upon such membership.

Sec. 5. The President may from time to time cancel or modify any order approval, license, rules, or regulations issued under Title I of the National Industrial Recovery Act, and specifically, without limitation, may cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

Article VII—Violations

Violation by any person of any provision of this Code or of any rule or regulation issued thereunder or any false statement or report made to the President or the Code Authority shall be constituted an unfair method of competition and the offender shall be subject to the penalties provided by the National Industrial Recovery Act.

Article VIII—Effective Date

This Code shall become effective eleven (11) days after it is approved by the President.

Approval Code No. 58.
Registry No. 1022-1-03.

SCHEDULE A

Rules for Fair Trade Practice for the Tinplate, Aluminum, Zinc-Screw and Lug Cap Division, and Cap and Closure Liner Division

It is agreed by the members of each of the above-named Divisions in subscribing to this Schedule A that it becomes necessary to conduct the Divisions in an orderly way and to maintain fair competitive conditions in order that the provisions and intent of the National Recovery Act may be carried out. The members of each Division therefore agree that:

Section 1. No member of the Divisions shall make any sale at a price or terms more favorable to the purchaser thereof than the price, terms, or conditions established by such member in accordance with the provisions of this Schedule A which are in effect at the time of such sale.

Sec. 2. Each member of the Divisions shall, within ten days after the effective date of the Code, file with the Code Authority as many copies of a list showing the complete prices for all his products in the Division as the Code Authority shall require, and from and after the expiration of such ten days such member shall at all times maintain on file with the Code Authority a list showing complete prices for all his products in the Divisions and shall not make any change in such prices except as provided in this Schedule A.

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 sufficient copies of such list with the Code Authority so that copies may be sent to each member of the Division; provided, however, that the first list of prices filed by any member of the Division as above provided shall take effect on the date of filing thereof.

The Code Authority shall immediately send copies of the first list so filed to all members of the Division and if any member shall file a revised list, copies thereof shall immediately be sent to all members of the Division, who thereupon may file if they so desire, revisions of their price lists which shall become effective upon the date when the revised price list first filed shall go into effect.

These lists shall be open for inspection to all interested parties.

Sec. 3. None of the prices shown in any list shall be changed except by the filing of a new list as provided in Section 2.

Sec. 4. Recognizing the necessity for uniform practices in regard to discounts, credit terms, freight allowances, and all other terms of sale, the members of the Division may by a majority vote of the members of the Division from time to time determine on such uniform practices and file them with the Code Authority. After approval by the Administrator, any violation of such uniform practices shall be an unfair trade practice.

Sec. 5. Nothing in this Schedule contained shall be so construed as to prevent the performance by any member of any valid bona fide contract made and entered into before the effective date of this Code; provided, however, that such contract has not been made and entered into before the effective date hereof in contemplation thereof and with the intent to defeat the purpose thereof.

Sec. 6. The sale of discontinued lines or obsolete or imperfect caps is permitted provided they are sold at not more than 50% of the seller's lowest price as published for the same size or type of cap in effect at the time of such sale, and such sales shall not be a violation of this Schedule.

Sec. 7. For all purposes of the Code the following-described acts shall constitute unfair practices:

A. The imitation of the exclusive trade mark or trade name of a competitor.

B. The sale or offer for sale of any product of the Industry with intent to deceive customers or prospective customers as to the quantity, quality, or specifications of such product.

C. The marking or branding of products of the Industry for the purpose or with the effect of misleading or deceiving purchasers with respect to quantity, quality, grade, or specifications of the goods purchased.

D. The payment or allowance of secret rebates, refunds, credits, or unearned discounts, whether in the form of money or otherwise, or extending to certain purchasers confidential prices, special services, or privileges not extended to all purchasers of the same class under like terms and conditions.

E. *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.

F. To permit sales agents or representatives to split commissions with purchasers.

G. *Free Deals and/or Contributions.*—The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto.

H. To make false invoices.

O

Approved Code No. 59

CODE OF FAIR COMPETITION

FOR THE

MARKING DEVICES INDUSTRY

As Approved on October 20, 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 Marking Devices 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 conditions:

(1) To effectuate further the policies of the Act, a Marking Devices Industry Code Authority be created to cooperate with the Administrator as a Planning and Fair Practice Agency for the Marking Devices Industry, which Committee shall consist of eleven representatives of the Marking Devices Industry elected by a fair method of selection, to be approved by the Administrator, and three members without vote appointed by the Administrator.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 20, 1933.

October 17, 1933.

The President,
The White House.

My Dear Mr. President: A Public Hearing on the Code of Fair Competition for the Marking Devices Industry of the United States, submitted by the International Stamp Manufacturers Association, located at 431 South Dearborn Street, Chicago, Illinois, was conducted in Washington on the 14th of September 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 75 percent of the industry.

The maximum hours permitted under this Code are forty (40) per week, or, to provide for emergencies, not more than 48 per week, provided time and one third is paid for all hours in excess of eight per day.

The minimum wage is thirty-two and one half cents (32½¢) per hour or thirteen dollars ($13.00) per week.

In considering this minimum wage it should be noted that it is the minimum wage for unskilled help. By far the greater majority in this industry are highly skilled artisans and paid higher hourly rates. In 1931 the total average for employees in this industry was 55.3 cents on the basis of a 47-hour week.

Prior to the President's Reemployment Agreement the hours worked in this industry were 47 per week. A 40-hour week will raise the level of employment to a point slightly lower than the level of 1929 employment and will add approximately 874 productive employees to the payroll. If wages are paid on the basis of 1929 weekly wage rates for a 40-hour week the total increase in payroll will be approximately $1,300,000.

In 1929 the number of individuals employed in the industry totalled 4,112, out of which number 2,971 were wage earners. In 1931 the number of wage earners had decreased to 2,496, or a decline of 16 percent.

To raise employment to the 1929 level would require the adoption of a 39.4-hour week. However, on the basis of the 40-hour week the increase in cost to the consumer as a result of higher wage rates will be 6.5 percent.

This industry has relatively high labor costs, wages representing in 1931 33.6 percent of the total value of products, as compared with 17.4 percent for all industry combined.

The value of commodities of the Marking Devices Industry in 1929 was $15,036,023. This value declined in 1931 to $10,045,366, or 33.2 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 limita-

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

(b) The International Stamp Manufacturers Association, the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Marking Devices 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 submitted.

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

MARKING DEVICES 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 Marking Devices Industry, and upon approval by the President, shall be the standard of fair competition for this Industry.

Article II—Definitions

(1) The term "Marking Devices Industry" as used herein includes the manufacture and sale by the manufacturer of any or all of the general classes of articles or any part or parts of any one or more of such articles as listed in Exhibit A annexed to this Code and made a part hereof.

(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.

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

(4) The term "Association" as used herein shall mean the International Stamp Manufacturers' Association.

(5) The term "member", or "members", shall include anyone engaged in the manufacture and/or sale by the manufacturer of any or all of the general classes of articles or any part or parts of any one or more of such articles as listed in Exhibit A, annexed to this Code.

(6) The term "Administrator" as used herein is defined to mean the Administrator appointed by the President of the United States to effectuate the policy of Title I of the National Industrial Recovery Act.

(7) The term "effective date", as used herein, shall be ten (10) days after approval by the President.

Article III—Hours

(1) No employee shall work or be permitted to work in excess of five hundred and twenty (520) hours in any thirteen (13) week period (average forty (40) hours per week), nor in excess of forty-eight (48) hours in any one week, provided that overtime at the rate of time and one third shall be paid for all hours in excess of eight (8) hours in any one day.

(2) Watchmen shall be employed in pairs 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.

(3) The maximum hours fixed in the foregoing sections shall not apply to—

(a) Emergency repair crews and outside sales force.

(b) Engineers, electricians, firemen, designers, draftsmen, shipping crews, and truck or delivery wagon employees; but provided that employees in the group covered by this paragraph shall be limited to forty-eight (48) hours in any one week, and that all such employees shall be paid at the rate of time and one third for all hours per day over eight (8).

(c) Executives and supervisory staff receiving more than thirty-five dollars ($35.00) per week, except when doing productive or mechanical work; provided that the limitation of hours prescribed in this Article shall apply to all proprietors, executives, partners, supervisors, and foremen whenever they shall engage in any mechanical or productive work.

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

Article IV—Wages

(1) No employee shall be paid at less than the rate of thirty-two and one-half cents (32½¢) per hour or thirteen dollars ($13.00) per week of forty (40) hours, except as provided in Section 2 of this Article.

(2) (a) Learners who have had no previous experience or employment in this industry shall, during the first year's apprenticeship, be paid not less than eighty (80) percent of the minimum wage and during the second year's apprenticeship shall be paid not less than ninety (90) percent of the minimum wage. In subsequent years they shall be paid not less than the full minimum wage. Each plant shall be entitled to at least one learner, but learners shall not exceed in number one learner to each six other employees.

(b) Foot or bicycle messengers needed and exclusively used to call for orders and/or to deliver finished product shall be paid not less than eighty (80) percent of the minimum wage, but no such employee shall engage in any productive or mechanical work unless paid at a rate not less than the minimum wage as herein provided for such work.

(3) The provisions for the minimum wage in this Code establish a guaranteed minimum rate of pay per hour of employment regardless of whether the employee's compensation is based on a time rate or on a piecework performance.

(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 all members of this industry shall endeavor to increase the pay of all employees in excess of the mini-

mum wage, as herein set forth, by an equitable adjustment of all pay schedules proportionate to the increase in compensation as determined by the minimum wage herein provided.

Article V—Child Labor

No person under sixteen (16) years of age shall be employed in the Marking Devices 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 for approval within a reasonable time after the effective date of this Code a list of such hazardous occupations. Reliance in good faith by an employer upon any evidence as to age admissible in the courts of the state in which such employment takes place shall be deemed a compliance with this provision.

Article VI—Administration

(1) 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. The Code Authority shall consist of eleven (11) members, selected by a fair method of selection and approved by the Administrator, and not more than three (3) members without vote to be appointed at the discretion of the Administrator.

(2) For the purpose of administering this Code the Marking Devices Industry shall be divided into the several divisions as follows:

Rubber Stamps	Checks, Badges, Metal Tags, and Stamped Plates
Rubber Printing Dies—Moulded or Cut	Pressed Metal Plates and Signs
Steel Stamps, Steel Dies, and Burning Brands	Seals
Brass Stamps, Brass Dies, and Milled Brass Signs	Stencils
	Merchandise Sundries.

Subject to the control of the Code Authority and with the approval of the Administrator each division shall be independent and self-governing with respect to the conditions and problems relating exclusively to the several divisions.

(a) Proposals in respect to matters affecting more than one division may be initiated by any division affected and shall be submitted for consideration to the Code Authority; such proposals, after the approval of the Administrator, shall become a part of the rules and regulations governing the members of this Industry on such matters of procedure or otherwise as they purport to cover.

(3) Subject to the approval of the Administrator, the Code Authority shall:

(a) From time to time require such verified reports from the members of the Industry as in its judgment may be necessary to adequately provide for the administration of, and to enforce the provisions of, this Code;

(b) Upon complaint of interested parties or upon its own initiative, make such inquiry or investigation of the operation of this Code as may be necessary; and

(c) To submit to the Administrator from time to time for his approval such proposals, rules, and regulations as may be deemed

necessary for the proper administration and enforcement of this Code.

(4) The International Stamp Manufacturers' Association is designated the Administrative agency under the Code Authority.

(5) *Membership.*—Any employer in the Marking Devices Industry may participate in the endeavors of the Code Authority relative to the revisions or additions to this Code by accepting the proper pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the International Stamp Manufacturers Association or by paying to it an amount equal to the dues from time to time provided to be paid by a member in like situation of said Association.

(6) When and as determined by the Code Authority of the Industry, on written notice subject to the approval of the Administrator, all members of the Industry shall promptly forward to and file with the Code Authority such statistical data and information as may be necessary to effectuate the declared policies and provisions of this Code and/or the National Industrial Recovery Act.

(7) Subject to the approval of the Administrator, the Code Authority shall decide as to what schedules, lists, or studies shall be compiled for the Industry as a whole and how and when any of this material and information shall be distributed to the members of the Industry. It is hereby provided that the individual figures of the respective members of the Industry shall not be disclosed and shall be treated as strictly confidential.

Article VII

COSTS

(1) Prices of all products shall be based upon accurate and known costs, as established by an adequate cost-finding system, approved by the Administrator.

(2) No manufacturer in the Marking Devices Industry shall sell any products, merchandise (except dropped lines as provided in Section (3)), or service at prices below his own individual cost as determined in accordance with the cost-finding system.

(3) Dropped lines, sometimes designated as "close-outs", may be disposed of under such rules and regulations as may be recommended by the Code Authority and approved by the Administrator.

(4) Each manufacturer in the Industry shall, within thirty (30) days of the effective date of this Code and at least ten (10) days prior to the date on which his price lists shall be effective, file with the Code Authority and post in a conspicuous place in his place or places of business, his net current price lists or price lists and discount sheets, as the case may be, for merchandise, sundry, and standard products, and for the made-to-order products on which it is customary in the Industry to issue price lists, and costing and pricing formulae for all other products.

(5) Any member desiring to revise his original price lists filed as provided in Section 4 of this Article, shall file and post his discount sheets and/or costing and pricing formulae as provided

in Section 4 for original price lists at least ten (10) days prior to their effective date.

TERMS

The standard maximum cash discount terms for payment of products bought from manufacturers, jobbers, or retailers in the Marking Devices Industry are hereby declared to be 2% 10 days, net 30 days, E.O.M. This shall be taken to mean that for any products purchased and delivered during any certain month (for example, January), payment shall be made for same on or before the 10th of the following month (for example, February), less 2 percent; and any greater cash discounts given or taken by members of this industry on or after the taking effect of this Code shall be considered a violation hereof; provided, however, that nothing in this section shall be interpreted as preventing any member of the Marking Devices Industry from giving or taking cash discounts of less than 2 percent if he so desires.

Article VIII—Unfair Trade Practices

The following shall be considered Unfair Trade Practices for the Marking Devices Industry and any member who shall directly or indirectly through an officer, employee, agent, or representative, employ or cause to be employed any such unfair practice or practices shall be guilty of a violation of this Code.

(1) Selling, by any manufacturer in this Industry, directly or indirectly or through his dealers, or by any means whatsoever, any standard or merchandise sundry 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 current net price list or price list and discount sheets on file, or selling any made-to-order product of this Industry or services at a price lower than that determined by the current costing and pricing formulae on file.

(2) Offering merchandise for sale at a price reduced from a marked-up or fictitious price.

(3) The practice of giving special discounts, gratuities, or other merchandise at a price below a scheduled sale price as an inducement to purchase any commodity or commodities.

(4) The secret payment or allowance of rebates, refunds, commissions, credits, 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.

(5) No manufacturer shall discriminate as between purchasers of the same quantity or the same class.

(6) To give or permit to be given, or the offer to give money or anything of value, either directly or indirectly, to customers or prospective customers, their agents, employees, and/or representatives; to purchase or contract to purchase Industry's products, either directly or indirectly, from the maker of such gift or offer, or to knowingly and in bad faith influence such employers, their agents and/or representatives, to refrain from dealing or contracting to deal with their competitors.

(7) Any practice of fake, fictitious, or blind bids for the purpose of deceiving competitors or purchasers, or any attempt through connivance to have all bids rejected to the end that a more advantageous position may be secured in new bidding.

(8) The sale or offering for sale of any product of the Industry by any false means or device whatsoever.

(9) The practice of coercing the purchase of several, or a group of products, as a condition to the purchase of one or more products under the exclusive control of the seller.

(10) The practice of knowingly shipping or delivering products which do not conform to the samples submitted or representations made prior to securing the orders.

(11) 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, with the purpose of unduly hampering, injuring, or embarrassing competitors in their business.

(12) The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations.

(13) False representations concerning the grade or quality of the goods of competitors with the tendency to mislead or deceive purchasers or prospective purchasers.

(14) The making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the industry.

(15) Maliciously enticing the employees of competitors.

(16) The circularization of threats of suit for infringement of patent or trade mark among customers of competitors, not made in good faith but for the purpose and with the effect of harassing and intimidating customers.

(17) Seeking information from competitors concerning their business by false or misleading statement or representations or by false impersonations of one in authority.

(18) The practice of usurping designs, styles, or patterns originated by a competitor and appropriating them for one's own use within a five-year period after such origination.

(19) The imitation of the trade marks, trade names, slogans, or other established marks of identification of competitors.

(20) The purchase of, or subscription to an interest in, capital stock or other obligation of a present or potential customer, where the intent is to furnish goods in payment under conditions which violate provisions of this Code applying to credit extensions, terms of payment, secret rebates, and allowances, or under conditions which are obviously designed to conceal the true nature of transactions between seller and buyer.

(21) To make quotations or to give technical information to any individual or firm who is not a bona fide operator in the particular field or fields covered by the information or material wanted, for the purpose of permitting him or it to manufacture the products of this industry.

Article IX

Whereas the policy of the Act to increase purchasing power will be made impossible of consummation if prices of all goods and services purchased 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 X—General

(1) Prior to any amendment or amendments to the constitution or bylaws of the International Stamp Manufacturers Association, such amendment or amendments shall first be submitted to the Administrator for his approval.

(2) Any member of this Industry who, prior to June 16, 1933, contracted to buy or sell any goods, wares, or merchandise at a price fixed as of the date of said contract, for future delivery, shall make a bona fide effort to arrive at an equitable adjustment on the price thereof as fixed by said contract, to meet any proper increase in the cost of such goods, wares, or merchandise imposed by virtue of any provision of the National Industrial Recovery Act; and in the event such effort fails to result in a mutally satisfactory adjustment, either party to said contract may refer the same for adjustment to the Code Authority of the Industry, which said Code Authority with the aid and assistance of the Administrator or his properly designated agent or agents, shall endeavor to arrive at an equitable adjustment thereof.

(3) 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.

(4) 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.

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

(6) 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.

(7) Within each State, 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, then under this Code.

(8) Each employer shall post in conspicuous places full copies of this Code.

(9) 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.

(10) In addition to the information required to be submitted to the Code Authority, there shall be furnished to the Administrator or his designated agent or agents such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

(11) After due notice and hearing, this Code may be amended upon the recommendation of the Code Authority or any interested party or group or upon the Administrator's own motion, and any amendment or modification so determined shall be effective when approved by the President, unless otherwise provided.

The undersigned do hereby certify that the foregoing is a true copy of the Code of Fair Competition for the Marking Devices Industry, submitted to the Administrator under the National Industrial Recovery Act, as amended by authority of the Executive Committee of the Marking Devices Industry.

(Signed) J. R. Swift,
President International Stamp Manufacturers Association.

(Signed) W. L. Lord,
Secretary International Stamp Manufacturers Association.

October 1933.

Approved Code No. 59.
Registry No. 1399/04.

EXHIBIT A

List of Products for the Purpose of Defining Divisions of the Marking Devices Industry

The following listings by division and product shall serve as an index and definition:

Section (1) *Made-to-Order Products.*

(a) *Rubber Stamps.*

Wood-mounted Rubber (hand) stamps
Metal-mounted Rubber (hand) stamps
All Rubber-mounted (hand) stamps
Line daters and numberers, Special
Die plate Daters, Time Stamps, Cancellers, etc.
Self-Inkers—plain, dating, etc.
Pocket stamps
Ink and Ink pads, Special
Movable Rubber type and Outfits of Special or unusual kinds
Hand Operated Printing Wheels with Rubber Dies
Printing Presses for use with Rubber dies and movable rubber type
Special Holders, Racks, Rules, Attachments, and Accessories for any of the above

(b) *Rubber Printing Dies, Moulded or Cut.*—These are commonly known as "rubber printing dies or plates" and are used on many different types of printing presses, for general printing purposes and for imprinting advertising matter, specifications, directions, etc., on corrugated, fibre, chip, and cardboard made into boxes, shipping cases, display boxes, etc.; also on many different types of articles made from steel, rubber, cellophane, wood, paper, etc.

(c) *Steel Stamps, Steel Dies, and Burning Brands.*

Steel Stamps
Steel Letters and Figures
Steel Type
Embossing Type
Male and Female Embossing Dies
Steel Printing Dies for paper cartons and wood boxes
Decorative tools for wood, paper, metal, etc.
Steel Matrices
Metal Dies for branding by means of heat or ink
Machinery and appliances for working with the above

(d) *Brass Stamps, Brass Dies, and Milled Brass Signs.*

Brass Stamps engraved for stamping letters or designs into wood, cloth, leather, paper meats, etc.
Brass Dies for embossing book covers, paper, leather, etc.
Brass Signs made by process of milling or engraving
Brass Dies for moulding and marking soaps
Machines having brass wheels and/or dies for dating, timing, numbering, etc.

(e) *Checks, Badges, Metal Tags, Fibre Tags, Metal Labels, and Stamped Plates.*

Metal Checks, Metal Labels, Metal Tags, Fibre Tags, time, tool, key, trunk, trade, identification, etc., having raised or sunk letters
Badges, all shapes and forms of metal badges such as employees, police, detectives, sheriff, marshall, firemen, etc.
Stamped Plates, for identification, license, instruction, caution, brands, patent dates, trade marks, etc., stamped in various metals and fibres with steel dies.
Medals, Tokens, and Pocket Pieces, etc.

(f) *Pressed Metal Signs, Metal Vehicle Tax, and Automobile License Plates.*
Embossed or Debossed sheet metal signs, finished or unfinished, made by stamping with male and female dies or type or by metal die against rubber counter

(g) *Seals.*
Notary, corporation, and official documental seal presses in all sizes operated by hand or power
Similar presses used for embossing letter heads, photographs, and cards not exceeding 200# in weight
Metal and Plastic Dies used in above presses with metal or plastic counters
Lead Seal Presses for sealing cars, meters, vaults, meats, cases, bags, etc.
Wax Seals for sealing documents, valuable packages, etc.

(h) *Stencils.*
For Lettering or branding with paint or ink by means of brush or spray gun.
For sand blasting letters and designs into glass, etc.

Sec. (2). *Merchandise Sundries.*—Manufactured on standard specifications as kindred stock accessories to the above services and made-to-order products. Many of these are altered or modified by the manufacturing dealer to order:

Line Daters and Numberers
Self-Inking Line Daters and Numberers, etc.
Alphabet stamps
Cost and Selling Price Stamps
Library and Revenue Dating stamps
Rotary Dating and Time stamps
Movable Rubber Type Sets
Metal Type with Rubber Face
Type Holders
Stock Rubber Hand Stamps
Marking Devices Inks
Ink Pads for Marking Devices
Numbering Machines (hand) (not typographic)
Price and Sign Markers and Chart Printers
Stamp Racks and Cases
Adjustable Stencils
Machine-Made Steel Letters and Figures
Music Chart Printers
Stencil Brushes and Pots
Stencil Cutting Machines
Holders, Racks, Rules, Attachments, and Accessories for any of the above
Printing Presses (amateur hand operated) for metal type

Note.—The listings in Sections (1) and (2) hereof are not intended to be complete or altogether restrictive in defining these Divisions of the Marking Devices Industry, but rather that they shall be suggestive of the Arts and facilities available for other products for similar uses.

EXHIBIT B

Regulations for the Enforcement of the Provisions of the Code of Fair Competition

PART OF AGREEMENT AND CODE OF FAIR COMPETITION FOR THE MARKING DEVICES INDUSTRY

1. Any employer or any employee of this Industry, or any purchaser of any of the products of the Industry, may enter a complaint of violation of this Code, providing such complaint is presented in writing to the Code Authority, giving the nature of the complaint in detail, supported by all the available evidence thereon.

(a) The Executive Secretary shall, on receipt of such complaint, notify the alleged violator, and request his answer. Whenever, in the judgment of the Code Authority it shall be necessary, the Executive Secretary shall refer such report of violation to the Chairman of the Committee having jurisdiction over the particular division of the Industry in which the alleged violator operates.

(b) Copies of the complaint, of the evidence, and of the answer, shall be furnished to the Chairman of the Committee having jurisdiction, to the complainant, and to the alleged violator, in identical form and manner.

(c) The said Chairman shall set a date for a hearing on the case, to be held not later than two weeks after the receipt by him of the complaint, and he shall immediately endeavor to adjust a settlement thereof, either alone or in consultation with the members of the Committee.

(d) In case such procedure fails to settle the matter to the satisfaction of both parties, all papers relating to the case with recommendations by the Committee of the division shall be placed before the Code Authority who, in the event of a failure to adjust the matter in hearing to the mutual satisfaction of both parties, shall forward all such papers to the Administrator or his duly authorized agent or agents for such further action as may be proper in the premises.

O

Approved Code No. 60

CODE OF FAIR COMPETITION

FOR THE

RETAIL TRADE

As Approved on October 21, 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 Retail 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 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,
October 21, 1933.

29894——296-163——34

October 20, 1933.

THE PRESIDENT,
The White House.

I. INTRODUCTION

MY DEAR MR. PRESIDENT: This is a report of the hearing on the Code of Fair Competition for the Retail Trade as proposed by the following associations:

The National Retail Furniture Association.
The National Retail Hardware Association.
Mail Order Association of America.
The National Association of Retail Clothiers & Furnishers.
The National Retail Dry Goods Association.
The National Shoe Retailers Association.
The National Council of Shoe Retailers.
The Limited Price Variety Stores.
National Association of Music Merchants.

Attached herewith is a copy of the Code as finally proposed and the Report of the Deputy Administrator.

This Code covers all the retail field except the selling of foods, tobacco, and milk, and except such other divisions of the retail trade as are now or may subsequently be governed by separate codes. Schedule A, attached to the Code, contains certain special provisions which apply only to drug retailers. Inasmuch as the drug retailers asked for a separate code, we are submitting at the same time with this Code a Code for the Retail Drug Trade which is identical in all its provisions with the provisions of the Code for the General Retail Trade, including Schedule A.

The hearing was conducted in Washington on August 22, 23, and 24. Every person who requested an appearance was heard in accordance with statutory and regulatory requirements. The Code has the approval of a substantial portion of the retail trade.

II. PRICE PROVISIONS

The general retail hearing required three full days, and during the entire period the majority of witnesses presented statements to substantiate their belief that it was imperative that regulations of a drastic nature be incorporated in the Retail Trade Code.

Retailers were insistent that the Administration should recognize their position as expressed in the Code submitted regarding the "loss limitation" provisions and "trade practice" provisions affecting selling, pricing, and advertising policies.

The Code had been given nation-wide publicity by the sponsoring associations prior to the hearing, and the conviction that these pro-

visions must be included in the Code had become firmly entrenched in the minds of the great majority of those present, who claimed to reflect the attitude of the retailers in their respective communities.

Retailers stated that in working under the wage and hour provisions of the substitute Retail Code, which had been in effect about 30 days, operating expenses had been substantially increased due to the additions to pay rolls which required enlarged current cash outlays, and that this new burden could not be carried by tens of thousands of financially weakened concerns unless provisions for protection against predatory price cutting became effective at once.

III. LABOR PROVISIONS

The elective provisions regarding wages, work hours, and store hours suggested by the Administration were generally accepted as equitable.

The working hours may not be entirely satisfactory from a purely social viewpoint; but they represent a substantial reduction from the hours which prevailed in the retail trade. This reduction in working hours will restore employment in retailing to the 1929 level.

IV. ADMINISTRATION

The provisions for administration of this Code are capable of providing the NRA and the retail trades 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 to this Code which would be beneficial to the trade as a whole.

The Administrator finds that—

(*a*) The provisions of the Code as recommended comply in all respects with the pertinent provisions of clauses one and two, subsection (a) of Section 3 of the National Industrial Recovery Act; and that

(*b*) The applicant group imposes no inequitable restrictions on admission to membership therein, and is truly representative of the Retail Trade; 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 clauses one and two of the National Industrial Recovery Act.

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

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

RETAIL 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 Trade.

Article I. Application of Code

Section 1. *Application of Code.*—The provisions of this Code, except such provisions as are included in Schedule A annexed hereto and in such other schedules as may subsequently be approved and annexed hereto, and except as hereinafter specifically provided, shall apply to all retailers and/or retail establishments engaged in the retail trade as defined in Article II hereinafter. The provisions of Schedule A and such other schedules as may subsequently be annexed hereto shall apply only to those retailers and/or retail establishments as are specifically included within the provisions of such schedules.

Section 2. *Request for separate Code.*—Any division of the retail 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 Fair Competition. The Administrator shall determine whether such division of the retail 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 Fair Competition for such division.

Article II. Definition

Section 1. *Retail trade.*—The term "retail trade" as used herein shall mean all selling of merchandise to the consumer and not for purposes of resale in any form, in the continental United States, excluding the Panama Canal Zone. It is provided, however, that the term shall not include the selling at retail of milk and its products, tobacco and its products, and foods and foodstuffs, or the dispensing of drugs, medicines, and medical supplies by a physician, dentist, surgeon or veterinarian in the legitimate practice of his profession; and it is further provided that the term shall not include any division of retail selling (except the selling of drugs and allied products) which is now or may hereafter be governed by a separate Code of Fair Competition approved by the President of the United States.

Section 2. *Retailer.*—The term "retailer" as used herein shall mean any individual or organization engaged wholly or partially in the retail trade.

SECTION 3. *Establishment.*—The term "establishment" as used herein shall mean any store or department of a store, shop, stand, or other place where a 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 trade. The term is also used herein to refer to the retailer who carries on business in such establishments.

SECTION 4. *Employee.*—The term "employee" as used herein shall mean any person employed by any retailer, but shall not include persons employed principally in the selling at retail of products not included within the definition of retail trade.

SECTION 5. *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 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.

SECTION 6. *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.

SECTION 7. *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 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 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 joint 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.

Section 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 V. Store Hours and Hours of Labor

Section 1. *Basic store and working hours.*—On and after the effective date of this Code establishments in the retail 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.

SECTION 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.

SECTION 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 establishment may, for a period not to exceed three (3) months during the Summer, temporarily reduce its store hours, but the weekly wages of its employees shall not on that account be reduced.

SECTION 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 two (2) 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 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.

Section. 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; 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).

Section. 6. *Hours of work to be consecutive.*—The hours worked by an 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.

Section 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.

Section 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 law allows.

Article VI. Wages

Section 1. *Basic schedules 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 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.

Section 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).

Section 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.

Section 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.

Section 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, nothwithstanding any reduction in the number of working hours of such employees.

Section 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 VII. Limitations Upon Price Increases; Prior Contracts

Section 1. *Limitation upon price increases.*—No retailer 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 or 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 retailers 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.

Section 2. *Adjustment of prior contracts.*—Where costs of executing contracts entered into before June 16, 1933, by any retailer 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 Trade Council provided for in Article I hereinafter is constituted an agency to assist in effecting such adjustments.

Article VIII. Loss Limitation Provision

Section 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 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 a 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.

1. 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.

2. Such an allowance for labor need not be included in the selling price of any article of food, or be applied by storekeepers 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 retailer 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 provision. A retailer 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 retailer immediately notifies the nearest representative retail trade organization of such action and all facts pertinent thereto.

Section 2. *Exceptions.*—(*a*) Notwithstanding the provisions of the preceding section, any retailer may sell at less than the prices specified above, merchandise sold as bona fide clearance, if advertised, marked, and sold as such; highly perishable merchandise, which must be promptly sold in order to forstall loss; 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, not for resale and not for redistribution to individuals; merchandise sold or donated for charitable purposes or to unemployment relief agencies; and drugs or drug sundries sold to physicians, nurses, dentists, veterinarians, or hospitals.

(*b*) Nothing in the provisions of the preceding section shall be construed to prevent bona fide farmers' associations engaged in purchasing supplies and/or equipment for their membership from making patronage refunds to their membership.

(*c*) 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 IX. Trade Practices

All retailers shall comply with the following trade practices:

Section 1. *Advertising and selling methods.*—(*a*) No retailer shall use advertising, whether printed, radio, or display or of any other nature, which is inaccurate in any material particular or misrepre-

sents merchandise (including its use, trade-mark, grade, quality, quantity, size, origin, material, content, preparation, or curative or therapeutic effect) 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 retailer 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 retailer shall use advertising which inaccurately lays claim to a policy or continuing practice of generally underselling competitors.

(*d*) No retailer 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 retailer 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.

SECTION 2. *N.R.A. label.*—No retailer 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 retailer 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.

SECTION 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 retailer 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.

SECTION 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 retailer shall accept as payment for merchandise any non-negotiable 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 retailer 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 X. ADMINISTRATION

The following provisions for the administration of this Code shall not apply to the retail drug trade, which shall be governed by the provisions of Section 5 of Schedule A annexed hereto.

SECTION 1. *Retail Trade Authority.*—The Retail Trade Authority shall consist of the Administrator or his Deputy and three members appointed by the President of the United States, who shall advise and assist the Administrator or his Deputy. Members of the Retail Trade Authority shall be members, without vote, of the National Retail Trade Council provided for hereinafter.

SECTION 2. *National Retail Trade Council.*—(*a*) *Composition.*—The National Retail Trade Council shall consist of at least one, but not more than three, representatives from each major division of the retail trade presenting this Code or hereafter subscribing to it, as the Administrator shall designate.

Such representatives shall be elected, in accordance with a fair method approved by the Administrator, by the national trade associations representing the above divisions of the retail trade. Where more than one national trade association each represents a portion of a single division of the retail trade, the Administrator shall, for the purpose of establishing the membership of the National Retail

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. Regardless of the number of its representatives, each division of the retail trade shall have one vote in all action taken by the National Retail Trade Council.

(*b*) *General powers.*—The National Retail Trade Council shall, in addition to the specific powers herein conferred, have all general powers necessary to assist the Administrator or his Deputy in the administration and enforcement of this Code.

(*c*) *Reports and investigations.*—The National Retail Trade Council shall, subject to the approval or upon the request of the Administrator, 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 Retail Trade Council may from time to time present to the Administrator recommendations (including interpretations) 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*) *Local committees.*—The National Retail 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.

(*f*) *Expenses.*—The expenses of the National Retail Trade Council shall be equitably assessed and collected by the Council, subject to the approval of the Administrator.

Section 3. *Regional Advisory Committee.*—The National Retail Trade Council shall, subject to the approval of the Administrator, appoint annually a Regional Advisory Committee consisting of one member appointed from and representing each major geographical section of the country as established by Federal Reserve Districts. It shall be the function of the Regional Advisory Committee to serve in an advisory capacity to the Administrator and to the National Retail Trade Council on matters pertaining to the administration of this Code in the respective districts. The Committee shall meet subject to the call of the Administrator, the National Retail Trade Council, or the Committee's chairman.

Section 4. *National Retail Trade Economics Board.*—The National Retail Trade Economics Board shall consist of five (5) members appointed by the President of the United States or by the Administrator. Such Board shall observe and study the economic effects and results of the various provisions of this Code and shall report from time to time to the Administrator.

Section 5. *Interpretations.*—The Administrator may from time to time, after consultation with the National Retail Trade 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 a part of this Code, unless the Administrator shall otherwise specify.

Section 6. *Exceptions in cases of unusual or undue hardship.*—Where the operation of the provisions of this Code impose an unsual 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 exception to or modification of the provisions of this Code as may be required to effectuate the purpose of the National Industrial Recovery Act.

Article XI. General

Section 1. *Membership in associations.*—Membership in the national retail associations represented upon the National Retail Trade Council, or in any affiliated associations, shall be open to all retailers of that portion of the retail trade which said associations respectively represent and said associations shall impose no inequitable restrictions upon admission to membership therein.

Section 2. *Information to be furnished Government agencies.*—In addition to information required to be submitted to the National Retail 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.

Section 3. *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.

Section 4. *Prohibition against use of subterfuge.*—No retailer 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.

Section 5. *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.

Section 6. *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.

SEC. 7. *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.

Approved Code No. 60.
Registry No. 1625/2/02.

SCHEDULE A

Supplemental Provisions Applicable to Retail Drug Establishments and to all Retailers Dealing in Drugs and Allied Products

In addition to the foregoing provisions of this Code, the following supplemental provisions shall apply to retail drug establishments and to all retailers dealing in drugs and allied products.

Section 1. Definitions

(1) *Retail drug trade.*—The term "retail drug trade" as used herein shall mean all selling to the consumer and not for the purpose of resale in any form of drugs, medicines, cosmetics, toilet preparations, drug sundries, and/or allied items, in the continental United States excluding the Panama Canal Zone. It is provided, however, that the term "retail drug trade" shall not include the dispensing of drugs, medicines, and medical supplies by a physician, dentist, surgeon, or veterinarian in the legitimate practice of his profession.

(2) *Drug retailer.*—The term "drug retailer" as used herein shall mean any individual or organization engaged wholly or partially in the retail drug trade.

(3) *Retail drug establishment.*—The term "retail drug establishment" as used herein shall mean any store or department of a store engaged in the retail drug trade, but shall not include stores or departments in which the principal business is the selling at retail of products other than drugs, medicines, cosmetics, toilet preparations, drug sundries, and/or allied items.

(4) *Drugs.*—The term "drug" as used herein shall mean all medicinal substances and preparations recognized in the United States Pharmacopoeia and National Formulary or any supplements thereto, and all substances and preparations intended for external or internal use in the cure, mitigation, treatment, or prevention of disease in man or other animals, and all substances and preparations other than food (but including medicinal or quasi-medicinal preparations, such as those sold or produced primarily for their vitamin content), intended to affect the structure or any function of the body of man or other animals.

(5) *Cosmetics and toilet preparations.*—The term "cosmetics" and the term "toilet preparations" as used herein shall mean toilet articles and perfumes, toilet waters, face powders, face creams, rouges, shaving creams, dentifrices, soaps, and similar substances and preparations designed and intended for application to the person for the purpose of cleansing, improving the appearance of, refreshing or preserving the person.

(6) *Drug sundries.*—The term "drug sundries" as used herein shall mean such articles as are used in conjunction with, but not included in, "drugs", "cosmetics", or "toilet preparations."

(7) *Registered pharmacist, assistant pharmacist, apprentice pharmacist.*—The terms "registered pharmacist", "assistant pharmacist", and "apprentice pharmacist", as used herein shall have the meaning given to them under the laws of the respective states of the United States and of Alaska.

(8) *Curb boys or girls.*—The term "curb boys or girls" as used herein shall mean employees engaged exclusively in serving curb customers.

Section 2. Store Hours and Hours of Labor

(1) *Group D, for retail drug establishments.*—In place of any of the schedules of store hours and hours of labor set forth in Article V, Section 1, retail drug establishments may elect to remain open for business seven (7) days a week for a total of eighty-four (84) hours or more per week, but on no day for less than eight (8) hours; no employee of such establishment, except as provided in Article V, Sections 4 and 5, shall work more than fifty-six (56) hours per week, nor more than ten (10) hours per day, nor more than thirteen (13) days in any two consecutive weeks.

(2) *Exception in case of pharmacists.*—The maximum hours of labor prescribed in Article V and in paragraph (1) of this section shall not apply to registered pharmacists, assistant pharmacists, and apprentice pharmacists, employed and working as such, who may work ten (10) percent above the maximum hours otherwise applicable, or more in cases of emergency.

Section 3. Wages

(1) *Basic rates for retail drug establishments electing to operate in Group D.*—No employee of a retail drug establishment which has elected to operate in Group D as set forth above, shall, except as provided in Article VI, Sections 2 and 3, be paid for a fifty-six (56) hour work week less than at the rate of $16.00 per week in cities of over 500,000 population, or less than at the rate of $15.00 per week in cities of from 100,000 to 500,000 population, or less than at the rate of $14.00 per week in cities of from 25,000 to 100,000 population; in cities, towns, and villages of from 2,500 to 25,000 population, the wages of all classes of employees of such establishments 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; in towns, villages, and other places with less than 2,500 population, the wages of all classes of employees of such establishments 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.

(2) *Exception for establishments employing curb boys or girls.*—The minimum wages prescribed in Article VI and paragraph (1) of this section may not apply to curb boys or girls employed by retail drug establishments when such employees are paid upon a commission basis.

Section 4. Trade Practices

In addition to the trade practices set forth in Article IX, all drug retailers shall comply with the following:

(*a*) No drug retailer shall substitute another article or any part thereof for the kind ordered, without due notice to and consent of the customer.

(*b*) No drug retailer shall advertise to fill prescriptions at a uniform price irrespective of cost of ingredients or quantity prescribed.

(*c*) No drug retailer shall permit any demonstrator or sales employee, whose salary is wholly or partially paid by a manufacturer or distributor, to work in his establishment unless such demonstrator or sales employee is clearly and openly identified as the agent of such manufacturer or distributor.

Section 5. Administration

The administration of this Code, including this Schedule, insofar as it relates to the retail drug trade, shall be governed by the following provisions:

(1) *Retail Drug Trade Authority.*—The Retail Drug Trade Authority shall consist of the Administrator or his Deputy, and three members appointed by the President of the United States, who shall advise and assist the Administrator or his Deputy. Members of the Retail Drug Trade Authority shall be members, without vote, of the National Retail Drug Trade Council, provided for hereinafter.

(2) *National Retail Drug Trade Council.*—(*a*) *Composition.*—The National Retail Drug Trade Council shall consist of one representative from the American Pharmaceutical Association, one representative from the Drug Institute of America, Incorporated, two representatives from the National Association of Retail Druggists, and such representation from any national association of the retail drug trade as may be approved by the Administrator.

Such representatives shall be elected, in accordance with a fair method approved by the Administrator, by the respective national trade associations.

(*b*) *General powers.*—The National Retail Drug Trade Council shall in addition to the specific powers herein conferred, have all general powers necessary to assist the Administartor or his Deputy in the administration and enforcement of this Code insofar as it relates to the retail drug trade.

(*c*) *Reports and investigations.*—The National Retail Drug Council shall, subject to the approval or upon the request of the Administrator, require from all drug retailers such reports as are necessary to effectuate the purposes of this Code insofar as it relates to the retail drug trade, 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 relating to the retail drug trade and report the results of such investigation to the Administrator.

(*d*) *Recommendations.*—The National Retail Drug Trade Council may from time to time present to the Administrator recommendations (including interpretations), based on conditions in the retail drug 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*) *Local committees.*—The National Retail Drug 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 drug trade.

(*f*) *Expenses.*—The expenses of the National Retail Drug Trade Council shall be equitably assessed and collected by the Council, subject to the approval of the Administrator.

(3) *Interpretations.*—The Administrator may from time to time, after consultation with the National Retail Drug Trade Council, issue such administrative interpretations of the various provisions of this Code relating to the retail drug 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 drug retailer or group of drug retailers, such drug retailer or group of drug 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 exception to or modification of the provisions of this Code as may be required to effectuate the purposes of the National Industrial Recovery Act.

O

Approved Code No. 61

CODE OF FAIR COMPETITION

FOR THE

INDUSTRIAL SUPPLIES AND MACHINERY DISTRIBUTORS' TRADE

As Approved on October 23, 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 Industrial Supplies and Machinery Distributors' 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, 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,
October 23, 1933.

October 12, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Industrial Supplies and Machinery Distributors' Trade in the United States, conducted in Washington on September 27, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

A maximum work week of 40 hours and not to exceed more than 8 hours per day is adopted under this Code with provision for 48 hours' maximum during three weeks of any six months' period to be averaged down to 40 hours per week.

Executives receiving more than $35.00 per week, watchmen, and outside salesmen are excepted from the schedule of minimum hours, while service employees, those engaged in plant maintenance, and stock-room employees may work a maximum of 48 hours with payment of time and one third for all hours worked in excess of 40 hours.

No person under 16 years of age shall be employed and none under 18 employed in any hazardous occupation.

The minimum rates of pay shall be $15.00 per week in cities and trade areas of 500,000 population or more, $14.50 per week in cities and trade areas of 250,000 to 500,000 population, and $14.00 if the population is over 2,500 and not more than 250,000. In towns of not more than 2,500, all wages of such employees shall be increased by not less than 20%, provided that this shall not require wages in excess of $12.00 per week.

Part-time employees in each area shall receive a minimum hourly wage in relation to 40 hours and the minimum weekly rate.

Learners and junior employees shall receive not less than $2.00 per week less than the minimum rate and not more than 5% of the total number of employees can be so classified.

ECONOMIC EFFECT OF THE CODE

The 40-hour week stipulated in the Code is a reduction from an average of more than 48 hours per week, and the trade estimates that under the provision of the Code the number of employees will be increased 20 percent.

The minimum wage rates specified represent an increase of from 20 to 100 percent over the wages prevailing in the same classifications before the adoption of the President's Re-employment Agreement.

The importance of the trade is evidenced by the fact that its members normally employ 27,000, have a capital investment of $172,000,000, and have normal average annual sales of $335,000,000.

This trade distributes machinery and industrial supplies—to railroads, ships, mines, mills, factories, and contractors. It is nationwide, its customers including all users of industrial supplies and machinery.

The combination of two sectional divisions of trade under one Code is extremely gratifying. Each division will be properly represented in the work of administration by regional committees, acting under the supervision of the Code Authority. These committees will not only relieve the Code Authority of local details of administration, but are truly representative of the regions from which they are elected.

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 Industrial Supplies and Machinery Distributors' 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 immediately adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

INDUSTRIAL SUPPLIES AND MACHINERY DISTRIBUTORS' 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 Industrial Supplies and Machinery Distributors' Trade, and upon approval by the President, shall be the standard of fair competition for this trade.

Article II—Definitions

Section 1. The term "Industrial Supplies and Machinery Distributors' Trade", or "trade", as used herein, includes the warehousing, selling, distributing, and/or servicing in conjunction therewith of tools, equipment, and supplies for railroads, ships, boats, mines, mills, factories, and/or other industrial users.

Sec. 2. A Distributor of Industrial Supplies and Machinery shall be defined as one who sells to industrial consumers and other trade outlets; and who has at least the following facilities and services:

(a) An adequate investment,

(b) Storage space sufficient to carry the stock required in Paragraph (e) herein and necessary facilities for operating same,

(c) A proper accounting system, sales, office, and delivery service,

(d) Regularly maintains salesmen in his territory to demonstrate and sell the lines handled,

(e) Carries a sufficiently complete purchased stock of industrial tools, equipment, and supplies to meet normal requirements in his territory,

(f) Assumes the credit risk of his sales.

Nothing in this Section 2, Article II, however, shall be construed to exclude in any way as a member of the trade and/or from the operation of this Code, anyone who sells tools, equipment, and supplies to the industrial users described in Section 1, Article II hereof except with the approval of such exclusion by the Administrator.

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

Sec. 5. The term "member of the trade" as used herein includes any employer who shall be subject to this Code.

Sec. 6. The term "member of the Code" as used herein includes any member of the trade who shall expressly signify assent to this Code.

Sec. 7. 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.

Sec. 8. The term "learner" as used herein is a person having no previous experience in the trade, and whose employment as such shall not exceed 6 months.

Sec. 9. The term "act" as used herein is Title I of the National Industrial Recovery Act.

Sec. 10. The term "Administrator" as used herein is the National Recovery Administrator.

Sec. 11. Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

Article III—Hours

On and after effective date of this Code.

Section 1. No employee in the Trade, except as hereinafter provided, shall be employed for more than eight (8) hours in any one day nor for more than forty (40) hours in any one week, nor for more than six (6) days in any one week; provided, however, that during inventory and other peak periods, such employees may be permitted to work not more than forty-eight (48) hours in any one week, or not more than three (3) weeks in any six (6) months period; provided, further, that the average shall not be more than 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 persons in a managerial, executive, or supervisory capacity, who now 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 persons engaged in outside delivery service, plant maintenance, outside repair, and/or installation service, nor to persons engaged in stock receiving and shipping service, who shall be permitted to work not more than forty-eight (48) hours in any one 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

On and after effective date of this Code.

Section 1. (a) The minimum rates of pay except as prescribed in Section 2 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 to 500,000 population not less than $14.50 per week;
2,500 to 250,000 population not less than $14.00 per week.

In towns of less than 2,500 population, all wages of such employees shall be increased by not less than 20%, provided that this shall not require wages in excess of $12.00 per week.

Sec. 2. No part time or casual employee shall be paid at a rate per hour less than the minimum rates prescribed in Section 1 of this Article IV, which minimum rates are based on a forty (40) hour week, applying to the area in which the employer is located.

Sec. 3. Learners may be paid at the rate of $2.00 less per week than the minimum rates prescribed in Section 1 of this Article IV, provided that in no case shall the minimum be less than $12.00 per week.

Sec. 4. 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 that in no case shall the minimum be less than $10.00 per week.

Sec. 5. Such learners and junior employees mentioned in Sections 3 and 4 of this Article IV employed by any one employer shall not exceed in number more than five (5) percent of the total number of employees of such employer, provided that each employer may have at least one learner or junior employee.

Sec. 6. No employee now receiving compensation at a rate in excess of the minimum herein prescribed shall have his compensation reduced on account of any reduction in the weekly hours of employment to conform with the requirements of Article III.

Sec. 7. 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. 8. 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 monthly basis.

Sec. 9. 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. 10. No person who has worked as a learner for one member of the trade for the period of time prescribed under the term "learner" in Article II may thereafter be classified as a learner.

Sec. 11. No employer shall reduce the compensation for employment now in excess of the minimum wages herein prescribed, notwithstanding that the hours worked in such employment may be hereby reduced.

Sec. 12. The provisions for a minimum wage in this Code establish a guaranteed rate of pay per hour or per week of employment, regardless of whether the employees' compensation is calculated on an hourly, weekly or monthly basis.

Article V—Administration

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.

(a) The Code Authority shall consist of eight members of the Trade (no two of whom shall represent the same member) and one or more appointees of the Administrator if he so desires. The latter shall have no vote. The members of the Code Authority shall be elected by the members of the Trade, each member of the Trade to have only one vote. Such election shall be by mail ballots, which ballots shall be sent to all members of the Trade. The Code Authority shall complete its own organization by election of officers.

(b) Any member of the Trade 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 and any revision of and additions or supplements to this Code by accepting his proper pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the National Supply and Machinery Distributors' Association or the Southern Supply Machine Distributors' Association or by paying to the Code Authority his pro rata share of the costs, based on the dollar volume of sales by the entire trade. There shall be no initiation fee for members of the Trade who participate only in the Code and do not become members of one of the said Associations.

Sec. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to review by the Administrator:

(a) To collect from persons in the Trade all data, reports, and statistics when and as required by the President and/or the Administrator and/or their agent or agents. Such information shall be confidential. Each member shall send his data to a neutral agency designated by the Code Authority. This neutral agency shall assemble all such data and present it to the Code Authority without the names of the members of the Trade submitting such data. This data with names shall be available to the Administrator, if required by him. Reports submitted by the Code Authority to the President and/or the Administrator and/or his or their agent or agents shall be in the form prescribed and/or approved by him. Nothing in this paragraph shall be construed as limiting the powers conferred on the President and/or the Administrator by Title I of the Act.

(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 purpose recited in Section 3 (a) of the National Industrial Recovery Act.

(c) To represent the Trade 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.

(d) To arrange for a Regional Committee in each territorial area to assist the Code Authority in administering the code. Each such Regional Committee shall consist of not more than three (3) members of the trade in such area, elected by the members of the trade in such area.

(e) To appoint such agents as it may deem necessary to assist in administering this code.

(f) To hear and investigate complaints and attempt to adjust the same in accordance with law.

(g) To study the trade-practice provisions of Article VI and the operation thereof, and make such recommendation from time to time to the Administrator as it deems desirable for modification of or addition thereto, which, upon the approval of the President, 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 of this Code, subject to the approval of the Administrator.

(i) To report to the Administrator on behalf of the trade on the subject of imported articles competing with products distributed by the trade under provisions of Section 3 (a) of the Act.

Article VI—Unfair Competition

The following practices are hereby declared to be unfair methods of competition within the meaning of the Act:

Section 1. Sales below the individual's cost. Cost is to be determined by a standard cost-accounting system to be set up by the Code Authority and subject to the approval of the Administrator. It is expressly understood that this shall not apply to items on which the published or suggested prices of manufacturers do not provide a margin sufficient to cover the individual's cost as determined by the above-mentioned standard cost-accounting system.

Sec. 2. Where in any particular territory, members of the Trade desire to file price lists with such agency as may be approved by the Code Authority, it is a violation of the Code for such members to sell below their individually filed schedules covering prices, terms, and conditions. Such schedules are to be subject to change at any time by filing a new schedule, which shall be effective five (5) days after filing.

Sec. 3. The payment or allowance of secret rebates, refunds, discounts, commissions, or other special considerations or allowances, including donations, gifts, or premiums of any nature whatsoever, to any firm or individual.

Sec. 4. The issuance of false invoices or other documents covering sales in which the prices, terms, discounts, allowances, or other facts relating to the transaction are in any manner falsely stated.

Sec. 5. Discrimination in prices between purchasers of the same class under similar conditions except for differences in the grade, quality, or quantity purchased.

Sec. 6. Delivering merchandise which fails to conform exactly to the samples or specifications on which prices are quoted.

Sec. 7. Agreeing to conditions or terms of sale, or making promises of any nature which manifestly cannot be fulfilled.

Sec. 8. Accepting orders for future delivery subject to cancellation.

Sec. 9. Inducing or attempting to induce the cancellation of orders or the breach of contracts existing between competitors and their customers.

Sec. 10. Misrepresentation of facts about a competitor or his product.

Sec. 11. Quoting a total price on any schedule of industrial supplies and machinery which does not show unit prices and making any addition or deduction on any other basis than the unit price shown.

Sec. 12. It is an uneconomical and an unfair practice for distributors to ship any goods on consignment, except products of manufacturers whose general plan of distribution is by consignment and not by sale for resale.

Article VII—Scope of Code

In the absence of any contrary provision herein concerning such trade practice, each member of the trade shall in dealing with a product manufactured by a member of an industry operating under another Code of Fair Competition, conduct such dealing in conformity with any pertinent trade-practice provisions in such other Code.

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 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. 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 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. 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. If any employer in this trade is also an employer in any other trade or industry the provisions of this Code shall apply and affect only that part of the business of such employer which is a part of the trade covered by this Code.

Sec. 7. Where the costs of executing contracts entered into this trade are increased as a result of the enactment of the National Industrial Recovery Act and/or by the provisions of this Code, or where any contract entered into by an employer subject to this Code, is inconsistent with the provisions thereof, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts be arrived at by arbitral proceedings or otherwise, and the Code Authority is constituted an agency to assist, with the consent of the buyer in effecting such adjustments. Further, that where

the performance of orders accepted prior to the effective date of this Code is delayed or prolonged as a result of the operation of provisions of this Code, appropriate additional time should be allowed for the completion of such orders.

Sec. 8. 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 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.

Sec. 9. Prior to December 31, 1933, no member of the trade shall increase the sale price of his goods sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution, and material costs, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this Code since July 1, 1933, and in setting such price increases full weight shall be given to probable increases in sales volume. In case a member of the trade on July 1, 1933, was selling his product at less than actual cost, he may take his cost price on that date as the base for such increase in selling price as is permitted by this section.

Sec. 10. 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.

Article IX

This Code shall be in effect beginning on the tenth day after its approval by the President and shall be binding upon all persons engaged in the trade.

Approved Code No. 61.
Registry No. 1399/1/16.

O

Approved Code No. 62

CODE OF FAIR COMPETITION

FOR THE

STEEL TUBULAR AND FIREBOX BOILER INDUSTRY

As Approved on October 23, 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 Steel Tubular and Firebox Boiler 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,
October 23, 1933.

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October 7, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry in the United States, conducted in Washington on September 28, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE FOR HOURS AND WAGES

Factory employment is limited to 40 hours per week, except on emergency or erection work, for which the time-and-a-half rate will be paid for inside work and double time for outside work. Executives, outside salesmen, and watchmen are not included in this schedule of hours. Where production requires less hours of work, the days per week may be reduced by agreement between employers and employees. New apprentices can be employed only with the consent of the Industry Committee and the Administrator, whose decisions will be based on the local unemployment conditions.

The minimum wage provided for factory workers will be 40 cents per hour except in specified southern states where the minimum will be 34 cents. Old or disabled employees will be paid no less than 80 percent of this minimum. The minimum wage for all other employees, except commission salesmen, will be not less than $15 per week, office boys and girls receiving no less than 80 percent of this minimum. The minimum age of employees will be 16 years.

ECONOMIC EFFECT OF THE CODE

The 40-hour normal week for factory employees, with the additional pay for overtime, should tend to level employment peaks in this Industry and increase the number of workers. Though exact figures on this increase are not obtainable, it may be noted that the adoption of the 40-hour week under the Re-Employment Agreement and recent improved business have increased employment, from April 1st to September 1st, 45 percent.

As a result of the minimum wages provided, the average wage rate increase over those in effect April 1, 1933, has been estimated at 19 percent. The average minimum wage rate last April was approximately 30 cents and on September 1st, 36 cents.

The labor provisions of this Code conform, as agreed, to those of the Boiler Manufacturing Code. Steel Tubular and Firebox Boilers include the stationary type used in buildings. They are sold partly direct and partly through jobbers and contractors, in accordance with standard price lists and catalogs.

The comprehensive provisions of this Code on trade practices are substantially the same as those already established by the Steel Heat-

ing Boiler Institute, the members of which include 66 percent of the manufacturers and have 94 percent of the total volume of business. The practices incorporated in this Code provide a more liberal interpretation and more extensive application of the statutes, adequately standardizing and improving the trade conditions of the Industry as a whole.

This Industry has suffered severe losses during the depression. Sales have dropped from $21,000,000 in 1928 to about $5,000,000 in 1932; and the number of employees from 3,300 to a third of that figure the early part of this year. Only by increased business, which will come about, largely through an upturn in construction, can this capital goods Industry put a large number of employees back to work. In arriving at the terms expressed in the Code, it has shown its cooperation in complying with the spirit of the 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 Steel Tubular and Firebox Boiler 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

STEEL TUBULAR AND FIREBOX BOILER INDUSTRY

Article I—Purposes

The following provisions are established as a Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry in order to effectuate the policy of Title I of the National Industrial Recovery Act.

Article II—Definitions

The term "Steel Tubular and Firebox Boiler Industry" as used herein (hereinafter abbreviated to "this industry") is defined to mean all manufacturers of steel heating boilers as defined in Section IV, Sub-Section I, of the Boiler Code of the American Society of Mechanical Engineers; also, for all working pressures, Scotch type boilers for stationary use, vertical fire tube boilers, horizontal firebox type boilers, tubeless boilers, oil country boilers, miniature boilers.

The term "member of this industry" as used herein is defined to mean, but without limitation, all persons, partnerships, or corporations who manufacture any of the above-specified items.

The term "member of the Code" as used herein is defined to mean any member of this industry who signifies assent to this Code.

Article III—Hours

Section 1. (a) No employer shall employ, in any labor operations, any person more than 40 hours per week, five consecutive days and eight consecutive hours per day, exclusive of meal period, except watchmen and/or as provided under paragraph (b), provided, however, that where it is necessary to work less than 40 hours per week, the hours may be divided by agreement between the employer and the employees to a lesser number of days per week, but in no case shall the hours exceed nine per day.

(b) In cases of emergency production, repair or erection work that cannot be met by the employment of additional men and/or it becomes necessary, in order to protect life or property, to exceed the hours scheduled in Section I (a), all such excess time shall be paid for at the rate of not less than one and one-half times the hourly rate for shop work. For all outside repair, renewal, construction and/or erection work, not less than double the hourly rate shall be paid for all such excess time.

(c) No new apprentices shall be employed in the industry except that the Executive Committee (as designated in Article VI), subject to the approval of the Administrator, may grant the employment of such new apprentices if in his judgment the existing surplus of unemployed local labor is absorbed in reasonably steady employment.

This is not to be construed to prohibit instruction of mechanics already employed in this industry.

(d) For all other employees except executives, executives' secretaries, administrative and supervisory employees, and traveling and commission salespeople, the time worked shall not be in excess of 40 hours per week.

Sec. 2. No employee shall be employed or permitted to work for one or more employers in this industry in the aggregate in excess of the prescribed number of hours in a single week; provided, however, that if any employee works for more than one employer for an aggregate period in excess of such maximum without the connivance of any one of such employers, said employer shall not be held to have violated this provision.

Article IV—Wages

Section 1. (a) The minimum wages that shall be paid by any employer to any employee of the Steel Tubular and Firebox Boiler Industry in labor operations directly incident thereto shall be 34¢ per hour for the Southern territory and 40¢ per hour for all other portions of the United States. The Southern territory is located South of the States of Maryland, West Virginia, and Kentucky and East of the Mississippi River.

(b) Old or partially disabled employees unable to perform their usual duties are not included in the above labor provisions, except that they shall in no case be paid less than 80% of the above minimum, and provided that the total number of such employees shall not exceed 5% of the total number employed by any one employer or where less than forty (40) persons are employed such employer shall be entitled to two (2) employees of this class.

(c) The minimum wage that shall be paid by any employer to all employees, other than those covered in Section I (a) and (b) except commission salespeople, shall not be less than $15 per week; provided, however, that office boys and girls may be paid not less than 80% of such minimum wage, but the total number of such office boys or girls shall not exceed in any calendar month 5% of the total number of all employees covered by the provisions of this Section I (c) and provided further that where a State law provides a higher minimum wage, no person shall be paid a lower wage than that required by such law, within that State.

Sec. 2. No employee shall be classified in any one of the exempted classes defined in this Article and in Article III, unless he performs functions substantially identical with those performed by employees thus classified on June 16, 1933.

Article V—General Labor Provisions

Section 1. No employer shall employ any person under sixteen years of age. Provided, that 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.

Sec. 2. All employers in this industry shall comply with the provisions of Sub-Section (a), Section 7, of the National Industrial

Recovery Act, as follows: (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. 3. Any system of contracting shop work by which an employee undertakes to do a piece of work at a specific price, and engages other employees to work for him, is prohibited by this Code.

Sec. 4. The wage differentials for all operations shall be equitably readjusted and in no case shall they be decreased. No unfair advantage shall be taken of any employee in making this Code effective. Each member of this industry shall report all such readjustments to the Manager within 30 days of the effective date.

Sec. 5. No employer shall contract for the fabrication and/or erection of any of the products of this industry with any employer or employee except when such employer or employee agrees to comply with the labor provisions of this Code during the performance of the contract.

Sec. 6. Each employer shall post in each workshop and on central notice board in his factory the labor provisions of this Code.

Article VI—Administration

Section 1. The Steel Heating Boiler Institute, hereinafter designated as the S.H.B.I., shall not impose any inequitable restrictions on admission to membership.

Sec. 2. The Executive Committee of the S.H.B.I., to membership of which the President may appoint one nonvoting member, is hereby designated an Agency to cooperate with the Administrator in the administration and enforcement of this Code, and for this purpose shall appoint a full-time manager who, subject to approval of the Executive Committee and the Administrator, shall (a) attempt to determine within the industry as to whether any member has, or has not, adhered to the provisions of this Code; (b) act as the industry's representative in all dealings with the Government; (c) conduct any investigation or survey within this industry that might be of general benefit to this industry.

Sec. 3. With a view to supplying data as to the observance or nonobservance of the Code, each member of this industry shall make such reports relating to matters covered by this Code at such times and in such form as the Executive Committee of the S.H.B.I., subject to the approval of the Administrator, shall prescribe. Such reports shall be received by the Manager. The Executive Committee of the S.H.B.I. may require said reports to be substantiated by

oath. If the manager has reason to believe that any report of any member is inaccurate, such report may be verified by inspection of the books and records of such member by a disinterested and impartial agency designated by the Executive Committee of the S.H.B.I., subject to the approval of the Administrator. The said reports shall be held in confidence by the Manager except insofar as disclosure may be necessary for the effective enforcement of this Code.

Sec. 4. Nothing in this Code shall preclude furnishing of compiled data to the members of this industry by the Manager.

Sec. 5. In addition to information required to be submitted to the Executive Committee of the S.H.B.I. 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.

Sec. 6. Members of this Code shall be entitled to participate in the Code activities of the S.H.B.I.

Sec. 7. Each member of the Code shall contribute his equitable and proportionate share toward the cost of administration of this Code, either by becoming a member of the S.H.B.I. or by paying an amount equal to that portion of the dues and/or assessments paid by members of the S.H.B.I. which are used to defray the expense of administration of this Code.

Sec. 8. Upon request of the manager each member of the Code shall submit data necessary for prorating this expense. Each member of this Code shall pay his prorated share of this expense upon demand of the Treasurer of the S.H.B.I.

Sec. 9. Each member of this industry shall report to the manager any infraction of a provision of this Code by any other member of this industry where said infraction affects the reporting member's business.

Sec. 10. Each member of this industry who violates any provisions of this Code is liable to the penalty prescribed by the National Industrial Recovery Act.

Article VII—Trade Practices

Sec. 1. In order to promote fair competition and prevent discrimination between purchasers, the following provisions shall be observed and practiced by all members of this industry:

(a) Prices, terms, and discounts shall be openly and publicly announced, and to this end they shall be issued in printed form by the individual manufacturer.

(b) All offers to sell which take the form of a quotation shall represent the true prices and terms at which the manufacturer will sell the goods covered by the quotation then being made, and any omission of parts, or the furnishing of additional equipment shall be reflected in the selling price.

(c) All goods sold shall be invoiced at the true selling prices.

(d) No member of this industry shall disseminate false or misleading information relative to competitor's products, selling prices, credit standing, ability to perform work, or labor conditions among competitor's employees.

(e) No member shall give any gratuity to any person, including, but without limitation, any natural person, partnership, association or corporation, to induce such person to specify, allow, or approve the products of a particular manufacturer.

(f) No member shall allow unjust claims for alleged shortage or breakage.

(g) No member of this industry shall circulate, not in good faith but for the purpose of harassing and intimidating customers, threats of suit for infringement of patents or trade marks among customers of a competitor.

(h) No member of this industry shall attempt to induce the breach or abandonment of any contract between a member and his customer.

(i) No member of this industry shall be a party to commercial bribery in any form or under any condition.

(j) No member of this industry shall enter into a written or oral agreement with any person that one or more clauses of the contract or the specification will not be enforced, thereby receiving an unfair advantage over competitors.

(k) No member of this industry shall make a deposit for the privilege of receiving plans and specifications and the opportunity to bid on a contract without an agreement that the return of the full amount of the deposit will be made upon the return of the said plans and specifications to the issuer.

(l) The members of this industry manufacture and sell equipment and this industry does not look with favor on guarantees of any character other than those relating to materials and workmanship, and under no condition shall any maintenance guarantees be made. No member of this industry shall promise a better performance or make a higher guarantee than previous experience indicates can be obtained.

(m) No member of this industry shall accept a contract containing a penalty clause either for performance of the apparatus sold or for time of delivery, unless the contract shall also contain a clause providing a bonus to the member at the same rate as the rate of penalty, except with the approval of the Executive Committee whose decision shall be subject to approval of the Administrator.

(n) All quotations shall be made in accordance with published price lists and any items not covered by such price lists shall be included in the quotation with price list items and shall be itemized at the normal selling price.

(o) All members shall include in all price lists, quotations and contracts such general terms, discounts, freight terms, and guarantees as may be prescribed by the Executive Committee subject to approval of the Administrator.

(p) All members shall send to the Manager two copies of price sheets and catalogs and as many additional copies as he may require for distribution to other members.

(q) Any member making any change in a published price list shall mail notice to the manager five business days prior to effective date of such change and concurrently shall place in the mail notices to all known competitive members giving details of change. Other members by mailing notices to the manager and to all other known competitive members may make price list change effective the same

date as specified in the notice received. The operation of the foregoing at all times shall be subject to the approval of the Administrator.

SEC. 2. No member of this industry shall sell any of his products at or below cost. Cost shall be determined by a system of cost accounting approved by the Executive Committee, subject to the approval of the Administrator.

ARTICLE VIII—MONOPOLIES

No provision in this Code shall be interpreted or applied in such manner as to (a) permit monopolies or monopolistic practices, (b) permit or encourage unfair competition, (c) eliminate, discriminate against, or oppress small enterprises.

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 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.

SEC. 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 to 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.

ARTICLE X—EFFECTIVE DATE

SECTION 1. This code shall be effective as the Code of Fair Competition for the Steel Tubular and Firebox Boiler Industry on the second Monday following date of approval by the President of the United States.

SEC. 2. This Code shall continue in effect for a period of ninety days after the effective date of approval and thereafter until terminated as hereinafter provided. It may be terminated at any time after the expiration of such period by the same action by members of the Code as is above provided for the amendment thereof. When so terminated 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 liquidation damages theretofore accrued under any provisions of the Code.

Approved Code No. 62.
Registry No. 1129/1/17.

O

Approved Code No. 63

CODE OF FAIR COMPETITION

FOR THE

PLUMBAGO CRUCIBLE INDUSTRY

As Approved on October 23, 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 Plumbago Crucible 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 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,
October 23, 1933.

October 12, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Plumbago Crucible Industry in the United States, conducted in Washington on October 4, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

This Code limits the hours of work for employees to 40 a week, except as follows:

When demand places an unusual burden upon production employees may work 48 hours a week during one week in each month and will be paid time and one half for overtime in excess of 40 hours weekly. Kiln burners on continuous-process operations who have previously been employed up to 72 hours per week are now limited to 48 hours a week. This work is not laborious and is in the nature of a specialized or technical watchman's duties. The step down to 48 hours is a marked advance over the longer week. Usually two men only are needed for this work in each plant. Care and maintenance workers, stock and shipping clerks are given a 10 percent tolerance over the 40-hour week. Emergency maintenance and repair workers may exceed 40 hours, receiving the time and a half overtime wage.

The minimum wage provided is 40 cents to all employees except those physically handicapped.

Employees engaged in accounting, clerical, sales, and service work will receive not less than $15.00 per week. Office boys and girls are to be paid not less than 80 percent of this latter figure.

The minimum age of factory employees will be 18 years, and of other employees, 16 years.

ECONOMIC EFFECT OF CODE

This Industry is contributing to reemployment by putting back to work approximately 28 percent of those employed on February 16, 1932. This will be accomplished through the reduction of normal hours from 48 to 40. While this is comparatively a small Industry, a large percentage of skilled workmen are required.

The minimum hourly rate for employees was 30 cents prior to adjustments made to conform with the spirit of the National Recovery Act. The increase in minimum hourly rates to 40 cents, and adjustments in wages to those in higher brackets, together with the new employees added, will represent an increase of over 30 percent in weekly pay roll, or approximately $60,000 yearly.

One provision under Trade Practices is unusual:

Article VII, Section II, adherence to standards, eliminates the sale of second quality crucibles. This provision prevents the danger to

operatives which might occur if inferior quality products of the Industry were distributed and used. Safety of performance being a first consideration, high quality becomes essential. The crucibles, accessories and refractories containing plumbago or graphite, are sold for use in melting metals in the ferrous and nonferrous fields.

Sales of the Industry during the first six months of this year were about a third the rate of those in 1929, which follows the trend of other capital goods distribution. Then, too, although the products are essential in production of many highest quality metals, they compete in some markets with electric furnaces. Only by increasing business, which will depend largely upon activity in the metal industry where these products are used, can this Industry put a large percentage of employees back to work. In arriving at the terms expressed in the Code, it has shown its cooperation in complying with the spirit of the 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 Plumbago Crucible 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.

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

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

PLUMBAGO CRUCIBLE 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 Plumbago Crucible Industry, and upon approval by the President, shall be the standard of fair competition for this industry.

Article II—Definitions

The term "Plumbago Crucible Industry" as used herein is defined to mean the manufacture for sale of crucibles, retorts, saggers, covers, stoppers, lids, stirring rods, brazing boxes and similar refractory products, all of which contain flake plumbago or graphite, irrespective of the amount of flake plumage or graphite contained therein.

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.

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

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

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

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.

"Effective date" as used herein means the first Monday after this Code shall have been approved by the President of the United States.

Article III—Hours

1. On and after the effective date no employee shall work or be permitted to work in excess of 40 hours in any one week, with the following exceptions:

(a) Kiln burners shall be permitted to work not to exceed 48 hours in any one week, and

(b) There shall be a tolerance of ten percent (10%) over the maximum of 40 hours worked in any one week for employees engaged in the care and maintenance of plant and machinery, and for stock and shipping clerks.

(c) During any period in which a concentrated demand upon the Industry shall place an unusual and temporary burden for produc-

tion upon its facilities, employees may be permitted to work not more than 48 hours per week in not more than one week of any one month's period; provided, however, that in such special cases time and one half shall be paid for hours worked in excess of eight hours per day.

2. These limitations as to hours of labor shall not apply to persons employed in a supervisory capacity receiving more than $35.00 per week, nor to outside salesmen, field-service men, and watchmen; provided, however, that watchmen shall have one day of rest in seven.

3. The maximum hours fixed in this Article III shall not apply to employees on emergency maintenance and repair work or to very special cases where restriction of hours of highly skilled workers would unavoidably reduce or delay production, but in any such special case time and one half shall be paid for hours worked in excess of 8 hours per day or 40 hours per week, and provided that not more than seven and one half (7½) percent of the total pay roll for skilled employees in any one week period shall be employed in excess of the maximum of 40 hours per week on such special cases.

Article IV—Wages

1. On and after the effective date the minimum wage that shall be paid to any employee by any employer in the Plumbago Crucible Industry shall be forty (40) cents per hour, except as provided in Section 5 of this Article IV. Where earnings of employees on piece-work rates are under the minimum wage required by this section 1 of Article IV, such rates shall be so adjusted as to conform with aforesaid minimum wage.

2. To assure employment to workers who are physically handicapped and to avoid their becoming a burden to the state, such employees are exempted from the provisions of this Article IV, provided, however, that such employees shall not exceed in number five (5) percent of the total number of workers employed by a member of the industry.

3. Each employer shall report to the Administrator through the Supervisory Agency, if and when required, the action taken by such employer in adjusting the hourly wage rates for all employees receiving more than the minimum rates provided in Section 1 of this Article IV, excepting those engaged in a supervisory capacity receiving more than $35.00 per week.

4. In determining his classification under this Code, each employer shall be entitled to claim the benefit of the classification of occupations existing on June 16, 1933.

5. On and after the effective date all accounting, clerical, sales and service employees shall be paid at a rate of not less than $15.00 per week, provided, however, that office boys or girls may be paid not less than 80 percent of such minimum wage, but the total amount paid to such office boys or girls at such reduced rate shall not exceed in any calendar month 7½ percent of the total amount paid by such employer to all employees covered by the provisions of this paragraph 5.

6. Every employer shall post in conspicuous places in his plant a full copy of this Code.

Article V—Child Labor

No person under eighteen (18) years of age shall be employed on manufacturing processes in the industry and no person under sixteen (16) years of age shall be employed as a messenger or in office or other work.

Article VI—Administration

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

2. The Supervisory Agency 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 not more than three (3) additional members (who shall be without vote), to represent the Administrator or such groups or interests as may be agreed upon.

3. The Supervisory Agency shall be elected at a meeting of the members of the industry called immediately after the approval by the President of this Code and held immediately prior to the effective date thereof. The meeting shall be called by the Crucible Manufacturers Association and notice thereof shall be sent by telegram or registered mail a reasonable time in advance of the meeting to all known members of the industry. The notice shall specifically state that voting at the meeting may be in person or by proxy. The members of the Supervisory Agency shall be elected by a majority vote of the employers present, in person or by proxy as such, each employer to have one vote.

4. Vacancies on the Supervisory Agency caused by death or resignation or because a member has ceased to be connected with the Industry, shall be filled in the same manner indicated in Section 3 of this Article VI and such meeting or meetings called for the purpose shall be called and notices sent out in exactly the same manner as when electing the members of the Supervisory Agency in the first instance.

5. With a view to keeping the President and the Administrator informed as to the observance or nonobservance of this Code, and as to whether the Plumbago Crucible Industry is taking appropriate steps to effectuate in all respects the declared policy of the National Industrial Recovery Act, each member of the industry shall prepare and file with such person or organization as the Supervisory Agency may designate, if and whenever required by the Administrator, an earnings statement and balance sheet, 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 Administrator may from time to time require.

6. In addition to the 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 National Industrial Recovery Act.

7. Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in accordance with the provisions of Section 5 of this Article VI shall be confidential, and the statistics, data, and information of one member of the industry shall not be revealed to any other member. For the purpose of facilitating the administration and enforcement of the provisions of this Code, the Supervisory Agency, by their duly authorized representatives (who shall not be in the employ of any employer affected by this Code), and subject to the approval of the Administrator, shall have access to any and all statistics, data, and information that may be furnished in accordance with the provisions of this Code.

Article VII—Participation

Members of the industry shall be entitled to participate in and share the benefits of the activities of the Supervisory Agency 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 administration shall be determined by the Supervisory Agency, 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 VIII—Trade Practices

1. Within ten days after the effective date each member of the industry shall file with every other member, through the Supervisory Agency, a complete list of its then existing crucible prices, delivery points, terms, conditions of sale, and trade discounts, and shall file in like manner all changes therein as and when made.

2. *Credits.*—Each member of the Industry shall exercise his own free and independent judgment with respect to credits he will extend to his trade, but it is the sense of the industry that a liberal and fair credit information exchange shall be the policy in order to prevent a customer of the industry from overextending his credit with the industry.

3. Each of the following acts and practices is deemed to be inimical to the best interests of the Plumbago Crucible Industry, and of the public, and each is, therefore, hereby declared to be, and to constitute, an unfair method of competition, viz:—

4. *Inducing Breach of Contract.*—The willful interference by anyone, by any means or device whatsoever, with any existing contract or firm order between a seller and a purchaser of the products of the industry as defined in Article II.

5. *Secret Rebates.*—(a) Withholding from, or inserting in an invoice for any products of the industry facts which make the invoice a false record wholly or in part of the transaction represented on the face thereof, and/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 service or privileges not extended to all purchasers under like terms and conditions.

(b) Shipment of any quantity of the products of the industry in excess of that for which a proper charge is made.

(c) Unwarranted rejection allowances or shortage claims, by connivance or otherwise, between seller and purchaser.

(d) Giving away any products of the industry as samples.

6. *Commercial Bribery.*—The paying of or promising to pay to an employee of a customer or prospective customer a commission or consideration of any character for the purpose of influencing or having influenced a sale.

7. *Defamation of a Competitor.*—The defamation of a competitor in any manner, either by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or a false disparagement of the grade or quality of his goods or otherwise.

8. *Fraud and Misrepresentation.*—(a) The making, causing or permitting to be made or published any false or deceptive statement by way of advertisement or otherwise concerning grade, quality, character, nature, origin, manufacture, or preparation of any products of the industry.

(b) The marking or branding of any products of the industry in a manner which tends to mislead or deceive purchasers, prospective purchasers and/or consumers with respect to the quantity, quality, grade, or substance of the goods purchased. Quality of brands and kinds of product shall be clearly defined and expressed by the seller. No recognized grade, kind, or type of any products of the industry shall be misbranded or misrepresented to include it in some other price classification.

9. *Pooled or Combination Orders.*—The sale of any products of the industry to separate purchasers as a full-carload or other group lot at a sales price which does not take into consideration any added expense involved in such method of shipment.

10. *Terms of Sales.*—The failure on the part of members of the industry or their agents or dealers to adhere strictly to published terms of sale as filed with the Supervisory Agency.

11. *Adherence to Standards.*—Because of the high temperatures to which plumbago crucibles are subjected in melting furnaces, and the consequent danger to operatives who may be required to handle defective, or so-called "Seconds" or off-size crucibles (that is, those sizes of stationary and tilting types of crucibles which have been standardized and which do not conform in outside dimensions to the standards approved by the American Standards Association), the sale of these crucibles is condemned as a form of unfair competition; provided, however, the determination of the amount of allowable tolerances is discretionary with the Supervisory Agency, and subject to the review of the Administrator.

12. *Replacements.*—The replacement of any products of the industry without charge, or the rebate of a portion of the sales price of any such products, when defects or poor service are claimed by the customer, unless the fault is traceable to the member of the industry and the adjustment is reported to the Supervisory Agency at the time it is made.

13. *Test Crucibles.*—The distribution of crucibles among the trade without charge as "test crucibles" for the purpose of obtaining new accounts or customers.

14. *Consignments.*—The shipment of any products of the industry on a consignment basis, excepting to a properly accredited agent of a member of the industry.

15. *Contracts.*—Entering into contracts which do not represent the bona-fide sale of products of the industry in stated and fixed quantities, with a spread therefrom of not to exceed ten (10) percent, and for shipment within a stated period from the date of contract of not to exceed six (6) months.

16. *Unearned Commissions.*—The payment of a commisison to an agent or dealer who is owned or controlled in whole or in part by any buyer's organization, or to any fictitious agent or dealer created for the purpose of passing to the consumer or to the consumer's friends, all or any part of a commission.

17. *Special Crucibles.*—Listing orders for special crucibles of standard types otherwise than on the basis of not less than the nearest higher member on the adopted scale of standard sizes, by weight comparison to the adopted scale.

18. *Terms of Sale.*—Selling or offering to sell on terms more liberal than net 30 days, subject to a cash discount of one percent (1%) ten days.

Article IX—General

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.

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. 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.

5. 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 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.

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.

Article X—Segregation of Industry

If any employer of labor also employs labor in any other industry, the provisions of this Code shall apply to and affect only that part of his business which is included in this Industry.

Article XI—Prevention of Monopolies

No provision in this Code shall be interpreted or applied in such a manner as to:

(1) Promote monopolies,
(2) Permit or encourage unfair competition,
(3) Eliminate or oppress small enterprises, or
(4) 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—Term and Termination of Code

After its effective date this Code shall continue in effect, subject to amendment or modification as herein provided until terminated by law.

Approved Code No. 63.
Registry No. 1040A/01.

O

Approved Code No. 64

CODE OF FAIR COMPETITION

FOR THE

DRESS MANUFACTURING INDUSTRY

As Approved on October 31, 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 Dress 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 do order that the said code of fair competition be and it is hereby approved, subject to the following conditions:

1. Pending the prompt holding of such further hearing on such notice as the Administrator in his discretion may fix, further orders in this regard, and the final determination of the issues raised concerning the application of the wage scale provided in this code for the western area (as defined in the code), the application of the wage scale provided in section 6, article IV of said code for said western area, except as to the metropolitan areas, as defined in the 1930 census, of the cities of Chicago and Cleveland, shall be and the same is hereby stayed until said determination, and

2. Upon the further conditions that, and it is hereby ordered that during the period of such stay, section 7, of article IV shall be con-

sidered to include within its terms all employees included in this stay, irrespective of craft, in said western area, and

3. The application of this code is stayed as to the manufacture of dresses 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, pending the holding of such hearing on such notice as the Administrator in his discretion may fix, further orders in this regard and a final determination of the issues raised concerning the application of this code to such manufacturer.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 31, 1933.

October 31, 1933.

The President,
The White House.

Sir: This Code is a conspicuous example of the effectiveness of the National Industrial Recovery Act in rehabilitating a disorganized and demoralized industry. So pressing was the need for some such helpful influence that the Act and the forces released by the Act met with no great opposition. The Code herewith presented, while embodying some compromise, represents a remarkable reconciliation of interests widely divergent and hitherto in bitter opposition.

The outstanding features of this Code are:

1. Establishment of a thirty-five-hour week.
2. Establishment of minimum wage scales which increase the purchasing power not only of the unskilled but also the skilled labor throughout the industry. They are satisfactory to organized labor and will make impossible the operations of exploiters of labor and "sweat shops."
3. Fixing responsibility for standards of industrial relations upon the outside manufacturer or "jobber", which hitherto has been most inadequately and unjustly loaded upon the feeble and incompetent shoulders of the contractor.
4. Elimination of the ancient abuses of child labor and home work.
5. Establishment of a Code Authority on which are represented all important interests of the industry. Equipped with administrative power, reinforced by authority to issue or withhold an N.R.A. label, it may be expected to develop into a powerful agency of self-government in the industry, the lack of which has kept the dress industry in turmoil and confusion for decades. All its actions, however, are subject to the approval of the Administrator.

SUMMARY OF THE CODE

The Code may be summarized as follows:

Article I sets forth the purposes of the Code.

Article II establishes certain necessary definitions.

Article III provides that no manufacturing employee shall work in excess of thirty-five hours per week and that no nonmanufacturing employee shall work in excess of forty hours per week. Overtime may be permitted at the discretion of the Administrator, but for not more than six weeks in any one season.

Article IV enumerates the wage scales which shall be paid to workers in the various crafts. These wage scales vary from fourteen dollars per week to forty-five dollars per week. Because of variations in working condition and the efficiency of workers, separate wage classifications are made as between lower-priced and higher-priced garments, between piece rates and week rates, and between the city of New York, the Eastern metropolitan area, the Eastern area, and

the Western area. This article also contains the substance of paragraph seven of the President's Reemployment Agreement. In addition, provision is made for the employment of handicapped persons at rates below the basic minimum established in this article. This provision is inserted for humanitarian reasons, but it is so hedged about with restrictions that abuse will be difficult, and it is hoped impossible.

Article V abolishes child labor (minors under sixteen) as well as home work, and provides that manufacturing shall be carried on under sanitary conditions. In this article are included the mandatory labor provisions.

Article VI establishes a Code Authority representative of all the organized interests in the industry including organized labor. This Authority is clothed with ample powers to administer and enforce the Code, subject always to the approval of the Administrator.

Article VII regulates the relationships between outside manufacturers and contractors in respect to (1) the responsibility of manufacturers for the payment to contractors of amounts sufficient to cover the wages provided for by this Code and in addition a reasonable amount for overhead expense; and, (2), the selection and retention of contractors by the manufacturers to protect the contractor and his employees against unjust discrimination in the distribution of work.

Article VIII provides than an N.R.A. label be attached to every garment manufactured under this Code. This label will bear a registration number specifically assigned to each employer in the industry and will remain attached to each garment when placed on sale by the retail distributor. The Dress Code Authority is given sole authority, with the approval of the Administrator, to administer the issuance of these labels. This provision will facilitate the administration of the code, and in particular will provide sufficient revenue to finance the activities of the Code Authority.

Article IX deals with trade practices, providing uniformity in the relations between buyers and sellers, in such matters as: (1) return of merchandise, (2) uniform order blanks containing the terms of the contract, (3) protection of original styles, (4) discounts, (5) selling on consignment or at retail, and (6) secret rebates, etc.

Article X contains the mandatory clause protecting small enterprises against monopolistic practices.

Articles XI and XII provide for modifications and amendments to this Code.

Article XIII names the effective date of this Code.

PROBLEMS OF THE INDUSTRY

The Dress Industry of the United States as it is now constituted is one of the youngest industries of the country. It is only about thirty years old; but from very small beginnings it was able to reach a wholesale turnover of about eight hundred million dollars in 1929. The present volume, however, has decreased to about five hundred million dollars. The industry is concerned with the manufacture and distribution of women's and children's dresses, ensembles, etc. It does not include, however, what is commonly known as

house dresses or cotton wash dresses, which types of apparel fall under the jurisdiction of the Cotton Garment Code. Particular care has been taken that there be as little overlapping as possible between these two codes.

New York City is the dress manufacturing center of the country. In 1931, 66.4 percent of the total number of manufacturing establishments were located there, and the annual sales volume of these establishments represented 78.6 percent of the total business transacted. Chicago, Philadelphia, Boston, and Los Angeles are next in importance. Other localities are St. Louis, San Francisco, Cleveland, and Baltimore. The geographical distribution of the industry may be summarized by the following table, prepared from data supplied by the National Credit Office.

City	Number of concerns	Sales	Per cent of total sales
New York City	1,383	$633,183,000.00	78.6
Chicago	180	44,399,000.00	5.5
Philadelphia	109	30,466,000.00	3.8
Los Angeles	95	22,184,000.00	2.8
Boston	79	20,251,000.00	2.5
Cleveland	22	9,136,000.00	1.1
St. Louis	40	8,963,000.00	1.1
Baltimore	10	2,875,000.00	.4
San Francisco	18	2,529,000.00	.3
All others	114	31,197,000.00	3.9
Total	2,080	805,183,000.00	100.0

78.6% of the total sales of dresses throughout the country were manufactured and sold in New York City, leaving 21.4% for distribution by the rest of the country. The reasons given for the predominance of New York City over the rest of the country were as follows: New York City is recognized as the leading style center; there is an adequate supply of skilled labor; transportation facilities are of the best; adequate financing is available; the fabric market is immediately adjacent.

Obviously, this code has given due recognition to the conditions prevailing in the city of New York and its environs, particularly with reference to the jobber-contractor system of production.

In New York, the dress industry is composed of four principal elements: Jobbers or wholesalers, inside manufacturers, contractors, and submanufacturers. Inside manufacturers create their own styles, manufacture on their own premises, use their own material, and sell, largely, directly to retailers. Many of these inside manufacturers likewise make use of contractors, particularly at the height of the season.

Jobbers and wholesalers concern themselves chiefly with the problems of style and distribution, and the purchase of piece-goods, materials, trimmings, etc. Submanufacturers and contractors manufacture the garments in accordance with the styles decided upon by the jobber. In the low-end price range most jobbers employ cutters on their own premises to cut the work. Such partially finished garments are then let out to contractors, who complete the operations.

The term "contractors" is generally used to include submanufacturers; generally speaking, however, the contractor merely com-

pletes the manufacture of garments which have already been cut on the premises of a jobber or a manufacturer. The submanufacturer produces directly for a jobber or a manufacturer from materials and trimmings furnished by the latter.

It has been estimated that contractors and submanufacturers produce about eighty percent of the dresses manufactured in New York City. There are approximately 1,800 contractors and submanufacturers located in the New York metropolitan area.

Not many years ago virtually all dress contractors were located within the confines of the City of Greater New York; in recent years, however, in an effort to find a cheaper labor market, factories have been established in adjoining districts, particularly in New Jersey, Connecticut, and Pennsylvania. Workers in these areas have been unduly exploited. Fifty-four hours per week or even more have been by no means uncommon, and wages have been pitifully low. These out-of-town contractors are engaged largely in the production of the cheaper lines of dresses, that is, dresses which wholesale at $3.75 and less.

The development of the contracting system in the dress industry is easily explained. For one thing, dresses are created in a great variety of styles. A comparatively small number of each style is produced and sold. Experience has proven that efficient production can be obtained only when these dresses are produced in comparatively small units of shop production. Each operator produces virtually a complete dress. Unlike other industries, there is no possibility of splitting up machine or hand operations and introducing standardization. The perfection and efficiency of the workers depend not so much on the management of the plant as it does on the individual skill and ability of the particular worker.

The personal element is extremely important. The Contractor, having a smaller group to supervise, knows the particular abilities and skill of each of his workers. He is a specialist in the manufacture of ladies' garments; the jobber likewise is a specialist in the distribution and sale of the manufactured garments. Each serves more efficiently in his specialized field.

Another reason for the development of the contracting system in the dress industry is the insurance it gives against sudden stoppage or curtailment of the production because of strikes or other labor troubles. Under the jobber-contractor system, if a labor dispute develops among the workers in any particular contractor's factory, it usually does not affect the output of the other contractor who supplies the particular jobber.

During the past few years, competition among the various factors has been so keen and the prices paid to the contractors have been so low, that in many instances prices paid by the jobber were hardly sufficient to pay the actual labor costs, not to mention the overhead expenses of the contractor, or payment to the contractor for his services. The result has been that the contractor's savings have been wiped out. His plants are heavily mortgaged, and he has incurred debts in all available sources. Factory removals have become almost institutional.

The problem of jobber-contractor relations has received special consideration in the formation of this Code. Indeed, without the

help of the National Recovery Administration, it is difficult to imagine how these relationships, so unjust and unsatisfactory, could be placed on a decent basis.

This result was not accomplished, however, without numerous and prolonged conferences both in Washington and New York. The provisions of Article VII represent a compromise in which both parties made concessions from their extreme positions.

The contractors had convinced themselves that the Code would not give them the advantages they desired unless the competition between themselves was eliminated or mitigated. To attain this end they insisted that the manufacturers be strictly limited as to the number of contractors they might employ.

While admitting the evils of unrestrained competition among the contractors, the manufacturers believed that the remedy suggested, i.e., limitation of contractors, would create new evils. If the manufacturer were not free to allocate his work to the contractor best fitted to perform it, as to quality, price, and delivery, he would be intolerably handicapped in meeting market requirements.

It seemed obvious that in this matter, fraught with dangers to the success of the Code, great caution was advisable. Provisions were suggested by which substantial steps in the direction of controlled competition could be taken and further steps provided for as experience demonstrated their practicability. For many weeks, these proposals were refused but finally the extreme demands were abandoned and the matter settled by the clauses in Article VII, now a part of the Code.

LABOR

Prior to the restriction of immigration, additional workers were recruited into the industry from Russia and Italy. Most, if not all, of these workers had plied their respective crafts in their own countries, and had already a fairly high degree of skill and experience.

In late years, however, the racial distribution of workers has changed quite markedly. There have come into the industry Cubans, Portuguese, Spanish, and Greek girls and women. This new type of worker is slow to learn and requires a longer period of time to attain a reasonable degree of efficiency. Their earnings today at piece rate and week rate range from six to sixteen dollars per week outside of New York City, and from ten to twenty dollars per week in New York City.

The economic depression has also influenced the type of worker engaged in the industry. During the last three years there has been a great influx of temporary workers, particularly in the areas outside of the City of New York. In New York sixty percent of the workers are female, whereas outside New York ninety-five percent are female. Many of these are married women. Many have gravitated to the industry as a result of the economic depression; they have been compelled to become the main supports of their families. A good proportion of such workers will return to their homes as soon as their husbands or children are able to earn a fair livelihood.

One more feature peculiar to the labor supply of this industry must be realized. As noted above, a substantial majority of the

workers are women. The labor turnover, consequently, is high because of the tendency of women to discontinue industrial pursuits upon marriage when economic conditions permit.

For all of these reasons, it is desirable that some provision be made whereby the industry may, without unduly burdening itself, maintain an adequate supply of trained workers.

At the same time, because of the large volume of unemployment in the industry, the unrestricted employment of apprentices would be highly undesirable. The Code Authority has been charged with the responsibility of studying the problem and of recommending to the Administrator appropriate regulations for the control of apprenticeship employment.

The Dress Strike and Its Settlement

About a week prior to the date of hearing, a strike occurred in New York which became general throughout the industry in that city. Mr. Grover Whalen, representative of the National Labor Board, took charge and was able to effect a settlement by collective agreements among all parties before the hearing date. In view of the difficulties of the situation this was a remarkable achievement. The lasting service of Mr. Whalen was acclaimed by all the leaders in the industry.

Strikes in the Chicago, Cleveland, St. Louis, and other markets were settled in a similar manner and collective agreements with the union entered into. Mr. Max Meyer, of New York, Industrial Adviser at the hearing, rendered important service in these events.

The principal organizations participating in the public hearing and in subsequent conferences, representing all the markets of any size, were:

A. The National Dress Manufacturers Association, whose membership consists of about six hundred firms. This Association comprises:

1. Jobbers whose entire product is made by contractors to whom the jobber furnishes the materials for the making of his garments from samples furnished by the contractor.

2. Jobbers who style their own merchandise and for whom the contractor makes up the dresses.

3. Jobbers who make their samples and also maintain cutting departments, furnishing cut bundles to contractors for completion.

4. Employers who maintain inside factories for part of their product and use contractors for another part of their output.

B. The Affiliated Dress Manufacturers, Inc., whose membership of one hundred twenty-five firms comprise the manufacturers of the finest garments. Their work is carried on largely on the premises, although part of their production is made in contractors' shops.

C. The United Association of Dress Manufacturers, Inc., which comprises a majority of the dress contractors working for the above-mentioned jobbers and manufacturers. This organization has a large membership, largely recruited since the settlement of the strike.

D. The out-of-town associations consist of the Western Group, taking in the cities of Chicago, Cleveland, Indianapolis, San Fran-

cisco, and Los Angeles. Another association represents the Boston market, and still another Philadelphia.

Labor was represented by the International Ladies Garment Workers Union and also by a representative of the Needle Trades Industrial Workers Union of New York City, claiming a membership of fifteen thousand workers.

The hearings developed substantial agreement on most questions, particularly on the question of hours. Exceptions were voiced by representatives of the Western Group regarding differentials agreed upon by the New York manufacturers and unions for the production of dresses selling at $3.75 and under. The Western Group dissented from the differential of ten percent proposed in their favor for all operations, demanding for their group a differential varying from fifteen to twenty-five percent. Within the Eastern Area requests were made for differentials greater than ten percent but could not be granted because of competitive conditions.

LABELS

The advisability for an N.I.R.A. label has already been recognized in the code adopted for the coat and suit industry. The arguments advanced at the hearings on the Coat and Suit Code apply with even greater force to the Dress Code.

The use of the N.I.R.A. label will serve to identify the concerns who have complied with the Code. It will be a most effective means of certifying both the factory or plants as well as its output. Under proper safeguards for the issuance of the label, the identity and location of each factory can be readily ascertained. Effective supervision of the physical surroundings of the factory and the compliance with the provisions of the code can thus be more readily instituted by the Code Authority, or any other agency delegated for the task.

REEMPLOYMENT

Between 1929 and 1931, the average number of workers employed in the industry decreased from 88,223 to 79,724. The estimated total number of workers employed in 1932 was 66,344. From these figures, it appears that in 1932 in excess of 21,000 workers were unemployed. Taking into account the seasonality of the industry, however, the excess labor supply in that year was somewhat less than 20,000.

The full-time week in this industry consisted, so far as may be determined from the meagre statistical information available, of about forty-eight hours. By the introduction of the thirty-five hour week, therefore, employment during busy seasons should increase about thirty-seven percent. It is hoped also that the restricted week will materially reduce the seasonal fluctuations in employment.

The average annual wage declined from $1,344.00 in 1929 to $880.00 in 1932. Unfortunately it is impossible to estimate the probable increase which the wage scales provided in the Code will bring about. It is conceded by all concerned, however, that the increase will be considerable. It is possible, on the other hand, to estimate the increase in pay roll which the thirty-five hour week will necessitate. The reemployment of thirty-seven percent more workers will add to the annual pay roll about twenty-one million dollars.

With respect to the wage and hour provisions of the Code, therefore, it may be expected that the purposes of the National Industrial Recovery Act will be effectuated.

The Deputy 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 trade association submitting said Code imposes no inequitable restrictions on admission to membership therein and is truly representative of the Dress Manufacturing Industry; and that

(c) The Code is not designed to promote monopolies or to limit 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

DRESS 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 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 "Dress Manufacturing Industry" as used herein includes the manufacture and sale by the manufacturer (as defined in paragraphs 6 and 7 of this Article) in whole or in part, in the United States on the North American Continent, of women's, misses', and juniors' dresses, dressmakers' ensembles, and waists when used with ensembles, whether such manufacture and distribution shall be by inside or outside manufacturers, contractors, or otherwise; provided that nothing in this definition shall include the manufacture of inexpensive dresses made of material of which cotton is the chief content and generally known in the trade as a house dress or house dresses.

Making of garments in what is known as the "custom trade", to individual measure on individual order of the wearer if (1) such garments are sold on the premises of the maker, or (2) the garments are made by employers employing less than 10 employees is not a part of this Industry.

2. The term "lower-priced garments" includes those garments regularly sold in wholesale quantities for $3.75 each or less.

3. The term "higher-priced garments" includes all garments manufactured in this Industry except those included in the definition of lower-priced garments.

The term "employee" or "worker" 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.

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

6. The term "outside manufacturer" or "jobber", which are synonymously used in this Code, include all those for whom and/or under whose direction or orders garments in the Dress Manufacturing Industry are manufactured in whole or in part by contractors and/or other manufacturers, and who act as wholesale distributors of such garments.

7. The term "inside manufacturer" includes all those who manufacture garments in the Dress Manufacturing Industry out of their own material in a factory maintained and operated by them.

8. The term "contractor" includes all those who manufacture garments in the Dress Manufacturing Industry from materials provided for them by a manufacturer, jobber, or others.

9. For the purposes of this Code, four (4) areas are hereby established:

(a) "City of New York" as used herein means and includes the five boroughs of New York City.

(b) "Eastern Metropolitan Area" as used herein, means and includes the metropolitan areas as defined by the 1930 Census of Philadelphia, Boston, and Baltimore.

(c) "Eastern Area" as used herein means and includes the New England States, New York, Pennsylvania, New Jersey, Delaware, and Maryland, exclusive of the City of New York and Eastern Metropolitan Area as defined above.

(d) "Western Area" as used herein means and includes all portions of the United States on the North American Continent not included in the above three areas.

10. 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, employer, or individual operating on his own account shall work or be permitted to work in the mechanical processes of manufacture in excess of 35 hours, nor more than 5 days, in any one week.

2. All other employees shall not work or be permitted to work in excess of 40 hours in any one week, except foremen and executives receiving $35 or more per week, and except salesmen, designers, and watchmen. Watchmen shall not work or be permitted to work more than six days in any one week.

3. Exceptions from the two last preceding paragraphs may be allowed by the Code Authority for a period of not more than six weeks in any one season; provided that the employer shall be required to pay one and one half times the normal wage for such overtime work.

4. Employers shall not operate or be permitted to operate more than one shift in any one day.

Article IV—Wages

1. Employees engaged in the mechanical processes of manufacture of higher-priced garments in the City of New York shall be paid not less than the following minimum wages:

Cutters	$45 per week of 35 hours.
Sample makers	30 per week of 35 hours.
Drapers	27 per week of 35 hours.
Examiners	21 per week of 35 hours.
Cleaners & Pinkers	15 per week of 35 hours.

Operators	90¢ per hour.
Pressers	$1 per hour.
Finishers	65¢ per hour.

2. Employees engaged in the mechanical processes of manufacture of lower-priced garments in the City of New York shall be paid not less than the following minimum wages:

Cutters	$45 per week of 35 hours.
Machine Cutters	37 per week of 35 hours.
Stretchers	27 per week of 35 hours.
Sample Makers	30 per week of 35 hours.
Examiners	20 per week of 35 hours.
Cleaners & Pinkers	15 per week of 35 hours.
Operators	75¢ per hour.
Pressers	85¢ per hour.
Finishers	57¢ per hour.

3. *Eastern Metropolitan Area.*—Workers or employees in the Eastern Metropolitan Area engaged in the mechanical processes of manufacture of higher-priced garments and/or lower-priced garments, respectively, shall be paid at least 90% of the minimum wages herein set forth for the City of New York for the various crafts in the two classifications of garments, respectively; provided, however, that cleaners and pinkers shall not receive less than $15 per week.

4. *Eastern Area.*—Employees engaged in the mechanical processes of manufacture of higher-priced garments in the Eastern Area shall be paid not less than 90% of the wages herein provided for said garments in the City of New York for the various crafts; provided, however, that cleaners and pinkers shall not receive less than $15 per week.

5. Employees engaged in the mechanical processes of manufacture of lower-priced garments in the Eastern Area shall be paid not less than the following minimum wages:

Cutters	$45 per week of 35 hours.
Machine cutters	37 per week of 35 hours.
Stretchers	27 per week of 35 hours.
Sample makers	30 per week of 35 hours.
Examiners	17 per week of 35 hours.
Cleaners and pinkers	15 per week of 35 hours.
Operators	63¢ per hour.
Pressers	70¢ per hour.
Finishers	50¢ per hour.

6. *Western Area.*—Employees in the Western Area engaged in the mechanical processes of manufacture of higher-priced garments and/or lower-priced garments, respectively, shall be paid not less than 85% of the minimum wages established herein for the City of New York for the various crafts in the two classifications of garments, respectively; provided, however, that cleaners and pinkers shall receive not less than $14 per week.

The Pacific Coast or other markets in the Western Area may petition the Administrator for a change in the wage differentials allowed herein. The Administrator, after such hearings as he may deem proper, after taking into consideration the competitive advantages and/or disadvantages of such markets, may modify the aforesaid differentials provided in this Section.

7. All other employees in any and all of such areas shall be paid not less than the rate of $14 per week for the maximum hourly work week as herein established.

8. The above wage scales provide a guaranteed minimum regardless of whether the employee is compensated on a time rate, piece rate, or other basis. Cutters, sample makers, drapers, examiners, cleaners and pinkers, machine cutters, and stretchers shall be employed and paid on a week-work basis.

9. No employee shall receive a lesser rate than is required to provide the same earnings for the hourly work week herein established as was received for that class of work for the longer work week prevailing immediately prior to the date of approval of this Code; provided, however, that this clause shall not be interpreted to require an increase in rate to any employee in excess of 20%. Nothing herein contained shall relieve any employer from paying the other minimum wage rates established in this code.

10. Exceptions from the above minimum-wage rates are granted for apprentices until the Code Authority shall make further report in those cases now existing in which apprentice rates have been established after legitimate collective bargaining.

11. To insure employment to employees who are physically or mentally handicapped or who are otherwise subnormal in their production, such employees may be exempted by the Code Authority on such terms as the Code Authority may specify from the wage provisions of this Code, subject to review by the Administrator; provided that such employees shall not exceed in number 10% of the total number of workers employed by any one employer.

Article V—General Labor Provisions

1. No person under the age of 16 shall be employed in the Dress Manufacturing Industry.

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 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 so as to defeat the purposes of the Act.

7. Each employer shall post in conspicuous places full copies of the applicable labor provisions of this Code.

8. No work shall be carried on in homes or tenement houses, basements, or in unsanitary buildings, or in buildings unsafe on account of fire or dangerous to health.

Article VI—Code Authority

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 sixteen 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 not more than 3 additional members to represent the Administrator as he may desire.

(b) The above members of the Code Authority shall be selected by a fair method of election to be approved by the Administrator, by each association, group, or geographic subdivision of the Industry hereinafter designated, and each such association, group, or geographic subdivision of the Industry shall elect the following number of individuals to said Code Authority, respectively:

National Wholesale Dress Manufacturers Association	3 members.
Affiliated Dress Manufacturers Association	3 members.
United Association of Dress Manufacturers, Incorporated	3 members.
Eastern Metropolitan Area and Eastern Area	1 member to represent dress manufacturers, 1 member to represent contractors.
Western Area	2 members.
International Ladies' Garment Workers' Union	3 members.

(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) Should a vacancy occur on the Code Authority, it shall be filled in accordance herewith by the organization, group, or geographic subdivision formerly represented by the place on the Code Authority in which the vacancy occurs.

2. The Code Authority shall have the following duties and powers to the extent permitted by the Act. The Administrator on review shall have the right to veto or modify any action taken by the Code Authority:

(a) The Code Authority shall adopt bylaws and shall furnish to the Administrator true and correct copies of the bylaws and all amendments thereto immediately upon their adoption, together with true and correct copies of all rules and regulations which may be adopted by the Code Authority and true and correct minutes of all of its meetings, all certified by the Secretary of the Code Authority.

(b) To elect officers and to appoint agents and employees and to assign to them such duties as it may consider advisable, and to provide rules for the selection of members of the Code Authority by the Industry. The Code Authority shall keep the Administrator advised of the personnel of its administrative employees.

(c) To administer and enforce the provisions of this Code.

(d) To obtain from time to time from employers in the Industry who shall furnish reports in respect to wages, hours of labor, conditions of employment, number of employees, and other matters pertinent to the purposes of this Code as the Code Authority may prescribe and to submit periodical reports to the Administrator in such form and at such times as he may require, in order that the President may be kept informed with respect to the observance thereof, to furnish governmental agencies with such statistical and other information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act.

Except where alleged violations are being heard, all individual reports furnished pursuant hereto shall be treated as confidential information by the administrative staff of the Code Authority, and shall not otherwise be revealed to competitors of those furnishing the information except as part of summarized reports.

(e) 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.

(f) To coordinate the administration of this Code with such other Codes, if any, as may be related to the Dress Manufacturing Industry or any subdivision thereof, with a view to promoting joint and harmonious action upon matters of common interest.

(g) To initiate, consider, and submit to the Administrator proposals for amendments to or modifications of this Code.

(h) To provide ways and means for financing the operation of said Code Authority and to determine an equitable method of apportioning in the Industry the Cost of administering this Code. Money raised in any manner shall not exceed in amount such reasonable cost.

(i) The Code Authority shall provide rules and regulations by which the distinction between "higher-priced garments" as herein defined, and "lower-priced garments" shall be determined. In so doing, the Code Authority shall be guided by the wholesale prices prevailing on August 15, 1933, or thereabouts, as representing the intention of the framers of this Code.

(j) The Code Authority upon the adoption of this Code shall immediately make a thorough study for the purpose of introducing apprentice systems into the Industry, taking into consideration the school and other requirements of the respective states. On the basis of this study, the Code Authority shall make recommendations before January 1, 1934, to the Administrator for a provision for apprentice systems suggested as an amendment to this Code.

(k) The Code Authority shall immediately make investigation into the problem of style piracy, and make recommendations in connection therewith to the Administrator within sixty days after the effective date of this Code.

Article VII—Relations Between Manufacturers and Contractors

1. (a) All manufacturers and/or jobbers who cause their garments to be made by contractors shall adhere to the payment of rates for such production in an amount sufficient to enable the contractor to pay the employees the wages and earnings provided in this Code and in addition a reasonable payment to the contractors to cover overhead.

Where a contractor establishes that there has been an underpayment made by any manufacturer and/or jobber under the provisions of this Article, such manufacturer and/or jobber shall be liable for such underpayment, provided that claim for such underpayment shall have been made within two weeks of the next following customary accounting settlement period. When any such claim for underpayment has been made by a contractor, such contractor shall open his books of account bearing on such claim for inspection. This clause shall not be construed as diminishing the rights of any employee to any claim for underpayment against the parties who caused such underpayment.

(b) Manufacturers and jobbers who cause their garments to be made by contractors shall immediately designate the number of contractors to meet their business requirements. Within one week of the effective date of this Code the manufacturers and jobbers shall register the contractors so designated with the Code Authority, and thereafter register any and all subsequent changes.

(c) This does not abridge the right of the manufacturers or jobbers to add to, subtract from, or change their contractors, provided that such additions, subtractions, or changes conform to the business requirements of the manufacturers or jobbers, and is not intended to discriminate against the contractors or workers; and provided further, that such changes, or additions, are not made for the purpose of evading the established wage scale provided for in this Code plus the contractor's overhead.

(d) The Code Authority, subject to veto by the Administrator, shall have the power to prevent a practice on the part of a jobber or manufacturer of unjustly or unreasonably discriminating in the distribution of work as between contractors which might unfairly deprive groups of workers of an opportunity to work.

(e) In the distribution of work, manufacturers and jobbers shall have the right to employ contractors on the basis of type and the quality of the work performed; on a competitive price basis, provided the price is sufficient to pay the minimum wages provided for in this Code and a reasonable overhead to the contractor; and according to experience in obtaining deliveries on schedule; but this shall not be exercised as a device to evade the purpose of this Article.

(f) After further study the Code Authority, with the approval of the Administrator, shall make rules and regulations to further effectuate the purpose of this Article as stated herein.

2. It shall be unfair competition for any manufacturer and/or jobber to employ a contractor, or for any contractor to accept employment from a manufacturer and/or jobber except by use of the uniform order blank to be promulgated by the Code Authority after being approved by the Administrator.

Article VIII—Labels

All garments manufactured or distributed subject to the provisions of this Code shall bear an N.R.A. label to symbolize to purchasers of said garments the conditions under which they were manufactured. Under the powers vested in him by Executive Order of October 14, 1933, and under grant of the necessary authority by the Administrator, the Code Authority shall have the exclusive right in this Industry to issue and furnish said labels to the members thereof. Each label shall bear a registration number especially assigned to each employer by the Code Authority and remain attached to such garment when sold to the retail distributor. Any and all employers may apply to the Code Authority for a permit to use such N.R.A. label, which permit to use the label shall be granted to them, but only if and so long as they comply with this Code. The Code Authority, subject to approval by the Administrator, shall establish rules and regulations and appropriate machinery for the issuance of labels and the inspection, examination and supervision of the practices of employers using such labels in observing the provisions of this Code for the purpose of ascertaining the right of said employer to the continued use of said labels; of protecting purchasers in relying on said labels; of insuring to each individual employer that the symbolism of said label will be maintained by virtue of compliance with the practices herein contained by all other employers using said label.

The charge made for such labels by the Code Authority shall at all times be subject to supervision and orders of the Administrator and shall be not more than an amount necessary to cover the actual reasonable cost thereof, including actual printing, distribution, and administration and supervision of the use thereof as hereinabove set forth.

Article IX—Trade Practices

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

1. No returned merchandise may be accepted for credit except for defects in manufacture, delay in delivery, or errors in shipment. Further recommendations on this subject may be made by the Code Authority.

2. The Code Authority shall immediately formulate a uniform order blank to be used in the sale of products. After such notice and such hearing as the Administrator may provide, he may approve said uniform order blank after which it will be unfair trade practice for anyone engaged in the Industry to sell to any purchaser except by the use of said uniform order blank.

3. It shall be unfair trade practice to sell merchandise at a cash discount in excess of 8% ten days E.O.M. (end of month) except that merchandise shipped after the 25th day of any month may be dated as of the first day of the following month. Anticipation shall not be allowed at a rate in excess of 6% per annum.

4. The Code Authority shall immediately formulate regulations defining the practice of selling on memorandum, consignment, or at retail. After such regulations are approved by the Administrator, it shall be unfair trade practice for anyone engaged in this Industry to sell merchandise on memorandum, consignment, or at retail in violation thereof.

5. It shall be unfair trade practice to make secret payment of allowances or refunds, rebates, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers, or to others also engaged in this Industry of special services or privileges, not openly extended to all on like terms and conditions.

6. It shall be unfair trade practice to sell merchandise except upon terms as expressly stated upon the invoices pertinent to such sale.

7. It shall be unfair trade practice to resort to subterfuge to evade this Code.

Article X—Monopolies

This Code shall not be construed or applied to promote or permit monopolies or monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

Article XI—Modifications

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 by the President.

Article XII

The Administrator may after such notice and hearing and after making such appropriate amendments as may in his discretion be necessary extend the operation of this Code to such other geographical divisions as may be subject to the Act.

Article XIII—Effective Date

The effective date of this Code shall be the second Monday after it is approved by the President of the United States.

Approved Code No. 64.
Registry No. 228/01.

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Approved Code No. 65

CODE OF FAIR COMPETITION

FOR THE

ADVERTISING SPECIALTY INDUSTRY

As Approved on October 31, 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 Advertising Specialty 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 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 conditions:

(1) As to all employees engaged in printing operations, the wage and hour provisions of this Code shall be superseded by the wage and hour provisions of the Code of Fair Competition for the Printing Industry when the latter Code becomes effective after approval by me.

(2) To effectuate further the policies of the Act, an Advertising Specialty Industry Committee be created to cooperate with the Ad-

ministrator as a planning and fair practice agency for the Advertising Specialty Industry, which committee shall consist of five representatives of the Advertising Specialty Industry elected by a fair method of selection, to be approved by the Administrator, and three members without vote appointed by the Administrator.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 31, 1933.

October 23, 1933.

The President,
The White House.

Sir: A Public Hearing on the Code of Fair Competition for the Advertising Specialty Industry in the United States, submitted by the Advertising Specialty National Association, Chicago, Illinois, was conducted in Washington on the 30th of August, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 72 percent of the industry.

Provisions of This Code as to Hours and Wages

III. Hours

(1) The maximum hours of employment shall be forty (40) per week, except that owing to the seasonal nature of this Industry it is permitted that employees may, by permission of the Executive Committee of the Code and with the approval of the Administrator, be employed during seasonal rush periods forty-eight (48) hours per week, provided that the rate of wages for all hours in excess of forty (40) per week shall be at least one and one third times the established rate for 40 hours, and further provided that such employees shall not be permitted to work more than 520 hours during any period of thirteen (13) consecutive weeks.

(2) Maximum hours as provided above shall not apply to any employee in a managerial or executive capacity who now receives thirty-five dollars ($35.00) per week or more.

(3) No employee, except those hereinabove specifically exempted, who, during any one week period has worked for remuneration for the space of forty (40) hours, shall be employed to work during the same period or periods of time by any member of this industry.

IV. Wages

(a) The minimum wage that shall be paid by any employer in the Advertising Specialty Industry to any employee shall be thirty-five cents (35¢) per hour or fourteen dollars ($14.00) per week for male employees, and thirty cents (30¢) per hour or twelve dollars ($12.00) per week for female employees, each for forty (40) hours of labor. The above wages are to be paid regardless of whether the employee is compensated on the basis of a time rate or a piece work performance.

(b) Female employees performing the same type of work as male employees shall receive the same wage per hour as paid to male employees.

(c) Apprentices and learners having no previous experience or employment in this Industry shall, during the six-weeks' learning period, receive not less than 80 percent of the minimum rates prescribed above for forty (40) hours of labor per week. At no time shall the number of apprentices or learners exceed eight percent (8%) of the total number of employees in any single unit of the Industry.

(d) On and after the effective date, no manufacturer shall permit any work to be done in the homes of workers, all work being done inside the factory.

(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 proportionate to the increase in compensation as determined by the minimum wage herein provided; Provided, however, that where a State law provides a higher minimum wage, no person employed within that State shall be paid a wage lower than that required by such State law.

V. Child Labor

No person under the age of sixteen years shall be employed in this industry; 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 within that State.

ECONOMIC EFFECT OF THE CODE

There are approximately 300 advertising specialty manufacturers of which 47 do the bulk of the business and employ approximately one third of the 7,000 employees in the Industry.

A sample analysis of the work week of the 43 companies under consideration (May 1933) showed an average number of hours worked per week of 40. All companies being considered from which reports could be obtained showed the much higher average of 48 hours per week per employee.

The Industry in general now reports that they are working employees 40 hours per week as a result of the Reemployment Program and it is estimated that there has been an increase in employment of approximately 15 percent. It is probable that no immediate increase in employment will be effected but it is estimated that there will be an increase of about 20 percent in the total payrolls.

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 Advertising Specialty National Association, the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Advertising Specialty 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

ADVERTISING SPECIALTY INDUSTRY

I. Purposes

To effectuate the policy of Title I of the National Industrial Recovery Act by reducing unemployment, improving the standards of labor, establishing a reduction in working hours, eliminating practices inimical to the interests of the public, employers and employees, removing from this Industry any existing obstructions to the free flow of interstate and foreign commerce—and thereby increasing the consumption of industrial and agricultural products by increasing purchasing power, to bring wages paid in the industry to such levels as are necessary for the highest standards of living attainable, to revise wage scales from time to time, to reflect changes in living costs, to restore to the members of this industry their income on a level which makes possible the payment of such wages, and to promote the general welfare, the following provisions are established as a Code of Fair Competition for the Advertising Specialty Industry.

II. Definitions

(a) The Advertising Specialty Industry as used herein is defined to mean the manufacture of articles of utility, ornament, or beauty, bearing the advertising imprint of a firm, corporation, bank, or individual, or designed for distribution as good-will, reminder, or novelty advertising.

(b) The term "manufacture" as used herein is defined to mean not only the manufacture of parts, but the assembling of such parts into the finished article, and also the imprinting of an advertisement on such article. Any firm, partnership, corporation, or individual engaged in any or all of the above mentioned activities as a staple line shall be considered a "manufacturer" in the Advertising Specialty Industry.

(c) The term "employees" as used herein shall include all persons employed in any phase of the manufacture, assembly, or imprinting of advertising specialties, or in the operation and maintenance of plants, and all persons employed in office work connected with the business.

(d) The term "association" as used herein shall be understood to mean the Advertising Specialty National Association, or any trade association that may be organized as successor thereto.

(e) The term "member or members" as used herein shall be defined as any person, partnership, association, or corporation engaged in the manufacture of advertising specialties, who engage in their business any employees as defined above.

(f) The term "effective date" as used herein is defined to be the second Monday after this Code shall have been approved by the President.

III. Hours

(1) The maximum hours of employment shall be forty (40) per week, except that owing to the seasonal nature of this industry it is permitted that employees may, by permission of the Executive Committee of the Code and with the approval of the Administrator, be employed during seasonal rush periods forty-eight (48) hours per week, provided that the rate of wages for all hours in excess of forty (40) per week shall be at least one and one third times the established rate for 40 hours, and further provided that such employees shall not be permitted to work more than 520 hours during any period of thirteen (13) consecutive weeks.

(2) Maximum hours as provided above shall not apply to any employee in a managerial or executive capacity who now receives thirty-five dollars ($35.00) per week or more.

(3) No employee, except those hereinabove specifically exempted, who, during any one week period has worked for remuneration for the space of forty (40) hours, shall be employed to work during the same period or periods of time by any member of this industry.

IV. Wages

(a) The minimum wage that shall be paid by any employer in the Advertising Specialty Industry to any employee shall be thirty-five cents (35¢) per hour or fourteen dollars ($14.00) per week for male employees, and thirty cents (30¢) per hour or twelve dollars ($12.00) per week for female employees, each for forty (40) hours of labor. The above wages are to be paid regardless of whether the employee is compensated on the basis of a time rate or a piece work performance.

(b) Female employees performing the same type of work as male employees shall receive the same wage per hour as paid to male employees.

(c) Apprentices and learners having no previous experience or employment in this industry shall, during the six-weeks' learning period, receive not less than 80 percent of the minimum rates prescribed above for forty (40) hours of labor per week. At no time shall the number of apprentices or learners exceed eight percent (8%) of the total number of employees in any single unit of the industry.

(d) On and after the effective date, no manufacturer shall permit any work to be done in the homes of workers, all work being done inside the factory.

(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

proportionate to the increase in compensation as determined by the minimum wage herein provided; Provided, however, that where a State law provides a higher minimum wage, no person employed within that State shall be paid a wage lower than that required by such State law.

V. Child Labor

No person under the age of sixteen years shall be employed in this industry; 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 within that State.

VI. Participation

(a) Any member of the Advertising Specialty Industry is eligible for membership in the Advertising Specialty National Association and is entitled to all the benefits thereof, upon the acceptance by such member of a reasonable share of the cost and responsibility of the Code development and administration. No inequitable restrictions on admission to membership shall be imposed by the said Advertising Specialty National Association or any association or group who are members of the Advertising Specialty Industry.

VII. Administration

(a) To effectuate further the policies of the Act, an Advertising Specialty Industry Committee is hereby designated to cooperate with the Administrator as a Planning and Fair Practice Agency for the Advertising Specialty Industry. This Committee shall consist of five representatives of the Advertising Specialty Industry elected by a fair method of selection, to be approved by the Administrator and, at his discretion, not more than three members without vote appointed by the President of the United States. Such agency may from time to time present to the Administrator recommendations based on conditions in their industry as they may develop which will tend to effectuate the operation of the provisions of this Code and the policy of the National Industrial Recovery Act.

(b) The Code Authority shall have the following duties and powers to the extent permitted by this Code and subject to review by the Administrator.

(1) To receive duly certified returns every four weeks showing actual hours worked by employees, and

(2) Reports as to minimum weekly wages, and

(3) Such other reports as may be deemed necessary by the Executive Committee, subject to the approval of the Administrator, for the effective administration of this Code.

(4) Recommendations for setting up a service Bureau for engineering, accounting, credit and/or other purposes to aid all persons engaged in the Industry in meeting the requirements of this Code.

(5) Recommendations for requirements by the Administrator as to fair practices by persons engaged in the Advertising Specialty Industry, in respect to methods and conditions for marketing their products.

(6) Recommendations for regulation of competitive bidding on special orders, defined to mean orders other than those offered in the regular lines issued by persons engaged in the Advertising Specialty Industry.

(7) Recommendations for dealing with any inequalities that may otherwise arise to endanger the stability of the Industry, and of production and employment.

Except as otherwise provided in the National Industrial Recovery Act all statistics, data and information filed in accordance with the provisions of Article III shall be confidential, and the statistics, data and other 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 Executive Committee of the Advertising Specialty Industry shall have access to any and all statistics, data, and information that may be furnished in accordance with these provisions.

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.

VIII. Unfair Trade Practices

The following shall be considered unfair trade practices for this Industry:

(a) It shall be an unfair practice to dispose of out-of-date or distress products, commonly known as last editions or job lots, in such a way as to affect adversely the soundness and stability of the Industry.

(b) It shall be an unfair trade practice to pirate original designs, drawings, sketches, dummies, or copy of any product that has been submitted to a prospective customer by a competitor.

(c) Price discrimination as between two or more buyers of the same quantity of the same article shall be unfair practice.

(d) It shall be an unfair trade practice for any member to sell any product at a price below his individual cost of production.

IX. General

Section 1. (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; 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) This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the

provision 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.

(b) 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 will be submitted for the approval of the President to prevent unfair competition and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act.

(c) Any member of this industry who, prior to June 16, 1933, contracted to buy or sell any goods, wares, or merchandise at a price fixed as of the date of said contract, for future delivery, shall make a bona fide effort to arrive at an equitable adjustment on the price thereof as fixed by said contract, to meet any proper increase in the cost of such goods, wares, or merchandise imposed by virtue of any provision of the National Industrial Recovery Act; and in the event such effort fails to result in a mutually satisfactory adjustment, either party to said contract may refer the same for adjustment to the Planning and Fair Practice Agency of the Industry, which said Agency with the aid and assistance of the Administrator or his properly designated agent or agents, shall endeavor to arrive at an equitable adjustment thereof.

(d) Within each State members of the Advertising Specialty 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.

Approved Code No. 65.
Registry No. 1702/2/01.

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Approved Code No. 66

CODE OF FAIR COMPETITION

FOR THE

MOTOR BUS INDUSTRY

As Approved on October 31, 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 Bus 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,
October 31, 1933.

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October 5, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Motor Bus Industry of the United States, conducted in Washington on the 30th 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 averaged over a period of 4 weeks. Garage, service, and maintenance employees—48 hours per week averaged over a period of 6 weeks with a maximum of 54 hours in any one week. Bus operators and ticket agents—48 hours per week averaged over a period of 6 weeks with a maximum of 54 hours in any one week provided that during any 3-month period a maximum of 54 hours is established. Watchmen and janitors, 56 hours in any one week. No employee working over 35 hours per week may be employed for more than 24 days in any 28-day period.

Minimum wage rates are established ranging from $15.00 per week in any city of over 500,000 population to $12.00 per week in towns of less than 2,500 population. 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 an equitable readjustment and that rates of pay for employees whose hours have not been so reduced shall not be decreased below those in effect for the week ending June 17, 1933.

Employment of any person under 16 years of age and of any person as a bus driver under 21 years of age is prohibited.

In recommending the approval of the hour provisions of this Code it has been necessary to recognize that passenger motor carrier transportation is a continuous public service requiring twenty-four hours per day operation seven days per week with flow of traffic reaching periodical peaks each day, week, and season in the year. Its schedules are continuously subject to interference by reason of road, weather, traffic, and other emergency conditions. Moreover, it is competitive with steam rail passenger transportation not operating under the provisions of the National Industrial Recovery Act.

To adopt a schedule of less hours at this time would undoubtedly result in a great hardship to the Industry. As a step toward the realization of a shorter hour week, the Industry is required under the Code to study ways and means of still further improving working conditions and to present the results of its study to the Administrator by May 1, 1934.

Economic Effect of Code

Under the recommended Code, the Motor Bus Industry will re-employ 12,586 additional wage earners or about 18 percent according to an estimate made by the Division of Economic Research and Planning. This will increase the annual pay roll of the Industry by $15,152,000 or about 18 percent.

The Motor Bus Industry has suffered not only from the depression but also from its disadvantageous competitive position with other passenger carriers. The taxes of its principal competitor, the railroad, have increased but 25 percent since 1919 as contrasted with a 500 percent increase in the case of the Motor Bus Industry. The annual tax per bus was $859 in 1932, an increase of $523 per bus since 1925.

In view of these considerations it is believed that if this Industry is to share impartially in business recovery, the provisions of this Code are all that can be reasonably expected at this time.

Findings

The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title 1 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 Motor Bus 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

MOTOR BUS 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 Motor Bus Industry, and shall be the standard of fair competition for the Motor Bus Industry.

Article II—Definitions

1. The term "Industry" as used herein includes all facilities for transportation of persons, or of persons and package express, excess baggage, newspapers, or United States mail by "passenger motor carrier" and the performance of all service and the transaction of all business incident thereto; provided, however, that nothing in this definition shall include:

(a) Motor vehicles employed solely in transporting school children and teachers to and from school.

(b) Taxi cabs or other motor vehicles performing a similar service having a capacity of not more than six (6) passengers and not operated on a regular route or between fixed termini.

(c) Motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroads or other common-carrier stations.

(d) Transportation subject to the Code of Fair Competition for the Transit Industry, which is defined to include the following:

"1. Electric railways and trolley bus lines transporting passengers by electric car or trolley bus; provided that electric railways engaged in both intrastate and interstate commerce may operate either the intrastate or interstate portions of their business, or both, under this Code unless prevented by Federal law.

"2. Automotive busses transporting passengers solely within State lines, except when engaged in interstate commerce.

"3. Automotive busses transporting passengers in interstate commerce or in both intrastate and interstate commerce where such operations are conducted entirely within a single metropolitan area or within a group of municipalities when the transportation service is essentially urban or suburban in character.

"4. The performance of all service and the transaction of all business incident to the operation of the foregoing facilities.

"(a) No new bus route or bus line or extensions to existing bus routes or lines shall be established in interstate commerce without also complying with the licensing and rate provisions of any Code of Fair Competition adopted for the Motor Bus Industry relating thereto;

"(b) The agency set up by the provisions of Article VI, A-4 hereof, shall have jurisdiction to hear and finally decide all disputes in regard to a specific route or line being or not being engaged in interstate commerce beyond the limitation provided for in paragraph 3 of this Article."

2. The term "passenger motor carrier", as used herein, includes any individual, firm, corporation, copartnership, or other persons, their lessees, trustees, or receivers, transporting, or offering or proposing to transport, by motor vehicle for compensation in the Motor Bus Industry, either on a fixed-fare or share-expense basis, persons, or persons and package express, excess baggage, newspapers, or United States mail over the public highways of the United States.

3. The term "motor carrier transportation agent" as used herein includes any person who acts as agent in the furnishing of transportation by any passenger motor carrier, irrespective of whether such agent is otherwise employed by such passenger motor carrier or whether such agent is an individual, firm, corporation, co-partnership, trustee, or other person, or whether such agent sells or negotiates the sale of, or otherwise for a commission, fee, or tip, acts as an intermediary in the sale of passenger transportation in the Industry.

4. The term "employee" as used herein shall include any person, except ticket brokers and commission agents, engaged in any phase of the Industry, in any capacity, receiving compensation, irrespective of the method of payment of his compensation, or of his interest otherwise in said Industry.

5. This Code shall become effective upon the second Monday after this Code shall have been approved by the President of the United States.

6. Population, for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

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 said Act.

Article III—Hours

1. The following employees shall not work or be permitted to work in excess of the following hours:

(a) Clerical employees and employees not specifically designated hereafter in this Article—forty (40) hours per week averaged over a period of any four (4) weeks.

(b) Garage, service, and maintenance employees—forty-eight (48) hours per week averaged over a period of six (6) weeks with a maximum of fifty-four (54) hours in any one week.

(c) Bus operators and ticket agents—forty-eight (48) hours per week averaged over a period of six (6) weeks with a maximum of fifty-four (54) hours in any one week for any nine (9) months in any twelve (12) months period. For the remaining three (3) months of such twelve (12) months period forty-eight (48) hours per week with an allowance not to exceed six (6) hours per week.

(d) Watchmen and janitors—fifty-six (56) hours in any one week. This group not to exceed five (5) percent of the employees of any passenger motor carrier.

(e) No employee working over thirty-five (35) hours per week shall be employed for more than twenty-four (24) days in any twenty-eight (28) day period.

(f) The provisions of this Article shall not apply to persons employed in a managerial, executive, or supervisory capacity, porters, or emergency crews during periods of emergency caused by storms, floods, accidents, or other causes beyond the control of passenger motor carriers.

2. Regulations as to hours of service and wages for porters shall be formulated by the Motor Bus Code Authority for the approval of the Administrator within ninety (90) days after the effective date.

3. It shall be the duty of the Motor Bus Code Authority as hereinafter described to study ways and means of improving operating and working conditions and to report the results of its study to the Administrator prior to May 1, 1934.

Article IV—Minimum Wages

1. (a) No employee in the Industry other than porters shall be paid at less than the rate of $15.00 per week in any city of over 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 towns of less than 2,500 population;

(b) It is agreed that paragraph (a) establishes a minimum rate of pay, regardless of whether the employee is compensated on the basis of time rate, mileage rate, or piecework performance.

2. The rates of pay of employees whose hours of employment have been reduced by the provisions of this Code shall be increased by an equitable readjustment and the rates of pay of employees whose hours have not been reduced shall not be decreased, as a result of this Code, below those in effect in the week ending June 17, 1933.

3. Nothing in this Article shall interfere with wage agreements in which wage rates are established higher than those established herein.

Article V—Child Labor

No passenger motor carrier shall employ a motor-bus driver under twenty-one (21) years of age or any other person under the age of sixteen (16) years.

Article VI—Administration and Trade Practices

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

1. The organization of the Motor Bus Code Authority shall be as follows:

(a) The Motor Bus Code Authority shall consist of seven (7) voting members, one of which shall at all times be the President of the National Association of Motor Bus Operators and one of which shall at all times be the Secretary of said Association. The Administrator may appoint not more than three (3) nonvoting members, in which may be included representation for employees.

(b) Of the remaining five (5) voting members, three (3) shall be chosen by those members of the Board of Directors of the National Association of Motor Bus Operators who under the By-Laws of the Association represent the eleven (11) designated geographical districts of the United States. The other two (2) voting members shall be elected from among operating representatives of passenger motor carriers not holding membership in the Association, who are entitled to participate in the selection of the Code Authority.

The method of selection of such members shall be subject to the approval of the Administrator.

(c) Any trade or industrial association participating in the selection or activities of the Motor Bus Code Authority shall at all times comply with the following requirements: (1) It shall impose no inequitable restrictions on membership. (2) It shall not violate any rule or regulation prescribed by the President of the United States under this Act, or any other provision of the National Industrial Recovery Act. (3) It shall submit to the Administrator true copies of its Articles of Association, Bylaws, regulations, and any amendments when made thereto, and such other information as to membership, organization and activities as the Administrator may require from time to time to effectuate the policies of this Act.

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

(e) An appeal from any action by the Code Authority affecting the rights of any employer or any employee may be taken to the Administrator.

(f) Hereafter only employers assenting to this Code shall be entitled to participate in the selection of the Code Authority and to share the benefits of its activities as hereinafter set forth.

(g) The Motor Bus Code Authority shall, as soon as possible after the approval of this Code, appoint two (2) individuals who shall, jointly with two (2) individuals appointed by the Transit Code Authority, hear and finally determine any question that may be referred to it by the Motor Bus Code Authority as to whether any individual bus operation defined in Section 1 of Article II of this Code shall be included under this Code. In case the joint board fails or refuses to decide within ten (10) days any question submitted, the matter shall be referred to the Administrator for final disposition.

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

(a) To elect officers and assign to them such duties as it may consider advisable, and to provide rules for the selection of its mem-

bers by the National Association of Motor Bus Operators and representatives of other passenger motor carriers entitled to participate therein, and for its continuance as the administrative agency of this Code, in accordance with the terms of the Act and the principles herein set forth.

(b) To provide for administration and enforcement of the provisions of this Code.

(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; and to furnish to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act.

(d) To recommend to the Administrator within thirty (30) days a uniform system of accounting for the Industry which upon his approval shall be used in furnishing the aforesaid reports.

(e) To cooperate with the Administrator in regulating the use of the N.R.A. insignia by passenger motor carriers in the Industry who assent to this Code, so long as they conform to its provisions.

(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, with a view to promoting joint and harmonious action upon matters of common interest.

(g) To secure an equitable and proportionate payment of the expense of maintaining the Motor Bus Code Authority and its activities from those passenger motor carriers accepting the benefits of the activities of the Motor Bus Code Authority, or otherwise assenting to this Code.

(h) To delegate to such trade associations and other agencies as it deems proper the carrying out of any of its activities herein, and to pay such agencies the cost thereof; provided, that such agencies shall at all times be subject to and comply with the provisions of this Code, and provided that nothing in this Section shall relieve the Motor Bus Code Authority of its duties or responsibilities under this Code.

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

Article VII—Trade Practices

1. *Registration of passenger motor carriers.*—(a) Each passenger motor carrier shall within thirty (30) days after the approval of this Code register its operations by filing a statement with the Motor Bus Code Authority setting forth the routes over which it is operating.

(b) Passenger motor carriers establishing any new motor bus operation or extending any motor bus operation after the date of the approval of their Code shall secure therefor a certificate of convenience and necessity, or permit, from each and every State in

which such operation is conducted, authorized intrastate transportation along the route or routes of such new operation, or extension of existing operation. Such new route, or extension of existing route shall be registered by submitting and filing with the Motor Bus Code Authority within fifteen (15) days after the institution of service thereon the following:

(1) A description of such route or routes.

(2) A certified copy of a certificate of convenience and necessity, or permit, issued by the State or States as herein provided.

(3) Evidence of compliance with such other conditions as the Administrator shall upon recommendation of the Motor Bus Code Authority establish.

(c) The Administrator, on his own initiative or on the recommendation of the Code Authority, may grant exemptions as to the requirements for the submission of a certificate of convenience and necessity, or permit, in any State in which such certificate or permit is not required, or in any case in which the refusal of any such certificate or permit by any State has been clearly unreasonable and worked undue hardship.

2. *Tariffs.*—(a) Every passenger motor carrier shall within twenty (20) days after the approval of this Code publish tariffs of rates, fares, and charges for the transportation of persons and for services between all points on its lines by filing five (5) copies thereof with the Motor Bus Code Authority at its office in Washington, D.C., as agent for the Administration. Thereafter, no passenger motor carrier or motor carrier transportation agent shall charge or demand or collect, or receive a greater or less or different, compensation for the transportation of persons or for any service in connection therewith, between the points named in such tariffs than the rates, fares, or charges stated in the published tariffs of such passenger motor carrier, nor extend to any person any privilege or facilities except such as are specified in such tariffs.

(b) Any passenger motor carrier may at any time file with the Motor Bus Code Authority five (5) copies of any changes, amendments, or supplements to its tariffs which shall, unless otherwise provided by the Motor Bus Code Authority with the approval of the Administrator, become effective as such changes, amendments, or supplements may provide, and have the same force and effect as the original schedules filed.

3. *Bonds or Insurance.*—Passenger motor carriers shall comply, as to interstate commerce, with the lawful regulations of the States through which they operate pertaining to bonds or insurance or liability protection required for passenger motor carriers engaged in intrastate commerce, for the payment of any final judgment recovered against such motor carriers on account of the death of or injury to persons or loss of or damage to property resulting from the operation, maintenance, or use of motor vehicles employed by such carriers. The Administrator, on the recommendation of the Code Authority and after such hearing as he may deem proper, may make such modifications and impose such other conditions and requirements in respect to providing bonds, insurance, or liability protection by any passenger motor carriers as he shall deem proper to carry out the intention of these provisions.

4. *Motor Carrier Transportation Agent.*—After forty-five (45) days from the approval of this Code, no motor carrier transportation agent shall sell transportation furnished by a passenger motor carrier unless such passenger motor carrier is registered with the Motor Bus Code Authority as hereinabove provided.

5. *Ticket Sales Commissions.*—Unless otherwise approved by the Motor Bus Code Authority, no passenger motor carrier or motor carrier transportation agent, where the latter deals through subagents or ticket brokers, shall pay to any other passenger motor carrier, commission agent, ticket broker, or connecting carrier, directly or indirectly, through subsidy or otherwise, a sum in excess of ten (10) percent of the amount of the ticket sales made by such agent, broker, or carrier as compensation for sales of transportation by passenger motor carriers.

6. *Free Transportation.*—No passenger motor carrier shall issue free or reduced-rate transportation to employees of another carrier except when a request therefor has been placed through the general offices of such other carrier.

7. *Interline Settlements.*—Settlements on interline reclaims shall be within thirty (30) days from the date billing is received.

Article VIII—General

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

(2) 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.

(3) Violation by any passenger motor carrier or motor carrier transportation agent, as herein defined, of any provision of this Code shall be considered an unfair method of competition, and offenders shall be subject to the penalties imposed by the Act.

(4) Full recognition is accorded the effect of the State laws that regulate intrastate business, and it is neither the intent nor purpose of this Code to abrogate, change, or modify the effect of any State law in respect to any passenger motor carrier business which shall be strictly intrastate in character.

(5) Nothing in this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, or oppress, or discriminate against small enterprises.

(6) Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on passenger motor carriers, regulating the age of employees, wages, hours of work, health, fire, or general working conditions than under this Code.

(7) Each employer shall post in a conspicuous place in each office and garage a copy of this Code noting thereon that the labor provisions are set forth in Section 4 of Article II, Articles III, IV, V, Paragraph (e) of Section I of Article VI, and Sections 1, 6, and 7 of Article VIII.

Approved Code No. 66.
Registry No. 1741/2/03.

O

Approved Code No. 67

CODE OF FAIR COMPETITION

FOR THE

FERTILIZER INDUSTRY

As Approved on October 31, 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 Fertilizer 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,
October 31, 1933.

October 25, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Fertilizer Industry conducted in Washington on the 6th of September, 1933, in accordance with the provisions of the National Industrial Recovery Act.

Provisions of This Code As To Hours and Wages

Article IV

Section 2. *Maximum Hours of Labor.*—a. No employee in the Fertilizer Industry shall be required or permitted to work more than 40 hours in any one week or eight hours in any one day except as follows:

1. Foremen, superintendents, managers, salesmen, chemists, and officials.

2. During the rush of the planting season the hours of labor may exceed the maximum above prescribed by eight hours a week, and in the case of skilled key men the hours of labor may exceed the maximum above prescribed by 20 hours in any week, but in no event shall employees be permitted to work more than an average of 40 hours a week over any consecutive four-months' period.

3. Office employees shall not be required or permitted to work more than an average of 40 hours a week in any four months' period.

4. Employees engaged in any continuous operation when other competent employees are readily available for such work shall not be required or permitted to work more than 40 hours in any one week, and in no case more than 48 hours in any one week.

5. Repair shop crews, engineers, electricians, and watching crews shall not be required or permitted to work more than 40 hours in any one week, with a tolerance of 10 percent, except in the case of emergency.

b. Overtime shall be paid at the rate of one and one-third times the normal rate for all work in the excess of eight hours a day, except in the case of office employees.

c. Every employee in the Fertilizer Industry shall be entitled to one day of rest a week.

Section 3. *Minimum Rates of Pay.*—a. No employee in the Fertilizer Industry shall be paid less than the following: 35 cents an hour in the Northern area, 25 cents an hour in the Southern area, 35 cents an hour in the Midwestern area, 40 cents an hour in the Pacific Coast area, and 20 cents an hour in Puerto Rico.

b. The Northern area comprises Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland (except the Eastern Shore), New Castle County of Delaware, District of Columbia, and West Virginia.

c. The Southern area comprises Kent and Sussex Counties of Delaware, the Eastern Shore of Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, and Tennessee.

d. The Midwestern area comprises Ohio, Illinois, Indiana, Kentucky, Missouri, Kansas, Nebraska, South Dakota, North Dakota, Colorado, New Mexico, Arizona, Wyoming, Montana, Michigan, Wisconsin, Minnesota and Iowa.

e. The Pacific Coast area comprises Washington, Oregon, California, Idaho, Nevada, and Utah.

ECONOMIC EFFECT OF THE CODE

The Fertilizer Industry, as covered by the attached Code, is an Industry whose activity is intimately connected with the income and purchasing power of the farmer. Since 1929 gross agricultural income has declined from $10,000,000,000 to a little over $4,000,000,000, and has been accompanied by a decline in annual fertilizer consumption from 8,000,000 tons to 4,000,000 tons.

Basically, this Code covers the mixers of fertilizer, some 600 in number, operating approximately 800 plants. Nearly three-fourths of these plants are located in the one-crop sections of the South and Southeast producing fertilizer to be used in connection with the cotton and tobacco crops. In addition to the mixed fertilizer produced by these plants, certain unmixed substances, such as potash, nitrogen carriers and so forth, which may be used directly on the soil, are in competition with mixed fertilizer. A large proportion of such material is handled by the fertilizer mixing concerns, but some portion is marketed direct to dealers and consumers by the producers of such materials, and even by their importers. Importations of nitrate carriers, such as Chilean nitrate of soda, potash from Germany and superphosphate from Japan, have a serious effect on this Industry and, to a certain extent, have contributed to the demoralization of the Industry. For this reason the Code contains a great number of unfair trade practices which are to be prohibited, and covers not only the mixing of fertilizer and its immediate sale, but also covers (as far as sales to dealers and consumers are concerned) the distribution of the competing products.

It is believed that, for the ultimate good of the farmer, the control prescribed and permitted in this Code is essential. In view of these conditions, however, it is highly important that the Government representation on the operation of this Code exercise carefully its functions.

The Fertilizer Industry is one with extremely seasonal operation. Thirty-five percent of the annual production of this Industry is moved in one month and 85 percent of it is moved in approximately three months of each year. This period is a period of farm activity. The product is bulky and the plants, as a whole, are located near the consumer—that is, in agricultural areas. The percentage of common labor reaches to more than 70 percent of the total labor employed and is of the farm labor type. It seems important, therefore, that scales of wages be not set up so high as to disrupt the agricultural situation in the vicinity of fertilizer factories.

The highest recorded employment in the Fertilizer Industry was reached in March 1929, when nearly 38,000 workers were employed. The average or more normal figure of 1928 was 33,000 employees. This had decreased in 1932 to only 21,000 employees. The above figures, of course, apply to the peak season, during which the greatest portion of fertilizer is being mixed and delivered.

The reduction in hours in this Code to an average of 40 for a four months' period, with overtime for all work in excess of eight hours per day, should increase the number of employees in the peak season to about 27,500 workers at the same scale of purchasing by agriculture as now exists. It is to be presumed, however, that betterment in prices of the products of agriculture will permit the purchase of increased quantities of fertilizer.

The wages established in this Code are such as to increase nearly 100 percent of the employees in the Southern area, and 90 percent of the employees in the Northern and Western areas. It will increase the wages of nearly 78 percent of the employees in the Pacific Coast area. The average wage in the Southern area in 1923 was 13.7 cents per hour, whereas the Code provides a minimum wage of 25 cents per hour. The average wage for the spring of 1923 in the Northern Area was 26.5 cents per hour, while the Code provides 35 cents per hour. It will be seen, therefore, that not only will this Code increase employment materially, but will raise very greatly the rate of pay throughout the entire United States.

While the absolute wage rates provided by the Code still are not high, it is believed that this industry with its close interlock with agriculture can be affected only adversely if higher minimum wages are required.

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 Fertilizer 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

FERTILIZER INDUSTRY

The following provisions shall constitute the Code of Fair Competition for the Fertilizer Industry under the National Industrial Recovery Act:

Article I—Purpose

It is the purpose of this Code to aid in eliminating from the Fertilizer Industry destructive and unfair methods of competition, waste, and improper practices, to place the Industry upon a sounder basis and better enable it to serve labor and agriculture by bringing about higher wages, shorter working hours, better living conditions for employees, fair prices, and high-quality products for the farmer, and reasonable profit to the producers of fertilizer and to the Industry generally.

Article II—Definitions

Section 1. a. The term "Fertilizer Industry" as used herein includes the importation, production, and/or distribution of mixed fertilizer, superphosphate, and/or other fertilizer materials. This Code does *not* cover sulphuric acid, nor does it cover dealers. This Code does *not* cover the production of potash, phosphate rock, and/or nitrogen carriers, nor does it cover their distribution to producers and to persons other than dealers or consumers. This Code *does* cover the sale and distribution of potash, phosphate rock, and/or nitrogen carriers to dealers and/or consumers, whether made directly or through agents: Provided, however, that such sale and distribution by producers of such materials shall be exempted from the provisions of Article V, Production and New Capacity; Article VI, Price Provisions, Section 1, Sales Below Cost Prohibited; and Sections 1, 2, 4, 5, and 6 of Article VII, Marketing Provisions, and shall also be exempted from the requirements of Article IX, Reports and Statistics, to the extent that producers of such materials shall not be required thereunder to submit any reports or information concerning their costs of production, wages, hours of labor, other conditions of labor, or prices to others than dealers or consumers.

b. In the event that any producer or importer of potash, phosphate rock, or nitrogen carriers makes no sale of mixed fertilizer, superphosphate, or other fertilizer material to dealers and/or consumers, none of the provisions of this Code shall apply to such producer or importer. Provided, further, that if and when the producers and/or importers of potash shall have filed a Code of Fair Competition covering the sale and distribution of potash to dealers and/or consumers, which Code shall contain provisions the same as

Article VI, Section 2, Open-Price Schedules; Article VII, Section 3, Distribution Through Cooperative Associations, Section 7, Methods of Quoting Prices, Methods of Distribution, and Methods of Delivery, Section 8, Exemptions from Marketing Provisions, and all Sections of Article VIII, Unfair Practices Prohibited, in the form as approved by the President herein, and such Code with such provisions shall have been approved by the President and become effective, such sale and distribution of potash shall be exempted entirely from this Code. Similarly, if and when the producers and/or importers of phosphate rock and/or nitrogen carriers shall have filed a Code of Fair Competition covering the sale and distribution of phosphate rock and/or nitrogen carriers to dealers and/or consumers, which Code shall contain the provisions just recited, and such Code with such provisions shall have been approved by the President and become effective, such sale and distribution of phosphate rock and/or nitrogen carriers shall be exempted entirely from this Code.

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 "mixed fertilizer" means any combination or mixture of fertilizer materials, designed and fit for use in inducing increased crop yields or plant growth when applied to the soil.

Sec. 5. The term "fertilizer material" means any substance which is used with another substance in the manufacture of mixed fertilizers, or for direct application to the soil, principally as a source of plant food, except unmanipulated manures of domestic origin.

Sec. 6. The term "superphosphate" means the product resulting from mixing rock phosphate and sulphuric acid and/or phosphoric acid.

Sec. 7. The term "grade" as applied to mixed fertilizer, shall represent the minimum guarantee of its plant food expressed in terms of nitrogen, available phosphoric acid, and water soluble potash, and such other substances as may be guaranteed.

Sec. 8. The term "dealer" means any person, other than a producer, engaged in the business of buying mixed fertilizer, superphosphate, and/or other fertilizer material for the purpose of selling at a profit. One buying for his own use, or principally for his own use and that of his tenants, shall not be deemed to be a dealer. A group of unincorporated consumer buyers acting collectively or through an individual for the purpose of contracting for a joint order is not a dealer.

Sec. 9. The term "agent" means any person engaged in the business of distributing mixed fertilizer, superphosphate, and/or other fertilizer materials for a fixed compensation as provided in the producer's price list, and who guarantees the whole and complete performance of the terms of his contract with the producer.

Sec. 10. The term "Fertilizer Recovery Committee" means the Committee created in accordance with Article III of this Code.

SEC. 11. The term "zone" means a geographical division of the United States established under Article III of this Code.

SEC. 12. The term "producer" means any member of the Industry engaged in the business of preparing, mixing, manufacturing, or importing mixed fertilizer, superphosphate, and/or other fertilizer material for sale.

ARTICLE III—ADMINISTRATION

SECTION 1. To effectuate further the policies of the Act, a Fertilizer Recovery Committee is hereby designated to cooperate with the Administrator as a Planning and Fair Practice Agency for the Fertilizer Industry. This Committee, constituting the Code Authority, shall consist of not less than twelve representatives of the Fertilizer Industry selected by a fair method of selection to be approved by the Administrator. Three members without vote may be appointed by the President of the United States.

SEC. 2. The Code Authority is hereby empowered to collect from the industry such statistical information as, in the opinion of the Administrator, may be necessary to effectuate Title I of the National Industrial Recovery Act and this Code. In addition to such information there shall be furnished to the Federal Trade Commission, for the use of the President of the United States, such information as the Federal Trade Commission or the President may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act. Such information may include wages, hours of labor, prices, production, stocks, orders, shipments, production capacity, and costs. Any or all information furnished to the Federal Trade Commission by any member of the Industry shall be subject to checking by said Commission for the purpose of verification by an examination of the books and accounts and records of such member.

SEC. 3. In carrying out its functions, said Committee, subject to the approval of the Administrator, is authorized to divide the United States into appropriate trade zones based on such geographical, trade, and/or other conditions as shall best serve the purposes of this Code, and to change such zones from time to time as may be found necessary.

SEC. 4. The Code Authority may delegate or appoint individuals and subcommittees in carrying out its administrative work, with such of its power or powers as may from time to time be conferred by the Code Authority upon said individuals or subcommittees, responsibility, however, to remain with the Code Authority.

SEC. 5. The Code Authority shall appoint, from its own membership, an Administrative Committee of eight members. Said Committee shall exercise such authority as may have been delegated to it by the Code Authority except that the Administrative Committee shall not make recommendations for the amendment of this Code unless recommendations for such amendments have been approved in writing by two-thirds of the members of the Code Authority. The Administrative Committee shall serve as the executive agency of the Fertilizer Recovery Committee, which constitutes the Code Authority.

Article IV—Labor Provisions

Section 1. *Collective Bargaining.*—Pursuant to Section 7 (a) of the National Industrial Recovery Act, the following provisions are hereby embodied in and prescribed as part of this Code:

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.

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. 2. *Maximum Hours of Labor.*—a. No employee in the Fertilizer Industry shall be required or permitted to work more than 40 hours in any one week or eight hours in any one day except as follows:

1. Foremen, superintendents, managers, salesmen, chemists, and officials.

2. During the rush of the planting season the hours of labor may exceed the maximum above prescribed by eight hours a week, and in the case of skilled key men the hours of labor may exceed the maximum above prescribed by 20 hours in any week, but in no event shall employees be permitted to work more than an average of 40 hours a week over any consecutive four-months' period.

3. Office employees shall not be required or permitted to work more than an average of 40 hours a week in any four-months' period.

4. Employees engaged in any continuous operation when other competent employees are readily available for such work shall not be required or permitted to work more than 40 hours in any one week, and in no case more than 48 hours in any one week.

5. Repair shop crews, engineers, electricians, and watching crews shall not be required or permitted to work more than 40 hours in any one week, with a tolerance of 10 per cent, except in the case of emergency.

b. Overtime shall be paid at the rate of one and one-third times the normal rate for all work in the excess of eight hours a day, except in the case of office employees.

c. Every employee in the Fertilizer Industry shall be entitled to one day of rest a week.

Sec. 3. *Minimum Rates of Pay.*—a. No employee in the Fertilizer Industry shall be paid less than the following: 35 cents an hour in the Northern area, 25 cents an hour in the Southern area, 35 cents an hour in the Midwestern area, 40 cents an hour in the Pacific Coast area, and 20 cents an hour in Puerto Rico.

b. The Northern area comprises Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland (except the Eastern Shore), New Castle County of Delaware, District of Columbia, and West Virginia.

c. The Southern area comprises Kent and Sussex Counties of Delaware, the Eastern Shore of Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, and Tennessee.

d. The Midwestern area comprises Ohio, Illinois, Indiana, Kentucky, Missouri, Kansas, Nebraska, South Dakota, North Dakota, Colorado, New Mexico, Arizona, Wyoming, Montana, Michigan, Wisconsin, Minnesota, and Iowa.

e. The Pacific Coast area comprises Washington, Oregon, California, Idaho, Nevada, and Utah.

Sec. 4. *Child Labor Prohibited.*—No employee under the age of 16 years shall be employed in the Fertilizer Industry.

Sec. 5. *Reclassification of Functions Prohibited.*—There shall be no evasion of this Code by reclassification of the function of employees. An employee shall not be included in any of the exceptions set forth above unless the identical functions were identically classified on June 15, 1933.

Article V—Production and New Capacity

Should it at any time appear that the policy of Title I of the National Industrial Recovery Act will not be effectuated in the Industry because of overproduction, the Fertilizer Recovery Committee may submit to the Administrator recommendations for amendments to this Code or for such other action as may be appropriate.

Article VI—Price Provisions

Section 1. *Sales Below Cost Prohibited:*—The sale or offer for sale by any producer of mixed fertilizer, superphosphate, and/or other fertilizer material at a price below his cost except to meet existing competition is hereby prohibited. The term "cost" as used herein means the cost determined in accordance with uniform methods of accounting which shall be prescribed hereunder by the Fertilizer Recovery Committee with the approval of the National Recovery Administration. Such cost shall properly define the differences in factory, manufacturing, and mixing costs, and costs of distributing the product to producers, dealers, agents, and consumers, and such differences in cost shall be reflected in the sales price to each of these classifications.

Sec. 2. *Open Price Schedules.*—a. Within five days after this Code becomes effective each producer shall file with the Secretary of The National Fertilizer Association:

1. A statement showing in what zones said producer intends to sell mixed fertilizer, superphosphate, and/or other fertilizer material;

2. A schedule by zones of the prices then in effect or to be charged for all grades or kinds of mixed fertilizer, superphosphate, and/or other fertilizer material sold or offered for sale to dealers, agents, or consumers by such producer, together with the terms and conditions applicable thereto; and,

3. Shall mail or deliver true copies of such schedule to his competitors in the zones where such producer does business.

b. If the original schedule so filed by any producer represents any change in his then existing prices, terms, or conditions, it shall not become effective until the expiration of 48 hours after it is filed. After the original schedule is filed, no mixed fertilizer, superphosphate, and/or other fertilizer material shall be sold or offered for sale by such producer at a price or on terms or conditions other than as specified in said schedule or in a new schedule that has become effective pursuant to the provisions of this Section.

c. No new schedule advancing or reducing any price or changing the terms or conditions shall be deemed to have become effective hereunder until a date and hour ten days after it has been filed with the Secretary of The National Fertilizer Association and unless simultaneously with such filing true copies thereof have been mailed or delivered by such producer to other producers in the zones where the producer who files the schedule is doing business, except that any such schedule filed to meet a new or changed schedule filed by a competitor may become effective on the same date and hour that the competitor's schedule becomes effective if a copy thereof is filed with the Secretary of The National Fertilizer Association and copies have been mailed or delivered to other producers in the same zones at least 48 hours before such effective date and hour. Any original, new, or changed schedule when filed shall be open to inspection by any producer.

d. Upon receipt from any producer of any original or new schedule representing a change in prices, terms, or conditions, the Secretary of The National Fertilizer Association shall immediately mail to such producer and to other producers in the zones to which such schedule relates a notice of the date and hour of filing of such schedule and when it becomes effective.

e. There shall be attached to each schedule filed hereunder a statement specifying the changes made therein from the last preceding schedule. The original schedule of each producer filed hereunder shall be numbered "one" and all subsequent schedules or changes in schedules shall be numbered serially in accordance with a uniform plan of numbering prescribed by The National Fertilizer Association.

Article VII—Marketing Provisions

Section 1. *Reduction in Number of Grades of Mixed Fertilizer.*—In order to eliminate waste and reduce the cost of manufacture, bearing in mind the economic interest of the farmer, a list of grades suitable to meet the agricultural needs of each State or of each zone, as the case may be, may be established by the producers in such zone or State, acting through a zone committee, in cooperation with agronomists and other Federal and State agricultural officials, subject to the approval of the National Recovery Administration. After such grades have been established for such State or zone, the sale or offer for sale therein of mixed fertilizer not conforming to the grades so established shall be considered an unfair trade practice, provided that the sale of special formulas or special ingredients in standard formulas may be made to satisfy bona fide orders from customers if adequate additional charge is made for mixing costs as determined for the particular plant under the uniform accounting

methods prescribed in Article VI plus the extra cost of special materials used; and provided that this shall not prevent any producer from selling or offering for sale two extra grades for lawns and gardens in various-sized packages not to exceed 100 pounds a package.

SEC. 2. *Sales Through Commission Traveling Salesmen Prohibited.*—No traveling salesman shall be employed on a commission basis for the sale of mixed fertilizer, superphosphate, and/or other fertilizer material. Such sales shall be made only through regular, legitimate, salaried salesmen working under the control of the producer. This section shall not apply to the State of Florida.

SEC. 3. *Distribution Through Cooperative Associations.*—a. Any arrangement upon sale, consignment, or agency basis between producers and regularly incorporated farmers' organizations engaged in the various activities common to such organizations and principally engaged in a bona fide wholesale business or their divisions or departments granting special rates, commissions, or concessions, or the division of profits, may be continued, entered into, and performed, provided that such sales are not below the producer's price as provided in Article VI, Section 1 of this Code, and that it shall be obligatory upon such cooperative organizations to maintain the producer's schedule of prices to their dealers and consumers in the areas covered.

b. No provisions of this Code shall be interpreted as preventing farmers' cooperative corporations from paying patronage dividends as authorized by law.

SEC. 4.—*Sales to Dealer and Consumer Through Brokers Prohibited.*—The sale by the producer of mixed fertilizer and/or bagged superphosphate to the dealer or consumer through brokers is hereby prohibited.

SEC. 5. *Uniform Contracts.*—Subject to the approval of the National Recovery Administration, the Fertilizer Recovery Committee is authorized to prepare and prescribe, according to appropriate zones established by it, uniform forms of contracts for use in the sale by producers of mixed fertilizer, superphosphate, and/or other fertilizer material. After such forms have been so prescribed for any zone as to any type of transaction the sale by any producer in such zone of mixed fertilizer, superphosphate, and/or other fertilizer material under any form of contract for such type of transaction other than the form so prescribed is hereby prohibited.

SEC. 6. *Investigation of Imports.*—The Fertilizer Recovery Committee is authorized to investigate or cause to be investigated and to report to the National Recovery Administration in behalf of the Fertilizer Industry the facts as to the importation into the United States and Puerto Rico of mixed fertilizer, superphosphate, and/or other fertilizer material 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.

SEC. 7. *Methods of Quoting Prices, Methods of Distribution, and Methods of Delivery.*—The producers in each zone, acting in accordance with procedure established by the Fertilizer Recovery Committee and subject to its approval, are authorized to prepare uniform

rules, not inconsistent with any provision in this Code, governing the methods of quoting prices, methods of distribution, and methods of delivery, including trucking allowances, to be used in the sale of mixed fertilizer, superphosphate, and/or other fertilizer material in such zone or subdivision thereof. Such rules, when so prepared and approved by the Fertilizer Recovery Committee, shall be submitted to the National Recovery Administration, and when approved by it shall be binding upon all producers selling said products in such zone or subdivision thereof.

Sec. 8. *Exemptions from Marketing Provisions.*—a. In view of the peculiar marketing conditions existing in zone 11a, it is exempted from Section 2 of Article VII, Marketing Provisions, of this Code.

b. The States of Idaho, Utah, Montana, Colorado, Wyoming, and Nebraska are exempt from all regulatory rules pertaining to sales.

Article VIII—Unfair Practices Prohibited

The following shall be deemed to be unfair competition within the meaning of the National Industrial Recovery Act and are hereby prohibited:

Section 1. The defamation of a competitor by falsely imputing to such competitor dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of his goods, with the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

Sec. 2. The payment or allowance, except as required by law, of rebates, refunds, or unearned commissions or discounts, or of claims known to be false or unjustified, whether in the form of money or otherwise, or extending to certain purchasers special services or privileges not extended to all purchasers under like terms and conditions.

Sec. 3. The payment to any person who is not a dealer or agent, as defined herein, in connection with the sale of any mixed fertilizer, superphosphate, and/or other fertilizer material of any compensation or allowance to which a dealer or agent is entitled.

Sec. 4. Withholding from or inserting in any invoice a statement which makes the invoice false regarding the whole or any part of the transaction represented on the face thereof.

Sec. 5. Providing transportation without adequate charge for it, or reimbursing, the dealer, agent, purchaser, or consignee for the costs of transportation if reimbursement is not provided for in the producer's price list.

Sec. 6. The operation or use by a producer of any warehouse owned or controlled by such producer, or of any warehouse or warehouse space leased by him for the storage of mixed fertilizer, superphosphate, and/or other fertilizer material, in such way or under such circumstances as to result in the granting of rebates, or special allowances from the contract price of any mixed fertilizer, superphosphate, and/or other fertilizer material sold or offered for sale by such producer, or the making by any producer in connection with the sale of mixed fertilizer, superphosphate, and/or other fertilizer

material of an allowance for warehousing not included in his price schedule.

Sec. 7. Selling or consigning chemicals and materials with special concessions or at reduced prices, given to induce the purchase of mixed fertilizer, superphosphate, and/or other fertilizer material.

Sec. 8. Failure to enforce in good faith the terms of contracts previously made for the sale of mixed fertilizer, superphosphate, and/or other fertilizer material, as for example:

a. Selling on terms that require the payment of sight draft on presentation of bill of lading (S.D.B.L.) and then waiving the obligation to pay cash before documents or goods are delivered, thus deferring the payment of the cash to some future date.

b. Selling and delivering goods on time, consignment, or open bill of lading terms on S.D.B.L. price, or waiving earned interest.

Sec. 9. Furnishing special containers, preparing special formulas for individual buyers or consignees, or using special ingredients in standard formulas, without adequate charge for the cost of such containers, formulas, or special ingredients, as an inducement to the making of a contract and/or sale.

Sec. 10. Making special allowance to buyers or consignees under the guise of advertising expense, or giving any other form of gratuity.

Sec. 11. Adopting selling methods that promote secret rebates and concessions, such as:

a. Employing a buyer or consignee or his agent or anyone employed by or connected with a buyer or consignee with the purpose, design, and effect of influencing the business of such customer.

b. Carrying on books by seller or consignee as delinquent balances due by solvent customer with no intention of requiring ultimate payment.

Sec. 12. Enabling the purchaser or consignee to obtain mixed fertilizer, superphosphate, and/or other fertilizer material apparently on cash terms, but in fact on credit extended to him by or through the producer, as, for example:

a. A transaction covered by a sight draft and bill of lading under which the purchaser or consignee is made to appear as honoring documents upon presentation by payment with his own funds, when in fact the cash involved was obtained in whole or in part upon a negotiable instrument (usually discounted at a bank) bearing the endorsement of the producer; or

b. A transaction by which the producer, although he does not actually endorse the obligation, renders himself legally or morally responsible for its payment if the purchaser or consignee shall fail to meet his obligation to the bank at maturity.

Sec. 13. Refunding to the buyer or consignee, either directly or indirectly, any part of the purchase price on account of goods accepted and/or settled for by the buyer or consignee under the terms of the contract. This practice is commonly referred to as "retroactive settlement."

Sec. 14. The guaranteeing of prices against decline to dealers, agents, or consumers.

Sec. 15. Inducing the breach of any contract for the sale of mixed fertilizer, superphosphate, and/or other fertilizer material by offer-

ing a lower price to the purchaser under such contract, or by any other means.

Sec. 16. The false marking or branding of any product of the industry which has the tendency to mislead or deceive customers or prospective customers as to the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation.

Sec. 17. The making or causing or permitting to be made or published of any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the grade, quality, quantity, substance, character, nature, origin, size, or preparation of any product of the Industry having the tendency and capacity to mislead or deceive purchasers or prospective purchasers.

Sec. 18. Furnishing of mixed fertilizer, superphosphate, and/or other fertilizer material by a producer to any consumer with the understanding that payment therefor shall be made by turning over to such producer a quantity, fixed in advance and without reference to the market price, of the crop produced by the use of such fertilizer.

Article IX—Reports and Statistics

Section 1. The Fertilizer Recovery Committee is authorized to prescribe, subject to the approval of the Administrator, regulations requiring the submission by producers at such reasonable times as it may designate, of reports containing information necessary for the administration and enforcement of this Code, including wages, hours of labor, other conditions of labor, prices, marketing practices, and such other items as may be required. Such reports shall be submitted only to the executive officer of The National Fertilizer Association. Except as otherwise provided in this Code, all reports submitted hereunder shall be treated as confidential and shall be open to inspection only by the persons employed by the Fertilizer Recovery Committee to administer this Code and by the authorized officials of the National Recovery Administration.

Article X—General Provisions

Section 1. No provision 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. 2. 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 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. 3. Nothing in this Code shall be deemed to constitute the participants therein partners for any purpose.

Sec. 4. 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, general working conditions, or standards of commodity.

Article XI—Fees and Expenses

Each producer subject to the jurisdiction of this Code and accepting the benefits of the activities of the Code Authority hereunder, shall pay to the Code Authority his proportionate share of the amounts necessary to pay the cost of assembling, analyzing, and publication of such reports and data, and of the maintenance of the said Code Authority and its activities, as the Code Authority, with the approval of the Administrator, may prescribe.

Article XII—Amendments

The right is hereby reserved to alter, amend, or supplement this Code at any time by a majority vote of the Fertilizer Recovery Committee, subject to the approval of the President of the United States.

Article XIII—Effective Date

This Code shall become effective on the tenth day after its approval by the President of the United States and shall terminate on June 16, 1935, or sooner if 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.

Approved Code No. 67.
Registry No. 610/1/01.

SCHEDULE A

List of Zones Established for Administration of Code for the Fertilizer Industry

Zone No. 1:
- Maine
- New Hampshire
- Vermont
- Massachusetts
- Rhode Island
- Connecticut

Zone No. 2:
- New York
- Pennsylvania
- New Jersey

Zone No. 3:
- Maryland
- Delaware
- District of Columbia
- Virginia (north of James River including Accomac and Northampton counties)
- West Virginia (B. & O. Section)

Zone No. 4:
- Virginia (south of James River including Richmond)
- West Virginia (C. & O. Section)
- North Carolina

Zone No. 5: South Carolina

Zone No. 6:
- Georgia
- Florida (starting with the eastern boundaries of Columbia), Suwanee, Lafayette, and Taylor counties and extending west to the Apalachicola River

Zone No. 7: Florida (east and south of Suwanee), Columbia, Lafayette, and Taylor counties

Zone No. 8:
- Tennessee
- Alabama
- Mississippi
- Florida (west of the Apalachicola River)
- Louisiana (east of the Mississippi River)

Zone No. 9:
- Arkansas
- Louisiana (west of Mississippi River)
- Texas
- Oklahoma
- New Mexico

Zone No. 10:
- Michigan
- Ohio
- Indiana
- Kentucky
- Illinois
- Wisconsin
- Minnesota
- Iowa
- Missouri
- North Dakota
- South Dakota
- Nebraska
- Kansas
- Montana
- Wyoming
- Colorado

Zone No. 11a:
- California
- Nevada
- Utah
- Arizona

Zone No. 11b:
- Washington
- Oregon
- Idaho

Zone No. 11c: Hawaii

Zone No. 12: Puerto Rico

SCHEDULE B

Fertilizer Recovery Committee

John J. Watson, International Agricultural Corporation, New York City, Chairman
Charles J. Brand, The National Fertilizer Association, Washington, D.C., Secretary

Zone No. 1

E. H. Jones, Apothecaries Hall Co., Waterbury, Conn.

Zone No. 2

Horace Bowker, The American Agricultural Chemical Co., New York, N.Y.
T. E. Milliman, Cooperative G. L. F. Mills, Buffalo, N.Y.
E. H. Westlake, Tennessee Corp., New York, N.Y.

Zone No. 3

B. H. Brewster, jr., The Baugh & Sons Co., Baltimore, Md.
C. F. Hockley, The Davison Chemical Co., Baltimore, Md.
W. W. Price, Smyrna, Del.
W. E. Valliant, Valliant Fertilizer Co., Baltimore, Md.

Zone No. 4

C. F. Burroughs, F. S. Royster Guano Co., Norfolk, Va.
G. A. Holderness, Virginia-Carolina Chemical Corp., Richmond, Va.
Oscar F. Smith, Smith-Douglass Co., Norfolk, Va.
Thomas H. Wright, Acme Manufacturing Co., Wilmington, N.C.

Zone No. 5

J. Ross Hanahan, Planters Fertilizer & Phosphate Co., Charleston, S.C.
A. F. Pringle, Merchants Fertilizer Co., Charleston, S.C.
J. D. Prothro, Aiken Fertilizer Co., Aiken, S.C.

Zone No. 6

H. B. Baylor, International Agricultural Corp., Atlanta, Ga.
J. E. Sanford, Armour Fertilizer Works, Atlanta, Ga.
A. D. Strobhar, Southern Fertilizer & Chemical Co., Savannah, Ga.

Zone No. 7

C. T. Melvin, The Gulf Fertilizer Co., Tampa, Fla.
R. B. Trueman, Trueman Fertilizer Co., Jacksonville, Fla.

Zone No. 8

E. A. Brandis, Standard Chemical Co., Troy, Ala.
J. W. Dean, Knoxville Fertilizer Co., Knoxville, Tenn.
C. D. Jordan, The Southern Cotton Oil Co., New Orleans, La.

Zone No. 9

P. H. Manire, Marshall Cotton Oil Co., Marshall, Texas
C. D. Shallenberger, Shreveport Fertilizer Works, Shreveport, La.

Zone No. 10

L. W. Rowell, Swift & Co. Chicago, Ill.

Zone No. 11a

Weller Noble, The Pacific Guano & Fertilizer Co., Berkeley, Calif.

Zone No. 11b

George R. Clapp, Swift & Co., North Portland, Oregon

ADMINISTRATIVE COMMITTEE

John J. Watson
Charles J. Brand
Horace Bowker
B. H. Brewster, jr.
C. T. Melvin
Oscar F. Smith
A. D. Strobhar
W. E. Valliant

O

Approved Code No. 68

CODE OF FAIR COMPETITION

FOR THE

ROAD MACHINERY MANUFACTURING INDUSTRY

As Approved on October 31, 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 Road Machinery Manufacturing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code 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,
October 31, 1933.

29934——296-168——34

October 23, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Road Machinery Manufacturing Industry in the United States, conducted in Washington on September 12, 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. When production demands it, this working time may be increased to 44 hours per week in not more than 8 weeks in any 6-months' period, the average hours to be not more than 40 per week. Time and one half will be paid to employees working in excess of 8 hours per day or 40 hours per week.

Those employed as preparation, care, and maintenance workers or as stock or shipping clerks will be given a tolerance of 10 percent over the maximum hours prescribed, the average to be not more than 40 hours per week in any 6-months' period. The above limitations in hours do not apply to supervisory employees receiving more than $35.00 per week, service-parts foremen, field service men, nor to emergency maintenance or repair workers, the last class being paid time and one half for all hours worked in excess of 8 per day or 40 per week.

The minimum wage for factory workers will be 40 cents per hour. No distinction in wage rates will be made between male and female employees. Adjustments of wage rates above the minimum provided will be made and will be reported to the Administrator.

A maximum of 40 hours per week is provided for employees engaged in accounting, clerical, service, sales, and delivery work. Their minimum wage will be in accordance with the President's Reemployment Agreement. Salaries now higher than the above minimums will not be reduced because of change in hours provided in the Code. Office boys and messengers will receive not less than 80% of the minimum wage and the number of office boys, messengers, and apprentices will be not more than 5 percent of the total number of employees of any employer.

Child Labor

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

Economic Effect of the Code

This important Industry manufactures graders, road rollers, and other machines for constructing or maintaining roads and highways. Its principal customers are the Government of the United States, the individual States and their political subdivisions, and the contractors who construct and maintain roads and highways.

There are twenty-one companies in the Industry and approximately 3,000 employees who are engaged in manufacturing work. While sales in 1932 ($7,800,000) were only 35 percent of those in 1929, employees in 1932 numbered approximately 2,400, or about 65 percent of the number in 1929. Only by increased business, which will depend largely upon highway construction activities, can this Industry put a large number of employees back to work.

It is estimated by the Industry that the hours and wages provided in the Code will increase employment approximately 20 percent, and that the average income per employee will be increased approximately 20 percent over that in effect before the President's Reemployment Agreement.

In arriving at the terms expressed in the Code, it has shown its cooperation in complying with the spirit of the 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 Road Machinery 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

ROAD MACHINERY MANUFACTURING INDUSTRY

Article I—Purpose

The purpose of this Code is to reduce and relieve unemployment and to prevent unfair practices and competition destructive of the interests of the public, employees, and employers, and to effectuate the other purposes of the National Industrial Recovery Act.

Article II—Definitions

Section 1. The term "Road Machinery Manufacturing Industry" (or "Industry") as used herein shall mean the manufacture and the sale by the manufacturer or by selling affiliates of manufacturers, of blade graders, motor graders, elevating graders, road rollers, and other machines for constructing or maintaining roads or highways, not specifically included in other Codes.

Sec. 2. The term "person" as used herein includes, but is not limited to, any individual, partnership, association, or corporation in the Industry.

Sec. 3. The word "Association" as used herein refers to the Road Machinery Manufacturers' Association.

Sec. 4. The term "employee" as used herein includes any person engaged in any phase of the Industry irrespective of the method of payment of his compensation.

Sec. 5. The term "employer" as used herein includes anyone for whose benefit such employee is so engaged.

Sec. 6. The term "member of the Industry" as used herein shall mean any person engaged in the Road Machinery Manufacturing Industry.

Sec. 7. 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.

Sec. 8. The term "member of the Code" as used herein includes any member of the Industry who shall expressly signify assent to this Code.

Sec. 9. The term "Administrator" as used herein means the Administrator of the National Industrial Recovery Act.

Sec. 10. The term "President" as used herein means the President of the United States.

Sec. 11. The term "effective date" as used herein shall mean the third Monday after this Code has been approved by the President.

Article III—Participation

Section 1. Membership in the Association shall be open to all members of the Industry and no inequitable restrictions shall be imposed on admission to membership.

Sec. 2. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Coordinating Agency hereinafter described 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 Coordinating Agency, 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 IV—Administration

Section 1. (a) The members of the Executive Committee of the Association together with one member of the Industry who is not a member of the Association, if the non-members so desire, and one or more representatives who may be appointed by the President (who shall have no vote), are constituted a Coordinating Agency for the Industry, which Coordinating Agency shall cooperate with the Administrator in the administration of this Code, with the following powers:

(b) To collect from members of the Industry all data and statistics required by the President or the Administrator or his or their agent or agents under the provisions of the National Industrial Recovery Act; also such data and statistics as may be deemed necessary by the Coordinating Agency, subject to the approval of the Administrator; provided, however, that such information shall be confidential except insofar as disclosure may be necessary for the effective administration of this Code.

(c) In addition to information required to be submitted to the Coordinating 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 National Industrial Recovery Act.

(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 National Industrial Recovery Act and any regulation issued thereunder.

(e) To hear and investigate complaints and attempts to adjust the same in accordance with law.

(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 the approval of the Administrator.

Sec. 2. Any proposals for amendments to this Code or supplemental agreements with respect to wages, hours, or trade practices, or any other matters shall be first submitted to the Coordinating Agency which shall consider the same and confer with members of the Industry affected thereby to the extent the Coordinating

Agency deems advisable. The Coordinating Agency, as representing the entire Industry, shall have no power to approve or recommend any amendments or supplemental agreements, but may arrange for a hearing before the President or his agents on any proposal which a substantial proportion of the Industry, or the division thereof affected by the proposal, desires to present, and shall notify all members of the Industry of the time and place of the hearing.

Article V—Hours of Labor and Rates of Pay

Section 1. No member of the Industry shall employ in the Industry any person under the age of 16 years; 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 within the State. No person under the age of 18 years shall be employed in any hazardous occupation.

Sec. 2. (a) On and after the effective date of this Code no employer shall work any accounting, clerical, service, sales, express, or delivery employees in the Industry more than 40 hours a week on a semi-yearly average or more than 44 hours in any one week.

(b) On and after the effective date of this Code all employees mentioned in Paragraph (a) of this Section shall be paid at a rate of not less than $15.00 per week in any city of over 500,000 population; and at a rate of not less than $14.50 per week in any city of between 250,000 and 500,000 population; and at a rate of not less than $14.00 per week in any city of between 2,500 and 250,000 population; and in towns of less than 2,500 population all wages of such employees shall be increased by not less than 20 percent. provided that this shall not require wages in excess of $12.00 per week. Where a State law provides a higher minimum wage, no person employed within the State shall be paid a wage below that required by such State law. The salaries of all employees receiving more than the minimum herein provided shall be equitably adjusted, if this has not already been done.

(c) No employee of the classes mentioned in Paragraph (a) of this Section, now receiving compensation at rate in excess of the minimum provided in Paragraph (b) of this Section, shall have their compensation reduced on account of any reduction in the weekly hours of employment made to conform with the requirements of Paragraph (a) of this Section.

(d) The provisions of Paragraph (a) of this Section do not apply to persons in a managerial, executive, or supervisory capacity receiving more than $35.00 per week nor to outside salesmen, collectors, field-service men, and repair foremen.

Sec. 3. (a) On and after the effective date of this Code, no employee in the Industry, except as hereinabove or hereinafter provided, shall be employed in excess of forty (40) hours in any one week nor in excess of eight (8) hours in any one day; 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-four (44) hours per week in not more than eight (8) weeks of any six (6) months' period, provided, however, that the average shall not be more than (40) hours per week over a six (6) months' period.

Where in any case an employee is worked in excess of eight (8) hours in any one day, or forty (40) hours in any one week, time and one half shall be paid for the excess hours so worked.

As to employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, and stock and shipping clerks there shall be a tolerance of 10%, provided that such tolerance shall not result in such employee working in excess of an average of forty (40) hours per week in any six (6) months' period.

The limitations as to hours of labor shall not apply to persons in a supervisory capacity, receiving more than $35.00 per week, service parts foremen, field service men, nor to employees engaged in emergency maintenance or repair work, provided that employees engaged in emergency maintenance or repair work shall be paid time and one half for all hours worked in excess of eight (8) hours in any one day or forty (40) hours in any one week; nor to watchmen, provided, however, that watchmen shall not be permitted to work more than six (6) days in any seven (7) day period.

(b) On and after the effective date of this Code, the minimum wage that shall be paid by employers to any of their employees other than those covered by Section 2 of Article V and Section 3 (d) and (e) of Article V, shall be 40 cents per hour. This paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or a piece-work performance, or otherwise, provided, however, that where a State law provides a higher minimum wage, no person employed within the State shall be paid a wage below that required by such State law. The salaries of all employees receiving more than the minimum herein provided shall be equitably adjusted.

(c) The wage differentials for all operations shall be equitably adjusted (unless such readjustment has been made since July 1, 1933) and in no case shall they be decreased. Every member of the Industry shall report on such readjustments to the Administrator upon his request.

(d) The foregoing provisions relating to rates of wages shall not apply to apprentices, office boys, or messengers not exceeding 5% in number of employees of any employer or to persons in a supervisory capacity, or to those receiving more than $35.00 per week: provided, that all existing and future apprentice contracts shall be submitted to the Coordinating Agency and shall be subject to the approval of the Administrator.

(e) Office boys and messengers specified in Paragraph (d) above shall be paid not less than 80% of the minimum wage specified in Section 2 (b) of this Article V.

(f) 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, or piece-work basis.

Sec. 4. The maximum hours for employees hereinbefore prescribed shall mark the total number of hours which may be worked by each such employee whether he be employed by one or more employers.

Sec. 5. No employee shall be classified in any one of the foregoing exempted classes unless he performs functions identical with those performed by employees thus classified on June 16, 1933.

Sec. 6. Population shall be governed by the United States Census of 1930.

Article VI—Statistics

Not later than the 25th day of each month each member of the Industry shall report to the Coordinating Agency the classified unit sales and the dollar volume sales, at list price, of the preceding month, of prime products of the Industry (exclusive of parts sales therefor). A composite report of such statistical information shall be available to all members of the Industry, but the individual reports of the members reporting shall not be divulged except insofar as such disclosure may be necessary for the effective administration of this Code.

Article VII—Trade Practices

Section 1. (a) It shall be an unfair method of competition for any member of the Industry to give any concessions directly or indirectly, by any means, from its list of prices, delivery points, terms and discounts, so long as the same remain in force, and no change shall become effective in advance of filing the same with the Coordinating Agency which shall make such information available to the members of the Industry making similar products. Within ten days after the effective date of this Code, each member of the Industry shall file with the Coordinating Agency a complete list of its then existing delivered prices, delivery points, terms and trade discounts, and shall also file all changes therein as and when made. Such changes in delivered prices, delivery points, terms and discounts shall be filed at least ten days before becoming effective. The operation of the foregoing shall be at all times subject to the approval of the Administrator.

(b) The longest period for full payment (except by the United States Government, or by any State, or subdivision thereof) shall not exceed two (2) years from date of delivery, with a minimum of 6% interest. No understanding for renewal or extension of any payment shall be made prior to the sale of the merchandise to the purchaser.

Sec. 2. (a) It shall be an unfair method of competition to sell below cost. Cost shall include labor, materials, all reasonable overheads and reasonable selling, collection, distribution, and delivery expenses. Until January 1935, or until changed by the Coordinating Agency, subject to the approval of the Administrator, in determining overheads, selling, collection, and distribution expenses, the percentage applicable to the year 1926 may be used if lower than current figures.

(b) Any member of the Industry who wishes to sell a product at less than cost (either generally or in certain territory), (a) to introduce a product new to its line, or (b) so that its line shall be sufficiently varied to adequately compete with other members of the Industry, or (c) so that the line of its dealers shall be sufficiently complete to adequately compete with other dealers, may do so provided (1) that it may not sell any product for a less price or on more liberal terms than the price and terms, in the same territory of its competitor who sells for the lowest price which is not less

than cost; (2) that such member of the Industry first notifies the Coordinating Agency of the product and territory involved.

(c) Discontinued or noncurrent lines may be sold at such prices as are necessary to move this stock into buyers' hands. A list showing the quantity of all such stock and the prices at which it will be offered shall be presented to the Coordinating Agency at least ten days before it is offered to the public. Non-current lines shall be so designated when offered for sale.

Sec. 3. The preceding provisions of this Article do not apply to second-hand merchandise except that full payment shall be required within two years from date of delivery to consumer.

Sec. 4. There shall be no rental of current new equipment except on a lease contract, which, within two years, returns the regular retail price plus a minimum of six (6) percent interest. The operation of this Section 4 shall at all times be subject to the approval of the Administrator.

Sec. 5. No second-hand or old equipment shall be taken in trade as part payment for new equipment at an allowance in excess of its then resale value, and the Coordinating Agency, subject to the approval of the Administrator, shall establish from time to time, rules and regulations defining such resale values.

Sec. 6. No member of the Industry shall participate in a competitive demonstration in connection with a call for bids by private industry or by the United States Government or by any State, or subdivision thereof, nor, incidental to such call, demonstrate a machine of the type required within the boundaries of such subdivision calling for bids. This shall not preclude demonstrating the product in connection with such sales after taking a bona fide order that fully states purchase price and terms but is qualified by being subject to performance satisfactory to purchaser, before acceptance.

Sec. 7. A very substantial portion of sales to ultimate consumers are made directly by members of the Industry and the balances are made through dealers. In consequence, restriction of members of the Industry to fair trade practices, to be effective, must be supplemented by prohibiting indirect evasions of such restrictions on the part of members of the Industry by operations through dealers. Accordingly, it is hereby provided that no member of the Industry shall sell any product of the Industry through any dealer until such dealer agrees to comply with the fair trade practices set forth in this Article VII, except for Section 2 of said Article, in the resale of such product.

Sec. 8. Nothing in this Article VII shall apply to products exported from the United States.

Sec. 9. Prior to December 31, 1933, no member of the Industry shall increase the sale price of his product in the Industry sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution, and material costs, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this Code since July 1, 1933, and in setting such price increases full weight shall be given to probable increases in sales volume. In case a member of the Industry on July 1, 1933, was selling his product

at less than actual cost, he may take his cost price of that date as the base for such increase in selling price as is permitted by this section.

Article VIII

As required by Section 7 (a) of the National Industrial Recovery Act, it is hereby provided:

(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 IX

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 X

Where the costs of executing contracts entered into in the Industry prior to the date of approval of this Code are increased as a result of the provisions of this Code or any other Code duly approved under the National Industrial Recovery Act, or where any contract entered into by any member of the Industry prior to the date of approval of this Code is inconsistent with the provisions of this Code, it is equitable and promotive of the purposes of the National Industrial Recovery Act that appropriate adjustments of such contracts be arrived at by arbitral proceedings or otherwise, and the Coordinating Agency is hereby constituted an agency with the consent of the buyer, to assist in effecting such voluntary adjustments. Where the performance of orders accepted prior to the effective date of this Code is delayed as a result of the operation of provisions of this Code, it is equitable that appropriate additional time should be allowed for the completion of such orders.

Article XI

No provision in this Code shall be interpreted or applied in such a manner as to—

(1) Promote monopolies or monopolistic practices,
(2) Permit or encourage unfair competition,
(3) Eliminate or oppress small enterprises, or
(4) Discriminate against small enterprises.

Article XII

Provisions of this Code other than those required to be included by the National Industrial Recovery Act, with the approval of the President, may be modified or eliminated if it appears that the public needs are not being served thereby, and 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, further to effectuate the purposes and policies of Title I of the National Industrial Recovery Act.

Article XIII

This Code shall take effect upon the third Monday after its approval by the President, and shall be binding upon all members of the Industry.

Approved Code No. 68.
Registry No. 1329/02.

Approved Code No. 69

CODE OF FAIR COMPETITION

FOR THE

MILLINERY AND DRESS TRIMMING BRAID AND TEXTILE INDUSTRY

As Approved on October 31, 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 Millinery and Dress Trimming Braid and 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 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 it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 31, 1933.

29935——296-169——34

SEPTEMBER 29, 1933.

THE PRESIDENT,
The White House.

SIR: I have the honor to submit and recommend for your approval, the Code of Fair Competition for the Millinery and Dress Trimming Braid and Textile Industry. The code has been approved by the Labor Advisory Board, the Consumers Advisory Board, and the Industrial Advisory Board.

An analysis of the provisions of the code has been made by the Administration, and a complete report is being transmitted to you. I find that the code complies with the requirements of clauses 1 and 2, subsection (a) of section 3, of the National Industrial Recovery Act.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

MILLINERY AND DRESS TRIMMING BRAID AND TEXTILE INDUSTRY

PREAMBLE

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 Millinery and Dress Trimming Braid and Textile Industry, and shall be the standard of fair competition for such industry, and shall be binding upon every member thereof.

Article I—Definitions

(a) The term "Millinery and Dress Trimming Braid and Textile Industry" as used herein includes the manufacture and distribution by manufacturers, of braids, narrow fabrics, banding, cloths, or textile fabrics, made in major portion of unusual synthetic yarns and not of wool, silk, cotton, or rayon (or similar yarn made from acetate) for the use and consumption of the Millinery and Dress Trimming trades, and such branches or subdivisions as may from time to time be included under the provisions of this Code.

(b) The term "employee" as used herein includes any person engaged in any branch of the Industry, in any capacity receiving compensation for his services, 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 said Act.

(f) The term "Association" shall mean the Millinery and Dress Trimming, Braid, and Textile Association.

(g) The term "effective date" as used herein means the tenth (10th) day after the approval of this Code by the President.

Article II—Wages

(a) No employee shall be paid at less than the rate of thirty-five cents (35¢) per hour in New York City, nor at less than the rate of thirty-two and a half cents (32½¢) per hour elsewhere in the United States of America.

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

(c) Individual earnings at present above the minimum shall not be decreased, but rates of pay in excess of the minimum prescribed in paragraph (a) of this Article shall be increased so as to preserve the differences in earnings existing on July 1, 1933.

(d) Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

Article III—Hours

(a) 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, except supervisors earning thirty dollars ($30.00) a week or over, repair shop crews, engineers, firemen, shipping and watching crews. The excepted employees, other than the supervisors, working in excess of forty (40) hours shall receive time and a third for all overtime.

(b) Pending action by the Code Authority under the terms of Section 3 (e) of the National Industrial Recovery Act, a committee shall be designated by the Code Authority to investigate the labor reserve problems of the industry with a view to recommending a means of meeting this problem.

(c) The foregoing provisions for maximum hours shall establish the maximum hours of labor per week of every employee other than those employees excepted therein, so that under no circumstances shall an employee work or be permitted to work for any one or more employers in the industry an aggregate in excess of the prescribed number of hours in any single week.

Article IV—General Labor Provisions

(a) No person under sixteen (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.

(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 a State this Code shall not supersede any laws of such State imposing more stringent requirements regulating the ages of employees, wages, hours of work, 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 on his premises such copies of this Code or portions thereof as required by the Code Authority.

Article V—Reports

With a view to keeping the Administrator informed as to the observance of this Code, and as to whether the industry is taking appropriate steps to effect the purposes of Title I of the National Industrial Recovery Act, each member of the industry shall furnish duly certified reports in substance as follows, and in such form as may hereafter be provided and at such times as the Code Authority, with the approval of the Administrator, may require.

(1) *Wages and Hours of Labor.*—Returns every four (4) weeks showing actual hours worked by the various occupational groups of employees and weekly earnings;

(2) *Reports of Production, Sales, Stock, and Orders.*—Returns showing production in terms of commonly used units, i.e., gross yards or pounds, or pieces; stock on hand, both sold and unsold, in the same terms, and unfilled orders stated also in the same terms. These returns are to be confined to staple construction of millinery textiles.

(3) The Association is constituted the agency for collecting such reports, which shall be kept confidential by such Association, and only made available as the Administrator may direct.

(4) In addition to the information required to be submitted to the Association, 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 VI—Administration

Further to effectuate the policies 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.*—(1) The Code Authority shall consist of five (5) individuals or such other number as may be provided from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint not more than three (3) additional members to represent himself or such interests or groups as he may deem entitled to such representation.

(2) The five (5) members representing the industry shall be selected by the members of the industry at a general meeting called by the Association for the purpose, under regulations approved by the Administrator.

(3) In order that the Code Authority shall at all times be truly representative of the industry, the Administrator shall provide such hearings as he may deem proper and may at any time change or modify the method of selection, the groups making such selection, and the membership of the Code Authority.

(4) Any trade or industrial association participating in the selection of activities of the Code Authority shall:

(a) Impose no inequitable restrictions on membership, and all members shall be entitled on equitable terms and conditions to become members thereof; 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 require, and shall comply with such orders as the Administrator may make in respect thereto to effect the purposes of this Act.

(5) Any member of the industry subject to this Code may participate in the selection of the Code Authority and in the benefits of its activities by assenting to and complying with the provisions of the Code and sustaining a reasonable share of the expenses of 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.

(b) The Code Authority shall have the following duties and powers to the extent permitted by this Act and subject to review by the Administrator:

(1) It shall assist in the arbitration of disputes between members of the industry;

(2) It shall bring notices of violations to the proper authorities;

(3) It shall secure current information concerning the competition in domestic markets of imported braids, bandings, cloths, hat bodies, narrow fabrics for use and consumption by the Millinery and Dress Trimming trades, and if it is found that such products are being imported into the United States in substantial quantities or increased ratio to domestic production, and on such terms or on 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 production.

(4) It shall compute the lowest reasonable cost of production of products in the industry, which shall be determined as follows:

It shall, from time to time, but not less than once each year, through certified public accountants, approved by the Administrator, compute the lowest reasonable cost of production on a fair basis. When this lowest reasonable cost has been approved by the Administrator, it shall be proclaimed by the Code Authority and shall be binding upon all members of the industry.

(5) It shall, with the approval of the Administrator, establish a procedure for the registration of style patterns and thereafter the copying and offering for sale of any style pattern or any style design originated by another manufacturer, within six (6) months of the date of the registry of such style pattern or style design with the Association by such manufacturer, with the effect of injuring the industry or customers or consumers, shall be an unfair trade practice and hereby prohibited.

Article VII

(a) *Sales Below Cost.*—(1) No member of the industry shall sell or distribute braids, bandings, cloths, hat bodies, or narrow fabrics, of his manufacture, for use and consumption by the Millinery and Dress Trimming trades (except distress merchandise, out of style numbers and/or overstocks, which are hereinafter provided for), at a price below the lowest reasonable cost of such product commercially made under this Code. The lowest reasonable cost shall be determined as provided in Article VI (b), Section 5.

(2) In order to provide for the orderly disposition of distress merchandise, out of style numbers, and/or overstocks, such merchandise shall be reported to the Code Authority with such information as the Code Authority may require. Subject to review by the Administrator, the Code Authority shall recommend as speedily as practicable the methods and conditions of disposal with a view to the best interests of the manufacturer, the industry, and the public.

(b) Any one who manufactures any of the products included within the industry, as defined in Article I, shall be bound by this Code to the extent of his production of such articles.

Article VIII—Modification

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 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 increases in the sellers' costs.

Article XI—Effective Date

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

Approved Code No. 69.
Registry No. 247-1-05.

O

Approved Code No. 70

CODE OF FAIR COMPETITION

FOR THE

GAS COCK INDUSTRY

As Approved on October 31, 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 Cock 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 is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator

THE WHITE HOUSE,
October 31, 1933.

October 21, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Gas Cock Industry of the United States, conducted in Washington on September 18, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

The maximum of eight hours per day and forty hours per week covering factory employees in this industry, is warranted as it represents a reduction from a weekly schedule of fifty hours.

Executives, technical and supervising employees (not including working foremen) receiving more than $35.00 per week, and outside salesmen are excepted from the maximum hour provisions.

Employees when engaged in emergency repair or maintenance are also not limited, but time and one half shall be paid for all over regular scheduled hours.

A tolerance of ten percent over the forty-hour week is permitted for truck drivers and forty-eight hours is the maximum for watchmen.

No person under sixteen years of age shall be employed and no person under eighteen years of age on any work of a hazardous nature.

The minimum rate of forty cents per hour is established with a minimum rate of thirty-three cents for light repetition work. This light work involves comparatively little skill and is performed by youths in most factories with a few female employees in others.

Minimum rates on piecework are guaranteed, and no distinction in rates shall be made between male and female labor on the same class of work. Wage differentials above the minimum shall be adjusted and in no case decreased.

Superannuated or maimed employees and learners shall receive at least eighty percent of the minimum wage but any employer is limited to not more than five percent of the total number of his employees at lower than the minimum rate.

Clerical and other employees shall receive a minimum of $15.00 per week, except that office boys and girls may be employed at not less than eighty percent of such minimum.

ECONOMIC EFFECT OF THE CODE

The industry, through the reduction in weekly hours, is increasing its working force thirty-one percent, at least 150 additional employees. While the industry is comparatively small, it is important through its close connection with the gas-stove and gas-refrigerator

market, which it serves. Pay rolls, through reemployment and readjustment of salaries, will be increased approximately forty percent.

This industry has suffered severely from the depression, and in making its contribution through shortened hours and higher wages is carrying out the spirit of the Act.

FINDINGS

(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 Cock Industry.

(c) The Code as recommended is not designated 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

GAS COCK INDUSTRY

To effectuate the purposes of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Gas Cock Industry, and upon approval by the President shall be the standard of Fair Competition for this Industry.

Article I—Purpose

The purpose of this Code is to—

(a) Effectuate the policy of the Act;

(b) increase employment under conditions sought under the policy of the Act;

(c) eliminate unfair competition; and

(d) stabilize trading conditions in the Producer's market.

Article II—Definitions

Section 1. The term "Gas Cock" as herein used means all cocks and shut-offs made and sold for use on gas ranges, gas water heaters, gas space heaters, gas furnaces, gas conversion burners, gas incinerators, gas refrigerators, and/or any apparatus or appliance using natural gas, liquefied petroleum gases, and/or manufactured gas as primary or secondary fuel.

(b) The term "Producer" as herein used means every person, corporation, partnership, or other legal entity promoting or actively engaged in the manufacture for sale of the products of the Gas Cock Industry as herein defined.

(c) The term "learner" as herein used means a person having no previous experience in the manufacture of Gas Cocks or parts thereof and whose period of employment as such shall not exceed six (6) weeks.

(d) The term "Association" as herein used means the Association of Gas Cock Manufacturers, Detroit, Michigan.

(e) The term "Governing Committee" as herein used means the governing body as elected under Article V, Section 1, of the constitution of the Association.

(f) The term "employee" as herein used means 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.

(g) The term "employer" as herein used means any producer as defined in Article II (b).

(h) The term "Member of the Code" as herein used means any member of the Industry who shall expressly signify assent to this Code.

(i) The term "Member of the Industry" as herein used means any producer as defined in Article II (b).

(j) The term "Act" as herein used means the National Industrial Recovery Act.

(k) The term "President" as herein used means the President of the United States.

(l) The term "Administrator" as herein used means the Administrator of the National Industrial Recovery Administration.

(m) The term "Administration" as herein used means the National Industrial Recovery Administration.

Sec. 2. The term "effective date" as herein used means the tenth (10th) day after this Code shall have been approved by the President of the United States.

Article III—Mandatory 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 and 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.

Article IV—Hours

Section 1. No factory employee shall be employed in the Gas Cock Industry in excess of 40 hours in any one week, or more than 8 hours in any one day, except as follows:

(a) Executive, managerial, technical, and supervisory employees (not including working foremen) receiving more than Thirty-five Dollars ($35.00) per week, and outside salesmen.

(b) In order to maintain employment and production the schedule of hours in Article IV, Section 1, shall not apply to employees on emergency maintenance and emergency repair work, but in any such case, time and one half shall be paid for hours worked in excess of 8 hours in any one day or 40 hours in any one week.

Sec. 2. No clerical or other employee shall be employed for more than 40 hours per week, except as follows:

(a) For truck drivers and shipping employees there shall be a tolerance of 10 percent additional hours over the 40 hours per week specified in Article IV, Section 2.

(b) Watchmen whose hours shall not exceed 48 hours in any one week.

Sec. 3. On and after the effective date of this Code no employer shall employ any person under 16 years of age; 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 within that State.

Sec. 4. No person under 18 years of age shall be engaged in any work of a hazardous or dangerous nature.

Sec. 5. The maximum hours hereinabove provided mark the total number of hours during which an employee may be employed whether by one or more Producers.

Article V—Wages

Section 1. The minimum wage rates applying in the Gas Cock Industry shall be 40 cents per hour, except as follows:

(a) On light repetitive work the rate shall be not less than 33 cents per hour; provided, however, that where a State law provides a higher minimum wage, no person employed within that State shall be paid a wage below that required by such State law.

Sec. 2. Where employees' earnings on piecework rates are under the minimum wage required by this Article V, Section 1, of this Code such rate shall be so adjusted as to conform with the aforesaid minimum wage and no distinction in rate shall be made between male and female employees where the same class of work is performed.

Sec. 3. The wage differentials for all operations shall be equitably adjusted (unless such readjustment has been made since July 1st, 1933) and in no case shall they be decreased. Each member of the Industry shall report all such readjustments made since May 1st, 1933, to the Code Authority within thirty (30) days from the effective date of this Code.

Sec. 4. The minimum wage that shall be paid by any Producer to Superannuated and/or maimed employees and learners shall not be less than 80 percent of such minimum wages stipulated in Article V, Section 1, but the total number of such employees shall not exceed in any calendar month five (5) percent of the average number of employees of such Producer.

Sec. 5. Clerical employees shall be paid not less than $15.00 per week except office boys and girls who shall be paid not less than 80 percent of this minimum rate and whose number shall not exceed 5 percent of the number of employees covered by Article V, Section 5.

Sec. 6. No person who has worked as a learner for one Producer for the period of time prescribed under the term "learner" in Article II may thereafter be classified as a learner.

Sec. 7. No employee shall be classified in any one of the excepted classes herein defined in Article IV and Article V, unless he performs functions identical with those performed by employees thus classified on June 16th, 1933.

Sec. 8. Each Producer shall post on his regular bulletin board or boards copies of Articles IV and V of this Code.

Article VI—Standardization

Section 1. The Association, in cooperation with the testing laboratories of the American Gas Association, may prepare standard specifications for the respective types, sizes and weights of gas cocks. When such standard specifications have been prepared and published to the Industry, no producer shall knowingly sell any gas cock as an A.G.A. approved gas cock unless such gas cock conforms with such standard specifications.

Article VII—Distribution

Section 1. (a) Each Producer shall file with the Governing Committee, five (5) days after the effective date of this Code, the current prices of his products effective at that time.

(b) Thereafter, revised prices which may be made effective from time to time by the Producer shall likewise be filed with the Governing Committee and shall become effective five (5) days after such filing.

Sec. 2. The Governing Committee may at any time call upon any Producer for terms and prices and/or any quotation, contract, or other transaction.

Sec. 3. No Producer shall sell or offer to sell, directly or indirectly, by any means whatsoever, any products of the Gas Cock Industry at a price lower or on more favorable terms and/or conditions of sale than those which he has filed with the Governing Committee.

Sec. 4. Each Producer shall have the privilege of selecting his own customer, but he shall not discriminate in his prices between selected customers of the same class.

Sec. 5. In event that the Governing Committee finds that any filed price would cause instability in the market, the Governing Committee may require the Producer filing such price to establish that such price does not involve a net return to such Producer less than his cost, determined pursuant to Article XVI of this Code, or to file a revised price. Until such filed price is held violative of Article XVI it may remain in effect.

Article VIII—Quotation Policies

Section 1. Each quotation shall define terms and conditions of sale.

Sec. 2. Each quotation shall be a firm proposal subject to revision only to correct errors; or, when permissible under conditions specified therein, to adjust or reflect changes in prices.

Sec. 3. No Producer shall quote a total price on any list or schedule of products of this Industry which does not show, or which is lower than the sum of the regular unit prices of the articles comprising the list or schedule.

Sec. 4. No Producer shall revise a quotation for the purpose of "matching" or underquoting prices quoted by a competitor.

Sec. 5. No Producer shall give advance notice to the Trade of his intention to change his prices.

Article IX—Credit Policy

Section 1. Credit privileges shall be restricted to those Purchasers whose moral and financial integrity may be reasonably well established. The purpose of this rule is to make it incumbent upon each Producer to exercise due diligence and sound judgment in an earnest effort to avoid action relating to the granting of credit privileges which might introduce instability into the market.

Sec. 2. Each Producer shall, at the request of the Governing Committee, furnish the Association the names of all customers whose

accounts are past due under the terms set forth in this Code; the purpose of this rule being to prevent a purchaser from over-extending his credit with two or more producers. The operations of this Article shall at all times be subject to the approval of the Administrator.

Article X—Terms of Payment

Section 1. Invoices shall bear the date on which delivery is made to the carrier at the point of shipment. Post dating of invoices is forbidden.

Sec. 2. The net due date in all instances shall not be later than the last day of the month next following the date of the invoice.

Sec. 3. When a cash discount is allowed by a Producer, the rate shall not exceed two percent (2%) and the period in which it may be deducted shall not exceed ten (10) days from the date of invoices; except, however, that, to purchasers whose requirements necessitate numerous billings during the current month, it may be deductible as follows:

(a) on the 25th instant from remittance covering all charges from the 1st to/and 15th instant and

(b) on the 10th proximo from remittance covering all charges from the 16th to/and the last day of the preceding month.

Sec. 4. In no instance shall a cash discount be allowed on transactions financed through the medium of a trade acceptance or a note.

Sec. 5. The agreement to accept in advance, Bonds or other Securities involved in the financing of a project in part or in whole payment for the products of the Gas Cock Industry is forbidden.

Sec. 6. Each quotation shall stipulate, and each contract shall contain, an agreement that any State and/or Federal Tax now or hereinafter imposed upon any producer in respect to any transaction predicated on such quotation or contract, or on the production, treatment, manufacture, sale, delivery, transportation, or proceeds of the products specified, shall be for the account of the purchaser and if paid, or required to be paid by the seller, the amount shall be charged to the purchaser.

Article XI—Terms of Shipment

Section 1. All domestic shipments shall be F.O.B. point of shipment, except that freight may be allowed on shipments of 125 lbs. or over, but such allowance not to exceed $1.00 per hundredweight, nor more than the actual cost of such freight.

Sec. 2. The Producer shall provide that he shall not be responsible for delays due to causes beyond his control; nor for delays caused by changes in specifications.

Article XII—Delivery Specifications

Section 1. No Producer shall agree in writing, or otherwise, to furnish any indeterminate quantity of products of the Gas Cock Industry, or any quantity of products of the Industry at an indeterminate price.

Sec. 2. No Producer shall agree in writing or otherwise to furnish a specified quantity of the products of the Gas Cock Industry for a period exceeding ninety (90) days from date of quotation, agreement, or contract.

Article XIII—Consigned Stocks

No consigned stock of the products of the Gas Cock Industry shall be permitted by any Producer.

Article XIV—Distress Merchandise

Section 1. No products of the Gas Cock Industry shall be sold below cost, except surplus stocks, inventories, or obsolete goods that must be converted into cash to meet immediate needs, which may be sold at such prices as are necessary to move such stock into purchaser's hands; provided, however, that all such surplus stocks, inventories, or obsolete goods are first reported to the Governing Committee and are moved under such regulations as the Governing Committee may prescribe.

If the Governing Committee should refuse to permit the sale of such surplus stocks or inventories or obsolete goods below the Producers' cost, or shall prescribe regulations which the Producer contends are unreasonable, the Producer may appeal to the Administrator.

Article XV—Malicious Practices

Section 1. There shall be no inducing or attempting to induce the breach of contract between a competitor and his customer.

Sec. 2. There shall be no disparaging statements made respecting another Producer's business methods, practices, or products.

Sec. 3. There shall be no publication or circulation, by advertisement or otherwise, of any false, misleading, or deceptive statement concerning the grade, quality, character, or origin of the products of a competitor; or misbranding for the purpose of misleading purchasers or prospective purchasers.

Sec. 4. There shall be no extension of service, special or otherwise, without a reasonable charge to promote, assist, or influence the demand or acceptance of products of the Gas Cock Industry.

Article XVI—Costs

Section 1. The Association shall have, or cause to be set up a uniform method of cost finding, subject to the approval of the Administrator, to be followed by all Producers in arriving at unit costs.

Sec. 2. In submitting costs to the Governing Committee the method designated in Section 1 of this Article XVI shall be exclusively used.

Article XVII—Administration

Section 1. The Governing Committee of the Association is hereby designated the agency to cooperate with the Administrator in supervision over and in the administration of this Code, provided no in-

equitable restrictions upon membership are imposed. The Administrator, in his discretion, may appoint not more than three additional members (without vote) to represent the Administrator on the Governing Committee.

Sec. 2. The Governing Committee may appoint as agents such person or persons as it may select to administer this Code and/or represent the Gas Cock Industry in dealing with the Administrator.

Sec. 3. Upon its own initiative or upon complaint of a Producer the Governing Committee shall investigate complaints and take such action as it may deem necessary or expedient within the provisions of the Act.

Sec. 4. To assist in the administering of this Code, each producer shall make available any and all relevant information, evidence or proof to the Governing Committee upon request of said Governing Committee, subject to the approval of the Administrator.

Sec. 5. In the event that the Governing Committee, after a fair and impartial hearing of all interested parties, shall determine that legal proceedings should be instituted or that a formal report should be forwarded to the Administrator, it shall take such action.

Sec. 6. The Governing Committee shall collect from members of Industry all data and statistics required by this Code or by the President or the Administrator or his or their agent or agents. Such information shall be confidential except insofar as disclosure may be necessary for the effective administration of this Code.

Sec. 7. In addition to information required to be submitted to the Governing 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.

Article XVIII—Participation

Section 1. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Governing Committee 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 Governing Committee, 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 XIX—Monopolies

Section 1. No Provision in this Code shall be interpreted or applied in such a manner as to: (1) Promote monopolies or monopolistic practices; (2) Permit or encourage unfair competition; (3) Eliminate, oppress, or discriminate against small enterprises.

Article XX—Contract Adjustments

Section 1. If the cost of executing a contract entered into prior to approval of this Code is increased by reason of the effect of this

Code, it is equitable and promotive of the policies of the National Industrial Recovery Act for an adjustment to be made of such contracts to reflect such increased costs, and the Governing Committee with the consent of the buyer is hereby designated an agency to assist in effecting such adjustments by arbitration or otherwise.

Article XXI

Section 1. 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 to this Code or additional Codes will be submitted for the approval of the President to prevent unfair competition and destructive competitive practices and to effectuate the other purposes and policies of Title I of the Act consistent with the provisions hereof.

Article XXII

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 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.

Approved Code No. 70.
Registry No. 1335/05.

O

Approved Code No. 71

CODE OF FAIR COMPETITION

FOR THE

PAINT, VARNISH, AND LACQUER MANUFACTURING INDUSTRY

As Approved on October 31, 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 Paint, Varnish, and Lacquer 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,
October 31, 1933.

29937——296-171——34

October 27, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Paint, Varnish, and Lacquer Manufacturing Industry conducted in Washington on the 26th of September, 1933, in accordance with the provisions of the National Industrial Recovery Act.

Economic Effect of the Code

Paint is a manufactured product used in part for new production of industrial and consumers goods, and in part as a maintenance material. The quantity required for the former purpose bears a positive relation to general manufacturing activity. For the latter purpose, where the need may be deferred, the current financial condition of the owner of the property has considerable bearing upon the quantity of paint used. For this latter purpose also the cost of the paint is a factor of considerable importance.

The quality of paint in general may be judged by the effectiveness of the covering produced, either as protection or appearance, or both, and the life of that covering. These qualities are not only a function of the ingredients of the paint, but also are a function of the method of preparation of the ingredients and their mixing. It is possible, therefore, to produce paint of varying degrees of quality through a wide scale of costs, and the public is not necessarily in a position to judge quality other than by price. As a consequence of this condition, many practices involving the sale of cheap paint have grown up in the Industry, which, coupled with the financial situation of the last few years, has tended to cause demoralization.

The Code, as submitted herewith, contains in Part Two an unusual number of trade practices which are considered detrimental to the Industry and consequently are prohibited. In the form in which they now stand they meet the approval of the Consumers' Advisory Board.

The provisions contained in this Code as to minimum wages and maximum hours are generally in line with approved codes employing labor of the same quality and under similar conditions.

The reduction in the number of hours from 47.5 of June, 1933, to a maximum of 41.2 average for a six months' period provided by the Code will mean an increase in employment of approximately 25 percent. It is estimated that at the low point of employment there were approximately 18,000 workers in early 1933, and that the provisions of this Code, even under present conditions, should increase the number employed to nearly 25,000.

The wages set up in the Code will increase the pay of only about 20 percent of the workers in the Northern area and 30 percent of the

workers in the Southern area, but the resulting (increase in purchasing power, when coupled with the increase in number of workers in the Industry, will be material.

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 Paint, Varnish, and Lacquer 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 immediately adopted.

Respectfully,

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

PAINT, VARNISH, AND LACQUER MANUFACTURING INDUSTRY

Article I—Purpose

For the purpose of effectuating the policy of Title I of the Act of June 16, 1933, known as the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Paint, Varnish, and Lacquer Manufacturing Industry.

Article II—Definitions

The term "The Industry" means all persons in the continental United States engaged in the manufacture of paint, kalsomine and water paint, varnish, including shellac varnish lacquer, and kindred products, including putty, semifinished base materials for lacquers, thinners, and diluents (when such semifinished base materials are sold or offered for sale in competition with the finished products of this Industry), liquid and plastic roof coatings and roof cements, and artists' colors; and/or such branches or subdivisions thereof as may from time to time be included under the provisions of this Code, provided that if any member of the Industry also manufactures products of any other industry, the provisions of this Code shall apply only to that part of his business which is included in this Code. The term "Export Trade" means any business transacted with any purchaser for shipment of products of the Industry outside of the continental United States.

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. The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged. The term "member of The Industry" includes any manufacturer who shall be subject to this Code. The term "member of the Code" includes any member of The Industry who shall expressly signify assent to this Code. The term "Association" herein means the American Paint and Varnish Manufacturers' Association, Inc., and the National Paint Oil and Varnish Association, Inc., or their successor or successors. The term "Association Headquarters" means the office maintained jointly by the Associations at 2201 New York Avenue, NW., Washington, D.C. The term "Trade Sales" as used herein means all sales to jobbers, dealers, painters, automotive refinishing shops, and sales made directly to the consumer, with the exception of such sales as are hereinafter defined as "Industrial Sales." The term "Industrial Sales" as used herein means all sales to the following classes of buyers, covering products of The Industry used by such buyers on their products or for the finishing of their equipment and for the painting, upkeep, and

maintenance of their plants, equipment, tenements, and for any other purpose.

Industrial plants of all kinds (such as automobile manufacturers, implement manufacturers, furniture manufacturers, etc., etc.)

Transportation companies (including street railways, bus, and air transportation companies)

Car and locomotive builders

Public service companies

Oil refiners and pipe-line companies

Packing houses

Steel manufacturers and those who fabricate their own products

Bridge builders and bridges

Coal or other mining operations

Steamship lines, shipyards, wharves, and docks

All departments of any State, County, Municipal, or other political subdivisions, but only for the following products: traffic paint; road paint; products used on bridges, trucks, and machinery; automobile license tag coatings; or materials for finishing furniture, or any other products manufactured in prisons or reformatories. All other business from State, County, Municipal, and other political subdivisions, such as products used on buildings, institutions, etc., to be classified as "Trade Sales."

All Departments of the United States Government, regardless of usage.

Article III—Industry Law and Effective Date

On and after the fifteenth calendar day after the President of the United States shall have approved this Code, the provisions hereof shall constitute standards of fair competition for The Industry and shall be automatically binding upon all members of The Industry, except that all articles of this Code which are included in Part 2 hereof shall not apply to export trade.

Article IV—Collective Bargaining

In accordance with Section 7 (a) of the Act of June 16, 1933, known as the National Industrial Recovery Act, it is agreed: (1) that 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; (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 V—Minimum Wages and Maximum Hours

(a) No employee engaged in accounting, clerical, office, or delivery service in any office or in any other place or manner, excepting employees in retail stores and excepting outside salesmen, shall work or be permitted to work in excess of 40 hours per week for 20 weeks and 48 hours per week for 6 weeks in any 26-week period.

(b) No factory or mechanical worker or artisan shall work or be permitted to work more than 40 hours in one week nor more than 8 hours in any one day; provided, however, that during any 6 weeks of a 26-week period (the first period to begin on the effective date of this Code) employees may work not more than 45 hours a week nor more than 9 hours in any one day, with the exception of (1) supervisory staff (including foremen), (2) maintenance workers, engineers, and firemen, which excepted employees may not work in excess of the maximum hours stated above except by payment of one and one-third rate for overtime if such employees are compensated on an hourly basis. Each week during any 26-week period shall be considered as a complete unit of employment for the purpose of paying for overtime to excepted employees. If an excepted employee on an hourly basis works more than 40 hours and not more than 45 hours in any one week, the employer shall compensate him at the end of said week for the hours worked in excess of 40 hours at the extra rate or shall declare to the employee that such week will be considered as one of the 6 weeks in which a maximum of 45 hours is permitted. This does not, however, mean that an excepted employee, when necessary, may not work more than 45 hours at the extra compensation. If such excepted employees are paid by the week, month, or on a yearly basis and enjoy vacation periods, sick leaves, and other benefits granted to salaried workers they shall not be paid an additional amount for any reasonable overtime work.

(c) The maximum hours fixed in the foregoing Paragraphs (a) and (b) shall not apply to watchmen, janitors, or other caretakers; nor to employees in a managerial, executive, or other capacity who receive $35.00 per week or more; provided that with respect to the exceptions in this Paragraph and in Paragraphs (a) and (b) of this Article there shall be no evasion of this Code by reclassification of the function of workers. A worker shall not be included in any one of the above exceptions unless the identical functions which he performs were identically classified on June 16, 1933.

(d) The provisions for maximum hours set forth in Paragraphs (a) and (b) of this Article establish a maximum number of hours of labor per 26-week period for each employee so that under no circumstances shall any employee knowingly be employed or permitted to work for one or more employers in The Industry in the aggregate in excess of the prescribed number of hours.

(e) Employers in The Industry, subject to the exception provided in Paragraph (h) of this Article, shall not pay any of the classes of employees covered by Paragraph (a) less than $15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than $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 $14.00 per week in any city or town of less than 250,000

population, or in the immediate trade area of such city or town; provided that employers in The Industry may pay to any class of employees covered by Paragraph (a) who perform the work of office boys and office girls, not less than 80 percent of the minimum wage designated by this Paragraph, provided that the number so excepted shall not exceed 5 percent of the total employees of the employer and provided, further, that each employer may have at least one such employee. Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

(f) Employers in The Industry, subject to the exception provided in Paragraph (h) of this Article, shall not pay any employee of the classes covered by Paragraph (b), or employees excepted therein, namely, supervisory staff (including foremen), maintenance workers, engineers, and firemen, less than 40 cents per hour to male employees, or less than 35 cents per hour to female employees. The foregoing distinction in minimum rates between male and female employees is not a discrimination by reason of sex but because of a difference in the work done. Where female employees do the same kind and amount of work as male employees they shall receive the same wages. It is agreed that this Paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on piecework performance.

(g) The provisions of Paragraphs (e) and (f) of this Article shall not apply to any employee partially incapacitated through age or otherwise, who has served not less than 10 years in the continuous employment of the employer, provided that the number so excepted shall not exceed 5 percent of the total employees of the employer, and provided that each employer may have at least one such employee, and provided further that the minimum wage paid to such employee shall not be less than 30 cents per hour.

(h) Employers in The Industry shall not pay less than 90 percent of the minimum wages provided in Paragraphs (e) and (f) of this Article, to employees in the Southern states. For the purpose of this Article, the Southern States are defined as—

Alabama	North Carolina
Arkansas	Oklahoma
Florida	South Carolina
Georgia	Tennessee
Kentucky	Texas
Louisiana	Virginia
Mississippi	

(i) No person under the age of 16 shall be employed in The Industry.

Article VI—Presidential Authority

As required by Section 10 (b) of Title I of the National Industrial Recovery Act, the following provision is contained in this Code: The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I thereof.

Article VII—Monopolies

No provision in this Code shall be interpreted or applied in such a manner as to: (1) Promote monopolies; (2) Permit or encourage unfair competition; (3) Eliminate, oppress, or discriminate against small enterprises.

Article VIII—State Laws

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 general working conditions, than under this Code.

Article IX—Reports

The Paint Industry Recovery Board, through Association Headquarters, shall collect and provide all reports required by the Administrator under the National Industrial Recovery Act. Every member of The Industry shall furnish such reports as are required pursuant to such requirements.

In addition to information required to be submitted through the Paint Industry Recovery Board, 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 X—Administration

After this Code shall have been approved by the President of the United States, it shall be administered through the Association by a board to be immediately created and to be known as the "Paint Industry Recovery Board."

This Board shall be composed of the following members: Not more than 3 members without voting power to be appointed by the President, the 8 members of the present General Code Committee, 20 members, representing commodity groups, 20 members representing communities.

The members of the Board representing commodity groups shall be elected as follows: 5 members to be elected by paint manufacturers, 5 members to be elected by varnish manufacturers, 5 members to be elected by lacquer manufacturers, 5 members to be elected by kalsomine and water-paint manufacturers.

Provided that each of these groups shall contain 2 members from the Eastern States, 1 member from the States in or west of the Rocky Mountains and 2 members from the remaining States. Nominations for election to the Board for said Commodity groups shall be made by members of The Industry at large, regardless of membership in any association, and the nominations so made shall be submitted to a mail vote of all members of The Industry throughout the United States and those receiving the highest number of votes in each Group shall be declared to have been elected to represent the Commodity groups. The members of the Board representing communities shall be elected in the following manner: 1 each to be elected by the members of The Industry doing business in the logical trading areas of the following cities, which manufacturers shall be called together for

the purpose of such election by the President of the Local Paint Club, or local paint manufacturers' association if any such exists:

Atlanta-New Orleans	Kansas City
Baltimore	Los Angeles
Boston	Louisville
Buffalo	Minneapolis-St. Paul
Chicago	New York
Cincinnati	Philadelphia
Cleveland	Pittsburgh
Dallas-Houston	St. Louis
Denver	San Francisco
Detroit	Seattle-Tacoma-Portland

No person shall be eligible for membership on this Board who is not directly engaged in the manufacture of products of The Industry, except the members to be appointed by the President of the United States. Furthermore, no company or group of affiliated companies shall have more than one representative on this Board. Vacancies which may occur in the Board for any reason whatsoever shall be filled by election in the same manner as hereinbefore provided. This Board, subject to the approval of the Administrator, shall elect its own Chairman, adopt its own rules of procedure (not in conflict with any other provisions herein contained), appoint such committees as may to it seem necessary from time to time, and may delegate its authority to such committees. A majority of the Board shall have the power to recommend to the Administrator for his approval the addition of representatives of other groups or communities to its membership; provided that such additional members shall be elected in the same manner as above described.

The staff, Association Headquarters, and other facilities of the Association shall be employed in carrying out the work of the Paint Industry Recovery Board. Such funds as may be required for the work of this Board shall be subject to appropriation by the Budget and Finance Committee of the Association. All members of the Industry or groups thereof who qualify as such under this Code are eligible to membership in the American Paint & Varnish Manufacturers' Association, Inc., or its successor, without payment of initiation fee, which has been temporarily waived. If group membership, such groups shall pay into the Treasury of the American Paint and Varnish Manufacturers' Association, Inc., a total amount equal to the dues of each member of such group as if each member were a direct member of the American Paint and Varnish Manufacturers' Association, Inc. If for any reason an eligible manufacturer does not desire to join this Association he may, nevertheless, receive all of its benefits, including participation in this Code, by paying a fee to its Treasurer equal to the dues, provided that should any member of this Code desire not to become a member of the Association and desire not to pay to its Treasurer a sum equal to the dues, he shall nevertheless pay his proportionate share of the amounts required to pay the cost of assembly, analysis and publication of necessary reports and data and of the maintenance of this administrative authority and its activities and the Paint Industry Recovery Board shall assess each such member of the Industry with his proportionate share based upon the value of sales or otherwise

as the Paint Industry Recovery Board may prescribe, subject to the approval of the Administrator.

The Paint Industry Recovery Board shall have full responsibility for its expenditures within the limits of such appropriations as are made from time to time, provided that no traveling or other expenses of Board members shall be paid out of the Association funds when attending Board meetings, but actual expenses of members of the Board when engaged in the business of the Board, other than attendance at Board meetings, may be paid out of such funds provided prior authority for such expenditure or expenditures has been given by the Board.

Article XI—Amendments

Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act of June 16, 1933, may, with the approval of the President, be modified or eliminated as changes and 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 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. Members of The Industry or a local paint manufacturers' association, if any such exists, shall submit desired amendments of this Code to the Paint Industry Recovery Board through Association Headquarters. By agreement of a majority of the Board, an amendment, so received or one initiated by the Board itself, shall be referred to The Industry in the following manner: those members of the Board who represent the commodity groups shall submit the proposed amendment to their respective groups, if in their opinion it is germane to the interests of such groups; those members of the Board who represent manufacturers from the several cities shall call meetings of the manufacturers in their communities. The several Board members shall then submit individual reports to Association Headquarters, which shall collate them and submit a full report to the Board. Thereafter the Board shall vote on submitting the Amendment to the Government and shall so submit it if at least two-thirds of the Board vote to do so, provided that the proponent of any amendment shall have the right to submit such amendment direct to the National Recovery Administration for its consideration.

By presenting this Code the members of The Industry do not thereby consent to any modifications thereof and reserve the right to object individually or jointly to any such modifications.

PART 2—TRADE PRACTICES

Article XII—Misbranding, Mislabeling, and False Advertising

Misbranding, mislabeling, and false, deceptive, and misleading advertising are prohibited by this Code.

Article XIII—Gifts to Employees of Another

It shall be a violation of this Code for any person engaged in The Industry, to offer or give—or to permit any representative of his to offer or give—any commission, gratuity, or other thing of substantial value to employees of his customers or prospective customers, except in the case of payments made with the consent of the employer for a definite service rendered.

Article XIV—Manufacturing Restrictions

It shall be a violation of this Code for any manufacturer to fail to abide by the manufacturing restrictions as set out in Schedule A which is attached hereto and made a part of this Code, provided that this Article shall not apply to export trade and provided further that Paragraphs 2, 4, 5, and 6 of Schedule A shall not apply to products commonly known as 5-, 10-, and 25-cent merchandise which is sold at retail to the consumer at not more than 25 cents per package.

Article XV—Exchange of Goods

The practice of taking in exchange for one's own goods, Industry products of another manufacturer, distributor, or dealer, is unethical, unfair, and is hereby prohibited. It shall be a violation of this Code for any manufacturer in the Industry to take or allow to be taken in exchange for his own products, any products of the Industry, or to give or permit the giving of any advice or assistance in facilitating such exchange or replacement, or to make or permit to be made any concessions, allowances, or gifts of any kind to promote or facilitate such exchange.

Every member of the Industry is required to enter into a written agreement with his jobbers and/or distributors whereby such jobbers and/or distributors agree to refrain from the practice prohibited by this Article. It shall be a violation of this Code for any member of the Industry to deal or continue to deal with any jobber and/or distributor who shall have acted contrary to such agreement, provided that no member of the Industry shall be held responsible for such dealings as he may have engaged in prior to the time he has received notice of the breach of such agreement by a jobber and/or distributor, and provided that no member of the Industry shall be held responsible for such dealings after the Paint Industry Recovery Board has given approval for further dealings with a jobber and/or distributor who may have violated such an agreement. The Paint Industry Recovery Board may require each member of the Industry to file a copy of each agreement which he may make with a jobber and/or distributor.

Article XVI—Standard Terms of Cash Discount

On and after the effective date the terms granted by manufacturers, excluding export trade, shall not exceed: Trade sales accounts, 2 percent for cash in 10 days, net 60 days; industrial sales accounts, 1 percent for cash in 10 days, net 30 days; except that the discount to

trade sales accounts may be extended to the 10th day of the month following purchase and the discount to industrial sales accounts may be extended to the 20th day of the month following purchase to customers who regularly discount in the month following purchase, and provided that no discount shall be allowed after the discount date.

Article XVII—Datings

Except as specifically provided by this Article, members of The Industry shall not grant any datings on the sales of any Industry products.

(a) *Spring Stock Orders.*—Datings on orders to established dealer and/or jobber accounts, excluding export trade, shall be limited to datings on Spring Stock Orders shipped at the manufacturer's convenience after October 15, with an April 1 dating and regular terms; one order to an account.

(b) *New Accounts.*—The maximum dating on trade sales stock orders (initial stock order only) to new dealer and/or jobber accounts, excluding export trade, shall be limited to four months from the date of shipment and with standard terms, provided that orders shipped between October 15 and December 1 in any year may be with an April 1 dating and with regular terms.

(c) *Roof Coatings and Cements.*—A maximum dating of four months may be given on a carload of not less than 40,000 lbs. of liquid and plastic roof coatings and/or roof cements, not including other products, whenever the lowest published less-than-carload freight rate (by rail or water) is more than 50 cents per cwt.

(d) *Anticipated Discount.*—If any dating shall be permitted under this Article, an anticipated discount may be allowed to the extent of one-half of one percent a month.

Article XVIII—Guarantees

(a) *Price Guarantees.*—Guarantees against price decline shall be prohibited except in the case of an order on which a dating has been allowed under Article XVII, when such a price guarantee may be given for a time not to exceed the dating period granted.

(b) *Time Guarantees.*—Definite time guarantees on the life and/or service of the products of The Industry are hereby prohibited.

Article XIX—Consignment

The practice of supplying accounts on consignment and/or trust certificate agreements, except as hereinafter provided, is prohibited. This also includes consignments which are sometimes made under so-called "warehouse agreements" but does not prohibit manufacturers from carrying a stock of their goods in a public or private warehouse at their own expense in any section of the United States, provided that such stocks must not be warehoused with or for the account of any person, firm, or corporation dealing in or handling (as a merchant) or using (as a painter) products of the industry. Every manufacturer who has any 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 within 60 days of the effective date of this Code with Association Headquarters and/or the office of a local paint manufacturers' association, if any such exists, where reference may be made to it at any reasonable time by interested parties. Until such time as an account as listed above is discontinued, such accounts may be similarly supplied by any manufacturer in the Industry. The Paint Industry Recovery Board shall, subject to the approval of the Administrator, develop such plans as will effectuate the ultimate elimination of consignments from the Industry. This Article shall not apply to export trade.

Article XX—Free Deals

Except as otherwise provided herein, free deals in or connected with Industry products are prohibited. "Free deals" for the purpose of this Code means all forms of marketing devices, including the gift or loan of spraying or other valuable equipment, whether the full cost thereof or only a part of said cost is borne by the manufacturer, whereby the said manufacturer furnishes goods of any kind other than such of his own products as have been contracted for on his usual terms: Provided that the term "Free Deals" shall not apply to the furnishing of advertising accessories of small value, such as the usual circulars, color cards, window displays, display racks, and posters which accompany paint and varnish products as a description thereof, nor shall it apply to novelties of small value such as caps, yardsticks, paddles, etc.

Furthermore, the term "Free Deals" shall not be construed to include any advertising allowance which is made for a definite service rendered and for which there is a proper accounting that is auditable as a direct charge for cooperative advertising.

Illustrative of the practices which are prohibited are included the following:

(a) Premiums (gifts of unrelated merchandise) such as blankets, articles of furniture, etc.

(b) Prizes and awards. This does not refer to prizes and awards given within a manufacturer's own organization.

(c) Free Goods (extra amounts of one's own products).

(d) Merchandising practices of the type commonly known as "One-cent sales."

(e) Free Samples. (But the term "Free Deals" does not apply to samples given for test purposes; neither does it apply to trade-sale samples given for demonstration purposes, provided that no size larger than 5-lb. samples of water-paint goods in dry form or 1/32 gallons of other industry products shall be so used and that such samples are plainly labeled "Samples.")

(f) The sale of alcohol, turpentine, linseed oil, or any other products not manufactured by The Industry at prices less than the resale market price.

Article XXI—Discontinuance of Shades and Colors

When it becomes necessary and advisable for any manufacturer to discontinue certain shades or colors in any trade-sales line, he shall give his dealer and/or jobber customers who purchase such lines six

months' advance notice prior to discontinuing the manufacture of such shades or colors, providing that this Article shall not apply to export trade.

Article XXII—Selling Below Cost

Products of The Industry shall not be sold at less than cost as herein defined:

(1) The cost of Lacquer Thinners in full tank cars or tank wagons containing not less than one thousand-gallon quantity, when sold and delivered to one purchaser, shall be not less than the sum total of the current market replacement price of each and every ingredient in the completed Thinner.

The cost of all other products shall include the following:

(2) The seller's total market replacement cost of raw materials (based on cost furnished monthly, or oftener if necessary, by authority of the Paint Industry Recovery Board through Association Headquarters, subject to approval by the Administrator); and if any raw materials are used (such as varnishes, japans, driers, etc., purchased in finished form by the seller) 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.

(3) Containers and/or packages.

(4) *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 profit making producers during the years 1928 to 1932 inclusive, and provided that such average rate shall not include any plants not in operation.

(5) There shall also be included in the cost a proportion of the general and administrative expenses, such proportion to be determined and to be recommended by the Paint Industry Recovery Board to the Administrator for approval.

(6) Transportation charges when goods are sold f.o.b. destination.

In the case of any complaint by an interested party that a manufacturer is violating the above cost provisions the burden of proof of compliance shall rest upon 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; and the report of that Commission shall be final regarding the costs of the defendant manufacturer.

Article XXIII—Competitive Relations

(a) *Inducing Breach of Contract.*—No manufacturer either directly or indirectly or through his salesmen, representatives, or

agents, shall encourage any purchaser of the products of The Industry to disregard or fail to live up to his commitment to another member of the Industry.

(b) *Disparagement of Competitors.*—The use of or participation in the publishing or the disseminating of any false statement, representation or insinuation which disparages the business of a competitor, or attacks the reputation, goods, prices, credit, service, or advertising of any competitor or of any other industry, is an unfair and uneconomic practice and is prohibited.

(c) *Enticing Employees.*—Members of The Industry shall recognize the right of employees to use all honorable and reasonable efforts to better their conditions, but shall refrain from directly or indirectly soliciting or bidding for the services of the employee of another member. Only when such an employee takes the initiative shall a member of The Industry have the right to negotiate with him about prospective employment.

Article XXIV—Returned Goods

No member of The Industry shall accept the return of merchandise from any customer without having given prior consent to the return thereof. On such goods as are accepted for return a reasonable charge shall be made and the freight charges must be charged to the shipper returning the merchandise, except in the case of defective products or where in some other way the manufacturer may be responsible.

Approved Code No. 71.
Registry No. 619/1/03.

SCHEDULE A

Manufacturing Restrictions.—Industry products, excepting those for export trade, shall not be manufactured for the purpose of marketing them as trade sales goods in containers of sizes and types prohibited by this rule, nor shall they be produced in tints or shades to a greater number than allowed by this rule, subject to Article XXI hereof, provided that Paragraphs 2, 4, 5, and 6 hereof shall not apply to products commonly known as 5-, 10-, and 25-cent merchandise which is sold to the consumer at not more than 25 cents per package.

1. (a) No two-pound cans in any line, except floor wax.
   (b) No three-pound cans in any line.
2. (a) No sizes less than quarter-gallon in barn and roof paint.
   (b) No sizes less than gallon cans in shingle stain.
3. No half-gallon cans in the following products: Aluminum paints, barn paints, roof paints, auto-top dressing, wagon and carriage paints and enamels, oil stains, spirit stains, and varnish stains.
4. No half-pint cans in first-grade house paints.
5. No half-pint cans in first-grade flat paints.
6. No quarter-pint cans in all house paint and flat paint.
7. No oblong or square varnish cans in sizes smaller than one-half gallon for any product, excepting shellac varnishes, carriage and automotive finishes (clear and colors), lacquers, lacquer thinners, liquid wax, liquid polish, varnish remover, bronzing liquid, Japan and Liquid driers, penetrating stains and spirit stains.
8. No shades or tints in excess of the following maximum numbers for each brand and/or color card:

Interior floor paints and floor enamels	10
House Paints	32
Flat Wall Paints	20
Enamels	18
Porch Paints	8
Roof and Barn Paints	4
Shingle Stains	14
Wagon and Carriage Paints or Enamels	10
Oil Stains	10
Varnish Stains	8
Spirit and Penetrating Stains	14
(All the foregoing exclusive of black and white)	
Oil Colors	32
(Including black, but counting the several shades of a single color as one color.)	

8. (a) The maximum number of grades for the following products shall be:

Architectural and Marine Varnishes	10
(Interior and exterior)	
Other Varnishes	28
(Including all not previously specified, such as Japan Driers, Asphaltum, etc.)	

9. No oil colors in other than liquid measure or in other than three sizes, namely, gallons, quarts, and half-pints, with the exception of tubes, and excepting also glass jars when sold as a part of a sales unit with white base paint to be tinted with such colors in oil in glass jars to standard colors, which sales unit has been especially developed for this purpose by the manufacturer.

Manufacturing Restrictions for Kalsomine and Water Paints.—10. No shades or tints in excess of the following numbers for each color card:

*Kalsomine (Hot Water)	20
*Kalsomine (Cold Water)	20
Water Paint, interior non-washable	White only
Exterior water-mixed paints washable paste and powder form	20
Interior Water-Mixed Paints washable paste and powder form	20
Fresco or Positive, Art or Deep Colors	20
Plastic Paints	8
Cement and/or Lime Water Mixed Paint	16

11. Kalsomine (Hot or Cold) in the following sizes only: Barrels weighing not less than 300 lbs. net, except for the Pacific Coast, where the 280 lb. barrel is authorized; kegs containing 100 lbs. net weight; 25 lb. net weight packages; 5 lb. net weight containers.

(Existing contracts covering Kalsomine in containers differing in weight content from standards covered herein shall be completed prior to December 31, 1933, provided that should a purchaser, now under contract with a manufacturer extending beyond that date, decline to accept a readjustment of his contract to bring the packages into line with these provisions, the manufacturer party to the contract shall refer the matter to the Paint Industry Recovery Board prior to December 31, 1933, for such amicable adjustments as the Board may be able to work out with the parties at interest.)

12. Interior Cold Water Paint, powder form, nonwashable. Barrels weighing not less than 350 lbs. net, 25 and 100 lb. containers, 5 lb. net weight containers; to be made in White only.

13. Plastic or Texture Paints (Dry), in the following sizes only: 5, 10, 25, 50, and 100 lb. net weight containers and not less than 300 lb. net weight barrels.

Paste form in same size containers as First Grade Flat Paints.

14. Patching Plaster to be sold in sizes as now marketed.

15. Interior and Exterior Water-Mixed Paints, Washable, in the following sizes only:

(a) *Dry Powder Form.*—5 lb., 25 lb., and 100 lb. containers; barrels of 300 lbs. net, or more.

(b) *Paste Form.*—1 quart, 1 and 5 gallon cans and 30 gallon drums.

16. Cement and/or Lime Bound Water Mixed Paints in the following sizes only: 5 and 10 lb. containers, 50 and 100 lb. containers, barrels of 300 lbs. net, or more.

17. Fresco Colors (Positive, Deep, or Art Colors) to be packed in the following sizes only:

(a) *Powder Form.*—1 lb. cartons or cans, 25 and 100 lb. containers, Barrels or 300 lbs. net or more.

(b) *Paste Form.*—To be packed in ½ pint, quart, and 1 gallon cans only.

18. Dry Sizes, Water-Mixed. To be packed in the following sizes only: 1 lb. cartons, 100 lb. containers, and 300 lb. Net Barrels, or more.

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* Means material commonly known and described by this term.

O

Approved Code No. 72

CODE OF FAIR COMPETITION

FOR THE

PACKAGING MACHINERY INDUSTRY AND TRADE

As Approved on October 31, 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 Packaging Machinery Industry and 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 is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 31, 1933.

29938——296–000——34

October 23, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Packaging Machinery Industry and Trade of the United States, conducted in Washington on October 11, 1933, in accordance with the provisions of the National Industrial Recovery Act.

Provisions as to Wages and Hours

No person under 16 years of age shall be employed nor any person under 18 years of age at hazardous occupations or those detrimental to health.

A minimum rate of 40 cents per hour shall be paid to any employee engaged in the making of the products of the Industry, and in labor operations directly incident thereto.

The minimum rate applying to any other employees shall be $15.00 per week in any city or immediate trade area of such city of over 500,000 population; a minimum of $14.50 in any city or trade area of such city, of between 250,000 to 500,000 population; or, $14.00 in any city or town of less than 250,000 population or within the immediate trade area of such city or town.

Except that office boys and girls and learners may be paid not less that 80 percent of such minimum wage, the number of whom shall not be more than 5 percent of the total number of employees covered by weekly salaries.

Apprentices may be retained under contract at predetermined wages during the period of apprenticeship in order to learn the trade, but such existing and future contracts shall be filed with the Code Authority.

Employees who, by reason of physical disability or infirmity, are competent for light work only may be paid not less than 80 percent of the minimum wage and a record of each case shall be filed with the Code Authority,

Wage rates for those employees receiving more than the minimum wage shall be equitably adjusted as far as practicable, but in no case shall they be decreased.

A maximum day of 8 hours and a maximum week of 40 hours is adopted. On account of the intricate construction of the special machinery built by this Industry, the maximum hours adopted are felt to be necessary for the reason that it is impossible to change crews and a one-shift basis is the only logical mode of operation, and a shorter work week would result in no additional reemployment.

During a temporary peak demand the Industry may operate on a schedule not to exceed 48 hours in any one week or not to exceed 8 weeks in any 6 months' period, provided that time and one half

is paid for all time worked in excess of 8 hours in any one day or in excess of 40 hours in any one week.

Further exemption is made for employees engaged in emergency repair work involving breakdowns or for protection of life and property. In such cases time and one half must be paid for all time over the maximum hours herein provided.

Exceptions are also made for executives, professional persons, heads of administrative departments, factory and office supervisory staffs (not including foremen primarily engaged in productive work) and technical engineers (provided that none of the foregoing receive less than $35.00 per week) outside service men and field salesmen, and watchmen provided that watchmen shall not work more than 56 hours in any one week.

Accounting, clerical, office service, office sales, express, delivery, stock keeping, or shipping employees shall not work more than 40 hours a week monthly average nor more than 48 hours in any one week except during the month of the annual audit.

Economic Effect of the Code

The estimated total sales of this Industry in 1932 were 57.6 percent of sales in 1929 and represented only 29 percent of plant capacity. The lowest level of employment within recent years occurred in March 1933, and on June 15, 1933, only 1,584 were employed. Since June 15th, however, 536 employees have been added.

Increased pay rolls from reemployment and adjusted differentials in wages furnish evidence of the fullest cooperation with the spirit of the Act.

Findings

(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 Packaging Machinery Industry and Trade.

(c) The Code as recommended is not designated 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

PACKAGING MACHINERY INDUSTRY AND TRADE

Article I—Purposes

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 the Packaging Machinery Industry and Trade.

Article II—The Industry and Trade

Section 1. The term "packaging machinery industry", as used herein, is defined to mean the manufacturing and/or importing and/or marketing of power-driven automatic and semi-automatic or hand- or foot-operated machinery and/or equipment and parts thereof used in the manufacture of packages (except machinery for the manufacture of glass, wood, and metal packages) and in packaging processes and/or in the preparation of products for shipment.

Sec. 2. The term "packaging machinery trade", as used herein, is defined to mean and includes the business of importing and/or marketing of packaging machinery and/or equipment and parts thereof.

Article III—Applicant

Section 1. (a) The applicant for this Code is Packaging Machinery Manufacturers Institute, Incorporated, a trade organization all members of which are engaged in such manufacturing and/or importing and/or marketing, and which organization is truly representative of the industry.

(b) Applicant organization imposes and shall hereafter impose no inequitable restrictions on membership therein. The Code presented by it shall not be applied to permit or promote monopoly, to oppress or eliminate small enterprises, or to discriminate against them but to effectuate the policy of said Title I of the National Industrial Recovery Act.

Article IV—Definitions

The following terms, as used herein, unless otherwise clearly indicated by the context, are defined to have meanings respectively as follows:

The term "Employer" means any person actively engaged in manufacturing and/or importing and/or marketing any of the products of the industry and trade either as employer or on his own behalf.

The term "Employee" means any one who is employed by any such employer in any phase of the industry or trade as above defined irrespective of the nature or method of payment of his compensation.

The term "President", "Act", and "Administrator" mean, respectively, the President of the United States of America, the National Industrial Recovery Act, and the Administrator of said Act.

The term "Learner" means a youth having no previous experience in the manufacture of packaging machinery and parts thereof, and whose employment as such shall not exceed four months of working time in the industry. The intent of the industry and trade under this definition is to cooperate with trade schools.

The term "Apprentice" means a person, usually a minor, who agrees to serve an employer for a certain stated period of time at predetermined wages for the period in order to learn the trade.

The term "Population", for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

The term "Executive" shall mean any employee responsible for the management of a business, a department, or a recognized subdivision thereof.

The term "Professional person" shall mean lawyers, doctors, nurses, research technicians, advertising specialists.

The term "Outside Salesman" shall mean a salesman who is engaged not less than sixty (60) percent of his working hours outside the factory or office or any branch thereof by which he is employed.

The term "Maintenance employee" shall mean any 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.

The term "Outside Service Employee" shall mean any employee when actually engaged in installing or servicing machinery and/or equipment and parts thereof outside the establishment.

The term "Watchman" shall mean an employee engaged in safeguarding the premises and property of the establishment.

The term "Establishment" shall mean any factory, office, or department wherein the manufacture, importing, and/or marketing of packaging machinery and/or equipment and parts thereof is conducted.

Article V—Employment

(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 VI—Minors

No employer shall employ any person under the age of sixteen (16) years, nor anyone under eighteen (18) years of age at operations or occupations hazardous 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, showing that the employee is of the required age.

Article VII—Wages

Section 1. (a) On and after the effective date 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. It is agreed that this paragraph 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.

(b) On and after the effective date, the minimum wage that shall be paid by any employer, to all other employees shall be not less than fifteen dollars ($15) per week in any city of over 500,000 population or in the immediate trade area of such city, nor less than fourteen and a half dollars ($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 fourteen dollars ($14) per week in any city or town of less than 250,000 population or in the immediate trade area of such city or town.

Provided, however, that office boys or girls and learners (other than apprentices) may be paid not less than eighty (80) percent of such minimum wage, but the total number of such office boys or girls, and learners at such reduced rate shall not exceed in any calendar month five (5) percent of the total number of all employees covered by the provisions of this paragraph (b), provided that each employer may employ a minimum of one office boy or girl and a minimum of one learner.

(c) Nothing in this Article VII 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 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.

(d) Any employee who, by reason of physical disability or infirmity is competent only for light employment shall be paid not less than eighty (80) percent of the minimum wage referred to in paragraph (a) of this Article VII, provided that a record of each case shall be filed with the Code Authority.

(e) To the extent practicable, the wage rates of employees receiving more than the minimum wage rate shall be equitably ad-

justed, and in no case shall they be decreased as a result of this adjustment of hours, so that existing differentials shall be maintained and, to the extent practicable, recognition shall be given to the desirability of maintaining earnings, provided such adjustment has not already been made since June 16, 1933.

Article VIII—Hours

Section 1. (a) On and after the effective date, no employer shall employ any employee engaged in the making of the products of the industry, and/or 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.

(b) Provided further that these limitations of hours shall not apply to conditions of 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 eight (8) weeks in any calendar six (6) months' period, beginning October 1, 1933, and each April 1 and October 1 thereafter; provided further that in such special cases 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 week.

(c) Provided further that the maximum hours fixed in Section 1 (a) of this Article shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life and property, but, in any such special case, time and one half his normal rate shall be paid for hours worked in excess of the maximum hours therein provided.

(d) Provided further that these limitations of hours shall not apply to executives, professional persons, heads of administrative departments, factory and office supervisory staffs (not including foremen primarily engaged in productive work), and technical engineers (provided that no person receiving less than thirty-five ($35.00) dollars per week shall be considered to come under any of the foregoing exempted classifications of this paragraph), outside service men and field salesmen, and watchmen, provided, however, that watchmen shall not work more than fifty-six (56) hours in any one week.

Sec. 2. On and after the effective date of this Code, no employer shall work any accounting, clerical, office service, office sales, express, delivery, stockkeeping, or shipping employee in the industry more than forty (40) hours a week on a monthly average, nor more than forty-eight (48) hours in any one week, except during the month of the annual audit.

Sec. 3. 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. 4. 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. 5. Each employer shall post this Code in a conspicuous place in his establishment.

Artice IX—State Regulations

Within each state, this code shall not supersede the 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 X—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 the Code Committee of not more than five members (no two of whom shall be representatives of the same member) appointed by the Board of Directors of the Packaging Machinery Manufacturers Institute, Incorporated, together with, if nonmembers so desire, two members of the industry and trade not members of the Institute; and one or more nonvoting appointees of the National Recovery Administration, if deemed necessary by the Administrator.

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.

In order that the Code Authority shall at all times be truly representative of the industry and 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 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. 3. Any member of the industry and trade is eligible for membership in the Code and/or Institute and there shall be no inequitable restriction on such membership, and all members of the industry and trade subscribing to the Code or partitcipating in, or sharing in any way in the benefits of the activity of the Code Authority or participating in the selection thereof, shall bear a proportionate amount of the expenses of administering and enforcing the Code and of making any amendments thereto, which proportion shall be based on the gross-sales volume (for the previous calendar year) of the packaging machinery as defined in Section I or Article II, and such funds shall be collected and adminstered by and through the machinery of the Institute.

Sec. 4. With a view to keeping the President informed as to the observance or nonobservance of this Code, and as to whether the industry and trade is taking appropriate steps to effectuate the declared policy of the Act, each member of the industry and trade, 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 (to be held and used subject to the limitations of Article XI hereof), statistics of plant capacity, 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, and hours of work pertinent to the administration of this Code.

Article XI—Data Confidential

Section 1. Except as otherwise provided in the Act, all statistics, data, and information filed in accordance with the provisions of the Code shall be confidential.

Sec. 2. The statistics, data, and information of one member of the industry and trade shall not be revealed to any other member of the industry and trade, except, that, for the purpose of administering or enforcing the provisions of this Code, the Code Authority, by its duly authorized representatives (who shall not be in the employ of any member of the industry and trade affected by this Code), shall have access to any and all statistics, data, and information, that may be furnished in accordance with the provisions of this Code. However, such data shall be available to the Administrator on request.

Sec. 3. 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 XII—Investigations

Section. 1. Aggregation of members of the industry and trade having a common interest and common problems will be grouped by the Code Authority for administrative purposes into various product subdivisions.

Sec. 2. In each product subdivision there may be a Sub-Code Authority approved, or appointed, by the Code Authority. If formal complaint is made to the Code Authority that provisions of this Code have been violated by any member of the industry and trade, the Code Authority or the proper Sub-Code Authority shall investigate the facts, and to that end may cause such investigation to be made as may be deemed necessary, and shall report the results of such investigation to the Code Authority. Any action taken by the Code Authority under this Article of this Code shall be subject to review, disapproval, or modification by the Administrator.

Article XIII—Unfair Trade Practices

Section 1. It shall be an unfair trade practice for a manufacturer, importer, agent, or dealer to allege that a competing machine and/or equipment and parts thereof violates any patent unless he shall have previously notified the alleged infringer in writing, setting forth

the grounds on which such alleged infringement is based and naming the patents alleged to be infringed.

Sec. 2. It shall be an unfair trade practice to the full extent permitted by any existing patent laws for any manufacturer or importer or agent or dealer of packaging machinery and/or equipment or parts thereof to assume in any contract any obligation or liability in connection with patent infringement suits brought against the purchaser or user of the machinery and/or equipment or parts thereof, other than to assure the legal expense of suits charging that such machinery and/or equipment or parts thereof infringes, plus damages or profits not to exceed the cost price of the machinery, and/or equipment or parts thereof directly involved in such suit.

Sec. 3. *Secret Rebates.*—It shall be an unfair trade practice to make 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. 4. *Commercial Bribery.*—It shall be an unfair trade practice 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 competitors 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. 5. *Interference with Contractual Relations.*—It shall be an unfair trade practice maliciously to induce or attempt to induce the breach of any 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.

Sec. 6. *Misrepresentation or False or Misleading Advertising.*—It shall be an unfair trade practice to make or cause or knowingly permit to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry and trade, or the credit terms, values, policies, or services of any member of the industry and trade, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

Sec. 7. Particular product groups of competitors within the Packaging Machinery Industry and Trade may, with the approval of the Code Authority and the Administrator and the President, establish supplementary codes of fair trade practices applying to their particular products, covering such problems as costs, trade-in allowances, selling on trial basis, charges for installation, demonstration and service, and other problems. Such a supplementary code shall apply to all members of the particular product group within the industry and trade, on that part of their business covered by the product definition.

Sec. 8. Where before June 16, 1933, the members of the industry and trade have contracted to purchase goods at a fixed price for

delivery during the period of this agreement, the members of the industry and trade will make an appropriate adjustment of said fixed price to meet any increase in cost caused by the seller having signed the President's Reemployment Agreement or having become bound by any Code of Fair Competition approved by the President.

Sec. 9. No section of this Article XIII of this Code shall apply to sales outside of the United States of America.

Sec. 10. 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 this Code.

Sec. 11. If any member of the industry and trade is also a member of any other industry and trade, the provisions of this article of this Code shall apply to, and affect, *only* that part of his business and product which is included in this industry and trade.

Article XIV—Modification

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 and modify his approval of this Code or any conditions imposed by him upon his approval thereof.

Article XV—Amendments Contemplated

Section 1. (a) 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, be modified or eliminated as changed circumstances or experience may indicate.

(b) This Code is intended to be a basic Code. Study of the trade practices of the industry and trade will be continued by the Code Authority with the intention of submitting from time to time additions to, or revisions of, or supplements to, this Code.

(c) Any such amendments, additions, revisions, or supplements proposed by the Code Authority and approved by the President shall be in full force and effect after such approval.

Article XVI—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 XVII—Effective Date

This Code shall become effective and binding on all persons engaged in the industry and trade on the eleventh day after its approval by the President and shall not be otherwise effective.

Approved Code No. 72.
Registry No. 1399—30

○

Approved Code No. 73

CODE OF FAIR COMPETITION

FOR THE

HAIR AND JUTE FELT INDUSTRY

As Approved on October 31, 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 Hair and Jute Felt 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,
October 31, 1933.

October 31, 1933.

To the President.

I. Introduction

This is the report on the application for, and public hearing on, a Code of Fair Competition for the Hair and Jute Felt Industry as proposed by the Hair and Jute Felt Manufacturers' Association.

The hearing was conducted in Washington, D.C., on September 29, 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 statutory requirements as representing 90 percent of the volume of business and 83.33 percent of the number of establishments.

II. Description of Industry

The Hair and Jute Felt Industry is one of the small but distinct divisions of the textile field.

At the present time this industry is composed of 17 members with a production of about $4,500,000, although the normal production would more likely approximate $9,000,000 annually. These 17 firms now employ in the neighborhood of 1,621 persons.

Although the products are fabricated from the same raw materials used by the textile industry generally, the productive machinery, as well as the competition, are different. Certain items are made by the punching process while others are made by hardening machines, or, again, by a combination of both. The chief competition is with cork, paper, wood fibers, straw, and sea weed as insulation materials, with cork and paper in the gun-wad field, with rubber and celotex for automotive use, and with paper in the field of carpet lining. Only to a very limited extent is there any competition with cotton, wool, silk, rayon, or other textile fabrics.

Seasonal trends and the production schedules of other industries exert considerable influence. For example, gun wadding reaches its peak during the early fall, while products for the automobile industry naturally follow the trend of output in that industry.

At first glance it would seem that because hair and jute products are of a nonperishable nature a more even annual production could be obtained by manufacturing in anticipation of demand. There are several factors that make this course impractical. The raw materials, as well as the finished products, are of an extremely bulky nature and would necessitate large storage facilities, which the

industry does not possess and would not be justified in building. Also, the raw materials are subject to price fluctuations that would entail the danger of severe losses if sufficient inventories of finished or unfinished goods were stocked.

Because of this, firms representing 95 percent of the productive capacity of the industry were opposed to any limitation of machinery hours and claimed that any restriction would work a severe hardship, either through loss of business or by the necessity for further plant investment.

A group in the industry, small in both number and volume, wished to have productive machinery limited to two shifts of forty hours per week, which was not granted because it was felt that such a restriction would react to the detriment of the industry and the public alike.

It is proper to point out that in normal times an important part of the Hair and Jute Felt Industry's products are used by the building trades for soundproofing and insulation purposes, as well as by the builders of railroad passenger and freight cars. Both of these industries have been at low ebb for the last few years, but when the expected upturn in building construction and railroad replacement occurs, hair and jute felt manufacturers would be seriously handicapped in supplying the requirements of these trades if their machinery was hedged about with restrictions.

Because of the entire lack of any competition with other branches of the textile industry, it is entirely appropriate that the Hair and Jute Felt Industry should be allowed to operate machinery on an unrestricted basis.

III. Labor Provisions

The industry proposes to pay a minimum wage of 35¢ per hour, with a maximum of 40 hours per week for labor. A tolerance of 10 percent above this figure will be allowed for certain employees such as hair washers, dryers, and extractors, who will receive time and one third overtime for work in excess of 40 hours.

This leeway was to avoid any possible spoilage of raw material, particularly hair, during preparatory processes. After the hair is received from the tannery, it is washed, and, once in the wet state, must be carried through other processes until dried and baled, because if left wet, deterioration and spoilage would result.

IV. Administration

The provisions for administration of this code are capable of providing the NRA and the Hair and Jute Felt Industry with sufficient data to make recommendations for the elimination of certain provisions of the code as herewith presented and/or the addition of further provisions to this code which would be beneficial to the industry as a whole.

V. Conclusion

I find that the code complies in all respects with the pertinent provisions of title I of the National Industrial Recovery Act, includ-

ing, without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof.

The Hair and Jute Felt Manufacturers' Association is truly representative of the Hair and Jute Felt Industry and the bylaws of this association provide no inequitable restrictions to membership.

Accordingly, I hereby recommend the approval of the Code of Fair Competition for the Hair and Jute Felt Industry.

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

HAIR AND JUTE FELT INDUSTRY

Article I—Preamble

To effectuate the policies of Title 1 of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Hair and Jute Felt Industry and shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

Article II—Definitions

(a) The term "industry", as used herein, includes the manufacture of felt principally from hair and/or jute by the hardening and/or punching processes.

(b) 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.

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

(d) 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.

(e) The term "signatory of the code", as used herein, means any member of the industry who shall voluntarily agree in writing as prescribed in Article VI, Section (c) hereof.

(f) The term "division", as used herein, refers to the several parts of the hair and jute felt industry which are (or may be) established.

(g) 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—Wages

(a) No employee shall be paid at less than the rate of thirty-five (35) cents per hour.

(b) Hourly wage rates for those receiving more than the minimums herein prescribed shall be adjusted to preserve differentials existing on March 1, 1933.

(c) This Article establishes a guaranteed minimum rate of pay, regardless of whether the employee is compensated on a time or piece work basis.

Article IV—Hours of Labor

(a) No employee, except those in a managerial or executive capacity, who receives more than $35.00 per week shall be permitted to

work in excess of 40 hours in any one week, provided that a ten percent additional allowance in hours may be permitted in the case of repair-shop crews, firemen, engineers, electricians, outside crews, watchmen, cleaners, hair washers, dryers, extractors, and balers.

(b) 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.

(c) Any emergency time shall be reported monthly to the National Control Committee hereinafter provided.

(d) The rate of pay for time in excess of forty (40) hours shall be one and one third (1⅓) times the regular rate of pay.

Article V—Child Labor

Employers in the hair and jute felt industry shall not employ any person under the age of sixteen years.

Article VI—Administration

(a) To effectuate further the policies of the Act, a National Control Committee is hereby designated to cooperate with the Administrator as a Planning and Fair Practice Agency for the Industry. This Committee shall consist of five (5) representatives of the industry elected by a fair method of selection, to be approved by the Administrator and up to three (3) members without vote may be appointed by the Administrator. Such agency may present to the Administrator recommendations for the modification of the provisions of this Code, which will tend to effectuate the operation thereof and the policies of the Act. Such recommendations, when approved by the Administrator, after such notice and hearing as he shall deem proper, shall have the same force and effect as if originally incorporated in and made a part of this Code.

(b) 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.

(c) 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 the Code, and to pay their reasonable share of the expense of administration thereof shall be entitled to the benefits of the activities of the National Control Committee and to participate in the selection of the members thereof.

(d) The reasonable share of the expense of administration of the Code to be borne by the signatories of the Code shall be determined by the National Control Committee, 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.

(e) With a view of 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, members of the industry shall

furnish to the National Control Committee through its authorized accountant, in such form, and at such intervals as it may prescribe, subject to the approval of the Administrator, duly certified reports containing such information, reasonably pertinent to the effectuation of the purposes of this Code, as may be required by the Administrator or by the National Control Committee subject to the approval of the Administrator.

Such information or copies thereof shall be furnished to the Administrator upon his request.

Totals and subtotals only shall be published, and shall be furnished to all members of the industry alike.

(f) In addition to the information required to be submitted to the National Control Committee, 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.

(g) The National Control Committee shall require that all members of the industry file lists of prices and terms with the Secretary of the Hair and Jute Felt Manufacturers Association. Changes in price lists shall be with the Secretary at least forty-eight (48) hours before becoming effective.

(h) The National Control Committee shall secure current information concerning the competition in domestic markets of imported hair and/or jute 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 Act and petition for suitable restrictions on the importation of such hair and/or jute felt products.

(i) Each trade or industrial association directly or indirectly participating in the selection or activities of the National Control Committee 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.

(j) In order that the National Control Committee 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 National Control Committee is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the National Control Committee.

Article VII—Trade Practices

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

(a) *Sales below Cost.*—The selling or offering for sale of hair and/or jute felt products at prices below cost of production, except: (1) to meet competition, not instigated directly or indirectly by the party desiring to meet such competition, and (2) to meet competi-

tion in violation of this rule concerning which he has made complaint to the National Control Committee or any authorized agency thereof, but only pending action thereon. This provision shall not be effective until the Administrator shall approve a method of cost accounting to be recommended by the National Control Committee.

(b) *Sales below Published Prices.*—Selling at prices below or on terms more favorable than those filed with the National Control Committee.

(c) *Sales of Nonstandard Grades or Classifications.*—The selling or offering for sale of nonstandard grades or classifications of hair and/or jute felt for the purpose of evasion of the above Section (b). Standards shall be established by the National Control Committee, subject to approval by the Administrator. This shall not be interpreted so as to prohibit the introduction or sale of any new types of hair and/or jute felt.

(d) *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.

(e) *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.

(f) *Advertising.*—The granting to a customer of any advertising allowance of any nature or in any form.

(g) *Subsidies.*—The splitting or otherwise sharing by salesmen or other employees of their commissions or compensation with any present or prospective customer or customers' employees.

(h) *Merchandising Standards*—

(1) *Weight of Merchandise.*—To intentionally ship any customer merchandise which weighs substantially more or less than the average published weight. A tolerance of 7½% over or under the specified weight will be allowed, but this must not be by design. On all price lists, advertising matter, etc., the average weight of each product shall be given in one weight only, and not a range of weights.

(2) *Seconds.*—To protect the public against misleading and defective merchandise, "seconds" of carpet and rug lining shall not be offered for sale. Seconds, as used herein, connotes merchandise of the same specification as regularly listed, which are sold at a concession because of defect.

(3) *Discontinued Lines.*—Any member of the industry may offer up to 10,000 square yards per calendar year of discontinued merchandise below cost or published price list; provided he advises the Executive Secretary, who shall notify all signatories of the Code, the nature, quantity, and price of the merchandise thus offered.

(i) *Invoicings.*—Fictitious invoicing of merchandise and the shipment of merchandise, which weighs substantially more or substantially less than the published weight.

The omission from an invoice of any material item pertaining to the sale, such as allowance of overriding discount payable at some future date.

All goods shipped by a manufacturer to or for customers carried on his own books shall be fully invoiced in the name of the customer to whom or for whom the goods are shipped and by whom payment will be made to the manufacturer. No manufacturer shall invoice any customer for products other than those actually shipped against the invoice.

Article VIII—General Provisions

(a) No provisions of this Code shall be so applied as to promote monopolies or monopolistic practices or to eliminate, oppress, or discriminate against small enterprises.

(b) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from all interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in the 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 of the United States.

(e) 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.

(f) 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 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 hereof.

(g) 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.

(h) Each employer shall post in conspicuous places full copies of this Code.

Article IX—Effective Date

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

Approved Code No. 73.
Registry No. 232/1/03.

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Approved Code No. 74

CODE OF FAIR COMPETITION

FOR THE

TERRA COTTA INDUSTRY

As Approved on October 31, 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 Terra Cotta 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 is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 31, 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 Terra Cotta Industry in the United States, conducted in Washington on September 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 for a maximum work week of forty hours, with the following exceptions:

(a) Employees in supervisory, technical, or executive capacities receiving in no week less than $35.00, outside salesmen and watchmen;

(b) Office and technical staff, who shall receive time and one-third for time over forty hours per week; draftmen, repair shop crews, engineers, electricians, outside crews, and cleaners, who shall receive time and one-third for time over forty-four hours per week; estimators and firemen, who shall receive time and one-third for time over forty-eight hours per week.

This code provides for minimum rates of pay of thirty-five cents in the North and thirty cents in the South, regardless of whether an employee is compensated on a time rate, piecework rate, or other basis.

It provides a minimum rate for watchmen of $15.00 per week. A person whose earning power is limited because of physical or mental defect, age, or other infirmity, may be employed at a wage below the above mentioned minima, 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.

To the extent practicable, earnings shall not be decreased and rates of pay in excess of the minimum prescribed in the Code shall be increased so as to preserve equitable differentials.

No person under sixteen years of age shall be employed and none under eighteen employed in any hazardous occupation.

ECONOMIC EFFECTS OF THE CODE

This industry is, at the present time, in a most serious condition. According to figures presented by the Code Committee, the sales for the first eight months of 1926 amounted to $14,057,082, whereas for the first eight months of 1933 they amounted to only $577,517, or approximately four percent of the 1926 figure.

In view of the present low volume of business in this industry, it is doubtful whether the adoption of this code will result in a large immediate increase in employment. If the industry were to return to normal volume of business, the code would result in an increase

of over 20 percent in the number of men employed and close to $1,500,000 in annual payroll, according to figures presented by the Code Committee.

The minimum wage rates specified represent an increase over minimum wage rates, now prevailing within the industry, of from 75 percent to 100 percent in the North and of approximately 150 percent in the South. For an industry, in the condition in which this one finds itself, to go so far is evidence of a very fine spirit of cooperation.

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 Terra Cotta 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

TERRA COTTA INDUSTRY

Article I—Purpose

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 of the interests of the public, employees, and employers, and otherwise rehabilitating the Industry, the following provisions are submitted as a Code of Fair Competition for the Terra Cotta 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 "Industry" as used herein is defined to mean the manufacture for sale of hand-made architectural terra cotta and/or machine-made terra cotta wall facing of the type fabricated by architectural terra cotta manufacturers for use in the erection and construction of buildings.

B. The term "Employee" as used herein shall include anyone engaged in the Industry as hereinabove defined in any capacity receiving compensation for his services, irrespective of the 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 "District" as used herein means a geographical district of the United States as established by the Code Authority.

E. The term "North" as used herein means all territory in the United States except that listed below under "South."

F. The term "South" as used herein means the following States: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North and South Carolina, Oklahoma, Tennessee, Texas and Virginia.

G. The term "Bid" as used herein means a lump sum estimate and proposal of a terra cotta manufacturer to furnish to an owner or to a general contractor or to a subcontractor for masonry, the terra cotta required for a particular building project, according to the drawings of the architect and the specifications for such building.

H. 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.

I. The term "Effective Date" as used herein shall mean the second Monday after the approval of this Code by the President.

Article III—Labor

A. *Wages.*—1. On and after the effective date, except as hereinafter set forth, no employee shall be paid at less than the rate of thirty-five (35) cents per hour in the North and thirty (30) cents per hour in the South.

2. The foregoing paragraph of Section A establishes a minimum rate of pay regardless of whether an employee is compensated on a time rate, piecework rate, or other basis.

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. Watchmen either in the plant or office shall be paid not less than $15.00 per week.

5. A person whose earning power is limited because of physical or mental defect, age, or other infirmity, may be employed at a wage below the minimum set by the 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. State Authorities will be guided by the instructions of the United States Department of Labor in issuing certificates to such persons.

B. *Hours.*—1. On and after the effective date, no employee shall work or be permitted to work in excess of forty (40) hours in any one week.

2. The provisions of the foregoing paragraph of Section B shall not apply to employees in supervisory, technical, or executive capacities, receiving in no week less than $35.00, or to outside salesmen, watchmen, and janitors, or to the following employees:

(a) Estimators, who may work not to exceed forty-eight (48) hours per week, with payment of time and one-third for overtime thereafter.

(b) Draftsmen, who may work not to exceed forty-four (44) hours per week, with payment of time and one-third for overtime thereafter.

(c) Office and technical staff, who may work not to exceed forty (40) hours per week, with payment of time and one-third for overtime thereafter.

(d) Firemen, who may work not to exceed forty-eight (48) hours per week, with payment of time and one-third for overtime thereafter.

(e) Repair-shop crews, engineers, and electricians, outside crews and cleaners, who may work not to exceed forty-four (44) hours per week, with payment of time and one-third for overtime thereafter.

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 permitted herein.

C. *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 pro-

vision 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.

D. *Classification.*—Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

E. *Stability of Employment.*—An employer shall so administer work in his charge as to provide a maximum practicable continuity of employment for his personnel.

F. *Related Laws.*—Within each State this Code shall not supersede any laws of any governmental authority 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.

G. *Posting of Code.*—Each employer shall post in conspicuous places in each department full copies of this Code.

H. *Statutory 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.

Article IV—Reports

A. 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, and in order to effectuate the declared policy of the Act, and with a view to keeping each manufacturer appropriately informed respecting the Industry, each employer in the Industry shall furnish to the Code Authority, or to such agency as the Code Authority may hereafter designate, duly certified reports in substance as follows, and in such form as may hereafter be prescribed.

1. *Wages and Hours of Labor.*—Returns every four weeks showing actual hours worked by the various occupational groups of employees and minimum weekly rates of wage.

2. *Reports on Orders.*—Weekly returns showing orders taken in terms of the commonly used units; i.e., tonnage and net dollars of each such order.

3. *Bids or Estimates.*—Daily or current record of bids submitted.

B. The National Terra Cotta Manufacturers' Association is initially constituted the agency, directly and through its district offices,

to collect, to receive, and to disseminate such reports. Such Agency and/or the Code Authority shall make reports to the Administrator at such times and concerning such conditions in the Industry, or any other matters pertinent to this Code or to the Act, as he may prescribe.

In addition to the information required to be submitted as hereinabove set forth, employers shall furnish to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

Article V—Arbitration

All members of the National Terra Cotta Manufacturers' Association, and such other members of the Industry as may hereafter have subscribed to this Article of this Code, shall submit any questions and/or controversies between members of the Industry or districts thereof arising out of conditions in the Industry or out of the operation of the provisions of this Code to determination, subject to review by the Administrator, by an arbitration board, appointed by a committee consisting of the President, the three National Vice Presidents, the National Treasurer, the National Secretary, and the three executive committee members of the National Terra Cotta Manufacturers' Association. As a condition precedent to such arbitration, such members or Districts shall obtain a certificate from the Code Authority or, if the controversy be confined to members within the same district, a certificate from the designated agency of the Code Authority within that district, that the subject matter of the controversy is appropriate for arbitration. Such committee shall appoint such arbitration boards upon request of any member of the Association or of any member of the Industry who has subscribed to the provisions of this Article or upon the request of any District of the Industry; provided, however, that the provisions of this Article shall not be construed as inconsistent with any provisions of the Act or with such rules or regulations as the Administrator may, in accordance with law, prescribe.

Article VI—Administration

A. To effectuate further the policies of the Act, a Code Authority, consisting of three members of the Industry, or of such other number as may be approved from time to time by the Administrator, elected by members of the Industry by fair methods of election, is hereby established to cooperate with the Administrator as a planning and fair practice agency for the Industry. The National Terra Cotta Manufacturers' Association is hereby designated as the agency to conduct such election and the Code Authority so elected is hereby designated as the agency to promote the purposes of this Code. Such election shall be conducted within sixty days from the effective date of this Code and the term of office shall be for the period terminating on August 16, 1935. The Administrator, if he so elects, may appoint not more than three additional nonvoting members of the Code Authority to serve as his representatives or as representatives of such interested groups as he may designate.

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. 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 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 administration of this Code.

(2) The Code Authority may prepare and adopt for the Industry, after the approval thereof by the Administrator, a uniform system or method of estimating job costs, which system or method shall specify the items to be included in determining cost. After the adoption and approval of such system or method, as hereinabove provided, each member of the Industry shall keep accounts and records in such manner as will clearly indicate the information required for the purpose of estimating job costs as referred to above.

D. 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 operation of the provisions of this Code and the policy of the National Industrial Recovery Act, and in particular along the following lines:

(1) Recommendations as to the requirements by the Administrator of such further reports from persons engaged in the Terra Cotta Industry of statistical information and keeping of uniform accounts as may be required to secure the proper observance of the Code and permit the proper balancing of production and consumption, and the stabilization of the Industry and employment.

(2) Recommendations for changes in, or exemptions from, the provisions of this Code as to the working hours which will tend to preserve a balance of productive activity with consumption requirements so that the interests of the Industry, employees, and the public may be properly served.

(3) Recommendations as to unfair methods, conditions of trading, and destructive practices to promote the stabilization of the Industry and to prevent and eliminate unfair and destructive practices.

(4) Recommendations for dealing with such other matters as may seem advisable to effectuate the purposes of the Act.

E. Such recommendations, when approved by the Administrator, after such hearing as he may prescribe, shall have the same force and effect as any other provisions of this Code.

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

G. The Code Authority may make such studies, as in its judgment will promote safe, healthful, and otherwise satisfactory working conditions for employees in the Industry.

H. The Code Authority may designate governing agencies in districts of the Industry for the administration of this Code in such districts, and the members of such district governing agencies shall be persons, either members of the Industry or bona fide employees of such members, elected by the members of the Industry in such Districts; the Code Authority may delegate to such agencies such of its powers and authority as may be necessary for the administration of this Code within such districts, including the right to submit to the Administration recommendations for Code provisions applicable only to such districts, within the scope of the powers granted under this Code but the Code Authority shall reserve the power and duty to administer the provisions of this Code.

I. Where the costs of executing contracts entered into by members of the Industry prior to June 16, 1933, are increased by the application of the provisions of the Act to the Industry, it is equitable and promotive of the purpose of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at, with the consent of the parties to such contract, by arbitral proceedings or otherwise, and the National Terra Cotta Manufacturers' Association is constituted an agency to assist in effecting such adjustments.

Article VII—Amendments

A. 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 any provision of this Code or any conditions imposed by him upon his approval thereof.

B. This Code, except as to provisions which are required to be included therein 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.

C. 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 price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the Act consistent with the provisions hereof.

Article VIII—Membership

The National Terra Cotta Manufacturers' 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 purpose of the Act.

Article IX—Monopolies

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. The provisions of this Code shall not be so construed, interpreted, or applied as to eliminate or to oppress or to discriminate against small enterprises, nor shall the conduct of the Industry and of the several members thereof be such as to eliminate or to oppress or to discriminate against small enterprises.

Article X—Coordination

The Code Authority may cooperate in the formulation of a basic code of fair competition or of an agreement pursuant to the Act, for producers of construction materials and may likewise cooperate in the coordination of its activities under this Code with the activities of any administrative agency or agencies established pursuant to any such basic code or agreement, or pursuant to any order issued under the Act.

Article XI—Effective Date

This Code shall become effective on the effective date.

Approved Code No. 74.
Registry No. 1041/01.

O

Approved Code No. 75

CODE OF FAIR COMPETITION

FOR THE

CANNING AND PACKING MACHINERY INDUSTRY

As Approved on October 31, 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 Canning and Packing Machinery Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code 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,
October 31, 1933.

October 23, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Canning and Packing Machinery Industry in the United States, conducted in Washington on October 11, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO WAGES AND HOURS

No person under eighteen (18) years of age shall be employed on work of a hazardous nature, and no person under sixteen (16) years of age shall be employed in this industry.

A minimum wage rate of 40 cents per hour is established for factory employees unless the rate on July 15, 1929 was lower, in which case the rate per hour shall not be less than the rate then paid, provided, however, that in no event shall the rate be less than 32 cents per hour.

The minimum wage paid to any other employee shall not be less than $15.00 per week in any city or trade area of over 500,000 population; not less than $14.50 in any city or trade area of between 250,000 and 500,000 population; and not less than $14.00 in cities or towns of less than 250,000 population.

Office boys and girls, not exceeding 5 percent in number of the total office force of any employer, may be paid not less than 80 percent of the minimum weekly wage.

Existing wage differentials above the minimum shall be maintained as far as practicable, and in no case shall the wage rate, whether on an hourly, weekly, or monthly basis be reduced.

Existing or future apprenticeship contracts shall be filed with the Code Authority.

40 hours is established as the maximum week.

Exceptions cover executives, professional persons, heads of administrative departments, technical engineers, and the immediate assistants of all the foregoing classifications, factory and office supervisory staffs, who receive more than $35.00 per week, outside service men, salesmen, and watchmen, provided that watchmen shall in no case work more than 56 hours during any one week.

It is further provided that in case of emergency when delay would result in the loss of perishable animal, fruit, or vegetable products a tolerance of 20 percent over 40 hours may be worked, but such extra time must be averaged down to 40 hours during any six months' period.

Emergency installation and stores service employees during the canning season are permitted to work extra hours and if the available supply of skilled employees in any particular area is absorbed, such

departments as may be affected may also be permitted to exceed the schedule.

Shipping clerks, stock clerks, and firemen are allowed a tolerance of 10 percent.

ECONOMIC EFFECT OF THIS CODE

This industry is operating at about 30 percent of capacity and has suffered severely during the depression. Employment will be increased at least 20 percent and pay rolls increased approximately 27 percent. This is effected through operating on the shortened schedule of hours provided in this Code. Under normal conditions the industry has worked as high as 60 hours per week during peak production with annual averages of 45 hours per week.

Very little machinery can be built for stock and a large proportion must be assembled under emergency conditions, sales of new equipment to a large extent depending on any surplus vegetable, fruit, or animal products which might otherwise deteriorate.

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 Canning and Packing Machinery 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

CANNING AND PACKING MACHINERY 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 Canning and Packing Machinery Industry and shall be binding upon every member thereof.

Article II—Definitions

"Industry" as used herein means the Canning and Packing Machinery Industry, which embraces the manufacture for sale or sale in the open market and within the United States of America or its territories of canning machinery used for the preparation and processing of foods for human or animal consumption; machinery used for the manufacture of cans and containers for such foods; machinery used for the preparation and packing of fresh fruits and vegetables; machinery used for the dressing, processing, and packing of animal, poultry, and fish products, whether intended for final sale in fresh, frozen, or canned form; and machinery used for the processing and packing of dried or dehydrated fruits and vegetables and parts thereof.

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.

Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

The term "Institute" as used herein means the Canning and Packing Machinery Institute, or any committee, or section thereof, to whom it has delegated authority.

The term "Code Authority" as used herein means the supervising and administering body charged with representing the Industry and the Administrator in promulgating the rules governing the operation of the Industry under this Code.

The term "effective date" as used herein means the eleventh day after the approval of this Code by the President.

Article III—Employment

(a) (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.

(b) This Code establishes a minimum rate of pay. regardless of whether an employee is compensated on a time-rate, piece-work, or other basis.

(c) Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

(d) 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.

(e) No employer shall operate on other than a schedule of 6 days work in seven except in cases of emergency.

(f) 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 health, fire, or general working conditions than 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 places full copies of this Code.

Article IV—Minors

No person under sixteen (16) years of age shall be employed by any employer and where State laws require higher wages or shorter hours of employment, such requirements shall be complied with in such States. No minor under the age of eighteen (18) years shall be employed on any power-driven, wood-working or metal-working machinery or in hot or cold forging processes or in any other occupation determined by the Code Authority to be hazardous provided, however, that on complaint the Administration may review and disapprove or modify such determination.

Article V—Wages

(a) On and after the effective date the minimum wage that shall be paid by any employer to any factory employee engaged in the Industry, and in labor operations directly incident thereto, shall be not less than forty (40) cents per hour unless the rate per hour for the same class of labor on July 15, 1929, was less than forty (40)

cents in which case the rate per hour paid shall be not less than the rate per hour paid on July 15, 1929, and provided that in no event shall the rate per hour paid be less than thirty-two (32) cents per hour.

(b) On and after the effective date, the minimum wage that shall be paid by any employer, to all other employees shall be not less than fifteen dollars ($15) per week in any city of over 500,000 population or in the immediate trade area of such city, nor less than fourteen and a half dollars ($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 fourteen dollars ($14) per week in any city or town of less than 250,000 population or in the immediate trade area of such city or town.

Provided, however, that office boys or girls (other than apprentices) may be paid not less than eighty (80) percent of such minimum wage, but the total number of such office boys or girls at such reduced rate shall not exceed in any calendar month five (5) percent of the total number of all employees covered by the provisions of this paragraph (b), provided that each employer may employ a minimum of one office boy or girl.

(c) To the extent practicable, the wage rates, whether on an hourly, weekly, monthly, or piecework basis, of employees receiving more than the minimum wage rates shall be equitably adjusted, and in no case shall the aforesaid wage rate and/or rates be decreased as a result of this adjustment of hours, so that existing differentials shall be maintained and, to the extent practicable, recognition shall be given to the desirability of maintaining earnings, provided such adjustment has not already been made since June 16, 1933; further, each employer shall report action taken under this section to the Code Authority.

(d) Nothing in this Article V 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 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.

(e) Any employee who, by reason of disability or infirmity, is competent only for light employment shall be paid not less than eighty (80) percent of the minimum wage referred to in paragraph (a) of this Article V, provided that a record of each case shall be filed with the Code Authority.

Article VI—Hours

Section 1. (a) The proponents of the code represent that the demand for canning and packing machinery is subject to fluctuations not believed to prevail in many other industries and that there is but one customer for these machines, the canner or packing house or farmer who uses the same, and the ability of this customer

to buy is conditioned upon the price, quality, and quantity of the various crops. The demand, even in periods of comparative prosperity, is greatly varied and often obliterated by unforeseeable weather conditions, pests, or plant diseases such as drought, hail, and tornadoes, or the prevalence of corn borers, aphis, blight, coddling moths, and the like. Probably 75% of the variations in yields is due to such or similar causes. An emergency demand for certain machinery is often created by the same conditions. For example, the failure of a crop in one section of the country may result in a substantial increase in late plantings in another section, and to care for the handling of the same, machinery must be provided almost overnight.

(b) While this Industry recognizes and sympathizes with the ideal of a limited work day and work week and believes that 8 hours per day and 5 days per week is desirable, yet it is impossible to adopt such limitations in meeting the requirements of the processors of perishable food products, as a considerable variation in factory hours has always been essential and must be permitted.

Sec. 2. (a) No employer shall employ any employee in excess of forty (40) hours per week.

(b) Provided, that these limitations of hours shall not apply to executives, professional persons, heads of administrative departments, technical engineers, and the immediate assistants of all the foregoing classifications, factory and office supervisory staffs, not including foremen primarily engaged in productive work, provided that no person receiving less than thirty-five ($35.00) dollars per week shall be considered to come under any of the foregoing exempted classifications of this paragraph, outside service men and traveling salesmen, and watchmen, provided, however, that watchmen shall not work more than fifty-six (56) hours in any one week.

(c) Provided, further, in order to meet any emergency demands where the delay in furnishing equipment might result in the loss of perishable animal, fruit, or vegetable products a tolerance of not more than 20% in the number of hours worked may be permitted, but in no case shall the time worked exceed 40 hours per week on a six-month average and further provided that all such emergencies be reported to the Code Authority and such information made available to the Administrator.

(d) Provided further, that these limitations shall not apply to highly skilled employees engaged in emergency installation work nor to stores service employees during active canning and/or packing seasons, nor when the available supply of employees in any certain skilled trade within a locality or trade area have been absorbed into the industry, but in all such emergencies the Administrator shall be advised; provided further, as to employees engaged in the care of plant and production facilities, firemen, and stock and shipping clerks there shall be a tolerance of 10 percent.

(e) For the purpose of adjusting operations to comply with the six months' average requirement, any employer may adopt for each location such six-month period as is most appropriate for the business there conducted.

Article VII—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 the Executive Committee of the Institute. In addition, its membership may include two (2) nonmembers of the Institute elected by some fair method of selection by the nonmembers, and upon his request not more than three (3) nonvoting appointees of the Administrator.

(b) Each trade or industrial association directly or indirectly participating in the selection of 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.

(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) To collect from employers in the Industry all data and statistics required by this Code or by the President or his agents under the National Recovery Act and make same available to the Administrator; provided, however, that such information shall be confidential except insofar as disclosure may be necessary for the effective administration and enforcement of this Code, and in no case shall the data and statistics furnished by any employer be revealed to the competitor of said employer.

(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) 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 regulation issued thereunder.

(d) To hear complaints and attempt to adjust the same and report the results thereof to the Administrator.

(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 the approval of the National Recovery Administration.

(f) 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.

(g) No employer shall use any subterfuge to frustrate the spirit and intent of the purposes of this Code, which is, among other things, to increase employment, to remove obstructions to commerce, and to shorten hours and raise wages for the shorter week.

(h) Aggregations of employers having a common interest and common problems may be grouped by Code Authority for administrative purposes into various subdivisions or product classifications, and such subdivisions shall be subject to review by the Administrator.

(i) In each subdivision or product classification there may be a subsupervisory Authority approved or appointed by Code Authority subject to the approval of the Administrator. If formal complaint is made that provisions of this Code have been violated by any employer, Code Authority may delegate the proper subsupervisory Authority to investigate the facts, or may cause such investigation to be made as it may deem necessary, and the results of said investigation shall be reported to the Administrator.

Article VIII—Accounting and Costing

Every employer shall use an accounting system which conforms to the principles of and is at least as detailed and complete as a standard method of accounting and a standard method of costing to be formulated or approved by Code Authority with such variations therefrom as may be required by the individual conditions affecting any employer or group of employers, and which standards shall be subject to the approval of the Administrator.

Article IX—Not To Sell Below Cost

In recognition of the fact that the Industry has suffered from nonprofit sales no employer shall sell or exchange any product of the Industry manufactured by him at a price or upon terms and conditions which will result in the purchaser paying for the goods received less than the cost thereof to the employer as determined in accordance with the method of costing described in Article VIII; provided, that dropped lines, or seconds, or inventories which must be converted into cash to meet emergency needs may be disposed of by any employer at any lesser price and on any terms and conditions, but all such sales shall be reported to the Code Authority; provided further, should subnormal conditions continue a member of the Industry with the approval of the Administrator may take his costs prevailing during the last year in which such individual employer made a profit as cost for the purpose of this Section.

Upon new machines developed since the aforesaid profit year overhead rates used in said profit year shall be used unless actual cost figures thereon shall be filed with the Code Authority.

Article X—Price Lists

(a) Each employer in the Industry shall immediately file with Code Authority or with some other responsible, disinterested agent designated by it at such place as shall be determined, a confidential net price list and discount sheet independently prepared by such employer, showing his current prices and discounts and terms of payment, and no sales shall be made except upon such price lists. Any change price lists and discount sheets shall be similarly filed from time to time thereafter, to become effective upon a date specified therein, which shall not be less than ten days after the same shall be so filed, except that upon machines newly designed and/or invented the price list therefor shall become effective immediately upon same being offered for sale and the price list filed within five days thereafter. No employer in the Industry shall sell any product referred to therein for any other prices or upon any other discounts or better terms than as set forth in his last net price list and discount sheet filed as herein provided.

(b) Included in such deposited price list shall be a schedule of installation charges, setting forth the rates to be charged for such work, including traveling and living expense.

(c) At its discretion, and upon the approval of the Administrator, Code Authority may appoint an Auditor who shall not be an employee of any employer to visit the various employers' offices, check the sales records as compared to the aforesaid deposited price lists, terms, and discount sheets, and report his findings to it.

(d) Code Authority shall review all Auditor's findings and shall report violations of this Code to the Administrator.

Article XI—Unfair Practices

The practices hereafter enumerated in this paragraph, if indulged in by any member of the Industry, shall constitute acts of unfair competition within the meaning of, and with the effect and penalties set forth in paragraph (b) of Section 3 of the Act.

(a) Knowingly or willfully failing to comply with any of the provisions of this Code;

(b) Making or promising of any bribe, gratuity, gift, or other remuneration, directly or indirectly, to any employee or officer of any purchaser or prospective purchaser for the purpose or with the effect of making a sale of any product of the industry;

(c) Circulating or disseminating false or misleading information relative to the product, price, credit standing, ability, or performance of any competitor in the industry;

(d) Knowingly inducing or trying to induce in any manner the violation of any contract with any competitor in the industry;

(e) Granting 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;

(f) Procuring any information concerning the business of any employer in the industry which is properly guarded by such employer as a trade secret or as confidential within its organization otherwise than with the consent of such employer; provided, however, that this shall not apply to information obtained relevant and pertinent to any investigation undertaken under this Code;

(g) Selling or offering to sell any new machine upon which the seller thereof has not deposited a price list in effect on the date of such sale or offer except for newly designed and/or invented machines;

(h) Making or offering to make a trade-in allowance for any machine more than two years old greater than 15% of the price of the new machine or of the original price of the trade-in machine, whichever is lower;

(i) Selling or offering to sell any product of the industry at a price less than or upon discounts and terms other than those set forth in the deposited price list of the manufacturer thereof or secretly or openly agreeing to divide with the purchaser or intending purchaser any selling commission or discount granted by an employer to the selling agent or agency;

(j) Agreeing to install any machine or equipment free of charge to the purchaser thereof or failing to charge the deposited rate for installation as set forth in the price list.

(k) So long as the maker of any trade-marked machine or design (or his successor in business) continues to make the same or to supply repair parts therefor, it shall be an unfair method of competition for any other employer to make and supply either repair parts for or such machine and design unless (a) the name of the maker thereof is plainly marked on each machine, design or part, and if this is impractical as to parts on the package or tag thereof and (b) unless in such a manner as to clearly indicate to the ultimate user that said machine, design or parts were not made by the maker of the original machine, design or part.

Article XII—Sales for Export

Except as may be subsequently set forth in a specific or supplementary Export Code for the industry, the provisions of this Code now or hereafter adopted with regard to prices, discounts, deductions, allowances, extras, commissions, or methods and/or terms of sale, are not to apply to direct export sales or to sales in course of export, (i.e., sales destined ultimately for export) or to sales of materials used in the manufacture of products for export, but the provisions of Article IX shall apply to such sales.

Article XIII—Rights of President

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 XIV—Amendments Contemplated

This Code is intended to be a basic Code. Study of the trade practices of the industry will be continued by Code Authority with the intention of submitting from time to time after its effective date additions to, or revisions of, or supplements to, this Code; such additions, such revisions, and such supplements, however, shall conform to and be consistent with the provisions of this Code as now constituted, or hereafter changed.

Any such amendments, additions, revisions, or supplements proposed by Code Authority and approved by the President shall be in full force and effect from and after such approval.

Article XV—Segregation of Industry

If any employer of labor in the industry is also an employer of labor in any other industry, the provisions of this Code relating to selling and business practices shall apply to and affect only that part of his business and product which is included in this industry.

Article XVI—Effective Date

This Code shall become effective on the 11th day after its approval by the President.

Approved Code No. 75.
Registry No. 1399–35.

O

Approved Code No. 76

CODE OF FAIR COMPETITION

FOR THE

ROCK CRUSHER MANUFACTURING INDUSTRY

As Approved on November 1, 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 Rock Crusher Manufacturing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code 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 1, 1933.

29914——296-176——34

October 23, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Rock Crusher Manufacturing Industry in the United States, conducted in Washington on September 12, 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. When production demands it, this working time may be increased to 44 hours per week in not more than 8 weeks in any 6 months' period, the average hours to be not more than 40 per week. Time and one half will be paid to employees working in excess of 8 hours per day or 40 hours per week.

Those employed as preparation, care, and maintenance workers, or as stock or shipping clerks, will be given a tolerance of 10 percent over the maximum hours prescribed, the average to be not more than 40 hours per week in any 6 months' period. The above limitations in hours do not apply to supervisory employees receiving more than $35.00 per week, service-parts foremen, field service men, nor to emergency maintenance or repair workers, the last class being paid time and one half for all hours worked in excess of 8 per day or 40 per week.

The minimum wage for factory workers will be 40 cents per hour. No distinction in wage rates will be made between male and female employees. Adjustments of wage rates above the minimum provided will be made and will be reported to the Administrator.

A maximum of 40 hours per week is provided for employees engaged in accounting, clerical, service, sales, and delivery work. Their minimum wage will be in accordance with the President's Reemployment Agreement. Salaries now higher than the above minimums will not be reduced because of change in hours provided in the Code. Office boys and messengers will receive not less than 80% of the minimum wage, and the number of office boys, messengers, and apprentices will be not more than 5 percent of the total number of employees of any employer.

Child Labor

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

Economic Effect of the Code

This Industry manufactures portable crushing, screening, washing, and conveying machines for handling rock and gravel. There are

seventeen companies in the Industry, with approximately 1,000 employees. While sales in 1932 were about 80% of the 1929 figures, there were nearly as many employees engaged in the Industry in 1932 as in 1929, because of the "share the work" policy. Only by a revival of the building industry can any appreciable number of employees be added to those already engaged in the Industry.

It is estimated by the Industry that the hours and wages provided in the Code will increase employment approximately 20 percent, and that the average income per employee will be increased approximately 20 percent over the income prior to June 16, 1933.

In working out and accepting its Code this Industry has shown its cooperation in complying with the spirit of the 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 Rock Crusher Manufacturers 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

ROCK CRUSHER 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 Rock Crusher Manufacturing Industry and upon approval by the President shall be the standard of fair competition for this Industry.

Article II—Definitions

The term "Rock Crusher Manufacturing Industry" or "Industry", as used herein, shall mean the manufacture and the sale by the manufacturer of portable Rock Crushers and rock and gravel handling machinery of all kinds of a portable nature and such other items as are regularly used with said portable equipment.

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 his compensation.

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

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.

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

The term "effective date" as used herein means the day on which this Code shall be approved by the President of the United States.

The term "learner" as used herein means a person having no previous experience in the manufacture of Rock Crushers or parts thereof or in a similar Industry and whose period of employment as such shall not exceed six months.

The term "apprentice" as used herein means a person, usually a minor, indentured to serve an employer for a term of years in order to learn a trade, art, or profession.

The term "Association" as used herein means the Rock Crusher Manufacturers' Association.

The term "Administrator" as used herein means the Administrator of the National Industrial Recovery Act.

The term "cash" as used herein means lawful money of the United States or immediately collectible check or equivalent instrument.

Population shall be determined by the United States Census of 1930.

Article III—Participation

Participation in the Code, and any subsequent revision of or addition to the Code, shall be extended and apply to any member of the Industry who assumes his share of the cost and responsibility, as well as the benefit of such participation. No initiation fee shall be charged but there shall be levied an assessment upon each member of the Code, prorated on a basis of dollar volume of sales to meet current expenses and any extraordinary expenses which may be found necessary and are approved by the Code Authority, subject to review by the Administrator.

Article IV—Labor Code

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 agree to the maintenance of working conditions which will insure the health, safety, and happiness of labor.

(e) No member of the Industry shall employ in the Industry any person under the age of 16 years; 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 within the State. No person under the age of 18 years shall be employed in any hazardous occupation.

Sec. 2. *Hours of Labor.*—(a) No employee except as hereinafter provided shall work or be permitted to work in excess of eight (8) hours in any twenty-four (24) hour period nor in excess of forty (40) hours in any one 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, an employee of such division may be permitted to work not in excess of forty-four (44) hours per week in not more than eight (8) weeks of any six (6) months' period, but the average shall not exceed forty (40) hours per week in any six months' period. Where in any case an employee is worked in excess of eight (8) hours in any twenty-four (24) hour period, or forty (40) hours in any one week, time and one half shall be paid for the excess hours so worked.

(b) A tolerance of ten (10) percent shall be allowed for employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, and for stock and shipping clerks and delivery employees; provided, however, that such tolerance shall not result in such employees working in excess of an average of forty (40) hours per week in any six (6) months' period.

(c) The limitations as to hours of labor shall not apply to watchmen nor to employees engaged in emergency maintenance or repair work; provided, however, that employees engaged in emergency maintenance or repair work shall be paid time and one half for all hours worked in excess of eight (8) hours in any twenty-four (24) hour period or forty (40) hours in any one week; provided further, that watchmen shall not be permitted to work more than six (6) days in any seven (7) day period.

(d) No employer shall work any accounting, clerical, service, or sales employee in excess of forty (40) hours per week on a semi-yearly average, or in excess of forty-four (44) hours in any one week.

(e) 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.

(f) Nothing in this Section shall apply to employees in a managerial, an executive, or a supervisory capacity receiving more than $35.00 per week nor to commercial traveling salesmen, outside service men, or stock-room parts men.

Sec. 3. *Rates of Pay.*—(a) The minimum wage that shall be paid by employers to any employee, except as hereinafter provided, shall be forty (40) cents per hour.

(b) No employer shall pay any one of the classes of employees mentioned in Paragraph (d) of Section 2 of this Article at a rate of less than $15.00 per week in any city of over 500,000 population or in the immediate trade area of such city; nor less than $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 $14.00 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city; and in towns of less than 2,500 population shall increase all wages by not less than 20 percent, provided that this shall not require wages in excess of $12.00 per week. Where a State law provides a higher minimum wage, no employee within the State shall be paid a wage below that required by such State law.

(c) No employee of the classes mentioned in Paragraph (d) of Section 2 of this Article now receiving compensation at a rate in excess of the minimum provided in Paragraph (b) of Section 3 of this Article shall have his compensation reduced on account of any reduction in the weekly hours of employment made to conform with the requirements of Paragraph (d) of Section 2 of this Article.

(d) The provisions of Paragraphs (a) and (b) of this Article shall not apply to apprentices, learners, office boys, or messengers to a total number not to exceed 5 percent of the total number of all employees of any employer; provided, that such learners shall be paid not less than 80 percent of the minimum wage provided for in Section 3 (a) of this Article; provided further, that such office boys and messengers shall be paid not less than 80 percent of the minimum

wage provided for in Section 3 (b) of this Article; provided further, that all existing and future apprentice contracts shall be submitted to the Code Authority and shall be subject to the approval of the Administrator.

(e) Where an employee's earnings on piecework, divided by the number of hours worked, produces a result under the minimum wage stipulated in Paragraph (a) of this Article, such earnings shall be so adjusted as to conform with the aforesaid minimum wage.

(f) The hourly wage rate, the base rates for piecework, and the salaries of all employees receiving more than the minimum rate or salary herein provided shall be equitably adjusted, if such adjustments have not already been made.

(g) 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, or piecework basis.

(h) No employee shall be classified in one of the foregoing excepted classes unless he performs functions identical with those performed by employees thus classified on June 16, 1933.

(i) No person who has worked as a learner for one member of the Industry for the period of time specified under the term "learner" in Article II may thereafter be classified as a learner.

(j) The provisions for a minimum wage in this Code establish a guaranteed minimum rate of pay per hour of employment regardless of whether the employee is compensated on a time rate, a piecework performance, or otherwise.

Article V—Trade Practices

Section 1. (a) Each member of the Industry shall accord fair and uniform treatment of his distributors, jobbers, dealers, and other sales representatives. The discount from the published list prices to said distributors, jobbers, dealers, and other sales representatives may vary according to the particular type of equipment, but in no case shall it exceed 20 percent.

(b) Each member of the Industry shall publish and file with the Code Authority a net f.o.b. manufacturer's works price list to apply to consumers. Each member shall sell to the consumer only in accordance with such established price lists and no member shall sell to or through any distributor, jobber, dealer, or other sales representative unless such distributor, jobber, dealer, or other sales representative shall have agreed to sell only in accordance with such published lists. Each member shall file with the Code Authority any change in such published price lists or revisions thereof ten (10) days before such new or changed prices shall become effective.

(c) A very substantial portion of sales to ultimate consumers are made directly by members of the Industry and the balances are made through dealers. In consequence, restriction of members of the Industry to fair-trade practices, to be effective, must be supplemented by prohibiting indirect evasions of such restrictions on the part of members of the Industry by operations through dealers. Accordingly, it is hereby provided that no member of the Industry shall sell any product of the Industry through any dealer until such dealer

agrees to comply with the fair-trade practices set forth in this Article V in the resale of such product.

(d) The f.o.b. price to any destination shall be not less than the price f.o.b. manufacturer's works plus actual freight from the manufacturer's works to destination.

(e) The Code Authority shall set up a uniform method of cost finding, subject to the approval of the Administrator, to be used by all members of the Industry in arriving at unit costs.

(f) For the purpose of reducing selling expense the shipment of equipment for the purpose of demonstrating or otherwise influencing the award of an order, in advance of the actual placing of such order, is forbidden. This provision shall not be construed to prohibit demonstration at the manufacturer's plant or branch warehouse.

(g) No products of the Industry shall be rented by any member of the Industry.

(h) All machines or attachments shall be sold only under firm sales orders or contracts, signed by the purchaser and stating a definite delivery date, prices, and terms. Orders must provide for delivery not later than sixty (60) days from the date of the order.

(i) To avoid discrimination between purchasers and for the protection of the Industry, the following uniform terms of selling will be maintained:

A minimum of 25 percent of the total sales price will be required as a cash payment from all contractors and individuals, which cash payment, however, may be divided up so that only a portion of the amount accompanies the order, the balance to be collected by sight draft against bill of lading. The remainder of the total purchase price shall in no case be spread over a longer period than one year from date of order, and shall be evidenced by monthly notes bearing interest at a rate of not less than 6 percent.

In the case of municipalities and political subdivisions a 25 percent cash payment is to be made not later than the date of the first regular meeting of the purchasing body subsequent to the date of the order; the remainder of the purchase price may be spread over a period not longer than eighteen (18) months from date of order and shall be evidenced by interest-bearing legal paper of the customer.

(j) No member of the Industry shall trade or accept any second-hand equipment as part payment for new. They may, however, assist in finding a buyer for said second-hand equipment, but shall in no case take any financial interest in it.

(k) *Cash discounts.*—A maximum discount of 3 percent may be allowed as cash discount on all orders for complete machines, providing the full cash settlement is received within 15 days from date of shipment.

(l) No guarantee on equipment shall provide for more than defective material and workmanship and no guarantee shall exceed ninety (90) days from date of shipment.

(m) It shall be an unfair method of competition to sell below cost. Cost shall be determined in accordance with the uniform method of cost finding subject to the approval of the Administrator, set up as provided in Section 1 (e) of this Article V.

(n) Discontinued or noncurrent lines may be sold at such prices as are necessary to move such stock into the buyer's hands. Descrip-

tion of all such items, together with the quantities thereof and the minimum prices at which it is contemplated that it be sold shall be submitted to the Code Authority who shall pass on the obsolescence of such equipment and establish rules and regulations under which it shall be sold, subject to the approval of the Administrator.

(o) In the sale or offering for sale of any machine or attachment, no member of the Industry shall misrepresent his products by any false means or device which has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(p) No member of the Industry shall defame any competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representation or by false disparagement of the grade or quality of his goods.

(q) No member of the Industry shall solicit, advise, induce, or entice a customer of another member of the Industry to break or rescind his firm sales order or contract with such other member.

(r) Prior to December 31, 1933, no member of the Industry shall increase the sale price of his product sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution, and material costs, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this Code since July 1, 1933, and in setting such price increase, full weight shall be given to probable increase in sales volume. In case a member of the Industry on July 1, 1933, was selling his product at less than actual cost, he may take his cost price on that date as the base for such increase in selling price as is permitted by this section.

Article VI—General

Section 1. No provision 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. 2. Violation by any member of the Industry of any provisions of this Code is an unfair method of competition.

Article VII—Administration

Section 1. The provision of this Code in respect to administration thereof by the Industry and/or governmental authority, which provision shall be as strict as the National Industrial Recovery Act permits, shall be determined and administered by the Code Authority, which shall consist of the Executive Committee of the Association (by virtue of the authority vested in it by the Constitution of the Association), one member of the Industry who is not a member of the Association, if the non-members so desire (said member to be elected by non-members of the Association in any fair manner that may be approved by the Administrator), and one or more appointees of the Administrator, if he so desires, who shall have no vote.

Sec. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to approval by the Administrator:

(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 and/or the Code Authority. Such information shall be confidential. Each such member shall send his data to a Neutral Agency designated by the Code Authority, in a plain envelope contained in an envelope addressed to the Neutral Agency. This Neutral Agency shall assemble all such data and present to the Code Authority only the combined totals. Each such member shall retain copies of his own data to be sent direct by him to the Administrator, if required by the latter.

Reports submitted by the Code Authority to the President and/or the Administrator shall be in the form prescribed and/or approved by him.

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

(c) To hear and investigate complaints and attempt to adjust the same in accordance with law.

(d) 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 the approval of the Administrator.

(e) To investigate and analyze any charge of a violation of this Code.

Sec. 3. 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 9 (a) of the National Industrial Recovery Act.

Article VIII—Rights of the President

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 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—Amendments

Any proposals for amendments to the Constitution and by-laws of the Association and/or this Code or supplemental agreements with respect to wages, hours, or trade practices, or any other matters shall be first submitted to the Code Authority, which shall consider the same and confer with members of the Industry affected thereby. The Code Authority as representing the entire Industry shall have

no power to approve any amendments or supplemental agreements but may arrange for a hearing before the Administrator on any proposal which a substantial proportion of the Industry affected by the proposal desires to present, and shall notify all members of the Industry of the time and place of the hearing.

Article X

Where the costs of executing contracts entered into in the Industry prior to the date of approval of this Code are increased as a result of the provisions of this Code or any other Code duly approved under the National Industrial Recovery Act, or where any contract entered into by any member of the Industry prior to the date of approval of this Code is inconsistent with the provisions of this Code, it is equitable and promotive of the purposes of the National Industrial Recovery Act that appropriate adjustments of such contracts be arrived at by arbitral proceedings or otherwise, and the Code Authority is hereby constituted as agency, with the consent of the buyer, to assist in effecting such voluntary adjustments. Where the performance of orders accepted prior to the effective date of this Code is delayed as a result of the operation of provisions of this Code, it is equitable that appropriate additional time should be allowed for the completion of such orders.

Article XI—Effective Date

This Code shall become effective on the date of its approval by the President.

Approved Code No. 76.
Registry No. 1399–1–15.

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Approved Code No. 77

CODE OF FAIR COMPETITION

FOR THE

CROWN MANUFACTURING INDUSTRY

As Approved on November 1, 1933

BY

PRESIDENT ROOSEVELT

Executive Order

An application having been duly made, pursuant to and in full compilance 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 Crown 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 1, 1933.

29915——296-177——34

October 25, 1933.

The President,
The White House.

Sir: The proposed Code of Fair Competition for the Crown Manufacturing Industry was submitted to the Administrator on August 9, 1933, by the Crown Manufacturers' Association of America representing 93 percent of the known members of the Industry. The Hearing was conducted in Washington on September 15, 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 properly heard in accordance with statutory and regulatory requirements.

The Industry is relatively small, having in 1929 only 1,640 employees and is distinguished from the Cap and Closure Industry in that it is engaged in the manufacture of beverage-bottle closures which are fabricated from cork and metal and are used principally upon pressure beverages.

During the past four years the Industry experienced a drop of approximately 31 percent in the unit volume of sales. This was coincident with the drop of 30 percent in the number of employees. It is estimated that the insertion of the Labor Provisions of this Code will necessitate a 66 percent increase in employment over the average number employed in 1932 and that $850,000 will be added to the yearly pay roll.

Résumé of Code

Article I. States the purpose of the Code.

Art. II. Accurately defines specific references made in the Code.

Art. III. Sets forth the Mandatory Labor Provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for factory employees averaged over a six months' period, but are not to be in excess of 48 hours in any one week. Power plant firemen, and engineers, employees engaged in emergency maintenance and emergency repair work, and highly skilled artists and metal lithographers (the latter are restricted to a maximum of 54 hours in any one week) are excepted from the above provisions, but in all cases where the above employees are required to work in excess of 40 hours in any one week, the wages paid shall be at a rate of not less than one and one-third times the prevailing rate. The maximum hours for accounting, clerical, office, service, and sales employees (except outside salesmen) are limited to 40 hours per week except that in not more than six weeks in any six months' period such employees shall be permitted to work 48 hours per week.

The minimum wage rate for factory, mechanical, and artisan employees is 40 cents per hour for male labor and 35 cents per hour for female labor. The minimum wage rate for accounting, clerical, office,

service, and sales employees (except outside salesmen) varies from $15.00 to $14.00 with the population. Apprentices and learners without previous experience may not constitute more than 5 percent of the total number of employees and their wages shall not be less than 80 percent of the specified minimums. The period of apprenticeship and learning is limited to one month. Higher-paid employees are protected by an equitable readjustment clause.

Art. IV. Establishes a Code Authority of five members elected by the Industry with additional (not exceeding three) representatives to be appointed by the Administrator and provides machinery for obtaining statistics.

Art. V. Establishes an open-price structure with no limitation placed upon the prices any firm may quote.

Art. VI. Excepts export sales from the provisions now included or hereafter to be included in Article V.

Art. VII. Sets forth the Fair Trade Practices for the Industry.

Art. VIII. Contains the mandatory provisions respecting amendments and provisions respecting State laws and price increases on the products of the Industry.

Art. IX. Sets forth the action to be followed in the event of a violation of the Code.

Art. X. States the effective date.

Findings

The Administrator finds: 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 Crown Manufacturers' Association of America is truly representative of the Crown Manufacturing Industry and the by-laws of this Association contain no inequitable restrictions 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 and will tend to effectuate the policy 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

CROWN MANUFACTURING INDUSTRY

Article I—Purpose

To effectuate the policy and purpose of the National Industrial Recovery Act the following provisions are established as a Code of Fair Competition for the Crown Manufacturing Industry, and shall be binding on every member thereof.

Article II—Definitions

Section 1. The term "the Industry" means and includes the business of producing in the United States and selling crown caps.

Sec. 2. The term "member of the Industry" means any person engaged in the Industry as herein defined either as an employer or on his own behalf.

Sec. 3. The term "the Association" means the Crown Manufacturers' Association of America, 218 Munsey Building, Washington, D.C.

Sec. 4. The terms "President", "Act", and "Administration" as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

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 "plant" means a plant engaged in the Industry as herein defined.

Sec. 8. "Majority Vote." Each member of the Industry shall be entitled to one vote for each full million gross of shipped sales reported for the previous calendar year; provided, that no member shall have more than five votes; and further provided, that each member shall have at least one vote irrespective of the shipped sales grossage reported for the previous calendar year.

At any meeting of members of the Industry, members thereof having the right to cast at least sixty percent (60%) of all the votes shall constitute a quorum. Fifty-one percent (51%) of the votes which would be cast if all members were present shall constitute a majority vote.

Sec. 9. The term "Code Authority" means the Administrative body provided for in Article IV of this Code.

Article III.—Labor 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.

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 maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

Sec. 2. 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. 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. 3. *Hours.*—(a) The maximum number of working hours for all employees in the Industry, except as hereinafter provided, shall not be in excess of forty (40) hours per week averaged over a six months' period, and not in excess of forty-eight (48) hours in any one week. For the purpose of this paragraph, the balance of the year 1933, from the effective date of this Code to December 31, 1933, inclusive, shall be considered the first period. Subsequent periods shall begin on January 1st, and July 1st, to end on June 30th and December 31st, respectively.

The maximum hours fixed in the foregoing paragraph shall not apply to the following employees:

Highly skilled artists and metal lithographers where restrictions of hours would unavoidably reduce production, but no such employees shall work or be permitted to work in excess of fifty-four (54) hours in any one week;

Power plant firemen and engineers;

Employees engaged in emergency maintenance and emergency repair work involving breakdowns or protection of life and/or property.

Not less than time and one-third time shall be paid for hours worked in excess of forty (40) hours in any one week.

(b) Office or Branch Employees: The maximum number of working hours for office or branch employees in the Industry shall not be in excess of forty (40) hours per week; provided, however, that any such employee may be permitted to work not more than forty-eight (48) hours per week in not more than six weeks of any six months' period.

(c) The provisions of this section shall not apply to executives and their personal secretaries, and supervisors and their immediate assistants having supervisory duties (excepting foremen regularly engaged in manual labor receiving less than $35.00 per week), outside salesmen, technical employees, and watchmen; provided, however, that watchmen shall be limited to fifty-four (54) hours per week and provided further that the limitation of hours prescribed in this sec-

tion shall apply to all proprietors, executives, partners and supervisors when they shall be engaged in production or mechanical work.

(d) The Industry recognizes the desirability, and accepts the principle of, the five-day week as these principles relate to working schedules for employees. Insofar as it reasonably can, the Industry will endeavor to employ its labor on that basis.

(e) No employee shall be permitted to work for two or more employers for a longer period in any week than is specified herein for a single employer.

Sec. 4. *Wages.*—No employer shall pay any accounting, clerical, office, service, or sales employee (except outside salesmen) less than at the rate of $15.00 per week in any city of over 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 or town of 250,000 or less population.

Sec. 5. No employer shall pay any male factory or mechanical worker or artisan less than forty cents (40¢) per hour or any female factory or mechanical worker or artisan less than thirty-five cents (35¢) per hour; provided that when the Code for the Graphic Arts is approved, there shall be a review of the provisions relating to maximum hours, minimum wages, and conditions of employment applicable to the employees in the Crown Manufacturing Industry engaged in work similar to that covered by the Code for the Graphic Arts. It is agreed that this paragraph 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.

Female employees doing substantially the same work as that performed by male employees shall receive a rate of compensation equal to that of such male employees.

Apprentices and learners without previous experience in the Industry shall be excepted from the provisions of this section; provided, however, that the total number of such apprentices and learners shall not constitute more than five percent (5%) of the total number of employees subject to the provisions of this Code in any one plant, and provided, further, that the wages paid to such apprentices and learners shall not be less than eighty percent (80%) of the minimum rates of pay specified in this Code; and, provided further, the period of apprenticeship or learning shall not exceed one month.

Sec. 6. The wage differentials for all operations shall be equitably readjusted and in no case shall they be decreased. Each member of the Industry shall report all such readjustments to the Code Authority within thirty (30) days of the effective date.

Sec. 7. Each employer shall post in conspicuous places full copies of the Labor Provisions of this Code (Article III and Article VIII, Section 2).

Article IV.—Administration

Section 1. To effectuate the policies of the National Industrial Recovery Administration and to provide for administration of this Code within the Industry, a Code Authority of five members shall be established by the Industry. Furthermore, upon the request of the Administrator, nonvoting representatives not to exceed three in

number, to be appointed by him, shall be added to such Code Authority. All employers engaged in the Industry as herein defined shall be entitled to participate in the election of such members of the Code Authority. Such election shall be by a majority as defined in Section 8 of Article II. The Administrator upon review may disapprove or modify the method of selection of the Code Authority.

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.

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. 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 charged with the supervision, administration, and enforcement of this Code and may issue such rules, regulations, and impose upon any member of the Industry subject to the jurisdiction of this Code such restrictions as may be necessary to effectuate the purposes of this Code. The Code Authority shall have the right to establish its own rules for the conduct of its business.

(b) In order that the President may be informed of the extent of 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 Industry as herein defined, the Code Authority shall make such reports as the Administrator may require, and each member of the Industry shall make such sworn or unsworn reports to the Code 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 pertinent to the purposes of this Code as the Code Authority may require, and each member of the Industry subject to the jurisdiction of this Code and accepting the benefits of the activities of the Code Authority hereunder shall either become a member of the Association or pay to the Code Authority his proportionate share of the amounts necessary to pay the cost of the assembly, analysis and publication of such reports and data, and of the maintenance of the said Code Authority and its activities. Said proportionate share shall be based upon volume of net sales.

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 shall appoint a secretary and any and all information requested by the Code Authority shall be filed with the secretary and deemed confidential and shall not be divulged to any member except in summary, but shall be available to the Administrator upon request.

(d) The Code Authority may designate the Crown Manufacturers' Association or any other appropriate agency to assist it in carrying out the powers and duties conferred upon it by this Code, provided, that the Code Authority shall not be relieved of responsibility and that when such Association acts in such capacity, it shall comply with all the provisions of this Code applicable to the Code Authority.

(e) 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 effectuate the provisions and purposes of this Code.

(f) The Code Authority shall receive, and if it shall approve, shall present for the approval of the Administrator, any proposals for supplementary provisions or amendments of this Code or additional codes, applicable to the Industry defined herein or to any part thereof, with respect to wages, hours, trade practices, or related matters or conditions in the Industry.

Sec. 3. (a) Any interested party shall have the right of complaint to the Code Authority and of a prompt hearing and decision thereon in respect to any decision, rule, regulation, or other course of action of such Code Authority. Such complaint must be filed in writing with the Code Authority within a reasonable period of time after said decision, rule, regulation, or course of action is issued or taken. The decision of such Code Authority may be appealed by any interested party to the Administrator.

Sec. 4. Any decision, rule, regulation, order, or finding made, or course of action followed pursuant to, or any provision of, this Code, may be cancelled or modified by the Administrator whenever he shall determine such action necessary to effectuate the provisions of Title I of the National Industrial Recovery Act.

Article V—Open Price Data

Section 1. Each member of the Industry shall within ten days after the effective date of the Code file with the Secretary as many copies of its minimum price schedule for all its crowns including discounts, allowances, terms, and all conditions of sale as the Secretary shall require, and from and after the expiration of such ten days such member shall at all times maintain on file with the Secretary such a minimum price schedule for all its crowns and shall not sell below and shall not make any change in such minimum price schedule except as herein provided.

Sec. 2. The date of filing shall be the effective date of the first price schedule. Any member of the Industry desiring to change such minimum price schedule shall file a revised minimum price schedule with the Secretary which shall become effective not less than ten days after and exclusive of the date of filing thereof (Sundays

and holidays excluded). All minimum price schedules so filed shall be open to inspection at all times by all interested parties.

Sec. 3. Upon the filing of a revised minimum price schedule, copies thereof shall immediately be sent to all members of the Industry, who thereupon may file, if they so desire, revisions of their minimum price schedule which shall become effective upon the date when the revised minimum price schedule first filed shall go into effect.

Sec. 4. None of the prices shown in any minimum price schedule shall be changed except by the filing of a new minimum price schedule as provided in Section 2.

Sec. 5. Each member of the Industry may execute an agreement in form prescribed by the Code Authority with each Sales Agent, Jobber, Broker, or Distributor representing or reselling crowns of such member, requiring each of them to file with the Secretary minimum price schedules at which such sales agent, jobber, broker, or distributor shall sell crowns. Such agreement shall provide that any sales agent, jobber, broker, or distributor desiring to change such minimum price schedule shall file a revised minimum price schedule with the Secretary which shall become effective not less than ten days after and exclusive of the date of filing thereof (Sundays and holidays excluded). All minimum price schedules so filed shall be open to inspection at all times. Neither the forms of agreement prescribed or any modification thereof shall become effective until approved by the Administrator.

Article VI—Exports

Except as may be subsequently set forth in a specific or supplementary export code for the Industry, the provisions of this Code now included or hereafter to be included in Article V shall not apply to direct export sales or to sales in course of export (i.e., sales of crowns as such destined ultimately for export). The term "export" shall include, in addition to shipments to foreign countries, shipments to such United States possessions as may be defined by the Code Authority.

Article VII—Trade Practices

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

Section 1. 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.

Article VIII—General

Section 1. No provision of this Code shall be construed, interpreted or applied in such a manner as to—

(a) Promote monopolies or monopolistic practices.
(b) Promote or encourage unfair competition.
(c) Eliminate or oppress small enterprises.
(d) Discriminate against small enterprises.

Sec. 2. Within each State 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, welfare or general working conditions, than are imposed by this Code.

Sec. 3. Any member of the Industry shall be eligible to membership in the Association and there shall be no inequitable restrictions imposed upon such membership.

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 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. 5. Prior to December 31, 1933, no member of the Industry shall increase the sale price of his product sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution, and material cost, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this Code since July 1, 1933, and in setting such price increases, full weight shall be given to probable increases in sales volume. In case a member of the Industry on July 1, 1933, was selling his product at less than actual cost, he may take his cost price on that date as the base for such increase in selling price as is permitted by this Section.

Article IX—Violations

Violation by any employer of any provision of this Code or of any rule or regulation issued thereunder, or any deliberately false statement or report made to the President or the Code Authority, after decision thereon by the Administrator pursuant to Article IV of this Code, shall constitute an unfair method of competition and the offender shall be subject to the penalties provided by the National Industrial Recovery Act.

Article X—Effective Date

The Code shall become effective eleven (11) days after it is approved by the President.

Approved Code No. 77.
Registry No. 1608/1/01.

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Approved Code No. 78

CODE OF FAIR COMPETITION

FOR THE

NOTTINGHAM LACE CURTAIN INDUSTRY

As Approved on November 1, 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 Nottingham Lace Curtain 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 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 1, 1933.

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November 1, 1933.

To the President:

Introduction

Submitted herewith is the report of the Hearing on the Code of Fair Competition for the Nottingham Lace Curtain Industry in the United States, as submitted by the National Association of Lace Curtain Manufacturers, conducted in the small ballroom of the Raleigh Hotel in Washington, D.C., on September 22, 1933, in accordance with the provisions of the National Industrial Recovery Act.

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 Code which is attached was presented by duly qualified and authorized representatives of the Industry, complying with the statutory requirements, as representing 100% of the Industry.

Position of the Industry and Code Provisions

The industry is of moderate size, employing upwards of three thousand (3,000) people, and doing an annual business ranging between five and ten million dollars. Skilled crafts are highly organized.

The code provides for a forty-hour week and a minimum of thirteen ($13) dollars on a parity with other Textile Codes. There are only eleven firms in the field. The increase in employment is only estimated to be about 9 percent, as the industry had been working on a schedule of forty-eight hours and had been running fairly slack.

The code makes a number of provisions with respect to trade practices. Provisions governing reporting cannot be construed as anything more than open-trade provisions. While not completely unanimous, the industry as a whole has clearly expressed desire for these provisions.

The relationship between the operatives of Nottingham machines, known as weavers, and the workers, is fully covered by collective bargaining. It constitutes no part of this code. Auxiliary workers are only unionized in part and there is considerable disparity with respect to their wages and condition of employment as between plants. Collective bargaining within each plant has not resulted in any uniformity throughout the industry. Their wage levels should in part respond to the provisions for "equitable readjustment of pay schedules."

Objection to this code as finally submitted is with respect to the omission of provisions governing wage rates in any greater detail rather than to any provisions contained.

Findings

The Administrator finds 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 National Association of Lace Curtain Manufacturers to be truly representative of the Nottingham Lace and Lace Curtain Industry. The Bylaws 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 Advisory Boards did not raise objection to any of the material contained in the code, any differences of point of view being, as aforesaid, confined to the omission from the code of additional provisions which in fact are more properly covered by collective bargaining under contracts being put into effect concurrently with the code. The Legal Department has checked it as to form and has approved it.

I recommend that the code be approved.

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

NOTTINGHAM LACE CURTAIN INDUSTRY

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 the Nottingham Lace Curtain Industry.

Article I—Definitions

The term "Nottingham Lace Curtain Industry" or "Industry" as used herein is defined to mean the manufacture of all articles, goods, and fabrics made in whole or in part of animal, vegetable, or mineral matter made on the Nottingham Lace Curtain Machine.

The term "employee" as used herein shall include all persons employed in the conduct of such operations.

The term "employer" as used herein, includes anyone for whom such an employee is so engaged.

The term "productive machinery" as used herein is defined to mean Nottingham Lace Curtain machines.

The term "Administrator" as used herein means the Administrator of the National Industrial Recovery Act.

Article II—Wages

On and after the effective date, no employee, except learners during a six weeks' apprenticeship, shall be paid less than at the rate of $13.00 per week for forty (40) hours of labor. Learners shall be paid not less than eighty (80) percent of the established minimum wage; no employer shall include within the category of learners more than five (5) percent of the total number of his employees.

There shall be an equitable readjustment of wage rates in the industry which will maintain the traditional relationship of weavers' rates to the wage rates for different classes of workers.

The foregoing provisions for a minimum wage established a guaranteed minimum rate of pay per hour of employment regardless of whether the employee's compensation is otherwise based on a time rate or upon a piecework performance.

Article III—Hours

On and after the effective date, no employee, except repair-shop crews, engineers, electricians, firemen, office, supervisory staff (earning $30 per week or over), and shipping, watching, and outside crews, shall work or be permitted to work in excess of forty (40) hours per week. Productive machinery in the Industry shall not be operated for more than two (2) shifts of forty (40) hours each per week.

On and after the effective date, the maximum hours of labor for office employees in the industry shall be an average of forty (40) hours a week over each period of six (6) weeks, but in no event shall exceed forty-eight (48) hours per week.

On and after the effective date, the maximum hours of labor of repair-shop crews, engineers, firemen, electricians, and watching crews in the industry shall, except in case of emergency work, be forty (40) hours a week with a tolerance of ten (10) percent. Any such emergency time shall be reported monthly to the Code Authority hereinafter provided for. One and one third (1⅓) times the normal rate shall be paid for all hours worked over 44 hours per week.

The foregoing provisions for maximum hours established a maximum of hours of labor per week for every employee covered, so that under no circumstances will such an employee be employed or 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 week.

The work done by lace-curtain weavers in the Industry shall be restricted to five (5) days per week, from Monday through Friday, including two (2) shifts of forty (40) hours each per week and eight (8) hours each per day. There shall be no making up of time lost through necessary repairs, holidays, or for any other reason, except as agreed between the Code Authority hereinafter provided for and representatives of the lace-curtain weavers.

Article IV—Child Labor

On and after the effective date employers in the Nottingham Lace Curtain Industry shall not employ any minor under the age of sixteen (16) years.

Article V—Reports

1. With a view to keeping the President informed as to the observance or nonobservance of this Code of Fair Competition, each member of the Industry will furnish duly certified reports to the Code Authority hereinafter provided for. These reports shall contain such data as the Code Authority may require, subject to the approval of the Administrator, and shall be in such form as the Code Authority may prescribe. The reports furnished as aforementioned shall be deemed confidential and shall not be divulged except as part of general statistics for the Industry.

2. Every member of the Industry shall furnish to any government agency or agencies designated by the Administrator such statistical information as the Administrator may from time to time deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act, and any reports and other information collected and compiled by the Code Authority shall be transmitted to such government agencies as the Administrator may direct.

Article VI—Stretch Outs

Until adoption of further provisions of this Code that may prove necessary to prevent any improper speeding up of work (stretch-

outs) no employee of any mill in the Nottingham Lace Curtain Industry shall be required to do any work in excess of the practices as to the class or work of such employee prevailing on July 1, 1933, or prior to the Share-the-Work Movement, unless such increase is submitted to and approved by the Code Authority provided for hereinafter and by the National Recovery Administration.

Article VII—Open Price Provisions

Within thirty days after the effective date of this Code every manufacturer in the Industry shall file with the Code Authority hereinafter provided for, or its agent, a list of his prices which shall become effective immediately.

Before deviations below these prices may be made, the manufacturer must file a new price list embracing such changes, which shall not be effective until seven (7) days after date on which such list was received by the above Code Authority or its agent, except that changes made to meet any competitor's reductions may be made effective on or at any time after the date such competitor's reductions become effective.

Article VIII—Trade Practices

The following principles are set forth for the guidance and betterment of the Industry and their violation shall be a violation of this Code of Fair Competition:

1. *Deliveries.*—All goods shall be sold on the basis of F.O.B. mill. Deliveries may be made free of charge to common carriers and to customers located in the city where the mill is situated. This permits the sale from warehouses where the freight from mill to warehouse and warehouse charges are included in the price.

2. *Terms.*—Terms of sale of regular goods shall be cash discount two (2) percent ten (10) days, sixty (60) days, dating strictly from date of shipment.

Terms of sale of dropped stock, including damages, seconds, and dropped samples, shall be net ten (10) days, dating strictly from date of shipment.

It shall not be permissible to allow the deduction of the cash discount and the addition of interest for any time taken beyond the due date of invoice.

Anticipation for the number of days invoices are prepaid may be allowed at the rate of six (6) percent per annum.

3. *Consignments.*—No goods shall be shipped on consignment or memorandum, or prearrangement made for the return of unsold stock.

4. *Advertising Allowances.*—Advertising allowances and rebates are unfair trade practices and must not be granted, with the exception of such advertising allowances as are approved in advance by the Code Authority.

5. *Piracy.*—Patterns of one manufacturer shall not knowingly be copied by another manufacturer.

New fabrics produced by one manufacturer may be registered with the Code Authority and shall not be copied by another manufacturer for a period of one year.

All piracy disputes shall be settled by a Piracy Committee to be appointed by the Code Authority. There shall be the privilege of appeal to the Code Authority from decisions of the Piracy Committee, but the decisions of the Code Authority shall be final, subject to appeal to the Administrator.

6. *Sample Requirements.*—A committee appointed by the Code Authority shall decide on a scale of prices to be charged for samples and materials used for sample purposes. Any such samples and materials supplied to any customer shall be charged at the approved scale.

7. *Dropped Stock or Discontinued Patterns.*—Dropped stock or discontinued patterns shall be sold and/or delivered only in the months of May, June, November, and December, except when sold at regular current prices. It shall be considered an unfair trade practice to manufacture overruns or excess stocks for the purpose of selling as special merchandise or dropped stock.

Seconds, damages, and dropped samples may be sold at any time.

8. *Price Guarantee.*—There shall be no guarantee of price to any dealer, whether a retailer, wholesaler, mail order or chain store or syndicate.

9. *Secret Rebates, etc.*—Rendering over-valued or under-valued invoices, secret payment of any allowances, or price discrimination between acceptable purchasers of like class and kind and under the same conditions, shall be considered an unfair trade practice.

10. *Memorandum Orders.*—Memorandum or unconfirmed order shall not be considered as orders until confirmed.

11. *Merchandise, Misbranding.*—Misrepresentation as to the weight, quantity, quality, size, or grade of any product sold, or offered for sale is an unfair trade practice.

12. *Sales Below Cost.*—No manufacturer of the products defined in Article 1 of this Code shall sell or exchange any of these products at a price or upon such terms or conditions that will result in the buyer paying for the goods received less than the cost to the seller, except to meet a competitor's filed price. This cost shall be determined in accordance with a uniform and standard method of costing to be developed by the Code Authority and approved by the Administrator.

Article IX—Administration

To further effectuate the policies of the Act, the Executive Committee of the National Association of Lace Curtain Manufacturers, the applicant herein, or such successor committee or committees as may hereafter be constituted by the action of the National Association of Lace Curtain Manufacturers, and up to three members without vote, appointed by the President of the United States, one of whom shall be a representative of the Curtain Section of the Chartered Society of Amalgamated Lace Operatives of America, is set up to cooperate with the Administrator as the Code Authority for the Nottingham Lace Curtain Industry.

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 operations of the provisions of this Code and the policy of the National Industrial Re-

covery Act. Such recommendations, when approved by the Administrator shall have the same force and effect as any other provisions of this Code.

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

The Code Authority is also set up for the purpose of investigating and informing the Administrator on behalf of the Nottingham Lace Curtain Industry as to the importation of competitive articles into the United States in substantial quantities or 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 Nottingham Lace Curtain Industry, under the provisions of the National Industrial Recovery Act with respect thereto.

Article X—Exceptions

This Code shall be in operation on and after the effective date as to the whole Nottingham Lace Curtain Industry, except as an exemption from or a stay of the application of its provisions may be granted by the Administrator to a person applying for the same or except as provided in an executive order. No distinction shall be made in such exceptions between persons who have and have not joined in applying for the approval of this Code.

Article XI—General Provisions

No provision in this Code shall be permitted to operate in such manner as to promote monopolies or monopolistic practices or to eliminate or oppress small enterprises or to discriminate against them.

Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from all interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in the 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 of the United States.

Within each State, members of the Industry shall comply with any State laws, imposing more stringent requirements regulating licensing, the age, wages, or hours of labor of employees, than under this Code.

Where the costs of executing contracts entered into the Nottingham Lace Curtain Industry prior to the presentation to Congress of the

National Industrial Recovery Act are increased by the application of the provisions of that Act to the Industry, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise, and the National Association of Lace Curtain Manufacturers, the applicant for this Code, is constituted an agency to assist in effecting such adjustments.

This 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 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 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.

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 hereof.

Article XII—Effective Date

The effective date of this Code shall be the second Monday after its approval by the President of the United States.

Approved Code No. 78.
Registry No. 226/1/04.

O

Approved Code No. 79

CODE OF FAIR COMPETITION

FOR THE

NOVELTY CURTAIN, DRAPERIES, BEDSPREADS AND NOVELTY PILLOW INDUSTRY

As Approved on November 1, 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 Novelty Curtain, Draperies, Bedspreads and Novelty Pillow 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 1, 1933.

November 1, 1933.

The President,

The White House.

Sir: This is a report of the Hearing on the Code of Fair Competition for the Novelty Curtains, Draperies, Bedspreads, and Novelty Pillows Industry, conducted in the Carlton Room of the Carlton Hotel, on October 2, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Code, which is attached, was presented by duly qualified and authorized representatives of the Industry, complying with the statutory requirements, said to represent 80 percent in number and 90 percent in volume of the capacity of the Industry.

THE INDUSTRY

The Industry comprises between 250 and 300 plants, having an investment of over $15,000,000. The number of employees is estimated to have increased from 8,500 to above 10,000. Aggregate annual sales are estimated at $25,000,000 for 1932, the estimate for the years of 1928, 1929, and 1930 being $32,000,000.

It was specifically stated that the minimum wage had been as low as $7.00 per week and it is thought that rates in some sweat shops were even below this.

Briefs have been submitted to show that change of operations to conform to the provisions of the code has resulted in an hourly increase averaging about 70 percent in one of the largest plants in the Industry.

PROVISIONS OF THE CODE

The Code provides for a minimum of 32½¢ an hour or at a rate of $13.00 per week of 40 hours. Office workers are limited to an average of 40 hours, but in no case more than 48 hours per week. Productive employees are limited to 40 hours per week, while certain maintenance employees are permitted to work up to 44 hours. Employees, however, are to receive one and one half times the regular rate of pay for such excess above 40 hours. Provision is made for the maintenance of differentials between wages above the minimum. Reports of increases made in accordance with the provisions of this code are specifically required by its provisions.

Operations will be limited to one shift of 40 hours each. The Administration of the code is organized along regional lines. Provisions with respect to representation of non-members of the association leave this problem largely in the hands of the Administration. Provision is made for the reporting of any pertinent information desired by the Administration. Trade practices are quite extensive, but not in any respect objectionable.

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 National Association of Manufacturers of Novelty Curtains, Draperies, Bedspreads, and Novelty Pillows Incorporated to be truly representative of the Novelty Curtains, Draperies, Bedspreads and Novelty Pillows Industry. The By-Laws of this association provide no inequitable restrictions to membership.

(c) The code is not designated 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) While not attaining a level of wages comparable to conditions existing prior to the depression, the wage level represents a most substantial rise over conditions prevailing prior to the recovery movement.

(e) The trade practices should be helpful in bringing greater orderliness into a highly competitive market.

I recommend that the code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

NOVELTY CURTAIN, DRAPERIES, BEDSPREADS AND NOVELTY PILLOW 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 Novelty Curtain, Draperies, Bedspreads, and Novelty Pillow 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 "Industry" as used herein means and includes the using or hiring of equipment, or the engaging or hiring of anyone owning or hiring equipment, to perform the operation of making piece goods into novelty curtains, draperies, bedspreads (made by cutting apart and/or sewing together out of the same materials, or out of the same materials in combination with other materials employing plain or fancy stitching, embroideries, laces, or appliques in conjunction therewith, but excluding bedspreads made out of one piece of material cut apart for size only), and novelty pillows.

2. The term "Association" as used herein means the National Association of Manufacturers of Novelty Curtains, Draperies, Bedspreads, and Pillows, Inc., of 7 East 44th Street, New York City.

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 such employee is compensated or employed.

5. 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.

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

Article III—Hours

1. No office employee in the Industry shall be permitted to work more than an average of forty (40) hours per week over each nine (9) week period but not more than forty-eight (48) hours in any one week during such period nor more than eight (8) hours in any twenty-four (24) hour period.

2. No other employee except outside sales people and executives earning a salary in excess of thirty-five dollars ($35.00) per week 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.

3. The maximum hours fixed in the foregoing sections shall not apply to employees engaged on emergency maintenance or emergency repair work involving breakdowns or protection of life or property.

No employee permitted under this section to work in excess of forty (40) hours per week shall be compensated at less than one and one third times his or her regular rate of pay for such excess.

4. No machinery in the Industry shall be operated 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 thirteen dollars ($13.00) per week of forty (40) hours or thirty-two and one half cents (32½¢) 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. The compensation for employment now in excess of the minimum wages herein provided shall not be reduced notwithstanding that the hours worked in such employment shall be hereby reduced, and rates of pay for such employment shall be increased by an equitable readjustment of all pay schedules.

Within thirty (30) days after this Code becomes effective employers shall report to the Code Authority action taken by them since July 1, 1933, with respect to adjustments of wages above the minimum.

Article V—General Labor Provisions

1. No person under the age of sixteen (16) years shall be employed in the Industry.

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 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. Until adoption of further provisions of the Code that may prove necessary in order to prevent any improper speeding up of the work (stretch-outs) no manufacturing 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, or prior to the

Share-The-Work movement unless such increase is submitted to and approved by the Code Authority created by Article VI, Section 1, of this Code, and by the Administrator.

8. Each employer shall post in conspicuous places full copies of this Code.

Article VI—Administration

1. To further effectuate the policy 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 the Board of Directors of the Association and such additional representatives of the Industry as shall be selected by a fair method of selection to be approved by the Administrator, or as the Administrator shall prescribe; and up to three advisory members without vote who may be appointed by the Administrator.

As soon as the essential facts of the Industry are gathered by the Code Authority from the various geographical districts, such districts shall be given such proportionate representation on the Code Authority as is equitable and as shall be approved by the Administrator.

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.

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) It shall interpret the provisions of the Code for the members of the Industry, subject to the approval of the Administrator, and shall, under the general supervision of the Administrator, make investigation as to the functioning and observance of the provisions of this Code; or it may, at its own instance or on a complaint by any person affected, make such investigation and send a copy of its report to the Administrator.

(b) It shall also from time to time make such recommendations to the Administrator as will best effectuate the purpose of this Code and the policy of the Act. Such recommendations when approved by the Administrator, after such notice and hearing as he shall specify, shall have the same force and effect as any other provisions of this Code.

(c) It may from time to time appoint such committees as it shall deem necessary or proper in order to effectuate the purposes of the Code and delegate to any such committee, its general or any particular power hereunder. Such committees shall be appointed with a view to geographical representation. The Code Authority shall appoint

regional committees to represent each of the geographical districts set up in the following section, which committees shall be nominated by trade associations or other trade organizations truly representative of the Industry in such geographical district, and shall delegate to such regional committees all the powers of executive authority hereunder required to enable such regional committees to administer the Code in such geographical district under the general jurisdiction of the Code Authority.

3. For the purpose of administration of this Code, the Industry is divided into the following geographical districts:

(a) Eastern and South Atlantic District. This district shall include members whose principal place of business is located within the following area:

New York	Georgia	Delaware
District of Columbia	West Virginia	New Jersey
Virginia	North Carolina	Pennsylvania
Maryland	South Carolina	Florida

(b) Middle West District. This district shall include members whose principal place of business is located within the following area:

Michigan	South Dakota	Indiana
Wyoming	Minnesota	Colorado
Illinois	Nebraska	Iowa
Ohio	North Dakota	Wisconsin

(c) Western District. This district shall include members whose principal place of business is located within the following area:

Oregon	Nevada	Washington
Utah	Arizona	Montana
California		

(d) New England District. This district shall include members whose principal place of business is located within the following area:

Maine	Massachusetts	Rhode Island
New Hampshire	Connecticut	Vermont

(e) Southern District. This district shall include members whose principal place of business is located within the following area:

Alabama	Mississippi	Arkansas
Kansas	Texas	Tennessee
Missouri	Louisiana	Oklahoma
Kentucky		

4. With a view to keeping the President informed as to the observance of this Code of Fair Competition, and as to whether the industry is taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall collect statistics of the Industry through its duly authorized secretary, not a member of the Industry, and all members of the Industry shall furnish same as follows:

Duly certified reports containing information reasonably pertinent to the effectuation of the purposes of this Code shall be furnished in substance and in such form and at such intervals as the Administrator or as the Code Authority, subject to the approval of the Administrator, shall prescribe. Full protection shall be given to each member of the Industry as to the confidential nature of such data, but such information or copies thereof shall be furnished to the Administrator upon his request. If so directed or requested by the Administrator, or if it be

the policy of the Administrator, the regional committees shall collect and forward the reports to the Code Authority.

5. The Code Authority may, subject to the approval of the Administrator, make regulations for the issuance and use of an N.I.R.A. label in accordance with the policies of the National Recovery Administration.

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

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

6. *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.

7. *Substitution of Material.*—The using or substituting of any material inferior in quality to that specified by the purchaser of any product.

8. *Date of Invoice.*—Stating in the invoice of the sale of any product as the date thereof a date later than the date of the shipping of such product, except as herein specifically provided, or including in any invoice any product shipped on a date earlier than the date of such invoice, except as herein specifically provided.

9. *Description of Product.*—Making any sale or contract of sale of any product under any description which does not fully describe such product in terms customarily used in the Industry.

10. *Size.*—Failure to clearly indicate on bedspreads or draperies or on the packages containing bedspreads or draperies the sizes thereof.

11. *Sales Below Cost.*—The selling or offering to sell any product of the Industry below cost as may be determined in accordance with this section, except (provided a statement is made to that effect on the invoice) (a) in sales to dispose of any stock in whole or in part for the purpose of discontinuing the sale of that particular line of merchandise, (b) in sales of goods that are damaged and that have deteriorated, (c) in bankruptcy sales or forced sales because of otherwise insolvent conditions of the seller. 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 and complete as such system. The Code Authority shall, subject to the approval of the Administrator, determine the cost factors to be included in the determination of such cost.

(a) *Taxes.*—Any Federal, State, or other taxes that have been or shall hereafter be imposed upon any merchandise which the manufacturer thereof shall be required to pay shall be separately itemized on each invoice and the amount of such taxes added to the total of such invoice.

12. *Samples.*—Supplying any samples, in excess of two percent (2%) of the initial order, below the cost thereof to the member of the Industry as defined in section 11 of this Article.

13. *Shipment.*—The making of shipments other than F.O.B. city of origin, except that members of the Industry may make local store-door deliveries in any local area. The word "local" as used herein may be defined from time to time by the regional committee subject to the approval of the Code Authority.

14. *Terms of sale.*—Selling on more favorable terms than 3/10 E.O.M. or 2/10/60 extra except that the terms for the Western District of the Industry shall be 3/10 or 2/30. Goods invoiced on and after the twenty-fifth day of any month may be dated as of the first day of the following month.

15. *Adherence to Contract Terms.*—The making or completing of sales upon any terms except as expressly set forth in the order, contract of sale, or in the invoice appertaining to such sale.

16. *Consignments, Etc.*—The selling or offering to sell any product of the Industry on memorandum or on consignment or on conditional sale.

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 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 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 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 increases in the seller's costs.

Article XI—Effective Date

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

Approved Code No. 79.
Registry No. 226/1/06.

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Approved Code No. 80

CODE OF FAIR COMPETITION

FOR THE

ASBESTOS INDUSTRY

As Approved on November 1, 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 Asbestos 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 1, 1933.

October 27, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Asbestos Industry of the United States, conducted in Washington on October 19, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

Employees in the Asbestos Industry are limited to a work week of 40 hours, except that to meet emergency production requirements, 48 hours per week are permitted for six weeks in any six months' period with time and one third for overtime over 8 hours per day. Overtime pay has never previously been paid in this Industry, and is here provided to restrict overtime work.

A tolerance of 10 percent over the 40 hours without overtime pay is granted to care and maintenance men, watchmen, engineers, and shipping employees, but for these classes of employees overtime at time and one third is provided for all hours above 44 per week. Highly skilled continuous-process workers may be permitted in special cases to work up to 48 hours per week where the limiting of hours would restrict production.

Outside salesmen and persons in a managerial capacity receiving more than $35.00 per week are not limited by the above hours of labor, but all office employees receiving less than $35.00 per week are limited to a maximum of 48 hours in any week and an average of 40 hours per week in any six-months' period.

The minimum wage prescribed for factory workers is 40 cents an hour, except for light work not requiring the strength and skill of male labor, where 35 cents per hour may be paid to female employees. This is not considered as a discrimination against female employees, and the provision is made that where female employees perform the same class of work as male employees they shall receive the same rates of pay. Office employees shall receive under this Code not less than $15.00 per week in cities of over 500,000 population, $14.50 in cities over 250,000, and $14.00 in cities under 250,000.

The Code provides that the wage rates of all employees receiving more than the minimum rates shall be equitably readjusted, and that there shall be no evasion of the Code by reclassification of the functions of an employee.

No person under 16 years of age shall be employed in the Industry, and no minor under 18 years is to be employed in hazardous occupations.

ECONOMIC EFFECT OF THE CODE

Until the passage of the National Recovery Act this Industry had never been organized as a unit. The Industry comprises 58 com-

panies operating 71 plants and having a total invested capital above $50,000,000. Its products are widely used as capital goods in the chief basic industries of the country.

Employment in the Industry in 1929 was about 10,000, and had declined to 59 percent in February 1933. Upon the adoption of the 40-hour week as prescribed in this Code employment rose to 90 percent of the 1929 level. About 4,000 persons have been reemployed under the provisions of this Code. This represents approximately a 30-percent increase.

In May 1933, the average weekly wage in the Industry was $17.49. Through the operation of the provisions of this Code this average was increased to $19.48, or an increase of about 10 percent in spite of the shorter work week.

FINDINGS

(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 Asbestos 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.

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

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

ASBESTOS 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 Asbestos Industry, and upon approval by the President such provisions shall be the standard of fair competition in this Industry.

Article II—Definitions

Whenever used in this Code or in any schedule or supplement appertaining thereto, the terms enumerated in this Article shall have the meanings herein defined unless the context shall otherwise clearly indicate.

Section 1. The term "the President" means the President of the United States of America.

Sec. 2. The term "the Administrator" means the administrator of Title I of the National Industrial Recovery Act and at the time in office.

Sec. 3. The term "the Act" means the National Industrial Recovery Act as approved by the President, June 16, 1933.

Sec. 4. The term "products" means the products listed in Schedule I hereto attached.

Sec. 5. The term "the industry" as used herein shall mean and include the manufacture and sale by the manufacturer either by himself or by subsidiaries or affiliates of the manufacturer, of the products listed in Schedule I hereof.

Sec. 6. The term "Division" means a section of the asbestos industry comprising a group of manufacturers who manufacture and/or sell a group of related products as set forth in Schedule I. A manufacturer who manufactures products in more than one Division shall be a member of each such Division.

Sec. 7. The term "member of the industry" means any person, including without limitation any other legal entity, engaged in the Asbestos Industry in the United States as defined in Section 5 above.

Sec. 8. The term "employee" means any person engaged in the asbestos industry, as defined in Section 5 above, in any capacity in the nature of employee, irrespective of the method of payment of his compensation.

Sec. 9. The term "employer" means anyone by whom such employee is compensated.

Sec. 10. The term "learner", as used herein, means a person who has had no previous experience in the manufacture of asbestos products and whose employment as such shall not exceed six weeks.

Sec. 11. The term "the Code" means this Code and all amendments thereof and all schedules and supplements appertaining thereto.

Sec. 12. The term "member of the Code" means any member of the Asbestos Industry who shall become a member of the Code as hereinafter provided in Section 1 (c) of Article VI.

Sec. 13. The term "the effective date" means the second Monday after the Code shall have been approved by the President.

Sec. 14. The term "the Institute" means the Asbestos Institute, an unincorporated association having an office in the City of New York, State of New York.

Sec. 15. The "Southern section" means the States of North Carolina, Tennessee, Arkansas, Oklahoma, Texas, New Mexico, and the States south thereof.

Sec. 16. The "Northern section" means that part of the United States not included in the Southern section.

Sec. 17. Population for the purpose of the Code shall be determined by reference to the 1930 Federal Census.

Article III—Hours of Labor

Section 1. Factory employees, mechanical workers, or artisans, except as hereinafter provided in sections 2 to 4, inclusive, shall not be employed (a) in excess of 40 hours per week, except that to meet seasonal requirements or emergencies 48 hours per week for not more than 6 weeks in any six months' period shall be permitted if the average employment over the six months' period is not more than 40 hours per week; (b) in excess of 8 hours in any 24-hour period, except that to meet seasonal requirements or emergencies more than 8 hours may be worked, provided time and one third is paid for overtime in any one day.

Sec. 2. There shall be a tolerance of 10% additional hours for (a) employees engaged in the preparation, care, and maintenance of plant. machinery, and production facilities, (b) watchmen, firemen, and engineers, and (c) shippers and delivery employees; provided, however, that any such work by such employees in excess of an average of 44 hours per week over a six weeks' period shall be compensated for at the rate of time and one third.

Sec. 3. The limitation as to hours of labor in any 24 hours shall not apply to very special cases where restriction of hours of labor of highly skilled workers in continuous processes would unavoidably reduce production; provided, however, that employees in such cases shall not work more than 48 hours in any one week.

Sec. 4. The limitation as to hours of labor shall not apply (a) to outside sales or sales-service men, technicians (highly skilled factory workers are not to be classed as technicians), nor to persons in a managerial, executive, or supervisory capacity who receive more than $35.00 per week (foremen regularly engaged in manual labor shall not be considered to be in such supervisory capacity), nor (b) to employees engaged in emergency maintenance or repair work necessary because of breakdowns or involving danger to life and property, providing that such emergency overtime work in excess of 48 hours in any one week shall be paid for at the rate of time and one third.

Sec. 5. No employer shall work any accounting, clerical, office, inside sales, or other employee not provided for otherwise in this Article III who receives less than $35.00 per week, more than an average of 40 hours per week during a six-month period, nor more than 48 hours per week in any one week.

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

Article IV—Minimum Wages

Section 1. Except as provided in Sections 2 to 6 below, the minimum wages that shall be paid to factory workers in the Northern section by any employer shall be at the rate of 40 cents per hour or of $16.00 per week of 40 hours of labor; except that for such light work as does not usually require the strength and skill of male labor, and for which male labor has not been used, the minimum rate paid to female employees may be at the rate of 35 cents per hour or at $14.00 per week of 40 hours of labor.

Sec. 2. In the Southern section the above-mentioned minimum rates shall be 2½ cents per hour lower.

Sec. 3. The above Sections 1 and 2 establish minimum rates of pay, regardless of whether the employee is paid a time rate or for piecework performance.

Sec. 4. The minimum wage that shall be paid by employers to any accounting, clerical, office, sales employee in any office, department, or establishment, or other employee not provided for otherwise in this Article IV, shall be at the following rates in cities of the sizes listed below and their immediate trade areas:

Over 500,000 population, not less than $15.00 per week.

Between 250,000 and 500,000, not less than $14.50 per week.

Under 250,000 population, not less than $14.00 per week.

Sec. 5. No employees in the classes mentioned in Section 4 of this article shall have their compensation reduced on account of any reduction in their weekly hours of employment made because of the requirements of Section 5, Article III.

Sec. 6. The minimum rate of pay paid to office or messenger boys and girls and learners (the latter for not over the six weeks' period specified in the definition of learners) may, in the case of those members of the Industry where the total of such classes never exceed 5% of their total employees, be 20% less than the rates specified in Sections 1 and 2 above for learners, and Section 4 above for office or messenger boys and girls.

Sec. 7. 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, or piecework basis.

Sec. 8. Unless such readjustment has already been made because of the operation of the President's Reemployment Agreement, the wage rates of all employees receiving more than the minimum rates prescribed above, but less than $35.00 per week, shall be equitably readjusted.

SEC. 9. There shall be no evasion of the Code by any employer by reclassification of the functions of an employee. An employee shall not be included in one of the classifications exempted from the provisions of this Code unless the identical functions were identically classified on June 16, 1933.

ARTICLE V—CHILD LABOR

No person under 16 years of age shall be employed in the Industry, and no person under 18 years of age engaged in unsanitary occupations or when operating hazardous manufacturing machinery.

ARTICLE VI—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 the Code.

SECTION 1. Organization and constitution of the Code Authority.

(a) The Code Authority shall consist of six voting members selected as specified in Article VI, Section 1 (e), and such additional members, if any, not exceeding three, as shall be appointed by the President. Such additional members shall not be vested with voting rights.

(b) For purposes of administering the Code and selecting members of the Code Authority, the Asbestos Industry is divided into the following divisions:

Asbestos Paper and Allied Products Division.
Asbestos Cement Products Division.
Asbestos Magnesia Products Division.
Asbestos Textile Products Division.
Asbestos Brake-Lining and Related Friction Products Division.

The products manufactured by members of each of said Divisions are set forth under the designated Divisions in Schedule I hereto attached.

(c) Every member of the Industry shall be eligible to membership in the Code and there shall be no inequitable restrictions upon such membership. Any member of the Industry desiring to become a member of the Code may do so by signing and delivering to the Institute or to the Code Authority a letter substantially in the form set forth in Schedule II, annexed hereto.

(d) Every member of the Industry who manufactures one or more of the products listed in Schedule I under a designated Division shall be a member of such Division.

(e) At least five voting members of the Code Authority shall be selected from members of the Code. One voting member shall be elected by a two-thirds vote of the members of each Division of the Code. A democratic (majority) method of election and term of office shall be determined by the members of each Division. The sixth voting member shall be elected by a majority vote of the five so elected.

(f) The Code Authority shall adopt its own rules of procedure and may appoint such officers or agencies as it may deem necessary properly to administer the Code, subject to review by the Administrator.

It shall delegate to a Sub-Code Authority of each member Division, consisting of three members elected by each Division, the administration of all articles except III, IV, V, and X of the Code, subject to review by the Administrator. All contacts with the Administrator relating to the administration of Articles III, IV, V, and X of the Code shall be by the Code Authority.

(g) The members of each Division shall adopt their own rules of procedure with respect to administering the Code, not inconsistent with the Act or with the Code, subject to review by the Administrator. Each Division may appoint agents, not members of the Industry, to investigate complaints of violation of the Code by members of the Division under rules which shall not be inconsistent with the provisions of the Act or of the Code.

(h) All members of the Code shall bear their proportionate share of the expense of maintenance of the Code Authority and its activities. Such expenses shall be assessed upon an equitable basis (proportionate to dollar sales or volume of production as Divisions may determine) by the Code Authority, subject to review by the Administrator. Assessments shall be paid by members of the Code in the manner and at such times as shall be directed by the Code Authority.

Sec. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to review by the Administrator.

(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 the members of the Industry are taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall report to the Administrator at such times and concerning such conditions in the Industry as he may from time to time require. Each member of the Industry, subject to review by the Administrator, shall file in such office as the Code Authority may designate and 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. Any additional special reports required by the Administrator will be supplied without expense to the Code Authority. 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.

(b) All confidential information of any nature so requested shall be collected through agents not connected with the Industry, selected by the Code Authority, and such information shall be kept confidential by the said agents except when required by the Code Authority for the proper administration of the Code. Only such information shall be requested by the Code Authority which is appropriate to the proper supervision of the Industry or to the administration of the Code.

(c) The Code Authority may designate agents not members of the Industry to investigate complaints of violations of the Code. The members of the Industry shall facilitate such investigations by

opening their correspondence, books, and accounts relating to alleged violation for examination by such authorized agents and by furnishing relevant information. All such information shall be kept confidential by the agents except that in the event of any such violation being substantiated, the Code Authority shall be informed and may present evidence thereof to the proper department of the Government. If, upon such investigation, any complaint of a violation of the Code shall be substantiated in any material respect, the member of the Code guilty of such violation shall pay the cost of the investigation; otherwise the cost shall be borne by the complainant. The guilty member shall be subject to all penalties provided for in the Act and if a member of the Code, any other penalties provided for by said member's Division of the Code.

(d) The Code Authority shall study conditions in the Industry and, subject to approval by four of its voting members and by a three-fourths vote of the Code members of each Division present at a meeting expressly called for that purpose, shall make such recommendations from time to time to the Administrator as it deems desirable to further the policies of the Act, which, upon the approval of the President or the Administrator or such other lawful officer as may be constituted, shall become a part of the Code and shall have full force and effect as provisions hereof.

Sec. 3. Appeals.

(a) Any interested party shall have the right of complaint to the Code Authority or a Sub-Code Authority, and a prompt hearing and decision thereon, under such rules and regulations as the Code Authority shall prescribe, in respect to any act of any member of the Industry or in respect to any agent or agency designated by the Code Authority or Sub-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 prescribe, with respect to any decision, rule, regulation, order, or finding made by the Code Authority or a Sub-Code Authority.

(c) Any member of the Industry who promptly files his appeal with the Code Authority or Sub-Code Authority and cooperates toward prompt decision thereof and who makes his appeal on the grounds that said restrictions or rulings will handicap his legitimate methods of operation or distribution tending toward jeopardizing his existence, shall not be bound by any restrictions which arise from the Merchandising Plan or Rulings of the Sub-Code Authority provided for herein in this Article VI, Section 4 (b) but supplemental to and not specifically covered by this Code, until such appeal has been heard and finally disposed of.

Sec. 4. Codes of Ethics and Merchandising Plans.

(a) The Code Authority may, with the approval of four of its voting members and by a three-fourths vote of the Code members of each Division present at a meeting expressly called for that purpose, and subject to review by the Administrator, formulate a Code of Ethics for all members of the Industry which will amplify and define the provisions of Article VII hereof.

(b) The members of each Division of the Industry may prepare Simplification and Standardization Specifications and a Merchandising Plan for such Division, incorporating the merchandising policies best calculated to promote fair competition in such Division.

Subject to the review of the Administrator, every such Merchandising Plan or Simplification and Standardization Specifications, when approved by three fourths of the Code members of the Division and filed with the Sub-Code Authority, shall be binding upon all members of the Industry who are members of the Division to which such Merchandising Plan or Specifications apply. Changes may be made in any such Merchandising Plan or Specifications in the same manner that the originals were established.

Sec. 5. 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 by registered mail, postage prepaid, addressed to such member of the Industry, at his address on file with the Secretary of the Code Authority.

Article VII—Unfair Trade Practices

For the purposes of the Code the following shall constitute unfair trade practices:

Section 1. To invoice fictitiously, ship in excess of quantities invoiced, price at prices for a trade classification to which buyer is not properly entitled, permit unwarranted deductions, make fictitious or excessive allowances or guarantees.

Sec. 2. To grant secret rebates in any form, give or sell other materials at lower than prevailing prices to influence a sale, give improper "cut backs" or rebate to any buyer for stock on hand at date of any price decline.

Sec. 3. To subsidize buyers by special donations, give premiums, lavishly entertain a customer or prospective customer or their employees, split commissions, pay part or all of a customer's or prospective customer's expenses, buy of a customer or prospective customer other commodities at higher than prevailing open market prices, make improper advertising allowances, give gratuities or make loans or otherwise improperly influence business, consign stock or allow other than published terms, or fail to prescribe definite terms, or make improper price-maintenance guarantees.

Sec. 4. (a) To sell or offer any product with intent to deceive.

(b) To defame a competitor.

(c) To purchase a stock of competitor's materials from a customer or prospective customer.

(d) To misbrand material or to imitate the trade marks, trade names, slogans, or advertising matter of a competitor.

(e) To improperly entice away a competitor's employees.

Sec. 5. To sell for export until the buyer has agreed not to resell the goods within the United States.

Sec. 6. Using or employing any unfair trade practice shall 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 or willfully use or employ any such unfair practices shall have violated the Code.

Article VIII—Publicity of Prices, Terms, and Conditions of Sale

The purpose of the following publicity requirements of the Code is to insure complete publicity of all prices, terms, and conditions

of sale to manufacturers and to the trade concerned, and thus to promote fair competition. The trade concerned shall be all the trade of the member of the Industry directly affected by such prices, terms, or conditions of sale in the territory to which the same apply.

SECTION 1. Each member of the Industry shall have the right individually to establish new prices, terms, and conditions of sale from time to time not inconsistent with the provisions of the Code.

SEC. 2. No member of the Industry shall sell, pay a rebate, or allow a deduction at any time to any person except upon prices, terms, and conditions of sale then in effect and/or published in such manner as may hereinafter be required by the Code.

SEC. 3. Upon the effective date of the Code every member of a Division of the Industry shall forthwith file in the office designated for such Division a schedule of his prices, terms, and conditions of sale then in effect for distribution to all members of the Division in the manner and to the extent determined by the Sub-Code Authority of such Division. The members of each Division may determine the extent to which such schedules shall be open to inspection by members of the trade.

SEC. 4. In the event of any change being made by a member of the Industry in any price, term, or condition of sale, he shall, if so determined by the members of the Division of which he is a member, do either one or both of the following:

(a) Immediately publish to the trade concerned every such change and coincidentally file in the office designated for his Division full and complete copies of every such change in price and terms and conditions of sale for immediate distribution to the members of the Division; or

(b) File full and complete copies of every contemplated change in prices, terms, and conditions of sale in the office designated by his Division within such periods as may be designated for such Division but not exceeding 5 days in advance of the effective date of such change. Copies thereof shall in such cases be immediately filed with the Sub-Code Authority of the Division and then distributed to the trade concerned as required by the Division, in the manner provided in Article VIII, Section 3.

When a member of the Industry is a member of more than one Division the publicity requirements of any Division of which he shall be a member shall apply only to changes in prices, terms, and conditions of sale of products listed under such Division in Schedule I of the Code.

Merchandising Plans adopted pursuant to Section 4 of Article VI, containing provisions with reference to publicity of prices, terms, or conditions of sale, shall be controlling with respect to the members of the Division for which any such Merchandising Plan may be established, even though such provisions supplement or vary the publicity requirements of this Article VIII.

SEC. 5. After dates to be specified by each Sub-Code Authority for its Division, no member of the Division shall sell to any buyer for resale more than one small introductory order unless the buyer has agreed in writing (1) to make no improper use of the member's merchandising plans, prices, terms and/or conditions of sale or otherwise misrepresent the policies or products of the member; (2)

to sell from a list no higher than that from which the products were purchased; (3) to observe all of the provisions of this Code insofar as they are applicable.

Article IX—Selling Below Cost

Section 1. No member of the Industry shall initiate a price for the sale of any product to the trade at a net price after all discounts which shall be below the said member's own individual cost. Said cost shall be determined in accordance with any uniform cost accounting methods as may be approved by a three-fourths vote of the members of each Division and subject to review by the Administrator. Each such Division shall by the same method designate the cost accounting period to be used from time to time; provided, however, that any member of the Industry may sell below his own individual cost to meet prices established on products of essentially similar grade and quality by another member of the Industry.

Sec. 2. Complaints may be filed with a Subcode Authority against any member of its Division of the Industry to the effect that said member has made a sale at a price believed to be below said member's current total cost and not to meet existing competition in the Industry. Said Subcode Authority may in its discretion investigate such complaints, and if it finds that said prices were not made to meet existing competition in the industry, it shall designate a firm of certified public accountants to investigate whether or not the prices complained of were below said member's current total cost in conformity with sound accounting practice. The said accountants shall report their conclusions to the Subcode Authority without disclosing confidential details, and if the Subcode Authority finds after receiving such report, that such member actually sold below his current total cost and not to meet existing competition in the Industry, then the cost of the investigation shall be paid by said member if a member of the Code, otherwise by the complainant. The guilty member shall be subject to all penalties provided for in the Act, and if a member of the Code. any other penalties provided for by said member's Division of the Code.

Article X—Labor Provisions

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.

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. 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 help, fire, or general working conditions than under this Code.

Sec. 5. Each employer will make available without charge to his employees copies of the Code under which employer is operating.

Article XI—General

Section 1. For the purposes of the Code, all transactions between manufacturers who are members of the Industry and their respective subsidiaries and affiliates, which shall be defined in the respective divisional merchandising plans as described in Section 4 (b) of Article VI, shall be considered as interdepartmental transactions of the manufacturer. No such manufacturer shall sell to such subsidiary or affiliate unless such subsidiary or affiliate shall agree to and does conform to the pertinent provisions of this Code.

Sec. 2. Nothing contained in the Code shall be construed as prohibiting any member of the Industry from exercising its and/or their lawful patent rights or as requiring any member of the Industry to do any act in conflict with the terms of any patent licensing agreement.

Sec. 3. Section 4 of Article VI and Articles VII, VIII, and IX of the Code shall not apply to products exported from the United States.

Sec. 4. 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 by reason of his participation therein to anyone for any act of any member or agent of the Code Authority. 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 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. 5. Where the costs of executing contracts entered into in the Asbestos Industry prior to the effective date are increased by the application of the provisions of the Code to the Industry, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise. The Code Authority is constituted an agency to assist in effecting such arbitral proceedings and adjustments.

Sec. 6. As required by Section 10 (b), Title I of the Act, the following provision is contained in the Code: The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under this Title.

Sec. 7. By presenting the Code the members of the Industry assenting thereto do not thereby consent to any modification thereof, and they reserve the right to object individually or jointly to any such modification.

Article XII—Amendments to the Code

It is contemplated that from time to time supplementary provisions to the Code or additional codes may be submitted for the approval of the President to prevent unfair competition in prices or

other unfair or destructive practices and to effectuate the other purposes and policies of Title I of the Act. Such provisions of the Code as are not required to be included therein by the Act, may, with the approval of the President, be modified or eliminated if it appears that the public needs are not being served thereby, and as changes in circumstances or experience may indicate. The provisions of the Code shall remain in effect unless and until so modified or eliminated, or until the expiration of the Act; namely, June 16, 1935, unless sooner terminated in accordance with law for such case made and provided.

Approved Code No. 80.
Registry No. 1002/1/01.

SCHEDULE I

Divisions of the Asbestos Industry and Products Included

1. Asbestos Paper and Allied Products:
   - All Asbestos Papers
   - All Types of Asbestos Millboard
   - Asbestos and Wool Felt Pipe Covering
   - Air Cell Pipe Covering
   - Asbestos Laminated Pipe Covering
   - Pipe Covering Accessories
   - Asbestos Insulating Cement
2. Asbestos Cement Products:
   - Asbestos Shingles
   - Asbestos Corrugated Lumber
   - Asbestos Flat Lumber
   - Asbestos Wallboard Plain
   - Asbestos Board Pre-Decorated
   - Impregnated Asbestos Lumber
   - Asbestos Encased Insulating Board
   - Miscellaneous Molded Products
3. Asbestos Magnesia Products:
   - 85% Magnesia Pipe Covering, Blocks and Cements
   - High temperature Insulation, Blocks and Cement
   - Insulating Bricks
   - Carbonate of Magnesia
4. Asbestos Textile Products:
   - All Types of Asbestos Roving
   - All Types of Asbestos Yarn
   - All Types of Asbestos Cloth
   - All Types of Asbestos Listing
   - All Types of Asbestos Tubing
   - All Types of Asbestos Cord
   - Carded Asbestos Fibre Made from Crude Asbestos
5. Brake Lining and Related Friction Products:
   - Brake Lining and/or Clutch Facings, excepting only friction elements made exclusively of metal or wood.

SCHEDULE II

To the President of The Asbestos Institute,
22 East Fortieth Street, New York, N.Y.

Dear Sir: The undersigned, desiring to become a member of the Code of Fair Competition of the Asbestos Industry, a copy of which is annexed hereto marked "A", hereto assents to all of the provisions of the said Code.

In consideration of the benefits conferred by such membership the undersigned agrees to become a member of the Code and agrees to be bound by all of the provisions thereof effective as of the date on which the Code becomes effective after approved by the President of United States, or as of the date on which this letter shall be delivered, if delivery thereof shall be made subsequent to the date on which the Code shall have become effective.

Very truly yours,

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Approved Code No. 81

CODE OF FAIR COMPETITION

FOR THE

COPPER AND BRASS MILL PRODUCTS INDUSTRY

As Approved on November 2, 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 Copper and Brass Mill 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 2, 1933.

29170°——296-86——34

NOVEMBER 1, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the proposed Code of Fair Competition for the Copper and Brass Mill Products Industry, and on the hearing conducted thereon in Washington, D.C., on August 31, 1933, in accordance with the provisions of the National Industrial Recovery Act.

RÉSUMÉ OF THE CODE AS TO WAGES AND HOURS

The Code provides for a 40-hour week and an 8-hour day, except as to outside salesmen, executive and supervisory staffs, with a further provision that watchmen and power-house employees may work 48 hours in any week. Any employee may work in excess of the maximum hours in case of emergencies, but in such event payment of time and one-half for overtime is provided.

Minimum wages are at the rate of 40 cents per hour for males and 35 cents for females, unless the hourly rate for the same class of work on July 15, 1929, was less than the respective minima, in which case the minimum rates are not to be less than the hourly rates on July 15, 1929, and in no event less than 35 cents for males and 30 cents for females.

The minimum wages provided are guaranteed whether the employee is compensated on a time rate, piece rate, or salary basis.

Child labor is prohibited. The continued employment of physically incapacitated employees and employers in clerical and laboratory work and messengers who may be under 18 years of age is permitted, provided the total number of both classes of employees does not exceed 5 percent of the total number of employees.

GENERAL STATEMENT AND ECONOMIC REPORT

This is the Copper and Brass Rolling Mill Industry, as more specifically covered by the definition in the code. The code was submitted by the Copper and Brass Mill Products Association, an organization including in its membership more than 95 percent of the production of the industry. As of July 31, 1933, it represented a capital investment of $152,000,000 and on that date the member firms employed approximately 24,000 persons.

Pertinent data on employment, wages, and hours, as submitted by the industry, is as follows:

	Number employed	Minimum wage rates	Average hours of work
1928	25,915	39.7	50–55
1929	28,324	39.9	50–55
January, 1933	18,782	32.4	38
August 15, 1933	23,782	38.1	42
Under Code at August 15, 1933, rate of operation	24,000	40.0	40

Operation under substantially the provisions of the Code has resulted in the employment of approximately 5,000 additional employees since the first quarter of the year and an increase in the annual payroll of the industry of approximately $4,500,000 is anticipated as a result of the Code.

The Executive Committee of the Copper and Brass Mill Products Association are set up as a planning and fair-practice agency to cooperate with the Administrator in the enforcement and administration of the code and all acts of the administrative group are made subject to the disapproval of the Administrator.

Certain products produced by the industry are used both for electrical and other purposes, and a difference of opinion arose between the manufacturers involved as to whether these products should be subject to the electrical code rather than the code of this industry. The different firms interested have agreed that they will settle the question among themselves and no difficulty of administration is anticipated.

I believe that the code is fair to Industry, to Labor, and to the Consumer, 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 limitations, 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 Copper and Brass Mill Products Industry; and that

(c) The Code as recommended is not designed to promote monopoplies 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 Copper and Brass Mill Products Industry.

Respectfully,

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

COPPER AND BRASS MILL PRODUCTS INDUSTRY

Article I—Definitions

Section 1. The term "the President" means the President of the United States of America.

Sec. 2. The term "the Industry" means the industry of rolling, drawing and forming, and re-rolling and re-drawing, for the sale in the open market, mill products, including sheets, strips, rods, wire, pipe, tubes and shapes of copper, brass, bronze or related alloys. It shall not include the manufacture of wire and cable of copper or copper alloy for electrical transmission.

Sec. 3. The term "manufacturer" includes all those engaged in manufacturing in the Industry as defined above.

Sec. 4. The term "Executive Committee" means the Executive Committee of the Copper and Brass Mill Products Association.

Sec. 5. The term "Administrator" as used in this Code means the Administrator appointed by the President to administer Title I of the National Industrial Recovery Act, and at the time in office.

Article II—General Purpose

Section 1. This Code is adopted pursuant to Title I of the National Industrial Recovery Act, and shall apply to all manufacturers.

Sec. 2. It is the purpose of this Code to set up standards of fair competition which will improve the conditions of employment of labor, eliminate unfair competitive practices, safeguard the interests of the buying public through an open and simple price structure, and otherwise rehabilitate the Industry, so as to carry out the policy of the National Industrial Recovery Act.

Article III—Labor and Employment

Section 1. *Minimum Age Limit.*—No person under eighteen years of age shall be employed, except that in clerical and laboratory work and for messengers the minimum age for employment shall be sixteen years, 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 within that State.

Sec. 2. *Old and Disabled Employees.*—The Industry heretofore has pursued the policy of retaining employees of long service records who have become incapable of full productive effort because of old age or physical disability by giving them work which is within their abilities to perform. This policy will be continued.

Sec. 3. *Minimum Wages.*—It is agreed that the following paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or piecework performance or salary basis.

The minimum wage of any male employee 18 years of age and over in the Industry shall be 40¢ per hour of work and the minimum wage of any female employee eighteen years of age and over shall be 35¢ per hour of work, 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 35¢ for males and 30¢ for females; provided, however, that the difference in the above minimum wages 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 as male employees they shall receive the same wage as men receive for doing such work or performing such duties. The minimum wage for any employee between the ages of sixteen and eighteen years, as classified in Section 1 of this Article, and for old or partially incapacitated employees, as classified in Section 2 of this Article shall be not less than 80 percent of such minimum wage, but the total number of such employees shall not in any calendar month exceed 5 percent of the total number of employees; provided, however, that where a State law provides a higher minimum wage no person shall be employed in that State at a lower wage than that specified by such State law.

Sec. 4. *Maximum Hours of Work.*—The maximum hours that any employee, except outside salesmen, executive and supervisory staffs, shall work in any one day shall be eight hours, and in any calendar or pay-roll week 40 hours; provided, however. that watchmen and power house employees may work more than 8 hours per day and more than 40 hours per week, but not in excess of 48 hours in any week without overtime payment of employees. In case of emergencies of any character, such, for example, as those arising from the need of repairs or of meeting unusual requirements of peak production or shipment, any employee, upon request of the employer, may work a total number of hours greater than 8 hours in any one day, or 40 hours in any one calendar or pay-roll week, the excess work in such case over 8 hours in any day or over 40 hours in any one calendar or pay-roll week to be paid for at one and one-half the regular hourly rate; but this provision shall not be construed to require more than one overtime payment for the same overtime work, and shall not apply to watchmen and power house employees except for time in excess of 48 hours per week.

Sec. 5. 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. 6. 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. 7. 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. 8. There shall be an equitable adjustment of wages above the minimus herein prescribed, to the end that so far as may be equi-

table the differentials which now exist between the wage rates paid to skilled workers and those paid for unskilled labor shall be preserved.

Article IV—Sales Terms and Conditions

Section 1. *Credit Terms.*—All manufacturers shall adopt and maintain uniform credit terms, to be established by the Executive Committee. Such credit terms shall clearly appear on all quotations, contracts, invoices, and acceptances of orders.

Sec. 2. *Terms and Conditions of Contract.*—All manufacturers shall adopt and maintain fair and equitable uniform contract terms and conditions to be established by the Executive Committee.

Sec. 3. *Defaults.*—Neglect by manufacturers to enforce contracts, or variation from the terms or conditions of contracts when established, as hereinbefore provided, as a means of evading price schedules or securing the customer's favor, are forbidden as unfair competition.

Sec. 4. *Secret Rebates.*—No manufacturer shall grant secret rebates or concealed favors to customers.

Sec. 5. *Uniform Practices.*—It is the policy of this Code to bring about uniformity on the part of all manufacturers in regard to consignments, freight allowances, the granting of options, and other uniform fair and equitable sales practices, including treatment of distributors.

Article V—Price Schedules

Every manufacturer shall issue and distribute to the trade, and shall file with the Executive Committee, price schedules clearly stating all products for sale by such manufacturer, the prices therefor, and the quantities to which such prices apply, and also the prices which such manufacturer offers to pay for scrap. Each manufacturer, upon issuing new price schedules or any revision thereof after the effective dates fixed as hereinafter provided in this Article, shall immediately file a copy of such schedules or revisions with the Executive Committee.

Sales directly or indirectly by a manufacturer of his products or purchases of scrap at prices other than those stated on the latest price schedules of such manufacturer filed with the Executive Committee are forbidden as unfair competition. Sales shall be deemed to include finished mill products supplied by a manufacturer to his subsidiary or a department for reworking, and such sales shall not be made at prices less than those stated on such manufacturer's latest price schedules filed with the Executive Committee.

Owing to the complexity of manufacturer's price schedules, time will be required for the construction of complete price schedules to conform with this Article V. Therefore, the provisions of this Code, insofar as they depend upon the price schedules provided for in this Article V, shall not become effective as to the respective products until dates which shall be fixed from time to time by the Executive Committee for each such product. The Executive Committee shall give written notice of every such effective date to each manufacturer who shall be a member of the Copper and Brass Mill Products Association, or if not a member, whose address shall be recorded with that Association.

On the effective dates fixed for the respective products the price schedules for each such product filed by each manufacturer shall apply to all unshipped material on contracts outstanding on such date entered into subsequent to the effective date of this Code, but in no case shall such contracts be filled at prices lower than the base prices with the qualifying extras in the contract.

The Executive Committee shall consider the subject of contracts in existence on the effective date of this Code, and shall make recommendations to the Association as to the disposition of such contracts.

It is clearly understood that each manufacturer shall be free at all time to name the sale prices for his products and his purchase prices for scrap; but such prices shall be stated in price schedules to be filed with the Executive Committee, and shall be observed, as hereinabove provided.

Article VI—Price Protection

The practice of giving to customers protection against advance in price and guaranty against decline in price is generally injurious, and is forbidden as unfair competition, except as specifically permitted by the price schedules referred to in Article V in the case of sales to distributors and sales under options in connection with job contracts.

No manufacturer shall enter into any understanding or agreement with a customer that a contract or order accepted from such customer is to be binding only in case of an advance in price over the price named in such contract or order. Where a contract or order is in good faith put into transit to the manufacturer, the manufacturer may accept such contract or order, notwithstanding an advance of price between that time and its receipt by the manufacturer. A manufacturer may accept a contract or order based upon a quotation offered by him, provided the customer accepts the quotation promptly and in good faith, notwithstanding a price advance between the date of the quotation and the acceptance thereof by the customer. Except as hereinbefore provided, no manufacturer after an advance in his price shall accept a contract or order at the price effective prior to such advance. A manufacturer may accept a contract or order at his price in effect at the time of the receipt thereof, notwithstanding the price has declined below the price named in such contract or order.

Article VII—Distributors

The selling of the products of the industry to distributors at prices lower than prices given to other customers is recognized as a proper trade practice, provided such lower prices are fully and clearly set forth in the price schedules of the manufacturer as provided in Article V. No manufacturer shall give such lower price to any buyer unless he be a distributor of acceptable credit, regularly engaged in the wholesale business and carrying adequate stocks of the manufacturer's products.

Whereas, the great preponderance of sales by manufacturers in this industry is made without the intervention of distributors and the sale by distributors, where such services are used, at a price less than the manufacturer's published price schedules would unfairly break down the open price structure provided for in Article V hereof, any manufacturer may enter into an agreement with a distributor by

which such distributor may agree that he will sell the products purchased from such manufacturer at not less than the prices contained in the published price schedule of such manufacturer in effect at the time of any such sale.

Article VIII—Intermember Sales

Sales of mill products by any manufacturer to other manufacturers for resale in the same form as purchased, may be made on any basis mutually satisfactory to them.

Article IX—General Unfair Practices

Section 1. *Adherence to Standards.*—Deviation from standard specifications to be established by the Copper and Brass Mill Products Association for products of the Industry for the purpose of evading the provisions of this Code is forbidden as unfair competition.

Sec. 2. *Lump Sum Bidding.*—All bids shall be based on the price schedules showing each item separately and items shall not be lumped for bidding in any manner other than provided in such price schedules.

Sec. 3. *Trade Marks and Trade Names.*—The imitation of the trade marks or trade names of other manufacturers having the tendency to mislead or deceive customers or prospective customers, or consumers, or the tendency injuriously to affect the business of such competing manufacturers, is prohibited as an unfair method of competition.

Sec. 4. *False Labeling.*—The false marking, labeling, or branding of any product which has the tendency to mislead or deceive customers, or prospective customers, or consumers as to the quality, size, material, character, or grade of such product, is prohibited as an unfair method of competition.

Sec. 5. *False Advertising.*—The making or causing or permitting to be made or published of any false, untrue, or deceptive advertisement, or the assertion in such advertisement of exaggerated claims, concerning the grade, quality, character, material, origin, or size, which has the tendency to mislead or deceive customers, or prospective customers, or the ultimate retail purchasers, or the tendency to injure the business of a competing manufacturer, is prohibited as an unfair method of competition.

Sec. 6. *Commercial Bribery.*—The direct or indirect giving, permitting to be given, or offering of money or anything of value, by a manufacturer, or his agents, employees, salesmen, or representatives, to the agents, employees, buyers, or representatives of customers or prospective customers, or to the customers themselves, for the purpose of inducing such customers, or their agents, employees, buyers, or representatives, to purchase or contract to purchase products from the manufacturer making such gift, or suffering the same to be made, or to refrain from dealing or contracting to deal with competing manufacturers, is prohibited as an unfair method of competition.

Sec. 7. *Defamation of Competitiors.*—The defamation or disparagement of competing manufacturers by falsely imputing to them dishonorable conduct, inability to perform contracts or to make deliveries, questionable credit standing, or by other false reports having

the tendency to mislead or deceive customers or prospective customers, is prohibited as an unfair method of competition.

Article X—Administration

To further effectuate the policies of the National Industrial Recovery Act, the Executive Committee is set up to cooperate with the President as a planning and fair practice agency for the Industry. The President in his discretion may appoint not to exceed three non-voting representatives to serve with the Executive Committee in the administration of this Code. Such agency may from time to time present to the President 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 National Industrial Recovery Act, and in particular along the following lines:

(1) Recommendations as to the requirements by the President of such report of statistical information from persons engaged in the industry as may be required to secure the proper observance of the Code and the stabilization of employment.

(2) Recommendations for the making of requirements by the President as to practices by persons engaged in the Industry as to methods and conditions of trading, the naming and reporting of prices which might be appropriate to avoid discrimination to prevent and eliminate unfair and destructive competitive prices and practices.

Such recommendations, when approved by the President, shall have the same force and effect as any other provisions of this Code.

Such agency is also set up to cooperate with the President in making investigations as to the functioning and observance of any of the provisions of this Code at its own instance, or on complaint by any person affected.

To further effectuate the policies of the Industrial Recovery Act, the Executive Committee 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 upon behalf of the Administrator or any member of the Industry regarding the operation, observance, or administration of this Code.

In addition to information required to be submitted to the Executive Committee, 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 XI—Reports

Section 1. *Reports on Shipments.*—Each manufacturer shall report his shipments monthly to the American Bureau of Metal Statistics, or to such other organization or person as may be designated by the Copper and Brass Mill Products Association, in the form provided for the purpose.

Sec. 2. *Reports on Job Contracts.*—Each manufacturer shall report to the Executive Committee all contracts written for merchandise products, such as pipe and tube, extruded architectural shapes, sheet, roll, and strip copper for buildings, giving quantities, amounts, and the account within three days after the receipt of the contract by such manufacturer.

Sec. 3. *Reports of Defaults and Cancellations.*—Each manufacturer shall report to the Executive Committee all defaults on contracts or cancellations thereof, giving the attending circumstances and the action actually taken by such manufacturer with respect to such defaults and/or cancellations.

Sec. 4. The Secretary or other officer designated by the Executive Committee shall receive the reports called for by Sections 2 and 3 of this Article XI.

Sec. 5. *Reports.*—Every manufacturer shall furnish any special or general reports requested by the Administrator.

Article XII—Modification and Supplements

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. Pursuant to subsection (b) of Section 10 of Title I 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 said Title.

Article XIII—Monopolistic Practices

It is expressly understood that no provision in this Code shall be interpreted in such a way as to condone or permit conduct or operations tending to promote monopolies or to eliminate or oppress small enterprises, or to discriminate against them.

Article XIV—Effective Date

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

Article XV

Any action taken by the Executive Committee or by the Copper and Brass Mill Products Association or any group within the Industry for the purpose of making effective the provisions of this Code may, in the discretion of the Executive Committee, be submitted to the Administrator for approval, and shall in any case be subject to the disapproval of the Administrator.

Article XVI

No inequitable restrictions shall be imposed upon membership in the Copper and Brass Mill Products Association or its successors.

Approved Code No. 81.
Registry No. 1201/1/01.

O

Approved Code No. 82

CODE OF FAIR COMPETITION

FOR THE

STEEL CASTING INDUSTRY

As Approved on November 2, 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 Steel Casting 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 2, 1933.

29919——296-181——34

NOVEMBER 1, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the proposed Code of Fair Competition for the Steel Casting Industry in the United States and on the hearing conducted thereon in Washington, D.C., on Thursday, September 7, 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 averaged over an eight-week period with the proviso that no employee may be employed more than 48 hours or more than six days in any one week.

Office employees are limited to 40 hours of work per week.

The rates of pay vary from 40¢ per hour in the northern wage districts to 25¢ per hour in the southern wage districts.

The hours and wages closely follow those provided in the Code for the Steel Industry.

Most of the plants in this industry are in the territory contiguous with or adjacent to the steel producing areas. This Industry employs the same general character of labor and wage rates and hours of labor are definitely affected by the labor conditions prevailing in the Steel Industry.

No one under 16 years of age may be employed and no one under 18 years of age in any hazardous occupation.

Office and clerical employees are to receive a minimum of $15.00 per week except that office boys and girls may be paid 80% of this minimum.

Old and partially disabled employees not engaged in productive labor may be paid 80% of the minimum rates provided but are limited to 3% of the total number of employees.

Equitable adjustments in wage rates over the minimum are provided for.

GENERAL STATEMENT AND ECONOMIC EFFECT OF THE CODE

The Steel Casting Industry in the United States represents persons, firms, and corporations engaged in the production and sale of steel castings. It embraces two main groups of castings, which are commonly known in the trade as "miscellaneous castings" and "specialties", the first group comprising those castings produced to the order of buyers from buyers' designs and specifications, and the latter group produced from designs and patterns belonging to the producer and sold as finished or semi-finished devices, or parts thereof.

The Steel Founders' Society, which presented the Code, represents about 80% of the Industry and about three fourths of the number of companies actively engaged in it.

The investment in the Industry is approximately $240,000,000 and the number of wage earners in normal times about 43,000 persons, with an estimated pay roll of about $85,000,000.

The Industry considers 1926 as a normal year, and in that year operated at 68% of capacity; in 1931 production dropped to 25% and in 1932 to only 10% of capacity. At the present time production has increased to about 20%. It is estimated that in working under the provisions of this Code at three fourths of the 1926 rate of production which is 51% of capacity, the Industry will absorb all the workers

then employed in the industry. Should production reach the normal figure of 68% of capacity on the basis of a 40-hour week, it is estimated that the industry would require an average total of 54,209 employees, or 13,000 more than were required in 1926.

While the Code has been in process of development the Industry has been endeavoring to adjust hours and wages to approximate the code requirements, and reports for July and August show that there has been an increase in rates of pay of 8.8% since July 1st, amounting to approximately $46,000 a week, or at the rate of $2,392,000 a year. It is estimated that a further increase when the code requirements are fully met will result in a total increase of at least 16⅔%, or an annual increase of more than $5,000,000 a year. Approximately 3,000 employees have been added to the pay rolls since July1st, as a result of the reduction in hours from 50 to 40, and on the basis of the present level of operation in the industry, another 3,000 are estimated to be necessary to fully meet requirements of the code.

Pertinent data on employment, wages, and hours, as submitted by the Industry, may be summarized as follows:

	Number of employees	Minimum rates of pay	Minimum weekly work hours	Maximum weekly work hours
1926	43,023	$0.35	49.0	84.0
1929	51,000	.38	50.0	84.0
January 1933	22,000	.25	30.0	84.0
September 1933	25,150	.36	30.0	47.0
Under Code at 1926 level of operations	54,209	.38	30.0	40.0

All figures estimated in accordance with best information available.

NOTE.—Minimum rates of pay and maximum and minimum weekly work hours are average maxima and minima. Minimum rates of pay in the South, for example, would be considerably less than figures shown—15¢ per hour in January 1933, and 25¢ September 1933.

The Board of Directors of the Steel Founders' Society is to be the general agency of administration of the Code and is to make such rules and regulations, subject to the approval of the Administration, as may be necessary for its administration.

I believe that the Code is fair to Industry, and to Labor, 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 Steel Casting 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 Steel Casting Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

STEEL CASTING 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 Steel Casting Industry and upon approval by the President shall be the standard of fair competition for this Industry.

Article II—Definitions

The terms used in this Code and in any schedule attached hereto are defined as follows:

Section 1. The term "the United States" means and includes all of the territory subject to the jurisdiction of the United States of America.

Sec. 2. The term "the President" means the President of the United States of America.

Sec. 3. The term "the Industry" means and includes the business of producing and/or selling steel castings in the United States, except as produced and/or sold as a part of the products, including finished and semi-finished parts thereof, of an owning or an affiliated company but not sold in the open market as castings in competition with similar castings produced by other members of the Industry; provided however, that the Industry, as herein defined, does not include the business of producing and/or selling castings containing in excess of sixteen (16) percent of nickel and/or chromium, and provided further that Sections 1 and 5 of Article V, and Articles VII and XIII of this Code shall not be applicable with respect to the products of the Industry sold for use outside of the United States. The Industry embraces two main groups of castings which are commonly known in the trade as "Miscellaneous Castings" and "Specialties."

Sec. 4. The term "affiliated company" means a company whose relations to another company are such that either one has, directly or indirectly, a substantial stock interest in the other, or that a third company has, directly or indirectly, a substantial stock interest in both; provided, however, that in the event of a dispute or disagreement regarding the term "affiliated company" as used in this Code, such dispute or disagreement shall be referred for decision to an arbitration committee, elected or appointed by a fair method of selection. Should any member of the Industry desire to appeal from the decision of said arbitration committee, such member may appeal direct to the Administrator, whose decision in the matter shall be final.

Sec. 5. The term "Miscellaneous Castings" means that group of steel castings commonly known in the trade under that name and produced by foundries to the order of the buyers from the buyers' designs, patterns, and specifications, such castings usually being sold in the rough.

Sec. 6. The term "Specialties" means that group of cast steel products commonly known in the trade under that name and primarily designed and engineered by the foundry companies producing them, produced from patterns and/or other production equipment belonging to the producer, and sold as finished or semi-finished devices or parts thereof.

Sec. 7. The term "a member of the Industry" means and includes any person, firm, association, corporation, organization or other unit, of any kind or description, and without limitation to the foregoing, engaged in business in the industry.

Sec. 8. The term "the Society" means Steel Founders' Society of America.

Sec. 9. The term "the Board of Directors" means the Board of Directors of the Society.

Sec. 10. The term "the National Industrial Recovery Act" means the National Industrial Recovery Act as approved by the President, June 16, 1933.

Sec. 11. The term "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. 12. The term "Administration" means the agency established pursuant to the provisions of Section 2 of Title I of the National Industrial Recovery Act.

Sec. 13. 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 such compensation.

Article III—Scope

Section 1. Articles I to XII inclusive of this Code shall apply to the Industry; in view, however, of the divergent producing and selling methods applying to the two main groups of castings, namely, Miscellaneous Castings and Specialties, separate provisions are set forth covering the Unfair Trade Practices of each group.

Sec. 2. This Code shall be applicable with respect to every member of the Industry, regardless of whether any such member of the Industry is also engaged in any other industry; provided, however, that this Code shall apply to and affect only that part of the business of each such member as relates to the Industry.

Article IV—Participation

Section 1. Any member of the Industry may become a "party to the agreement" by filing with the Society a letter in the form annexed hereto as Schedule A, in which such party to the agreement is referred to in the singular as "a participant under said code" and by undertaking to bear its fair share of the expenses and responsibilities in connection with the preparation and administration of this Code, either as a member of the Society or by undertaking to pay to the Society the equivalent of the dues it would pay as a member of the Society. The signing of such a letter as is referred to herein shall not constitute the signer a partner of any other signer or signers. Any member of the Industry may also become a member of the Society.

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 Society, shall pay to the Society his equitable proportionate share of the costs and expenses incurred in the preparation and/or administration of this Code by the Society.

Article V—Administration

Section 1. Membership in the Society shall be open to any member of the Industry on an equitable basis and upon terms of equality with all other members. The Board of Directors of the Society shall be the general agency for the administration of this Code and shall—

(a) For the purpose of 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 in all respects the declared policy of the National Industrial Recovery Act, require from any member of the Industry, in the event of complaint, duly certified reports in such form as may hereafter be required by the Administrator;

(b) Upon complaint of interested parties, make such inquiry and investigation into the operation of this Code as may be necessary, unless a supervisory agency has been appointed as provided in Section 1 of Article VII for the subdivision or product classification of the Industry to which said complaint relates; and

(c) Make such rules and regulations subject to the approval of the Administration as may be necessary for the administration and enforcement of this Code.

Sec. 2. All information furnished to the Board of Directors by any member of the Industry, pursuant to the administration of this Code shall be deemed confidential and shall not be disclosed to any member of the Industry in other than composite form, unless disclosure in detail shall be necessary in the administration of this Code and/or requested by the Administrator.

Sec. 3. In addition to 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.

Sec. 4. Any action taken by the Board of Directors or other group within the Industry, for the purpose of making effective the provisions of this Code, may be submitted to the Administrator for approval, and shall in any case be subject to the disapproval of the Administrator.

Sec. 5. It is recognized that questions of public interest are or may be involved in the administration of this Code. Accordingly, not more than three representatives of the Administration, of which the Administrator may be one, appointed by the Administrator, shall be given full opportunity at such times as shall be reasonably convenient to discuss with the Board of Directors or any committees thereof any matters relating to the administration of the Code and to attend meetings of the Board at which action on any such matters shall be undertaken and to make recommendations as to methods or measures of administering the Code, but shall not have voting powers. Due notice of all such meetings of the Board of Directors shall be given to

such representatives of the Administration. The records of the Board of Directors relating in any way to the administration of the Code shall be open to such representatives at all reasonable times. They shall be afforded by the Board of Directors complete access at all times to all records, statistical material, or other information furnished or readily available to the Board of Directors in connection with, or for the purposes of, the administration of the Code. The Board of Directors, acting directly or through one or more committees appointed by it, shall give due consideration to all requests, suggestions, or recommendations made by such representatives of the Administration and render every possible assistance to such representatives in obtaining full information concerning the operation and administration of the Code, to the end that the President may be fully advised regarding such operation and administration through reports that may be made to him from time to time by such representatives and to the end that the President may be assured that the Code and the administration thereof do not promote or permit monopolies or monopolistic practices, or eliminate or oppress small enterprises, or operate to discriminate against them and do provide adequate protection of consumers, competitors, employees, and others concerned and that they are in furtherance of the public interest and operate to effectuate the purposes of Title I of the National Industrial Recovery Act.

Article VI—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:

(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 purposes 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. 2. (a) The basic processes in the Industry are of a continuous character and cannot be changed in this respect without serious adverse effect upon production and employment. As demand for the products of the Industry, and therefore for labor, shall increase, hours of labor for employees in the Industry must necessarily increase; but, except in the case of executives, those employed in directing or supervisory capacities and in technical or other highly skilled work, and members of their respective staffs, individually receiving pay at the rate of $35.00 or more per week, none of the members of the Industry shall cause or permit any employee in the Industry to be employed for an average of more than forty (40) hours per week in any eight (8)

weeks' period, such periods to be computed from the effective date of this Code, or to be employed for more than forty-eight (48) hours or more than six (6) days in any one week.

(b) The Industry recognizes the desirability and accepts the principle of the eight (8) hour working day for labor and insofar as it reasonably can, the Industry will endeavor to employ its labor on that basis.

(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 been employed by one or more other employers, to be employed by such member such number of hours as would result in a violation of the Code had all such employment been by such member.

(d) Members of the Industry shall not employ accounting, clerical and office employees, except traveling representatives and executive, administrative, and supervisory employees, and their respective personal staffs and assistants on a schedule in excess of forty (40) hours per week.

Sec. 3. None of the members 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; provided, however, that where a State Law specifies a higher minimum age, no person below the age so specified by such Law shall be so employed within that State.

Sec. 4. For the purpose of this Code, the wage districts described in Schedule B, annexed hereto, have been established.

Sec. 5. (a) Until changed by amendment of the Code as hereinafter in Article VIII 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 Schedule B shall be the rates set forth in Schedule C, annexed hereto. None of the members of the Industry shall pay common laborers in its employ in the Industry in any such district any rate of pay less than the rate specified for such district in such Schedule C.

(b) The rates of pay for classes of labor heretofore paid at a rate in excess of the rate heretofore paid for common labor shall be increased at least to the extent necessary to maintain, in relation to the minimum rates for common labor under the Code, the percentage relations heretofore existing (as determined by the experience of the several wage districts with the approval of the Board of Directors) between the rates of pay for such classes of labor and the rates of pay for common labor. 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 provision.

(c) 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 for such work shall produce at least the minimum rate of pay per hour provided in this Code for common labor at such plant.

(d) The minimum wage that shall be paid by any employer to accounting, clerical, and office employees, except those employed on a commission basis. 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, and provided further that where a State Law specifies a higher minimum wage, no employer shall pay less than the minimum wage required by such State Law.

Sec. 6. The provisions as to minimum rates of pay shall not affect those employees who, by reason of old age or infirmities, are not engaged in productive labor, except that the rates paid such employees shall not be less than eighty (80) percent of said minimum rates and the number of such employees employed by each member of the Industry shall not be more than three (3) percent of the total number of its employees.

Article VII—General Provisions

Section 1. Members of the Industry having a common interest and common problems may group themselves for administrative purposes in various subdivisions or product classifications, subject to the approval of the Board of Directors. The majority of members in each subdivision or product classification may appoint its agency, with supervisory and/or administrative powers, subject to the Board of Directors. In the event that no such agency is so appointed, then the Board of Directors may appoint such agency. If formal complaint is made to the Board of Directors that the provisions of this Code have been violated by any member or members of the Industry, the agency for the subdivision or product classification to which the complaint refers, shall institute such inquiry as may be necessary to develop the facts.

Sec. 2. If the agency of any subdivision or product classification, formed in accordance with the provisions of Section 1 of this Article, so decides, each member of the Industry manufacturing products falling within such subdivision or product classification shall, within ten (10) days after notice of such determination, file with the agency a price list prepared by such member of the Industry, showing its current prices and the agency shall immediately send copies thereof to all members of the Industry engaged in the manufacture of such specified product. Revised price lists may be filed from time to time thereafter with the agency by any such member of the Industry to become effective upon the date specified therein, but such revised price list shall be filed with the agency at least ten (10) days in advance of the effective date, unless the agency shall authorize a shorter period. Copies of such revised price lists with notice of the effective date specified shall be immediately sent to all members of the Industry manufacturing such product who thereupon may file, if they so desire, revisions of their price lists specifying the effective date, which shall be on or after the date when the revised price list first filed shall go into effect.

Sec. 3. If the agency of any subdivision or product classification so decides, no member of the Industry within such subdivision or product classification shall sell directly or indirectly by any means whatsoever any product of the Industry included within a subdivision or product

classification for which the agency shall have given notice requiring the filing of price lists, at a price less than the price shown for such product in the list filed by such member.

SEC. 4. The Board of Directors shall make a careful study of the question of limitation of Steel Foundry Melting Capacity and shall submit to the Administrator for his approval such plan or plans as are deemed necessary, and which will further effectuate the policies of the National Industrial Recovery Act.

ARTICLE VIII—AMENDMENTS

Amendments of such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, if approved by the agency of the subdivision or product classification concerned, if any, and by the Board of Directors, be submitted to the President, and, if approved by the President, shall become effective ten (10) days thereafter.

ARTICLE IX—CANCELLATION OR MODIFICATION

The members of the Industry recognize that, 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, with respect to this Code.

ARTICLE X—VIOLATIONS

Violation of any of the provisions of this Code, or amendments thereto, is an unfair trade practice and shall be subject to the penalties provided in the National Industrial Recovery Act.

ARTICLE XI—RIGHTS OF THE MEMBERS OF THE INDUSTRY

By presenting this Code the members of the Industry do not thereby consent to any modification thereof and they reserve the right to object to any such modification without being given an opportunity to be heard.

ARTICLE XII—DURATION

This Code shall become effective on the first Monday after the fourth day following the date on which this Code shall have been approved by the President, and shall continue in effect until sixty (60) days subsequent to 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 Title I of the National Industrial Recovery Act has ended.

ARTICLE XIII—UNFAIR TRADE PRACTICES

SECTION 1. With respect to the production and/or sale of Miscellaneous Castings, the Unfair Trade Practices which are condemned are set forth in Schedule D, annexed hereto. Such Unfair Trade Practices shall have no application to that part of the Industry engaged in the production and/or sale of Specialties.

Sec. 2. With respect to the production and/or sale of Specialties, the Unfair Trade Practices which are condemned are set forth in Schedule E, annexed hereto. Such Unfair Trade Practices shall have no application to that part of the Industry engaged in the production and/or sale of Miscellaneous Castings.

Sec. 3. Indulgence in any of the Unfair Trade Practices, or any amendments thereof, or any additions thereto, shall be deemed to be unfair methods of competition, and using or employing any of such unfair methods of competition shall be deemed 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 methods of competition shall be guilty of a violation of the Code.

Approved Code No. 82.
Registry No. 1106-1-01.

SCHEDULE A

Form of Letter Giving Assent to Code

October —, 1933.

Steel Founders' Society of America,
932 Graybar Building, 420 Lexington Avenue, New York, N.Y.

Gentlemen: The undersigned, desiring to participate under the Code of Fair Competition of the Steel Casting 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 of America 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 said Code, as provided in Article IV of the Code, and hereby agrees with every person, firm, and corporation who shall then be or thereafter become a participant under said Code, that this Code shall constitute a valid and binding contract between the undersigned and all such other participants.

Very truly yours,

(Name of Corporation)

By ---
(Signature of Authorized Officer)

(Title of Authorized Officer)

(Address)

SCHEDULE B

Description of Wage Districts

1-A. Eastern District—All of Division No. 1.

Note.—Division No. 1 constitutes Federal Reserve District No. 1 and No. 3 (except that part of Pennsylvania west of a line drawn north and south through Altoona, Pennsylvania) and No. 5 (except West Virginia and North and South Carolina) and New York State east of a line drawn north and south through the most westerly point of Schenectady, New York.

2-A. Buffalo District—All of Division No. 2.

Note.—Division No. 2 constitutes Federal Reserve District No. 2 (except that portion included in Division No. 1) and Erie, Pennsylvania.

3-A. Southern District—All of Division No. 3.

Note.—Division No. 3 constitutes Federal Reserve District No. 6 and No. 11 (except southeastern Arizona, southern New Mexico, and Texas west of a line drawn north and south through Haymond, Texas) and all of North and South Carolina, Tennessee, Mississippi, and Alabama (except Jefferson County).

3-B. Birmingham District—County of Jefferson in the State of Alabama.

4-A. Johnstown District—Cambria County, Pennsylvania.

4-B. Pittsburgh-Wheeling District—All of Pennsylvania in Division No. 4 (except Cambria County) and the Counties of Hancock, Brooke, Ohio and Marshall in West Virginia.

Note.—Division No. 4 constitutes Federal Reserve District No. 4 (except Erie, Pa., eastern Kentucky and Ohio) and West Virginia, and that part of Pennsylvania not included in Division No. 1.

4-C. West Virginia District—All of West Virginia, except Hancock, Brooke, Ohio, and Marshall Counties.

5-A. North Ohio District—All of Division No. 5 north of a line drawn east and west through Ashland, Ohio (except Erie County) and Columbiana County.

Note.—Division No. 5 constitutes Federal Reserve District No. 4 (except Pennsylvania).

5-B. South Ohio District—All of Division No. 5 south of a line drawn east and west through Ashland, Ohio (except Columbiana County) and Erie County and includes Canton, Massillon, Alliance, Lima, Bucyrus, Marion, Sandusky, and East Liverpool.

6-A. Chicago District—Chicago switching district, the Counties of Lake and DuPage in Illinois, and Lake County in Indiana, and the Counties of Kenosha, Racine, and Milwaukee in Wisconsin.

6-B. Indiana-Illinois District—All of Indiana except Lake County; all of Illinois in Division No. 6 (except Lake County and Chicago switching district), all of Minnesota and Iowa and Wisconsin (except Kenosha, Racine, and Milwaukee Counties).

Note.—Division No. 6 constitutes Federal Reserve Districts No. 7 and No. 9.

6-C. Detroit District—Counties of Monroe, Lenawee, Jackson, Wayne, Oakland, Macomb, and Washtenaw, Michigan.

6-D. Michigan District—All of the State of Michigan except Counties embraced in District 6-C.

7-A. Colorado District—State of Colorado.

7-B. St. Louis District—St. Louis and St. Louis County, Missouri, Madison and St. Clair Counties, Illinois.

7-C. Midcontinent District—All of Division No. 7, not included in Districts 7-A and 7-B.

Note.—Division No. 7 constitutes Federal Reserve District No. 8 (except Tennessee, Mississippi, and Arkansas) and No. 10.

8-A. Seattle District—States of Washington, Oregon, and Nevada.

8-B. San Francisco District—All of California north of a line drawn east and west through Fresno, California.
8-C. Los Angeles District—All of California not included in District No. 8-B, and all of the State of Arizona.
8-D. Utah District—All of the State of Utah.
8-E. El Paso District—All of Division No. 8 not included in Districts 8-A, 8-B, 8-C, and 8-D.

NOTE.—Division No. 8 constitutes Federal Reserve District No. 12 and that part of Federal Reserve District No. 11 not included in Division No. 3.

SCHEDULE C

Minimum Rates of Pay for Common Labor

District	Minimum Rates, Common Labor—Cents per Hour
1-A. Eastern District	35
2-A. Buffalo District	38
3-A. Southern District	25
3-B. Birmingham District	27
4-A. Johnstown District	37
4-B. Pittsburgh-Wheeling District	40
4-C. West Virginia District	37
5-A. North Ohio District	40
5-B. South Ohio District	37
6-A. Chicago District	40
6-B. Indiana-Illinois District	37
6-C. Detroit District	40
6-D. Michigan District	37
7-A. Colorado District	40
7-B. St. Louis District	37
7-C. Mid-continent District	35
8-A. Seattle District	38
8-B. San Francisco District	37
8-C. Los Angeles District	35
8-D. Utah District	39
8-E. El Paso District	25

SCHEDULE D

List of Unfair Trade Practices Relating to Miscellaneous Castings

This Schedule relates solely to the production and/or sale of Miscellaneous Castings and has no application to Specialties.

For all purposes of this Code, it shall be an unfair trade practice for any member engaged in the Miscellaneous Castings branch of the Industry to do any of the following acts:

Section 1. Make or promise 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, commission or split-commission, or other payment or remuneration, directly or indirectly.

Sec. 2. Extend to any purchasers special privileges or concessions, including allowances for machining and/or welding (except where explicitly agreed upon to repair specific imperfect castings), pattern alterations, or other services not extended by the Industry to all buyers under like terms and conditions.

Sec. 3. Purchase 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 castings.

Sec. 4. Absorb all or any part of the machining cost of castings sold as machined castings.

Sec. 5. Enter into quantity contracts with buyers without obligation on their part to take delivery of the quantities specified in the contract or on the quotation, for the purpose of giving unwarranted prices.

Sec. 6. State in the invoice of any product sold by a member of the Industry as the date thereof a date later than the date of shipment of such product, or include in any invoice any product shipped on a date earlier than the date of such invoice, for the purpose of furnishing such product at prices lower than would otherwise prevail or for the purpose of extending the customer's time of payment.

Sec. 7. Allow terms of payment more favorable to the customer than net thirty days from date of shipment, or a discount of one half of one per cent (½%), provided payment is made within ten (10) days from date of shipment.

SCHEDULE E

List of Unfair Trade Practices Relating to Specialtie

This Schedule relates solely to the production and/or sale of Specialties and has no application to Miscellaneous Castings.

For all purposes of this Code it shall be an unfair trade practice for any member engaged in the Specialties branch of the Industry to do any of the following acts:

Section 1. To make terms of payment in connection with sale for domestic use more favorable to the customer than thirty (30) days net cash from date of invoice.

Sec. 2. To make for the purpose of influencing a purchase any promise as to delivery or other matters which obviously is impossible of performance.

Sec. 3. To employ any unfair trade practices which may be established for any product classification by the administrative agency for such classification appointed in accordance with Article VII of this Code and approved by the President.

O

Approved Code No. 83

CODE OF FAIR COMPETITION

FOR THE

SOAP AND GLYCERINE MANUFACTURING INDUSTRY

As Approved on November 2, 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 Soap and Glycerine 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 2, 1933.

29941——296–182——34

October 13, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Soap and Glycerine Manufacturing Industry conducted in Washington on the 5th of October 1933, in accordance with the provisions of the National Industrial Recovery Act.

Provisions of this Code as to Hours and Wages

Article III—Hours

A. No employee shall work or be permitted to work in excess of an average of 40 hours per week in any six months' period, except as follows:

1. Technical or professional employees such as chemists, lawyers, doctors, nurses, etc., engaged in their technical or professional capacity but not including skilled operating personnel; employees in a managerial, supervisory, or executive capacity who receive $35 or more per week; supervisors or highly skilled workers in continuous processes where restriction of hours would unavoidably reduce production, and who receive $35 or more per week; employees on emergency maintenance and repair work; watchmen; and outside salesmen.

2. Immediate assistants to employees in a managerial, supervisory or executive capacity, which assistants receive less than $35 per week, and supervisors or highly skilled workers in continuous processes where restrictions of hours would unavoidably reduce production and who receive less than $35 per week, who shall not work or be permitted to work in excess of 48 hours per week.

3. Accounting, clerical, office, store, shipping, service, or inside sales employees, who shall not work or be permitted to work in excess of an average of 40 hours per week in any six months' period or in excess of 48 hours in any calendar week.

4. Employees on automotive or horse-drawn passenger, express, delivery, or freight service, who shall not work or be permitted to work in excess of an average of 44 hours per week in any six months' period or in excess of 48 hours in any calendar week.

5. Engineers, firemen, water tenders, and oilers, who shall not work or be permitted to work in excess of 48 hours a week.

B. If any employee on an hourly rate of pay works in excess of 8 hours in any 24-hour period, or in excess of 40 hours in any calendar week, the wage paid for excess hours shall not be less than one and one-third the regular hourly rate.

C. If any employee works for more than one employer, no such employer or employers shall knowingly permit such employee to work for a total number of hours in excess of the number of hours prescribed, and all employers in the industry shall exercise due diligence to carry out the purpose of this section.

Article IV—Wages

A. No employee shall be paid less than 40 cents an hour, or in southern states less than 35 cents an hour, except as follows:

1. Learners or apprentices in operations other than the light tasks of wrapping, packaging, and filling, and not exceeding 5 percent of the total number of employees in any establishment, during the first 60 days of apprenticeship in the industry shall be paid not less than 90 percent of the minimum rates above prescribed.

2. Employees engaged in the light tasks of wrapping, packaging, and filling shall be paid not less than 32½ cents an hour, or in southern states less than 30 cents an hour. Such employees during the first 6 months of their employment shall be paid not less than 90 percent of the rate herein established, but in no case shall the number of these employees exceed 25 percent of the total number engaged in the light tasks of wrapping, packaging, and filling.

3. Employees of the classes mentioned in subsections 3 and 4 of paragraph A of Article III shall be paid not less than—

$15 per week in any city of over 500,000 population, or in the immediate trade area of such city.

$14 per week in any other part of the United States.

4. Messengers, junior clerks, or others doing a junior grade of office or clerical work shall be paid not less than $12 per week, but the number of such employees shall not exceed 5 percent of the total number of office employees in any establishment.

B. Each employee on piecework shall be paid at a rate which will guarantee not less per hour than the hourly rate to which he is entitled under this Article.

C. 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.

D. There shall be no evasion of this Code by any member of the industry by reclassification of general types of occupations existing on June 15, 1933.

Article V—Child Labor

No person under 16 years of age shall be employed in this industry.

Economic Effect of the Code

This Code covers a producing industry in which seasonal peaks largely have been eliminated so that average figures present an unusually accurate picture of conditions. Employment fell steadily from a high of 20,000 in 1919 to 13,500 in 1932 in the face of steady or even increasing volume of output. Obviously such a condition reflects a period of mechanization. Basic processes now appear to be largely machine operations but there still remains a considerable quantity of light hand labor in wrapping and packaging, which labor will be replaced but slowly by machinery if labor rates for such work are not too high. This situation warrants the differential for these operations contained in the Code, but I wish to call your attention to the fact that the minimum rates for such work established in the Code are not unusually low.

With the stability of employment existing in this Industry, together with early adoption of the President's Reemployment Agreement by its members, total employment in July, 1933, was practically that of 1929, although the average hours of work per week of 86 percent of the employees was nearly 48. The reduction of hours as provided in the Code to an average of 40 per week with a penalty overtime rate for hours over eight per day or 40 per week should increase total employment to a figure better than that of 1929, which will mean a reversal of the shrinking trend of the previous thirteen years.

I wish to point out that only about 1 percent of this industry is in the South. As the consequence, the total effect of the southern differential contained in the Code is negligible, although its importance to the existing factories in the South is tremendous. Certainly the differential is not sufficient to make profitable a southern movement of units of 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 Soap and Glycerine 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 immediately adopted.

Respectfully,

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

SOAP AND GLYCERINE 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 Soap and Glycerine Manufacturing Industry, and upon approval by the President of the United States, shall be the standard of fair competition for this industry.

ARTICLE II—DEFINITIONS

1. The term "Soap and Glycerine Manufacturing Industry" as used herein includes the manufacturing in Continental United States of household, industrial, and toilet soaps and soap products, and glycerine which is a by-product of the saponification industries, together with such branches or subdivisions thereof as may from time to time, upon approval of the President of the United States or his authorized representative, be included under the provisions of this Code. This definition shall not, however, bar this Code and/or supplemental codes or agreements submitted by the Code Authority or other Agencies set up under this Code, from applying, when approved by the President or his authorized representative, to detergent, cleanser, or related industries; nor shall this definition bar the application of this Code and/or such supplemental codes or agreements from applying, when approved by the President or his authorized representative, in such territories outside of Continental United States as may be specifically covered in such approval.

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. The term "employer" includes anyone by whom such an employee is so engaged.

3. The term "member of the industry" as used herein includes any employer who shall be subject to this Code. The term "member of the Code" includes any member of the industry who shall expressly signify assent to this Code.

4. The term "Association" as used herein means the Association of American Soap and Glycerine Producers, Inc., a membership corporation, not for profit, organized and existing under the laws of the State of Delaware. The term "Board of Directors" means the Board of Directors of said Association.

5. The term "Southern States" as used herein includes Virginia, North Carolina, South Carolina, Tennessee, Arkansas, Georgia, Alabama, Mississippi, Louisiana, Texas, and Florida.

6. The term "Act" as used herein means Title I of the National Industrial Recovery Act. The term "President" means the President of the United States.

7. The term "effective date" as used herein means the first Monday ten days or more after this Code shall have been approved by the President. The term "six months' period" means the 26-weeks period beginning with the effective date, and each 26-weeks period thereafter until the expiration of this Code or of the Act.

8. Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

Article III—Hours

A. No employee shall work or be permitted to work in excess of an average of 40 hours per week in any six months' period, except as follows:

1. Technical or professional employees such as chemists, lawyers, doctors, nurses, etc., engaged in their technical or professional capacity but not including skilled operating personnel; employees in a managerial, supervisory, or executive capacity who receive $35 or more per week; supervisors or highly skilled workers in continuous processes where restriction of hours would unavoidably reduce production, and who receive $35 or more per week; employees on emergency maintenance and repair work; watchmen; and outside salesmen.

2. Immediate assistants to employees in a managerial, supervisory, or executive capacity, which assistants receive less than $35 per week, and supervisors or highly skilled workers in continuous processes where restrictions of hours would unavoidably reduce production and who receive less than $35 per week, who shall not work or be permitted to work in excess of 48 hours per week.

3. Accounting, clerical, office, store, shipping, service, or inside sales employees, who shall not work or be permitted to work in excess of an average of 40 hours per week in any six months' period or in excess of 48 hours in any calendar week.

4. Employees on automotive or horse-drawn passenger, express, delivery, or freight service, who shall not work or be permitted to work in excess of an average of 44 hours per week in any six months' period or in excess of 48 hours in any calendar week.

5. Engineers, firemen, water tenders, and oilers, who shall not work or be permitted to work in excess of 48 hours a week.

B. If any employee on an hourly rate of pay works in excess of 8 hours in any 24-hour period, or in excess of 40 hours in any calendar week, the wage paid for excess hours shall not be less than one and one-third the regular hourly rate.

C. If any employee works for more than one employer, no such employer or employers shall knowingly permit such employee to work for a total number of hours in excess of the number of hours prescribed, and all employers in the industry shall exercise due diligence to carry out the purpose of this section.

Article IV—Wages

A. No employee shall be paid less than 40 cents an hour, or in southern states less than 35 cents an hour, except as follows:

1. Learners or apprentices in operations other than the light tasks of wrapping, packaging and filling, and not exceeding 5 percent of the total number of employees in any establishment, during the first 60 days of apprenticeship in the industry shall be paid not less than 90 percent of the minimum rates above prescribed.

2. Employees engaged in the light tasks of wrapping, packaging and filling shall be paid not less than 32½ cents an hour, or in southern states less than 30 cents an hour. Such employees during the first 6 months of their employment shall be paid not less than 90 percent of the rate herein established, but in no case shall the number of these employees exceed 25 percent of the total number engaged in the light tasks of wrapping, packaging, and filling.

3. Employees of the classes mentioned in subsections 3 and 4 of paragraph A of Article III shall be paid not less than—

$15 per week in any city of over 500,000 population, or in the immediate trade area of such city.

$14 per week in any other part of the United States.

4. Messengers, junior clerks, or others doing a junior grade of office or clerical work shall be paid not less than $12 per week, but the number of such employees shall not exceed 5 percent of the total number of office employees in any establishment.

B. Each employee on piecework shall be paid at a rate which will guarantee not less per hour than the hourly rate to which he is entitled under this Article.

C. 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.

D. There shall be no evasion of this Code by any member of the industry by reclassification of general types of occupations existing on June 15, 1933.

Article V—Child Labor

No person under 16 years of age shall be employed in this industry.

Article VI—Administration

A. To further effectuate the policies of the Act, the Board of Directors of the Association is set up as a Code Authority for the Soap and Glycerine Manufacturing Industry to cooperate with the President or his authorized representative in the administration of this Code. The President or his authorized representative may designate not to exceed three additional members, without vote, on such Code Authority. The Method of electing the Board of Directors of the Association shall be fair and equitable and subject to the approval of the President or his authorized representative.

B. Any member of the industry is eligible for membership in the Code and in the Association, and there shall be no inequitable restrictions on such membership. Members of the Code shall be entitled to share the benefits of the activities of the Code Authority and shall bear their proportionate shares of the expenses of maintenance of the Code Authority and its activities.

C. Branches or subdivisions of the industry, including product divisions and/or geographical sections of the Association, may, when approved by the President or his authorized representative, establish their own Planning and Fair Practice Agencies which shall each be self-governing in respect to conditions or problems relating exclusively to said branches or subdivisions, providing that no action of any such Agency shall be inconsistent with the purposes and provisions of this Code or the Act; and provided further that no supple-

mental agreements, recommendations, or provisions shall be submitted to the President by the Code Authority or any Planning and Fair Practice Agency without first having been approved by duly recorded vote of the branches or subdivisions concerned. The method of voting in each branch or subdivision shall be fair and equitable and subject to the approval of the President or his authorized representative. Members of each branch or subdivision shall bear their proportionate shares of the expenses of maintenance of such branch or subdivision. Application for the establishment of any Planning and Fair Practice Agency, and any recommendations or reports by such Agency when established, shall be transmitted promptly to the President or his authorized representative through the Code Authority.

D. The Code Authority and Planning and Fair Practice Agencies established under this Code shall have the following duties and powers to the extent permitted by the Act and subject to review by the President or his authorized representatives:

1. The Code Authority shall administer this 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 other matters pertinent to the purposes of the Act. Members of the industry shall furnish such reports and information promptly, and reports shall be notarized when required. The Code Authority shall designate the agent or agents to whom reports shall be submitted, except that the Planning and Fair Practice Agencies established in accordance with this Code may designate the agent or agents to whom members of the branch or subdivision concerned shall submit their reports. The selection of agents and statistical methods used by them in collecting and compiling information shall be subject to review by the President or his authorized representative. Where reports are of a confidential nature they shall be confidential to the agent or agents designated and to any designated Government agencies, and the information so collected shall be disseminated without individual identification and only in combination with other information of the same type, and shall be notarized when required. The confidential nature of the information requested from members of the industry shall be determined by the Code Authority, subject to review by the President or his authorized representative, and all such rulings shall be general in application and shall not vary as between members of the same branch or subdivision of the industry. Any of the foregoing information shall be furnished by the Code Authority to such government agencies as the President or his authorized representative may designate to effectuate the purposes recited in Section 3 (a) of the Act. This article shall not relieve any member of the industry from continuing to make customary statistical reports to Government departments.

2. The Code Authority or Planning and Fair Practice Agencies established under this Code shall study trade practices with a view to making recommendations to the President or his authorized representative.

3. The Code Authority of Planning and Fair Practice Agencies established under this Code, shall make studies in an effort to determine fair and uniform cost-finding procedures. If and when such cost-finding procedures are approved by the President or his author-

ized representative, then sales below cost as determined by such approved procedures shall be an unfair method of competition.

Article VII—Collective Bargaining

1. Employers shall comply with the following requirements of Section 7 (a) of the Act:

"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 VIII—General

1. In accordance with Section 10 (b) of the Act, this Code and all the provisions thereof are expressly made subject to the right of the President 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.

2. 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.

3. If any employer subject to this Code is also an employer in any other industry, the provisions of this Code shall apply to and affect only that portion of his business which is subject to this Code.

4. This Code shall cease to be effective upon the expiration of the Act or upon decision of the President, prior to such expiration, to cancel his approval of this Code.

Approved Code No. 83.
Registry No. 623/03.

O

Approved Code No. 84

CODE OF FAIR COMPETITION

FOR THE

FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING INDUSTRY

As Approved on November 2, 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 Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating 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 2, 1933.

October 31, 1933.

The President,
The White House.

Sir: This is a report on the proposed code of fair competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, and on the hearing conducted thereon in Washington, D.C., on October 5, 1933, in accordance with the provisions of the National Industrial Recovery Act.

GENERAL STATEMENT

Before outlining in detail the provisions of this Code it seems appropriate to describe the industry and the problems involved, both for the industry and the Administration, in the development of this Code.

In the broad field of metal working is included the manufacture of such articles as automobiles, electrical apparatus, machinery, farm implements, plumbing goods, ship building, etc.

These large divisions of the metal working field have been well organized through trade associations or similar institutions; codes have been submitted and, in most cases, approved, and are now operative.

Beyond these larger units of the Industry are the manufacturers of thousands of articles, a few of which are kitchen utensils, wire goods, pressed and stamped metal parts, hardware, small tools, metal boxes, wood screws, roller and ice skates, chains, metal signs, pins of all kinds, cutlery, razor blades, vanity cases, and such items as animal traps, bird cages, and fly swatters.

The need of a code of fair competition for the employers and employees of these smaller industries is as real and important as for the larger industries, and should receive equal consideration.

The classification of these separate industries, presented a most serious and complicated problem. The many codes required to be submitted and given public hearings would involve great expense; and the time consumed would, to a considerable extent, tend to defeat the purposes of the National Industrial Recovery Act.

The problem was complicated, further, by the fact that hundreds of manufacturers produced many diversified items. The application of separate codes for these different items, when produced in the same plant, would require the operation of a factory under varying wages and hour provisions of the separate codes, causing confusion and, in many cases, impossible operating conditions.

The Administration was faced with the further problem of seeing that literally thousands of small shops, employing the same classes of labor, manufacturing specialties of one sort or another, were covered by a code. Generally these shops were not members of any trade group, nor were they grouped together in an agency for the preparation and submission of a code.

On August 10, 1933, approximately 60 trade association representatives and many individual manufacturers met informally to discuss the problems involved. They were encouraged by the Administration to join together under some plan which would simplify these problems for the industry. At this meeting the Fabricated Metal Products Federation was formed and a basic code was prepared to cover the whole industry. This code contained uniform employment provisions and the opportunity for all well defined and representative trade groups to submit supplemental codes to cover the trade practices of each subdivision and to create a Code Authority to administer such trade practices.

The Fabricated Metal Products Federation proceeded at once to enlist the support of a truly representative number of trade associations and individual members. With 113 such trade associations and approximately 600 individual members, the Administration regards this result as truly representative of the industry, as defined in the Basic Code submitted herewith.

The problem of definition likewise was serious. It was finally worked out to cover the broad metal working industries, specifically excluding however such basic branches of metal working as machinery, automobile parts and accessories, railway supplies and equipment, etc.

A standardized form of supplementary code and a simple procedure for public hearings and the adoption of supplementary codes has been prepared, so that each branch of the industry may get the benefit of such fair trade practices in addition to those contained in the Basic Code as may be necessary for the benefit of its own branch, and the benefit of individual administrative agencies set up to administer individual branches.

In order to be sure that, insofar as possible, every one interested should receive notice of public hearing, individual notice of hearing was sent to over 7,700 concerns in addition to the standard form of notice. With each notice there was enclosed a copy of the code and a letter calling specific attention to the fact that the definition in the code as proposed would cover the operations of the manufacturer to whom notice was addressed. Since it was impossible to determine in all cases the specific product manufactured by a particular firm, there were some instances of notice being sent to firms whose products were covered by other codes. These, however, constituted a relatively small number of the firms to whom notices were sent.

WAGES AND HOURS

A 40-hour week with a 40¢ per hour wage for males and a 35¢ per hour wage for females is established in the Northern Wage District, and a 35¢ per hour wage for males and a 30¢ per hour wage for females is established in the Southern Wage District.

Because of the fact that this industry covers plants manufacturing countless varieties of products, located throughout all parts of the country, special provision is made with respect to female wage rates. Generally speaking, it is a light manufacturing industry, and probably twenty percent of its employees are female, and it is estimated that a minimum wage differential of approximately ten cents heretofore has existed. It was felt advisable therefore to provide a wage differential between male and female workers, with a proviso that where

female employees are used to replace male employees to perform certain classes of work, such female employees shall be paid the same rate of pay in effect for the male employees at the time of such replacement.

It is estimated that eighty-five percent of the employees in the Industry are in the Northern Wage District. A fair adjustment for wages in the south was made by providing for the payment of the rates in existence for the same class of work on July 15, 1929, except that in no case are the minimum rates to be less than eighty percent of the standard minimum rates in the Southern District.

Child labor is prohibited.

Exceptions to the minimum hour and wage provisions are permitted in the case of beginners without experience for a sixty-day period, and in the case of disabled employees and boys and girls between the ages of 16 and 18 years. These exceptions are limited to approximately five percent of the total number of employees and are to receive not less than eighty percent of the minimum wages

Payment of time and one half is provided in all cases where hours of labor exceed those for which provision has been made.

ECONOMIC EFFECT OF THE CODE

Because of the short time available, and because of the fact that, except in specific trade groups, the industry was not organized, it was impossible to present accurate data from all plants as to the effect of this code on this industry. In general, however, it is well to point out that in normal times this industry operated on schedules of from 50 to 55 hours a week. I believe, with the adoption of the 40-hour week as provided in the code, there will be an increase in the number of persons employed, on the same basis of activity, of approximately twenty-five percent.

The industry estimated, using as its basis the United States Census of Manufacturers and Bureau of Labor Statistics, that during the period from 1926 to 1929 there were normally employed 350,000 employees. The Federation which is sponsoring the code estimated that there are at present 313,752 employees in the industry, an increase of approximately 109,237 since the first quarter of the year.

An analysis of some sixty representative concerns shows that the number of employees has been increased by 53 percent since the first of the year, and that the average wage rate for unskilled workers, to whom the minimum rates apply, has been increased 16½ percent.

The minimum rates per hour have been increased nearly to the rates for unskilled labor in 1926, and under the code will be further increased to the 1926 rates, or higher. The total weekly pay rolls of these 60 representative concerns, including equitable adjustments of wages above the minimum, have since April 1, 1933, been increased 98.9 percent, from $152,613 to $303,546.

The average hours worked in these 60 representative concerns have been reduced 5.7 percent since July 1, 1933, and under the code will be reduced another 3 percent at least. Under a maximum 40-hour week it is estimated that the reduction in hours will amount to approximately 10 percent less than such maximum. If the rate of production in evidence October 1, 1933, continues, it is estimated that the code provision will result in a further increase in the number of employees of approximately 11 percent.

In the administration of the code the Fabricated Metal Products Federation is set up as the Code Authority, to collect such data and statistics as are required by the Administrator, and provision is made for the Code Authorities in supplementary codes, wherever possible, to collect and compile this data for transmission to the Federation.

All action taken by the Administrative agency is made subject to the disapproval of the Administrator.

I believe that this code accomplishes the following:

1. It covers the operations of several thousand small metal working firms, who might otherwise not be included in any code of fair competition submitted to the Administration;

2. It materially reduces the normal hours of operation for employees in the industry;

3. It sets a fair minimum basic wage rate with equitable adjustments provided for those receiving higher wages, which will result in material wage increases in the industry;

4. It sets up uniform wage and hour conditions over this broad industry, simplifying the problems of the manufacturer and at the same time permitting him to obtain the benefits of the National Industrial Recovery Act; and

5. It eliminates a tremendous amount of detail work and expense which would be involved in conducting several hundred public hearings on separate codes.

I believe that the code is fair to Industry, to Labor, and to the Consumer, 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 Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating 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 Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING 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 Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating 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 "Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry", hereafter referred to as the Industry, is defined to mean the manufacture for use or for sale of products in whole or in substantial part of metal (but not including machinery and machine parts for assembly therein, nor the erection of metal products in building construction) which are beyond the points of finished mill shapes or foundry operations, and which may, for practical administration of the National Industrial Recovery Act, be too varied and general to be defined and classified specifically in a separate code but which products can be classified in subdivisions of this particular Industry, as provided for herein; and, specifically, excepting such metal products as are subject to basic codes which have been approved by the President or which may be so approved.

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 Title I of said Act.

The term "Federation", as used herein, is defined to mean Fabricated Metal Products Federation, or its successor.

The term "Code Authority", as used herein, is defined to mean the Executive Committee of Fabricated Metal Products Federation.

The Southern Wage District is defined as comprising North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas; 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—Wages

1. As required by Section 7 (a) of Title I of the National Industrial Recovery Act, the following provisions are conditions of 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.

2. On and after the effective date, employers shall not employ anyone under the age of 16 years, and no one under 18 years of age shall be employed in hazardous occupations; provided, however, that where a State Law provides a higher minimum age no person below the minimum age of said State Law shall be employed in that State.

3. On and after the effective date the minimum wage which shall be paid by any employer to any employee engaged in the processing of products in the Industry and any labor incident thereto, 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, as provided for in Article 8 hereof, the minimum rates for female employees shall be 32½¢ per hour in the Northern Wage District.

On and after the effective date the minimum wage which shall be paid by any employer to any employee engaged in the processing of products of the Industry or any labor incident thereto shall be 35¢ per hour for males and 30¢ per hour for females in the Southern Wage District, unless the hourly rates for the same class of work on July 15, 1929, were less than the above-specified minimums in the Southern Wage District, in which latter case the minimum hourly rates shall not be less than the rates in effect on that date; but in no case shall the minimum rates be less than 80% of the minimum rates of 35¢ for male employees and 30¢ for female employees in the Southern Wage District.

Provided further, that for a period of not to exceed 60 days, beginners, without experience, may be paid not less than 80% of the minimum wages of 40¢ for male employees and 35¢ for female employees in the Northern Wage District, and 35¢ for male employees and 30¢ for female employees in the Southern Wage District; and the total number of such beginners shall not exceed 5% of the total number employed by any such employer in any calendar month; and

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 to maintain differentials existing as of May 1, 1933, in all pay schedules of factory employees (and other employees receiving less than $35.00 per week) above the minimums, 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 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 for such work shall produce earnings per hour per employee for the number of hours worked in any pay period at least equal to the minimum rate of pay per hour provided in this Code for the same type of labor on an hourly basis.

4. 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.

5. 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 3 of Article III hereof, shall be not less than at the rate of $15.00 per week in any city of over 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; and in towns of less than 2,500 population, to increase all wages by not less than 20%, provided that this shall not require minimum wages in excess of at the rate of $12.00 per week.

Office boys and girls, 18 years and under, shall be exempt from the provisions of this section, provided they are paid at a rate of not less than 80% of the above minimum wages.

Hours.—1. 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.

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 sales and service men.

General labor provisions.—1. It is understood, however, that old and partially disabled employees are not included in the above wage 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 labor provisions of this article, except that they shall in no case be paid less than 80% of the minimum wages herein specified and 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.

2. Employers shall not reclassify employees, or duties, or occupations of employees so as to defeat the purposes of the Act.

Article IV—Administration

1. 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 proper steps to effectuate, in all respects, the declared policy of the National Industrial Recovery Act, each member of the Industry shall furnish to the Federation duly certified reports on forms prescribed by the Federation covering employment and production statistics.

Provided however: that when any trade group within the Industry is represented by a truly representative trade association, such association shall collect such statistics as are called for by the Federation and send them in compiled form to the Federation. The statistics covered by this paragraph shall conform with those which may be required by the President.

2. The Federation, the applicant herein, is hereby constituted the agency to collect and receive such reports.

3. All data filed in accordance with the provisions of this Code shall be confidential and shall not be revealed to anyone other than an authorized governmental agency.

In addition to the information required to be submitted to the Federation 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.

4. To further effectuate the policies of the Act, the Code Authority of the Federation shall administer this Basic Code and 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 upon behalf of the Administrator or any member of the Industry regarding the operation, observance, or administration

of this Code. The President may appoint not to exceed three members, without vote, to serve with the Code Authority 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.

5. There shall be no inequitable restrictions imposed on membership in the Federation and the Federation 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.

6. When formal complaint is made to the Federation by any member thereof that any of the provisions of this Code have been violated by any employer or group of employers, then, after every effort has been made to settle such complaint within the subdivision (if any) falling under this Code, the proper agency of the Federation shall make such investigation as is necessary to determine the facts pertaining to the complaint and to that end may cause such examination or audit to be made of such pertinent data and records as may be necessary, and report to the Administrator the result of such examination and investigation; such examination or audit shall be made by an impartial agency.

7. Each member of the Industry, subject to the jurisdiction of this Code and accepting the benefits of the activities of the Federation hereunder, shall pay to the Federation his proportionate share of the amounts necessary to pay the cost of assembling, analyzing, and publication of such reports and data and of the maintenance of the Federation in connection with its activities relative to the preparation and administration of this Code; said proportionate share to be based upon the volume of business and/or such other factors as the Code Authority may prescribe.

8. Any action taken by the Code Authority or other trade group within the Industry, for the purpose of making effective the provisions of this Code, may be submitted to the Administrator for approval and shall in any case be subject to the disapproval of the Administrator.

Article V—Trade Practices

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

A. The sale or exchange of any product in whole or in part below the reasonable cost of such product to any individual employer; such costs to include all labor charges at rates provided for under this Code whether such products in whole or in part are produced in the United States or elsewhere. All methods used to determine such costs shall be subject to the approval of the Administrator;

Provided however, that dropped lines, seconds, or inventories which must be converted into cash to meet emergency need, and new lines being introduced at high cost, may be disposed of in such manner and on such terms and conditions as are necessary to move such products into buyer's hands; and all such intended sales or other dispositions of such products shall be reported immediately to the proper member

trade association or directly, by the individual members of the Industry to the Code Authority of the Federation, as the case may be; and

Provided further, that selling below cost (as defined in paragraph one of this article) to meet existing competition on products of equivalent design, character, quality, or specifications shall not be deemed a violation of this Article, except as provided for in supplemental codes, as and when approved for any branch, subdivision or trade group of the Industry; and

Provided further, that when a supplemental code filed by any branch, subdivision or trade group of the Industry under the Basic Code of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry shall have been approved by the President, the sale or exchange of any product, in whole or in part, below the price conditions established in the supplemental code shall constitute a violation of this Code and be an unfair method of competition; and

Provided further, that the provisions of this paragraph A shall not be deemed to apply to or affect the sale of any product 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.

B. Withholding from, or inserting in any invoice a false record, wholly or in part, of the transaction represented on the face thereof, and the payment or allowance of secret rebates, secret refunds, secret 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.

C. 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.

D. 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.

E. To give, or permit to be given, to agents or employees or representatives of customers, or agents, employees, or representatives of competitors or of prospective customers, without the knowledge of their employers or principals, 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.

F. 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.

G. 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.

Article VI—Options

1. This Code is intended to be a Basic Code and to cover the entire Industry. It is understood, however, that trade associations, groups of manufacturers or trade groups representing a substantial part of any specific subdivision of this Industry may formulate Supplementary Codes of Fair Competition, defining specifically the subdivision and covering such regulations as are considered advisable by them. However, all employment provisions of such Supplementary Codes shall conform with the Basic Code. Such Codes when approved by the President shall have the same force and effect as this Basic Code.

2. It is further understood that if at any time any representative group within the Industry, as defined in the National Industrial Recovery Act, included under this Basic Code, wishes to function outside the Basic Code, it may submit a separate code defining and covering its specific subdivision of the Industry. Such a Code when approved by the President shall have the same force and effect as any code.

Article VII—Modifications

1. As required by Section 10 (b) of Title I of the National Industrial Recovery Act, the following provision is contained in this Code: The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under said Title.

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 VIII—Effective Date

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

Approved Code No. 84.
Registry No. 1118—06.

O

Approved Code No. 85

CODE OF FAIR COMPETITION

FOR THE

AMERICAN PETROLEUM EQUIPMENT INDUSTRY AND TRADE

As Approved on November 2, 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 American Petroleum Equipment Industry and Trade, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition to gether 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 2, 1933.

29942——296-183——34

October 28, 1933.

The President,
The White House.

Sir: This is a report on the Code of Fair Competition for the American Petroleum Equipment Industry and Trade in the United States, conducted in Washington on October 20, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

The maximum of 40 hours a week average in any 3 months' period and 48 hours or 6 days in any one week, is provided to all employees in this Industry and Trade, with the following exceptions:

Employees in emergency maintenance or repair work will not be limited to 48 hours or 6 days a week. Watchmen and gate men will be permitted to work 56 hours a week. None of the limitations in hours apply to executives and their immediate assistants, employees in supervisory capacities and in research and technical work who receive $35.00 or more per week; nor to outside salesmen and service men.

The minimum wage provided for any employee who works on an hourly basis is 40 cents an hour, except in specified Southern States, where the minimum provided is 35 cents per hour. Time and a third will be paid for work in excess of 40 hours a week or 8 hours a day.

The minimum wage to all other employees will be $15.00 per week; except to office boys who will receive $12.00 a week, provided that they do not number more than 5 percent of the total employees to which this paragraph applies.

The hourly wage rates apply to employees working on either a time or piecework basis.

CHILD LABOR

The age limitation is 16 years, except in hazardous occupations or those detrimental to health. The Code Authority will submit to the Administrator a list of such occupations within 30 days after the effective date of this Code.

ECONOMIC EFFECT OF THE CODE

The Petroleum Equipment Industry has been affected greatly by the curtailment of petroleum production. Sales in the Industry were approximately $300,000,000 in 1929, but were decreased to $70,000,000 in 1932. Employment fell from 22,000 in 1929 to approximately 9,500 in 1932. In 1929 the Industry employed one man per $13,250 of yearly sales, but at the beginning of the year 1933 the annual rate of sales per employee was $6,650.

The 40-hour week schedule fixed in this Code represents a substantial reduction from an average of 50 hours per week previous to the

enactment of the National Industrial Recovery Act. The application of the 40-hour schedule together with some increase in business has resulted since March 1, 1933, in an increase of about 4,000 employees, or an increase of 42 percent in employment from the low point of the depression.

Wage provisions in this Code result in an average minimum wage increase of about 20 percent. Most of the plants in the Industry granted a 15 percent wage increase to all classes of employees upon the application of the 40-hour week. The total wage bill added to the Industry through increased wages and additional employees exceeds 25 percent, which can only be offset by an increase in business. In offering the Code this Industry has demonstrated a ready compliance with the spirit of the 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 American Petroleum Equipment Industry and 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 adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

AMERICAN PETROLEUM EQUIPMENT INDUSTRY AND TRADE

Article I—Definitions

Section 1. Whenever used in this Code, the terms hereinafter in this Article I defined shall, unless the context shall otherwise clearly indicate, have the respective meanings hereinafter in this Article I 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.

Sec. 2. The term "the Industry" means and includes the business of manufacturing machinery, equipment, or supplies used in the Petroleum Industry as in this Article I defined, excepting, however, any machinery, equipment, or supplies which are specifically included within any other basic Code of Fair Competition which has been or may be approved by the President.

Sec. 3. The term "the Trade" means and includes the business of selling machinery, equipment, supplies, or services to the Petroleum Industry as in this Article I defined, excepting, however, any machinery, equipment, supplies, or services, which are specifically included within any other basic Code of Fair Competition which has been or may be approved by the President.

Sec. 4. The term "member of the Industry and Trade" means everyone, including, but without limitation, every person, partnership, association, or corporation engaged, in whole or in part, in the Industry and/or the Trade as in this Article I defined.

Sec. 5. The term "the Petroleum Industry" means and includes the business of drilling, producing, pipe-line transporting, refining, or storing petroleum, or of producing or pipe-line transporting natural gas, in the United States of America.

Sec. 6. The term "member of the Code" means and includes every member of the Industry and Trade which has signed and delivered to the Code Authority a letter substantially in the form set forth in Schedule A attached hereto.

Sec. 7. The term "product" means and includes any machinery, equipment, supplies, or services manufactured for or sold to the Petroleum Industry as in this Article I defined, excepting, however, any machinery, equipment, supplies, or services, which are specifically included within any other basic Code of Fair Competition which has been or may be approved by the President.

Sec. 8. The term "employee" means and includes anyone engaged in the Industry or Trade in any capacity receiving compensation for his services irrespective of the nature or method of payment of such compensation.

Sec. 9. The term "employer" means and includes anyone by whom any such employee is compensated or employed.

Sec. 10. The term "the Association" means and includes the American Petroleum Equipment Suppliers' Association.

Sec. 11. The term "price list" means and includes (a) a list of minimum prices or prices with maximum discounts therefrom at

which the member of the Industry and Trade filing such list shall sell his or its products direct to consumers or ultimate users, and, if such products are sold by such members of the Industry and Trade through jobbers or wholesalers, (b) a list of minimum prices or prices with maximum discounts therefrom at which the member of the Industry and Trade filing such list shall sell his or its products to jobbers or wholesalers.

SEC. 12. The term "discount for early payment" means the amount of the deduction allowed for the cash payment of an invoice for products before the expiration of the period of free credit in respect thereof.

SEC. 13. The term "period of free credit" means the period of time between the date of a shipment of a product to the purchaser of such product and the date from and after which such purchaser shall be required to pay interest on the purchase price of such product or any part thereof which shall not have been paid prior to the expiration of such period.

SEC. 14. The term "the President" means the President of the United States.

SEC. 15. The term "the Act" means the National Industrial Recovery Act.

SEC. 16. The term "the Administrator" means the Administrator of the National Industrial Recovery Act.

SEC. 17. The term "the Code" means and includes this Code as originally approved by the President of the United States and all amendments thereof made in accordance with law.

SEC. 18. The term "the effective date" means the 11th day after the Code shall have been approved by the President of the United States, pursuant to the National Industrial Recovery Act, upon which date the Code shall become effective.

ARTICLE II—PURPOSE OF THE CODE

SECTION 1. The purpose of the Code is to effectuate the policy of Title I of the Act.

SEC. 2. The Code is adopted pursuant to Title I of the Act.

ARTICLE III—MEMBERSHIP IN THE CODE

SECTION 1. It is of the essence of the Code that all members of the Industry and Trade which shall comply with the provisions of the Code shall be entitled to participate in its benefits under the terms and conditions set forth in the Code.

SEC. 2. Any member of the Industry and Trade is eligible for membership in the Code.

SEC. 3. Every member of the Association, and every member of the Industry and Trade (which is not a member of the Association and which has the right to participate in the election of the Code Authority and receives the benefits of its activities), shall pay to the Code Authority its pro rata share of the cost of administering the Code. The reasonable share of the expense 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 IV—General Labor Provisions

Section 1. On and after the effective date, no person under 16 years of age shall be employed in the Industry or Trade, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to the health of such employee. The Code Authority shall submit to the Administrator within thirty days after the effective date a list of such occupations.

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 of the United States.

Sec. 5. Within each State no provision of the Code shall 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 the Code.

Sec. 6. Each member of the Industry and Trade shall post in conspicuous places full copies of the Code.

Sec. 7. All wages shall be paid in lawful currency or by negotiable check paid on demand.

Sec. 8. On and after the effective date, the minimum wage that shall be paid by any member of the Industry and Trade to any employee employed on an hourly basis shall be forty cents per hour; except that in Texas, Oklahoma, Louisiana, Alabama, Georgia, Florida, North Carolina, South Carolina, Arkansas, Tennessee, Missouri, and Mississippi the minimum wage that shall be paid by any member of the Industry and Trade to any such employee shall be not less than thirty-five cents per hour. Any employee referred to in this Section 8 of Article IV who works in excess of 8 hours per day or 40 hours per week, shall be paid not less than time and one third for the excess hours so worked.

Sec. 9. On and after the effective date, the minimum wage which shall be paid by any member of the Industry and Trade to all other employees shall be at the rate of $15.00 per week, excepting office boys, who shall be paid not less than $12.00 in any one week, provided, however, that the number of such boys shall not exceed 5% of the total number of employees engaged by any one employer and included within the scope of this Section 9 of Article IV, but in any event any employer may employ at least one office boy.

Sections 8 and 9 of this Article IV establish a minimum rate of pay, regardless of whether an employee is compensated on a time rate, piecework, or other basis.

Sec. 10. On and after the effective date, none of the members of the Industry and Trade shall cause or permit any employee, except executives, their immediate assistants, those employed in supervisory capacities, and in research and technical work, who are paid not less

than $35.00 per week, and except also outside salesmen and outside service employees, to work at an average of more than 40 hours per week in any three months' period or to work more than 48 hours or more than 6 days in any one week. The maximum hours fixed in this Section 10 of this Article IV shall not apply to employees engaged in emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in no event shall any employee engaged in such emergency work, work at an average of more than 40 hours per week in any three months' period. The maximum hours fixed in this Section 10 of this Article IV shall not apply to watchmen and gate tenders, provided, however, such employees shall not be permitted to work in excess of 56 hours in any one week.

Sec. 11. Not later than 60 days after the effective date each employer in the Industry and Trade shall report to the Administrator through the Code Authority the action taken by such employer since June 16, 1933, in adjusting the hourly wage rates for all employees receiving more than the minimum rates provided in Sections 8 and 9, of this Article IV.

Article V—Administration of the Code

Section 1. The Association is hereby designated an agency for promoting the performance of the provisions of the Code by the members of the Industry and Trade. The Board of Directors of the Association, together with two members of the Industry and Trade which are not members of the Association (if any members of the Industry and Trade which are not members of the Association so desire and so petition said Board of Directors), to be elected by such nonmembers by fair methods of election to be approved by the Administrator, in conjunction with such non-voting appointees of the National Recovery Administration as the Administrator may deem necessary, are hereby designated the Code Authority for administering and supervising the performance of the provisions of the Code. The aforesaid Board of Directors shall consist of eleven members of the Industry as defined in Section 2 of Article I and eleven members of the Trade as defined in Section 3 of Article I.

Sec. 2. The Code Authority may from time to time interpret and construe the provisions of the Code for members of the Code.

Sec. 3. The Code Authority may from time to time appoint such officers or committees as it shall deem necessary or proper in order to effectuate the purpose of the Code, and it may delegate to any such officer or committee generally or in particular instances such of the powers and duties of the Code Authority under the Code as such Code Authority shall deem necessary or proper in order to effectuate such purpose; provided, however, that the Code Authority shall not be relieved of final responsibility with respect to any such delegated powers or duties.

Sec. 4. A majority of the members of the Code Authority shall constitute a quorum for the transaction of business.

Sec. 5. Each industrial or trade 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.

SEC. 6. In order that the Code Authority shall at all times be truly representative of the Industry and 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 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. 7. The Administrator shall have the right to review, cancel, or modify any decisions or any other action pursuant to the Code by the Code Authority.

ARTICLE VI—OPEN PRICE REPORTING

SECTION 1. Each member of the Industry and Trade shall file with the Code Authority, within twenty days after the effective date, price lists, individually prepared by such member, and his or its terms and conditions of sale (which terms and conditions of sale shall specify the discount for early payment and the period of free credit), for products regularly manufactured for, or sold or furnished to, the Petroleum Industry by such member, which price lists and terms and conditions of sale so filed with the Code Authority shall be open to inspection at all reasonable times by any member of the Industry and Trade. Revised price lists or revised terms and conditions of sale may be filed from time to time thereafter with the Code Authority by any member of the Industry and Trade. If the prices noted in the revised price list of any such member, or if the revised terms and conditions of sale are more favorable to the purchaser of products than the terms and conditions of sale of such member, then on file with the Code Authority, the revised price list or revised terms and conditions of sale shall not become effective until ten days after the date of the filing thereof; otherwise the same shall become effective on such date as the member of the Industry and Trade filing the same shall designate. Notice of the filing of any such revised price list or revised terms and conditions of sale shall be mailed by the Code Authority immediately to all other members of the Industry and Trade which, at the time of such filing, had on file with the Code Authority price lists for similar products. Any of such other members of the Industry and Trade may, if they desire, file revisions of their price lists or terms and conditions of sale, which shall become effective on the date when the revised price list or revised terms and conditions of sale first filed shall become effective, if the prices noted in the revised price lists of such other members are not lower than the prices noted in the revised price list first filed or the terms and conditions of sale of such other members are not more favorable to the purchaser of products than the revised terms and conditions of sale first filed; otherwise the revised price lists or revised terms and conditions of sale of such other members shall not become effective until ten days after the date of the filing thereof. Any member of the Industry and Trade may, upon request and at the expense of

such member, obtain from the Code Authority copies of any such list so filed.

Sec. 2. Each member of the Industry and Trade shall file with the Code Authority within twenty days after the effective date, and from time to time thereafter, but not oftener than once every thirty days, a list of discontinued lines, or obsolete or surplus stocks, of products which such member is willing to sell below the prices noted in the price lists or on more favorable terms and conditions of sale than the terms and conditions of sale previously filed by such member with the Code Authority in accordance with the provisions of Section 1 of Article VI, and in effect at the time of the filing of such list, and the prices at which, or the terms and conditions of sale in accordance with which, such member is willing to sell the same or any part thereof, which list shall contain such information as to the quantity, size, weight, etc., of the products noted therein as the Code Authority may deem necessary. Before any sales of any of such products shall be made by any member of the Industry and Trade, the list, prices, and terms and conditions of sale so filed must be approved by the Code Authority. Notice of the filing of any such list which shall have been approved by the Code Authority shall be mailed by the Code Authority to all members of the Industry and Trade which at the date of such filing had on file with the Code Authority price lists for similar products. Any member of the Industry and Trade may, upon request and at the expense of such member, obtain from the Code Authority copies of any such list so filed. When all of any class of products noted on any such list shall have been sold, the member of the Industry and Trade filing such list shall notify the Code Authority to that effect. The foregoing provisions of this Section 2 of Article VI shall at all times be subject to modification or disapproval by the Administrator.

Sec. 3. Except as provided in Section 2 of this Article VI, no member of the Industry and Trade shall sell, lease, rent, exchange, or furnish any products at prices lower than the prices noted in the price list or on more favorable terms and conditions of sale than the terms and conditions of sale previously filed by such member with the Code Authority in accordance with the provisions of Section 1 of this Article VI, and in effect at the time of such sale, lease, rental, exchange, or furnishing of such products.

Article VII—Sales

Except as provided in Section 2 of Article VI, no member of the Industry and Trade shall sell, lease, rent, exchange, or furnish any products at prices that, or upon such terms and conditions of sale as, will result in the purchaser's paying for such products less than the cost thereof to the seller; provided, however, that the seller shall be permitted to meet the price of a competitor whose price does not violate the provisions of the Code. In order to determine such cost, each member of the Industry and Trade shall conform his or its costing system to such accounting standards and shall include therein such elements of cost as shall be approved by the Code Authority and the Administrator.

Article VIII—Reports and Statistics

Section 1. The Code Authority shall have power, from time to time, to require each member of the Industry and Trade to furnish to the Code Authority such information concerning the number of his or its employees, rates of pay (except rates of pay of executives), hours of labor, and other conditions of employment, and such other information as may be necessary or proper in order to administer the Code. The Code Authority shall not require any information regarding trade secrets or the names of the customers of any member of the Industry and Trade. In order that the President may be informed as to the observance and operation of the Code, the Code Authority shall make such reports as the Administrator may require.

Sec. 2. 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 IX—Grouping of Members

Aggregations of members of the Code or aggregation of members of the Code and of the Industry and Trade having a common interest and common problems may be grouped by the Code Authority for administrative purposes in proper subdivisions or product classifications under such rules and regulations not inconsistent with the Code as may be adopted, from time to time, by the Code Authority.

Article X—Unfair Practices

For the purposes of the Code, the following described acts shall constitute unfair practices in the Industry and Trade.

(a) 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.

(b) Procuring, otherwise than with the consent of any member of the Industry and Trade, any information concerning the business of such member which is properly regarded by such member as a trade secret or confidential within his or its organization.

(c) The imitation or simulation by any member of the Code of any design, style, mark, or brand used by any other member of the Code, or the adoption or use by any member of the Code of the same trade name or company name of any other member of the Code.

(d) Using or substituting any material superior in quality to that specified by the purchaser of any product.

(e) Cancelling in whole or in part, or permitting the cancellation in whole or in part of, any contract of sale of any product, except for a fair consideration, or paying or allowing to any purchaser in connection with the sale of any product any rebate, commission, credit, discount, adjustment (including what is known in the Industry or Trade as a policy adjustment) or similar concession other than as is permitted by the Code and specified in the contract of sale.

(f) Disseminating, publishing, or circulating any false or misleading information relative to any product or price for any product of any member of the Industry and Trade, 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 employees of any member thereof.

(g) Inducing or attempting to induce by any means any party to a contract with a member of the Industry and Trade to violate such contract.

(h) Aiding or abetting any person, partnership, association, or corporation in any unfair practice, as set forth in this Article X.

(i) 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.

(j) Stating in the invoice of any product as the date thereof a date later than the date of the shipment of such product, or including in any invoice any product shipped on a date earlier than the date of such invoice.

(k) Making any sale or contract of sale of any product under any description which does not fully describe such product in terms customarily used in the Industry or Trade.

(l) Rendering to any purchaser of any product in or in connection with the sale of such product any service (except technical or engineering services), unless fair compensation for such service shall be paid by such purchaser.

(m) Consignment of any product to any prospective consumer or ultimate user thereof without any obligation on the part of such prospective consumer or ultimate user to purchase the same.

The conducting of field tests or demonstrations of new products by any member of the Industry and Trade, without compensation to such member, shall not be deemed to be an unfair practice.

(n) The sale of an indefinite quantity of products for a price certain.

(o) The guaranty of any product beyond the regular guaranty as specified in the terms and conditions of sale on file with the Code Authority and in effect at the time of the sale of such product.

(p) Extending jobbers' or wholesalers' prices to anyone who is not, in the opinion of the Code Authority, a jobber or wholesaler, after receiving notice to that effect from the Code Authority.

(q) Buying or offering to buy from purchasers of products any goods, wares, or merchandise of their manufacture in excess of ordinary business requirements, when the intent or result of such purchase is to secure business.

(r) The loan for use of any product to any prospective consumer or ultimate user thereof when there is no obligation on the part of such prospective consumer or ultimate user to purchase, lease, or rent such product in accordance with the price list and terms and conditions of sale on file with the Code Authority and in effect at the time of such purchase, lease, or rental of such product.

Any unfair practice by any member of the Industry and Trade shall constitute a violation of the Code by such member.

Article XI—Violations of the Code

Section 1. Any violation of any provision of the Code, or any amendments thereto, by any member of the Industry and Trade shall constitute a violation of the Code by such member.

Sec. 2. Upon written complaint to the Code Authority by any member of the Code that any of the provisions of the Code have been

violated by any other member of the Code, the Code Authority shall investigate the facts in connection with the alleged violation, and to that end may cause such examination or audit to be made as may be deemed necessary and proper, and, upon proof to the satisfaction of the Code Authority that a violation has occurred, the Code Authority shall, without in any way affecting any penalties and liabilities imposed by statute, take such steps as, in its opinion, it deems advisable to prevent a repetition of such violation.

Sec. 3. Recognizing that the violation by any member of the Code of any provision of either Article VI or Article VII will disrupt the normal course of fair competition in the Industry and Trade and cause serious damage to other members of the Code, and that it will be impossible fairly to assess the amount of such damage to any member of the Code, it is hereby agreed by and among all members of the Code that if it shall be determined by the Code Authority, after investigation, that any member of the Code has violated any provision of either said Article VI or Article VII, such member shall pay to the Treasurer, for the time being in office, of the Association, as liquidated damages, in addition to all penalties and liabilities imposed by statute, a sum equal to twenty per centum of the invoiced price of any products in connection with which such violation occurred. Any amounts so paid to, or collected by, the said Treasurer of the Association under this Article XI shall be held and disposed of by him as part of the general funds of the Association.

Sec. 4. Anything in the Code to the contrary notwithstanding, the Code Authority by the affirmative vote of two thirds of all the members thereof 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 in any material extent tend to effectuate the policy of Title I of the Act.

Article XII—General Provisions

Section 1. To the extent required or permitted by or under the provisions of Title I of the Act, the provisions of the Code shall apply to and be binding upon every member of the Industry and Trade, whether or not such member shall be a member of 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 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. 3. The Code is intended to be a basic code and study of the trade practices of the Industry and Trade will be continued by the Code Authority with the intention of submitting from time to time to the Administrator recommendations for additions, amendments, or alterations of such provisions of the Code, applicable to members of the Industry and Trade, as are not required by the Act to be included herein, and for supplemental codes applicable to one or more branches or subdivisions or product classifications of the Industry

and Trade, such supplemental codes, however, to conform to and be consistent with the provisions of the Code as now constituted or hereafter amended. No such proposed additions, amendments, or alterations to the Code, or supplemental codes, shall, however, be submitted by the Code Authority to the Administrator with a recommendation for approval except only after the affirmative vote of three fourths of all the members thereof.

SEC. 4. If any member of the Industry and Trade is also a member of any other industry or trade than the Industry or Trade as defined in Section 2 and Section 3, respectively, of Article I, the provisions of the Code shall apply to and affect only that part of his or its business which is included in the Industry or Trade.

SEC. 5. Nothing in the Code contained, except the General Labor Provisions as set forth in Article IV of the Code, shall be deemed to apply to or affect the sale of any product for direct shipment, or the sale of any product purchased for direct shipment, in export trade by any member of the Industry and Trade 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 Code Authority shall otherwise determine, the sale of any product for direct shipment, or the sale of any product purchased for direct shipment, by any such member, to the Philippines, Hawaii, Puerto Rico, the Canal Zone, or other insular possessions of the United States of America.

SEC. 6. Any member of the Industry and Trade may withdraw from membership in the Code after June 16, 1935, or after such published date as may be fixed by proclamation of the President or by joint resolution of the Congress as the date on which the emergency recognized by Title I of the Act has ended. Upon such withdrawal, all obligations and liabilities of such member under the Code shall cease, except those for liquidated damages or assessments theretofore accrued under any provision of the Code.

Approved Code No. 85.
Registry No. 1323/04.

SCHEDULE A

FORM OF LETTER OF ASSENT TO THE CODE

American Petroleum Equipment Suppliers' Association,
Temporary address, 413 Esperson Bldg., Houston, Texas.

Gentlemen: The undersigned desiring to become a member of the Code of Fair Competition of the American Petroleum Equipment Industry and Trade, a copy of which is annexed hereto, hereby approves, and by this letter subscribes to, all of the provisions of such Code, effective as of the effective date of such Code, or as of the date of the mailing of this letter if it shall have been mailed subsequent to such effective date of the Code, and hereby agrees with every person, partnership, association, or corporation which shall be or hereafter become a member of the Code, that the Code shall constitute a valid and binding agreement between the undersigned and all such other members.

The undersigned hereby authorizes the Board of Directors of the American Petroleum Equipment Suppliers' Association, or such members thereof as may be designated by said Board of Directors, hereinafter called the "Presentation Committee," to represent the undersigned in the presentation and submission of such Code to the proper authorities of the National Recovery Administration for approval by the President of the United States, hereby giving and granting unto said Presentation Committee full power and authority to consent to or approve such additions to or modifications thereof as may be required by the National Recovery Administration.

The execution and delivery of this letter by the undersigned shall be deemed to be a subscription to and ratification and approval by the undersigned of any such additions or modifications consented to and approved by the Presentation Committee.

The undersigned hereby transfers, assigns, and delivers to the American Petroleum Equipment Suppliers' Association all rights and causes of action whatsoever hereafter accruing to the undersigned under the Code for liquidated damages by reason of any violation by anyone, and hereby designates and appoints the Treasurer, for the time being in office, of said Association the true and lawful attorney in fact of the undersigned to demand, sue for, collect, and receipt for any and all amounts that shall be owing to the undersigned by reason of any such right or cause of action, and to compromise, settle, satisfy, and discharge any such right or cause of action in the name of the undersigned, or in the name of said Treasurer, as said Treasurer shall elect.

Until written notice of a change of address of the undersigned is filed with the Association, the address of the undersigned shall be as set forth at the foot of this letter.

Very truly yours,

——— ———, *President.*

Approved Code No. 86

CODE OF FAIR COMPETITION

FOR THE

TOY AND PLAYTHINGS INDUSTRY

As Approved on November 4, 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 Toy and Playthings 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 provisions of section 5, article III, insofar as such section provides for the payment of time and one third for all hours over forty per week worked by employees to whom such provision applies, shall be stayed until January 1, 1934, at which time such provisions 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 4, 1933.

October 31, 1933.

The President,
The White House.

Sir: A Public Hearing on the Code of Fair Competition for the Toy and Playthings Industry of the United States, submitted by the Toy Manufacturers of the U.S.A., Inc., located at 200 Fifth Avenue, New York, New York, was conducted in Washington on the 1st and 2nd of September, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 65 percent of the industry in addition to a number of independent manufacturers who approve the code as submitted by the Association.

The maximum hours per week provided in this Code are 40 per week, with provision for peak demand and emergencies. This is a reduction of approximately eight to fourteen hours per week from the hours worked in the industry in the past. The limitation of hours will increase employment approximately 20 percent, which will restore employment in this industry to approximately 90 percent of the 1929 figure.

The minimum wage of $12.00 per week, or 30 cents per hour, while relatively lower than that of other industries, is consistent with conditions of manufacture in the industry and the unskilled nature of a large portion of the work. Wages in this industry have been very low in the past.

The Census of Manufactures reports a total value of products for 1929 of approximately $103,647,000. The ratio of wages to value of products in 1929 for the industry as a whole was 25.1 percent.

From evidence adduced at the hearing and recommendations of the Research and Planning Division, a provision for the elimination of home work as of January 1, 1934, has been included.

Further evidence establishes the fact that this industry will receive practically no benefit from the operation of this code until the year 1934 because of outstanding contracts which are made early in the year for the manufacture and delivery of the products of the industry to the trade. The additional expense which must be absorbed due to the higher wages and shortened hours is a very definite burden until such time as these outstanding contracts are consummated.

It is, therefore, recommended that a stay of operation of the time and one third provision for all hours worked per week over 40 as set forth in Section 5, of Article III, of the Code, be granted by executive order until January 1, 1934, at which time this provision shall become effective.

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 Toy Manufacturers of the U.S.A., Inc., the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Toy and Playthings 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

TOY AND PLAYTHINGS 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 Toy and Playthings Industry, and upon approval by the President, shall be the standard of fair competition for this industry.

Article II—Definitions

1. As used herein the term "Toy and Playthings Industry" is defined to mean the manufacture and production of any or all of the general classes of articles as listed in Schedule A, annexed to this Code and made a part hereof, or any part or parts of any one or more of such articles, and such kindred lines of manufacture or production as may from time to time be included under the provisions of this 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 anyone engaged in the manufacture or production of any or all of the articles or any part or parts of any one or more of such articles as listed in Schedule A annexed to this Code.

4. The term "cleaners" shall mean that class of employees who perform only such work as is commonly performed by janitors.

5. The term "effective date" as used herein shall mean the second Monday following the approval of this Code by the President.

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 of such Act.

Article III—Hours

1. No employee shall be permitted to work in excess of forty (40) hours in any one week except executives who receive over $35.00 per week, and outside sales persons, supervisory staff, and office employees who shall be permitted a tolerance of ten percent above the regular hours of work.

2. The maximum hours fixed in the foregoing section shall not apply to employees on emergency repair work, involving breakdowns or protection of life or property, but in such special cases at least time and one third shall be paid for all hours worked in excess of the maximum hours herein provided.

3. The maximum hours of labor for firemen, engineers, truck drivers, shipping crews, and cleaners shall be forty (40) with a tolerance of ten percent; provided, that the rate of pay for all hours in excess of forty (40) per week shall be one and one third times the regular rate.

4. Watchmen may be employed in pairs and shall not work more than 36 and 48 hours on alternate weeks, or an average of 42 hours per week.

5. For those branches of the Toy and Playthings Industry in which seasonal or peak demand places an unusual and temporary burden, such number of hours may be worked as are required by the necessities of the situation, but in no case shall an employee work more than 48 hours in any one week, or 96 hours in any calendar year in excess of the maximum provisions set forth in paragraphs 1 and 3; provided, however, that time and one third shall be paid for all hours per week over forty. At the end of each calendar month every employer shall report to the Administrator, through the Code Authority, in such detail as may be required, the number of man-hours worked in that month on account of seasonal or peak demand requirements and the ratio which said man-hours bear to the total number of man-hours of labor during said month.

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

7. Home work is hereby prohibited after January 1, 1934.

Article IV—Wages

1. No employee shall be paid at less than the rate of thirty cents (30¢) per hour or twelve dollars ($12.00) per week for forty (40) hours of labor, except that:

(a) Learners who have had no previous experience or employment in this industry shall, for a six weeks' learning period, receive 80 percent of the minimum above provided or nine dollars and sixty cents ($9.60) per week for forty (40) hours of labor, and shall be limited to ten percent of the total number of employees, and except further, that in plants totaling less than twenty-five employees one learner may be allowed for each six employees.

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

3. 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.

4. Employers shall not reclassify employees so as to defeat the purposes of the Act.

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

6. A person whose earning power is limited because of physical or mental defect, age, or other infirmity, may be employed on light duty below the minimum wage set by the Code, provided the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing such employment at such wages and for such hours as shall be stated in the certificate the provisions of such certificate to designate the minimum wage and the maximum hours to be observed by the employer in relation to such employees.

Article V—Child Labor

No person under sixteen (16) 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 for approval before January 1, 1934, a list of such hazardous occupations. Reliance in good faith by an employer upon any evidence as to age admissible in the courts of the State in which such employment takes place shall be deemed a compliance with this provision.

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 nine members to be approved by the Administrator and chosen by a fair method of selection by the National Committee of the Toy and Playthings Industry and not more than three members without vote, appointed at the discretion of the President.

2. The National Committee shall consist of the following:

The Board of Directors of the Toy Manufacturers of the U.S.A., Inc.

Three (3) members of the Advisory Committee, as constituted and provided by the By-Laws of the Association.

The Chairman of the Marketing Committee of the Toy Manufacturers of the U.S.A., Inc.

Representatives of each Division as outlined below:

Balloon Division
Ball Division (Rubber)
Book and Game Division
Doll Division
General Toy Division
General Wood Toy Division
Iron Toy Division
Playground Equipment Division (Juvenile)
Pool and Billiard Table Division (Juvenile)
Pull Toy Division
Paint and Crayon Division
Costume and Playsuit Division
Desk Division
Doll and Baby Carriage Division
Sled Division
Sporting Goods Division (Juvenile)
Soft Stuffed Toy Division
Tinsel Division
Wheel Goods Division
Croquet Division
Metal Toy Division
Party Goods and Decorations Division

(a) Other divisions may be established upon application to the Code Authority.

(b) Each Division may designate or establish its own Administrative Committee, subject to the approval of the Code Authority and the Administrator, which shall make recommendations pertaining to all conditions and problems relating exclusively to such division.

(c) Proposals affecting more than one division may be initiated by any division affected, and shall be submitted for consideration to the Code Authority; and, with the approval of the Administrator, shall be binding upon the proposing divisions and all other divisions affected thereby.

3. The Toy Manufacturers of the U.S.A., Incorporated, shall be the Agency under the Code Authority for administering the provisions of this Code.

(a) There shall be submitted to the Administrator the Articles of Association, By-Laws, Regulations, and any amendments when made thereto, and such other information as to membership, organization, and activities as the Administrator may require to effectuate the purposes of this Act.

(b) No inequitable restrictions on admission to membership in the Toy Manufacturers of the U.S.A., 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 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 the code development and administration as the Code Authority, subject to the Administrator's approval, shall prescribe as fair and equitable.

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

(a) To require and receive reports as to wages and hours of labor showing actual hours worked by employees and minimum rates of wages.

(b) To receive monthly reports showing stocks on hand, orders, shipments, and cancellations, and

(c) 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 cited in Section 3a of the National Industrial Recovery Act, and such other data or information as the Code Authority, subject to the approval of the Administrator, may from time to time require.

(d) Except as otherwise provided in the National Industrial Recovery Act, all statistical data filed in accordance with the provisions of paragraphs (a) and (b) above, shall be confidential; and reports,

statistical data, etc., submitted by one employer shall not be revealed to any other employer except for the purpose of administering and enforcing the provisions of this Code.

5. The Code Authority shall make recommendations to the Administrator as follows:

(a) Recommendations as to the disposal of dropped lines, sometimes designated as "close-outs."

(b) Recommendations regarding price differentials for all channels of distribution.

(c) Recommendations as to additional discounts to be granted on orders placed prior to October 1.

6. Prices of all products shall be based upon accurate and known costs, as established by an adequate cost-finding system, approved by the Administrator, which shall be open to inspection at reasonable times by authorized non-member representatives of the Toy Manufacturers of the U.S.A., Inc.

Article VII—Trade Practices

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

1. The selling of any article below cost, as determined by an adequate system of accounting.

2. The selling directly or indirectly or through a sales agent, 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 the current net price list or price list and discount sheets on file with the Code Authority. However, it is hereby specifically provided that any member of the industry may meet competition in any specific instance by selling his product at a price not less than the lowest price of a comparable article on file with the Code Authority.

3. *Consignments.*—The selling of goods on consignment or entering into agreements, such as the re-dating of orders, shipping in excess of order, exchanging or accepting in return goods after selling season, or other practices which violate the principle of a bona fide sale. Goods for reconditioning shall be accepted only under the written permission of the employer and providing adequate charges shall be made for the cost of reconditioning; and transportation costs shall be paid by the customer.

4. *Delivery Practices.*—The delivery of merchandise in quantities in excess of that actually ordered and for which the buyer has contracted to pay, and the sending of unordered merchandise either to regular or prospective customers.

5. *Rebates.*—The granting of secret rebates or secret concessions in any form.

6. *Misrepresentation.*—Misrepresentation of merchandise on the part of any parties in respect to style, color, size, substance, design, or quality, or the use of false, deceptive, untrue, or misleading statements by way of advertising, branding, or otherwise, concerning the nature and character of own or competitor's merchandise on the part of any or all parties concerned.

7. *Commercial Bribery.*—Commercial bribery, whatever the form.

8. *Copying or Piracy in the Industry.*—The copying of lines or items by competitors for their own use prior to the end of the year following that in which they were so originated.

9. *Allowances.*—(a) The making of allowances for advertising in any form.

(b) The making of allowances in any form for special sales or other special or extraordinary sales events.

(c) The making of allowances in any form for freight, except wherein a particular division of the Toy and Playthings Industry, with the approval of the Code Authority, shall have established and approved such allowances for the members of that division and only then when such allowances have been included in the sales price of the merchandise.

(d) The making of allowances for demonstrations in any form. However, the demonstration of merchandise in retail stores may be arranged by manufacturers of the Toy and Playthings Industry, provided:

(1) That all demonstration costs shall be paid by the employer.

(2) That the demonstrators shall be acceptable and accountable to both the employer and the retailer.

(3) That the demonstrators may be discharged by either the employer or the retailer.

(4) That the demonstrators shall devote their entire time and attention to the demonstration of the employer's merchandise and shall not write sales checks.

(5) That the costs of such demonstrations shall not be deducted by the retailer when making payments for the merchandise.

10. *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.

11. 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.

12. *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.

13. *Threats of Litigation.*—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.

14. *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.

15. *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—Terms of Sale, Payment, Etc.

The following rules and regulations governing marketing practices shall be observed by all employers in the Toy and Playthings Industry except where a particular division of the Industry, with the approval of the Code Authority and the Administrator, shall have established exceptions therefrom.

1. *Terms of Sale.*—Prices quoted shall be on the basis of a bona fide sale and full details of all terms of sale as to date, payment, quantity, price, delivery arrangements, and the like shall be set forth in a written order and shall be strictly adhered to in the execution of the order.

2. *Terms of Payment.*—Selling terms shall not exceed two percent (2%) ten days, net thirty days: Bills are due and payable net at the office of the seller within 30 days from the date of the invoice.

Datings shall not exceed the following schedules:

(a) Orders received for shipment in January, February, and March may be dated the following April 1st upon the customer's agreeing that shipment may be made at any time at the seller's convenience prior to April 1st. Orders received for shipment April, May, and June may be dated the following July 1st upon the customer's agreeing that shipment may be made at any time at the seller's convenience prior to July 1st. Orders received for shipment in July, August, and September may be dated the following October 1st, upon the customer's agreeing that shipment may be made at any time at the seller's convenience prior to October 1st. When datings are granted, the discount of two percent (2%) may be allowed on payments made on or prior to the 10th of that month and payment will be due net, in full, on the 30th day of that month.

(b) An anticipation may be allowed for advance payment on shipments of dated orders, but such anticipation shall not exceed ½ of 1 percent per month. No datings will be granted on shipments in October, November, or December.

3. *Freight.*—All shipments shall be f.o.b. city of manufacture. In any case where the employer has a warehouse stock in another city, the goods shall be priced to include full cost of freight plus warehouse expense, freight and warehouse expense to be shown on the invoice.

4. *Samples.*—Samples requested by customers shall be submitted only on the basis of an outright sale and shipped f.o.b. factory. Such samples shall not be subject to special sample discounts and shall not be returnable.

5. *Price Lists.*—Each employer shall, ten days prior to the effective date of his price list, file with the Code Authority net current price lists and discount sheets, as the case may be.

6. Revised price lists, except in case of increases, of each and every item, with discounts thereon, shall, ten (10) days prior to the effective date of the revised price list, be filed from time to time thereafter with the Code Authority.

Article IX—General

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

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.

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.

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 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.

5. Within each State 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.

6. Each employer shall post in conspicuous places full copies of this Code.

7. 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.

8. 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 of the United States, be modified or eliminated as changes in circumstances or experience may indicate, such supplemental codes, however, to conform to and be consistent with the provisions of this Code as now constituted or hereafter changed. It is contemplated that from time to time supplementary provisions or additional codes will be submitted for approval of the President of the United States to prevent unfair and destructive competitive practices and to further effectuate the purposes and policies of Title I of the National Industrial Recovery Act.

9. Any member of this industry who, prior to June 16, 1933, contracted to buy or sell any goods, wares, or merchandise at a price fixed as of the date of said contract for future delivery, shall make a bona fide effort to arrive at an equitable adjustment on the price thereof as fixed by said contract to meet any proper increase in the cost of such goods, wares, or merchandise imposed by virtue of any provision of the National Industrial Recovery Act and in the event such effort fails to result in a mutually satisfactory adjustment either party to said contract may refer the same for adjustment to the Executive Committee of the industry, which said Committee

with the aid and assistance of the Administrator or his properly designated agent or agents shall endeavor to arrive at an equitable adjustment thereof.

10. *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.

Approved Code No. 86.
Registry No. 1660–01.

SCHEDULE A

The Toy and Playthings Industry shall include all employers who produce any or all of the general classes of Toys, playthings, or kindred lines listed below:

Aerial Toys
Animals
Athletic Goods (Juvenile)
Balls and Balloons
Banks
Blackboards
Boats
Books
Construction Toys
Croquet
Decorative Accessories (Xmas)
Dolls and Accessories
Easter Novelties
Doll Furniture and Houses
Educational Toys
Furniture, Juvenile and Doll
Games
Guns (Toy) and Accessories
Housewares
Infants' Toys
Iron and other Small Metal Toys
Kindergarten Toys
Mechanical Toys
Motion Picture Projectors and Cameras (Toy)
Musical Toys
Noisemakers
Paints and Crayons
Playground Equipment (Juvenile)
Playsuits and Costumes
Pool and Billiard Tables (Juvenile)
Rubber Toys
Skiis (Juvenile)
Soldiers
Sleds and Toboggans
Steel Toys
Tools and Tool Chests (Juvenile)
Trains and Accessories
Wheel Goods, including Wagons, Velocipedes, Doll and Baby Carriages, etc.
Wood Toys
Miscellaneous
Party Goods and Decorations

O

APPROVED CODE NO. 87

CODE OF FAIR COMPETITION

FOR THE

LEATHER AND WOOLEN KNIT GLOVE INDUSTRY

As Approved on November 4, 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 Leather and Woolen Knit Glove 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 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 it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 4, 1933.

29944——296-185——34—1

NOVEMBER 3, 1933.

The PRESIDENT,
The White House.

SIR: The Leather and Woolen Knit Glove Industry, as defined by its code, includes manufacturers of all leather gloves, mittens, and woolen knit gloves. The code for this industry has been sponsored by its one representative trade association, namely, the National Association of Leather Glove Manufacturers, Inc., of Gloversville, N.Y. Members of this association manufacture upwards of ninety percent (90%) of the all-leather gloves made in the United States. A proposed code of fair competition for the industry was presented to the Administrator by the association on August 15, 1933, was revised and resubmitted, and a hearing on the revised code was held on September 6, 1933. The code was further revised in subsequent conferences, and is herewith recommended for executive approval.

The Code of Fair Competition for the Leather and Woolen Knit Glove Industry may be summarized as follows:

Article I states the general purposes of the code.

Article II sets forth certain definitions of terms used in the code, and fixes the effective date.

ARTICLE III

1. Specifies the maximum hours of labor for employees in the industry;

2. Provides that individual cutters may not work in excess of the maximum hours in one or more factories, or by supplementing their factory work by cutting skins at home.

ARTICLE IV

1. Designates the minimum hourly wages applicable to the industry, limits the employment of apprentices, provides that skilled labor shall be paid at rates equitably adjusted above the minimum;

2. Provides for a report to the code authority with reference to glove-cutting apprentices;

3. Specifies the maximum percentage of superannuated or partially incapacitated workers to be employed, permitting such workers to be paid their earnings at piece rates without regard to minimum wages;

4. Provides that minimum wage applies irrespective of whether an employee is engaged on piecework or timework operations;

5. States that female and male employees, performing substantially the same work, shall be equally compensated;

6. Empowers the code authority to designate for skilled employees scales above the minimum provided in Article IV, paragraph 1, and to make appropriate geographical differentials in this scale;

7. Requires the posting of wage schedules in workrooms;
8. Provides for periodic reports from the code authority to the Administrator in respect of the operation of the wage provisions.

Article V

1. Prohibits the employment in the industry of persons under sixteen (16) years of age;
2. Quotes the provisions of paragraph 1 of Section 7 (a) of the National Industrial Recovery Act;
3. Quotes the provisions of paragraph 2 of Section 7 (a) of the National Industrial Recovery Act;
4. Quotes the provisions of paragraph 3 of Section 7 (a) of the National Industrial Recovery Act;
5. Provides that the code shall not supersede State laws imposing more stringent requirements;
6. Prohibits the reclassification of employees or duties of occupations to defeat the purposes of the Act;
7. Provides that each employer shall post in conspicuous places in his workroom full copies of the code;
8. Provides for the reduction of home work by at least 25 percent within six months after the effective date of the code, and by at least another 25 percent within one year after the effective date of the code, and specifies that within that time the code authority shall make recommendations designed to eliminate outside work completely; the employment of additional outside operators after the date of approval of this code is also prohibited and the names of all outside employees are required to be registered with the code authority;
9. Requires the payment of minimum hourly earnings to employees who are required or permitted to remain in the shop waiting for work;
10. States that manufacturers are to provide work to contractors only if they specify that such contractors shall employ labor under the terms specified by the code.

Article VI

Creates a code authority for the industry, outlines its duties and responsibilities, and designates the National Association of Leather Glove Manufacturers as the agency to receive reports referred to in the code;

Creates a Fair Trade Practice Agency and provides for the submission to the Administrator of the information necessary for the purposes specified in Section 3 (a) of the Act.

Article VII

Sets forth provisions of the code governing importers.

Article VIII

Enumerates Fair Trade Practices.

Article IX

1. Quotes Section 10 (b) of the National Industrial Recovery Act with respect to changes in the code;
2. Provides that the code may be modified with the approval of the President as experience may dictate.

Article X

Prohibits monopolistic practices.

Article XI

Seeks to limit increases in prices of goods to the actual increases in the seller's costs.

Article XII

Provides for the appropriate adjustment of the increased costs of executing contracts as a result of the operation of the National Industrial Recovery Act or of the code.

Article XIII

States the effective date of the code.

NATURE OF THE INDUSTRY

The Leather and Woolen Knit Glove Industry is essentially a small-scale industry in which wages represent nearly fifty percent (50%) of the total of manufacture. In 1931 its two hundred twenty-seven (227) establishments employed an average of seven thousand eight hundred eighty-four (7,884) factory wage earners, or less than an average of thirty-five (35) per plant. This is exclusive of home workers who constitute a substantial percentage of total employees. During the past three (3) decades there has been a definitely downward trend in the number of wage earners employed by the industry. In 1929 the industry employed an average of nine thousand two hundred three (9,203) factory employees as compared with fourteen thousand three hundred forty-five (14,345) in 1899. It has already been noted that further declines had occurred by 1931, and it is estimated that wage earners employed decreased even further in 1932.

Little information is available in respect of the number of home workers employed by the industry. On the basis of a study made in Fulton County, N.Y., in June, 1933, by the Women's Bureau of the United States Department of Labor, it is estimated that thirty-eight and two-tenths percent (38.2%) of the total number of employees in this district are home workers who receive eighteen and nine-tenths percent (18.9%) of the total payroll of the industry. Outside of the Fulton County vicinity, there is little home work. For the industry as a whole, it is estimated that nearly two-thirds (⅔) of the total number of employees are women.

The production of leather gloves in the United States is highly localized. According to the 1931 Census of Manufactures over two-thirds (⅔) of the production of the industry, on the basis of value of product, was manufactured in Fulton County, N.Y. In this County, about one-third (⅓) of the factory workers of the industry are employed, and household production is carried on most extensively. Glove making is the most important occupation of the workers of this community.

In the leather glove and mitten industry by far the greater number of operators are paid on a piecework basis. Wage rates for the Fulton County branch of the industry have long been fixed by mutual agreements between the employers and the International Glove Workers' Union. Schedules similar to those prevailing in Fulton County are in effect throughout most of the industry. Home workers' rates have generally been ten percent (10%) below those paid for factory work.

The productive operations of the industry are subject to pronounced seasonal variations. Leather gloves are produced largely for a late fall and winter demand. This results in the greatest activity in the cutting department during the months from August to October. The peak of total employment ordinarily comes somewhat later.

Imports of leather gloves represent a greater number of dozens than does domestic production, and many manufacturers are also importers. In the distribution of leather gloves manufacturers and importers have many common problems.

THE HOME-WORK PROBLEM

In the leather-glove industry, hand labor has been displaced by machines to but a relatively minor extent. Moreover, the hand labor necessary in the conduct of the industry is, in general, highly skilled. Practically all of the productive operations of the industry can be carried on within the homes of the workers, and one of the major problems of the industry relates to the competitive abuses arising from home-work operations.

Because of the widespread extent of home work, it was evident that the system could not be immediately eliminated without a serious disorganization of the industry. Article VI, paragraph 8, of the code, provides for a realistic approach to the gradual elimination of home-work operations.

Within six (6) months after the effective date of the code twenty-five percent (25%) of the total outside sewing machine work is to be discontinued, and by the end of one (1) year after the effective date a further reduction of outside work by at least another twenty-five percent (25%) is required. With full knowledge of the effect of these steps, the code authority is then to review the subject and make such recommendations as appear practical for the complete elimination of outside work. It is believed that this is a sound procedure for gradually eliminating home work from an industry which could not at once abandon it without disorganization. Commendation is due the Association for the spirit in which it approached and met this problem.

MINIMUM WAGES

Article IV, paragraph 1, of this code provides that minimum earnings shall not be less than at the rate of thirty-two and one-half cents (32½¢) per hour, except for beginners, who are guaranteed earnings of not less than twenty-two and one-half cents (22½¢) per hour and as much more as may be earned at regular piece rates. No person may be classed as a beginner for a period in excess of the first twelve (12) weeks' work in the industry. While most of the employees of this industry work at piece rates and have earnings in excess of thirty-two and one-half cents (32½¢) per hour, a significant number of workers on an hourly basis earn below this minimum. The study made by the Women's Bureau of the United States Department of Labor shows that in June 1933 over two-fifths (⅖) of the men on an hourly wage basis received less than thirty cents (30¢) per hour, while approximately one-half (½) of the women paid on a time-work basis received twenty-five cents (25¢) per hour or less. Hence the minimum rates provided by this code will result in significant increases in earnings. Approximately eight thousand (8,000) workers in the industry will undoubtedly receive an increase in their average earnings as a result of the wage provisions of the code.

In lieu of providing minimum wages for occupations above the least skilled classifications, Article IV, paragraph 6, of the code, specifies that minimum scales for piecework operations shall be established for the entire industry. Such scales are to be issued by the code authority following their approval by the Administrator. In the determination of these minimum scales, the code authority is to be guided by the Fulton County scales as determined from time to time by the collective bargaining arrangements now in effect. The code specifically provides that in determining these scales, revisions or adjustments of the Fulton County schedules may be made to meet differences in regional requirements.

The inclusion in a code of piece-rate scales or the incorporation thereof by reference raises questions both of law and of policy. It is inadvisable to incorporate by reference rules or regulations over which the Administration may have no control, which may vary from time to time, and which may not be known to all members of the industry. On the other hand, when in an industry standards are highest in a market which is responsible for two-thirds (⅔) of the production, unfair competition would result if other markets were left completely uncontrolled in respect of the wages there paid to skilled workers. It is believed that Article IV, paragraph 6, as phrased in the code, is not open to the objections stated above. Adequate control is reserved to the Administrator who will scrutinize any proposed scales, rules, or regulations before they can be proclaimed by the code authority and will, if there is objection, give a hearing to the objectors.

HOURS OF LABOR

Because of the nature of the product, a pronounced seasonality prevails in the production activity of the industry. The production peak for cutting occurs from August to October when production is

considerably in excess of other months in the year. Because it was anticipated that this code would become effective at the time of major activity, it is provided that, prior to December 1, 1933, employees may work not to exceed forty-four (44) hours per week. After the current seasonal requirements are met, the industry plans to take steps to level out its production schedule. In anticipation of this objective, the code provides that after December 1, 1933, employees in this industry are to work no more than eight (8) hours a day, and not to exceed forty (40) hours in any one (1) week. Discretion is given the code authority, however, subject to approval by the Administrator, to fix periods during the time of seasonal demands when a work week of forty-four (44) hours may be utilized for a period not to exceed four (4) months in any one (1) year. This is for emergency demands only. In all cases the industry is to operate on a single-shift basis.

The maximum hours specified by Article III, paragraph 1, of the code, should result in a significant increase in the numbers employed by the industry. In July, 1933, the Women's Bureau of the United States Department of Labor investigated the hours of work prevailing in Fulton County. This study revealed that over seventy-five percent (75%) of the women employees worked from forty-nine (49) to forty-nine and one-half (49½) hours. Over ninety percent (90%) of the men were on a schedule of fifty-five (55) hours per week and ten (10) hours per day. The reduction of hours in the factories in conjunction with the control provided over home-work operations will undoubtedly result in a substantial increase of employment.

THE FAIR TRADE PRACTICE AGENCY

During recent years, the demand for leather gloves has been fairly steady as regards numbers of pairs purchased. This has been true despite the fact that to a limited degree fabric gloves of various types compete with leather gloves. Nevertheless, for many years the domestic manufacture of leather gloves has been subject to a declining trend. Despite a relatively high tariff, imports of women's leather gloves now represent a greater number than those produced domestically. Many of the manufacturers of leather gloves supplement their lines with imported products. Because of the class relationship of the two types of product, and because of common sales problems, representatives of both manufacturers and importers of leather gloves desired to be governed by the fair trade practice provisions of this code. It was evident, however, that the importers had no direct concern with the provisions of the code relating directly to manufacturing operations. Because of the identity of the merchandising problems faced by both manufacturers and importers, Article VI, paragraph 3, of the code, provides that importers of gloves shall be bound by Article VIII of the code. For the administration of this article, a Fair Trade Practice Agency for this industry has been constituted, as follows:

Three (3) members designated by the National Association of Glove Manufacturers,

Three (3) members designated by the Glove Importers Association of the United States, and

One (1) member appointed by the Administrator.

For the administration of other parts of this code, a code authority has been created on which the importers have no representation. This administrative body is composed of five (5) members appointed by the National Association of Glove Manufacturers, two (2) members appointed by the Administrator on nomination of the Labor Advisory Board, and one (1) or more members may be appointed by the Administrator.

OTHER FEATURES OF THE CODE

Other portions of this code as recommended cover the following matters:

1. The number of beginners in occupations other than glove cutting shall at no time exceed ten percent (10%) of the number of manufacturing employees in a factory, except that every factory may have at least one (1) beginner. Because of peculiar conditions existing in the industry respecting the conditions of work of glove cutting apprentices, the code provides for the creating of an investigating committee of employers and employees. This committee is to recommend a policy for the governing of the wages of apprentices for this occupation, and limiting the number who can be so employed. Such recommendations are to be made to the code authority.

2. Because of the fact that the minimum wages provided by this code might result in a hardship to superannuated or partially physically incapacitated workers, it has been determined that such workers may be retained although their earnings at prevailing piece rates may be less than the minimum earnings provided by the code. The number of workers in this classification, however, shall not exceed ten percent (10%) of the employees in any factory.

3. It appears that in this industry contractors have occasionally employed labor without assuming full responsibility for the payment of the prevailing wages. Article V, paragraph (10) of the code, provides that an employer shall make no contract with a contractor unless it provides that the contractor shall employ labor under the terms specified in the code.

4. In order to insure that the terms of this Code may become fully applicable throughout the industry, Article V, paragraph (7), specifies that employers shall post in their workrooms such copies of wage schedules and conditions of labor as shall be distributed by the code authority.

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 Association of Leather Glove Manufacturers, Inc., imposes no inequitable restrictions on admission to membership

therein and is truly representative of the Leather and Woolen Knit Glove 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.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

LEATHER AND WOOLEN KNIT GLOVE 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 Leather and Woolen Knit Glove Industry, and shall be binding upon every member thereof.

Article II—Definitions

The terms "Leather and Woolen Knit Glove Industry" and "Industry" as used herein include the manufacture of all leather gloves and mittens and/or woolen knit gloves, 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 service, 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" means the National Association of Leather Glove Manufacturers, Inc.

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 "effective date" means the second Monday after the approval of this Code by the President.

Article III—Hours

1. No employees excepting repair shop crews, firemen, cleaners, watchmen, drivers, shipping, and supervisory staff, shall be permitted to work in excess of forty-four (44) hours per week up to December 1, 1933, or thereafter more than forty (40) hours per week, nor more than eight hours in any one day. The Code Authority may, with the approval of the Administrator, fix periods during the seasons of

peak production during which the work week shall not exceed forty-four (44) hours, for a total period not to exceed four (4) months in any one (1) year.

2. No glove cutter shall be given employment outside of a factory or in more than one (1) factory with the effect of affording employment for more than the maximum number of hours prescribed, and no skins shall be issued for cutting outside the factory or after regular working hours except by express permission of the Code Authority.

Article IV—Wages

1. No employee shall be paid at less than the rate of thirty-two and one-half cents (32½¢) per hour (except beginners and apprentices) and the rates for skilled labor shall be equitably adjusted above this minimum. Beginners on productive operations in the industry shall be paid not less than at the rate of twenty-two and one-half cents (22½¢) per hour and as much more as the beginner may earn on the regular piecework basis prevailing in the occupation; provided, that no one shall be classed as a beginner longer than for the first twelve (12) weeks' work in the industry; and provided further, that the total number of beginners in any one establishment shall at no time exceed ten percent (10%) of the total number of manufacturing employees; but provided also, that each factory may have at least one (1) beginner.

2. The subject of glove-cutting apprentices shall be considered by a committee composed of an equal number of employers and employees which shall work out policies and submit recommendations to the Code Authority and to the Administrator.

3. Superannuated or partially incapacitated workers now employed in the industry on piecework may be retained and paid their earnings at the piece rates without regard to the minimum wages provided herein. The number thus retained shall not, in any event, exceed ten percent (10%) of the employees in the factory.

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

6. The minimum rates of wages of skilled workers provided for in paragraph 1 of this Article shall be proclaimed from time to time by the Code Authority, after approval by the Administrator. The aforesaid minimum scales of wages shall be based upon the Fulton County wage scale, with any revisions, additions, amendments, or adjustments approved by the Administrator, to meet regional conditions and to maintain fair competition in the industry.

7. Employers shall post in their workrooms such copies of wage schedules in effect from time to time as may be distributed by the Code Authority.

8. The Code Authority shall report to the Administrator from time to time as to the effect of the operation of his 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.

Article V—General Labor Provisions

1. No person under sixteen (16) years of age shall be employed in the industry.

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 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 in his work rooms full copies of this Code.

8. For the purpose of eliminating home work in the industry as rapidly as possible, within six (6) months after the effective date hereof, employers shall reduce their outside work by at least twenty-five percent (25%) of sewing-machine operators, taking as a basis for reduction the number of outside workers as of the effective date hereof. Within one (1) year after the effective date hereof, employers shall effect a further reduction of outside work by at least another twenty-five percent (25%), taking as a basis for reduction the number of outside workers as of the effective date hereof.

Within one (1) year after the effective date hereof, the Code Authority shall conduct investigations and make recommendations to the Administrator designed to eliminate outside work completely, which recommendations when approved by the Administrator shall have full force and effect as provisions of this Code.

From the date of approval of this Code, no additional outside operators shall be employed and no employer shall increase outside work for the purpose of evading the provisions of this Code. Employers shall register with the Code Authority the names of all outside workers.

9. When an employer cannot supply work to a piece worker, the latter shall be permitted to go home for the remainder of the day. If a worker is required or permitted to remain in the shop, such employee shall be remunerated for all such time at not less than the minimum hourly rate provided in this Code.

10. Employers shall not make contracts with contractors for any operation in the industry unless the contract provides that the contractor shall employ labor under the terms specified in 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.

(1) The Code Authority shall be constituted as follows:

(a) It shall consist of seven (7) members or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth.

(b) Five (5) members shall be appointed by the Association, fairly representative of the industry; one (1) member may be appointed by the Administrator on the nomination of the Labor Advisory Board; one (1) or more members may be appointed by the Administrator.

(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 the Code Authority.

(a) For the purpose of keeping the Administrator informed as to the observance of this Code of Fair Competition, and better to enable the industry to carry out the policy of the National Industrial Recovery Act, the Code Authority may require from each employer, in such form and at such intervals as it may prescribe, certified reports which shall include the following:

1. Employment, hours, wages, and wage rates.

2. Production, orders, billings, and stocks (in process and finished) of products manufactured.

3. Consumption and stocks of raw materials.

(b) The National Association of Leather Glove Manufacturers, Inc., Gloversville, N.Y., is hereby constituted the agency to collect and receive the reports referred to above and to gather such other information as may be required by the Code Authority, for the carrying out of the purposes of the National Industrial Recovery Act, and shall make reports of the same to the Administrator and Code Authority.

(c) The Code Authority shall make reports to the Administrator of the conditions in the industry and may from time to time make recommendations to him with regard to additions to, or changes in,

the provisions of this Code, including any that may be desirable to meet conditions in any special branch of the industry.

(d) The Code Authority may conduct investigations and hearings insofar as may be necessary to determine whether employers are complying with the provisions of this Code.

(e) For the purpose of enabling the Association to secure accurate information, as provided in Article VI, Section 2 (a) of this Code, and thus aiding in the carrying out of the purposes of the National Industrial Recovery Act and of this Code, it shall be the duty of the Association to endeavor to secure, as speedily as possible, the adoption of such uniform cost and accounting systems as may be recommended by the Code Authority and approved by the Administrator, after such notice and hearings as he may prescribe.

(f) 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 this 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.

3. A Fair Trade Practice Agency is hereby created which shall cooperate with the Administrator in the administration and enforcement of the Fair Trade Practice provisions of this Code. The Fair Trade Practice Agency shall be constituted as follows:

Three (3) members shall be designated by the National Association of Glove Manufacturers.

Three (3) members shall be designated by the Glove Importers' Association of the United States.

One (1) or more members may be appointed by the Administrator.

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 3 (a) of the Act.

Article VII

Importers of gloves shall be bound by Article VI, Section 3 and Article VIII, but by no other provisions of this Code. They shall also be subject to such modifications of or additions to Article VIII of this Code as may hereafter be mutually agreed upon and approved by the Administrator.

Article VIII—Trade Practices

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

1. 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 with employers or principals to refrain from dealing or contracting to deal with competitors.

2. False invoicing of any kind.

3. Piracy of exclusive designs, copyrights, trade names, or trademarks of a competitor.

4. Consignment of merchandise, except pursuant to a bona fide written order or contract, or guaranteeing of retail turn-over.

5. Selling below cost, as determined by such uniform accounting practice as may be established by the Code Authority with the approval of the Administrator. This provision shall not apply to sales in good faith to dispose of distress merchandise or merchandise accumulated through error, which shall be branded as designated by the Fair Trade Practice Agency established in Article VI, Section 1 (e). The sale of such merchandise shall be reported to the Fair Trade Practice Agency.

6. The exchange or credit of any returns unless for manufacturing imperfections, and in no event unless the returns are free from wear or soil.

7. The acceptance of the return of merchandise other than an entire shipment except for manufacturing imperfections, and in no case later than five (5) days after the same has been received by the consignee.

8. 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.

9. The acceptance of orders of less than the usual wholesale quantity at the usual wholesale price; the granting of free repair privileges. The term "usual wholesale quantity" means at least three pairs of a style and color.

10. Marking with the words "table cut" any gloves which are not cut and fabricated according to the standards fixed by the Association; or to use the Glover's Guild Mark except on goods cut and fabricated in accordance with the Association rules, and no other designation of cutting shall be used except as approved by the Association.

11. 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.

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

13. 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.

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

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 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 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—Contracts

Where the cost of executing contracts for gloves entered into, prior to the effective date of this Code, is increased as a result of the operation of the National Industrial Recovery Act or of this Code, appropriate adjustment of such contracts should be made to reflect such increased cost; and further, where the performance of orders for gloves accepted prior to the effective date of this Code is delayed or prolonged as a result of the operation of the provisions of this Code, appropriate additional time should be allowed for the completion of such orders.

Article XIII—Effective Date

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

Approved Code No. 87.
Registry No. 913/1/01.

○

Approved Code No. 88

CODE OF FAIR COMPETITION

FOR THE

BUSINESS FURNITURE, STORAGE EQUIPMENT, AND FILING SUPPLY INDUSTRY

As Approved on November 4, 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 Business Furniture, Storage Equipment, and Filing Supply 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 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 4, 1933.

29172°——296-88——34

NOVEMBER 2, 1933.

THE PRESIDENT,
The White House.

SIR: A proposed Federated Code of Fair Competition for the Business Furniture, Storage Equipment, and Filing Supply Industry was submitted to the Administrator on August 14, 1933, by 89% of the known members of the Industry. The hearing was conducted in Washington on September 21, 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 properly heard in accordance with statutory and regulatory requirements.

The Industry's sales closely reflect any fluctuation in general business conditions. Its volume, therefore, in the past four years shows a drop of 75% with an attendant drop of only 53% in number of employees. The majority of the Industry immediately signed the President's Reemployment Agreement, with substitutions granted by the P.R.A. Policy Board, resulting in a net increase in employment, as shown by the report of the Research and Planning Department of approximately 23½% over the average number of wage earners employed in the first half of the year 1933. The reemployment of labor, with attendant increases in yearly pay roll will be further accelerated by increase in the volume of business of the Industry, and has been materially increased since the date of the figures submitted to the Research and Planning Department.

RÉSUMÉ OF CODE

Article I states the purpose of the Code.

Article II accurately defines specific references made in the Code.

Article III establishes a National Emergency Committee consisting of one representative of each division of the Industry elected by the various divisions, with additional (not exceeding three) representatives to be appointed by the President.

Article IV provides machinery for obtaining statistics.

Articles V, VI, and VII set forth the mandatory labor provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for factory and office employees, except that in any six weeks of any six months' period such employees shall be permitted to work 48 hours. The minimum wage rate, varying from $15.00 to $14.00 for office and salaried employees (except outside salesmen), is based on population differentials. For factory employees the minimum rate is 40¢ per hour for male and female employees, except in one division, where the minimum rate for female employees is 35¢ per hour.

An overtime rate is provided for employees under certain specified conditions.

Learners without previous experience may not constitute more than 5% of the total number of employees and their wages shall not be less than 80% of the specified minimums. The same provisions apply to disabled or infirm employees. Higher paid employees are protected by an equitable readjustment clause.

Article VIII provides for planning and development by the Industry.

Article IX and Exhibit C (Divisional Supplemental Codes) set forth the Fair Trade Practices for the Industry.

Article X sets forth the procedure to be followed in the event of a violation of the Code.

Articles XI, XII, and XIII contain the mandatory provision respecting amendments, and provide for the submission of proposed amendments by members of the Industry as well as submission of further supplemental divisional Codes.

Article XIV recommends limitation of price increases.

Article XV states the effective date.

Findings

The Administrator finds: 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 Business Furniture, Storage Equipment, and Filing Supply Industry, and the By-laws of the Associations representating 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

BUSINESS FURNITURE, STORAGE EQUIPMENT AND FILING SUPPLY 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 Business Furniture, Storage Equipment, and Filing Supply 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

Wherever used in this code and/or its divisional supplemental codes, the following definitions shall apply:

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

The term "Industry" means and includes the business of producing and selling in the United States any or all industry products.

The terms "Member" and/or "Member of the Industry" means and includes any person, firm, association, or corporation engaged in the business of the Industry as defined herein.

The term "Employee" means and 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" means and includes anyone by whom any such employee is compensated or employed.

The term "Apprentice" means a person, usually a minor, who agrees to serve an employer for a certain stated period of time at predetermined wages for the period in order to learn the trade.

The term "Learner" 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 days' experience.

The term "Industry Products" means and includes all products as hereinafter enumerated and defined under "Divisions", and such other products as may be enumerated and defined in divisional supplemental codes which are or may be attached to and made a part of this code as provided in Art. XII hereof.

The term "Divisions" means and includes the several parts of the Industry which are (or may be) established, and are (or may be) defined in the divisional supplemental codes.

The Divisions hereby established are as follows:

Steel Office Furniture Division:
- Vertical filing cabinets.
- Horizontal sections and half-sections, and bookcases.
- Hi-line and book-shelf units.
- Card index cases.
- Transfer units.
- Desks.
- Tables.
- Storage cabinets and wardrobes.

Steel Shelving Division:
- Industrial and general-purpose steel shelving, miscellaneous fittings, attachments, and accessories.

Steel Locker Division:
- Box Lockers.
- Single-tier Lockers.
- Double-tier Lockers.
- Two-person and Compartment Lockers.
- Miscellaneous Fittings as used in schools, clubs, gymnasiums, commercial and industrial establishments.

Visible Filing Equipment Division:
- Cabinets, panels, pockets, cards, and other inserts, signalling and other devices for visible filing.

Article III—Administration

The Industry shall, with the approval of the President, establish and empower a suitable agency herein referred to as the National Emergency Committee, to assist the Administrator in administering the provisions of the Act as set forth in this code. This Committee shall consist of one representative of each Division of the Industry, to be elected by the members of such Division, each member having one vote. The Government may be represented on said Committee by — (from one to three) members, without vote, to be appointed by the President. Such governmental representatives will be appointed for terms of from six months to one 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.

Each trade or industrial association directly or indirectly participating in the selection or activities of the National Emergency Committee 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.

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

Subject to the approval of the Administrator, the Committee may approve the establishment of additional Divisions; shall delegate to all Divisions all necessary power and authority for the administra-

tion of this code within the Divisions; but shall reserve and retain the power and duty to enforce the provisions of this code.

Subject to the approval of the Administrator, this Committee shall issue and enforce such rules, regulations, and interpretations, offer such amendments hereto, and designate such agents and delegate such authority to them as may be necessary to effectuate the purposes and to enforce the provisions of this code.

Any action taken by the National Emergency Committee, or by any divisional code committee, or by any divisional planning and classification board may be reviewed by the Administrator, at his option, and modified or disapproved.

Article IV—Code Reports and Fees

Members shall make periodically to the National Emergency Committee, through their respective Divisions, such reports on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other data pertinent to the purposes of this code as may be required by the Administrator or the National Emergency Committee in assisting the Administrator in administering the provisions of the Act.

In addition to the information required to be submitted to the National Emergency Committee, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3A of the Act.

Except as otherwise provided in the Act, all statistical data filed with the National Emergency Committee in accordance with the provisions of this Article shall be confidential and the data of one member shall not be revealed to any other member, except that for the purpose of administering or enforcing the provisions of this code, the said Committee and the Administrator, by their duly authorized representatives, shall have access to any and all statistical data that may be furnished in accordance with the provisions of this code.

Members shall be entitled to participate in and share the benefits of the activities of the National Emergency Committee 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, and by permitting, for the purposes of the code, inspection of pertinent records by an impartial agency, to be approved by the National Emergency Committee and the Administrator. The reasonable share of the expenses of administration shall be determined by the National Emergency Committee on such basis as may be deemed equitable.

Article V—Labor Provisions

(a) Employes 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.

Article VI—Hours of Labor and Minimum Wages

The maximum hours of labor of employees of members, and the minimum wages which shall be paid by members shall be as shown in the attached Exhibit A, which is specifically made a part of this code.

Article VII—Child Labor

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 National Emergency Committee shall submit to the Administrator for approval a list of such hazardous occupations, within 60 days after the effective date of this code.

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 under the state law showing that the minor is of the required age.

Article VIII—Planning and Development

In order that economies in manufacture and distribution, standardization, and simplification of industry products, and more efficient methods of conducting the business of the Industry may be developed, the National Emergency Committee shall cause to be established in each Division a Planning and Classification Board, which shall from time to time make studies and recommendations to their respective Divisions on any phase of the business of the Industry, including stabilization and regularization of employment, included in said Division. If approved by said Division and referred to the National Emergency Committee, the Committee shall make, modify, or rescind rules and regulations, as may be necessary and proper to effectuate the purposes of such recommendations.

Nothing herein contained shall be applied to restrict development or advancement of the Industry, or to prevent any member from manufacturing any industry product, or perfecting developments, or making changes or additions.

Article IX—Unfair Practices

For all purposes of this code the practices described in Exhibit B hereto annexed, and all other practices which shall be declared to be unfair practices by any amendment to this code, duly approved by the President, are hereby declared to be unfair methods of competition in commerce, and knowingly using or employing any of them by any member of the Industry directly or indirectly through any

officer, employee, agent, or representative shall be deemed to be a violation of this code.

Article X—Violation

Any violation by any member of any provision of this code, or of any provision of any divisional supplemental code to which he is subject, shall constitute a violation of the code by such member. The offender shall be subject to the penalties imposed by the Act.

A procedure for investigation of violations shall be adopted by each Division, subject to the approval of the National Emergency Committee.

Article XI—Cancellation or Modification

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.

This code is intended to be a basic code, and study of the trade practices of the Industry will be continued by the National Emergency Committee with the duty of submitting from time to time recommendations to the Administrator respecting amendments, revisions, and/or supplementary provisions to this code, which, upon his approval after such hearing as he may prescribe, shall become a part of this basic code, and shall have full force and effect as provisions hereof.

Such recommendations shall first be approved by the members of the Division affected thereby, and, if so approved, must be submitted to the Administrator.

Article XII—Supplementary Codes

Supplemental code provisions affecting or pertaining to Divisions of the Industry are contained in Exhibit C attached hereto, which is specifically made a part of this code. Additional supplements affecting or pertaining to Divisions may be filed with the Committee and if not inconsistent with the provisions of this code may be recommended by it to the Administrator. When approved by the Administrator such supplements shall have the same force and effect as any other provisions of the code.

Article XIII—Monopolies

(a) This code is not designed to promote monopolies 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 oppress small enterprises or to discriminate against them.

Article XIV—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 XV—Effective Date

This code and amendments thereto shall be in effect beginning ten days after their approval by the President.

Approved Code No. 88.
Registry No. 1137/1/01

EXHIBIT A

SECTION 1. On and after the effective date, the minimum wages of all employes (except as hereinafter provided) of any member shall be at the following hourly rates:

To male factory employes, 40 cents.

To female factory employes, 40 cents for Steel Office Furniture, Steel Shelving, and Steel Locker Divisions; 35¢ for Visible Filing Equipment Division.

The above minimum wages are not to be considered as a discrimination by reason of sex. Where women do substantially the same work or perform substantially the same duties as men, they shall receive the same wages as the men who do such work or perform such duties; and when they displace men they shall receive the same wages as the men they displace.

Nothing in this Section shall apply to or affect any employe 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 such agreements are, and each additional agreement as made is, filed with the National Emergency Committee, and provided that this exception shall apply to such employes only during the period that they are receiving less than the minimum rate.

Learners (other than apprentices) may be paid not less than 80 percent of the minimum wage paid for the same class of work they may be learning, up to the point where the net amount received by a learner would be in excess of 40 cents per hour, and provided that the total number of learners who shall receive less than the minimum wage shall at no time exceed more than five percent of the total number employed by such employer.

Nothing in this Section shall apply to any employe who by reason of a disability and/or infirmity is competent only for light employment; provided, that the wages paid to such employes shall not be less than 80 percent of the minimum rates of pay specified in this code; provided further, that the total number of such employes shall not constitute more than five percent of the total number of factory employes subject to the provisions of this code in any one plant; and provided, that a list of such employes shall be filed with the National Emergency Committee.

The wage differentials for all operations being paid more than the minimum shall be equitably readjusted by all employers who have not made such adjustments since June 15, 1933, and in no case shall they be decreased. Each member of the industry shall report all such readjustments to the National Emergency Committee within 30 days of the effective date of the code.

SEC. 2. It is agreed that Section 1 establishes a guaranteed minimum rate of pay for employes compensated on a piecework or any other basis.

SEC. 3. Factory employes (excluding service employes engaged in outside work away from the manufacturing plant, department foremen, repair crews, firemen, engineers, and watchmen) may work not more than 40 hours in any one week, nor more than eight hours in any one day; except that to meet peak demands such employes may work not more than 48 hours in any one week and not more than 10 hours in any one day for not more than six weeks in any six months' period. An employe working on Sundays and legal holidays or beyond nine consecutive hours per day, plus an interval of not more than one hour, shall be paid not less than one and one half times his normal rate.

The maximum hours fixed in this section shall not apply to any employe on emergency maintenance or emergency repair work involving break-downs or protection of life or property, but in any such special case at least one and one half times his normal rate shall be paid for hours worked in excess of the maximum hours herein provided.

Firemen and engineers are to have 10 percent tolerance above the maximum hours herein specified.

Watchmen may work 84 hours in two weeks on alternate shifts of 36 and 48 hours per week.

SEC. 4. Office and salaried employes (except outside salesmen and those employed in a managerial or executive capacity and earning more than $35.00 a week) covered hereby may work not more than 40 hours in any one week, except that to meet peak demands such employes may work not more than 48 hours in any one week for not more than six weeks in any six months' period.

The minimum wages of office and salaried employes covered hereby shall not be less than the following weekly rates:

In cities having 500,000 population or over, or in the immediate trade area of such city, at the rate of $15.00 per week.

In cities having less than 500,000 and more than 250,000 population, or in the immediate trade area of such city, at the rate of $14.50 per week.

In cities having less than 250,000 population, or in the immediate trade area of such city, at the rate of $14.00 per week.

SEC. 5. Within each state this code shall not supersede any law of such state imposing more stringent requirements as to maximum hours of labor or minimum wages than are imposed under the provisions of this code.

EXHIBIT B

List of Unfair Practices

A. REBATES

(a) The secret payment or allowance to purchasers of industry products, of rebates, commissions, bonuses, refunds, credits, unearned discount, or subsidies of any kind, whether in the form of money, services, or otherwise, or the giving of premiums, or extending to certain purchasers special service or privileges not extended to all purchasers under like terms and conditions.

(b) The enticing or attempting to entice away the agents or dealers of any competing member of the Industry by offering goods on consignment, accepting long-term notes in payment for goods, postdating invoices, or offering special discounts on carload lots.

B. BRIBERY

Directly or indirectly to give or permit to be given or offer to give money or anything of value to agents, employes, or representatives of customers or prospective customers, or to agents, employes, or representatives of competitors' customers or prospective customers, as an inducement to influence their employers or principals to purchase or contract to purchase industry products from the maker of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors, or to allow to salesmen or other employes or agents expense money for any other purpose than legitimate expenses of travel and subsistence, or to permit any funds to be disbursed in any unlawful way to influence business.

C. BREACH OF CONTRACT

Any wilful attempt to induce a breach of any existing bona fide contract or order for a definite amount of industry product or to prevent the performance of any contractual duty or service under any bona fide contract or order for the sale of industry products.

D. ENTICEMENT OF EMPLOYES

The enticement of an employe of a competitor from his employment with the purpose or effect of injuring or embarrassing such competitor in his business. Nothing herein shall prevent any employe from offering his services to a competitor, nor prevent any member from employing an employe of another member where the initiative in such change of employment comes from the employe.

E. MISREPRESENTATION

(a) The making, causing or permitting to be made or published, of any false, untrue, or deceptive statement by way of advertisement or otherwise; or

(b) The marking or branding of products for the purpose or with the effect of misleading or deceiving purchasers; or

(c) The sale or offering for sale of any product with the intent to deceive, or the effect of deceiving, the purchaser;

by false or misleading statements, or by concealment of the facts concerning grade, quality, character, nature, origin, manufacture, or performance of any item of industry products.

F. DEFAMATION OF COMPETITOR

The defamation of a competitor by words or acts which disparage his business integrity, his ability to perform his contracts, his credit standing, or the grade, quality, or reliability of his goods.

G. GUARANTEE AGAINST DECLINE

The sale or offering for sale of any industry products under any form of guarantee to the purchaser or proposed purchaser against either an advance or decline in the price of such industry products.

H. FALSE RECORD

(a) Withholding from or inserting in an invoice or contract statements which make the invoice or contract a false record, wholly or in part, of the transaction represented on the face thereof.

(b) Postdating any contract or invoice, or predating any contract or invoice except to conform to a bona fide agreement for the purchase or sale of industry products on the predate.

I. CONCEALED BIDDING

The inclusion of prices, discounts, or terms on any items of industry product with prices, discounts, or terms of any other product or products, or any means used to quote or contract to sell any industry products in any manner which prevents any interested person from obtaining accurate information as to the actual prices charged for such industry products separately.

EXHIBIT C

Divisional Supplemental Code for the Steel Office Furniture Industry

ARTICLE I—PURPOSE

The purpose of this divisional supplemental code is to supplement the basic code of the Business Furniture, Storage Equipment, and Filing Supply Industry, to make it specifically applicable to the Steel Office Furniture Industry, a division thereof.

ARTICLE II—INDUSTRY

This Industry shall be defined as including anyone engaged in the manufacture and sale of any item of steel office furniture (hereinafter referred to as "industry products") as defined in Art. II of the basic code under "Steel Office Furniture Division", either as a stock item or offered as a substitute for or in competition with such item.

ARTICLE III—CODE AUTHORITY

(a) A Code Committee, consisting of one nonvoting representative of the Administrator, if the Administrator so elects, and seven members of the Industry shall constitute the code authority of said Industry. Each class of member as defined below shall be represented by at least one member on the Code Committee.

(b) Each member of the Industry shall within thirty days after the effective date of this code certify to the Secretary of the National Emergency Committee under oath the total net wholesale value of domestic shipments of all industry products for each month of the calendar year next preceding the above date, and for each succeeding calendar month up to the date of such certification, and shall thereafter certify such values monthly within forty-five days after expiration of each succeeding calendar month.

(c) In the election of the Code Committee and in all cases where voting power is exercised by the members of the Industry, the members shall be divided into five classes, based on volume of production as above determined, and such voting power shall be determined as follows:

One fifth of the highest value of shipments, as defined in par. (b), reported by any member for the next preceding calendar year shall be the base value. The number of votes to which each member is entitled shall be the quotient obtained by using this base value as a divisor and the value of shipments reported by said member for the same year as a dividend. For the purpose of this computation fractions shall be considered as whole numbers.

ARTICLE IV—PLANNING AND CLASSIFICATION

In order to effectuate the purpose of Article VIII of the basic code, a list of all items of industry products now being offered as stock items by any member shall be submitted, and specifications and samples shall be made available within thirty days after approval of this code to the Planning and Classification Board of the Industry for assignment thereof to its proper classification as referred to in Schedule A. No stock item not included in the list originally submitted by him shall be sold or offered for sale by any member until after classification by the Planning and Classification Board, as above provided, and approval of said classification by the Code Committee, nor until after all requirements for publication contained in Article VI hereof have been completely fulfilled. All action under this section shall be taken within 30 days after submission by the member.

ARTICLE V—DISCRIMINATION

(a) No member shall make any sale or contract of sale, directly or indirectly, by any means whatever, of any industry products at a price or on terms and conditions more favorable to one purchaser than to another, whether such purchasers shall be private individuals, corporations, or firms, or Federal, State, Municipal, or other public bodies; provided that this shall not prevent price differences necessarily resulting from differences in the model, grade, quantity, or point of delivery of the products sold.

(b) No member shall make any purchase of or allowance for used industry products in connection with a sale of new industry products or as an independent cash transaction, directly or indirectly, by any means whatever, at a price or on terms and conditions more favorable to one seller than to another.

ARTICLE VI—PRICE PUBLICATION

(a) Each member shall, within ten days after the effective date of this code, publish and continue to publish, as changes are made:

1. List prices covering every item of industry products which such member offers for sale as stock merchandise, of current standard lines, and list prices and quantities of destandardized or obsolete lines;

2. Discounts and terms allowed, as provided in Schedule A hereto attached and made a part hereof, to the classes of customers defined therein;

in such manner that interested members of the trade and buying public may at all times obtain accurate information as to the prices charged by such member for his industry products. Failure to publish or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of false or fictitious discounts, prices, or terms for any item of industry products is an unfair method of competition.

(b) No member of the Industry shall designate any current line as destandardized or obsolete unless in fact such line has been discontinued.

(c) Each member shall immediately publish and continue to publish, as changes are made, the prices paid or allowances made for used industry products of the various makes and models, in such manner that interested members of the trade and buying public may at all times obtain accurate information as to the real prices charged by such member for its industry products. Failure to publish, or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of any false or fictitious price or allowance for any make or model of such used industry products, is an unfair method of competition.

(d) The discounts, terms, expiration dates, and customers' names of all buying agreements, oral or written, on any other than a one-order-one-delivery basis, in force at the effective date of this code, and all such new or renewed agreements, shall be reported to the Code Committee at the time they become effective.

The discounts and terms of all such new agreements, and all renewals or extensions of such existing agreements, shall be as provided in Schedule A.

(e) The above requirements for publication shall not be deemed fulfilled until ten days after a sufficient number of certified copies of the matter to be published shall have been received at the office of the Code Committee, except that the lists filed within ten days after the effective date of this code shall take effect on the date of filing thereof.

(f) No member shall sell any industry product contrary to his published prices, discounts, or terms of sale; and since a substantial majority of the industry's products are sold direct by the manufacturer to the consumer, and since the purpose and effect of this Article would be otherwise defeated, it shall be an unfair method of competition for any member to distribute to the user industry products indirectly through an agent, dealer, broker, or otherwise, contrary to his published prices, discounts, or terms of sale.

ARTICLE VII—SELLING BELOW COST

(a) The pricing and/or selling of any item of industry products below member's cost to the ultimate consumer as determined by the cost-accounting methods set up by the Code Committee and subject to approval by the Administrator, in the quantities, under the conditions, and at the points of delivery involved, is an unfair method of competition.

(b) The Code Committee shall have power on its own initiative, or on the complaint of any member, to cause an investigation of any price, discount, or terms of sale for any item of industry product shown in any list of industry products filed with it by any member, and for the purpose of the investigation thereof to require such member to furnish such information concerning cost as defined in Section (a) of this article as the Committee shall deem necessary or proper for such purpose.

If after such investigation, said Committee shall determine that such price, discount, or terms of sale is unfair as being contrary to Section (a) of this Article, and if such member within ten days after notice to it of such determination by the Code Committee shall not file a new list showing the price, discount, or terms of sale in accordance with said Section (a) (which shall become effective immediately on the filing of such list), the Code Committee shall report the results of its investigation to the proper authority or authorities for action.

ARTICLE VIII—EXTRAS AND DEDUCTIONS

The Code Committee, on the basis of the direct cost thereof (direct cost as used in this article being defined as the cost of labor, material, selling, and distribution, plus 10%) may establish the minimum additions to and maximum deductions from the base prices of the various lines of industry products, which maximum deductions and minimum additions members shall use in determining the list prices of variations from the base products.

ARTICLE IX—SPECIALS

No item of industry products which is not covered by the published list prices of the manufacturer thereof shall be sold or offered for sale at net prices, discounts, or terms more favorable to the purchaser than the most favorable published discounts, terms, or net prices applying to such item.

ARTICLE X—MODIFICATION OR CANCELLATION OF CODE

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 X 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 condition imposed by him upon his approval thereof.

SCHEDULE A

Steel Office Furniture Division—Divisional Supplemental Code

INDUSTRY BASE PRODUCTS

The Industry base products are hereby listed, graded, and classified, as follows:

Four-drawer vertical letter file, olive green, standard grade.
Five-drawer vertical letter file, olive green, standard grade.
Three-drawer vertical letter file, olive green, standard grade.
Four-drawer vertical letter file, olive green, commercial grade.
Four-drawer vertical letter file, olive green, utility grade, suspension.
Four-drawer vertical letter file, olive green, utility grade, nonsuspension.
Two-drawer horizontal sectional full width letter file, standard grade.
One-drawer horizontal sectional half width letter file, standard grade.
One-drawer 3''x5'' card cabinet standard grade.
One-drawer 3''x5'' card cabinet commercial grade.
60''x34'' flat top desk, olive green, standard grade.
60''x34'' table, olive green, standard grade.
60''x34'' flat-top desk, olive green, junior executive grade.
60''x34'' table, olive green, junior executive grade.
72''x36''x18'' storage cabinet, double door, olive green, Grade A.
72''x36''x18'' storage cabinet, double door, olive green, Grade B.
One-drawer, sectional letter size transfer case, olive green.
Hi-line section—24-drawer document file, olive green.
Hi-line section—84''x36''x9'' six-shelf bookshelf unit without finished ends, olive green.

Revision of this list may be made from time to time by the Code Committee, or by the Administrator in his discretion.

DEFINITION OF CUSTOMERS

Exclusive Agents or Dealers.—An Exclusive Agent or Dealer is a retailer (individual, firm, or corporation) with whom a member of the Industry has a written agreement giving the agent or dealer sole selling rights of entire line in defined territory and giving the member of the Industry exclusive sales representation.

Nonexclusive Agents or Dealers.—A nonexclusive Agent or Dealer is a retailer (individual, firm, or corporation) who maintains a place of business and carries stock.

Brokers.—A Broker is a retailer (individual, firm, or corporation) other than above defined, who purchases industry products for resale.

Retail buyers.—A retail buyer is a purchaser of definite quantities of industry products when purchased in one order for one delivery, or on an oral or written buying agreement.

Discounts and Terms of Sale.—The discounts as provided in Article VI allowed to each of the above-defined classes of customers shall be applied to all list prices published under the provisions of said Article and shall truly represent variance in cost of distribution to the ultimate consumer as determined by the code committee in accordance with the provisions of Article VII.

Terms of sale for all industry products shall be as follows:

Wholesale Sales.—All classes of purchasers—2 percent 10th prox., net 30th prox.

Retail Sales.—No discount for early payment.

EXHIBIT C

Divisional Supplemental Code for the Visible Filing Equipment Industry

ARTICLE I—PURPOSE

The purpose of this divisional supplemental code is to supplement the basic code of the Business Furniture, Storage Equipment, and Filing Supply Industry, to make it specifically applicable to the Visible Filing Equipment Industry, a division thereof.

ARTICLE II—INDUSTRY

This Industry shall be defined as including any one engaged in the manufacture and sale of any item of visible filing equipment (hereinafter referred to as industry products) as defined in Art. II of the basic code under "Visible Filing Equipment Division", either as a stock item or offered as a substitute for or in competition with such item.

ARTICLE III—CODE AUTHORITY

(a) A Code Committee consisting of one non-voting representative of the Administrator if the Administrator so elects, and three members of the Industry shall constitute the code authority of said Industry.

(b) Each member of the Industry shall within thirty days after the effective date of this code certify to the Secretary of the National Emergency Committee under oath the total net wholesale value of domestic shipments of all industry products for each month of the calendar year next preceding the above date, and for each succeeding calendar month up to the date of such certification, and shall thereafter certify such values monthly within forty-five days after expiration of each succeeding calendar month.

(c) In the election of the Code Committee and in all cases where voting power is exercised by the members of the Industry, the members shall be divided into four classes, based on volume of production as above defined, and such voting power shall be determined as follows:

One-fourth of the highest value of shipments, as defined in par. (b), reported by any member for the next preceding calendar year shall be the base value. The number of votes to which each member is entitled shall be the quotient obtained by using this base value as a divisor and the value of shipments reported by said member for the same year as a dividend. For the purpose of this computation fractions shall be considered as whole numbers.

ARTICLE IV—PLANNING AND CLASSIFICATION

In order to effectuate the purpose of Article VIII of the basic code, a list of all items of industry products now being offered as stock items by any member of the Industry shall be made available, within thirty days after approval of this code, to the Planning and Classification Board of the Industry for assignment thereof to its proper classification as referred to in Schedule A. No stock item not included in the list originally submitted by him shall be sold or offered for sale by any member until after classification by the Planning and Classification Board, as above provided, and approval of said classification by the Code Committee, nor until after all requirements for publication contained in Article VI hereof have been completely fulfilled. All action under this section shall be taken within thirty days after submission by the member.

ARTICLE V—DISCRIMINATION

(a) No member shall make any sale or contract of sale, directly or indirectly, by any means whatever, of any industry products at a price or on terms and conditions more favorable to one purchaser than to another, whether such pur-

chasers shall be private individuals, corporations, or firms, or Federal, State, Municipal, or other public bodies; provided that this shall not prevent price differences necessarily resulting from differences in the model, grade, quantity, or point of delivery of the products sold.

(b) No member of the Industry shall make any purchase of or allowance for used industry products in connection with a sale of new industry products or as an independent cash transaction, directly or indirectly, by any means whatever, at a price or on terms and conditions more favorable to one seller than to another.

ARTICLE VI—PRICE PUBLICATION

(a) Each member of the Industry shall, within ten days after the effective date of this code, publish and continue to publish, as changes are made:

1. List prices covering every item of industry products which such member offers for sale as stock merchandise, of current standard lines, and list prices and quantities of rebuilt, destandardized, or obsolete lines;

2. Discounts and terms allowed, as provided in Schedule A hereto attached and made a part hereof, to the classes of customers defined therein;

in such manner that interested members of the trade and buying public may at all times obtain accurate information as to the prices charged by such member of the Industry for its industry products. Failure to publish or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of false or fictitious discounts, prices, or terms, for any item of industry products, is an unfair method of competition.

(b) No member of the Industry shall designate any current line as destandardized or obsolete unless in fact such line has been discontinued.

(c) Each member of the Industry shall immediately publish and continue to publish as changes are made, the maximum prices paid or allowances made for used industry products of the various makes and models, when such allowances apply against the purchase of new industry products, in such manner that interested members of the trade and buying public may at all times obtain accurate information as to the real prices charged by such member of the Industry for its industry products. Failure to publish, or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of any false or fictitious price or allowance for any make or model of such used industry products, is an unfair method of competition.

(d) The discounts, terms, expiration dates and customers' names of all buying agreements, oral or written, on any other than a one-order-one-delivery basis, in force at the effective date of this code, and all such new or renewed agreements, shall be reported to the Code Committee at the time they become effective.

The discounts and terms of all such new agreements, and all renewals or extensions of such existing agreements, shall be as provided in Schedule A.

(e) The above requirements for publication shall not be deemed fulfilled until ten days after a sufficient number of certified copies of the matter to be published shall have been received at the office of the Code Committee, except that the lists filed within ten days after the effective date of this code shall take effect on the date of filing thereof.

(f) No member shall sell any industry product contrary to his published prices, discounts, or terms of sale; and since a substantial majority of the industry's products are sold direct by the manufacturer to the consumer, and since the purpose and effect of this Article would be otherwise defeated, it shall be an unfair method of competition for any member to distribute to the user industry products indirectly through an agent, dealer, broker, or otherwise, contrary to his published prices, discounts, or terms of sale.

ARTICLE VII—SELLING BELOW COST

(a) The pricing and/or selling of any item of industry products below member's cost to the ultimate consumer as determined by the cost accounting methods set up by the Code Committee and subject to approval by the Administrator, in the quantities, under the conditions, and at the points of delivery involved, is an unfair method of competition.

(b) The Code Committee shall have power on its own initiative, or on the complaint of any member, to cause an investigation of any price, discount, or terms of sale for any item of industry product shown in any list of industry products filed with it by any member, and for the purpose of the investigation

thereof to require such member to furnish such information concerning cost as defined in Section (a) of this article as the Committee shall deem necessary or proper for such purpose.

If after such investigation, said Committee shall determine that such price, discount, or terms of sale is unfair as being contrary to Section (a) of this Article, and if such member within ten days after notice to it of such determination by the Code Committee shall not file a new list showing the price, discount, or terms of sale in accordance with said Section (a) (which shall become effective immediately on the filing of such list), the Code Committee shall report the results of its investigation to the proper authority or authorities for action.

ARTICLE VIII—SPECIALS

No item of industry products which is not covered by the published list prices of the manufacturer thereof shall be sold or offered for sale at net prices, discounts, or terms more favorable to the purchaser than the most favorable published discounts, terms, or net prices applying to such item.

ARTICLE IX—MODIFICATION OR CANCELLATION OF CODE

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 X 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 condition imposed by him upon his approval thereof.

SCHEDULE A

Visible Filing Equipment Division,

Divisional Supplemental Code

INDUSTRY PRODUCTS

The industry products are hereby classified as follows:

I. TRANSPARENT TIP POCKET EQUIPMENT

Consisting of Card and Insert Holders having titles visible through transparent tips and housed in drawers in cabinets, in drawers and panels in trays, in double and single faced, fixed position and swinging frames, and in folding panels and books, with holding and supporting devices for these housings.

II. VISIBLE CARD EQUIPMENT (NON-TRANSPARENT TIP POCKET TYPE)

Consisting of card hangers and/or supports providing visible index spaces on inserts and cards affixed to them and housed in drawers in cabinets, in panels or drawers in trays, in double and single faced, fixed position and swinging frames, and in folding panels and books, with holding and supporting devices for these housings.

III. VISIBLE STRIP EQUIPMENT

Consisting of multiple-index strips with or without transparent tubes housed visibly in drawers in cabinets, in panels or drawers in trays, in double and single faced, fixed position and swinging frames, and in folding panels and books with holding and supporting devices for these housings.

IV. SIGNALING DEVICES FOR USE IN EQUIPMENT AS DESCRIBED IN I, II, III

Revision of this list may be made from time to time by the Code Committee, or by the Administrator in his discretion.

DEFINITION OF CUSTOMERS

Exclusive Agents or Dealers.—An Exclusive Agent or Dealer is a retailer (individual, firm, or corporation) with whom a member of the Industry has a written agreement giving the agent or dealer sole selling rights of entire line in defined territory and giving the member of the Industry exclusive sales representation.

Nonexclusive Agents or Dealers.—A nonexclusive agent or dealer is a retailer (individual, firm or corporation) who maintains a place of business and carries stock.

Brokers.—A broker is a retailer (individual, firm, or corporation) other than above defined who purchases industry products for resale.

Jobbers.—A jobber is an individual, firm, or corporation who maintains an adequate wholesale stock of merchandise and who does not sell at retail.

Retail Buyers.—A retail buyer is a purchaser of definite quantities of industry products when purchased in one order for one delivery or on an oral or written contract or buying agreement.

DISCOUNTS AND TERMS OF SALE

The discounts as provided in Article VI allowed to each of the above-defined classes of customers shall be applied to all list prices published under the provisions of said Article, and shall truly represent variance in cost of distribution to the ultimate consumer as determined by the Code Committee in accordance with the provisions of Article VII.

Terms of sale for all industry products shall be as follows:

Wholesale Sales.—All classes of purchasers—2 percent 10th prox, Net 30th prox.

Retail Sales.—No discount for early payment.

EXHIBIT C

Divisional Supplemental Code for the Steel Locker Industry

ARTICLE I—PURPOSE

The purpose of this divisional supplemental code is to supplement the basic code of the Business Furniture, Storage Equipment, and Filing Supply Industry, to make it specifically applicable to the Steel Locker Industry, a division thereof.

ARTICLE II—INDUSTRY

This Industry shall be defined as including any one engaged in the manufacture and sale of any item of steel lockers (hereinafter referred to as industry products) as defined in Article II of the basic code under "Steel Locker Division", either as a standard list item or offered as a substitute for or in competition with such item.

ARTICLE III—CODE AUTHORITY

(a) A Code Committee, consisting of one nonvoting representative of the Administrator if the Administrator so elects, and five members of the Industry shall constitute the code authority of said Industry.

(b) Each member of the Industry shall within thirty days after the effective date of this code certify to the Secretary of the National Emergency Committee under oath the total net value of domestic shipments f.o.b. factory of all industry products for each month of the calendar year next preceding the above date, and for each succeeding calendar month up to the date of such certification, and shall thereafter certify such values monthly within twenty days after expiration of each succeeding calendar month.

(c) In the election of the Code Committee and in all cases where voting power is exercised by the members of the Industry, the members shall be divided into five classes, based on volume of production as above determined, and such voting power shall be determined as follows:

One fifth of the highest value of shipments, as defined in paragraph (b), reported by any member for the next preceding calendar year shall be the base value. The number of votes to which each member is entitled shall be the quotient obtained by using this base value as a divisor and the value of shipments reported by said member for the same year as a dividend. For the purpose of this computation fractions shall be considered as whole numbers.

ARTICLE IV—PLANNING AND CLASSIFICATION

(a) In the event that any member of the Industry desires to manufacture and offer for sale any item not included in the original lists submitted by him as provided in Article VI, Section c, he shall make available specifications and samples of such item to the Planning and Classification Board of the Industry for the proper listing of such item as a standard list item subject to the approval of the Code Committee. No standard list item not included in the list originally submitted by him shall be sold or offered for sale by any member until after classification by the Planning and Classification Board, as above provided, and approval of said classification by the Code Committee, nor until after all requirements for publication contained in Article VI hereof have been completely fulfilled. All action under this section shall be taken within 30 days after submission by the member.

ARTICLE V—DISCRIMINATION

(a) No member shall make any sale or contract of sale, directly or indirectly, by any means whatever, of any industry products at a price or on terms and

conditions more favorable to one purchaser than to another, whether such purchasers shall be private individuals, corporations, or firms, or Federal, State, Municipal, or other public bodies; provided that this shall not prevent price differences necessarily resulting from differences in the model, grade, quantity, or point of delivery of the products sold.

(b) No member of the Industry shall make any purchase of or allowance for used industry products in connection with a sale of new industry products or as an independent cash transaction, directly or indirectly, by any means whatever, at a price or on terms and conditions more favorable to one seller than to another.

ARTICLE VI—PRICE PUBLICATION

(a) Each member of the Industry shall within ten days after the effective date of this code, publish and continue to publish, as changes are made:

1. List prices covering every item of industry products which such member offers for sale as standard list items, and list prices and quantities of destandardized or obsolete items;

2. Deductions or extras as determined in accordance with Article VIII hereof.

3. Quantity discounts from list prices and terms of sale allowed to the purchaser, as provided in Schedule A hereto attached and made a part hereof; in such manner that interested members of the trade and the buying public may at all times obtain accurate information as to the prices charged by such member of the Industry for its industry products. Failure to publish or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of false or fictitious prices, discounts, or terms, for any item of industry products, is an unfair method of competition.

(b) No member of the Industry shall designate any current line as destandardized or obsolete unless in fact such line has been discontinued.

(c) The above requirements for publication shall not be deemed fulfilled until ten days after a sufficient number of certified copies of the matter to be published shall have been received at the office of the Code Committee, except that the lists filed within ten days after the effective date of this code shall take effect on the date of filing thereof.

(d) No member shall sell any industry product contrary to his published prices, discounts, or terms of sale; and since a substantial majority of the industry's products are sold direct by the manufacturer to the consumer, and since the purpose and effect of this Article would be otherwise defeated, it shall be an unfair method of competition for any member to distribute to the user industry products indirectly through an agent, dealer, broker, or otherwise, contrary to his published prices, discounts, or terms of sale.

ARTICLE VII—SELLING BELOW COST

(a) The pricing and/or selling of any item of industry products below member's cost to the ultimate consumer as determined by the cost accounting methods set up by the Code Committee and subject to approval by the Administrator, in the quantities, under the conditions, and at the points of delivery involved, is an unfair method of competition.

(b) The Code Committee shall have power on its own initiative, or on the complaint of any member of the Industry, to cause an investigation of any price, discount, or terms of sale for any item of industry product shown in any list of industry products filed with it by any member of the Industry, and for the purpose of the investigation thereof to require such member to furnish such information concerning cost as defined in Section (a) of this article as the Committee shall deem necessary or proper for such purpose.

If after such investigation, said Committee shall determine that such price, discount, or terms of sale is unfair as being contrary to Section (a) of this Article, and if such member within ten days after notice to it of such determination by the Code Committee shall not file a new list showing the price, discount, or terms of sale in accordance with said Section (a) (which shall become effective immediately on the filing of such list), the Code Committee shall report the results of its investigation to the proper authority or authorities for action.

ARTICLE VIII—EXTRAS AND DEDUCTIONS

The Code Committee, on the basis of the direct cost thereof (direct cost as used in this article being defined as the cost of labor, material, selling, and distribution, plus 10%) may establish the minimum additions to and maximum deductions from the base prices of the various lines of industry products, which maximum deductions and minimum additions members shall use in determining the list prices of variations from the base products.

ARTICLE IX—SPECIALS

No item of industry products which is not covered by the published list prices of the manufacturer thereof shall be sold or offered for sale at net prices, discounts, or terms more favorable to the purchaser than the most favorable published discounts, terms, or net prices applying to such item.

ARTICLE X—MODIFICATION OR CANCELLATION OF CODE

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 X 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 condition imposed by him upon his approval thereof.

SCHEDULE A

Steel Locker Division, Divisional Supplemental Code

INDUSTRY PRODUCTS

The products of this Industry shall embrace steel box lockers, single-tier lockers, double-tier lockers, two-person lockers, compartment lockers, and such miscellaneous accessories, fittings, and parts used therewith, as primarily designed and sold for use in schools, clubs, gymnasiums, commercial and industrial establishments. Revision of this list may be made from time to time by the Code Committee or by the Administrator in his discretion. Such general specifications as may be required to classify and standardize these products shall be worked out by the Planning and Classification Board, subject to the approval of the Code Committee.

DISCOUNTS AND TERMS OF SALE

Discounts as provided in Article VI shall be applied to all list prices published under the provisions of said Article, and shall truly represent variance in cost of distribution to the ultimate consumer as determined by the Code Committee in accordance with the provisions of Article VII.

On all sales to consumer or user, terms shall be 30 days net without discount for early payment. If job is to be erected, terms are net upon completion of erection.

EXHIBIT C

Divisional Supplemental Code for the Steel Shelving Industry

ARTICLE I—PURPOSE

The purpose of this divisional supplemental code is to supplement the basic code of the Business Furniture, Storage Equipment and Filing Supply Industry, to make it specifically applicable to the Steel Shelving Industry, a division thereof.

ARTICLE II—INDUSTRY

This Industry shall be defined as including any one engaged in the manufacture and sale of any item of steel shelving (hereinafter referred to as industry products) as defined in Art. II of the basic code under "Steel Shelving Division", either as a standard list item, or offered as a substitute or in competition with such item.

ARTICLE III—CODE AUTHORITY

(a) A Code Committee, consisting of one nonvoting representative of the Administrator if the Administrator so elects, and five members of the Industry shall constitute the code authority of said Industry.

(b) Each member of the Industry shall within thirty days after the effective date of this code certify to the Secretary of the National Emergency Committee under oath the total net value of domestic shipments of all industry products for each month of the calendar year next preceding the above date, and for each succeeding calendar month up to the date of such certification, and shall thereafter certify such values monthly within twenty days after expiration of each succeeding calendar month.

(c) In the election of the Code Committee and in all cases where voting power is exercised by the members of the Industry, the members shall be divided into five classes, based on volume of production as above determined, and such voting power shall be determined as follows:

One fifth of the highest value of shipments, as defined in par. (b), reported by any member for the next preceding calendar year shall be the base value. The number of votes to which each member is entitled shall be the quotient obtained by using this base value as a divisor and the value of shipments reported by said member for the same year as a dividend. For the purpose of this computation fractions shall be considered as whole numbers.

ARTICLE IV—PLANNING AND CLASSIFICATION

(a) In the event that any member of the Industry desires to manufacture and offer for sale any item not included in the original lists submitted by him as provided in Article VI, Section (d), he shall make available specifications and samples of such item to the Planning and Classification Board of the Industry for the proper listing of such item as a standard list item subject to the approval of the Code Committee. No standard list item not included in the list originally submitted by him shall be sold or offered for sale by any member until after classification by the Planning and Classification Board, as above provided, and approval of said classification by the Code Committee, nor until after all requirements for publication contained in Article VI hereof have been completely fulfilled. All action under this section shall be taken within 30 days after submission by the member.

ARTICLE V—DISCRIMINATION

(a) No member shall make any sale or contract of sale, directly or indirectly, by any means whatever, of any industry products at a price or on terms and

conditions more favorable to one purchaser than to another, whether such purchasers shall be private individuals, corporations, or firms, or Federal, State, Municipal or other public bodies; provided that this shall not prevent price differences necessarily resulting from differences in the model, grade, quantity, or point of delivery of the products sold.

(b) No member of the Industry shall make any purchase of or allowance for used industry products in connection with a sale of new industry products or as an independent cash transaction, directly or indirectly, by any means whatever, at a price or on terms and conditions more favorable to one seller than to another.

ARTICLE VI—PRICE PUBLICATION

(a) Each member of the Industry shall, within ten days after the effective date of this code, publish and continue to publish, as changes are made—

1. List prices covering every item of industry products, which such member offers for sale as standard list items, and list prices and quantities of destandardized or obsolete items;

2. Deduction or extras as determined in accordance with Article VIII hereof;

3. Quantity discounts from list prices and terms of sale allowed to the purchaser, as provided in Schedule A hereto attached and made a part hereof; in such manner that interested members of the trade and the buying public may at all times obtain accurate information as to the prices charged by such member of the Industry for its industry products. Failure to publish or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of false or fictitious prices, discounts or terms, for any item of industry products, is an unfair method of competition.

(b) No member of the Industry shall designate any current line as destandardized or obsolete unless in fact such line has been discontinued.

(c) Each member of the Industry shall immediately publish and continue to publish as changes are made the prices paid or allowances made for used industry products of the various makes and models, in such manner that interested members of the trade and buying public may at all times obtain accurate information as to the real prices charged by such member of the Industry for its industry products. Failure to publish, or to continue to publish, as changes are made, any or all of the aforesaid information, or the publishing of any false or fictitious price or allowance for any make or model of such used industry products, is an unfair method of competition.

(d) The above requirements for publication shall not be deemed fulfilled until ten days after a sufficient number of certified copies of the matter to be published shall have been received at the office of the Code Committee, except that the lists filed within ten days after the effective date of this code shall take effect on the date of filing thereof.

(e) No member shall sell any industry product contrary to his published prices, discounts, or terms of sale; and since a substantial majority of the industry's products are sold direct by the manufacturer to the consumer, and since the purpose and effect of this Article would be otherwise defeated, it shall be an unfair method of competition for any member to distribute to the user industry products indirectly through an agent, dealer, broker, or otherwise, contrary to his published prices, discounts, or terms of sale.

ARTICLE VII—SELLING BELOW COST

(a) The pricing and/or selling of any item of industry products below member's cost to the ultimate consumer as determined by the cost accounting methods set up by the Code Committee, and subject to approval by the Administrator, in the quantities, under the conditions, and at the points of delivery involved, is an unfair method of competition.

(b) The Code Committee shall have power on its own initiative, or on the complaint of any member of the Industry, to cause an investigation of any price, discount, or terms of sale for any item of industry product shown in any list of industry products filed with it by any member of the Industry, and for the purpose of the investigation thereof to require such member to furnish such information concerning cost as defined in Section (a) of this article as the Committee shall deem necessary or proper for such purpose.

If after such investigation said Committee shall determine that such price, discount, or terms of sale is unfair as being contrary to Section (a) of this

Article, and if such member within ten days after notice to it of such determination by the Code Committee shall not file a new list showing the price, discount, or terms of sale in accordance with said Section (a) (which shall become effective immediately on the filing of such list), the Code Committee shall report the results of its investigation to the proper authority or authorities for action.

ARTICLE VIII—EXTRAS AND DEDUCTIONS

The Code Committee, on the basis of the direct cost thereof (direct cost as used in this article being defined as the cost of labor, material, selling, and distribution, plus 10%) may establish the minimum additions to and maximum deductions from the base prices of the various lines of industry products, which maximum deductions and minimum additions members shall use in determining the list prices of variations from the base products.

ARTICLE IX—SPECIALS

No item of industry products which is not covered by the published list prices of the manufacturer thereof shall be sold or offered for sale at net prices, discounts, or terms more favorable to the purchaser than the most favorable published discounts, terms, or net prices applying to such item.

ARTICLE X—MODIFICATION OR CANCELLATION OF CODE

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 X 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 condition imposed by him upon his approval thereof.

SCHEDULE A

Steel Shelving Division, Divisional Supplemental Code

INDUSTRY PRODUCTS

There shall be adopted three classifications governing Industrial and General Purpose Shelving and Accessories, one for *medium* loads, one for *medium-heavy* loads, and the third for *extra-heavy* loads, to be governed by specifications to be formulated by the Planning and Classification Board and approved by the Code Committee. Revisions may be made from time to time by the Code Committee or by the Administrator at his discretion.

DEFINITION OF CUSTOMERS

Preferred Agent.—A preferred agent is a retailer (individual, firm, or corporation) who buys for resale and invoices direct to the consumer, thus assuming the responsibility for credit and carrying the account. A preferred agent may or may not have an exclusive contract and may or may not carry a stock.

Commission Agent.—A commission agent is a retailer (individual, firm, or corporation) who sells to the consumer on a commission basis, the manufacturer to invoice the consumer.

Consumer.—A consumer is any individual, firm, or corporation who buys for his own use. The discount to which the consumer is entitled shall be determined by the list-price value of merchandise ordered at one time for one delivery.

DISCOUNTS AND TERMS OF SALE

Discounts as provided in Article VI, allowed to each of the above-defined classes of customers, shall be applied to all list prices published under the provisions of said Article, and shall truly represent variance in cost of distribution to the ultimate consumer as determined by the Code Committee in accordance with the provisions of Article VII.

On all sales to consumer the terms shall be 30 days net from date of invoice with no discount for early payment, or, if the equipment is to be erected, the terms are net upon completion of erection.

O

Approved Code No. 89

CODE OF FAIR COMPETITION

FOR THE

OFFICE EQUIPMENT MANUFACTURERS INDUSTRY

As Approved on November 4, 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 Office Equipment Manufacturers 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 4, 1933.

29945——296-186——34

NOVEMBER 3, 1933.

The PRESIDENT,
The White House.

SIR: A proposed Code of Fair Competition for the Office Equipment Manufacturers Industry was submitted to the Administrator on August 11, 1933, by the Office Equipment Manufacturers Institute representing 93% of the known members of the Industry. The hearing was conducted in Washington on September 21, 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 properly heard in accordance with statutory and regulatory requirements.

The Industry's sales closely reflect fluctuations in general business conditions. Its volume, therefore, in the past four years shows an approximate drop of 70% with a coincident drop, however, of only 48% in the number of employees. The majority of the Industry immediately signed the President's Reemployment Agreement with substitutions granted by the P.R.A. Policy Board, resulting in a net increase in employment, as shown by the report of the Research and Planning Department, of approximately 40% over the average number of wage earners employed in the first half of the year 1933. The reemployment of labor with attendant increases in yearly payroll has already been materially increased since the date of the submitted figures and will be further accelerated by any increase in the volume of its business.

RÉSUMÉ OF CODE

Section 1 states the purpose of the Code.

Sections 2, 3, 4, 5, and 6 accurately define special references made in the Code.

Section 7 states the effective date.

Sections 8, 9, 10, 11, 12, 13, and 14 set forth the mandatory labor provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for factory employees. These are permitted to be averaged over a ten weeks' period; in addition, under exceptional circumstances, such employees may be permitted to work 48 hours in not more than eight weeks of any six months' period. A 10% tolerance of the stated hours is extended to time clerks, firemen, and repair crews. For office employees the maximum hours are 40 per week, except that in any six weeks of any six months' period they may work 48 hours.

The minimum wage rate for factory employees is 40¢ per hour for male and 35¢ per hour for female employees, unless the hourly rate for the same class of work on July 15, 1929, was less than 40¢ per hour, in which case such rates shall not be less than that paid at that date and in no event less than 35¢ per hour. For office employees the

minimum wage varies from $15.00 to $12.00 according to the population differentials. Apprentices and learners without previous experience may not constitute more than 5% of the total number of employees, and their wages shall not be less than 80% of the specified minimums. The same provisions apply to office boys and girls.

FINDINGS

The Administrator finds: A. This Code complies in all respects with the pertinent phrases of Title I of the said Act, including without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof: B. The Office Equipment Manufacturers Institute is truly representative of the Office Equipment Manufacturers Industry, and the by-laws of this Industry 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

OFFICE EQUIPMENT MANUFACTURERS INDUSTRY

Purpose

1. To effectuate the policy of Title I of the National Industrial Recovery Act during the period of the emergency, with the purposes of relieving unemployment, establishing fair and adequate wages, regulating hours of work, improving standards of labor, and promoting and insuring fair trade practices, beneficial alike to employer, employee, and consumer, the following provisions are established as a Code of Fair Competition for the Office Equipment Manufacturers Industry.

Definitions

2. The term "Office Equipment Manufacturers Industry" as used herein is defined to mean the manufacture, or the manufacture and distribution, of machines, equipment, appliances, attachments, systems, and/or supplies incident thereto (other than business furniture, equipment, and supplies defined in the Code of Fair Competition for the Business Furniture, Storage Equipment and Filing Supply Industry), primarily for use in offices and/or stores, such as manufactured and distributed by the present members of the Office Equipment Manufacturers Institute.

3. The term "Industry" as used herein means the Office Equipment Manufacturers Industry.

4. The term "Producer" is synonymous with the term "Manufacturer or manufacturer and distributor" and includes anyone, firm, association, or corporation engaged in the production, or production and distribution of products of the Industry. The term shall include any corporation which is a subsidiary of or is affiliated with such Producer, directly or indirectly, through ownership or control, excepting, however, any producer or subsidiary or affiliated corporation engaged in the production and/or distribution of the Products of the Industry outside the United States, but not excepting the production and/or distribution within the United States of any such corporation.

5. The term "Operator" as used herein is defined to mean any person employed to operate machines, equipment, and appliances manufactured and distributed by the members of the Office Equipment Manufacturers Industry.

6. Operators of machines, equipment, and appliances manufactured and distributed by the members of the Office Equipment Manufacturers Industry shall be classed as office employees.

Effective Date of Code

7. The effective date of this Code shall be the second Monday following the date on which the Code shall have been approved by the

President of the United States pursuant to the National Industrial Recovery Act, except that the provisions in regard to labor, wages, and hours shall be effective on the date of the approval of this Code by the President.

8. 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.

Child Labor

9. Employers shall not employ any person under the age of 16 years provided that in the case of factory machine operators this minimum age requirement shall be increased to 18 years.

Wages

10. Minimum rates of wage for any class of employees in the industry described in paragraph 12 shall be 40¢ per hour for men, 35¢ per hour for women.

Provided that, if the hourly rate of wage for the same class of work on July 15, 1929, was less than 40¢ per hour, then no producer shall pay less than the hourly rate in effect on July 15, 1929, and in no event less than 35¢ per hour.

The above mentioned minimum wages are not to be construed as different by reason of sex, and when women do substantially the same work or perform substantially the same duties as men, they shall receive the same wages as men.

It is agreed that the provisions of paragraph 10 establish 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.

The foregoing provisions shall not apply to learners or apprentices without previous experience during the actual period of apprenticeship, not to exceed six months. The minimum rate of pay for learners and apprentices shall not be less than 80% of the minimum set forth above, and the maximum number of learners and apprentices shall not be more than 5% of the total number of employees described in paragraph 12.

11. Minimum rates of wage for any class of employee in the Industry described in paragraph 13 (except outside salesmen) shall be as follows: In any city of 500,000 population, or in the immediate trade area of such city, at the rate of $15.00 per week; in any city of between 250,000 and 500,000 population, or in the immediate trade

area of such city, at the rate of $14.50 per week; in any city or town of less than 250,000 population, or in the immediate trade area of such city or town, at the rate of $14.00 per week; in any town of less than 2,500 population, or in the immediate trade area of such town, at the rate of $12.00 per week. Provided, however, that office boys or girls, learners, and casual employees may be paid not less than 80% of such minimum wage, but the total number of office boys or girls, learners, or casual employees shall not exceed in any calendar month 5% of the total number of employees covered by the provisions of this paragraph.

Hours

12. No factory or mechanical worker or artisan shall be employed more than a maximum of 40 hours per week, averaged over a ten weeks' 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, any employee of such division may be permitted to work not more than 48 hours per week in not more than 8 weeks of any six months' period, except in the case of time clerks, firemen, and repair crews, where there shall be a 10% tolerance on any 40-hour week. The limitations of this paragraph shall not apply to service men engaged in outside work away from the manufacturing plant, department foreman, and watchmen.

13. Employees not covered by paragraph 12 (except outside salesmen), receiving less than $35.00 per week, shall not be employed more than a maximum of forty hours per week; provided, however, that any such employee may be permitted to work not more than 48 hours per week in not more than six weeks of any six months' period.

14. No employee shall knowingly be engaged by any two or more employers for a longer period than the maximum number of hours permitted for day, week, or month.

15. The rate of compensation for employment in effect on July 1, 1933, in excess of the minimum wages hereby agreed to shall not be reduced (notwithstanding that the hours worked in such employment may be hereby reduced) and the rate of pay for such employment will be increased by an equitable readjustment of all pay schedules.

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

17. Within each State 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.

Administration

18. To further effectuate the policy of the Administration and to facilitate the administering of this Code, a Code Administrative Board shall be established consisting of one officer or employee designated by each member of the Industry. This Board by a majority vote shall select a Code Executive Committee of five members to administer the Code.

The President may appoint—(from one to three) non-voting members who will represent the Government on both the Code Administrative Board and the Code Executive Committee. Such Governmental representatives are to be appointed for terms of from six months to one year. In case more than one such representative is appointed, the terms of appointment are to be so arranged that they do not expire at the same time.

The Code Executive Committee shall have the power to call for such information as it may deem necessary for the enforcement of the provisions of this Code only, not including any supplemental or additional codes which may be hereafter submitted. All information collected shall be open for inspection by the Administrator but otherwise kept confidential except for enforcement of this Code.

Each member of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Administrative Board and the Code Executive Committee by assenting to and complying with the requirements of this Code and sustaining his reasonable share of the expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Executive Committee, subject to review by the Administrator.

In addition to information required to be submitted to the Code Executive Committee, there shall be furnished to Government agencies such statistical information as the Administration may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act. The Administrator, on review, may disapprove or modify any action taken by the Code Executive Committee.

Supplemental or Additional Codes

19. In view of the diversity of products represented within the Office Equipment Manufacturers Industry, it may be considered advisable or necessary to have supplemental Codes to deal with such matters as unfair competition in price and other unfair and destructive competitive practices within some subdivision of this Industry; and such supplemental Codes may be submitted and become a part of this Code upon the approval of the President. Organizations or groups of employers representing a substantial part of any branch or subdivision of the Industry will be excepted from the provisions of this Code upon the approval of a specific Code filed by such organizations or groups, insofar as the provisions of the specific Code may be applicable.

Modification

20. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision 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.

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.

Approved Code No. 89.
Registry No. 1301/1/02.

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Approved Code No. 90

CODE OF FAIR COMPETITION

FOR THE

FUNERAL SUPPLY INDUSTRY

As Approved on November 4, 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 Funeral Supply 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 theAdministrator 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 4, 1933.

29946——296-187——34

October 31, 1933.

The President,
The White House.

Sir: A Public Hearing on the Code of Fair Competition for the Funeral Supply Industry, submitted by the Embalming Chemical Manufacturers Association, Metal Burial Vault Manufacturers Association, Casket Hardware Manufacturers Service Bureau, and the Casket Manufacturers Association of America, was conducted in Washington on the 19th of September, 1933, in accordance with the provisions of the National Industrial Recovery Act. These Associations claim to represent seventy percent (70%) of the Industry.

The maximum hours permitted under this Code are forty (40) per week, except that a tolerance of two hours per week shall be allowed to twenty percent (20%) of the employees in any factory, provided that the weekly average for any two-week period does not exceed forty (40) hours per week. In case of abnormal mortality, provision is made for the Administrator to grant a further extension of hours.

The minimum wage is forty cents (40¢) per hour for male employees in the North and thirty cents (30¢) per hour for males in the South, which is designated as Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Louisiana, Mississippi, Arkansas, Texas, and Oklahoma. Female employees are to be paid at the rate of thirty cents (30¢) per hour, except that where they perform the same work as males they shall receive the same pay. Aged employees, to the extent of two percent (2%) per employer, are provided for at the rate of $10.00 per week. 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 six weeks learning period.

The bulk of this industry is already very commendably operating under the President's Reemployment Agreement. To date about ten percent (10%) or one thousand (1,000) workers have been added to the pay rolls. Under the Code it is the plan of the industry to exceed the peak of employment enjoyed in 1929 by February 1934.

The forty-hour week, with two-hour tolerance, represents probably the maximum burden possible at this time without danger of disturbance of the orderly recovery of the industry.

The wage differential between North and South represents a reduction of about thirty-three percent (33%) over the differential which prevailed prior to June, 1933. Any greater reduction in differential at this time would endanger the stability of this industry in the South.

The increase of ten percent (10%) in the pay roll has already been achieved, and there will be no further material increase at this time. It is believed that any further burden on the industry at the present time would demoralize the weaker element in this industry and result in further unemployment. This situation is due to the

fact that this industry cannot increase its business, which is represented by the human dead, and can only enlarge business operations through higher prices. This effort would be confronted with difficulties owing to lagging buying power.

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 Embalming Chemical Manufacturers Association, Metal Burial Vault Manufacturers Association, Casket Hardware Manufacturers Service Bureau, and the Casket Manufacturers Association of America, the applicant groups herein, impose no inequitable restrictions on admission to membership and are truly representative of the Funeral Supply 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 herein submitted is recommended.

Respectfully,

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

FUNERAL SUPPLY 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 Funeral Supply 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 "Funeral Supplies" as used herein includes wood burial caskets, metal burial caskets, metal burial vaults, wood and metal burial boxes, casket hardware, embalming chemicals, embalming instruments and equipment, burial garments and funeral dry goods, morgue tables, casket trucks, lowering devices, artificial grave grass, and miscellaneous products, exclusive of concrete burial vaults, sold, used, or consumed by the funeral director in the preparation of human dead for burial or other final disposition.

(b) The term "Manufacturers" means manufacturers and/or wholesale distributers of funeral supplies engaged either wholly or partly in manufacturing, refabricating, or jobbing funeral supplies.

(c) The term "Refabricators" means manufacturers and/or jobbers who buy partly manufactured funeral supplies, perform assembling and/or finishing operations, and otherwise prepare and sell or offer to sell such supplies at wholesale.

(d) The term "Jobbers" means wholesale distributors of funeral supplies to funeral directors and other retail outlets, such wholesale distributors carrying stocks of the goods which they wholesale, shipping out of their stocks at least half of the goods they sell, and systematically calling on the trade either themselves or through salesmen.

(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 "Association" means any representative trade association of the industry.

(g) The term "Employee", as used herein, includes anyone employed in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(h) The term "Employer", as used herein, includes anyone by whom any such employee is compensated or employed.

(i) The term "Division" means either a commodity division of the Funeral Supply Industry or a geographical division of the Casket Industry.

(j) 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 shall be permitted to work in excess of forty (40) hours in any one week; provided, however, that any employer shall have the right of a tolerance in working hours in any one week, not to exceed two hours or five percent (5%) of said maximum number of hours of work per week, but in no event shall the total number of hours worked over a period of any two weeks average more than forty (40) hours per week, nor shall said tolerance apply to more than twenty percent (20%) of all employees in any one plant.

(a) The Administrator may, in case of local or extensive catastrophes causing abnormal mortality, and at the request of the Code Authority, exempt any one or more factories from the maximum working-hour provisions of this Code, for such period as he may designate.

(b) The provision for maximum hours shall not apply to employees in executive or supervisory capacities receiving over thirty-five dollars ($35.00) per week, nor to outside salesmen.

(c) With the approval of the Administrator, the Code Authority may make such regulations concerning emergency service at nights and on Sundays and holidays as may serve public convenience without exceeding the maximum work week as herein provided.

(d) Watchmen shall be permitted to work forty-two (42) hours a week, averaged over any two successive weeks.

(e) Engineers and firemen, outside deliverymen, and emergency repair crews shall be permitted to work forty-six (46) hours per week, but shall be paid one and one half times the regular wage rates for all hours in excess of forty (40) in any one week or eight (8) hours in any one day.

2. No employer shall operate more than two shifts.

3. 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. Minimum wages shall be—

(a) For female employees thirty cents (30¢) per hour.

(b) For male employees, forty cents (40¢) per hour, except in the States of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Louisiana, Mississippi, Arkansas, Texas, and Oklahoma, such States being hereby designated as the South, the minimum rate per hour shall be thirty cents (30¢).

(c) The provisions of this Article establish a minimum rate of pay, regardless of whether an employee is compensated on a time rate, piecework performance, or other basis.

2. Deductions shall not be made for pensions, group insurance, stock-selling plans, or other projects involving employee participations, except with the express and voluntary consent of the employees.

3. 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 wages above specified and shall be limited to not more than a six (6) weeks' learning period.

(a) During any calendar month the number of learners shall not exceed five percent (5%) of the total number of employees.

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

5. Where because of infirmities due to age or other causes, it is not possible for any employee to earn the wages herein provided, the Code Authority may, with the approval of the Administrator, permit such employees to continue in employment at a minimum rate of not less than ten dollars ($10.00) per week.

(a) Such employees shall not in any case exceed more than two percent (2%) of the total number of employees regularly employed.

(b) The provisions of this Section shall apply only to persons who were in the employ of the member of the industry on or before June 16, 1933, and continuously thereafter up to date of petition; any employer having such infirm employees in his employ shall petition the Code Authority for permission to continue said employees in his employ at the minimum wage provided in this section and he shall set forth in his petition the following:

(1) Length of time which said person has been in his employ.

(2) The amount of wages earned by said person per week during the preceding six (6) months.

(3) The age of the person.

(4) The sex.

(5) The kind of work performed.

(6) The hours worked.

(7) The nature of the infirmity which prevents earning the minimum wage.

6. 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.

7. Employers shall make payment of all wages due in lawful currency or by negotiable check payable on demand.

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 as an operator of woodworking or metal-working machines.

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 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 the wage and hour provisions of this Code.

Article VI—Divisions

1. For the purpose of the administration and enforcement of this code, the following divisions are hereby established:

(A) Commodity Divisions:

(1) Metal Casket Division of the Casket Manufacturers Association of America, consisting of manufacturers of metal caskets and metal casket shells.

(2) Casket Hardware Division, consisting of manufacturers of casket hardware, trimmings and ornaments.

(3) Metal Burial Vault Division, consisting of manufacturers of metal grave vaults.

(4) Embalming Chemical Division, consisting of manufacturers of embalming chemicals and kindred products.

(5) Garment and Dry Goods Division, consisting of manufacturers and jobbers of burial garments and funeral dry goods.

(B) Geographical Divisions:

(1) New England Division, including the states of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut.

(2) New York City and New Jersey Division, consisting of Metropolitan New York, Albany, and New Jersey.

(3) New York State Division, consisting of New York State except New York City and Albany.

(4) Pennsylvania Division, consisting of Eastern Pennsylvania, Maryland, and the District of Columbia.

(5) Southeastern Division, consisting of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, and Mississippi.

(6) Lower Mississippi Division, consisting of Louisiana, Texas, Oklahoma, and Arkansas.

(7) Pittsburgh Division, consisting of Western Pennsylvania, Eastern Ohio, including Cleveland, Columbus, and Zanesville, and West Virginia.

(8) Cincinnati-Louisville-Indianapolis Division, consisting of Indiana, Western and Southern Ohio, and Kentucky.

(9) Michigan Division, consisting of Michigan and tributary territory located in Northwestern Ohio.

(10) West Central Division, consisting of Illinois, Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Missouri, and Kansas.

(11) Mountain Division, consisting of Colorado, Utah, and New Mexico.

(12) North Pacific Division, consisting of Oregon and Washington.

(13) California Division, consisting of California.

(C) Other divisions of manufacturers and/or jobbers of funeral supplies may be established by any group homogeneous as to commodity or geographical interest, and upon application to the Code Authority, such divisions when approved by the Administrator, shall have representation on the Code Authority.

Article VII—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 at least one representative from each commodity division and from each geographical division, to be nominated by a fair method of selection, and appointed by the Administrator and, in addition thereto, such other representatives as shall be nominated by a fair method of selection, from among other manufacturers and/or jobbers of allied lines who may desire to come under the provisions of this code, including not more than three members without vote to be appointed at the discretion of the Administrator.

(b) Proposals in respect to matters affecting more than one association or division may be initiated by any affected association or division, and shall be submitted to the Code Authority hereby established; such action as may be taken thereon, provided the same is approved by the Administrator, shall be binding upon said association and all other associations thereby affected. Nothing in this provision, however, shall be construed to affect the right of review of the decision by the Administrator upon application therefor by any member of the association.

(1) Each association or division as herein classified may, from time to time, prepare and submit through the Code Authority for the approval of the Administrator such amendments or additions to this code regulating standards of quality, or trade practices, or both, as experience under this code may indicate to be necessary for the elimination of unfair competitive practices.

(c) Vacancies in the Code Authority caused by death, resignation, or otherwise shall be filled in the same manner as herein provided for the establishment of the original Code Authority.

(1) The Code Authority shall select a contact committee of not more than five members, in addition to such members as may be appointed at the discretion of the Administrator, empowered to represent the Code Authority in its relations with the Administrator.

(2) The Code Authority, with the approval of the Administrator, may delegate any of its functions and powers under this code to such committee, officers, agents, or employees as it may designate or appoint.

2. The Code Authority or its duly authorized committees, officers, or agents shall cooperate with the Administrator as a planning, coordinating, administrative, and fair practice agency for the Funeral Supply Industry, and shall keep the Administrator informed as to the functioning and observance or non-observance of any of the provisions of this Code, and shall have the following duties and powers to the extent permitted by the National Industrial Recovery Act, subject to the right of the Administrator on review to disapprove or modify any action taken by such Code Authority or its duly authorized representatives.

(a) To administer and enforce the provisions of this Code or any order, rule, or regulation issued by the Administrator purusant to the provisions of the National Industrial Recovery Act and/or of this Code.

(b) Such agency may from time to time present to the Administrator for his approval recommendations based on conditions in the industry as they may develop which tend to effectuate the policy of the National Industrial Recovery Act and it shall be the duty of the Code Authority or its duly authorized representatives, when experience under the code may require, to make such specific recommendations with reference to statistical reports, keeping of uniform accounts, methods and conditions of trading, disposal of distress merchandise, auditing, where deemed necessary, of statistical reports, costs, prices, and terms to assure accuracy, rules and regulations regarding standardization, uniform cost accounting, reduction of styles and sizes and labeling of products, prevention of accidents and occupational diseases and such other recommendations as may from time to time appear necessary or expedient to effectuate the purposes of Title I of the National Industrial Recovery Act.

3. Any member of the Industry is privileged to take part in any and all activities of the Association having to do with the Code for the Industry, and to receive such reports concerning Code activities as may, from time to time, be sent to members of the Association, and in every other way to directly and indirectly participate in the Code work of the Association, either by becoming a member of the Association and paying to the Association the duties provided to be paid by a member of like standing, or by becoming a Code Associate and paying to the Association a pro rata share of the costs of carrying on the code work of the Association. All firms, partnerships, and individuals hereafter entering the business of manufacturing and/or jobbing funeral supplies for profit shall be admitted to full participation in the associations or divisions on equal terms with the existing members thereof, and there shall be no inequitable restriction as to admission to membership.

4. With a view to keeping the President informed as to the observance and/or non-observance of this Code of Fair Competition and as to whether the Funeral Supply Industry is taking appropriate steps to effectuate the declared policy of the National Industrial Recovery Act, each member engaged in the Funeral Supply Industry will furnish duly certified reports to the Code Authority or its duly authorized representative as follows and in such form as may hereafter be provided:

(a) Wages and hours of labor; returns for every four (4) weeks showing, for each of the four (4) weeks immediately preceding the following:

(1) Number of factory employees, including outside workmen and delivery men.

(2) Total hours worked by all such workmen.

(3) Maximum hours worked by any employees other than those specifically excepted in this code.

(4) Minimum rate per hour paid to any employee.

(5) Hours, wages, and number of learners and of infirm employees.

(6) Such other reports as may, with the approval of the Administrator, be required by the Code Authority from time to time.

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

Article VIII—Sales Provisions and Terms of Sale

1. *Sales Provisions.*—(a) No manufacturer and/or wholesale distributor engaged in this industry shall sell funeral supplies to funeral directors, cemeteries, cemetery associations, or other organizations, establishments, and institutions, not regularly engaged in the business or occupation of funeral directing or to any other retail outlet, which has not conformed to license requirements and the rules and regulations of State Boards of Health, and other governmental regulatory bodies, governing the care and distribution of the human dead: *Provided, however,* That purchases of the products of this industry by government units, including the War Department, the Navy Department, Soldiers' Homes and the Veterans' Bureau shall not, by virtue of this provision, be prohibited.

2. *Sales below cost.*—(a) Members of the Industry shall not sell any products or accessories below cost as determined by an adequate cost-accounting system. The Code Authority may, from time to time, require employers to furnish complete information relating to their costs, which when requested by the Code Authority shall be verified by a certified public accountant.

(b) The Code Authority shall, with the approval of the Administrator, provide an adequate system of Cost Accounting, capable of uniform application in the Industry.

(c) Nothing in this Code shall be construed as limiting or interfering with the right of the funeral director to purchase separately burial caskets, casket hardware, interior linings and upholstering materials and to assemble them, or to alter caskets to meet the requirements of sale and use.

3. *Terms and Discounts.*—(a) The terms and discounts of this industry, unless hereafter otherwise provided in accordance with the provisions of this Code, shall be no more favorable than the following:

(1) All merchandise shall be sold f.o.b. factory or f.o.b. sales establishment with freight allowed.

(2) Net 60 days; allowance of 2% cash discount for payment in 30 days after date of invoice or for payment of an entire preceding month's invoice received on or before the 15th of the following month.

(b) All terms of each member of this industry shall be filed in the office of the association to which such member belongs within fifteen (15) days of the effective date of this code and such terms when filed shall remain in effect until they are changed, modified, or amended by the member originally filing the same. Notices of such changes, modifications, or amendments shall be filed at least ten days in advance of such changes taking effect and they shall take effect to all customers at the same time.

4. *Filing of Price Lists, Discount Sheets, etc.*—(a) All members of the industry shall be required to post on the effective date of this Code, and to file with the Code Authority within fifteen days of the effective date of this Code, their price list, discount sheets, price sheets or price quotations, and each member of the industry shall adhere to his own published prices so filed, and no products of this industry shall be sold at a price less or at a discount greater than provided by the price lists, discount sheets, price sheets or price quotations on file with the Code Authority as herein provided; unless and until such schedules have been amended and filed with the Code Authority ten days prior to the date upon which such amended price lists, discount sheets, price sheets or price quotations shall become effective.

Article IX—Trade Practices

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

(a) To sell or offer for sale at prices below cost.

(b) To discriminate in prices among buyers of the same grade, quality, and quantity.

(c) To offer or give secret discounts or rebates, or permit buyers to take unearned discounts.

(d) To resort to any form of contract selling which permits the buyer to cancel or which provides for a reduced price in the event of a market decline, but does not permit the seller to cancel, or does not provide for an enhanced price in the event of a market advance.

(e) To resort to any form of contract or option selling which is a price-cutting device in fact or spirit.

(f) To resort to or indulge in practices which tend to induce customers to break contracts or to cancel orders placed, with competitors.

(g) Selling the products of this industry or offering the same for sale in a market or trade area other than that in which the seller is usually and normally engaged, at prices lower than the price at which such products are customarily sold or offered for sale in the seller's normal market.

(h) To extend the jobber's discount to any person, firm, or corporation not performing, or not set up to perform, the function of jobbing and/or wholesale distribution.

(i) To extend to any customer, either retail or jobber, discounts and terms differing in any way from the manufacturer's published discounts and terms.

(j) To depart in any way from terms of sale and payment.

(k) To offer either volume or quantity discounts, except as specified by geographical and/or commodity divisions and approved by the Code Authority.

(l) For a jobber to offer or give volume or quantity discounts on any commodity except after giving notice of the same to the Code Authority and Administrator.

(m) To sell any of the products of this industry on consignment except under a bona fide contract or order, the form of which has been approved by the Code Authority.

(n) To guarantee against price advances or protect against price declines, except on contracts which are intended to be carried out in good faith.

(o) To commit commercial bribery by offering or giving commissions, prizes, or gifts to anyone in connection with the sale, purchase, or use of an article.

(p) To indulge in lavish entertainment of customers, or to give excessive personal gifts to purchasers or their families, or to donate funds, or provide banquets or other entertainment for associations, or to make allowance for advertising, returned goods, or other purposes to some customers which are not offered to all other customers under the same terms, or to indulge in any other form of substantive price cutting or rebates.

(q) To solicit, pool, or accept orders of several buyers in a manner to give the buyer the advantage of more favorable prices or terms than those to which the buyers would be entitled individually.

(r) To resort to or indulge in practices which are prejudicial to the public interest, such as:

Misbranding.

Misrepresentation in branding, labeling, selling, and advertising.

Deviation by any manufacturer from his published standards.

Deception in selling.

Design piracy and imitation of competitors' designs.

Imitation of competitors' trade marks.

(s) To resort to or indulge in practices which put competitors to unfair disadvantage, such as:

Defamation of competitors.

Enticing employees away from funeral directors and setting them up in business with the intent of securing sales outlets.

(t) To violate rules and regulations promulgated by the Code Authority with the approval of the Administrator, with respect to the plain labeling of merchandise.

(u) To violate any other rules and/or regulations promulgated by the Code Authority, with the approval of the Administrator, for the conduct of the Funeral Supply Industry.

(v) Nothing in this Code shall be construed as limiting or interfering with the right of the funeral director to purchase separately burial caskets, casket hardware, and interior linings and upholstering materials and to assemble them, or to alter caskets to meet the requirements of sale and use.

(w) Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on com-

plaint, 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 X—Modification

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, 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.

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 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.

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—Adjustment of Contracts

Where the costs of executing contracts entered into in the Funeral Supply Industry prior to the approval of the President of the United States of this Code are increased by the application of the provisions of the National Industrial Recovery Act to the Industry, it is equitable and promotive of the purposes of the National Industrial Recovery Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceeding or otherwise, and the Code Authority is constituted an agency to assist in effecting such adjustments.

Article XIV—Effective Date

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

Approved Code No. 90.
Registry No. 307/1/01.

O

Approved Code No. 91

CODE OF FAIR COMPETITION

FOR THE

PIANO MANUFACTURING INDUSTRY

As Approved on November 4, 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 Piano 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 4, 1933.

November 2, 1933.

The President,
The White House.

Sir: A Public Hearing on the Code of Fair Competition for the Piano Manufacturing Industry, submitted by the National Piano Manufacturers' Association of America, located at 45 West 45th Street, New York, N.Y., was conducted in Washington on the 27th of September, 1933, in accordance with the provisions of the National Industrial Recovery Act. The Association claims to represent 90 percent of the Industry.

The maximum hours permitted under this Code are forty (40) per week, with a tolerance of eight (8) hours per week in cases of emergency, provided that time and one-half is paid for all hours in excess of eight (8) per day. The minimum wage is forty cents (40¢) per hour or sixteen dollars ($16.00) per week for all factory workers and thirty-five cents (35¢) per hour or fourteen dollars ($14.00) per week for all other employees, except that not more than 5 percent of each group may be paid not less than 80 percent of the minimum wage and shall include only learners for a period of not to exceed six (6) weeks and office boys and office girls between the ages of sixteen (16) and eighteen (18) years.

In this regard it must be noted that comparison of 1929 figures are not applicable due to the fact that statistics show that the peak year for the Piano Manufacturing Industry was 1923, and that since that time the number of employees has declined steadily until in 1929 only 45 percent of the 1923 wage earners were employed and in 1933 approximately 17 percent. This decline is largely due to the development of radio and mechanical musical devices as well as to the general slump in business. This has resulted in a decrease in the value of products of about 61 percent.

Factory workers constitute approximately 90 percent of the wage earners in the Industry. A statistical analysis by the Division of Economic Planning and Research indicates that the percentage of factory workers in the Industry now receiving less than the forty cents (40¢) minimum is 22.5 percent. At least 75 percent of the total factory employees are highly skilled and provision is made that employers shall endeavor to increase the pay above the present rates when already in excess of the minimum.

Since the volume of business in this Industry has decreased so radically, it is not anticipated that any great number of wage earners will be reemployed as a result of the provisions of this Code as a greatly increased cost of labor will decrease still further the number of sales to consumers.

In 1923 the total number of wage earners in this Industry was 22,206, decreased to 9,970 in 1929, and to approximately 3,710 in 1933. A decrease of approximately 85 percent.

To raise employees to the 1929 level would require the establishment of a 10.6 hour week. Since the cost of labor constitutes about

33 percent of the total cost of the finished article, the increased cost to the consumer would be prohibitive.

The value of products in the Piano Manufacturing Industry in 1929 was $42,500,000 and declined to $15,000,000 in 1931, a decrease of approximately 65 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 Piano Manufacturers' Association of America, the applicant group herein, imposes no inequitable restrictions on admission to membership and is truly representative of the Piano 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.

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

PIANO 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 Piano Manufacturing Industry and, upon approval by the President, shall be the standard of fair competition for this Industry and shall be binding upon every member thereof.

Article II—Definitions

1. The term "Piano Manufacturing Industry" as used herein includes the building, fabricating, repairing, reconstructing, remodeling, and the assembling of pianos, and/or materials, supplies, and parts thereof, and the branches or subdivisions thereof.

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

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

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

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

6. The term "learner", as used herein, shall mean an employee without previous experience or employment in the industry.

7. The term "finishing departments" as used herein shall include the following operations in manufacture:

(a) Side gluing or building of upright piano cases
(b) Installation of keys, actions, hammers, and dampers into the strung piano case
(c) Regulation of keys, actions, and dampers
(d) Tone regulation
(e) Final rubbing and polishing
(f) Fly finishing of the strung piano case (legs, trapwork, hinges, tops, etc.)
(g) Tuning
(h) Final finishing, inspection, and retouching of keys
(i) Final assembling, adjusting, and inspection of piano actions
(j) Final inspection
(k) Packing and shipping

Article III—Hours

1. No member of the industry shall employ or cause to be employed, factory or mechanical workers or artisans, except emergency repair crews, more than forty (40) hours per week nor more than eight (8) hours per day; provided, however, that employees engaged in operations in finishing departments shall be permitted to work not to exceed forty-eight (48) hours per week for a total of six (6) weeks during each twelve (12) months' period following the effective date of this Code; provided, further, that time and one-half shall be paid to such employees for all hours per week over forty (40) and all hours per day over eight (8).

2. No member of the industry shall employ or cause to be employed office or salaried employees or other employees not otherwise specifically referred to herein for more than forty (40) hours per week, averaged over any consecutive three (3) months' period, provided that no such employee shall be employed more than forty-eight (48) hours in any one week nor more than eight (8) hours in any one day; and provided further, that the total number of hours worked by such employee shall not exceed five hundred twenty (520) hours in any thirteen (13) weeks' period.

3. The maximum hours provided shall not apply, however, to employees in managerial, supervisory, sales, or executive capacities, outside tuners, and technicians on research and engineering staffs, who now receive thirty-five dollars ($35.00) or more per week, nor to outside salesmen, nor outside service men other than tuners.

4. Watchmen shall be employed in pairs 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.

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

6. 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. The minimum wage that shall be paid by any employer to any particular factory worker shall be forty cents (40¢) per hour. However, learners may be paid not less than eighty percent (80%) of the minimum rate; the number of learners shall not exceed five percent (5%) of the total number of employees engaged in the processing of products and in labor operations directly incident thereto; the period of learning shall be limited to six (6) weeks.

2. The minimum wage that shall be paid by any employer to all other employees, except as already noted, shall be at the rate of fourteen dollars ($14.00) per week, provided, however, that office boys and office girls who shall be between sixteen (16) and eighteen (18) years of age may be paid not less than eighty percent (80%) of such minimum wage, but the total number of such office boys and office girls shall not in any calendar month exceed five percent (5%) of the total number of all employees covered by the provisions of this article.

3. The minimum pay for female labor on such light nonhazardous work as has customarily been performed by female workers shall be

thirty-two cents (32¢) per hour. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

4. The rate of wages for various classifications of employees receiving more than the minimum wages herein provided shall not be reduced below those in effect for such classifications on June 16, 1933, notwithstanding that the hours of work in such employment may be reduced; and the minimum wages above set forth shall be made to apply as well to compensation for piecework, 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 proportionate to the increase in compensation as determined by the minimum wage herein provided.

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 occupations or operations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within sixty (60) days 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 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. Each employer shall post, and keep posted in a conspicuous place, full copies of the wage, hour, and labor provisions of this Code.

6. If any employer of labor in the Piano Manufacturing 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 included in the Piano Manufacturing Industry.

7. 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.

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 five members of the industry, or such other number as may be approved from time to time by the Administrator, elected by a fair method of selection, to be approved by the Administrator and not more than three members without vote to be appointed at the discretion of the Administrator.

(b) The National Piano Manufacturers' Association of America is hereby designated the administrative agency for carrying out the provisions of this Code under the direction of the Code Authority, subject to the approval of the Administrator.

(c) The National Piano Manufacturers' Association of America shall submit to the Administrator its Article of Association, By-Laws, Regulations, and any amendments when made thereto, and such other information as to its membership, organization, and activities as the Administrator may require to effectuate the purposes of this Act.

(d) Any member of the industry may receive the benefits of the activities of the Code Authority by paying his proper pro rata share of the cost of administering the Code or by becoming a member of the National Piano Manufacturers' Association of America and there shall be no inequitable restrictions on such membership.

(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.

2. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the power of the Administrator to modify, disapprove, or revoke any Act of such Code Authority.

(a) To require and receive sworn or unsworn reports as to wages, hours of labor, conditions of employment, number of employees, shipments, production, sales, stocks, prices, and other matters pertinent to the purpose of this Code.

(b) To transmit to the Administrator from time to time such reports as he may desire.

(c) To make 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 report the same to the Administrator.

(d) To formulate and prepare for submission an amendment to this Code, providing for the prohibition of unfair trade practices in this industry.

(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.

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 pro-

visions 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.

3. Any member of the industry who, prior to June 16, 1933, contracted to buy or sell any goods, wares or merchandise at a price fixed as of the date of said contract for future delivery, shall make a bona fide effort to arrive at an equitable adjustment on the price thereof as fixed by said contract to meet any proper increase in the cost of such goods, wares or merchandise imposed by virtue of any provision of the National Industrial Recovery Act and in the event such effort fails to result in the mutually satisfactory adjustment either party to said contract may refer the same for adjustment to the Code Authority of the industry which, with the aid and assistance of the Administrator or his properly designated agent or agents, shall endeavor to arrive at an equitable adjustment thereof.

Article VIII—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 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 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—Effective Date

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

Approved Code No. 91.
Registry No. 1640—04.

O

Approved Code No. 92

CODE OF FAIR COMPETITION

FOR THE

FLOOR AND WALL CLAY TILE MANUFACTURING INDUSTRY

As Approved on November 4, 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 Floor and Wall Clay Tile 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 4, 1933.

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October 30, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Floor and Wall Clay Tile Manufacturing Industry in the United States, conducted in Washington on September 27, 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 of forty hours of work per week, averaged over a one-month period for office and branch warehouse employees and over a six-month period for other employees, and a maximum of forty-eight hours in any one week, except as follows:

(a) Executives and supervisory employees receiving $30.00 or more per week, outside salesmen and employees engaged in emergency maintenance or emergency repair work;

(b) Engineers, kiln burners, gas producer men, and boiler firemen who shall not be permitted to work in excess of forty-two hours per week averaged over a six-month period nor in excess of forty-eight hours in any one week;

(c) Watchmen, who shall not be permitted to work in excess of ninety-six hours in any two-week period.

No employee shall be permitted to work more than twelve days in any fourteen-day period.

This code provides for minimum rates of pay of forty cents per hour for male and thirty-two and one-half cents per hour for female employees, regardless of whether the compensation is on a time rate, piece rate, or other basis, provided, however, that female employees performing substantially the same work as male employees shall receive the same rates of pay; and provided further, that where women displace men on the same occupation they shall receive rates of pay not lower than those of the men they displace.

Apprentices and employees physically handicapped may be paid not less than 80% of the above minimum wages, provided that not more than 5% of the total number of employees of any member of the industry be included in either group.

Provision is made for the adjustment of wages above the minimum so as to maintain differentials equal to the average differentials for the industry existing on September 1, 1933, unless this should raise the rate for an occupation higher than the average for the industry existing on July 15, 1929, in which case the latter rate would apply.

No person under sixteen years of age shall be employed and none under eighteen years employed in any hazardous occupation.

ECONOMIC EFFECTS OF THE CODE

According to a survey made by the Tile Manufacturers' Association, there has been a decrease in sales volume in this industry of

approximately 70% since 1928, and an even greater decrease in gross receipts due to the lower prices now prevailing. The number of employees decreased approximately 55% during this period.

Due to the present low volume of business it is doubtful whether the adoption of this code would result in a large immediate increase in employment. However, it should tend to smooth out the sharp seasonal peaks and should result in a rapid spread of employment when volume begins to increase.

The sponsors of the code have estimated an immediate increase in employment of 15%, or 350 persons. They have estimated an increase in total wages paid by the industry of 33%, or approximately $500,000 per year.

The minimum wages proposed in the code are approximately 70% higher than the average wages now being paid in the lowest-paid occupation and from 10% to 15% higher than the average wages paid in these same occupations in 1928. The lower minimum wage for women is in accordance with past practice in this industry. Approximately 33% of the employees are women.

At the present time this industry is operating at only about 17% capacity. The provision in the code requiring the reporting of intention to increase present kiln capacity or to install new kiln capacity, will tend to discourage further expansion until such time as there is a larger volume of business.

It is hoped that the provisions of this code will tend to stop the unreasonable price-cutting, misrepresentation, and other demoralizing practices which apparently exist in this industry at the present time.

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 Floor and Wall Clay Tile 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

FLOOR AND WALL CLAY TILE 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 Floor and Wall Clay Tile 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 by the manufacturer of floor and wall clay tile and related products, including, but not limited to, bathroom accessories, decorated strips, and similar articles used as part of the tiled area.

2. The term "tile" as used herein includes all kinds of glazed or unglazed tile used for floor and wall surfacing which are made exclusively from clay and/or other ceramic materials and are burned in the course of manufacture and which in the case of glazed tile are composed of ceramic body and ceramic glaze.

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 one 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 "Member of the Code", as used herein, includes any member of the Industry who shall have become a member of the Code as hereinafter provided in Article VII.

7. The term "Association", as used herein, shall mean the Tile Manufacturers' Association.

8. The term "Board of Directors", as used herein, shall mean the Board of Directors of the Tile Manufacturers' Association.

9. The term "majority of the members of the industry", as used herein, shall mean a majority in number of members of the Industry assembled, either in person or voting by proxy, at a meeting which shall have been called by one week's prior notice by telegraph or mail as provided in Section A of Article XIII of this Code, providing such majority in number also represents a majority of the sales volume in dollars of the members of the Industry for the previous three years.

10. The term "majority of the members of the code" as used herein shall mean a majority in number of members of the code as-

sembled, either in person or voting by proxy, at a meeting which shall have been called by one week, prior notice by telegraph or mail as provided in Section A of Article 13 of this code, provided such majority in number also represents a majority of the sales volume in dollars of the members of the code for the previous three years.

11. 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. On and after the effective date and except as hereinafter otherwise provided, no employee shall be permitted to work in excess of 48 hours in any one week nor in excess of 40 hours per week averaged over a six (6) months' period.

2. The foregoing provisions shall not apply to engineers, kiln burners, gas producer men, and boiler firemen who shall not be permitted to work in excess of 48 hours in any one week nor in excess of 42 hours per week averaged over a six (6) months' period; nor shall they apply to watchmen, who shall not be permitted to work in excess of 96 hours in any period of two weeks.

3. The maximum hours fixed in the foregoing sections of this article shall not apply to office or branch warehouse employees who shall not be permitted to work in excess of 48 hours in any one week nor in excess of 40 hours per week averaged over any one (1) month period.

4. The maximum hours fixed in the foregoing sections of this article, shall not apply to executives and supervisory employees receiving $30.00 or more per week, nor to outside salesmen, nor to employees engaged in emergency maintenance or emergency repair work.

5. No employees shall be permitted to work more than twelve (12) days in any fourteen (14) day period.

6. No employer shall knowingly engage any employee for any time which when totalled with that already performed for any other employer or employers exceeds the maximum specified in the foregoing sections.

7. For the purposes of this Article the remainder of the year 1933 from and after the effective date of this Code to December 31, 1933, inclusive, shall constitute the first six months' period. The subsequent six months shall begin on January 1st and July 1st, respectively, and shall terminate on June 30th and December 31st, respectively.

Article IV—Wages

1. No male employee shall be paid at less than the rate of 40¢ per hour and no female employee shall be paid at less than the rate of 32½¢ per hour, provided, however, that female employees performing substantially the same work as male employees during the same hours of the day shall receive the same rates of pay as such male employees, and provided further that where women displace men on the same occupation, they shall receive rates of pay not lower than those of the men they displace.

2. The foregoing provisions establish a minimum rate of pay regardless of whether an employee is compensated on a time rate, piece rate, or any other basis.

3. The hourly rates for occupations other than those receiving the minimum rate herein prescribed, excepting those receiving $35.00 or more per week, shall maintain the difference in hourly earnings between such occupations which existed on September 1, 1933, provided, however, that if the foregoing provision raises the hourly rate higher than the hourly rate for the same occupations which existed on July 15, 1929, the hourly rate in effect on that date shall apply, but in no event shall this rate be less than specified in Section 1 of this Article. The average hourly rates of the Industry rather than the hourly rate of any individual member of the Industry shall be used to determine the July 15, 1929, rate and September 1, 1933, rate. Within thirty days after the approval of this Code, the Code Authority as hereinafter established shall determine and promulgate to members of the Industry the average hourly rates of pay existing on July 15, 1929, and September 1, 1933, for occupations other than those receiving the minimum wage.

4. The minimum rates established in the foregoing provisions shall not apply to apprentices who shall be paid not less than 80% of the minimum rates of pay hereinabove established; provided, however, that the number of such apprentices shall not exceed 5% of the total number of employees of any member of the Industry at any one time, and provided further, that the period of apprenticeship of any employee shall not exceed four weeks.

5. The minimum rates of pay provided in the foregoing provision shall not apply to employees who are physically handicapped; provided, however, that such employees shall not be paid at less than 80% of the minimum rates hereinabove established, and provided further, that the total number of such excepted employees shall not exceed five percent of the total number of employees of any member of the Industry at any one time.

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 within 30 days after the approval of this Code by the President 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 re-

frain 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 copies of this Code and the average Industry wage rates as promulgated by the Code Authority in accordance with the provisions of Article 4 hereof conspicuously at the place of employment.

Article VI

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

A. *Organization and Constitution of Code Authority.*—1. The Code Authority shall consist of the Board of Directors and such additional number of members of the Industry not members of the association as may be approved from time to time by the Administrator and as may be elected by fair methods of election to be approved by the Administrator. The Administrator, in his discretion, may appoint not more than three additional members without vote to represent the Administrator or such other groups or interests as may be agreed upon, without expense to the Industry. Such additional members shall serve for terms of from six months to one year, or such other terms as the President may designate, which terms shall be arranged in such a manner that they do not expire at the same time. Such members, together with the Administrator, shall be given notice of and may attend all meetings of the Code Authority.

2. The Association is hereby designated as the agency to conduct such election and as the agency to promote the purposes of this Code.

3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall:

(i) Impose no inequitable restrictions on membership, and

(ii) 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.

4. 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.

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B. *Powers and Duties of the Code Authority.*—The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to the right of the Administrator on 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 rules and regulations for the administration of this Code.

2. The Code Authority may designate the Association or such other committees or agents and may delegate to them such of its powers and duties as it may deem necessary for the administration of this Code, provided, however, that it shall reserve final responsibility with respect to any such delegated powers or duties, and provided further that any statistical information of a confidential character submitted to the Code Authority pursuant to the provisions of this Code, shall be submitted to such impartial agency, not connected with or obligated to any member of the Industry, as the Code Authority may designate. The Code Authority may designate appropriate governing agencies for districts or divisions of the Industry for the administration of this Code. In such districts or divisions the Code Authority may delegate to such agencies such of its powers and authority as may be necessary for the administration of this Code within such districts or divisions, including the right to submit to the Administrator recommendations for amendments to this Code, applicable only to such districts or divisions within the scope of the powers granted under this Code.

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 shall report the results thereof to the Administrator. Any complaint concerning an alleged violation of the Code shall be submitted to the Code Authority in writing and by registered mail. The complaint shall contain a complete statement of the facts and shall refer specifically to that part of the Code which is alleged to have been violated. If it shall appear to the Code Authority after investigation that there has been a violation of the Code, a statement of the charges shall be sent by registered mail to the member of the Industry who is alleged to have committed the violation. The statement of charges shall fix the time and place for a hearing, at which the member of the Industry complained of shall be given an opportunity of presenting his defense. The Code Authority shall make recommendations to the Administrator with respect to such violations.

4. 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 Industry, the Code Authority 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 periodically, or as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, stocks, prices, and other matters pertinent to the provisions of this Code as the

Code Authority may require for the administration of this Code. In addition to the information required to be submitted to the Code Authority, members of the Industry shall furnish to Government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

5. Statistical information required by the Code Authority in accordance with the provisions of this Code shall be furnished to the Code Authority through an impartial agency, as hereinbefore provided. Such information shall be deemed confidential and shall not be divulged to any member of the Industry except in summary, provided, however, that where summary information in effect divulges the identity of individual members of the Industry it shall not be revealed to any member of the Industry but shall be made available to the Administrator upon request and may be used to facilitate the administration of this Code.

6. In order to insure proper protection for the Industry and for the employees thereof, the Code Authority shall cause to be made such investigations as may be necessary to determine the effect of imports upon the Industry and may make such recommendations with respect thereto to the President for such action by him pursuant to Section 3 (e) of Title I of the Act as he may deem necessary.

7. The present kiln capacity of the Industry shall be registered by members of the Industry with the Code Authority. The intention to install additional kiln capacity, excepting, however, modernization or replacement of existing capacity, either by members of the Industry or by those intending to engage in the Industry, shall be reported to the Code Authority. The Code Authority shall make such recommendations with respect thereto to the Administrator as it may deem desirable to effectuate the policy of the Act.

8. Any interested party shall have the right to complain to the Code Authority under such rules and regulations as it may prescribe with respect to 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.

9. 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 by either becoming a member of the Association or by sustaining their reasonable share of the expenses of the 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 and shall be based upon the amount in dollars of net sales and/or such other factors as may be deemed equitable.

Article VII

Any member of the Industry shall be eligible for membership in the Code. Any member of the Industry desiring to become a member of the Code may do so by signing and delivering to the Code Au-

thority a letter substantially in the form set forth in Schedule A annexed hereto.

Article VIII—Trade Practices

1. No member of the Industry shall make, allow, or sell products of the Industry at a price or discount conditioned on the basis of combined sales or shipments of glazed tile and unglazed tile.

2. No member of the Industry shall make any price discrimination between purchasers of the same class; provided, however, that nothing herein shall prohibit a difference in price that makes allowance only for difference of grade, kind, or of transportation charges.

3. No member of the Industry shall give or permit secret rebates, allowances, refunds, credits, subsidies, or unearned discounts, whether in the form of money, material, premiums, advertising, or otherwise, or extend to certain purchasers special service or privileges not extended to all purchasers under like terms and conditions.

4. No member of the Industry shall induce or attempt to induce by any means any party to a contract with a member of the Industry to violate such contract.

5. No member of the Industry shall make or promise to make, either directly or indirectly, 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.

6. No member of the Industry shall defame any competitor by falsely imputing to him 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 his goods.

7. No member of the Industry shall sell the products of the Industry on consignment.

8. No member of the Industry shall imitate trade-marks, trade names, or designs of a competitor in such a manner as to mislead or deceive customers or prospective customers.

9. No member of the Industry shall publish or circularize 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.

10. No member of the Industry shall withhold from or insert statements on orders or invoices, which makes such record a false or incomplete record, wholly or in part of the transaction or condition represented on the face thereof.

11. No member of the Industry shall guarantee customers or prospective customers against price declines or price advances.

12. No member of the Industry shall permit any misrepresentation in the sale, offering for sale, billing, invoicing, marking, branding or labelling of any product or of containers thereof nor permit the issuance of any grade certificates with the intent or with the effect of deceiving customers, architects, competitors, or the public as to quantity, kind, or grade of tile products.

13. No member of the Industry shall make or cause to be made lump sum bids or quotations except for specialties of plastic faience,

cut ceramic, or other specialties of tile for which prices have not been filed with the Code Authority.

14. No member of the Industry shall deliver two or more grades of tile as established pursuant to this Code in the same container.

15. No member of the Industry shall grant open credit in excess of thirty (30) days net after date of shipment, nor in excess of two (2) percent cash discount for payment of invoice within fifteen (15) days after date thereof, provided however, that fifteen (15) additional days open credit may be granted upon shipments to points beyond the Rocky Mountains, and provided further that no cash discount shall be deducted from prepaid transportation charges, and provided further that payment of all invoices dated between and including the first and the fifteenth of the month may be accepted net on the fifth of the following month, and invoices dated between and including the sixteenth and thirty-first of the month, may be accepted net on the twentieth of the following month.

16. No member of the Industry shall accept orders for specific jobs until the contract for such specific job has been awarded. Orders for specific jobs shall specify the name and location of the specific job on which material is to be used, and the quantity required within a variation of ten percent (10%).

17. No member of the Industry shall accept stock orders for shipments after thirty (30) days from the date of the acceptance of such orders except on condition that shipments made after such 30-day period shall be at the price prevailing on such date.

18. No member of the Industry shall make quantity surveys or perform other estimating services without making reasonable specific charge therefor, provided however, that nothing herein contained shall prevent any member of the industry from making setting plans or details of quantities for a job requiring special or unusual treatment.

Article IX—Published Prices

A. Each member of the Industry shall use an adequate cost-accounting system which shall be at least as complete and detailed as the cost-accounting system recommended by the Code Authority and approved by the Administrator as hereinafter provided. The Code Authority shall recommend for use in the Industry a uniform and adequate cost-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 each member of the Industry shall file with the Code Authority his costs for each product of the Industry offered for sale by him. Thereafter no member of the Industry shall initiate a selling price below his own cost or sell the products of the industry at such price or upon such terms or conditions of sale as will result in the purchaser's paying for such product less than the cost of that member of the Industry who has filed with the Code Authority the lowest cost; provided,

however, that the Code Authority may approve, subject to review by the Administrator, the sale of surplus stocks below such costs where necessary to relieve financial emergencies. A detailed record of such surplus stocks shall be filed with and checked by such impartial agency as the Code Authority may designate at the time of application for such approval.

B. Each member of the Industry shall publish and file with the Code Authority within ten days after the effective date of the Code a price list individually prepared by him of all products offered for sale or sold by him and all terms and conditions of sale relating thereto. Such price list shall state for each grade and kind of each product sold or offered for sale one price with appropriate discounts therefrom, if any are allowed, for sales to classified types of buyers; provided, however, that such discounts shall not exceed fifteen percent. Such price list and terms and conditions of sale so filed with the Code Authority shall be open to inspection at all reasonable times by any interested party. Revised price lists or revised terms and conditions of sale may be filed from time to time thereafter with the Code Authority by any member of the Industry; provided, however, that such revisions shall be filed with the Code Authority at least ten days in advance of the effective date thereof; and provided further, that any other member of the Industry may file revisions of his price list or terms and conditions of sale to meet the revisions first filed which may become effective on the date when the revised price list or revised terms and conditions of sale first filed shall become effective.

C. No member of the Industry shall sell or offer for sale any product of the Industry at prices lower than the prices noted in its price list, or on more favorable terms and conditions of sale, than the terms and conditions of sale previously filed by such member with the Code Authority in accordance with the provisions of Section B of this Article and in effect at the time of such sale.

D. A member of the Industry may file with the Code Authority a price to apply between members of the Industry or other manufacturers using tile as a part of other manufactured articles.

Article X—Classification and Standardization of Tile

A. All tiles sold or shipped by any member of the Industry shall be branded either Standards or Seconds in accordance with the minimum grade specifications of Simplified Practices Recommendation R-61-30 as issued by the United States Department of Commerce or as may hereafter be established as standards for the Industry and approved by the Administrator. Such brands shall be indicated plainly and conspicuously on each container in such manner as shall be approved by the Code Authority.

B. The Code Authority may recommend from time to time a classification of the various types of tiles manufactured, and upon the approval of the majority of the members of the Code and of the Administrator, after such hearing as he may prescribe, such classification shall be established as the practice of the Industry and no member of the Industry shall sell or offer for sale products for which such classifications have been established except in accord-

ance with such classifications. The provisions of this Section B shall not apply to unglazed quarry tile.

C. No member of the Industry shall sell second-grade tile in an amount in excess of thirty-five percent of the total square footage of glazed tile sold by him, nor in excess of fifteen percent of the total square footage of unglazed tile sold by him, or such other reasonable percentage as may hereafter be decided upon by a majority of the Industry, and approved by the Administrator, from time to time; provided, however, that the Administrator on petition and after such hearing as he may prescribe may modify the percentages herein established; and provided further that any member of the Code may participate in the provisions of Section D hereinafter set forth. The provisions of this Section C shall not apply to unglazed quarry tile.

D. (1) Any member of the Code may exceed the percentages specified pursuant to Section C of this Article on condition that he shall pay to the Treasurer of the Code Authority, as trustee of the Tile Industry Fund, as liquidated damages 20 per cent of the total sales value of the second-grade tiles sold by him in excess of the percentages established pursuant to the aforesaid Section C of this Article.

(2) The liquidated damages referred to in the foregoing subsection shall be based upon the average percentage of seconds sold by any member of the Code in excess of the percentages established pursuant to Section C of this Article sold for the current calendar year or part thereof after the effective date of this Code. Each member of the Code shall send to the agency designated by the Code Authority a monthly statement stating thereon his square footage over or under the allowed percentage of second-grade tiles for the current month, and the Code Authority or such agency as it may designate shall send to each member of the Code a monthly statement stating thereon his square footage over or under the allowed percentage of second-grade tile cumulative to date for the current year and the liquidated damages, if any, due thereon. Each member of the Code shall within 30 days after receipt of such statement pay to the Treasurer of the Code Authortiy as trustee of the Tile Industry Fund any liquidated damages due in accordance with such statement or the provisions of this Code.

(3) No member of the Code shall be required to pay liquidated damages due for any current month if sufficient credit has accrued to his account for sales under the allowed percentage during any previous months.

(4) Any member of the Code who in earlier months of any current year shall have paid liquidated damages which subsequently are offset by a credit due him for the percentage of second-grade tiles subsequently sold below the percentage established pursuant to Section C of this Article, shall have refunded to him on June 30 and December 31 of each year, or as soon thereafter as possible, such excess liquidated damages as he shall have paid.

(5) All sums due as liquidated damages in accordance with the provisions of this Section D of this Article shall be paid into a separate fund to be known as the Tile Industry Fund. The Treasurer of the Code Authority as an individual shall be the trustee of the

Tile Industry Fund and as such shall place payments for liquidated damages received to the credit of such fund and make disbursements therefrom in accordance with the provisions of this Article. This Fund shall be maintained as a separate fund from any general fund which the Code Authority may establish or maintain. Disbursements from said fund may be made from time to time in such manner and for such purposes as the majority of the members of the Code shall determine; provided, however, that at all times a sufficient fund shall be maintained in the said Tile Industry Fund to refund any liquidated damages which may have been paid into the aforesaid fund and which subsequently may become due for refund to members of the Code, in accordance with the provisions of subsection (4) of this Section D.

(6) The provisions of this Section D may be terminated upon a majority vote of the members of the Code.

E. Offshade Tiles which are so widely different in shade that they cannot be used to fill an order for Standard Grade Tiles of the particular color such Offshade Tiles were intended to reproduce, shall be sold at the manufacturer's published price for Second Grade Tiles and shall be calculated as Second Grade Tiles subject to the provisions of Sections "C" and "D" of this Article.

Article XI—Samples

No member of the Industry shall furnish samples free of charge, except for a specific job, in excess of two square feet of any one color or pattern, excepting, however, Quarry Tiles. Unmounted samples furnished for display purposes in a showroom, architectural, home owners' or builders' exhibit, in excess of two square feet of any one color or pattern, shall be charged for at the current published prices less a discount not exceeding 50%. Tile furnished on mounted samples in excess of two square feet of any one color or pattern shall be charged for at the current published prices, but the manufacturer may bear the cost of mounting such samples and furnishing metal angle iron surrounding the panel or such other bracing as is used, crating and the crate cost.

Article XII—Distribution

A. No member of the Industry shall grant discounts from his published net prices as filed with the Code Authority, except that a discount of not over fifteen percent may be given to merchant tile contractors or to wholesalers.

B. For the purposes of this Article a merchant tile contractor shall be defined as a concern which:

(1) Specializes in the installation of, but does not engage in the sale of unset tile, bathroom accessories, or other accessories which are a part of the tiled area;

(2) Maintains an adequate showroom and place of business open to the public during usual business hours, which showroom, if a part of a residence, has an entrance separate from any residential entrance and contains at least two hundred and fifty (250) square feet of floor space and is equipped with suitable furniture and equipment in keeping with a business office and showroom;

(3) Maintains display facilities and display cabinets adequate and suitable to its business.

(4) Who shall have purchased two thousand dollars ($2,000) worth of tile, bathroom accessories, or other accessories which are a part of the tiled area during the past six semiannual periods, or if in business less than the six semiannual periods, then an average of two thousand dollars ($2,000) worth of tile, bathroom accessories or other accessories which are part of the tiled area for such six-month periods or any portion thereof as he has been in the tile contracting business.

Purchases as set forth in this section shall be construed to mean the total amount billed for products delivered during the semiannual calendar period or any portion thereof and is not intended to mean the value or amount of orders placed.

C. For the purposes of this Article, a wholesaler shall be defined as a concern which:

(1) Specializes in the sale but does not engage in the installation of tile, bathroom accessories, marble sills, and other accessories which are a part of the tiled area;

(2) Maintains a warehouse of adequate size and type suitable for its business;

(3) Maintains at each warehouse display facilities or display cabinets adequate and suitable for the nature of its business;

(4) Maintains an average stock of thirty-five thousand (35,000) square feet of tile at each warehouse.

D. The Administrator, either on his own initiative or on petition, and after such hearing as he may prescribe, may modify (or may approve the recommendations of a majority of the Industry for the modification of) the provisions of Sections B and C of this Article.

E. Each member of the Industry shall submit to the Code Authority a list of persons, firms, or corporations whom such member of the Industry has classified as wholesalers and Merchant Tile Contractors. The Code Authority shall investigate such persons, firms, or corporations and report to members of the Industry whether, in its opinion, subject to review by the Administrator, such persons, firms, or corporations are entitled to qualify as wholesalers or Merchant Tile Contractors as hereinabove defined. No member of the Industry shall thereafter grant wholesalers' or merchant tile contractors' discounts to persons, firms, or corporations who have been determined in the manner herein set forth to have failed to qualify as wholesalers or Merchant Tile Contractors.

Article XIII—General Provisions

A. 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 of the Industry at the address of such Member of the Industry on file with the Code Authority. A waiver in writing signed by any Member of the Industry of any such notice, demand, or request and delivered to the Code Authority 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.

B. Nothing contained in this Code shall be deemed to constitute the members of the Industry or members of the Code partners for any purpose. No member of the Industry and no member of the Code shall be liable in any manner to any one for any act of any other member of the Code or member of the Industry or for any act of the Code Authority or any agent or employee thereof pursuant to this Code. No member of the Code Authority and no agent or employee thereof shall be liable to any one for any action or omission to act under this Code except for his wilful misfeasance, nonfeasance or dishonesty. Nothing contained in this Code shall be deemed to confer upon any one other than a member of the Code any right, claim, or demand whatsoever not expressly provided by statute against any member of the Code or against any member of the Code Authority or any agent or employee thereof.

C. As soon as a majority composed of seventy-five percent of the members of the Industry assembled in person or by proxy at any meeting which has been called by a reasonable prior notice shall sign and deliver to the Code Authority a letter in substantially the form set forth in Schedule A annexed hereto, this Code shall constitute a binding contract by and among the manufacturers who have signed the Code, subject, however, to amendment as herein provided.

D. Nothing contained in this Code, excepting, however, Articles II, III, IV, and V of this Code shall be deemed to apply to or affect the sale of any product of the Industry for direct shipment in export trade 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 Code Authority shall otherwise determine, subject to review by the Administrator, to the sale of any product of the Industry for direct shipment to the Philippines, Hawaii, or Puerto Rico, or other insular possessions of the United States of America.

Article XIV—Monopolies

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

Article XV—Modification

A. 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 any provision of this Code or of any condition imposed by him upon his approval thereof.

B. 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.

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 of hearing as he shall specify, and to become effective on the approval of the President.

Article XVI—Effective Date

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

Approved Code No. 92.
Registry No. 1042/1/02.

SCHEDULE A

Form of Letter of Assent to the Code

To the Code Authority,
The Tile Manufacturing Industry,
19 West 44th Street, New York, N.Y.

Dear Sir: The undersigned, desiring to become a signatory of the Code of Fair Competition of the Floor and Wall Clay Tile Manufacturing 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 a period which shall terminate on October 1, 1934, or at such time prior thereto as the National Industrial Recovery Act passed June 16, 1933, is terminated.

The foregoing time of termination is subject to the right of the undersigned to extend such time if agreeable to other signatories of the Code.

For all purposes of Section A of Article XIII of the Code the address of the undersigned, until it shall file with the Code Authority written notice of a change of such address, shall be as set forth at the foot of this letter.

Yours very truly,

_____ _____,
President.

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Approved Code No. 93

CODE OF FAIR COMPETITION

FOR THE

WASHING AND IRONING MACHINE MANUFACTURING INDUSTRY

As Approved on November 4, 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 Washing and Ironing Machine 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 4, 1933.

29858——296-190——34

November 2, 1933.

To the President,
The White House.

Sir: This is a report on the Code of Fair Competition for the Washing and Ironing Machine Industry as revised after a Public Hearing, conducted in Washington on October 4, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

Factory employees in the Washing and Ironing Machine Industry are limited to a 40-hour week and 8 hours in any one day. A tolerance in these hours of 10 percent is granted in the case of maintenance and repair employees, watchmen, firemen, engineers, inspectors, timekeepers, storekeepers, truckers, and employees in the receiving and shipping departments.

Office employees may not be employed more than 40 hours a week. Executives and their personal secretaries, persons engaged in managerial capacities, field service employees, and traveling or outside sales people are exempted from the hourly provisions.

In the event that any factory, working three full-time shifts for a total of 120 hours a week, is unable in peak seasons to fill orders on hand, the factory is permitted to work employees 48 hours a week, unless approval is refused by the Code Authority or the Administrator. In no case are employees permitted to work more than six days a week.

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 is permitted employment on metal-working machinery.

Not less than 40 cents an hour shall be paid male factory employees and not less than 36 cents an hour shall be paid female factory employees. Provision is made that women shall not be discriminated against when engaged in occupations similar to those engaged in by men. Not less than $15.00 a week shall be paid office employees. Provision is made that learners and office boys and girls, the total of whom shall not exceed 5 percent of the office employees, shall be paid not less than $12.00 a week.

ECONOMIC EFFECTS OF THE CODE

Since June 1, 1933, 3,250 factory employees have been added to the pay rolls, an increase of approximately 80 per cent over the average of employees for the first five months of 1933, giving the

industry at this time nearly 1,400 more factory employees than the average number of employees in the peak year of 1929.

In July 1933 approximately 1,200 factory employees in this industry, representing about 20 percent of such employees, were earning less than the proposed minimum wage. In increasing these employees to the minimum wage, and in giving wage increases to those receiving more than the minimum, the industry added in excess of $50,000 to its August pay rolls. It is estimated that when the proposed wage minima are put into effect by all manufacturers, there will be a further increase in pay rolls of approximately $30,000 a month, making the total pay-roll increase approximately $80,000 a month as the result of this Code.

As of September 15, 1933, the industry reported unfilled orders for 158,952 units. Because of this condition permission is granted in the Code for working employees 48 hours a week during periods when the factory, working three full-time shifts of 40 hours each, is unable to supply the demand for its products.

FINDINGS

I find 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 Washing and Ironing Machine Manufacturers' Association imposes no inequitable restrictions on admission to membership therein and is truly representative of the Washing and Ironing Machine Manufacturing 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.

RECOMMENDATION

I hereby recommend the approval of the Code of Fair Competition for the Washing and Ironing Machine Manufacturing Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

WASHING AND IRONING MACHINE 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 Washing and Ironing Machine Manufacturing Industry, and shall be the standard of fair competition for this Industry, and shall be binding upon every member thereof.

Article II—Definitions

A. The term "*Industry*" as used herein means the manufacture for sale of Washing and Ironing Machines, and Replacement Parts therefor, primarily for home use.

B. 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.

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 term "*Association*" as used herein signifies American Washing Machine Manufacturers' Association.

F. The term "*Executive Committee*" as used herein signifies the Executive Committee of the American Washing Machine Manufacturers' Association.

G. 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.

H. The term "*effective date*" as used herein means, and this Code shall become effective on, the first Monday after the Code shall have been approved by the President.

Article III—Hours

A. No employee, except as provided in Section B of this Article, shall be permitted to work in excess of 40 hours in any one week, or 8 hours in any 24-hour period, provided that there shall be no daily limitation of hours in the case of office employees and that employees engaged in factory maintenance and repair work, receiving and ship-

ping departments, watchmen, firemen, engineers, time-keepers, storekeepers, and truckers may be permitted to work an additional number of hours, not to exceed 10% of the maximum herein established.

B. *Exceptions.*—

1. When operation of the production capacity of any division of a factory is required by reason of seasonal peak demands, in excess of 120 hours per week (3 shifts), employees in such division may be permitted to work not to exceed 48 hours per week, provided the employer notifies the Code Authority in advance of his intent to work such employees more than 40 hours per week, and that approval is not expressly refused by the Code Authority or the Administrator. Employers shall furnish the Code Authority or the Administrator such information and data and at such times as the Code Authority may specify concerning operations under this section.

2. Executives and their personal secretaries, persons in a managerial capacity, field-service employees, and traveling or outside salespeople shall be exempt from all hourly limitations imposed by this Article. This exemption shall not apply to "working foremen." All employers shall file immediately with the Code Authority and revise from time to time as required, a complete list of functional classifications of employees intended by the employer to be exempted under the provisions of this clause from hourly limitations imposed by this Article and such employees may be so exempted unless exemption is specifically refused by the Code Authority or the Administrator.

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.

C. Nothing in this Article shall be interpreted to permit regular work of any employee in excess of six days in any week.

D. No employee shall 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

A. No male employees shall be paid at less than the rate of 40 cents per hour, and no female employee shall be paid at less than the rate of 36 cents per hour; provided, however, that where female employees perform substantially the same work as male employees, they shall receive the same rates of pay as male employees.

B. No office employee shall be paid at less than the rate of $15.00 per week, provided that office boys or girls may be paid at not less than 80% of such minimum rate, and provided further that the total number of office boys and girls employed by any member of the Industry receiving less than the minimum in any calendar month shall not exceed 5% of the total employees in this class, or two employees, whichever is higher.

C. Adjustments or wage rates above the minimums shall be made to preserve differentials between standard occupational groups of employees which existed on June 1, 1933; provided, that increases by reason of this Article need not exceed 15% of wage rates then in effect.

Within thirty days after the effective date employers shall report to the Code Authority action taken by them since June 1, 1933, with respect to adjustments of wages above the minimum.

D. This Article establishes a minimum rate of pay regardless of whether or not an employee is compensated on a time rate, piece rate, or other basis.

E. The minimum wage rate prescribed by this Article does not apply to traveling and outside sales people.

F. Not later than February 1, 1934, the Administrator shall determine what rate of overtime pay shall be paid in this Industry on the basis of statistics on overtime hours worked in the Industry to be furnished by the Industry to the Administrator not later than January 15, 1934.

Article V—General 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 of metal-working machinery or other operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before February 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; 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 employer, regulating the age of employees, wages, hours of work, 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 full copies of this Code.

H. 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 VI—Administration

A. To further effectuate the policies of the Act, the Executive Committee of the Association is hereby designated as the Code Authority to cooperate with the Administrator in the administration of this Code. The Government of the United States is to be represented on the Code Authority by three members without vote to be appointed by the President, 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 who are complying with the requirements of this Code, and who agree in writing, either individually or through trade associations of which they are members, to abide by the requirements of the Code and to pay their reasonable share of the expenses of the administration thereof, 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 membership thereof and to make use of the N.R.A. code insignia.

C. 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 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 Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to review by the Administrator:

(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, the Code Authority shall collect from members of the Industry who shall furnish to it or its duly authorized agent, in such form and at such intervals as it may prescribe, subject to the approval of the Administrator, duly certified reports containing such information, reasonably pertinent to the effectuation of the purposes of this Code, and with full protection to each member of the Industry as to the confidential nature of the data, as may be required by the Administrator or by the Code Authority subject to the approval of the Administrator. Such information or copies thereof shall be furnished to the Administrator upon his request.

(2) If formal complaint is made to the Code Authority that the provisions of this Code and any supplements thereto have been violated by any employer, it shall make such investigation of the facts as it may deem necessary.

F. 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 from Section 3 (a) of the National Industrial Recovery Act.

Article VII—Trade Practices

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

1. *Sales Below Cost.*—To sell or exchange any product of the industry at a price or upon such terms or conditions which will result in the buyer paying for the goods received less than the cost to the member of the industry, determined in accordance with a uniform and standard cost-accounting system to be recommended by the Code Authority within 30 days after the effective date, and to become effective upon approval by the Administrator; provided, however, that dropped lines, seconds, or inventories may be disposed of in such manner and on such terms and conditions as the Code Authority may prescribe, subject to review by the Administrator.

2. *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.

3. *Regulation of Credit.*—The giving of cash discount in excess of 2 percent.

4. *Price Quotations.*—Quotation of prices other than F.O.B. Factory.

5. *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 of this Code.

6. *Trade-in Allowance.*—No manufacturer shall give trade-in allowances or second-hand allowances to the retail or wholesale sales outlets of the industry.

7. *Guarantee.*—The giving of any guarantee in excess of one year from date of sale to replace defective parts or workmanship, which shall be furnished f.o.b. factory with no labor allowance.

B. The Code Authority shall continue its study of trade practices of the Industry and shall, from time to time, make recommendations 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 have full force and effect as the provisions hereof.

Article VIII—Modifications

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 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.

Approved Code No. 93.
Registry No. 1399/11.

O

Approved Code No. 94

CODE OF FAIR COMPETITION

FOR THE

MEN'S GARTER, SUSPENDER, AND BELT MANUFACTURING INDUSTRY

As Approved on November 4, 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 Men's Garter, Suspender, and Belt 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 4, 1933.

29920——296-191——34

NOVEMBER 2, 1933.

The PRESIDENT,
The White House.

SIR: The public hearing on the Code of Fair Competition for the men's garter, suspender, and belt-manufacturing industry, as proposed by the Men's Garter, Suspender, and Belt Manufacturers' Association, Inc., was conducted in Washington on October 9, 1933. Every person who requested an appearance was fairly heard in accordance with statutory and regulatory requirements. The Code has the approval of the Labor, Industrial, and Consumer Advisory Boards of the National Recovery Administration, and of the Legal Division. The Chairman of the Code Committee of the submitting Association, upon authorization of the Committee, has also indicated his approval of the final draft of the Code on behalf of the industry.

DESCRIPTION OF THE INDUSTRY

The industry as defined in the Code includes the manufacture of elastic sanitary belts, garters and garter belts for men and boys, women and children, and the manufacture of men's and boys' separate belts. The commodities included within the scope of the Code as recommended are, in some ways, related more through the activities of the manufacturers in the several branches and through common points and channels of sale than through physical characteristics and similarity of manufacturing technique. Thus men's belts are not physically akin to a pair of garters, but numerous manufacturers make both as well as other products, and both are marketed through the same trade channels. It is believed that the grouping of products under this Code is as nearly correct and generally satisfactory as can be obtained.

The industry may be said to center in the Eastern Seaboard States, particularly in New York and the New England States, although one of the larger members of the industry is located in Chicago. Most all of the concerns in the industry catering to the syndicate trade are located within a radius of one hundred miles of New York City.

The industry performs practically entirely a converting or assembling function, nearly all of the manufacturers with one conspicuous exception buying the materials that are required in making garters, suspenders, and belts.

Perhaps due to the comparatively small size of the industry, there has been no tremendous development in recent years in the mechanical equipment of factories. In general, regulation sewing machines are used in the production of garters and suspenders.

Recent years have seen increasing importance laid upon the style elements in the industry. With the return of fancy webbing for the use of "braces" and the increased consumption of sportswear articles, the style factor in the past few years has become an important factor in the industry.

Generally speaking, the industry has been one which has benefited by a harmonious relationship with labor. Of the 4,300 employees in the industry in 1929, hardly more than 100 were members of any union. The interests of labor were well represented in the development of the Code by the Labor Advisory Board.

RÉSUMÉ OF THE CODE

Article I sets forth certain definitions.

Article II contains the maximum hour provisions of the Code. The hours of productive workers are limited to 40 in each week, except that slightly longer hours are allowed office workers, maintenance employees, etc. The maximum hour provisions do not apply to watchmen, salesmen, or executives. Further overtime may be granted upon recommendation of the Code Authority and approval of the Administrator upon such terms as the Administrator may prescribe.

Article III sets forth the minimum wage provisions. A basic minimum of Fourteen ($14.00) Dollars per week for all employees is provided for with the exception that the minimum for cutters in the men's belt branch of the industry is set at Twenty-eight ($28.00) Dollars per week. There is an apprentice clause contained in this Article providing for the hiring of apprentices at the rate of Eleven ($11.00) Dollars per week; this clause is, however, effective only until June 1, 1934, or until shortly after all homework in the industry will have been eliminated in accordance with Article X of this Code.

Article IV eliminates child labor and contains the labor provisions mandatory under the Act.

Article V provides for the establishment of a Code Authority. This body, consisting of 11 members, is charged with the regular duties and responsibilities of administering the Code. Nine of the members are to be appointed by the president of the Men's Garter, Suspender, and Belt Manufacturers' Association, Inc. One of these 9 members must be selected from those members of the industry not members of the Association. The 2 remaining members, without voting power, are appointed by the Administrator.

This Article provides for the establishment of a confidential agency to secure for and to submit to the Code Authority information necessary to the proper administration of the Code. The Code Authority is also empowered to recommend a uniform costing system for use in the industry—basic to the securing of information necessary for the enforcement of certain trade practice provisions.

The Code Authority is also empowered to recommend to the Administrator for his approval, trade practice provisions. Upon the approval of the Administrator, trade practice provisions so recommended by the Code Authority become a part of the code. This procedure of deferring consideration of trade practice provisions until they can be considered and recommended by the Code Authority charged with the Administration of the Code has been found very satisfactory in the apparel trade.

Article VII states the method of modifying or amending the code.

Article VIII contains the mandatory provisions in reference to monopolies and discrimination against all enterprises.

Article IX provides for the gradual elimination of all home work in the industry. By May 1, 1934, all home work must have been eliminated according to the provisions of this code.

LABOR PROVISIONS OF THE CODE—POSSIBLE REEMPLOYMENT—HOURS

The average number of workers employed in the manufacture of garters and suspenders in 1929 was 4,341. The comparable figure for 1931 is 3,257, which indicates that there were in 1931 over 1,000 workers unemployed. It has been estimated that the men's belt branch of the industry employed in 1929 approximately 2,000 employees, and that the percentage of present unemployment in the belt branch is similar to that in the garter and suspender branch.

The average full-time work week in previous years has consisted of 48 hours. The 40-hour week as recommended in the code will necessitate the employment of 20% or about 650 additional.

WAGES

The average annual wage in the suspender and garter factories was $915 in 1929 and $715 in 1931. The wages in the men's belt branch of the industry are known to be generally higher. Increase in the pay roll due to the increase in the number of employees should, under the provisions of the code as recommended, amount to about 25%. For lack of definite information, it is difficult to determine just what effect the minimum contained in the code will have upon the total pay roll.

HOME WORK

The amount of employees engaged in the industry at the present moment in home work is variously estimated at between 700 and 1,000. Most of the concerns in the industry allowing home work are located in and around New York City. Home workers are engaged chiefly by those members of the industry catering to the syndicate trade. The elimination of home work is believed to be the first step in the effective enforcement of the labor provisions of the code.

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 limitations, Sub-Section (a) of Section 7 and Sub-Section (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 garter, suspender, and belt 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 immediately adopted.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

MEN'S GARTER, SUSPENDER, AND BELT MANUFACTURING INDUSTRY

Preamble

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 Men's Garter, Suspender, and Belt Manufacturing Industry, and shall be the standard of fair competition for this industry, and shall be binding on every member thereof.

Article I—Definitions

1. The term "industry" as used herein includes the manufacture of garters and garter belts for men and boys, women, and children; elastic sanitary belts; suspenders and men's and boys' separate belts made of leather, imitation leather, and/or other material and fabrics.

2. 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.

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

4. The term "employer" and the term "manufacturer", as used herein, include anyone for whose benefit or on whose business such employee is engaged and anyone engaged in said industry on his own behalf.

5. The term "Southern section of the United States" as used herein shall include the States of Alabama, Florida, Georgia, Mississippi, Louisiana, Texas, Oklahoma, Arkansas, Tennessee, North Carolina, South Carolina, Virginia, and West Virginia.

6. The term "effective date" as used herein shall mean, and this Code shall become effective upon, the fifteenth (15th) day after this Code shall have been approved by the President.

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 said Act.

Article II—Hours of Labor

1. Except as hereinafter provided, no employee shall be permitted to work in excess of forty (40) hours in any one (1) week.

2. The provisions of this Article shall not apply to watchmen, nor to salesmen, nor to members of the business management staff earning more than thirty-five dollars ($35.00) per week.

3. Stock clerks, shipping clerks, cleaners, repair crews, engineers, firemen, and electricians may be permitted to work a maximum of forty-four (44) hours per week; provided, that such employees are paid at their regular hourly rate for all hours worked in excess of forty (40) hours in any one (1) week.

4. No office employee shall be permitted to work in excess of forty (40) hours in any one (1) week, except that such employees may be permitted to work a maximum of forty-four (44) hours per week during sixteen (16) weeks during each year provided that such employees are paid at the regular hourly rate for all hours worked in excess of forty (40) in any one (1) week.

5. No overtime beyond that specifically provided for by the provisions of this Code shall be permitted except upon the recommendation of the Code Authority and the approval of the Administrator, and under such conditions and upon such terms as the Administrator may prescribe.

6. No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed for each week whether employed by one (1) or more employers.

Article III—Rates of Pay

1. No employee shall be paid at less than the rate of thirty-five cents (35¢) per hour or at less than the rate of fourteen dollars ($14.00) per week of forty (40) hours, except the cutters, in the men's belt branch of the industry, shall be paid at not less than the rate of seventy cents (70¢) per hour, or not less than at the rate of twenty-eight dollars ($28.00) per week of forty (40) hours.

2. The wage rates contained herein shall be 10% less for employees employed in the Southern section of the United States.

3. No employee shall be paid less than the minimum wages per hour set forth in this Article, regardless of whether such employee is compensated on a time-rate or a piece-rate basis.

4. Until June 1, 1934, no apprentice shall be paid at less than the rate of twenty-seven and a half cents (27½¢) per hour or at the rate of eleven dollars ($11.00) per week of forty (40) hours for the first six (6) weeks of employment and thereafter, not less than the minimum wages provided in Section 1 of this Article. The period of apprenticeship shall be strictly limited to six (6) weeks, and in no case shall the total number of apprentices in the employ of any one (1) employer be greater than ten percent (10%) of the total employees. Any time worked by an apprentice shall be deemed a part of such apprenticeship period, whether such time is worked continuously or in more than one (1) shop, or at home work, or for more than one (1) employer. On and after June 1, 1934, no employee shall be paid at less than the regular minimum rate herein provided in Section 1 of Article III.

5. Employees handicapped on account of age or otherwise may be paid at the rate of eighty percent (80%) of the minimum wage established for other employees provided that in no case shall the total number of such employees in the employ of any one (1) employer exceed five percent (5%) of the total number of employees.

6. No employer shall reduce the weekly rate of compensation for any employee in effect as of July 1, 1933, whether heretofore paid on a monthly, weekly, daily, hourly, or piece rate basis, notwithstanding that the hours of such employee have been reduced by the provisions of this Code. The provision shall not be construed to mean that employees employed on a part-time basis shall receive the same weekly compensation as full-time employees. No employer may reemploy former employees at less than their previous weekly rate of compensation.

Article IV—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 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 places full copies of this Code.

Article V—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 the Code Authority.*—(a) The Code Authority shall consist of eleven (11) members, of which eight (8) members shall be appointed by the President of the Men's Garter, Suspender, and Belt Manufacturers Association, subject to the approval of the Board of Directors of the Association, and one (1)

member shall be appointed in the first instance by the President of the said Association, subject to the approval of the Administrator, from members of the industry who are not members of said Association, but are entitled to participate in the selection of the Code Authority. The method of selection of such member thereafter shall be established by recommendation of the Code Authority, approved by the Administrator. Two (2) remaining members, without the power to vote, may be appointed by the Administrator, and shall receive notice of and may sit at all meetings.

(b) 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 or 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, he may require an appropriate modification in the method of selection of the Code Authority.

(d) An appeal from any action of the Code Authority affecting the rights of any person subject to this Code may be taken to the Administrator.

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) To elect officers and to assign to them such duties as it may consider advisable, and to provide rules for its procedure, for the selection of its members, and its continuance as the administrative agency of this Code, in accordance with the terms of the Act and the principles herein set forth.

(b) To receive, investigate, and adjust complaints of violations of this Code, and based upon such investigations and after such hearing as it may deem proper, to make recommendations in respect thereto to the proper authorities for the prosecution of such violations.

(c) To obtain through a confidential agency from members of the industry periodical reports in such form and at such times with respect to wages, hours of labor, conditions of employment, number of employees, and such other matters pertinent to the purposes of this Code as the Code Authority, with the approval of the Administrator, may require for the administration and enforcement of this Code, and to submit reports to the Administrator in such form and at such times as he may require in order that the President may be informed as to the observance or nonobservance of this Code and to further effectuate the policies of the Act.

The confidential agency shall be in no way engaged in the industry nor connected with any member thereof, and all reports received by it shall be held as secret and confidential, except that they shall

be made available to the Administrator. Such agency shall analyze, digest, and consolidate such reports and shall disclose only general findings based thereon. Such general findings shall be made available to the Code Authority and such members of the industry as have assented to this Code.

(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 agencies the cost thereof; provided, that such agencies shall at all times be subject to and comply with the provisions of this Code; and provided further, that nothing herein shall relieve the Code Authority of any of its duties and responsibilities thereunder.

(e) To coordinate the administration of this Code with such other codes, if any, as may be related to the Garter, Suspender, and Belt Manufacturing Industry, or any subdivision thereof, with a view to promoting joint and harmonious action upon matters of common interest.

(f) To make recommendations for fair trade practices, including provisions against selling below cost, and otherwise to assist the Administrator in effecting the purpose of this Code and the Act. Any such recommendation, upon the approval of the Administrator after such hearing and notice as he shall prescribe, shall become a part of this Code.

(g) Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority 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 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.

(h) To provide for a special N.R.A. label for the industry and to cooperate with the Administrator in regulating the use of such label solely by those employers who have assented to and are complying with this Code.

(i) To recommend a uniform cost and accounting system for the industry which upon approval by the Administrator shall be used as the basis for all reports. Each member of the industry shall use such standard system to the extent necessary to enable such member to submit such cost data and other information as the Code Authority may require in accordance with the provisions of this Code.

3. 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.

4. The Code Authority shall study provisions relating to trade practices and the observance thereof, and may make recommendations thereon to the Administrator. Upon the approval of the Administrator and after such notice and hearings as he may prescribe, such recommendations or any part of them shall become a part of this Code and shall have full force and effect as provisions hereof.

Article VI—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 by the Code Authority to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

Article VII—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 VIII—Homework

1. No home work shall be permitted by employers after May 1, 1934. After March 1, 1934, no employer shall employ more than sixty percent (60%) of the number of home workers employed by him as of September 1, 1933.

2. Until May 1, 1934, no work shall be permitted in any home by employers unless and until evidence has been presented to the Code Authority, as agent for the Administrator, that all State, municipal, and other laws and regulations relating to home work have been complied with and unless the names and addresses of such home workers and their employers shall have been filed with the Code Authority.

3. The Code Authority shall file with the Administrator a list of the names and addresses of all home workers employed in the industry and shall indicate by whom all such home workers are employed.

4. No home worker shall be engaged at the same time by more than one employer.

5. All home workers shall be paid on the same piece-rate basis as factory employees engaged in similar work.

6. Copies of Articles II, III, and VIII, of this Code shall be supplied all home workers.

Approved Code No. 94.
Registry No. 271–1–01.

O

Approved Code No. 95

CODE OF FAIR COMPETITION

FOR

STOCK EXCHANGE FIRMS

As Approved on November 4, 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 Stock Exchange Firms, 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 be, and is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

The WHITE HOUSE,
November 4, 1933.

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November 3, 1933.

The President,
The White House.

Sir: I beg to transmit herewith the report of the Hearing on the Code of Fair Competition for Stock Exchange Firms conducted in the Auditorium, United States Chamber of Commerce Building, on October 17, 1933, in accordance with the provisions of the National Industrial Recovery Act. The application for this Code was presented by the Association of Stock Exchange Firms (New York) on behalf of its members and on behalf of similar associations of members of stock exchanges and members of stock exchanges throughout the country. The applicant thus represents approximately 98¾% of the recorded transactions in listed securities on all the important Exchanges in the first eight months of this year.

The Hearing brought out a remarkable comparison of employment and wages as of a recent date with like figures during 1929. Current surveys of representative firms in New York and Chicago revealed that on August 1, 1933, the number of employees of such firms in New York was 99% of March 1, 1929, and in Chicago such number was 4.3% greater than on August 1, 1929. Wages of employees of the same firms in New York was 85% of the annual wages paid for 1929, whereas in Chicago the average weekly pay per employee for three months prior to August 1, 1933, was 66.2% of the average weekly pay for the three months prior to March 1, 1929.

Firms in New York and outside of New York reporting to the Code Committee showed that 95% of the employees of the former and 93% of the latter are paid more than the minimum rate and more than 32% in both instances are paid over $35.00 per week. The average weekly sales volume on the New York Stock Exchange for the first eight months of this year was 67.5% of the average weekly volume for the year 1929, whereas on the Chicago Stock Exchange volume of business for the first nine months of 1933 was approximately 72½% of the like period of 1929. It would thus seem that Stock Exchange firms continue to employ about the same number of persons as they did when the volume of their business was much greater and that they have not discharged their employees proportionately with the decline of their business. It is necessary that firms employ complete technically trained staffs at all times in order to handle the unpredictable fluctuations in volume. The result is that at times they are overmanned and at other periods must work their staffs overtime. Provision in the Code is made for overtime remuneration. Moreover, in this respect it is common knowledge that Stock Exchange firms are exceptionally generous in bonus distributions to employees during active markets.

The Code does not contain provisions covering Fair Practices, although the Division Administrator urged upon the Committee the inclusion of provisions intended to regulate and coordinate methods and practices on all stock exchanges. Detailed reasons for such omission were subsequently embodied in a letter from Counsel for

the applicant and included in this record. In substance, these reasons are: existing "fair practice" rules and regulations of the several stock exchanges; the time required to reconcile differences and promulgate a uniform system for dissimilar situations; obligations under a Code would have to be consistent with obligations of memberships in the several exchanges; limitation under a Code of the authority of the several Governing bodies to modify their respective practices as required by experience and ever-changing conditions; and the lack of power of, and the extended time required for, the Code Committee to negotiate fair-practice provisions for the entire business throughout the United States. It is conceded that there is substantial ground upon which these objections are based. In principle, fundamental changes affecting the welfare of many should be carefully considered. This opportunity the President and the Administrator hold under the Code.

There were no objectors to the Code from the business and but one from the public, this relating to curb trades in an unlisted security. The protest was immediately filed by the Administrator with the Code Committee.

The Code has been accepted by the Association of Stock Exchange Firms and has received the approval of the several Advisory Boards of the National Recovery Administration.

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 Stock Exchange Firms as submitted herewith.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR

STOCK EXCHANGE FIRMS

Article I—Definitions

Whenever used in this Code or in any schedule annexed hereto the terms hereinafter in this Article I shall, unless the context shall otherwise clearly indicate, have the respective meanings hereinafter in this Article set forth.

(a) The term "Code" as used herein 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 provided.

(b) The term "employer" as used herein means and includes, but without limitation, every individual, partnership, firm, association, corporation, or other entity, that is (1) a member of any regularly organized stock exchange or has the privilege of any such exchange for itself or any of its partners or executive officers, and is also (2) regularly engaged as its major business in the buying, selling, trading in or otherwise dealing in stocks, bonds, or other securities, and/or commodities; provided, however, that no one whose business shall consist of dealing only in commodities shall be included in such definition and further provided that a member of any commodity exchange who is included in this definition shall be bound by all provisions of any Code of Fair Competition applicable to members of Commodity Exchanges with the exception of the labor provision thereof, in which latter respect the labor provisions of this Code shall be effective.

(c) The term "employee" as used herein shall apply to every person employed by an employer as herein defined.

(d) The term "effective date" means and includes the date on which provisions of this Code become effective and will be the second Monday after this Code is approved by the President.

(e) The term "Administrator" as used herein shall mean the Administrator appointed by the President under the National Industrial Recovery Act.

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

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 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.

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, and in order to consummate contracts for the sale and purchase of securities, or commodities which require daily clearance, 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 watchman employed to safeguard securities or assets, 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 shall be paid (1) less than $16 per week in any city of over 2,000,000 in 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. In the event that any employer shall operate one or more branches or offices in towns or cities in different classes described in this paragraph (c) than the minimum wage requirement for the employees at each branch or office of such employer shall be determined by the classification of the town or city in which each such branch or office shall be located; 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 133⅓% 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 133⅓% 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; and

(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

The Board of Administrators, as provided for in Schedule B hereof, shall represent the employers in the administration and supervision of this Code and shall have, in addition to the specific powers set forth in said Schedule, all general powers necessary for such administration and supervision, subject at all times to the power of the Administrator to veto or modify any action taken by it.

The Administrator may appoint a representative to the Board of Administrators who may participate without vote in all activities of the Board.

In order to keep the President and the Administrator informed as to the observance or non-observance of this Code, each employer shall prepare and file with the Board of Administrators at such times and in such manner as the Board may prescribe, statistics covering the number of persons employed, wage rates, hours of work, and such other data or information as the Board of Administrators with the approval of the Administrator, or the Administrator, may require. All information so furnished shall be treated as confidential and used only for the sole purpose herein set forth.

Article IV—General Provisions

Any employer may voluntarily assent to this Code by signing and delivering to the Board of Administrators a letter substantially as set forth in Schedule A hereof.

The provisions of this Code shall apply to and be binding upon every employer, as defined in Article I hereof, whether or not such employer has voluntarily assented to this Code as herein provided or not; but only such employers as shall have voluntarily assented to this Code as hereinafter provided, or who have paid assessments hereunder, shall be entitled to participate in its administration and to vote for members of the Board of Administrators as herein provided.

Upon the approval of this Code by the President, pursuant to the provisions of Title I of the National Industrial Recovery Act, it shall constitute a binding contract on all those who have assented to this Code subject, however, to the right of amendment and termination as provided in this code.

The President may, from time to time, cancel or modify any order, approval, license, rule or regulation issued under Title I of the National Industrial Recovery Act.

Article V—Amendments and Termination

Any employer assenting to this Code that may hereafter desire to have the Code amended or any supplementary provisions added should take the following procedure: Propose the amendment to the Board of Administrators who shall, if a majority of the Board 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 vote in favor of the adoption of such proposed amendment, such amendment shall be submitted by the Board of Administrators to the President for approval, and such proposed amendment shall take effect as a part of this Code upon such approval thereof by the President. 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.

This Code shall continue in effect so long and only so long as the National Industrial Recovery Act shall be in force and effect but in no event after June 16, 1935, and shall in all respects be subject to the provisions and conditions thereof; provided, however, that this Code may be terminated at any time by the same action by assenting employers, with the approval of the President, as is above provided for the amendment thereof. Such termination shall not release any employer from the payment of any unpaid assessment theretofore made.

Approved Code No. 95.
Registry No. 1710-03.

SCHEDULE A

Form of Letter of Assent to Code

The undersigned, by signing and delivering this letter to Frederick F. Lyden, 42 Broadway, New York City, assents to all of the terms and conditions of the Code for Stock Exchange Firms, a copy of which is annexed hereto; and such assent shall be effective as of the date on which said Code shall become effective as herein provided or the date of the delivery of this letter, whichever shall be later. The undersigned hereby agrees with everyone similarly assenting to said Code, that said Code constitutes a contract between the undersigned and all such others and agrees to be bound by the provisions thereof as well as the provisions in Schedule B annexed thereto including particularly the right of assessment for expenses as therein provided.

SCHEDULE B

Rules and Regulations for the Administration of the Code

1. Every employer who voluntarily assents to this Code or pays assessments as herein provided, shall be entitled to one vote at all meetings of employers under the Code; and the Board of Administrators shall determine and resolve all questions which might arise as to the qualification of any employer and his right to cast a vote at any meeting. Any employer may vote by proxy in writing. At least 75% of the employers shall constitute a quorum for the transaction of business at any meeting.

2. The Board of Administrators shall be constituted as follows: five members shall be appointed by the Board of Governors of the Association of Stock Exchange Firms (New York); five members shall be elected by a majority vote of all other associations or organizations of stock-exchange firms any of whose members shall have assented to this Code, each association or organization having one vote; one member shall be elected by a majority vote of the employers assenting to this Code who shall not be members of any of the foregoing associations or organizations; a representative to be appointed by the Administrator as provided for in Article III.

3. Immediately after the effective date of the Code employers shall meet in the City of New York for the election of the Board of Administrators.

4. Members of the Board of Administrators, except the representative of the Administrator, shall serve a term of one year. If a vacancy shall exist on the Board of Administrators, then such vacancy shall be filled by the remaining members of the Board elected by the same persons electing the member in respect to which such vacancy shall then exist.

5. All meetings of the Board of Administrators shall be held in New York City, or such other place as the Board may determine, and at all such meetings a majority shall constitute a quorum, and any member of the Board may vote by proxy in writing. Meetings may be called by any three members of the Board.

6. The Board of Administrators shall have power to appoint, remove, and fix the compensation of its officers and employees, including accountants, attorneys, and experts.

7. The Board of Administrators shall designate an Executive Committee of five from among its members which shall possess and may exercise all of the powers of the Board of Administrators except as otherwise specifically directed by such Board. All meetings of the Executive Committee shall be held in New York City and may be called by any two members thereof.

The Board of Administrators may also from time to time appoint either from employers under the Code or otherwise such committees as it may deem necessary or proper in order to carry out its powers and duties under the Code, delegating to any such committee any powers and duties of the Board of Administrators as shall be deemed necessary or proper to effectuate such purpose.

The representative appointed by the Administrator shall be given notice of all meetings of any committee or committees appointed by the Board of Administrators and shall have the right to participate without vote in the activities of such committees.

8. The expenses of administering this Code shall be borne by the employers. The Board of Administrators may from time to time make such assessments on account of such expenses which shall be apportioned among all employers in such manner as the Board of Administrators shall deem fair and equitable. Failure of any such employer to pay any such assessment for a period of 30 days after the date on which it became payable shall constitute a violation of the Code and such employer shall thereafter, upon notice from the Board of Administrators, not be entitled to any of the rights and privileges appertaining to an employer voluntarily assenting to the Code as therein and herein provided, but shall continue to be liable for all due and unpaid assessments up to and including the date of such notice.

O

Approved Code No. 96

CODE OF FAIR COMPETITION
FOR THE
BUFF AND POLISHING WHEEL INDUSTRY

As Approved on November 4, 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 Buff and Polishing Wheel 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 sub-section (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, except that section (n) of article VII must be eliminated.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 4, 1933.

29856——296-193——34

NOVEMBER 2, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Buff and Polishing Wheel Industry in the United States, the hearing having been conducted in Washington on October 18, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND LABOR

The maximum of 40 hours a week and 8 hours a day is provided for factory employees, except during emergency periods when the maximum may be 48 hours per week for 6 weeks in any 6 months' period, provided that the average will not exceed 40 hours per week. Time and a third is paid for overtime. Employees engaged in preparation, care, and maintenance, in delivery work, and nonproducing supervisors will have a tolerance of 10 percent above the 40-hour maximum, provided that their average time is not more than 44 hours per week average in any 2-month period. Time and a third will also be paid to these employees for overtime.

The limitations in hours will not apply to persons in a managerial or executive capacity who receive more than $35 per week; nor to traveling salesmen or watchmen, the latter limited to 48 hours weekly. There will be no difference in the rates to male and female employees, whether they are on a time or piece-work basis. Accounting, clerical, service, sales, or other office employees will not be required to work more than 40 hours a week averaged over any 2-month period, nor more than 48 hours in any one week.

The minimum wage to factory workers will be 40 cents per hour. Exceptions to this rate apply to employees engaged in light and repetitive work, who will receive a minimum of 32½ cents per hour, and to learners, who will receive no less than 80 percent of this minimum. Office employees will receive no less than $15 per week, except for office boys and girls, who will receive no less than 80 percent of this minimum.

CHILD LABOR

The minimum age of employees will be 16 years; except in hazardous occupations where the minimum will be 18 years.

ECONOMIC EFFECT OF CODE

The 40-hour normal week for factory employees, with the additional pay for overtime, should tend to level employment peaks in this industry, and materially increase the number of workers as soon as business conditions improve in the capital goods industries.

The working hours of this industry have been from 48 to 55 hours, with 50 as a fair average. The minimum wage rates have been from 18 to 25 cents, with 20 cents as a fair average. The increase in pay roll, as a result of the labor provisions, will be approximately 25 percent.

The products of the Buff and Polishing Wheel Industry are used for wiping, cleaning, and oiling; and, in connection with abrasives, for finishing surfaces, chiefly of metals. The buffs and wheels are made from cotton materials and are a superior product requiring a large percentage of skilled workers. There are 23 concerns in the industry, with a total volume of business of $1,050,000 in 1932, 73 percent less than in 1929 ($3,900,000), and only 25 percent of production capacity ($4,150,000). Employment has dropped 27 percent since 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 Buff and Polishing Wheel 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, except that section (n) of article VII be eliminated.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

BUFF AND POLISHING WHEEL 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 Buff and Polishing Wheel Industry, and upon approval of the President shall be the standard of fair competition for this Industry.

Article II—Definitions

The term "Industry" as used herein includes the manufacture of buff and polishing wheels which are defined as those used for wiping, cleaning, or oiling and in connection with abrasives for the purposes of producing finished surfaces on metals or other materials.

The term "Association" as used herein means the Buff and Polishing Wheel Manufacturers Association.

The term "Employee" as used herein includes anyone engaged in any phase of the industry in any capacity in the nature of employee irrespective of the method of payment of his compensation.

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

The term "Member of the Industry" includes any manufacturer who shall be subject to this Code.

The term "Administrator" as used herein means the Administrator of Title I of the National Industrial Recovery Act.

The term "Effective Date" is used herein shall be the date upon which this Code shall have the approval of the President of the United States.

Article III—Hours

(a) Factory employees, mechanical workers, and artisans in the Industry, except as hereinafter provided, shall not be employed in excess of 40 hours per week, nor more than 8 hours in any one day; provided, however, that during any period of emergency an employee of such classes may be permitted to work up to but not more than 48 hours per week in six (6) weeks of any 6-month period; provided, however, that the average over this period shall not exceed 40 hours per week. Employees in this category for hours worked in excess of 40 hours per week or eight (8) hours per day shall be paid at the rate of one and one third times the regular rates.

(b) There shall be a tolerance of 10 percent additional hours over the above 40 hours for employees engaged in the preparation, care,

and maintenance of plant, machinery, and production facilities, stock and shipping clerks, delivery employees, and nonproducing supervisors; provided that such tolerance shall not result in such employees' working in excess of an average of 44 hours per week over any 2-month period. Employees listed in this paragraph (b) for hours worked in excess of 40 hours per week or 8 hours per day shall be paid at the rate of one and one third times the regular rate herein provided.

(c) The limitations as to hours of labor shall not apply to persons in a managerial or executive capacity who receive more than $35.00 per week; nor to commercial traveling salesmen; nor to watchmen, who shall be limited to a work week not to exceed 48 hours.

(d) No accounting, clerical, service, sales, or other office employees shall work more than 40 hours per week on a 2-month average, nor more than 48 hours in any one week.

(e) 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 day and week, whether employed by one or more employers.

Article IV—Wages

(a) The minimum wage that shall be paid to any employee in this industry shall be 40 cents per hour, with the following exceptions:

(1) Employees engaged in light and repetitive work, who shall be paid at the rate of not less than 32½ cents per hour.

(2) Learners who for a period not to exceed 10 weeks may be employed at not less than 80% of the minimum wage, such learners to constitute not more than 10% of the total of employees nor more than 10 employees in any one plant.

(3) Watchmen, who shall be paid not less than the minimum weekly wage of $13.00 for a work week not to exceed 48 hours.

(b) All employees mentioned in paragraph (d) of Article III shall be paid at the rate of not less than fifteen dollars ($15.00) per week.

(c) No employees of the classes mentioned in paragraph (d) of Article III now receiving compensation at a rate in excess of the minimum provided in paragraph (b) of this Article IV, next above, shall have their compensation reduced on account of any reduction in the weekly hours of employment to conform with the requirements of paragraph (d) of Article III.

(d) The minimum wage that shall be paid to office boys and girls and messengers by any member of this Industry shall be not less than 80% of the minimum wage stipulated in paragraph (b) of this Article IV. Office boys and girls and messengers shall constitute not more than 10% of the total number of employees of any employer, nor more than 5 such employees in one plant.

(e) Where employees' earnings on piecework, divided by the number of hours worked, produce a result under the minimum wage stipulated in paragraph (a) of this Article IV, such earnings shall be so adjusted as to conform with the aforesaid minimum wage.

(f) The differences in hourly rates for all operations shall be equitably readjusted and in no case shall they be decreased. Each member of the Industry shall report all such readjustments made

since May 1, 1933 to the Code Authority within 30 days of the effective date.

(g) No distinction in rates shall be made between male and female employees where substantially the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, monthly, or piecework basis. Wherever they displace men on any operation, women are to be paid at the same rate as the men who were displaced.

(h) There shall be no evasion of this Code by any employer in the Industry by reclassification of the functions of employees. An employee shall not be included in one of the classifications exempted from the provisions of this Code unless the identical functions were identically classified on June 16, 1933.

(i) No person who has worked as a learner for one member for the period of time prescribed under the term "learner" in Article II may thereafter be classified as a learner.

(j) Nothing in this Article IV shall apply to or affect any outside salesmen compensated on a commission basis.

Article V—Child Labor

No person under the age of 16 years shall be employed in the Industry and no one under the age of 18 years shall be employed in hazardous work.

Article VI—Administration

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.

(a) The Code Authority shall consist of the Executive Committee of the Buff and Polishing Wheel Manufacturers Association, two representatives who may be elected by the non-members of the above association in a way satisfactory to the Administrator, if they so desire, and not more than three representatives who may be appointed by the President if he so desires to represent the National Recovery Administration, who shall act in an advisory capacity and shall have no vote. The Code Authority shall complete their own organization by the election of officers.

(b) 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 and any revision of and additions or supplements to this Code by paying the proper pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the Association or by paying his proper share of the costs to the Code Authority.

(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 and subject to review by the Administrator:

(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 agents and/or the Code Authority. Such information shall be held confidential by the Code Authority. Each such member shall send his data signed by an officer, partner, or owner of such member to the agent of the Code Authority. This agent shall assemble all such data and present to the Code Authority only the combined totals. Each such member shall retain copies of his own data to be sent direct by him to the Administrator, if required by the latter. Reports submitted by the Code Authority to the President and/or the Administrator shall be in the form prescribed and/or approved by him.

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

(c) To hear and investigate complaints and attempt to adjust the same in accordance with law.

(d) 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 the approval of the Administrator.

(e) To study the trade-practice provisions of Article VII 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 President or 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.

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

(g) 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.

Article VII—Unfair Trade Practices

For all purposes of this Code the following acts shall constitute unfair practices and each such act shall be a violation of this Code.

(a) 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.

(b) Procuring, otherwise than with the consent of a member of the Industry, any secret or confidential information concerning the business of such member.

(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 thereof to perform any work or manufacture or produce any product in the Industry or to the conditions of employment among the employees of any member thereof.

(d) Payment or allowing to any purchaser in connection with the sale of any product any rebate, commission, credit, discount, or similar concession other than is permitted by the Code and specified in the order or contract of sale.

(e) Inducing, or attempting to induce, by any means, any party to a contract with another member of the Industry operating under this Code to violate such contract.

(f) Aiding or abetting any member of the Industry in any unfair practice in the Industry.

(g) Making or giving to any purchaser of any product of the Industry any guarantee or protection in any form against decline in the market price of such product.

(h) Making any sale or contract of sale of any product of the Industry under any misleading or false description.

(i) Making excessive allowances or adjustments to a customer for alleged defective merchandise or alleged shortages.

(j) Improperly dating any invoices.

(k) Making of more favorable terms of payment than the standard terms adopted by the industry which are 30 days net, 1% for cash if paid within 10 days. These terms may be extended to 1% on the 25th of the month on invoices dated from the first to the fifteenth of the month, and 1% on the 10th proximo for invoices dated from the 16th to the end of the month.

(l) Making contracts or accepting firm orders for a term exceeding three months from the beginning of the month next following the date of contract or contracts for other than a definitely stated quantity, plus or minus 10% ; or making contracts or accepting firm orders which do not contain the following clause which is a part of the standard contract as adopted by the industry:

"Prices on any undelivered portion of this contract are subject to increases or decreases due to federal legislation affecting the sellers cost and delivery may be modified to the extent necessitated by any such governmental actions or legislation or strikes or labor troubles or conditions over which we have no control."

(m) Extending any contract beyond its date of maturity.

(n) No member of the industry shall sell to its own jobbers or distributors for resale until such jobbers or distributors have agreed to maintain the manufacturer's published prices as described in Article IX.[1]

(o) Failure to use quantity differentials which may be adopted by each member of the industry, and filed with the Code Authority.

Article VIII—Industry Regulations

Every manufacturer shall use an accounting and cost finding system which conforms to the principles of, and is at least as detailed and complete as the uniform and standard method formulated or approved by the Code Authority, subject to the approval of the Administrator. Simplified Practice Recommendation R-115-30 of the

[1] This section eliminated by last paragraph of Executive Order.

Bureau of Standards, Department of Commerce covering yardage tables for standard forms of 20-ply full disc buffing wheel sections shall be used as a basis of figuring costs, subject to the approval of the Administrator.

No manufacturer shall sell or exchange any product of his manufacture at a price that will result in the customer paying for the goods received less than the cost to the seller, such costs to be determined in accordance with the uniform and standard method hereinabove prescribed.

Article IX—Price Policy

On and after the effective date, every member of the Industry shall forthwith file in the office of the Association for immediate distribution to all members of the Industry a complete schedule of his prices then in effect on all buff and polishing wheel products.

All such price lists shall be open to inspection at the office of the Association by all members of the Industry. Upon application of any such member, the Association shall furnish copies of such relevant price lists. The charge therefore, if any, made by the Association, shall not exceed the actual cost of copies furnished and postage.

Members of the Industry shall not sell at prices lower than their own current published prices for a period of seven days from the date on which their new price list is filed with the Association, and shall not sell at any time or to any person, except upon terms then published and in effect. Members of the Industry shall have the right individually to publish new price lists from time to time not inconsistent with the provisions of this Code.

Article X—General

(a) Each employer shall post in conspicuous places full copies of this Code.

(b) 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.

(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) 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.

(f) 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.

(g) Where the costs of executing contracts entered into in this industry are increased as a result of the enactment of the Act and by the provisions of this Code, or where any contracts entered into by an employer subject to this Code, are inconsistent with the provisions thereof, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts be arrived at by arbitral proceedings or otherwise and with the assistance of the Code Authority members of the Industry will endeavor to make such adjustments.

(h) 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 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 price and 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.

(i) No provision in this Code shall be interpreted or applied in such manner as to:

(1) Promote monopolies or monopolistic practices,

(2) Permit or encourage unfair competition,

(3) Eliminate or oppress small enterprises, or

(4) Discriminate against small enterprises.

(j) 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 employer which is a part of the Industry covered by this Code.

(k) This Code shall be in effect immediately upon its approval by the President and shall apply to all persons engaged in the Industry.

Approved Code No. 96.
Registry No. 1399/18.

○

Approved Code No. 97

CODE OF FAIR COMPETITION

FOR THE

BUFFING AND POLISHING COMPOSITION INDUSTRY

As Approved on November 4, 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 Buffing and Polishing Composition 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 4, 1933.

29855——296-194——34

NOVEMBER 2, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Buffing and Polishing Composition Industry in the United States, the hearing having been conducted in Washington on October 18, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

The maximum of 40 hours a week and 8 hours a day is provided for factory employees, except during emergency periods when the maximum may be 48 hours per week for 6 weeks in any 6 months' period, provided that the average will not exceed 40 hours per week. Time and a third is paid for overtime. Employees engaged in preparation, care, and maintenance, in delivery work, and nonproducing supervisors will have a tolerance of 10 percent above the 40-hours maximum, provided that their average time is not more than 44 hours per week average in any 2-month period. Time and a third will also be paid to these employees for overtime.

The limitations in hours will not apply to persons in a managerial or executive capacity who receive more than $35 per week; nor to traveling salesmen or watchmen, the latter limited to 48 hours weekly. There will be no difference in the rates to male and female employees, whether they are on a time- or piece-work basis. Accounting, clerical, service, sales, or other office employees will not be required to work more than 40 hours a week, averaged over any 2-month period, nor more than 48 hours in any one week.

The minimum wage to factory workers will be 40 cents per hour. Exceptions to this rate apply to employees engaged in light and repetitive work who will receive a minimum of 32½ cents per hour, and to learners who will receive no less than 80 percent of this minimum. Office employees will receive no less than $15 per week, except for office boys and girls who will receive no less than 80 percent of this minimum.

CHILD LABOR

The minimum age of employees will be 16 years; except in hazardous occupations where the minimum will be 18 years.

ECONOMIC EFFECT OF CODE

The 40-hour normal week for factory employees, with the additional pay for overtime, should tend to level employment peaks in this Industry, and materially increase the number of workers as soon as business conditions improve in the capital goods industries.

The working hours of this Industry have been from 48 to 55 hours per week, with 50 as a fair average. The minimum wage rates have been 20 to 30 cents an hour, with 25 cents as a fair average. The increase in pay roll, as a result of the labor provisions, has been estimated at 35 percent.

The abrasive compositions manufactured by this Industry are used for buffing and polishing metals and other materials. In recent years these products have had to compete with a cheaper mixture of greases and abrasive powder which is sometimes prepared by users themselves, especially among large manufacturers. Competition has been severe, too, with paints and enamels used for finishing surfaces; in the stove trade, a substitute in the form of a vitreous enamel finish is being used extensively.

There are 32 concerns in this Industry, with a total volume of business of $1,000,000 in 1932, which was only 27 percent of production capacity ($3,500,000) and 63 percent less than the 1929 sales volume ($2,600,000). Employment since 1929 has dropped 28 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 Buffing and Polishing Composition 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

BUFFING AND POLISHING COMPOSITION 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 Buffing and Polishing Composition Industry, and upon approval of the President shall be the standard of fair competition for this Industry.

Article II—Definitions

The term "Industry" as used herein includes the manufacture of buffing and polishing compositions, which are defined as abrasive compositions and other compounds for the buffing and polishing of metals and other materials.

The term "Association" as used herein means the Buffing and Polishing Composition Manufacturers' Association.

The term "Employee" as used herein includes anyone engaged in any phase of the industry in any capacity in the nature of employee irrespective of the method of payment of his compensation.

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

The term "Member of the Industry" includes any manufacturer who shall be subject to this Code.

The term "Administrator" as used herein means the Administrator of Title I of the National Industrial Recovery Act.

The term "Effective Date" as used herein shall be the date upon which this Code shall have the approval of the President of the United States.

Article III—Hours

(a) Factory employees, mechanical workers, and artisans in the Industry, except as hereinafter provided, shall not be employed in excess of 40 hours per week, nor more than 8 hours in any one day; provided, however, that during any period of emergency an employee of such classes may be permitted to work up to but not more than 48 hours per week in six (6) weeks of any six (6) month period; provided, however, that the average over this period shall not exceed 40 hours per week. Employees in this category for hours worked in excess of 40 hours per week or eight (8) hours per day shall be paid at the rate of one and one third times the regular rates.

(b) There shall be a tolerance of 10 percent additional hours over the above 40 hours for employees engaged in the preparation, care, and maintenance of plant, machinery and production facilities, stock and shipping clerks, delivery employees, and nonproducing super-

visors provided that such tolerance shall not result in such employees working in excess of an average of 44 hours per week over any two (2) month period. Employees listed in this paragraph (b) for hours worked in excess of 40 hours per week or 8 hours per day shall be paid at the rate of one and one third times the regular rate herein provided.

(c) The limitations as to hours of labor shall not apply to persons in a managerial or executive capacity who receive more than $35.00 per week; nor to commercial traveling salesmen; nor to watchmen who shall be limited to a work week not to exceed 48 hours.

(d) No accounting, clerical, service, sales, or other office employees shall work more than forty (40) hours per week average in any two (2) month period nor more than forty-eight (48) hours in any one week.

(e) 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 day and week, whether employed by one or more employers.

Article IV—Wages

(a) The minimum wage that shall be paid to any employee in this industry shall be 40 cents per hour with the following exceptions:

(1) Employees engaged in light and repetitive work who shall be paid at the rate of not less than 32½ cents per hour.

(2) Learners, who for a period not to exceed 10 weeks may be employed at not less than 80% of the minimum wage, such learners to constitute not more than 10% of the total of employees, nor more than 10 employees in any one plant.

(3) Watchmen, who shall be paid not less than the minimum weekly wage of $13.00 for a work week not to exceed 48 hours.

(b) All employees mentioned in paragraph (d) of Article III shall be paid at the rate of not less than fifteen dollars ($15) per week.

(c) No employees of the classes mentioned in paragraph (d) of Article III now receiving compensation at a rate in excess of the minimum provided in paragraph (b) of this Article IV, next above, shall have their compensation reduced on account of any reduction in the weekly hours of employment to conform with the requirements of paragraph (d) of Article III.

(d) The minimum wage that shall be paid to office boys and girls, and messengers, by any member of this Industry shall be not less than 80% of the minimum wage stipulated in paragraph (b) of this Article IV. Office boys and girls, and messengers shall constitute not more than 10% of the total number of employees of any employer, nor more than 5 such employees in one plant.

(e) Where employees' earnings on piecework, divided by the number of hours worked, produce a result under the minimum wage stipulated in paragraph (a) of this Article IV, such earnings shall be so adjusted as to conform with the aforesaid minimum wage.

(f) The differences in hourly rates for all operations shall be equitably readjusted and in no case shall they be decreased. Each member of the Industry shall report all such readjustments made since May 1, 1933, to the Code Authority within 30 days of the effective date.

(g) No distinction in rates shall be made between male and female employees where substantially the same class of work is performed regardless of whether compensation is calculated on an hourly, weekly, monthly, or piecework basis. Wherever they displace men on any operation, women are to be paid at the same rate as the men who were displaced.

(h) There shall be no evasion of this Code by any employer in the Industry by reclassification of the functions of employees. An employee shall not be included in one of the classifications exempted from the provisions of this Code, unless the identical functions were identically classified on June 16, 1933.

(i) No person who has worked as a learner for one member for the period of time prescribed under the term "learner" in Article II may thereafter be classified as a learner.

(j) Nothing in this Article IV shall apply to or affect any outside salesmen compensated on a commission basis.

Article V—Child Labor

No person under the age of 16 years shall be employed in the Industry and no one under the age of 18 years shall be employed in hazardous work.

Article VI—Administration

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.

(a) The Code Authority shall consist of the Executive Committee of the Buffing and Polishing Composition Manufacturers Association, two representatives that may be elected by the nonmembers of the above association in a way satisfactory to the Administrator, if they so desire, and not more than three representatives that may be appointed by the President if he so desires to represent the National Recovery Administration who shall act in an advisory capacity and shall have no vote. The Code Authority shall complete their own organization by the election of officers.

(b) 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 and any revision of and additions or supplements to this Code by paying the proper pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the Association or by paying his proper share of the costs to the Code Authority.

(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 and subject to review by the Administrator.

(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 and/or the Code Authority. Such information shall be held confidential by the Code Authority. Each such member shall send his data signed by an officer, partner, or owner of such member to the agent of the Code Authority. This agent shall assemble all such data and present to the Code Authority only the combined totals. Each such member shall retain copies of his own data to be sent direct by him to the Administrator if required by the latter. Reports submitted by the Code Authority to the President and/or the Administrator shall be in the form prescribed and/or approved by him.

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

(c) To hear and investigate complaints and attempt to adjust the same in accordance with law.

(d) To coordinate the administration of this Code with such Codes, if any, as may be adapted 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 the approval of the Administrator.

(e) To study the trade practice provisions of Article VII 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 President or 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.

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

(g) 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 III (a) of the Act.

Article VII—Unfair Trade Practices

For all purposes of this Code the following acts shall constitute unfair practices and each such act shall be a violation of this Code.

(a) 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.

(b) Procuring, otherwise than with the consent of a member of the Industry, any secret or confidential information concerning the business of such member.

(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 thereof to perform any work or manufacture or produce any product in the Industry or to the conditions of employment among the employees of any member thereof.

(d) Payment or allowing to any purchaser in connection with the sale of any product any rebate, commission, credit, discount, or similar concession other than is permitted by the Code and specified in the order or contract of sale.

(e) Inducing, or attempting to induce, by any means any party to a contract with another member of the Industry operating under this Code to violate such contract.

(f) Aiding or abetting any member of the Industry in any unfair practice in the Industry.

(g) Making or giving to any purchaser of any product of the Industry any guarantee or protection in any form against decline in the market price of such product.

(h) Making any sale or contract of sale of any product of the Industry under any misleading or false description.

(i) Making excessive allowances or adjustments to a customer for alleged defective merchandise or alleged shortages.

(j) Improperly dating any invoices.

(k) Making of more favorable terms of payment than the standard terms adopted by the Industry which are 30 days net, 1% for cash if paid within 10 days. These terms may be extended to 1% on the 25th of the month on invoices dated from the first to the fifteenth of the month, and 1% on the 10th proximo for invoices dated from the 16th to the end of the month.

(l) Making contracts or accepting firm order for a term exceeding three months from the beginning of the month next following the date of contract or contracts for other than a definitely stated quantity, plus or minus 10%; or making contracts or accepting firm orders which do not contain the following clause which is a part of the standard contract as adopted by the industry: "Prices on any undelivered portion of this contract are subject to increases or decreases due to federal legislation affecting the sellers' cost and delivery may be modified to the extent necessitated by any such governmental actions or legislation or strikes or labor trouble or conditions over which we have no control."

(m) Extending any contract beyond its date of maturity.

(n) Failure to use quantity differentials which may be adopted by each member of the Industry, and filed with the Code Authority.

Article VIII—Industry Regulations

Every manufacturer shall use an accounting and cost-finding system which conforms to the principles of, and is at least as detailed and complete as the uniform and standard method formulated or approved by the Code Authority, subject to the approval of the Administrator.

No manufacturer shall sell or exchange any product of his manufacture at a price that will result in the customer paying for the goods received less than the cost to the seller, such costs to be determined in accordance with the uniform and standard methods hereinabove prescribed.

Article IX—General

(a) Each employer shall post in conspicuous places full copies of this Code.

(b) 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.

(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) 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.

(f) 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.

(g) Where the costs of executing contracts entered into in this Industry are increased as a result of the enactment of the Act and by the provisions of this Code, or where any contracts entered into by an employer subject to this Code, are inconsistent with the provisions thereof, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts be arrived at by arbitral proceedings or otherwise and with the assistance of the Code Authority members of the Industry will endeavor to make such adjustments.

(h) 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 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 price and 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.

(i) No provision in this Code shall be interpreted or applied in such manner as to: (1) Promote monopolies or monopolistic practices, (2) permit or encourage unfair competition, (3) eliminate or oppress small enterprises, or (4) discriminate against small enterprises.

(j) 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 employer which is a part of the Industry covered by this Code.

(k) This Code shall be in effect immediately upon its approval by the President and shall apply to all persons engaged in the Industry.

Approved Code No. 97.
Registry No. 1001/01.

○

Approved Code No. 98

CODE OF FAIR COMPETITION

FOR THE

FIRE EXTINGUISHING APPLIANCE MANUFACTURING INDUSTRY

As Approved on November 4, 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 Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Fire Extinguishing Appliance 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 4, 1933.

29921——296-195——34

November 3, 1933.

The President,
The White House.

Sir: The proposed Code of Fair Competition for the Fire Extinguishing Appliance Manufacturing Industry was submitted to the Administrator on August 23, 1933, by the Chemical Fire Extinguisher Association, Inc., representing approximately 60% of the known manufacturers of the Industry and approximately 85% of the sales volume. The hearing was conducted in Washington on October 23, 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 Industry, while relatively small in numbers of manufacturers, is of great importance to the entire country in the development of devices for extinguishment of fires. The research and development divisions of the Industry maintained by a substantial number of the members are constantly seeking to improve present fire-extinguishing devices, and to discover through new chemical formulae and otherwise, more efficient appliances for the purpose of reducing the enormous annual fire loss (1932, approximately $500,000,000). To this extent the Industry must be recognized as doing a constant public service, not only from the standpoint of reducing fire losses but in the reduction of fire-insurance rates on stores, factories, homes, etc.

During the past four years the Industry has experienced a drop in sales in excess of 70%, but in an attempt to spread the work among their employees have only decreased the number by 33⅓%. It is estimated that with a return of the average business of the 1928–29–30 period and with the hours of work reduced from 46 hours to 35 hours per week, the Industry would employ approximately 33⅓% more workers than it employed during the period above.

Article I.—Purposes.

Article II.—Definitions.

Article III.—Provides a 35 hour week, averaged over a 3 months' period, and excepts only watchmen, outside sales and service men, and employees receiving a salary in excess of $35.00 per week.

Article IV.—Provides a minimum rate of 40 cents per hour for factory or mechanical workers or artisans. Female employees engaged in similar lines of work receive the same wage. An equitable adjustable of wages above the minimum for all employees is provided.

Article V.—Provides Mandatory Labor Provisions, minimum age requirements of 16 years, and prohibition against reclassification of employees.

Article VI.—Provides a Code Authority of seven members by the Industry with the right of the Administrator to appoint two addi-

tional non-voting members. The Code Authority upon approval and subject to the approval of the Administrator, will take steps immediately to adopt (from data to be supplied by the members to an impartial agency) a representative cost of products of the Industry. The Industry agrees not to sell products below such representative cost as defined in this Article.

Article VII.—Provides Unfair Trade Practices.

Article VIII.—Publicity of Prices and Terms and Conditions of Sale.

Article IX.—General Provisions.

Article X.—Modifications.

Article XI.—Monopolies.

Article XII.—Effective Date.

FINDINGS

The Administrator finds: 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 Chemical Fire Extinguisher Association, Inc., is truly representative of the Chemical Fire Extinguishing Appliance Manufacturing Industry, and the by-laws of this Association contain no inequitable restrictions 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 and will tend to effectuate the policy 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

FIRE EXTINGUISHING APPLIANCE 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 Fire Extinguishing Appliance 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

Wherever used in this Code or in any schedule or supplement appertaining thereto, the terms enumerated in this article shall have the meanings herein defined unless the context shall otherwise clearly indicate:

Section 1. The term "the President" means the President of the United States of America.

Sec. 2. The term "the Industry" as used in this Code shall mean the manufacturing in the United States and sale by manufacturers of fire-extinguishing appliances of all types, including hand-portable, two-wheeled portable, and stationary appliances, and devices therefor; and charging units and chemical compounds used therewith; and service parts; and such other products as may from time to time be included under this Code. This term is not intended to include motor fire apparatus or automatic-sprinkler systems.

Sec. 3. The term "Code products" as used herein means the products enumerated in Section 2.

Sec. 4. 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. 5. The term "Association" means the Chemical Fire Extinguisher Association, Inc., an incorporated association having its principal office at present at 7 East 44th Street, New York City.

Sec. 6. The term "the Act" means the National Industrial Recovery Act as approved by the President, June 16, 1933.

Sec. 7. The term "the Administrator" means the Administrator appointed by the President under the Act and at the time in office.

Sec. 8. The term "primary market" means that in which the "distributor" or "jobber" purchases from the manufacturer.

Sec. 9. The term "secondary market" means that which is served by the "distributor" or "jobber."

Sec. 10. 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 such compensation.

Sec. 11. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

Sec. 12. Trade Factors known as "distributors" are defined as follows: "Anyone engaged regularly in selling Code products, who buy them from a manufacturer for resale, who advertise themselves on their letterhead or otherwise as in the fire-protection business and as being distributor for the manufacturer's Code products, and who function to all intents and purposes as the factory branch of the manufacturer in that trade area." Other "Trade Factors" shall be defined as provided in Article VI, Section 2, (f).

Article III—Hours

Section 1. No factory or mechanical worker or artisan shall be permitted to work in excess of 8 hours in any twenty-four (24) hour period nor in excess of 35 hours per week averaged over a three months' period, with not more than 40 hours in any one week; no other worker shall be permitted to work in excess of 40 hours in any one week or 8 hours in any twenty-four (24) period; provided, however, that such limitation shall not apply to watchmen, outside sales and service men, and employees in a managerial or executive capacity who receive more than $35.00 per week.

Sec. 2. 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 such special case at least one and one third (1⅓) times his normal rate shall be paid for hours worked in excess of the maximum hours herein provided.

Sec. 3. No employees 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; provided, however, 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 employer shall not be held to have violated this section.

Article IX—Wages

Section 1. No factory or mechanical worker or artisan shall be paid at less than the rate of forty (40) cents per hour, nor any other employee at less than thirty-five (35) cents per hour, except outside commission salesmen; and except that learners and apprentices (for a period of not to exceed six (6) weeks), casual and young girl employees engaged in mail room and miscellaneous office work, superannuated or partially disabled employees and pensioners may be paid at the rate of not less than 80 percent of the foregoing rates; provided, however, that the number of such employees who are factory or mechanical workers or artisans, shall not, at any time, constitute more than 5% of the employees of any member of the industry, nor shall the total number of all such employees exceed 10% of the employees of any member of the Industry.

Sec. 2. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

Sec. 3. Minimum hourly rates of pay established by this Article shall apply regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

Sec. 4. An equitable adjustment shall be made of the wages of the employees now receiving more than the minimum wage as provided in this Code. In no case shall the rates be decreased.

Article V—General Labor Provisions

Section 1. No person under 16 years of age shall be employed in the Industry, and no minor under 18 years of age shall be engaged in any harzardous occupation.

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

Sec. 7. Employers shall post in a conspicuous place, accessible to all employees, the labor provisions 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.

Section 1. Organization and Constitution of Code Authority.

(a) The Code Authority shall consist of seven (7) individuals representing members of the Industry, selected by a method approved by the Administrator. The Administrator, in his discretion, may appoint not more than two (2) additional members, without vote.

(b) The Association and any other group or 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.

(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.

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 Administrator informed as to the observance or nonobservance of the Code, and as to whether the members of the Industry are taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall report to the Administrator at such times and concerning such conditions in the Industry as he may from time to time require, and each member of the Industry shall file in the office of the Association or such other office as the Code Authority may designate and at such time, in such form, and for such periods as required by the said Code Authority, 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 information of any nature which may be required by the Code Authority shall be collected by the Association or through a disinterested and impartial agency selected by the Code Authority, and such information shall be kept confidential by the agency, except such as is 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 information which is essential to the proper supervision of the Industry or to the enforcement of this Code may be so requested by the Code Authority.

(c) The Code Authority shall designate an agent or agents to investigate complaints or violations of the Code. If upon such investigation any complaint of a violation of the Code shall be substantiated in any material respect, the member of the Industry guilty of such violation shall be subject to all penalties provided for in the Act.

(d) The Code Authority shall study conditions in the Industry and shall make any recommendations from time to time to the Administrator which it deems desirable to further the policies of the Act, including those specifically mentioned below, which upon approval of the President and after such hearing as may be prescribed shall become a part of this Code and shall have full force and effect as provisions hereof.

(e) The Code Authority shall proceed to establish a uniform system of cost accounting in conformity with accepted standards, for use by the members of the Industry. Upon approval by the Administrator, such system of cost accounting shall be used by each member of the Industry in determining his costs. Each member of the In-

dustry shall report his individual costs, computed in accordance with said system, to a disinterested and impartial agency designated by the Code Authority. Such agency shall determine the costs of that representative member of the Industry whose costs are lowest. Such representative costs shall be published to the Industry. No member of the Industry shall sell products of the Industry below such representative costs. Such representative costs shall be revised from time to time at reasonable intervals. The term "representative member of the Industry" is defined as being one who manufactures within his own plant a representative line of the products of the Industry, who maintains research and development departments for improvement in the art of fire extinguishment, and who through educational publicity and sales promotion broadens the market and develops business for all members of the Industry.

(f) The Code Authority shall establish definitions of Trade Factors and such standard differentials in price to the various classes of Trade Factors thus defined, as may be necessary to preserve stability in the primary and secondary markets for the products of the Industry. Upon approval by the Administrator, such definitions and differentials shall be binding upon every member of the Industry. It is contemplated that such standard differentials will be based upon differences in cost in selling to the various classes of Trade Factors and differences in the services rendered thereby.

(g) If the Code Authority should have reason to believe that any report submitted by any member of the Industry is inaccurate, it may designate a disinterested and impartial agency to verify such report by an examination of the relevant books and records of the member of the Industry concerned.

(h) 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. 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.

Sec. 4. Appeals.

(a) Any interested party shall have the right of complaint to the Code Authority and a prompt hearing and decision 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 prescribe, with respect to any decision, rule, regulation, order, or finding made by the Code Authority, or in the event of failure of the Code Authority to take action within a reasonable time after a request or complaint by an interested party.

Article VII—Unfair Trade Practices

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

Section 1. *Misrepresentation.*—Misrepresentation on a price list, quotation sheet, advertising matter, etc.: as to the average weight or any other feature of a product; or the use thereon of a misleading comparison with a competitive type of product. A misleading statement as to the business integrity, merchandise, policy, or financial standing of any competitor. Misrepresentation on a place or a label or otherwise, either on the merchandise or on its carton, as to an exclusive, patented, or other feature.

Sec. 2. *Faulty Invoicing.*—Fictitious invoicing of merchandise; or omission from an invoice of any of the special features of the product shipped against the invoice or of any of the terms pertaining to the sale. Allowing terms of payment more favorable than 2% cash discount 10th proximo or more favorable than net 30th proximo, or granting future invoice dating on any shipment of Code products (except to "distributor").

Sec. 3. *Improper Deductions.*—Permitting a customer, in making his remittance, to make any deduction not covered by the terms of sale appearing on the invoice.

Sec. 4. *Extras.*—Granting a rebate under the guise of an "extra" at no extra cost to the customer.

Sec. 5. *Excessive or Misleading Allowances.*—Offering or granting to a customer an excessive allowance for alleged defective merchandise, an alleged shortage, or for adjusting a complaint of any kind; or offering an unnecessary and/or unreasonable allowance on goods taken in trade; or offering goods minus some necessary item which it is the published and established practice of the manufacturer and of the Industry to include as a part of a Code product; or allowing freight other than at lowest l.c.l. freight rate effective on date of shipment, or on shipments of less than 100 pounds; or an allowance for cartage outside the normal city delivery radius from a manufacturer's factory or factory branch stock.

Sec. 6. *Free Goods.*—Offering to ship or the shipping or in any way delivering free goods of any kind to any customer for resale by that customer.

Sec. 7. *Subnormal Pricing of Other Products.*—The pricing of any product manufactured and/or sold by a manufacturer in this Industry, whether or not such product is included under the Code of Fair Competition of this Industry, at a price below the published prices of the manufacturer of that product, when such product is ordered or sold with Code products.

Sec. 8. *Excessive Warranties.*—Guaranteeing a product, whether voluntarily or on request, on condition more favorable to the purchaser than the following: Freedom from defects in material and workmanship under the use and service for which the product is recommended by the manufacturer; obligation to replace or repair, f.o.b. manufacturer's factory, any part or parts returned to his factory, transportation charges prepaid, the manufacturer to be the judge of whether or not the alleged defect is present; no obligation for consequential damages or other items of expense which normally

cannot be anticipated and equitably comprehended in original costs or selling prices.

Sec. 9. *Discrimination Between Purchasers.*—Discrimination in prices or terms of sale between purchasers of the same class, whether by misclassification or otherwise.

Sec. 10. *Faulty Methods of Handling Orders and Quotations.*—Handling orders or quotations as follows:

(a) Accepting orders incomplete with respect to specifications, prices, terms, and the like.

(b) Making quotations which are not contingent upon a change in the market, except (x) quotations to the Federal Government, a State Government, or a county or a municipality, in response to an official invitation for bids containing stated delivery requirements; and (y) quotations for a specified quantity of Code products for a specific building or other construction project, if a record of such quotation is filed with the Secretary of the Association.

(c) Giving a purchaser the benefit of lower prices on orders received prior to or on the effective date of a price increase duly filed pursuant to Article VIII on this Code, unless shipment is made within twenty (20) days (Sundays and holidays excluded) following the effective date of such price increase. A postmark on a letter or the filing time on a telegram shall be deemed the date of receipt thereof. Provided, however, that nothing in this paragraph (c) shall apply to a written order from the Federal Government or a State Government or a county or municipality; or to a written order for a specified quantity of Code products for a specified building or other construction project; if a record of such order is filed with the Secretary of the Association at the time of its acceptance.

(d) Making guarantees against market advance or decline.

Sec. 11. *Destructive Marketing.*—Continuing to supply any trade factor whose practices are duly proved to be destructive of the market, at prices which enable him to continue destructive marketing.

Sec. 12. *Selling Below Published Prices.*—Selling at a price which is below current published prices, excepting that discontinued lines or surplus stocks or inventories which must be converted into cash to meet immediate needs, may be sold at such prices as are necessary to move the merchandise into buyers' hands; provided, however, that all such stocks or inventories must first be reported to the Code Authority, and be disposed of subject to the approval of the Code Authority.

Sec. 13. *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, provided that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

Article VIII—Publicity of Prices, Terms, and Conditions of Sale

Section 1. Each member of the Industry shall not before twenty (20) days but within thirty (30) days after the effective date of this Code, file in the office of the Association or such other office as may be designated by the Code Authority, for immediate distribution to all members of the Industry copies of his price lists or discount

sheets showing the prices for all of the Code products which he markets, and from and after the expiration of such thirty (30) days each member of the Industry shall at all times maintain on file with said office price lists or discount sheets showing the prices for all its said products and shall not make any change in such prices, except by filing notice of such price change as hereinafter provided.

Sec. 2. None of the prices shown in any price list or discount sheet filed by any member of the Industry as herein provided, shall be changed except by the filing by such member of the Industry, for immediate distribution to all members of the Industry, copies of his new price lists or discount sheets.

Sec. 3. Each price list or discount sheet shall state the date upon which it shall become effective, which date shall be not less than ten (10) days after the date of filing such price list or discount sheet with the said office: *Provided, however*, That the first price lists or discount sheets filed by any member of the Industry, as above provided, shall take effect on the date of filing thereof.

Sec. 4. In all instances, members of the Industry shall employ the pricing system of list price subject to discount.

Sec. 5. The operation of the foregoing shall at all times be subject to the approval of the Administrator.

Article IX—General

Section 1. Each member of the Indutsry shall be responsible for the observance of this Code by any controlled subsidiary or affiliate thereof.

Sec. 2. If the operation of any provision of this Code should interfere with the exercise of existing lawful patent rights or of rights under an existing lawful patent rights or of rights under an existing lawful patent licensing agreement, any one affected thereby may apply to the Code Authority, which shall have power to grant an exemption, subject to the approvel of the Administrator.

Sec. 3. Articles VII and VIII of this Code shall not apply to direct export sales of products of the Industry. The Code Authority, subject to the approval of the Administrator, shall have power to grant a similar exemption, upon application by a member of the Industry, in regard to sales destined ultimately for export.

Sec. 4. Nothing contained in the Code shall be deemed to constitute any of the members of the Industry partners for any purpose.

Sec. 5. If any member of this Industry is also a member of another Industry, the provisions of this Code shall apply to and affect only that part of his business which is included in this Industry.

Article X—Modifications

Section 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 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. The Code Authority shall from time to time make to the Administrator such recommendations, including 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 as administered.

Sec. 3. Such of the provisions of this Code as are not required to be included therein by the Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experiences may indicate. It is contemplated that from time to time supplementary provisions to this Code will be submitted for the approval of the President, including in particular, but without limitation thereto, supplementary provisions to prevent unfair competition in prices and other unfair or destructive competitive practices and to effectuate the other purposes and policies of Title I of the Act consistent with the provisions thereof.

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—Effective Date

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

Approved Code No. 98.
Registry No. 1314–01.

O

Approved Code No. 99

CODE OF FAIR COMPETITION

FOR THE

ASPHALT SHINGLE AND ROOFING MANUFACTURING INDUSTRY

As Approved on November 6, 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 Shingle and Roofing 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 6, 1933.

29226°——296-96——34

November 1, 1933.

The President,
The White House.

Sir: 1. This is a report on the Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry in the United States as revised after the hearing conducted in Washington on September 21, 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 forty (40) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period or more than six (6) days in any seven (7) day period, except that such hourly and daily limitations do not apply to employees engaged in professional, executive, administrative or supervisory work who receive compensation in excess of thirty-five dollars ($35.00) per week, or to outside salesmen. Further, such hourly and daily limitations do not apply to employees on emergency maintenance or emergency repair work involving breakdowns or the protection of life or property. Further, during periods of seasonal peaks, employees may be permitted to work in excess of forty (40) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period, provided that during any thirty (30) day period the number of hours of employment averages not more than forty (40) hours in any seven (7) day period.

Employees engaged as watchmen may be permitted to work not in excess of fifty-six (56) hours in any seven (7) day period and employees engaged solely as firemen in manufacturing operations may be permitted to work not in excess of forty-four (44) hours in any seven (7) day period nor eight (8) hours in any twenty-four (24) hour period.

Overtime payment of not less than one and one-half (1½) times the normal rate is provided for such hours worked in excess of the maximum number of hours provided by the Code.

Article IV—Wages

3. The minimum hourly rate of compensation of forty-five ($0.45) cents per hour is provided for employees in the Pacific Coast Section and forty ($0.40) cents per hour in the Northern Section and thirty-seven and one-half ($0.375 cents per hour in the Southern Section, except that accounting, clerical, or office employees may be paid at

not less than the rate of fifteen ($15.00) dollars per week. It is also provided that office boys and office girls may be paid not less than eighty (80%) percent of the minimum weekly rate for the accounting, clerical, or office employees, but the total number of such office boys and girls paid less than the rate of fifteen ($15.00) dollars per week is limited not to exceed three (3%) percent of the total number of accounting, clerical, or office employees employed by any one employer during a calendar month. A minimum wage of thirty-five ($0.35) cents per hour has been provided for female employees other than female accounting, clerical, or office employees, but this provision is not to be considered as a discrimination by reason of sex, and in any case where female employees do the same work or perform substantially the same duties as male employees the minimum rate of pay applicable to male employees is likewise applied to female employees.

This article establishes a minimum rate of pay, regardless of whether the employee is compensated on a time rate, piecework, or other basis.

This article also provides for an equitable adjustment of all wage rates above the minimum.

Article V—General Labor Provisions

4. This article provides that no person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age in manufacturing operations.

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 the duties of occupations so as to defeat the purpose of the act, and that each employer shall post adequate notices that each employee may, at his request, obtain, without charge, a copy of the particular code applicable to his work.

ECONOMIC EFFECT OF THE CODE

5. The members of this industry manufacture felt base (made of organic or inorganic fibres), asphalt shingles, siding and roofings, roll roofings (including cap and base sheets and house sheathings), starting strips, tarred felt, and asphalt felt.

The report of the Research and Planning Division indicates that, according to the Census of Manufactures, there were eighty-three (83) establishments in 1931 manufacturing the products of this industry and in 1933 there were sixty-five (65) establishments operating to a greater or lesser extent. During this interval it is apparent that eighteen (18) establishments abandoned operations. The number of factory employees as of July 1, 1933, excluding those engaged in the tar and felt industry, was 5,702, or about seventy-one (71%) percent of the 1928 total. The capital investment in this industry has shrunk from about sixty-eight ($68,000,000.00) million dollars, as of January 1, 1929, to about fifty-seven ($57,000,000.00) million dollars, as of January 1, 1933, in accordance with this same report.

Article III of the code provides for a maximum of forty (40) hours in any seven (7) day work period. If the 1933 base is used as a

level of production (278,000 man-hours), a forty (40) hour work week should absorb approximately 6,950 employees, or fifteen (15%) percent more than the number employed in 1929.

In accordance with the report of the Research and Planning Division, approximately nineteen (19%) percent of the factory employees of thirty-three (33) reporting establishments (reporting about fifty (50%) percent of the total in 1933) received less than thirty-five ($0.35) cents per hour. Article IV of the code establishes a minimum of forty-five ($0.45) cents per hour in the Pacific coast section, forty ($0.40) cents for the Northern Section and thirty-seven and one half ($0.375) cents for the Southern Section.

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 Asphalt Shingle and Roofing 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

ASPHALT SHINGLE AND ROOFING 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 Asphalt Shingle and Roofing 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

Section 1. The term "industry" as used herein includes the producing in the United States, and the selling by the producer of the products or any of them.

Sec. 2. 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. The term "employer" as used herein includes anyone in the industry by whom any such employee is compensated or employed.

Sec. 4. 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. The term "member of the Code" as used herein includes any member of the Industry who shall expressly signify assent to this Code, in the manner provided in Section 2 (b) of Article VI, hereof.

Sec. 6. The term "products" as used herein means and includes felt-base (made of organic or inorganic fibres), asphalt shingles, sidings and roofings, roll roofings (including cap and base sheets and house sheathing), starting strips, tarred felt, and asphalt felt.

Sec. 7. The term "trade" as used herein shall mean all channels of distribution of the products.

Sec. 8. The term "the Institute" as used herein means the Asphalt Shingle and Roofing Institute.

Sec. 9. 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. 10. The term "United States" as used herein means all of the territory of the United States of America on the North American Continent and the Territory of Hawaii.

Sec. 11. The term "Northern Section" as used herein means: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island,

Maryland, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Virginia, West Virginia, Minnesota, Ohio, Kentucky, Michigan, Indiana, Nebraska, Kansas, Wisconsin, Illinois, Missouri, Iowa, North Dakota, South Dakota, the State of Montana, except the Counties west of and including Hill, Chouteau, Fergus, Petroleum, Mussel Shell, Yellowstone, Stillwater, and Park; the State of Wyoming, except the Counties West of and including Big Horn, Washakio, Hot Springs, Park, Yellowstone National Park, Teton, Sublette, and Albany; and the State of Colorado, except the Counties West of and including Rio Blanco, Garfield, Eagle, Lake, Chaffee, Gunnison, Ouray, San Miguel, Dolores, and Montezuma.

Sec. 12. The term "Southern Section" as used herein means: the State of New Mexico, except the Counties of McKinley, Cathon, Hidalgo, and Luna; the States of North Carolina, Tennessee, Arkansas, Oklahoma, Texas, and the States south thereof.

Sec. 13. The term "Pacific Coast Section" as used herein means the territory West of the Northern and Southern sections as above defined, including the territories of Alaska and Hawaii.

Article III—Hours

Section 1. No employee shall be permitted to work in excess of forty (40) hours in any seven (7) day period, or eight (8) hours in any twenty-four (24) hour period, nor more than six (6) days in any seven (7) day period, except that such hourly and daily limitations shall not apply to:

(a) Employees engaged in professional, executive, administrative or supervisory work who receive compensation exceeding thirty-five ($35.00) dollars per week, or to outside salesmen;

(b) Employees on emergency maintenance or emergency repair work involving breakdowns or the protection of life or property, but in any such special case at least one and one-third (1⅓) times the normal rate shall be paid for hours worked in excess of the maximum number of hours herein provided:

(c) Periods of seasonal requirements during which employees may be permitted to work in excess of forty (40) hours in any seven (7) day period or eight (8) hours in any twenty-four (24) hour period provided that during any thirty (30) day period the number of hours of employment shall average not more than the maximum number of hours for any seven (7) day period herein provided; and provided, further, that in any such cases employees shall be paid not less than one and one-half (1½) times the normal rate for any such hours worked in excess of the maximum number of hours herein provided:

(d) Employees engaged as watchmen who may be permitted to work not in excess of fifty-six (56) hours in any seven (7) day period;

(e) Employees engaged solely as firemen in manufacturing operations who may be permitted to work not in excess of forty-four (44) hours in any seven (7) day period and not in excess of eight (8) hours in any twenty-four (24) hour period.

Sec. 2. No employer shall knowingly permit an employee to work for one or more employers for a total number of hours or days in the aggregate exceeding the foregoing limitations.

Article IV—Wages

Section 1. Subject to the provisions of Section 3 of this Article IV, no employee shall be paid at less than the hourly rate provided as follows:

(a) For employees in the Pacific Coast Section, at $0.45 per hour;

(b) For employees in the Northern Section, at $0.40 per hour;

(c) For employees in the Southern Section, at $0.375 per hour;

except that accounting, clerical, or office employees may be paid at not less than the rate of fifteen dollars ($15.00) per week; provided, however, that office boys and office girls may be paid not less than eighty (80) per cent of such minimum weekly rate, but the total number of such office boys and girls paid at less than the rate of fifteen dollars ($15.00) per week by any employer in any calendar month shall not exceed three (3) per cent of the total number of such employees employed by any such employer during such calendar month.

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

Sec. 3. The minimum wage which may be paid by employers to any female employee, other than female accounting, clerical, or office employees, shall be at the rate of thirty-five cents ($0.35) per hour; provided, that this provision shall not in any way be considered as a discrimination by reason of sex; and provided, further, where in any case female employees do the same work or perform substantially the same duties as male employees the minimum rate of pay applicable to male employees shall likewise apply to female employees.

Sec. 4. 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 Labor Provisions

Section 1. No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (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 duly issued by the authority empowered to issue employment certificates 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 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 supercede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, safety 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 purpose of the Act.

Sec. 7. Each employer shall post adequate notices that each employee may, at his request, obtain without charge a copy of the particular Code applicable to his work.

Article VI—Administration

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

Section 1. Organization and constitution of the 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 President, to be selected as hereinafter set forth. The President, in his discretion, may appoint not more than three (3) additional members, without vote and without expense to the industry to represent the President or such groups or interests as he may designate.

(b) All voting members of the Code Authority shall be selected from members of the Code and shall be elected by a two-thirds vote of all members of the Code. Three (3) of said members shall be selected from members of the Institute and two (2) of said members shall be selected from nonmembers of the Institute at the time of the approval of the Code by the President.

(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 purpose 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; provided, that no such modification shall permit anyone not a member of the industry to become a voting member of the Code Authority.

(e) The Code Authority may adopt its own rules of procedure and may delegate its authority, or some part thereof, to such agencies or committees as it may select, but all contacts with the Administrator shall be by the Code Authority. A committee of three (3) members of the Code selected by a majority vote of the members of the Code located in the Pacific Coast Section shall be appointed by the Code Authority to administer the provisions of the Code in the Pacific Coast Section.

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 industry informed as to the observance or nonobservance of the Code, and as to whether the members of the industry are taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall report to the Administrator at such times and concerning such conditions in the industry as he may from time to time require and each member of the Industry shall file with the Code Authority, such certified reports with repect to wages, hours of labor, conditions of employment, number of employees, and other matters as may be deemed pertinent by the Code Authority, or by the Administrator, to the proper administration of the Code.

(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 signing and delivering to the President of the Institute a letter in the form as set forth in Schedule "A" annexed hereto and 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 and/or such other factors as may be deemed equitable to be taken into consideration.

(c) All confidential information of any nature which may be requested by the Code Authority shall be collected through an agency or agencies selected by the said Code Authority and such information shall be kept confidential by the agency, except when required by the Code Authority for the proper administration of the Code, and with the further exception that all such information shall be fully available to the Administrator at all times.

(d) 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 such investigations by producing all pertinent data including correspondence books and accounts relating to alleged violations for examination by such authorized agent and by furnishing relevant information. All such pertinent information shall be kept confidential by the agent or agents except that, in the event of any such violation being substantiated, the Code Authority shall be informed and may present evi-

dence thereof to the Administrator, or to such department, agency, or judicial branch of the Government, as he may designate. If, upon such investigation, any complaint of a violation of the Code shall be substantiated in any material respect, the member of the Code guilty of such violation shall pay the cost of the investigation, otherwise the cost shall be borne by the complainant member of the Code.

(e) The Code Authority shall make a study of conditions in the Industry and may thereafter, from time to time, make such recommendations to the Administrator as it deems desirable to further the policies of the Act with respect to, but without limitation:

(i) Uniform cost accounting;

(ii) Limitation of production;

(iii) Limitation of new equipment;

(iv) Industry merchandising plans;

(v) Simplification and standardization;

(vi) System of exchange of credit information;

(vii) Inequalities affecting the stability of the Industry;

which recommendations, after such notice and hearing as the Administrator may specify, shall become effective on approval by the Administrator or the President, with the same force and effect as if originally made a part hereof; provided, however, that no such recommendations shall be made by the Code Authority unless and until the members of the Code in the Section to which such recommendations are applicable, have assented thereto. Such assent shall be by a two-thirds vote in either the Northern or Southern Section, and by a majority vote in the Pacific Section.

(f) Any interested party shall have the right of complaint to the Code Authority and a prompt hearing and decision 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.

(g) Any interested party shall have the right to appeal to the Administrator, under such rules and regulations as he shall prescribe, with respect to any decision, rule, regulation, order, or finding made by the Code Authority.

(h) 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.

(i) 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 the act of any member or agent of the Code Authority performed pursuant to the provisions of this Code. No member of the Code and no member or agency of the Code Authority shall be liable to anyone or in any manner other than as provided in the Act, or in the Code, for any act performed in accordance with, or for any failure to act required by, the provisions of the Code.

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 prices, terms,

and conditions of sale on all his products to his trade, each class of trade being furnished with the prices, terms, and conditions of sale affecting each such class of trade in the territory to which such prices, 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 prices, terms, and conditions of sale.

Sec. 2. In the event of any change by any member of the Industry in any price, term, or condition 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 (5) 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 in the office designated by 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 prices, 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 prices, terms, and conditions of sale, from time to time, as herein provided.

Article VIII—Publicity of Trade Qualifications

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 qualifications 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 qualifications and any additional qualifications.

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 qualifications 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 IX—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 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 knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the trade, 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. *Interferences with Contractual Relations.*—Maliciously inducing or attempting to induce the breach of an existing contract between a competitor and his customer or source of supply, involving the purchase of specific quantities of the products and/or their component parts or materials, or interfering with or obstructing the performance of any such contract.

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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.

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

SEC. 10. To sell for export unless the buyer has agreed not to resell the products within the United States.

SEC. 11. *Other Unfair Practices.*—Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on complaint, finding, and order, that any

practice or method is unfair, providing that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

Article X—General

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

Sec. 2. Corporations shall be considered to be affiliated to any corporate member of the Industry (hereinafter described as "the parent corporation") which owns a majority of the outstanding voting capital stock of the other. Any such parent corporation shall be responsible for the observance by any affiliated corporation of all the provisions of Articles III, IV, V, VII, VIII, IX, X, and XII of this Code with respect to the production and/or sale of the products covered by this Code, provided, that in the event of the provisions of Articles VII and VIII being observed by any such affiliated corporation of such parent corporation, then the parent corporation need not comply with the Publicity requirements of Article VII with respect to prices, terms, and conditions of sale made to such affiliated corporation.

Sec. 3. Nothing contained in this Code shall be construed as prohibiting any member of the Industry from exercising all its and/or their existing lawful patent rights, or as requiring any member of the Industry to do any act in conflict with the terms of any existing valid patent licensing agreement.

Sec. 4. Articles VII, VIII, and Article XII shall not apply to products exported from the United States.

Article XI—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 Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act.

Sec. 2. By presenting this Code the members of the Industry assenting thereto do not thereby consent to any modification thereof and they reserve the right to object individually or jointly to any such modification.

Sec. 3. The provisions of the Code shall remain in effect unless and until so modified or eliminated, 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 I, of the Act ended.

Article XII—Selling Below Cost

Section 1. It shall constitute a violation of this Code for any member of the Industry to sell any product at a net price which shall be below the said member's "direct cost." Such "direct cost" shall include the sum of the following items chargeable to the operation of

such member's business in conformity with sound accounting practice, during the preceding calendar month:

(A) Direct raw material cost (inclusive of transportation and shrinkage), plus

(B) Direct labor cost, plus

(C) Manufacturing burden (inclusive of power and steam, factory overhead, maintenance expense, technical control, factory warehouse, and factory shipping charges), plus

(D) Fifteen (15) percent of the "Total Manufactured Cost" (i.e., the sum of the items "A" plus "B" plus "C");

provided that depreciation, taxes, insurance, reserves of any character, interest on investment, selling and administrative expenses, and prior operating losses, likewise interest charges on funded or other debt shall not be included in "Manufacturing Burden"; and provided, further, that any member of the Industry may sell below his own "direct cost" under the following circumstances:

(a) to meet competition on prices established on products of competing grade and quality filed by another member of the Industry pursuant to Article VII hereof, and not directly or indirectly investigated by the party desiring to meet such competition, or

(b) to meet competition in violation of this rule concerning which he has made complaint to the Code Authority, or any authorized agency thereof, but only pending action thereon.

Article XIII—Effective Date

Section 1. This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 99.
Registry No. 1003/1/01.

Schedule A

The President,
Asphalt Shingle and Roofing Institute,
2 West 45th Street, New York, N.Y.

Dear Sir: The undersigned, desiring to become a member of the Code of Fair Competition of the Asphalt Shingle and Roofing Manufacturing Industry, a copy of which is annexed hereto 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 Code and agrees to be bound by all of the provisions thereof, 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.

Very truly yours,

O

Approved Code No. 100

CODE OF FAIR COMPETITION

FOR THE

PAPERBOARD INDUSTRY

As Approved on November 8, 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 Paperboard 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 8, 1933.

29173°——296-89——34

NOVEMBER 4, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Paperboard Manufacturing Industry in the United States, conducted in Washington on September 14, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act.

This industry is a part of the paper industry. The raw material for the manufacture of paperboard is principally waste paper with an admixture of a certain amount of fresh pulp. The process of manufacture is identical with that of paper making, and working conditions are the same in both industries.

The provisions of this Code relating to hours of labor and wages are identical with those of the Codes for the Paper and Pulp Industry and the Newsprint Industry.

Prior to 1929 the industry gave employment to about 25,000 persons. On July 1, 1933, the number employed had fallen to about 19,000. Since that date, due in part to increased production, and in part to the President's Reemployment Program, the number employed has been increased to about 22,500, and it is estimated that when all manufacturers are subject to the Code, the 1929 figure of 25,000 will be reached.

Total pay rolls dropped by 39% during the period 1929 to 1933, but are now back to a point 2½% under those of 1929, in spite of the fact that production in the industry is considerably below the 1929 amount. Furthermore, it is improbable that production will ever again reach the 1929 level, because of the fact that paperboard has been displaced to a substantial extent by competitive materials particularly Kraft Board.

Under these circumstances, I am of the opinion that the proposed minimum wages and maximum hours effectuate the purposes of the National Industrial Recovery Act, 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 Paperboard 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

PAPERBOARD INDUSTRY

Article I—Definitions

1. Where used in this Code, the following definitions shall apply:

"Industry."—The manufacture of paperboard in the United States.

"Paperboard."—All paper known as board, regardless of the raw materials from which manufactured, having a thickness of 12/1000 or more of an inch; also of a lesser thickness known as lightweight chip; and also of a lesser thickness manufactured for use as corrugating material and/or container board, regardless of the raw materials from which manufactured; and also specialties not classed as paper, but classed as paperboard according to trade custom.

Notwithstanding the above definition, this code shall not operate on or be binding upon the producers of the following products; namely:

Binders Board and all other wet machine Boards
Bristol Boards
Cardboard and Mill Blanks, coated or surface-treated subsequent to initial manufacture
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.

"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.

"Code."—This Code and all amendments thereto.

"Association."—The National Paperboard Association.

"Administration."—The National Industrial Recovery Administration.

"Administrator."—The National Industrial Recovery Administrator.

Article II—Organization

1. The Executive Committee of the National Paperboard 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 Code 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 Code Authority.

2. The Industry is hereby divided into the following divisions:

1. Eastern Container-Board.
2. Western Container-Board.
3. Southern Container-Board.
4. Eastern Boxboard.
5. Western Boxboard.
6. Corrugating Materials.
7. Pacific Coast.
8. Lightweight Chipboard.
9. Other Board Products.

Any question as to the division into which any particular grade, class, or kind of paperboard, or any product of conversion of any of them may fall, shall be determined by the Code Authority.

3. The expense of administering this Code shall be borne pro rata by the members of the industry who accept the benefit 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 expense.

Article III—Divisional Codes

1. The members of each division may adopt a divisional code in the manner as hereinafter provided in Article IX, and may submit the same subsequently through the Code 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 Code Authority, each division shall include such grades, classes, and kinds of paperboard as are generally recognized by custom as falling within the classification indicated by the name of such division.

4. 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 hydro-electric 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 (8) 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 limitation.

(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 or property.

2. 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), 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 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.

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 of 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 Code 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 ($15.00) 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 Code 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 Code 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 (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, pro-

vided, 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 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 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 Code Authority to the Administrator within six (6) months after the effective date of this Code.

Article VII—Accounting, Selling

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 VIII—Reports, Statistics

1. Each member shall prepare and file with the Code 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 Code 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 Code Authority.

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

3. The Code 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 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 IX—Procedure

1. The Code Authority and each division of manufacture created in Article II shall have the right to submit to the Administrator subordinate codes and/or amendments to this Code, in the manner hereinafter set forth.

2. Each and every proposed divisional code or amendment to this Code shall be filed by the proponents thereof with the Code Authority and shall be submitted to the Administrator by the Code Authority.

3. The proponents shall select an Examiner and present his name and address to the Code Authority at the same time the proposed divisional code and/or amendments are filed with the Code Authority.

4. The Code Authority shall immediately transmit to each member of record of the industry a copy of the proposed divisional code or amendments to this Code.

5. Written objections may be filed with the Code Authority by any member or group of members of the industry within fifteen days after the date on which the Code Authority has mailed the copies thereof to the members as above provided. Immediately thereafter the Code Authority shall advise each objector the name of every objector.

6. If no written objections are filed with the Code Authority within said fifteen days' period, the Code Authority shall forthwith

present the proposed divisional code or the amendments to the Administrator.

7. If written objections are filed:

(a) Within not less than ten days, nor more than fifteen days thereafter the objector or objectors shall appoint an Examiner.

(b) The two Examiners so appointed shall select a third.

(c) Upon failure of the two Examiners to select the third within ten days after appointment by the objector or objectors, the Code Authority shall request the Chief Justice of the Supreme Court of the District of Columbia to appoint the third Examiner.

(d) Hearings shall be held at such time and places as designated by a majority of the Examiners. Reasonable notice thereof shall be given to the parties interested by the Examiners.

(e) Findings of fact and opinion shall be filed with the Code Authority by the Examiners within thirty days after the appointment of the third Examiner, which findings shall not be binding upon either proponents or objectors. In case of disagreement among the Examiners, both a majority and a minority finding may be filed.

(f) Within fifteen days after the date fixed for the filing of the findings of the Examiners with the Code Authority, the Code Authority shall file the divisional Code or amendment with the Administrator. A copy of the findings of the Examiners shall accompany the filing of the divisional code or amendments if the same has been received. If such finding has not been received by the Code Authority, they shall certify this fact to the Administrator.

(g) Failure on the part of the proponents or the objectors to do the things required above within the time limit provided shall be considered as a waiver by the party so failing of his rights hereunder to require any subsequent step to be taken under the provisions of this Paragraph 7.

(h) The compensation of each of the first two Examiners appointed shall be paid by the persons appointing them. The compensation of the third Examiner and the other expenses connected with the procedure outlined in this Article shall be apportioned between the proponents and the objector or objectors as may be provided by the Examiners; provided, however, the Association shall pay all expenses and compensation incurred under this Article whenever the Code Authority shall have proposed a divisional code or amendment to this Code.

(i) All instruments herein required to be filed shall be addressed to the Code Authority, in care of the Secretary of the National Paperboard Association, at its main office.

Article X—General Provisions

1. If any member is also a member of another industry, the provisions of this Code shall apply to and affect only that part of his business which is included in this industry 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. 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 paperboard is being imported into the United States in substantial quantities or in increasing ratio to domestic production of any competitive paperboard, 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 Code Authority, which shall transmit such complaint to the President.

3. The Code Authority shall have power to investigate alleged violations of this Code and acts or courses of conduct by any member or division 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.

4. 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.

5. 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 (6) months after the effective date of this Code a plan for the stabilization and regularization of employment.

6. 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.

7. 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 Section 10 (b) of the Act, from time to time to cancel or modify any order, approval, license, rule, or regulation, issued under Title I of said Act and specifically 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.

8. Proposed amendments to this Code or to divisional codes, duly adopted by the organization concerned, in the manner provided in Article IX above, may be presented by the Code Authority to the President and when approved by him, such amendments shall become a part of such code.

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

Approved Code No. 100.
Registry No. 406—04.

O

Approved Code No. 101

CODE OF FAIR COMPETITION

FOR THE

CLEANING AND DYEING TRADE

As Approved on November 8, 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 Cleaning and Dyeing 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 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 8, 1933.

29181°——296–77——34

NOVEMBER 3, 1933.

THE PRESIDENT,
The White House.

SIR: I have the honor to submit and recommend for your approval the Code of Fair Competition for the Cleaning and Dyeing Trade. This Code was proposed by the National Association of Dyers and Cleaners and the National Association of Retail Tailors, Cleaners, and Dyers, Inc.

The National Association of Dyers and Cleaners was founded in 1907 and represents slightly more than 54 percent of their estimated total number of plant owners in the United States. In addition, as nearly as can be calculated, their membership represents over 70 percent of the total with respect to number of employees, volume of business, and investment. Membership in this Association is limited to two groups, the retail plant owners and the wholesale plant owners.

The National Association of Retail Tailors, Cleaners, and Dyers, Inc., which was organized on August 8, 1933, offers membership to a third group in the trade representing retail tailors who are not plant owners. This Association consisted of 41 affiliated trade bodies of retail tailors, approximating 45,000 members as of September 21, 1933. Neither association imposes any inequitable restrictions on membership and the two associations combined are as near representative of the cleaning and dyeing trade as is possible to determine.

The Code has the approval of the Industrial Advisory Board and the Legal Division. It has also the support of an overwhelming majority of plant owners and retail outlets in the cleaning and dyeing trade and the cooperation of officials of the American Home Economics Association.

The Hearing was conducted in Washington on September 25 and 26, 1933. Every person who filed a request for an appearance was fully heard in accordance with statutory and regulatory requirements.

CONDITIONS IN THE INDUSTRY

The trade has been harassed for the past three years by cut-throat competition, which in many cases led to racketeering, brought about by slashing prices below cost, lowering wages, accompanied often by sweating labor, offering inferior quality and poor service. These conditions have almost completely demoralized the business of plant owners and have caused untold hardships to some 175,000 or more tailor shops serving as retail outlets for the wholesale dry-cleaning plants. There are but few concerns in the trade who have any credit, and in many cases there are substantial amounts owed to labor for past due wages. Testimony at the Hearing, for example, brought out the fact that over $600,000 in wages are long past due to workers in the city of New York.

Most of the havoc wrought in the cleaning and dyeing trade is attributed to price cutting. Partly due to certain economies arising out of efficiency but primarily due to exploiting labor and rendering inferior quality and service to the public, a few operators of cut-rate stores are in an advantageous position to cut prices and to draw volume away from other plants at will. Witness the price war that has taken place over the past three years. The normal charge for cleaning and pressing a man's suit or a woman's dress was $1.50, but under pressure of keen competition from these operators who entered on an aggressive campaign for volume of business the price was gradually reduced to 29 cents; and recently, by way of "special prices", to 19 cents. The other retail establishments, while forced to meet the competition to some extent, have not gone below 45 cents. However, it is a significant fact that at this rate most of the retail establishments are forced to operate at a loss.

LABOR PROVISIONS

Maximum working hours are established according to classes of employees, consisting of 40 hours per week for plant employees and 48 hours per week for engineers, firemen, and/or maintenance employees. In order to meet the requirements of the trade in peak seasons a provision is made for a 45-hour maximum for the former-mentioned employees and a 53-hour maximum for the latter, which is not to exceed 9 weeks in any 6 months' period. A maximum of 48 hours a week is provided for clerks in retail outlets. It is estimated that on this basis there will be an increase of 20,000 employees in the trade.

The Code provides a minimum-wage scale for unskilled labor, ranging from 27 cents to 33 cents an hour in the Northern area, depending upon population of cities, and 20 cents an hour in the Southern area. Based upon an estimate, the proposed minimum wages will result in an increase of eleven million dollars per annum or 17 percent of the present pay roll.

It is provided also that no one under the age of 17 shall be employed in the trade.

MINIMUM-PRICE PROVISION

The main fact brought out at the Public Hearing clearly indicated that ruinous competition resulting from lack of price control is largely responsible for the ills of this trade. Primarily due to this condition, as shown in an exhaustive report made by Dr. N. I. Stone of the Economic Research and Planning Division, Labor has suffered by working inordinately long hours and receiving drastic reductions in wages, a large part of the plant owners are operating at a loss, and the existence of more than 175,000 owners of small tailor shops is at stake. The low price offered to the consumer under present circumstances is at the expense of the various mentioned elements in the trade, while the benefit of the low price is more apparent than real because it is offset by very poor quality of service rendered.

In order to provide adequate wages and assure standards of quality for services rendered, the Code Authority is vested with the power

to establish and prescribe fair and reasonable minimum wholesale and retail prices subject to the approval or disapproval of the Administrator.

TRADE PRACTICES

Certain practices now current in this trade have the effect of causing an unfair competitive advantage in favor of small groups. The trade has sought to eradicate such practices by making them violations of this Code.

Violence and intimidation have been used in the trade to coerce members into price maintenance. Section 17 of Article 7 is included to eliminate this among other types of coercion, through the quicker and more effective penalties granted under this Act.

ADMINISTRATION

The provisions for administration of this Code are capable of providing the National Recovery Administration and the cleaning and dyeing trade 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 to this Code which would be beneficial to the trade 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 Association of Dyers and Cleaners and The National Association of Retail Tailors, Cleaners and Dyers, Inc., combined are truly representative of the cleaning and dyeing trade, and the by-laws of these associations 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 Cleaning and Dyeing Trade.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

CLEANING AND DYEING TRADE

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 Cleaning and Dyeing Trade, and shall be the standard of fair competition for such trade and shall be binding upon every member thereof.

Article II—Definitions

1. The term "cleaning and dyeing trade" as used herein includes all cleaning and dyeing establishments.

2. The term "cleaning and dyeing establishment" as used herein includes any place or vehicle where the service of drycleaning, wetcleaning as a process incidental to drycleaning, dyeing, spotting, and/or finishing any fabric is rendered for hire, or is sold, resold, or offered for sale or resale. The term does not, however, include establishments where any such service is performed solely in the course of the original manufacture of fabrics.

3. The term "fabric" as used herein means any article of wearing apparel (including hats), household furnishing, rug, textile, fur, and leather.

4. The term "drycleaning" as used herein means the process of cleaning fabrics by immersion and agitation, or by immersion only, in volatile solvents (including, but not by way of limitation, solvents of the petroleum distillate type, the coal tar distillate type, and the chlorinated hydrocarbon type) and processes incidental thereto (including, but without limitation, spotting, wetcleaning, and finishing).

5. The term "spotting" as used herein means the process designed to remove spots or stains which remain in a fabric after it has been subjected to the other processes of drycleaning.

6. The term "finishing" as used herein means the process of pressing and/or reshaping any fabric, which is designed to restore as nearly as possible the shape, dimensions, and contour of said fabric.

7. The term "cleaning plant" as used herein includes any cleaning and dyeing establishment equipped to perform drycleaning; the term "plant owner" means any member of the cleaning and dyeing trade by and/or for whom a cleaning plant is operated.

8. The term "retail outlet" as used herein includes any cleaning and dyeing establishment where dry cleaning is sold, or offered for sale, directly to the consumer; the term "retailer" means any member of the cleaning and dyeing trade by and/or when a retail outlet is operated.

9. The term "member of the cleaning and dyeing trade" or "member of the trade" as used herein includes anyone engaged in the operation of a cleaning and dyeing establishment as above defined, either as an employer or in his own behalf.

10. The term "employee" as used herein includes anyone engaged in the cleaning and dyeing trade, in any capacity, receiving compensation for his services, irrespective of the method of payment of such compensation.

(a) The term "plant employee" as used herein includes any employee working in a cleaning plant who is actually engaged in dry cleaning and/or dyeing or any of the processes incidental thereto and/or is engaged in the maintenance of said plant (including, but without limitation, engineers, firemen, maintenance employees, and watchmen).

(b) The term "clerk" as used herein includes any employee working in the office of a cleaning and dyeing establishment who is engaged in work of a clerical, accounting, sales, or service character.

(c) The term "route salesman" as used herein includes anyone employed by a member of the cleaning and dyeing trade on a salary and/or commission basis to solicit the sale of the dry-cleaning service of such member, call for fabrics to be dry-cleaned and/or to deliver such fabrics, and/or to collect payment.

(d) The term "executive" as used herein includes any employee responsible for the management of a business or of a recognized subdivision thereof.

(e) The term "watchman" as used herein includes any employee engaged primarily in safeguarding the premises and property of a cleaning and dyeing establishment.

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

12. Population, for the purposes of this Code, shall be determined by reference to the Fifteenth Census of the United States (U.S. Department of Commerce, Bureau of Census, 1930).

13. 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.

14. The term "Code Authority" as used herein means the national administrative agency of the cleaning and dyeing trade as established in Article VI of the Code.

Article III—Hours

1. Except as hereinafter expressly stipulated otherwise—

(a) No engineer, fireman, and/or maintenance employee shall be permitted to work in excess of 48 hours in any one week.

(b) No clerk employed by any retailer shall be permitted to work in excess of 48 hours in any one week.

(c) No route salesman in cities of a population of 25,000 or more shall be permitted to work in excess of 48 hours in any one week. No route salesman in cities or towns less than a population of 25,000 shall be permitted to work more than six (6) hours per week in excess of 48 hours. On or before December 31, 1933, the Code Au-

thority shall present recommendations to the Administrator of further regulations governing the hours of route salesmen and, upon approval by the Administrator, such regulations shall become effective to the same extent as if incorporated in this Code.

(d) No other employee shall be permitted to work in excess of 40 hours in any one week.

2. The maximum hours fixed in the foregoing Section shall not apply to

(a) Watchmen.

(b) Executives receiving a salary of $30 or more per week, including employers.

(c) Employees on emergency maintenance, or emergency repair work involving breakdowns, or protection of life or of property, but in any such special case at least 1⅓ times the normal rate shall be paid for hours worked in excess of the maximum hours herein provided.

3. The maximum hours fixed in paragraphs (a) and (d) of Section 1 of this Article shall not apply during peak periods to consist of not more than nine (9) weeks prior to December 31, 1933, and of not more than nine (9) weeks in any six (6) months' period thereafter, provided, however, that in any six (6) months' period the average weekly hours of labor for employees covered in said paragraphs shall in no event exceed the maximum weekly hours prescribed in said paragraphs. During such peak periods no employee covered in said paragraph (a) shall be permitted to work in excess of fifty-three (53) hours in any one week, and no employee covered in said paragraph (d) shall be permitted to work in excess of forty-five (45) hours in any one week. The provisions of this Section shall not apply where, by reason of the existence of unutilized equipment in such plant and competent personnel for employment, no hardship would be imposed on an employer by compliance with said paragraphs (a) and (d).

4. No retail outlet shall remain open or be operated on Sundays, or on national, state, or local holidays, or in excess of sixteen (16) hours on any Saturday, or in excess of twelve (12) hours on any other day; provided, however, that where a day of the week other than Sunday is recognized as the Sabbath Day by a retailer and such retailer regularly keeps his establishment closed on such day, such establishment may remain open and be operated on Sunday, subject, however, to state and local laws and ordinances.

5. The hours of operation for any retail outlet shall not be reduced below sixty-three (63) hours in any week, unless such hours were less than sixty-three (63) hours per week on June 16, 1933, and in that event the hours of operation shall not be reduced at all from the weekly number then in effect.

6. No employee shall be permitted to work more than six (6) days in any seven (7) day period.

7. Notwithstanding the exemptions from maximum hours provided by Section 2 (b) of this Article, such exemptions shall not, in any case, apply to more than one worker (in addition to those covered by paragraphs (a) and (c) of Section 2 of this Article) for every five (5) workers or fraction thereof. For the purpose of

this Section, the word "worker" shall be deemed to include employers, executives, and persons not receiving monetary wages, when such persons are actually engaged in drycleaning and/or dyeing or any of the processes incidental thereto.

Article IV—Wages

1. For the purpose of prescribing proper standards as to minimum rates of pay, the United States is divided into two (2) areas: (1) The Southern area, which shall include the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and (2) the Northern area, which shall include the remainder of the United States, its territories, colonies, and possessions; provided, however, that where a local trade area falls partly in the Southern area and partly in the Northern area, the Code Authority shall have power, subject to review and approval by the Administrator, to authorize deviations from the boundary lines between the two areas as above defined.

2. No plant employee shall be paid at less than the following rates per hour:

In the northern area

	Per hour
Zone 1—Cities over 500,000 population and their local trade areas	$0.33
Zone 2—Cities between 100,000 and 500,000 population, not covered by Zone 1, and their local trade areas	.30
Zone 3—Cities of less than 100,000 population, not covered by Zones 1 and 2, and their local trade areas	.27

In the southern area

The entire area	.20

3. No other employee shall be paid at less than the following rates per week:

In the northern area

	Per week
Zone 1—Cities over 500,000 population and their local trade areas	$14.00
Zone 2—Cities between 100,000 and 500,000 population, not covered by Zone 1, and their local trade areas	13.50
Zone 3—Cities of less than 100,000 population, not covered by Zones 1 and 2, and their local trade areas	13.00

In the southern area

Zone 1—Cities over 500,000 population and their local trade areas	$13.00
Zone 2—Cities between 100,000 and 500,000 population, not covered by Zone 1, and their local trade areas	12.50
Zone 3—Cities of less than 100,000 population, not covered by Zones 1 and 2, and their local trade areas	12.00

4. The extent and boundaries of the local trade areas mentioned in Sections 2 and 3 of this Article shall be as determined by the Code Authority under Section 3 (a) of Article VI, subject to the approval of the Administrator.

5. Sections 2 and 3 of this Article establish minimum rates of pay, regardless of whether an employee is compensated on a time

rate, piecework, or other basis. These minimum rates of pay shall apply to common labor or other totally unskilled labor.

6. No employee whose full-time weekly hours are reduced, by reason of the provisions of Article III of this Code, by less than twenty percent (20%) shall have his or her full-time weekly earnings reduced. No employee whose full-time weekly hours are reduced, by reason of the provisions of Article III of this Code, in excess of twenty percent (20%) shall have his or her said earnings reduced by more than fifty percent (50%) of the amount calculated by multiplying the reduction in hours by the hourly rate.

7. The wages and rates of pay of employees receiving more than the minimum wages and rates hereinabove prescribed shall be readjusted so as to preserve equitable differentials. On or before December 31, 1933, the Code Authority shall investigate and make recommendations to the Administrator with respect to the classification of employees receiving above the said minimum wages and rates of pay.

8. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

9. No deduction from wages shall be made or permitted for the housing and/or boarding of any employee within a cleaning and dyeing establishment.

Article V—General Labor Provisions

1. No person under 17 years of age shall be employed in the trade. 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.

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, regulating the ages 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.

Article VI—Administration

1. The Code Authority is hereby constituted the national administrative agency of the cleaning and dyeing trade, to cooperate with the Administrator in the administration of this Code.

2. The organization and constitution of the Code Authority shall be as follows:

(a) The Code Authority shall consist of ten (10) individuals to be selected as hereinafter set forth. The President, in his discretion, may appoint — additional members without vote to represent such groups or governmental agencies as he may designate.

(b) The Code Authority shall be selected by the following method:

1. Three (3) retail plant-owners shall be appointed by the Board of Directors of the National Association of Dyers and Cleaners.

2. Three (3) wholesale plant-owners shall be appointed by the Board of Directors of the National Association of Dyers and Cleaners.

3. Three (3) retailers who are not plant-owners shall be appointed by the Board of Directors of the National Association of Retail Tailors, Cleaners and Dyers, Inc.

4. One (1) executive, without vote, who shall act as chairman, shall be appointed, subject to the approval of the Administrator, by a majority vote of the persons appointed under the preceding three (3) paragraphs.

The foregoing persons shall be appointed immediately after the approval of this Code, and shall hold office until December 31, 1934, and thereafter until their successors are appointed and qualify. Their successors shall be appointed for a term of one (1) year on or before December 31st of each year, subject to the provisions of Section 2 (c) of the Act. Appointments of successors (which may include reappointments of original members) shall be made, and vacancies for unexpired terms may be filled, in the same manner and by the same agencies as the original appointments.

(c) The following principles shall govern, so far as practicable, the voting rights of the three (3) groups (retail plant-owners, wholesale plant-owners, and retailers who are not plant-owners) represented on the Code Authority:

1. On any matter adversely affecting any one of the three (3) groups, that group shall have a voice equal to the combined voice of the other two (2) groups.

2. On any matter affecting one (1) group and not affecting the other two (2) groups, the group affected shall have exclusive jurisdiction over such matter.

(d) Any trade association participating in the selection of the Code Authority shall:

1. Be and at all times continue to be truly representative of the cleaning and dyeing trade, and/or the groups thereof whose representatives it (through its Board of Directors) appoints to the Code Authority.

2. Impose no inequitable restrictions on its membership, and admit to membership on equitable terms and conditions all members of the group or groups whose representatives it (through its Board of Directors) appoints to the Code Authority.

3. Submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto.

4. Comply in all other respects with the provisions of the Act.

After giving reasonable notice and opportunity for hearing, and upon finding that an association is guilty of a substantial violation of any of the foregoing obligations, the Administrator may cancel, in whole or in part, or restrict, or subject to appropriate conditions, any further exercise of such association's power of appointment of representatives on the Code Authority. In the further event that, at such hearing it appears that some other association is more truly representative of the group or groups theretofore represented by an association found not to be truly representative, the Administrator may designate such other association to succeed to and to exercise (through its Board of Directors) all or any part of the power of appointment previously exercised by the association found not to be truly representative.

3. 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 divide, and, if necessary, subdivide, the United States into such regions and local areas as, in its judgment, will best facilitate the administration of this Code.

(b) To create as an agency of the Code Authority local Joint Industrial Relations Boards consisting of an equal number of representatives of employers and employees, and an impartial Chairman elected by the members of the Board, to deal with all matters in the Code relating to hours, wages, and general labor provisions. The designated employees' representatives shall be truly representative of the employees of the industry and chosen by such employees.

(c) To establish and appoint local cleaning and dyeing Administrative Boards for each such region and local area and to delegate to such Administrative Boards any of the powers and duties reposed in it by this Code with respect to such regions and local areas, each such Administrative Board to be representative of the several groups comprising the cleaning and dyeing trade in its region or local area and, where a representative consumers' organization exists in such region or local area, to include a representative of such organization without vote.

(d) To choose from among its membership an Executive Committee of not more than five (5) persons who shall be representative of the groups composing the Code Authority, and, for intervals between meetings of the Code Authority, to delegate to such Executive Committee any of the powers and duties reposed in it by this Code. Meetings of the Code Authority shall be held not less than once a month, unless otherwise specified by the Administrator or his agent.

(e) To delegate to the executive mentioned in paragraph (b), 4, of Section 2 of this Article any of the powers and duties reposed in it by this Code for intervals between meetings of the Code Authority and/or of the Executive Committee.

(f) To adopt and prescribe minimum standards of quality for each of the several types of service performed by the cleaning and dyeing

trade, and, to this end, to cooperate with a committee to be selected by the following method:

1. One (1) active member of the National Association of Dyers and Cleaners shall be appointed by the Board of Directors of that association.

2. One (1) person shall be appointed by the American Home Economics Association.

3. One (1) technician (who may be selected from without the trade, preferably from the United States Bureau of Standards) shall be agreed upon by the two (2) persons appointed under the preceding two (2) subparagraphs or, in the event they fail to agree, by the Administrator.

(g) To prescribe uniform hours for opening and closing of retail outlets for each region or locality, with due regard for the needs and customs of such regions and localities.

(h) To establish and prescribe fair and reasonable minimum wholesale and retail prices by regions and/or local areas, for the several services comprised within the definition of cleaning and dyeing; such minimum wholesale and retail prices to be sufficient to provide for carrying out the purpose of the Act, to be consistent with maintenance of the minimum standards of quality prescribed by the Code Authority, to enable the trade to maintain the payment of at least minimum wages herein established and other wages properly based thereon, the furnishing of stable employment necessary to maintain the trade, and such other considerations reasonably pertinent thereto.

Any minimum prices thus established may from time to time be increased or decreased by the Code Authority according to changing conditions.

Immediately after any such prices, increases, and/or reductions have been approved by the Administrator, the Code Authority shall take such steps as are reasonably calculated to notify all members of the trade thereof. Such prices, increases, and/or reductions shall go into effect upon such date or dates as the Code Authority shall fix.

(i) To determine, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration (and subject to review by the Administrator), the reasonable share of the expenses of administration (including the expenses of all regional or local Administrative Boards) for each of the groups of members of the trade represented on the Code Authority, and the reasonable share of each member within each group, to receive such payments either directly or through the associations representing the several groups, and to make such disbursements and such distribution of the proceeds of such payments as are found necessary to meet the expenses of administration.

(j) To make studies and investigations of conditions and practices current in the trade; to gather statistics from governmental and other agencies; to require and collect from all members of the trade (in such form as it may prescribe and with full protection to each member as to the confidential nature of the data) such information as is reasonably pertinent to the effectuation of the purposes of the Act and of this Code, either on its own initiative or as required by the

Administrator; and to compile, tabulate, publish, and distribute reports based on such studies, investigations, statistics, and information.

(k) Upon its own initiative or upon complaint of any person affected, to make investigation as to the functioning and observance of this Code, and to report the results of such investigation to the Administrator.

(l) To cooperate with the Administrator in the establishment of an advisory council for all service trades, to consider, and advise with the Administrator on, matters of concern to two (2) or more service trades operating under separate codes of fair competition, and to appoint a representative of the cleaning and dyeing trade to such advisory council.

(m) To furnish to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, in addition to the information required to be submitted to the Code Authority.

4. Members of the cleaning and dyeing trade shall be entitled to make use of the National Recovery Administration insignia for said trade, and may participate in, and share, the benefits of the activities of the Code Authority by assenting to and complying with the requirements of this Code and by sustaining their reasonable share of the expenses of administration thereof as determined pursuant to paragraph (i) of Section 3 of this Article.

Article VII—Trade Practices

The following practices, by any member of the cleaning and dyeing trade, constitute unfair methods of competition and are prohibited:

1. *Misleading Advertising.*—The use (or participation therein) of, the publication, or the broadcasting of any untrue, deceptive, or misleading statement, representation, or illustration, in connection with and for the purpose of furthering the sale of cleaning or dyeing service.

2. *Defamation or Disparagement of Competitors.*—The false imputation to competitors of dishonorable conduct, of inability to perform contracts, and/or poor or questionable credit standing, and false representation concerning the grade or quality of the service rendered by competitors.

3. *Underselling Claims.*—Advertising which announces or lays claims to a policy or continuing practice on the part of the advertiser of generally or regularly underselling competitors.

4. *Misleading Guarantees.*—Guarantees which are not specific as to the nature and extent of the guarantee or which for any reason are unenforceable against the guarantor.

5. *Disclaimers.*—Attempts by stipulation to evade, limit, or nullify what would otherwise be the lawful responsibility of a member of the trade for articles left with him for cleaning or dyeing.

6. *Misrepresentation of Prices.*—Representation of any prices or credit terms as "special" when they are in fact the regular prices and/or credit terms of the person making such representation; also the creation of the implication that quoted prices apply to completely finished work when in fact they apply only to partially processed work.

7. *Selling Below Regional Price.*—The sale of any cleaning or dyeing service in, or for delivery to, or for resale in, any region or locality at less than the minimum wholesale or retail price (as the case may be) for such service, as established for such region or locality under the provisions of Article VI, Section 3 (h) of this Code.

8. *Unfair merchandising devices.*—(a) The furnishing of free work to anyone except a bona fide charity.

(b) The furnishing of free storage to customers.

(c) The payment of a commission or any other consideration to anyone not a member of the trade or regularly employed by a member of the trade, for the solicitation or procuring of cleaning or dyeing work.

(d) The use of lotteries.

(e) The use of coupon books, discount coupons, or premiums.

The provisions of this paragraph shall not, however, prohibit (1) giving the purchaser an allowance or cash discount, not to exceed two percent (2%) in the form of cash, book credits, or promises to pay where payment by the purchaser is made in cash on or before the tenth (10th) of the month following date of purchase, or (2) the use of coupon books, discount coupons, premiums, or certificates by a member of the trade who was using such coupon books, discount coupons, premiums, or certificates on November 1, 1933, under a subsisting and binding contract with a person not a member of the trade, but only until the expiration of such contract, or (3) the use of coupon books or of discount coupons provided all of the members of the trade doing business in the same local area agree to such use, or (4) the use of premiums or of certificates in connection with the sale of cleaning or dyeing services which provide to the buyer money, goods, or services having a resale value not in excess of five per cent (5%) of the minimum price of such cleaning and dyeing services, the amount of such resale value to be added to such price established pursuant to Section 3 (h) of Article VI.

9. *Added Charges.*—The attempts to secure an additional charge for the eradication of spots or stains after the member of the trade agreed to dry-clean them for a stated price.

10. *Secret Rebates.*—The secret payment or allowance to any customer, or to any employee of a customer, of rebates, refunds, remissions of past indebtedness, commissions or discounts, whether in the form of money or otherwise, including the extension to particular customers of special services or privileges, false invoicing, and rebates under the guise of allowances for lost, misplaced, or damaged articles.

11. *Imitation of Competitors.*—The simulation or copying of a competitor's style of store front, of signs or of advertising, with the intention, or having the tendency and capacity, of deceiving the customers of such competitors.

12. *Coercion in the Sale of Stock to Employees.*—Coercion of employees to purchase stock of an employer's company as a condition to obtaining payment of past-due wages or for any purpose designed to substitute such purchase in whole or in part for full payment of wages.

13. *Selling Below Standard Quality.*—The offering and/or sale of any cleaning and/or dyeing service to the public, below the min-

imum standards of quality for such service prescribed by the Code Authority, pursuant to the provisions of Article VI, Section 3 (f), of this Code.

14. *Posting of Insurance Information.*—Failure to display in a conspicuous place a printed or written placard stating whether, to what extent, and against what hazards fabrics left for cleaning and/or dyeing are protected by insurance for the benefit of the consumer.

15. *False or Misleading Statements Concerning Insurance.*—False or misleading statements or representations by any means whatsoever as to the amount and/or character of insurance carried for the benefit of the consumer on fabrics left for cleaning and/or dyeing.

16. *Accepting of Work from Solicitors.*—Accepting of work from a person who solicits cleaning and/or dyeing work and who is neither a member of the trade nor regularly employed by a member of the trade. The provisions of this Section shall not apply, however, to any such person where he engages in such solicitation under a contract with a plant owner, terminable on not less than six months' notice.

17. *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.

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—Modification

The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under the Act.

Article X—Exemptions

The provisions of this Code are subject to Paragraph 1 of Executive Order No. 6354, issued by the President on October 23, 1933, reading as follows:

"The provisions of the President's Reemployment Agreement, issued July 27, 1933, shall not be held to apply to employers engaged only locally in retail trade or in local service industries (and not in a business in or affecting interstate commerce) 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,

except so far as such employers who have signed the President's Reemployment Agreement desire to continue to comply with the terms of said agreement after the date of this order; and this release of such employers who have heretofore signed the President's Reemployment Agreement shall be further extended so as to release to the same extent all such employers of obligations not voluntarily assumed under the provisions of a Code of Fair Competition approved by the President. This exemption is intended to relieve small business enterprises in small towns from fixed obligations which might impose exceptional hardship; but it is expected that all such enterprises will conform to the fullest extent possible with the requirements which would be otherwise obligatory upon them."

Article XI—Effective Date

The effective date of this Code shall be the second Monday after the approval by the President.

Approved Code No. 101.
Registry No. 1714/22.

O

Approved Code No. 102

CODE OF FAIR COMPETITION

FOR THE

SHOVEL, DRAGLINE, AND CRANE INDUSTRY

As Approved on November 8, 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 Shovel, Dragline and Crane 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 8, 1933.

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NOVEMBER 4, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Shovel, Dragline, and Crane Manufacturing Industry, the hearing having been held in Washington September 29, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS ON HOURS AND WAGES

Factory employees will be limited to 40 hours per week and 8 hours per day, except during peak periods, when they may work 44 hours per week, in not more than 8 weeks in any 6 months. Time and one half will be paid to employees working in excess of 8 hours per day, or 40 hours per week.

A tolerance of 10 percent over the minimum hours prescribed will be permitted for those engaged in preparation and maintenance work, or as shipping clerks. The above limitations in hours do not apply to service men, traveling salesmen, or to employees in a managerial, executive, or supervisory capacity who receive more than $35.00 per week, nor to those on emergency maintenance and emergency repair work, the latter class being paid time and one half for all hours worked in excess of 8 hours per day or 40 hours per week.

The minimum wage for factory employees engaged in manufacturing operations will not be less than 40 cents per hour. No distinction in wage rates will be made between male and female employees. Adjustment of wage rates above the minimum provided will be made and will be reported to the Code Authority.

A maximum of 40 hours per week is provided for employees engaged in accounting, clerical, service, and sales work, and the minimum wage will be in accordance with the President's Reemployment Agreement. Salaries now higher than the above minimums will not be reduced because of a change in hours provided in the Code. Office boys, messengers, and old and infirm employees will receive not less than 80 percent of the minimum wage, and the number of such employees, together with apprentices, will not be more than 5 percent of the total number of employees of any employer.

CHILD LABOR

The minimum age will be 16 years and no person under 18 years will be employed in other than office work.

ECONOMIC EFFECTS OF THE CODE

This Industry manufactures power-operated shovels, draglines, locomotive cranes, and the like, the product being largely used for

excavating on public-works projects and in the building industry. The 30 companies employed 14,440 persons in 1929, but this number was reduced to an average of 4,100 during the low period of the first half of the year 1933. Since the application of the 40-hour week employment has been increased approximately 20 percent.

The increased wage scale under the provisions of this Code is expected to add 15 percent to the pay rolls of the Industry at its present rate of operation. The annual sales of the products of the Industry have dropped from $77,800,000 in 1930 to $4,833,000 for the first six months of 1933, and the Industry is now operating at only 12 percent of capacity. In working out and accepting its Code, this Industry has shown a spirit of cooperation with the purposes of the 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 Shovel, Dragline, and Crane 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

SHOVEL, DRAGLINE, AND CRANE 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 Shovel, Dragline, and Crane Industry, and upon approval by the President, shall be the standard of fair competition for this Industry.

Article II—Definitions

The following words are used in this Code with the meanings set forth below:

"Industry"—the manufacture for sale, and the sale by the manufacturer, of power-operated convertible shovels and draglines and special modifications thereof, such as cranes equipped for clamshell or lifting service, back-digging trench hoes, skimmers, autotruck cranes, and the like, all having a nominal rating of one third (⅓) cubic yard capacity and more, and full revolving locomotive cranes having a nominal rating of three (3) tons capacity and more, and special modifications of such machines embodying locomotive crane superstructure, all for use in the continental United States of America, including Alaska, and the Territory of Hawaii.

"Employee"—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.

"Employer"—anyone for whose benefit such an employee is so engaged.

"Member of the Industry"—anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

"Member of the Code"—any member of the Industry who shall expressly signify assent to this Code.

"Apprentice"—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.

"President", "Act", and "Administrator"—respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

"Institute"—Shovel, Dragline, and Crane Institute, a cooperative nonprofit Association, with its office in Chicago, Illinois.

"Effective Date"—the second Monday after this Code has been approved by the President.

Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

Article III—Hours

(a) No employee, except as hereinafter provided, shall be employed for more than forty (40) hours in any one week.

(b) During any peak period in which a concentrated demand upon any division of any member of the Industry shall place an unusual and temporary production burden upon its facilities, employees of such division shall be permitted to work not more than forty-four (44) hours per week in not more than eight (8) weeks during each successive six (6) months' period beginning with the effective date of this Code.

(c) Hourly rated employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, firemen, stock and shipping clerks, and delivery employees shall be permitted to work not more than forty-four (44) hours in any one week; and during peak periods, as described in paragraph (b) of this Article, such employees shall be permitted to work not more than forty-eight (48) hours per week in not more than eight (8) weeks during each successive six (6) months' period beginning with the effective date of this Code.

(d) The limitations as to hours of labor shall not apply to watchmen, janitors, field-service men, employees engaged in emergency maintenance or emergency repair work, nor to very special cases where restriction of hours of highly skilled workers would unavoidably reduce or delay production. Watchmen and janitors shall not be employed more than fifty-six (56) hours in any one week.

(e) Time and one half shall be paid hourly rated employees for overtime in excess of forty (40) hours in any one week or eight (8) hours in any one day; except that in the case of employees covered by paragraph (c) of this Article III, time and one half shall be paid for overtime in excess of forty-four (44) hours in any one week or nine (9) hours in any one day. No overtime shall be paid hourly rated watchmen, janitors, or field-service men.

(f) Salaried employees, except as hereinafter provided, shall not be employed for more than forty (40) hours in any one week; provided, however, that any such employee may be permitted to work not more than forty-eight (48) hours per week in not more than eight (8) weeks during each successive six (6) months' period beginning with the effective date of this Code.

(g) The limitations as to hours of labor shall not apply to outside salesmen; nor to persons in a managerial, supervisory, or technical capacity receiving more than thirty-five dollars ($35.00) per week.

One employee in each district sales office shall be permitted to work forty-four (44) hours per week and one employee in each field service station shall be permitted to work forty-eight (48) hours per week.

(h) 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

(a) The minimum wage that shall be paid to any employee except salaried employees shall be not less than forty cents per hour; except

that the minimum wage that shall be paid any such employee engaged in nonproductive work, the number of such employees not to exceed ten (10) percent of the total number of hourly rated employees, shall be not less than thirty-five cents per hour.

(b) All salaried employees covered by paragraph (f) of Article III shall be paid at not less than the following minimum rates in cities of the sizes listed below and their immediate trade areas:

Over 500,000 population, $15.00 per week; 250,000 or over, but less than 500,000 population, $14.50 per week; under 250,000 population, $14.00 per week.

(c) No employee of the classes covered by paragraph (f) of Article III now receiving compensation at a rate in excess of the minimum provided in paragraph (b) of this Article IV shall have his compensation reduced on account of any reduction in the weekly hours of employment made to conform with the requirements of paragraph (f) of Article III.

(d) The minimum wage provided in paragraphs (a) and (b) of this Article IV shall not apply to apprentices; provided, however, that all existing and future apprentice contracts shall be submitted to the Code Authority and shall be subject to review of the Administrator.

The minimum wage that shall be paid to learners or old employees who by reason of age or infirmities are limited in their productive capacity, shall not be less than eighty (80) percent of the applicable minimum wage provided in paragraph (a) of this Article IV; provided, however, that the total number of such learners and aged or infirm employees shall not exceed in number five (5) percent of the number of employees covered by said paragraph.

(e) The minimum wage that shall be paid to office boys and girls, and messengers, to a number not to exceed five (5) percent of the number of employees covered by paragraph (b) of this Article IV, shall not be less than eighty (80) percent of the minimum wage provided in said paragraph.

(f) Where employees' weekly earnings on piecework divided by the number of hours worked produces a result less than the minimum wage stipulated in paragraph (a) of this Article IV, such earnings shall be so adjusted as to conform with the aforesaid minimum wage.

(g) No distinction in rates shall be made based solely on the grounds of sex 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.

(h) The hourly rates, base piecework rates, and salaries for all duties and occupations now paid at more than the minimum herein prescribed, but not including salaries of more than thirty-five dollars ($35.00) per week, 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.

(i) No member of the Industry shall reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

(j) No person who has worked as a learner in the Industry for a period of three (3) months shall thereafter be classified as a learner.

(k) This Article establishes minimum rates of pay, regardless of whether the employee's compensation is based on a time rate or on a piecework performance or other basis.

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 in other than office work.

Article VI—Administration

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.

(a) The Code Authority shall consist of the Executive Committee of the Institute, together with one representative of members of the Industry who are not members of the Institute (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 President if he so desires. The appointee or appointees of the President shall have no vote. The representative 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 Institute, and there shall be no inequitable restrictions on such membership.

(c) Any member of the Industry may participate in the preparation of and any revision or additions or supplements to this Code and in the Code activities of the Code Authority to the same extent as members of the Institute by assuming his pro rata share of the cost and responsibility of creating and administering it, either by becoming a member of the Institute and paying the annual dues and assessments of the Institute, or by paying to the Code Authority his equitable pro rata share of the costs as determined by the Code Authority, subject to the approval of the Administrator. There shall be no initiation fee for members of the Industry who only become members of the Code and do not become members of the Institute.

Sec. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to the right of the Administrator, 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, subject to the approval of the Administrator. 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 such form as may be prescribed.

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.

(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 Act and any regulations issued thereunder.

(d) To hear and investigate complaints and attempts to adjust the same in accordance with law.

(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 modification or addition thereto, which, upon the approval of the Administrator, after such hearing as may be prescribed, shall become a part of this Code and have full force and effect as provisions hereof.

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

Article VII—Trade Practices

The following trade practices shall be applicable to power-operated convertible shovels and draglines and special modifications thereof such as cranes equipped for clamshell or lifting service, back-digging trench-hoes, skimmers, auto truck-cranes, and the like, all having a nominal rating of from one third (⅓) up to, but not including, three (3) cubic yard capacity. Supplemental trade practice provisions shall hereafter be submitted applicable to other machines or attachments in the Industry.

Section 1. *Definitions.*—The following words are used in this Article VII with the meanings set forth below:

Machine or Attachment.—A bare machine with or without traction mounting and with or without shovel, dragline, clamshell, crane, back-digging trench-hoe, skimmer, or other standard or special front end equipment; or such equipment sold separately; or auxiliary equipment, such as light plants, starters, air compressor equipment, and other accessories; or any combination of any of the foregoing; but not repair or spare parts for any of the foregoing.

New Machine or Attachment.—A machine or attachment which has not previously been sold and placed in the possession of the purchaser.

Used Machine or Attachment.—A machine or attachment which has previously been sold and placed in the possession of the purchaser.

Shipment.—Any reference to the date of shipment shall refer to the date on which the transportation company issues a bill of lading for the shipment; or, in the case of delivery by other means than a transportation company, the date on which the shipment leaves the factory or place of storage. The withholding of a portion of a shipment shall not be considered as postponing the date of shipment.

Cash.—Lawful money of the United States or immediately collectible check or equivalent instrument.

Distributor.—Dealers, distributors, sales representatives, salesmen, sales agents and any other person authorized to sell or negotiate sales of new machines on behalf of a member of the Industry, except direct employees of the member of the Industry.

SEC. 2. *Violation of Trade Practice Code.*—Any deviation from the standards set forth in this Article VII, or any amendments thereto, by any member of the Industry, either directly or indirectly through a distributor, shall be considered an unfair method of competition and a violation of this Code by such member.

SEC. 3. *Publication of Prices.*—(a) Each member of the Industry shall independently publish his price lists, which shall include prices, shipping weights, and terms of sale for all new standard machines or attachments, which prices shall be stated f.o.b. works. Publication shall include filing a complete copy with the Chairman of the Code Authority, or with such agency as the Code Authority may designate. All sales shall be made f.o.b. manufacturer's works, except that sales may be made on a delivered basis to points in Washington, Oregon, California, Nevada, Idaho, Arizona, and Utah and c.i.f. or f.a.s. to Alaska and the Territory of Hawaii.

(b) Changes in or revisions of published price lists shall be published and filed as above provided at least ten (10) days prior to the effective date of any such changes or revisions, and such changes or revisions shall be available for distribution to all members of the Industry and to the trade. The Code Authority shall cause a copy of such price lists and all changes or revisions to be promptly sent to all members of the Industry affected thereby. When any member of the Industry has so published and filed changes in or revisions of his published price lists, any other member of the Industry may so publish and file changes in or revisions of his published price lists, which, if filed prior to the date when the changes or revisions first filed become effective, shall become effective upon that date.

(c) No member of the Industry shall sell or offer for sale any of his new standard machines or attachments at a price or prices lower or upon terms more favorable than as stated in his current published price lists filed as hereinbefore provided.

SEC. 4. *Prices of Machines with Special Features.*—In the sale of a new machine or attachment involving features, equipment, attachments, or auxiliaries differing from the items included in the published price list, the price of such machine or attachment shall be not less than a price established as follows:

(a) In the case of an increase in cost, the listed price of the nearest standard machine or attachment, plus the estimated (or actual if

known) net additional cost, weighted by the same percentage of overhead as applied in fixing the original price.

(b) In the case of a decrease in cost, the listed price of the nearest standard machine or attachment, less the estimated (or actual if known) net reduction in cost, weighted as above.

Sec. 5. *Firm Orders Required.*—New machines or attachments shall be sold only under firm sales contracts or firm purchase orders, and such contracts or orders shall provide for shipment within six (6) months of the date the contract or order is signed by the purchaser.

Sec. 6. *Payments in Cash.*—All payments on account of the purchase price of a new machine or attachment shall be made in cash as defined in Section I of this Article when due.

Sec. 7. *Down Payment in Deferred-payment Sales.*—In the sale of a new machine or attachment on deferred-payment terms, a cash down payment of not less than twenty-five percent (25%) of the total sales price shall be required and collected from the purchaser, either before the time of shipment and/or by sight draft with bill of lading attached.

Sec. 8. *Installments in Deferred-payment Sales.*—In the sale of a new machine or attachment on deferred-payment terms, the unpaid balance of the purchase price shall be made payable in equal monthly installments, or better, the first installment to be payable in not more than sixty (60) days from the date of shipment, the last installment to be payable in not more than fifteen (15) months from the date of shipment, all installments to be evidenced by notes bearing date of shipment. No installment note shall be extended or renewed in whole or in part, except for inability of the purchaser to make payment.

Sec. 9. *Interest.*—In the sale of a new machine or attachment on deferred-payment terms, the rate of interest on all unpaid portions of the purchase price shall be not less than six percent (6%) per annum from the date of shipment, until paid.

Sec. 10. *Cash Discount.*—Cash discount terms on sales of new machines or attachments shall not exceed two percent (2%) for cash within fifteen (15) days after shipment.

Sec. 11. *Net Cash Sales.*—When sales of new machines or attachments are made on a net cash basis, and no cash discount is involved, full payment in cash must be made by the purchaser within thirty-five (35) days from the date of shipment.

Sec. 12. *Guaranty.*—In the sale of a new machine or attachment, no guaranty shall be made except for materials and workmanship and for conformity to specifications; provided that no guaranty of materials or workmanship shall be made beyond claims presented in writing within six months after date of shipment.

Sec. 13. *No Discrimination Between Purchasers.*—In the sale of new machines or attachments no member of the Industry shall discriminate, either directly or indirectly, in the prices charged or terms allowed, or by any of the following practices, and no member of the Industry shall engage in any of such practices:—

(a) *Rentals.*—Renting new machines or attachments.

(b) *Trials and Demonstrations.*—Selling a new machine or attachment subject to acceptance after a trial or demonstration on the purchaser's job; provided, that in the case of the first machine or

attachment of each distinctly new type or size, with new model designation, if no machine of the same type and size has previously been sold, the contract may include a stipulation permitting rescission of the contract by the customer within ninety (90) days from date of shipment.

(c) *Trade-ins.*—Taking used machines or attachments, used equipment, or other property in trade on the purchase price of a new machine or attachment, or making an allowance or granting credit directly or indirectly therefor in any connection.

(d) *Rebates.*—Paying or allowing, directly or indirectly, to any purchaser of a machine or attachment or to any official officer or employee of such purchaser, or to anyone else, in connection with any sale or prospective sale, any open or secret rebate, commission, bonus, refund, unearned discount, or subsidy of any kind, whether in the form of money, services, free repairs or parts, special rates on repairs or parts, or otherwise. The sale by any member of the Industry of parts or of any other article regularly sold by such member, at a price less than his regularly established selling price therefor, in connection with the sale of a new machine or attachment, shall constitute a rebate. No member of the Industry shall give any gift or gratuity of any nature whatsoever, directly or indirectly, or sell any article whatsoever at a price less than the fair value thereof, in connection with the sale of any product of the Industry, to influence any purchaser or prospective purchaser to buy such product. Nothing herein contained shall prevent the payment of compensation to employees and regularly established distributors of the members of the Industry.

(e) *Looking Only to Security.*—In the sale of a new machine or attachment, waiving or agreeing to waive the obligation of the purchaser to pay the purchase price in whole or in part, or limiting or agreeing to limit the manufacturer's right to collect by suit the purchase price in whole or in part, or agreeing to look only to the machine for security.

(f) *Protection of Price Changes.*—Agreeing by option or otherwise, with a prospective purchaser of a new machine or attachment as to price of a future sale or agreeing to give the purchaser of a new machine or attachment any reduction in the contract sale price contingent on future price reductions.

Sec. 14. *Misrepresentation of Own Products.*—In the sale or offering for sale of any machine or attachment, members of the Industry shall use their best efforts to prevent misrepresentation of their products by any false means or device which has the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

Sec. 15. *Defamation of Competitors.*—No members of the Industry shall defame any competitor by words or acts which falsely represent the business integrity or ability to perform contracts of any competitor, or the grade, quality, or reliability of his products.

Sec. 16. *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.

Sec. 17. *Standards of Responsibility.*—Members of the Industry should maintain necessary engineering and production facilities to

fulfill warranties and credit terms involved in sales, and to supply necessary service and repair parts.

SEC. 18. *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—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 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) This Code and all the provisions hereof 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.

(e) Within each State, this Code shall not supersede any laws of such State imposing more stringent requirements relative to the age of employees, wages, hours of work, or general working conditions than are imposed by this Code.

(f) Such of the 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 and 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.

(g) 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.

(h) Nothing contained in this Code shall be deemed to constitute the members of this Code partners for any purpose.

(i) 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 employer which is a part of the Industry covered by this Code.

(j) This Code shall be in effect beginning on the second Monday after its approval by the President. It shall remain in effect until June 16, 1935, unless the Act ceases to be in effect therebefore, and shall be binding upon all members of the Industry.

Approved Code No. 102.
Registry No. 1329/1/01.

O

Approved Code No. 103

CODE OF FAIR COMPETITION

FOR THE

MACHINE TOOL AND FORGING MACHINERY INDUSTRY

As Approved on November 8, 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 Forging Machinery 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, excepting that the Administrator shall have the right on review, to disapprove or modify any action taken by the supervisory agency under article VI.

FRANKLIN D. ROOSEVELT.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 8, 1933.

October 28, 1933.

The President,
The White House.

Sir: This is a report on the Code of Fair Competition for the Machine Tool and Forging Machinery Industry in the United States, the hearing having been conducted in Washington on October 2, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Employment is limited to 40 hours per week except during periods of seasonal or peak demand. Such limitation is extended to 48 hours for six weeks during any six months' period provided that time and one-half shall be paid for all time worked in excess of 8 hours per day.

Limitations do 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 time and one-half must be paid for all over 8 hours in any one day.

Exceptions are made for executive, administrative, supervisory, and technical employees and their respective staffs, receiving more than $35.00 per week, traveling sales and service employees.

No person under 16 years of age shall be employed in the industry and no person under 18 years of age permitted to work on operations hazardous in nature or detrimental to health.

The minimum wage paid to any employee engaged in the production of the products of the industry and in labor operations connected with it shall be 40 cents per hour unless the rate per hour for the same class of labor was less than 40 cents per hour on July 15, 1929, in which case the minimum rate shall not be less than the rate than paid, provided that in no case shall the minimum rate be less than 35 cents per hour.

Learners who are specifically employed in the learning of one or more machine operations may be employed in the industry not more than 90 days at not less than 80 percent of the minimum wage rate and shall not exceed 5 percent of the total number of factory employees working for the employer.

All other employees not covered by the hourly wage rates shall be paid not less than $15.00 per week with the exception of office boys and girls who may be employed at a rate not less than 80 percent of such minimum rate and shall not exceed 5 percent of the total number of employees under such salaried classification.

ECONOMIC EFFECT OF THE CODE

This industry develops and builds the basic machines by means of which all other machines, as well as machined products of metal, are

made. The industry has suffered more seriously from the depression than has almost any other producer of capital goods.

Lack of orders has reduced employment from a 1929 high of 41,000 to a low of 9,600 as of June, 1933. Hours of labor averaged 34 per week in June, 1933, as compared to 53 per week in 1929. With increased orders and the application of the 40-hour week as provided in this Code employment should increase approximately 12 percent, and pay rolls increase approximately 20 percent. These contributions toward reemployment and in public purchasing power are being made at a sacrifice to the Industry, and this condition can be maintained and improved only through early revival of machinery purchasing.

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 Forging Machinery 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

MACHINE TOOL AND FORGING MACHINERY 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 Machine Tool and Forging Machinery 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 following terms used in this Code shall be defined as follows:

"*Machine Tool and Forging Machinery Industry*" or "*Industry*" includes the manufacture for sale of (1) machine tools, including power-driven complete metal-working machines, not portable by hand, having one or more tool or work-holding devices for progressively removing metal in chip form; (2) forging machinery, including all hot and cold (except by hydraulic) forging machinery; and (3) parts thereof, including all parts for machine tools and forging machinery, jigs and fixtures, die heads, and such small tools and accessories as are now, or may be, made by manufacturers for machine tools and forging machinery of their own manufacture.

"*Employee*".—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*".—Anyone by whom any employee is compensated or employed.

"*Member of the Industry*".—Anyone engaged in the Industry, either as an employer or on his own behalf.

"*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.

"*Learner*".—An employee without previous experience on the class of work for which he is engaged, being trained to become competent on one or more machine operations, but who shall not be so classified after ninety (90) days' experience.

Article III—Hours

On and after the effective date no employer shall employ any employee except executives, administrative, supervisory, and technical employees and their respective staffs, who are paid at the rate of $35.00 or more per week, traveling, sales and service employees,

watchmen, and firemen in excess of 40 hours per week, provided, however, that these limitations shall not apply to conditions of seasonal or peak demand which create an unusual and temporary burden for production or installation; in such special cases such number of hours may be worked as are required by the necessities of the situation, but not to exceed 48 hours per week for any 6 weeks in any calendar 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. Where in any case an employee whose hours of work are herein specified (other than salaried employees) shall work in excess of 8 hours per day, time and one half shall be paid for the excess hours worked.

Article IV—Wages

(a) On and after the effective date no employer shall employ anyone under the age of 16 years; nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health; 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 within that State.

(b) On and after the effective date the minimum wage that shall be paid by any employer to any employee engaged in the production of the products of the Machine Tool and Forging Machinery Industry and in labor operation directly incidental thereto shall be 40 cents per hour, unless the rate per hour for the same class of labor on July 15th, 1929, was less than 40 cents, in which case the rate per hour paid shall be not less than the rate per hour paid on July 15th, 1929; and provided, that in no event shall the rate per hour paid be less than 35 cents; and provided, however, that learners (other than apprentices, as defined in paragraph (d) of this Article IV) may be paid not less than 80 percent of such minimum wage, but the total number of learners at such reduced rate shall not exceed 5 percent of the total number of employees covered by the provisions of this paragraph (b); and provided further, that after three months of work learners shall be paid not less than the minimum wage herein provided.

(c) On and after the effective date the minimum wage that shall be paid by any employer to all employees other than those engaged in the production of the products of the Machine Tool and Forging Machinery Industry and in labor operations directly incident thereto shall be at the rate of $15.00 per week, provided, however, that office boys and girls may be paid not less than 80 percent of such minimum wage, but the total number of such office boys and girls employed at such reduced rate shall not exceed 5 percent of the total number of employees covered by the provisions of this paragraph (c).

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

(e) Nothing in this Article IV shall apply to or affect a bona fide apprentice employed under a system or course of training which,

when completed, will make the apprentice a skilled mechanic. At no time shall new apprentices be admitted to apprenticeship when such action shall bring their total number to more than 10 percent of the total employees.

(f) Not later than 90 days after the effective date each Member of the Industry shall report to the Administrator through the Supervisory Agency, hereinafter provided for, the action taken by such employer in adjusting the wage rates for (b) and (c) of this Article IV, but receiving less than $35.00 per week of regular work period.

(g) Copies of this code shall be publicly posted for the direct information of all employees.

Article V—General Labor Provisions

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

Section 1. "(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. 2. 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 health, fire, or general working conditions than under this Code.

Article VI—Administration

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

Section 1. (a) During the sixty-day period following the effective date of the Code, the Code Committee of the National Machine Tool Builders' Association shall constitute a temporary Supervisory Agency. This committee shall consist of five members; and the Administrator, in his discretion, may appoint not more than three additional members (without vote) to represent the Administrator.

(b) To permit representation of machine tool and forging machinery builders not members of the Association the latter shall within sixty days after this Code becomes effective, set up a permanent Supervisory Agency to succeed the temporary Agency in effectuating the policies of the Act and to cooperate in the Administration of this Code. Such Agency shall be elected at a meeting called for this purpose to which all known machine tool and forging

machinery builders shall be invited with voting privileges. This succeeding Agency shall consist of seven members of which at least five shall be members of the Association, and the Administration appointees (if any) as referred to in Section 1 (a) of this Article VI.

(c) In order that the Supervisory Agency 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 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.

(d) Any member of the Industry may participate in the preparation of any revisions of, or additions to this Code, by accepting his proper pro rata share of the cost and responsibility of creating and administering it or by becoming a member of applicant.

(e) Whenever in the judgment of the Administrator and the Supervisory Agency of the machine tool and forging machinery industry and the corresponding administrative agency established for the code of fair competition of the Machine Tool and Equipment Distributors' trade it becomes advisable to appoint an arbitration board such action shall be taken.

Article VII—Statistical Data

The members of the National Machine Tool Builders' Association and the subscribers of this Code and any other members of the Industry (subject to the approval of the Administrator) shall contribute to the Association, office figures covering their company's experience, for compilation of Industry reports on the following items:

(1) Monthly reports on total volume of new orders, in dollars, classified according to foreign and domestic destinations.

(2) Monthly detail, reports classified by types and sizes of machines agreed upon by members of each group, covering unfilled orders, new orders, cancellations, shipments, and stocks on hand, in units.

(3) Monthly reports on wages paid, by wage-scale classifications.

(4) Monthly reports of average hours of employment.

One copy of each such composite industry report, when compiled, shall be made available to each member of the industry.

It is, however, expressly provided that the jurisdiction of the Supervisory Agency over any member of the Industry, is limited to that portion of the business and employment of such member of the Industry which is within the Industry.

Except as otherwise provided in the Act, all statistics, data, and information filed in accordance with the provisions of the Code shall be confidential.

The statistics, data, and information of one member of the industry shall not be revealed to any other member of the industry. For the purpose of administering or enforcing the provisions of this Code, Supervisory Agency, by its duly authorized representatives (who shall not be in the employ of any member of the industry), shall

have access to any and all statistics, data, and information that may be furnished in accordance with the provisions of this Code.

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 National Industrial Recovery Act.

Article VIII—Accounting and Costing

As a basis for the determination of a fair price for each unit manufactured and sold by any member of the industry the Supervisory Agency shall establish a practical system of cost finding, the principles of which are to be submitted to the Administrator for approval, designed to provide sound methods of dealing with cost problems peculiar to the industry, to be used by the Industry with such variations therefrom as may be required by the individual conditions affecting any member of the Industry or group of members of the Industry, subject to the approval of the Administrator.

Article IX—Selling Below Cost

After a basis for determining cost as described in Article VIII hereof has been approved by the Administrator, no member of the Industry shall sell or exchange any product of the Industry, manufactured by him, at a price, or upon terms and conditions, which will result in the customer paying for the goods received, less than the cost thereof, to the seller, determined in accordance with the system of cost finding described in Article VIII hereof; provided, however, that obsolete products may be disposed of by any member of the Industry at a less price, but only if such member of the Industry files immediately with the Supervising Agency, for immediate transmittal to all directly competing members of the Industry, a statement in writing, setting forth an identifying description and quantity of such equipment.

Article X—Domestic Price Lists

Every member of the Industry shall establish and announce his own prices for his standard product, accessories, and/or attachments. Such prices shall then be the list or published prices to be quoted to all customers. These list prices shall remain in effect, and no deviation may be made from them until changes are made as provided in the following Paragraph of this Article X.

In order to effect change in list or published prices, and at least 10 days before new prices are to become effective, the member of the Industry shall file notice of change, including a schedule of new prices, with Supervisory Agency, and at the same time supply Supervisory Agency as many copies as may be required to mail one copy to each member of the directly competitive group.

During the above 10-day period any competitor shall have the privilege of announcing new prices to become effective on the same date, announcement of same being sent at once to Supervisory Agency as above.

For a period of 10 days following the date on which the new prices become effective, the member of the Industry may accept orders on quotations which were outstanding.

Article XI—Trade Practices

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 products of competitors. The following specific practices are examples of unfair methods of competition as defined above, and shall be prohibited.

(a) *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.

(b) *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.

(c) *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, 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.

(d) *Interference with Contractual Relations.*—Maliciously inducing or attempting to induce the breach of an existing 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) *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.

(f) *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 misrepresentation or fraud.

(g) *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.

(h) *Threats of Litigation.*—The publishing or circulating 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 other customers.

(i) *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 not outlined above is unfair.

Article XII—Export Trade

To enable the Industry to compete in foreign markets, the following provisions of the Code shall not apply to export trade or to sales and/or shipment for export trade: Articles IX and X.

Article XIII—Status Prior to Effective Date

Prior to its approval by the President, applicant may at any time change or modify any provision of this Code (except those provisions required by Sections 7 (a) and 10 (b) of the Act), or may withdraw this Code.

The applicant will not be deemed to have consented to any change or modification of this Code which may be affected by the President's order of approval, unless such change or modification is submitted to the applicant and consented to by the applicant.

Article XIV—Modification

Section 1. (a) 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.

(b) 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 XV—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 XVI—Effective Date

This Code shall become effective on the 11th day after its approval by the President.

Approved Code No. 103.
Registry No. 1319/15.

O

Approved Code No. 104

CODE OF FAIR COMPETITION

FOR THE

LIQUEFIED GAS INDUSTRY

As Approved on November 8, 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 Liquefied Gas 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 8, 1933.

29924——296-198——34

November 3, 1933.

The President,
The White House.

Sir: A proposed Code of Fair Competition for the Liquefied Gas Industry was submitted to the Administrator on August 24, 1933, by the National Bottled Gas Association, representing 75% of the known members of the Industry. The hearing was conducted in Washington on October 5, 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 properly heard in accordance with statutory and regulatory requirements.

Because of the unsettled conditions incident to the rapid growth of this Industry there are no reliable criteria for determining directly the minimum wage rates. The larger companies have estimated that compliance with the President's Reemployment Agreement has raised hourly rates approximately 17%. However, the main contribution of this Code to the Industry lies in Article IV, the Rules for Marketing. These Marketing regulations, by providing protection for the consumer, will ameliorate their good will, thereby enlarging the potential market for this Industry.

Résumé of Code

Article I states the purpose of the Code.

Article II accurately defines specific references made in the Code.

Article III sets forth the mandatory labor provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for all employees except outside salesmen and the executive staff who receive more than $35.00 per week. Because of seasonal variations, employees are permitted to work in any two months' period 346 hours, but in no event more than 48 hours in any one week.

The minimum wage rate for all employees, excepting those working on a commission or drawing account basis, is 40 cents per hour.

Article IV states the marketing rules for the Industry.

Article V establishes an Emergency National Committee as the Code Authority for the Industry. This body is composed of eleven Committeemen elected by the Industry with additional representatives (not exceeding three) to be appointed by the President.

Findings

The Administrator finds: 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 National Bottled Gas Association is truly repre-

sentative of the Liquefied Gas Industry, and the by-laws of this Association, when amended as per written agreement, will provide no inequitable restrictions 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, 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

LIQUEFIED GAS INDUSTRY

Article I—Purposes

In order to insure the conservation of the liquefied gas resources of the country, to eliminate unfair trade practices, to increase employment, to establish fair and adequate wages, to enlarge the purchasing power of persons related to this industry, to improve the standards of labor, to so restore the liquefied gas industry that it may promote the general welfare and common prosperity of the American people, to give maximum safety protection to all consumers regardless of type, to eliminate unfair competition in the liquefied gas industry, and to accomplish and effectuate the policies set forth in Title I of the National Industrial Recovery Act, this Code of fair trade practices governing the liquefied gas industry is adopted as the standard of fair competition for such industry and shall be binding on every member thereof.

This code covers only the *marketing* of liquefied gas for any use whatsoever in any quantities and in any size or type of container whatsoever.

Article II—Definitions

Liquefied gas for the purpose of this code is (a) an inflammable liquefied hydrocarbon material having a vapor pressure exceeding twenty-five pounds per square inch gauge at 70 degrees F. and/or (b) any inflammable liquefied hydrocarbon material with a lesser vapor pressure, but not less than nine (9) pounds absolute vapor pressure at 70 degrees F., when same is used as or in a similar manner to "bottled gas" for purposes such as cooking, water heating, and the like by the gas feed, liquid feed, or other utilization system, or as raw material in "pentane-air" machines and the like.

A "marketer" is any distributor, jobber, wholesaler, or retailer selling, reselling, or delivering to consumers liquefied gas in either barges, tank cars, tank trucks, or portable containers.

The term "liquefied gas industry" includes the marketing of liquefied gas in barges, tank cars, tank trucks, drums, or portable containers where such is used as a fuel in industrial plants, residences, restaurants, and the like.

The term "Bottled Gas" includes that part of liquefied gas served directly or indirectly to the retail consumers in portable containers or tank trucks.

The term "standard utilization equipment" is that equipment installed at the bottled gas consumer's residence or place of business for utilization of liquefied gas and usually comprises a cabinet, a regulator with safety device, manifold valves, a flexible connection or connections, a base, a lock, and piping.

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—Labor

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. 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 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.

The employees of the liquefied-gas industry, except executives, supervisors, their secretaries, and their immediate staff who receive a minimum of $35 per week, and outside salesmen, will work on an average of not more than 40 hours per week. Because of the exigencies and seasonal peaks of the liquefied-gas industry it may be necessary to work the employees more than 40 hours per week on occasion, but the work for each individual for any two months' period shall not exceed 346 hours nor exceed a total of 48 hours in any one week. The minimum wage to be paid by employers in the industry shall be forty cents ($0.40) per hour, excepting those employees working on a commission or drawing account basis in the direct sales activities of the industry.

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.

The minimum rate of pay provided for herein is guaranteed to all workers whether compensation is based on time or piecework basis.

The rate of other labor shall bear a fair relation to the foregoing giving due consideration to the experience and knowledge of the employees affected and to the prevailing scale for similar work in the locality of the employment, but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

No employee shall be permitted to work for two or more employers for a longer period in any week than is specified herein for a single employer.

On or after the effective date of this Code no "employer" shall employ any person under the age of eighteen years, except that in office and sales work this minimum may be sixteen years.

Article IV—Marketing

Rule 1.—No "marketer" engaged in the sale of liquefied gas products shall wilfully induce, attempt to induce, or assist a party to

break a then existing written contract for the sale of liquefied gas products or a then existing lease of the equipment used for the sale or utilization of liquefied gas products between that party and another.

No "marketer" engaged in the sale of liquefied gas products shall knowingly enter into any agreement to sell or deliver any liquefied gas to anyone where sale or delivery will violate or prevent the performance of a then existing written contract between the person to whom the sale or delivery is made and another.

Nothing herein shall be construed to restrict another marketer from explaining the convenience and general features and operation of such marketer's utilization equipment to the customer of another marketer.

No contracts in violation of this Code are protected under this rule.

Rule 2.—When any equipment, tank, cylinder, or other device for the storage, consumption, handling, or sale of liquefied gas leased prior to or after the adoption of this Code bears the name, mark, trade-mark, or trade name of any "marketer" engaged in the manufacture or sale of any such commodity, no other "marketer", unless that "marketer" has been regularly serving such equipment immediately prior to the adoption of this Code, or unless such equipment is owned by Federal, State, or municipal governments or subdivisions thereof and no liquefied gas contract is in effect, shall deliver into or deliver for sale to such equipment, tank, cylinder, or other device or any tank or container connected therewith, any liquefied gas, other than that manufactured, sold, and distributed by the "marketer" whose name, mark, trade-mark, or trade name is so affixed, and no "marketer" shall in any way knowingly be a party to the substitution of the one brand or type of liquefied gas for another, or the removal or transportation of any equipment, tanks, cylinders, devices, of the like belonging to another "marketer."

No "marketer" shall make any changes in, additions to, or substitutions from, any equipment installed on lease by any other "marketer", except where such "marketer" has been regularly supplying liquefied gas for use in such equipment immediately prior to the adoption of this Code, or upon written permission of the owner thereof or the original "marketer" installing same. Marks, trade marks, or trade names of any "marketer" engaged in the manufacturing sale of any such commodity shall not be removed by any other "marketer" except on written authorization by such "marketer" and/or owner.

Rule 3.—As the bottled gas branch of the liquefied gas industry is a growing industry, and as it is still in its development period of creating new markets, marketing of appliances to consumers directly by the "marketer" is essential, and all "marketers" may sell appliances direct. Incentives such as load building appliances, utensils, advertising novelties, etc., shall be construed as assisting in building the industry and shall be allowed, but only to consumers already using liquefied gas as compensation for services rendered, and the value of such incentives shall not be disproportionate to business gained thereby.

However, "marketers" engaged in the sale of liquefied gas shall not give away any liquefied gas nor make any installation or lease free of charge or at less than posted prices.

This rule shall not prevent (a) the giving of other reasonable prizes at fairs, public demonstrations, and cooking schools; (b) the giving of other reasonable incentive, to induce attendance at such public demonstrations or to obtain names of prospective consumers.

Rule 4.—All "marketers" shall post at each point from which they make deliveries, and at places readily accessible to the public, all prices for which liquefied gases are sold at retail. All "marketers" engaged in the retail sale or leasing of bottled gas equipment shall post at each point from which they make deliveries and at places readily accessible to the public, all retail prices for which bottled gas equipment are sold and/or leased. Upon adoption of this Code all "marketers" shall submit posted price schedules and any price changes made thereafter in written form to the National Bottled Gas Association, or other association designated by the Emergency National Committee, within twenty-four hours after such change. Any person shall have access to this information from the "Association" upon written request. All prices shall remain in effect for at least twenty-four (24) hours after they are posted. Posting shall include the following: (a) The retail prices for all classes, types, methods, and quantities of deliveries of liquefied gas, (b) The prices and/or lease or installation charges for all types and specifications of liquefied-gas equipment for retail use; (c) a schedule of all discounts offered and the terms thereof and (d) a statement of all terms as to freight rates, deliveries and points of price basis. All retail sale or leased installations shall be made at the posted price or lease charges and no "marketer" shall make any deviation from his posted price by means of rebates, allowances, concessions, benefits, script books, quantity discounts, discounts to buyers of a class or by any plan, device, or scheme, whereby any buyer obtains any liquefied gas or equipment, or lease, or installation at a net cost lower than the posted price.

Rule 5.—No "marketer" engaged directly or indirectly in the liquefied gas industry shall sell any liquefied gas below his prime cost; nor shall sell at retail any bottled gas equipment or appliances for less than his prime cost. Prime cost as used herein is understood to mean invoice figure plus transportation charges from source to storage.

Rule 6.—All utilization equipment requiring portable and/or movable containers shall be approved by and listed with the Underwriters Laboratories, Inc., of National Board of Fire Underwriters and/or affiliates and shall be installed, maintained, and operated in accordance with the rules and recommendations of Underwriters Laboratories, National Board of Fire Underwriters and/or affiliates, as a means of promoting the greatest degree of safety.

All cylinders or drums purchased after the effective date of this Code shall be built and maintained in accordance with the specifications and regulations of the Interstate Commerce Commission. All cylinders or drums purchased and/or in use prior to the effective date of this Code, and used for storage and/or transportation of liquefied gas, in interstate and intrastate service, by rail, truck, or otherwise, shall, if built in accordance with specifications of other recognized authorities, but not constructed, marked, and maintained in accordance with specifications and regulations of the Interstate

Commerce Commission, be either retired from any storage or transportation service or be tested, and maintained in accordance with specifications of the Interstate Commerce Commission within five years from the effective date of this Code. All cylinders or drums not built in accordance with Interstate Commerce Commission specification or specifications of other recognized authorities shall be withdrawn from service within a reasonable length of time after the effective date of this Code through the exercise of diligent, conscientious, and prompt effort on the part of the owners thereof, such reasonable time not to exceed one year from the effective date of this Code.

No deliveries of liquefied gas in or by cylinders or otherwise shall be made to any installation either temporary or permanent for domestic or commercial bottled-gas uses such as cooking, hot-water heating, lighting and space heating, which installations are located inside buildings, basements, or other dangerous or hazardous locations, excepting only buildings designed and erected specifically and exclusively for housing of such installations, after a reasonable time following the effective date of this code. A "reasonable time" is here defined as that period within which the necessary changes to comply with the requirements of this rule can be made by diligent, conscientious, and prompt effort on the part of the "marketer" affected or his agents, but in no event shall such reasonable time exceed 1 year from the effective date of this Code.

Liquefied gas cylinders or drums shall be warehoused and/or stored only in a safe location and in a safe manner, in accordance with recognized safety practices and under the rules or recommendations of insurance companies or recognized authorities, and shall not be warehoused and/or stored in any location which would be hazardous to the public or if such locations are in violation of State or local laws or insurance company rules.

All deliveries of liquefied gas made to buyers or consumers for domestic use shall be limited to the capacity of the liquefied-gas equipment installed on the premises of said user or buyer.

All tanks, containers, piping, devices, and utilization equipment shall be built in accordance with the rules or specifications covering that class promulgated by the National Board of Fire Underwriters, National Fire Protection Association, Associated Factory Mutual Laboratories, and/or affiliates, and shall be installed, maintained, and operated in strict accordance with the rules and recommendations of the National Board of Fire Underwriters, National Fire Protection Association, Associated Factory Mutual Laboratories, and/or affiliates.

Rule 7.—"Marketers" engaged in the sale of liquefied gas or sale or lease of liquefied gas equipment being cognizant of the need for safety in equipment and installation, shall not sell, lease or install any reclaimed or second-hand equipment, except where such equipment has been reconditioned so as to be equivalent from a safety standpoint to new equipment of the same type and specification. Such equipment shall not be sold, leased, or installed below the posted price of unused equipment.

Rule 8.—The making or causing or knowingly permitting to be made or published any false, materially inaccurate or deceptive state-

ment 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, or the falsely laying claim to a policy or a continuing practice of generally underselling competitors, is prohibited.

Rule 9.—The provisions of this code shall not apply to transactions between subsidiary or affiliated companies. Companies shall be considered to be affiliated when one owns the majority of the outstanding capital stock of the other and when the majority of the outstanding capital stock of each is held by the same individual, corporation, or association. The Parent companies owning the majority of stock in other companies shall be responsible for the observance by such subsidiary or affiliated company of the rules of this code.

Rule 10.—The unauthorized use by any "marketer" of the trademark, trade slogan, insignia, or emblem of any other "marketer" or of any trade association in the liquefied gas industry, or the assertion of claim, by advertisement or otherwise, by any "marketer" that he is a member of any such association when in fact not a member thereof, is prohibited.

Rule 11.—All consuming appliances not manufactured for liquefied gas shall be properly adapted or converted for the safe and efficient use of liquefied gas, and no "marketer" shall render such conversion service, on appliances being connected to a liquefied gas installation made by such "marketer", at prices below cost of labor and material.

Rule 12.—The marketing provisions of this code shall apply to all "marketers" of liquefied gas as hereinbefore defined regardless of any of their trade associations or other industrial affiliations.

Rule 13.—A violation of any of the rules of this code shall constitute an unfair trade practice.

Article V

Section 1. *Emergency National Committee.*—There shall be an Emergency National Committee of the Liquefied Gas Industry to consist of eleven (11) committeemen to be representative of the Liquefied Gas Industry, who shall be so selected by a majority vote in such a way that every element of the Industry shall be fairly and equitably represented. The voting shall be on a basis of total sales income from liquefied gas sales (income from equipment, appliance, or anything other than liquefied gas sales being specifically excluded), the said income being that income for the calendar year immediately preceding the year in which the voting occurs, as follows:

(a) For "marketers" making bona-fide sales, the basis shall be one vote for each $100 of such income.

(b) For "marketers" not included in (a) the basis shall be one vote for each $100 of that theoretical liquefied gas sales income which said "marketer" would have had, if said "marketer" had actually handled the sales transaction directly instead of as an intermediary for another "marketer."

(c) For "marketers" included in (a) but not included in (b) and operating under such a sales arrangement as to combine any truly wholesale marketing of liquefied gas with a direct marketing to the final retail consumer, the basis shall be the same as rule (a) plus the voting power based on those theoretically wholesale sales which would have been necessarily made had said "marketer" operated on a retail-sales basis only.

The additional voting provisions of (c) in excess of the voting provisions of (a) shall not apply to sales for other than "bottled gas" purposes.

The President may appoint ——— (from one to three) nonvoting members who will represent the Government on the Emergency National Committee. Such Governmental representatives are to be appointed for terms of from six months to one year. In case more than one such representative is appointed, the terms of appointment are to be so arranged that they do not expire at the same time.

SEC. 2. *Emergency Executive Committee.*—The Emergency National Committee shall select from its membership an Emergency Executive Committee composed of the Chairman of the Emergency National Committee, who shall be also the Chairman of the Emergency Executive Committee, and three others, one of whom (without vote) shall be a representative of the National Recovery Administration. The Emergency Executive Committee thus constituted shall have all the authority and power of the Emergency National Committee when the Emergency National Committee is not in session.

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. 3. *Powers and Duties of Committees.*—Subject to review and disapproval or modification by the Administrator:

(a) The Emergency National Committee shall be the general planning and coordinating agency for the Industry. It shall make rules and regulations as it may deem necessary and upon complaint of interested parties or upon its own initiative may make inquiry and investigation into the operation of this code, and shall aid the President and his delegates in the administration of this code and the National Industrial Recovery Act.

(b) The Committee shall make and publish, from time to time, such forecasts on these subjects as it may deem advisable in order that the President of the United States may be informed as to the observance or non-observance of this code and in order to provide necessary data upon which to base its studies for the purposes of this code and to have available data, the Emergency National Committee is empowered to call upon the Industry for all statistical and other reports pertinent to this Code which it may deem advisable and any refusal to supply such reports is a violation of this code. All such statistical and other data shall be available to the Administrator and his agents. Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in ac-

cordance with the provisions of Article V 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 facilitating the administration and enforcement of the provisions of this Code the Emergency National Committee or the Emergency Executive Committee by their duly authorized representatives (who shall not be in the employ of any employer affected by this Code) shall have access to any and all statistics, data, and information that may be furnished in accordance with the provisions of the National Industrial Recovery Act. 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 Committee shall utilize to the fullest extent possible the facilities of any and all existing trade associations, national, regional, or local, in the liquefied gas industry in such manner as may seem most useful to the work of the Committee. It may form or cause to be formed advisory committees and committees to cooperate in the administration of this Code, the National Industrial Recovery Act, and the rules and regulations thereunder.

(d) 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.

Sec. 4. *Vacancies.*—All vacancies occurring during term of office in the Emergency National Committee and the Emergency Executive Committee shall be filled by the Emergency National Committee. Members, except government representatives, of all Committees shall serve until August 15, 1934, when their term shall expire. Prior to August 15, 1934, a new Emergency National Committee shall be elected in accordance with provisions of Article V, Section 1.

Sec. 5. *Fees and Assessments.*—To cover the actual expense of administration, assessments shall be made by the Emergency National Committee of the Liquefied Gas Industry, hereinbefore provided for, which assessments shall be on a fair and equitable basis, considering the nature and extent of operations carried on by those subject to assessments, and assessments shall be paid promptly when due by those assessed.

Sec. 6. *Amendments.*—The President may from time to time cancel or modify any order, approval, license, rules or regulations issued under Title I of the National Industrial Recovery Act, and specifically, without limitation, may cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

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 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, provided, however, that no modifications or amendments of this Code shall be made by the members of the industry without the consent being voted, in writing, by members representing at least two-thirds of the total number of votes to which all members of the Code are entitled collectively, when based upon the voting provisions of Article V, Section 1.

Notice of any proposed modification or amendment to this Code shall be given to all members of the Industry and time be allowed for consideration of such amendment or modification prior to acting upon the same.

SEC. 7. *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 increases shall be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

SEC. 8. *Effective Date.*—The provisions of this code shall become effective upon approval thereof by the President, and shall remain in force until June 16, 1935, or any date prior thereto that the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Section 1 of Title I of the National Industrial Recovery Act has ended.

Approved Code No. 104.
Registry No. 711/23.

○

Approved Code No. 105

CODE OF FAIR COMPETITION

FOR THE

AUTOMOTIVE PARTS AND EQUIPMENT MANUFACTURING INDUSTRY

As Approved on November 8, 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 Automotive Parts and Equipment 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 the said act and that the requirements of clauses (1) and (2) 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 8, 1933.

29925——296-199——34

NOVEMBER 1, 1933.

The PRESIDENT,
The White House.

SIR: The proposed Code of Fair Competition for the Automotive Parts and Equipment Manufacturing Industry was submitted to the Administrator on September 22, 1933, by Automotive Parts and Equipment Manufacturers, Incorporated, in cooperation with the Motor and Equipment Manufacturers Association, and the National Standard Parts Association representing approximately 80% of the known members of the Industry and volume of production. The Hearing was conducted in Washington on October 3, 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 properly heard in accordance with statutory and regulatory requirements.

The Industry is nationwide in character. Its factories are located in more than 300 communities scattered throughout 40 States. It supplies replacement parts, accessories, service tools, equipment, and products through more than 200,000 outlets for maintaining and servicing the more than 20,000,000 motor vehicles which are now in use. In addition it supplies original parts and equipment entering into the manufacture of new motor vehicles.

During the past four years the Industry experienced an indicated decline in production volume of approximately 40%. This was coincident with a drop of approximately 30% in the number of employees. It is estimated that, giving due consideration to reemployment and wage increases already effected, the Labor Provisions in this Code will result in restoring employment in the Industry to approximately 96% of the number employed in the Industry in 1928 and will effect an increase of approximately $1,250,000 in the weekly pay rolls of the Industry, or an increase of approximately 70% over the average weekly pay roll for the first six months of 1933.

ARTICLE I. *Purpose.*—States the purpose of the Code.

ARTICLE II. *Definitions and divisions of industry.*—Accurately defines specific terms used in the Code, including the effective date, and describes the manner in which the Industry may be organized through Divisions and Product Groups. Such Divisions or Product Groups may adopt, subject to the approval of the President, their own supplemental Codes of Fair Trade Practice.

ARTICLE III. *Hours.*—The maximum hours are limited to 40 per week for employees engaged in the processing of products and in labor incident thereto averaged over a period of six months but are not to be in excess of six days or 48 hours in any one week. Employees engaged in the preparation, care, and maintenance of plant machinery, and facilities of and for production, and in plant protection are exempt from the weekly limitations above provided but the hours of employment of such exempted employees shall not exceed 42 hours per week averaged on an annual basis. Office, salaried, and other

employees not covered above, who receive less than $35.00 per week shall not work more than six days or 48 hours in any one week and not more than an average of 40 hours for each six months' period. Employees engaged in an executive, managerial, or supervisory capacity, who receive more than $35.00 per week, and employees, other than those engaged in processing or labor operations directly incident thereto and outside salespeople, who receive more than $35.00 per week, are not subject to any hourly limitations.

Article IV. *Wages.*—The minimum wage for employees engaged in the processing of the products or in any labor incident thereto is at the rate of 40 cents per hour for male employees and at the rate of 35 cents per hour for female employees, unless the rate per hour for the same class of work on July 15, 1929, was less than the above-specified minimums, in which latter case the rate per hour paid shall not be less than the rate per hour paid on July 15, 1929. In no event shall the minimum rate per hour paid to either male or female employees be less than at the rate of 87½% of the above-specified minimum rates. The rate per hour paid to either male or female employees shall not be less than 80% of the above-specified minimum rates in the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, and such other States as may be excepted with the approval of the Administrator. Apprentices and learners may not constitute more than 5% of the employees engaged in the processing of products and in labor operations incident thereto in any month, and their wages shall not be less than 80% of the specified minimums for a period not to exceed three months. Female employees shall be paid the same rate of pay as male employees for doing the same work or for performing the same duties. For all other employees, except commission sales people, the minimum wage is at the rate of $15.00 per week, except that learners and apprentices shall be paid not less than 80% of the minimum rate for a period of three months. Learners and apprentices may not constitute, in any month, more than 5% of the total number of employees covered by the $15.00 minimum-wage provisions. Provision is made for equitable adjustment in all pay schedules of factory employees above the minimum.

Article V. *Child labor.*—Provides that no employer shall employ any person under sixteen years of age.

Article VI. *Administration.*—Establishes a Code Authority consisting of the Board of Director of the Automotive Parts and Equipment Manufacturers, Incorporated, with an additional representative to participate in the conference of the Code Authority with respect to the application of this Code, to be appointed by the President or the Administrator, and provides for obtaining statistics.

Article VI C. *Trade practices.*—Sets forth Fair Trade Practices for the Industry.

Article VII. *General.*—Sets forth the mandatory provisions respecting right of employees to organize and bargain collectively, provisions respecting modification and amendments, provision required in section 10 (b) of Title I of the National Industrial Recovery Act, and a provision that no member of the Code shall be held to have consented to any modification thereof or to any provision or interpretation of the National Industrial Recovery Act if declared unconstitutional by the Supreme Court of the United States.

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, and that;

(b) The Automotive Parts and Equipment Manufacturers, Incorporated, is truly representative of the Automotive Parts and Equipment Manufacturing Industry, and its Bylaws contain no inequitable restrictions on membership, 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.

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

Respectfully,

Hugh S. Johnson,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

AUTOMOTIVE PARTS AND EQUIPMENT 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 Automotive Parts and Equipment Manufacturing Industry, and, upon approval by the President, shall be the standard of fair competition for this Industry.

Article II—Definitions and Divisions of Industry

The term "Industry" as used herein is defined to mean the business of the production and/or manufacture of automotive parts and/or equipment, consisting of automotive original equipment, automotive replacement parts, automotive accessories, automotive shop equipment, automotive service tools, automotive chemical specialties, automotive electrical products, internal-combustion engines excepting aircraft engines, such other allied products as are natural affiliates, including industrial, marine, and aircraft parts, units, and/or equipment, which are or have parts kindred to this automotive parts and/or equipment Industry, excepting, however, the production and/or manufacture of such articles when produced or manufactured by a manufacturer for use exclusively in his own finished product, and excepting the business of manufacturing and/or producing rubber tires and tubes and other rubber products included in the Code or Codes of Fair Competition for the Rubber Industry, and excepting the products included in the Code of Fair Competition for the Electric Storage and Wet Primary Battery Industry.

The term "member of this Industry" as used herein means all producers and/or manufacturers engaged in the production and/or manufacture of the products of this Industry.

The term "member of the Code" as used herein means any "member of this Industry" who assents to this Code.

The term "employees" as used herein means all persons employed in the conduct of the "Industry" as defined herein.

The term "employers" as used herein means all members of the "Industry" by whom such "employees" are employed.

The term "A.P.E.M." as used herein means Automotive Parts and Equipment Manufacturers, Inc., a trade association incorporated under the laws of the State of Illinois and having its headquarters' office at Detroit, Michigan, in which corporation there is no entrance or initiation fee and no inequitable restrictions are placed upon membership.

The term "the President" as used herein means the President of the United States.

The term "the Act" as used herein means the National Industrial Recovery Act as approved by the President on June 16, 1933.

The term "the Administrator" as used herein means the Administrator appointed by the President under the Act and at the time in office.

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 "expiration date" as used herein means the expiration date of Title I of the Act.

This Industry may be organized into administrative units based upon Divisions and Product Groups within the Industry which have been or may hereafter be established under A.P.E.M. Such Divisions or Product Groups may adopt, subject to the approval of the President, their own supplemental Codes of Fair Trade Practice, but nothing inconsistent with this Code shall be contained therein.

It is contemplated that each Division and each Product Group may in their own supplemental codes establish administrative committees and be independent and self-governing in respect to all conditions and problems relating exclusively to said Division or Product Group, except that each Division and each Product Group shall remain bound by this Code.

The following divisions of the products of the members of this Industry have been established under A.P.E.M.

(1) *Original Equipment.*—Products of this "Industry" sold to manufacturers and included by them as standard or optional equipment in their products.

(2) *Replacement Parts.*—Service or replacement parts.

(3) *Accessories.*—Automotive parts or equipment not usually included by the manufacturer to whom sold as "standard equipment" in the sale by such manufacturer of his products and usually sold to manufacturers or others as additional to "standard equipment."

(4) *Shop Equipment.*—Automotive machine tools and automotive apparatus designed for and used in the maintenance or repair of a motor, industrial, marine, or aircraft vehicle or internal-combustion engine and usually sold for use in reconditioning same.

(5) *Service Tools.*—Automotive small hand tools designed especially for or used either in conjunction with shop-equipment tools or apparatus or in the maintenance, repair, or adjustment of a motor, industrial, marine, or aircraft vehicle or internal-combustion engine.

(6) *Chemical Specialties.*—Automotive chemical specialties used chiefly in the operation, maintenance, or repair of a motor, industrial, marine, or aircraft vehicle, including auto polishes (both liquid and wax), top dressings, retouching enamels, radiator cleaners and stop-leaks, antifreeze solutions, valve-grinding compounds, and other kindred automotive specialties.

(7) *Automotive Electrical Products.*—Automotive electrical products sold as original equipment, replacement parts, or accessories for motor, industrial, marine, or aircraft vehicles and internal-combustion engines.

(8) *Internal-Combustion Engines.*—Internal-combustion engines except aircraft engines.

(9) Other divisions may be established by the Board of Directors of A.P.E.M., subject to the approval of the Administrator.

Article III—Hours

(1) No employee engaged in the processing of products of this Industry, and in labor operations directly incident thereto, shall work or be permitted to work in excess of 40 hours per week, averaged over each six months' period from the effective date, provided, however, that such employees may be employed not more than 6 days or 48 hours in any one week, and employees engaged in the preparation, care, and maintenance of plant, machinery, and facilities of and for production and in plant protection, shall be exempt from the weekly limitations above provided, but the hours of employment of any such exempted employees shall not exceed 42 hours per week averaged on an annual basis.

(2) No office, salaried, or other employee, not covered by paragraph (1) of this Article, receiving less than $35.00 per week, shall work or be permitted to work more than 6 days or 48 hours in any one week and not more than an average of 40 hours per week for each six months' period from the effective date.

(3) Employees engaged in an executive, managerial, or supervisory capacity who receive $35.00 per week or more; employees of the kinds covered by Section (2) of this Article who receive $35.00 per week or more, and outside salespeople shall not be subject to any hourly limitations.

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

Article IV—Wages

(1) The minimum wage that shall be paid by any employer to any employee engaged in the processing of the products of this Industry and in any labor operations directly incident thereto shall be at the rate of 40¢ per hour for male employees and at the rate of 35¢ per hour for female employees, subject to the following exceptions:

(a) If the rate per hour paid for the same class of work on July 15, 1929 was less than the above specified minimums, the rate per hour paid shall be not less than the rate per hour paid on July 15, 1929, but in no event shall the minimum rate per hour paid to either male or female employees be less than 87½% of the above specified minimum rates; provided, however, that in the states of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, and such other states as may be excepted with the approval of the Administrator, the rate per hour paid to either male or female employees shall not be less than 80% of the above specified minimum rates.

(b) Learners and apprentices for a period of not to exceed three months may be paid not less than 80% of the minimum rates of wages above specified or determined in the manner above provided, but in the case of any employer the total number of such learners and apprentices in any calendar month shall not exceed 5% of the

employees engaged in the processing of the products of this Industry and in labor operations directly incident thereto.

(c) Where female employees do the same work or perform the same duties as male employees, they shall be paid the same rate of pay as male employees are paid for doing such work or performing such duties.

(2) The minimum wage that shall be paid by any employer to all other employees, except commission sales people, shall be at the rate of $15.00 per week; provided, however, that learners and apprentices may be paid not less than 80% of such minimum rate of wage for a period of three months, but in the case of any employer the total number of such learners and apprentices shall not exceed in any calendar month 5% of the total number of employees covered by the provisions of this paragraph (2).

(3) Equitable adjustment in all pay schedules of factory employees above the minimums shall be made not later than 30 days from the effective date by any employers who have not heretofore made such adjustments, and the first monthly reports of wages required to be filed under this Code shall contain all wage increases made since May 1, 1933.

(4) The foregoing provisions establish minimum rates of wages, regardless of whether the employee is compensated on the basis of time rate or piece rate or otherwise.

(5) Employers shall not reclassify employees falsely, i.e., contrary to fact with reference to work performed, with the intention of defeating the purposes of the Act.

(6) It is understood, however, that persons whose earning capacity is limited because of age or physical or mental handicap are not included in the above wage 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 five employees in plants having less than 100 employees; nor more than 5% of the total number of employees in such plants employing 100 or more.

Article V—Child Labor

No employer in this Industry shall employ any person under sixteen years of age.

Article VI—Administration

A. ORGANIZATION AND POWERS

(1) The Board of Directors of A.P.E.M. is hereby designated the Code Authority to assist the Administrator in the administration of this Code of Fair Competition and to formulate, with the approval of the President, such further code provisions as may be deemed necessary to insure fair competition and to effectuate in this Industry the purposes of the Act, provided that no inequitable restrictions upon membership in A.P.E.M. shall at any time be imposed.

(2) The Code Authority is hereby designated the agency to conduct communications and conferences with the Administrator concerning the Code of this Industry or any supplemental codes of the Divisions or Product Groups or any provisions thereof.

(3) With a view to keeping the Administrator informed as to the observance or nonobservance of this Code and as to whether appropriate steps are being taken to effectuate the purposes of the Act, each member of this Industry shall furnish certified reports to the Code Authority when and in such form as the Code Authority shall, subject to the approval of the Administrator, prescribe and permit a disinterested agency designated by the Code Authority to make such examinations of the records of each member of this Industry as may, subject to the approval of the Administrator, be deemed necessary for the purpose of verifying the accuracy of such reports.

(4) The President or the Administrator may designate a representative to participate in the conferences of the Code Authority with respect to the application of this Code, and such representative shall receive such notice of meetings as is given to members of the Code Authority and shall have access to all data and statistics collected by the Code Authority as hereinabove provided. The Code Authority shall hold itself in readiness to assist the Administrator and to meet with the Administrator's representative from time to time as requested, to consider and study any suggestions or proposals presented upon behalf of the Administrator or any member of the Industry regarding the operation, observance or administration of this Code.

(5) Any and all information with respect to sales volume, costs, and other details of operations as may be furnished by the members of the Industry to the properly constituted officers, committees, or representatives of A.P.E.M. or its Divisions or Product Groups, shall be considered confidential and shall not be supplied or made available to others, except to the duly appointed and constituted representatives of the President.

(6) In addition to information required to be submitted under this Code, 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. PARTICIPATION

Each member of the Code shall be entitled to participate in the activities of the Code Authority to the same extent as a member of A.P.E.M. Each member of the Code shall contribute his proportionate share toward a reasonable cost of preparation and administration of the Code, including the cost of the assembly and analysis of such reports and data as may be required under the Code and the cost of the maintenance of the Code Authority and its activities, either by becoming a member of A.P.E.M. or by paying to A.P.E.M. his equitable and proportionate share of the expense of administration as determined by the Code Authority subject to the approval of the Administrator.

C. TRADE PRACTICES

(1) It shall be unfair competition for any member of this Industry to sell or exchange in commerce within the continental boundaries of the United States of America any product of his manufacture at a price or upon such terms or conditions as will result

in the customer paying for the goods received less than the cost to the seller, except under such special conditions as may be adopted by a Product Group in a supplemental code approved by the President.

(a) Cash or trade discounts, freight, express, cartage, or other delivery expenses allowed from invoice price shall be deducted therefrom in determining the net sales price.

(b) Each Product Group shall adopt, within such period as may be determined by the Code Authority, a definition of cost, methods of costing and accounting, and provisions for the administration and enforcement of the foregoing prohibition, subject to the approval of the Administrator.

(c) Where a member of this Industry produces more than one line of products, each line shall be considered a separate unit for purposes of ascertaining costs, and expenses of all kinds shall be properly and fairly allocated to the several lines.

(2) Nothing in this Code shall be interpreted to prevent the sale of dropped lines or surplus stock, or inventories which must be converted into cash to meet financial needs, at such prices as are necessary to move such merchandise, provided that after the approval of supplemental codes for the several Divisions or Product Groups all such stocks shall first be reported to the administrative committees of the proper Product Groups who shall in turn report to the administrative committees of all Divisions whose Groups may be affected by such action.

(3) The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other misrepresentations to mislead and deceive purchasers or prospective purchasers, is unfair competition.

(4) Maliciously enticing away the employees of competitors with the purpose and effect of hampering, injuring, or embarrassing competitors in their business is unfair competition.

(5) The dating of an invoice other than the date of the shipment and the withholding from, or inserting in the invoice, facts which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, and/or the payment or allowance of secret rebates, refunds, credits, unearned discounts, whether in the form of money or otherwise, is unfair competition.

(6) Disparagement of the goods of competitors to mislead or deceive purchasers or prospective purchasers is unfair competition.

(7) Selling or offering to sell any product with intent to deceive purchasers or prospective purchasers is unfair competition.

Article VII—General

(1) As required by Section 7 (a) of Title I of the Act, the following provisions are conditions of this Code:

(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."

(2) Within each State 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.

(3) Such of the 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 by the Board of Directors of the A.P.E.M. if it appear that the public needs are not being served thereby and as changes in circumstances or experience may indicate.

(4) It is contemplated that from time to time supplementary provisions to this Code or supplemental 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 purposes of the Act and which shall not conflict with the provisions hereof.

(5) As required by Section 10 (b) of Title I of the Act, the following provision is contained in this Code: The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued under said Title.

(6) No member of this Code shall be held to have consented to any modification thereof or to any provision or interpretation of the National Industrial Recovery Act if declared unconstitutional by the Supreme Court of the United States.

(7) 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.

(8) Each employer shall post in conspicuous places, accessible to employees, the labor provisions of this Code.

(9) Violation by any member of this Industry of any provision of this Code is an act of unfair competition, and the offender shall be subject to the penalties imposed by the Act.

Approved Code No. 105.
Registry No. 1404—02.

O

Approved Code No. 106

CODE OF FAIR COMPETITION

FOR THE

PRINTERS' ROLLERS INDUSTRY

As Approved on November 8, 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 Printers' Rollers 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 8, 1933.

29926——296-200——34

NOVEMBER 2, 1933.

THE PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Printers' Rollers Industry in the United States, the hearing on which was conducted in Washington on October 3, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS ON HOURS AND WAGES

Under this code hours of work are limited to forty per week, except for executives and supervisors engaged in managerial work at rates above $35.00 per week, outside salesmen, watchmen, servicemen, and members of emergency maintenance and repair crews. However, watchmen are not to work more than fifty-six hours per week, nor more than six days out of seven, and service, emergency maintenance, and repair men are to be paid at the rate of time and one half for all hours above forty per week or eight in any one day.

Work of highly skilled specialists shall not exceed forty-eight hours per week for not more than twelve weeks of any six months' period, time and one half being paid for all hours in excess of forty per week or eight per day. Clerical and office forces are limited to forty hours per week.

The minimum wage both for male and female workers in this industry has been set at 45 cents per hour, except for learners (limited in number to not over 5 percent of the personnel) who during their first six months shall receive not less than 80 percent of this amount, and office or clerical workers, whose minimum shall be $15.00 per week. Equitable adjustments shall be made in the higher wage scales.

CHILD LABOR

The minimum age for employment is set by this Code at sixteen years, except where hazards exist, in which case the minimum age is eighteen years.

ECONOMIC EFFECT OF THE CODE

The prevailing hours of labor of a large proportion of the workers in this industry have been from 50 to 60 hours per week, and the scale of hours prescribed in this Code is estimated to affect approximately a 20 percent increase in number of men.

This industry, which is closely related to the Printing Equipment Industry, is engaged in the manufacture and sale of inking rolls, wheels, and pads commonly used in printing, lithographing, and offset presses. The industry supplies both the new equipment and the replacement market—the first represented by the press builders, and

the second by press users. It consists of 95 percent highly skilled labor.

About seventy companies are engaged in the industry, the average number of employees being only 10 per establishment. Despite the fact that the value of output of these plants has decreased from $10,000,000 in 1929 to $5,500,000, the level of employment has been maintained throughout the depression.

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 Printers' Rollers 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 Recovery Act.

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

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

PRINTERS' ROLLERS 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 Printers' Rollers Industry, and upon approval of the President, shall be the standard of fair competition for this Industry.

Article II—Definition of Terms

"Industry" as used herein includes all manufacturers engaged in the production and sale of rollers made of any material whatsoever for use on printing, lithographing, and offset presses, and all wheels, pads, and rollers made for and used on transferring processes, excepting such rollers as may be included under the Code or Codes of Fair Competition for the Rubber Manufacturing Industry; Print Roller and Print Block Manufacturing Industry; and any code that may be approved which includes engraved copper rollers for textile printing.

"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.

"Employer" as used herein includes anyone for whose benefit such employee is so engaged.

"Member of the industry" as used herein includes any producer, manufacturer, or employer who shall be subject to this Code.

"Learner" as used herein shall mean a person having no previous experience in the manufacture of printers' rollers and whose employment as such, whether by one or more employers, shall not exceed six months.

"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.

"Effective date" as used herein is defined to be ten days after the approval of this Code by the President.

Article III—Hours

1. No employee shall be permitted to work more than forty hours per week except:

(a) Executives and supervisors engaged in a strictly managerial capacity and receiving more than $35.00 per week, outside salesmen,

watchmen, servicemen, and emergency maintenance or repair crews; provided, however, that servicemen and emergency maintenance or repair crews shall be paid at the rate of time and one half for all hours in excess of forty hours in any one week, or eight hours in any one day; provided, that watchmen may work not more than 56 hours a week and 6 days in any seven-day period.

(b) Highly skilled specialists may work not to exceed forty-eight hours per week in not more than twelve weeks of any six months' period. Such employees shall be paid at the rate of time and one half for all hours in excess of forty hours in any one week or 8 hours in any one day.

(c) Clerical and office force shall not be permitted to work more than forty hours in any one week.

2. No employee shall be permitted to work for a total number of hours in excess of the number of hours prescribed for each week, whether employed by one or more employers; provided, however, that if any employee works for more than one employer for an aggregate period in excess of such maximum without the connivance of any one of such employers, such employer or employers shall not be held to have violated this paragraph.

Article IV—Wages

1. On and after the effective date the minimum wage of any employee in the industry shall be 45 cents per hour, except:

(a) Learners during a six months' period, and superannuated and disabled employees, when employed, shall be paid not less than 80% of the minimum wage and shall be limited in number in any factory to 5% of the total number of employees in that factory.

(b) Office or clerical employees, who shall be paid at not less than the rate of $15.00 per week.

(c) No employee in the classes mentioned in paragraph 1, subparagraph (c) of Article III, now receiving compensation at a rate in excess of the minimum provided for in paragraph (b) of this Article IV shall have his compensation reduced on account of any requirements of paragraph 1, subparagraph (c) of Article III. Wage rates of other employees receiving more than the minimum herein prescribed shall be equitably adjusted, but in no case shall they be decreased.

2. Where employees' earnings on piecework, divided by the number of hours worked, produces a result under the minimum wage stipulated in paragraph 1 of this Article, such earnings shall be so adjusted as to conform with the aforesaid minimum wage.

3. 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.

4. There shall be no evasion of this Code by any employer in this industry by reclassification of the functions of employees or workers. An employee or worker shall not be included in one of the classifications exempted from the provisions of this Code unless the identical functions being performed by him were identically classified on June 16, 1933.

5. *Posting.*—A copy of this Code shall be posted in every factory operated by members of the Industry.

Article V—Child Labor

On and after the effective date, employers shall not employ any person under the age of sixteen years of age, or under eighteen years of age if engaged in hazardous occupation, in the Printers' Rollers Industry.

Article VI—Administration

1. To further effectuate the policy of the Act, a Code Authority consisting of seven members elected by the industry by a fair method of selection, approved by the Administrator, together with one or more non-voting members to be selected by the President for such terms as he may specify, is set up to cooperate with the Administrator as a Planning and Fair Practice Agency for this industry; one member of which shall be elected by the industry to act as Chairman of the Code Authority.

2. Such Code Authority may from time to time present to the Administrator recommendations based on the conditions in the industry as they may develop from time to time, which will tend to effectuate the operation of the provisions of this Code and the policies of the Act.

3. Such Code Authority is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provision of this Code, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Code Authority.

4. To provide necessary data for the Administrator, the members of the industry shall furnish to the Code Authority such information concerning conditions in the industry, including wages, hours of labor, number of employees, costs, prices, and other matters pertinent to this Code as it may from time to time specify or as the Administrator may from time to time require, but through such channels as to eliminate the identification of any individual manufacturer's confidential information.

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

6. Every member of the industry accepting the benefits of the activities of the Code Authority hereunder shall pay to the Code Authority his proportionate share of the amounts necessary to pay the cost of assembling, analyzing, and publishing of such reports and data and of the maintenance of said Code Authority and of its activities; such proportionate share shall be determined by the Code Authority, with the approval of the Administrator.

Article VII—Trade Practices

1. The giving of secret rebates, refunds, discounts, gifts, or any consideration whatsoever, directly or indirectly, either to the pur-

chaser or representative of the purchaser or others, to induce purchases, is unfair competition.

2. The material furnished or service rendered shall be indicated on the invoice, and the issuing of false invoices showing other than the actual goods sold and delivered is unfair competition.

3. The recasting of rollers at less than the full price on unjust claims of defective workmanship or material is unfair competition.

4. The figuring of weights and the classification of rollers in any other manner than that standardized by the Code Authority and approved by the Administrator, provided for in Article VI, is unfair competition:

5. The selling of rollers on other than the following terms is unfair competition.

(a) 2% cash discount on all invoices paid on or before the 15th of the month following date of purchase; net after the 15th of the month following date of purchase. All bills not paid within three months from date of delivery shall be considered past due and no further credit shall be extended by any manufacturer until payment of past-due account has been made, unless the manufacturer, in writing, notifies the Code Authority that further credit is being extended and gives the reasons for such extension of credit.

6. To sell any product or service of this industry below the reasonable cost of such product or service is unfair competition:

(a) For this purpose "cost" is defined as the cost of materials plus direct labor, plus an adequate amount of overhead and sales expense, as determined by cost-accounting methods recognized in the industry, and approved by the Code Authority and the Administrator.

Article VIII—General Provisions

1. All employers in the industry shall comply with the following provisions of the Act:

(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.

(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.

2. 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.

3. 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.

4. 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 the 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 consistent with the provisions hereof.

5. Any act by any member of the industry constituting unfair competition as defined in Article VII or such other provisions as may be established from time to time by the Code Authority and approved by the President shall be a violation of this Code.

6. Where the costs of executing contracts entered into in the Printers' Rollers Industry prior to the approval of the President, of this Code, are increased by the application of the provisions of the Act to the industry, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at with the consent of the buyer by arbitrarial proceedings or otherwise, and the Code Authority is constituted an agency in effecting such adjustments.

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 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.

8. 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. 106.
Registry No. 1325/03.

O

Approved Code No. 107

CODE OF FAIR COMPETITION

FOR THE

LADDER MANUFACTURING INDUSTRY

As Approved on November 8, 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 Ladder 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 8, 1933.

29927——296-201——34

NOVEMBER 7, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Ladder Manufacturing Industry in the United States, conducted in Washington on October 10, 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 week of forty (40) hours, except that during limited peak periods, a forty-eight (48) hour week is permitted. The daily working period is limited to eight (8) hours. These maximum hour limitations do not apply to employees on emergency maintenance or emergency repair work, executives and supervisors receiving $30.00 per week or more, nor outside salesmen, when not employed on productive labor. No employee is permitted to work more than six (6) days in any seven (7) day period. All employees except executives, supervisors and outside salesmen are to receive one and one-third times their regular rates of pay for time worked in excess of eight (8) hours per day.

This code provides for minimum rates of pay of 35¢ per hour, whether the employee is compensated on the basis of a time rate, piece rate or otherwise. The only exception is that office employees shall be paid not less than $15.00 per week. Provision is made for an equitable adjustment of all pay schedules of factory employees above this minimum.

No person under sixteen (16) years of age may be employed, and none under eighteen (18) years employed in any hazardous occupation.

ECONOMIC ASPECTS OF THE CODE

In 1928, the Ladder Manufacturing Industry composed of about fifty concerns and employing nine hundred and fifty persons, represented an invested capital of approximately $3,800,000, and made sales amounting to at least $4,000,000. In 1932, the industry consisted of forty-two concerns representing an invested capital of $3,000,000 with sales amounting to $1.400.000. Prior to the compliance with the National Recovery Administration employment provisions, the employment was estimated at five hundred and sixty persons.

The Industry estimates that the code will effect a forty percent increase in the number of persons employed.

The wage and hour provisions of the code will necessitate a twenty percent increase in wage costs and since the industry is now operating at only twenty-five percent of its capacity it is submitted that the industry, by accepting the labor provisions, has evidenced a sincere and honest cooperative spirit.

The code provides for the stabilizing of employment and prohibits unfair methods of competition reported to exist within the industry at the present time.

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 Ladder 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

LADDER 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 Ladder 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 the business of manufacturing and selling by such manufacturers, of ladders and ladder products in the United States.

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

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

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.

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

The term "institute" means the American Ladder Institute, a corporation organized under the laws of the State of Ohio, with its principal office at Cleveland, Ohio, the membership in which is composed of manufacturers of ladders and ladder products.

The term "ladder products" means scaffolding, hangers, trestles, and other similar items used in conjunction with ladders.

The term "The National Industrial Recovery Act" or "The Act" means the National Industrial Recovery Act as approved by the President June 16, 1933.

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

The term "the Administrator" as used herein means the Administrator appointed by the President under the Act and at the time in office.

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 "Code Authority" means the committee appointed to administer this Code.

Article III—Hours

(A) No employee shall be permitted to work in excess of 40 hours in any one week or 8 hours in any 24-hour period; provided, however, that in peak periods of not more than 8 weeks during any six months, hours may not exceed 48 in any one week, or 6 days per week. In such cases, one and one-third times the regular rate of pay shall be paid for hours worked in excess of 8 hours per day.

(B) The maximum hours fixed in the foregoing section shall not apply to employees on emergency maintenance and emergency repair work, who shall be paid one and one-third times the regular rate for hours worked in excess of 8 hours per day, nor shall it apply to executives and supervisors receiving $30 per week or more, and outside salesmen when not employed on productive labor.

(C) No employee shall be permitted to work more than six days in any seven-day period.

(D) No employee shall be classified in any one of the exempted classes hereinabove defined unless he performs functions identical with those performed by employees thus classified on June 16, 1933.

(E) Each member of the industry shall elect the date at which the six months' periods begin, and shall immediately inform the Code Authority as to the election made. If any member of the industry does not notify the Code Authority within ten days of the effective date of this Code, then, in that event, the first six months' period for such members of the industry shall begin on the effective date of this Code.

(F) 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

(A) No employee, except as hereinafter provided, shall be paid at less than the rate of 35 cents per hour.

(B) Office employees shall be paid not less than $15.00 per week.

(C) Equitable adjustment in all pay schedules of factory employees above the minimum shall be made not later than 30 days from the effective date by any employers who have not theretofore made such adjustments, and the first monthly reports of wages required to be filed with the Administrator under this Code shall contain all wage increases made since May 1, 1933.

(D) This article establishes minimum rates of pay, regardless of whether the employee is compensated on the basis of a time rate, piece rate, or otherwise.

Article V—General Labor Provisions

(A) 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.

(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 such 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) 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.

(F) Each employer shall post in a conspicuous place in each shop and office a copy of the labor and administrative provisions of this Code.

Article VI—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 the Code.

A. ORGANIZATION AND POWERS

(1) The Board of Trustees of the American Ladder Institute together with such representatives as the President or Administrator may designate pursuant to paragraph (3) of this Section A is hereby designated as such Code Authority; provided, that no inequitable restrictions upon membership in the American Ladder Institute shall at any time be imposed.

(2) With a view to keeping the Administrator informed as to the observance or nonobservance of this Code and as to whether appropriate steps are being taken to effectuate the purposes of the Act, each member of the Industry shall furnish certified reports to designated independent agents of the Code Authority when and in such form as it shall, subject to the approval of the Administrator, prescribe. If the Code Authority should have reason to believe that any of the reports submitted are inaccurate, such reports may be verified by examination of the relevant books and records of the member of the Industry who has submitted such reports, by a disinterested and impartial agency designated by the Code Authority, with the approval of the Administrator. Such agency must agree to keep all information regarding individual manufacturers strictly confidential, except that any violation of this Code shall be reported in detail to the Code Authority and to the Administrator.

(3) The President or the Administrator may designate from one to three representatives who shall thereupon become members of the Code Authority with all the powers of members of such Code Authority with the exception of the power to vote, and such representative or representatives shall have access to all data and statistics collected by the Code Authority, and hereinbefore provided. Such representatives shall serve without expense to the Industry,

and together with the Administrator shall be given notice of and may sit at all meetings of the Code Authority.

(4) In addition to information required to be submitted under this Code, 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.

(5) Where the costs of executing contracts entered into in the industry prior to the approval of this Code by the President are increased by the application of the provisions thereof, it is equitable and promotive of the purposes of the Act that appropriate adjustment of such contracts to reflect such increased costs be arrived at by arbitration or otherwise, and the Code Authority is constituted as an agency to assist in effecting such adjustments.

B. PARTICIPATION

Each member of the Code shall be entitled to participate in the code activities of the Code Authority to the same extent as a member of the American Ladder Institute. Each member of the Code shall contribute his proportionate share toward the cost of preparation and administration of the Code, including the cost of the assembly and analysis of such reports and data as may be required under the Code and the cost of maintenance of the administrative agency and its activities, either by becoming a member of the American Ladder Institute or by paying to the Institute amounts equal to such portion of the dues from time to time required of members of the Institute in like situation as is used to defray the expense of administration of the Code.

C. CLASSIFICATION OF CUSTOMERS

In order to provide for the orderly distribution of ladders and ladder products, the trade shall be divided into the following classifications, based upon differences in cost and services rendered. The customers falling within each classification shall receive such trade discounts from list prices as shall be independently filed with the Code Authority by the individual members of the industry.

(1) *Consumer.*—A consumer shall be defined as a buyer of ladders or ladder products substantially all of which are purchased for his own use and not for resale.

(2) *Retailer.*—A retailer shall be defined as a buyer of ladders or ladder products who buys to resell and whose business is designed for and built upon the selling of goods to consumers.

The following classes of retailers may be distinguished from regular retailers for the purpose of establishing prices and/or discounts: Mail-order houses, chain stores, department stores, cooperative association of dealers and mill supply dealers.

(3) *Jobber.*—A jobber shall be defined as a buyer of ladders or ladder products who buys to sell to retailers, and who carries a representative stock of ladders, and whose salesmen operate in the territory served by such jobber for the purpose of selling to retailers.

(4) On the basis of the foregoing definitions, the Code Authority may prepare a list of jobbers for distribution to all known members of the industry. Each member of the industry shall thereupon sub-

mit to the Code Authority for inclusion on such list the names of customers whom he believes qualify as jobbers. The Code Authority shall add to the list those names submitted which it finds qualified as jobbers under paragraph (3) of this section C. Such final list of jobbers shall be a prima facie accurate and complete list of such persons as conform to the definition of jobber in said paragraph (3). Such list of jobbers shall be kept current by the Code Authority; and each member of the industry shall continue to report the names of any new customers whom he believes qualify as jobbers.

(5) In the event that a question arises regarding the proper classification of any customer or prospective customer, the decision of the Code Authority, subject to review by the Administrator, shall be prima facie correct.

(6) If the foregoing classifications of customers, or any application thereof, should bear unjustly upon any individual customer or member of the industry, such customer or member of the industry may appeal to the Code Authority, subject to review by the Administrator, or direct to the Administrator, which, after investigation, may provide for such exemption or modification as justice and convenience may require. In the interim between such appeal and the ruling of the Code Authority or Administrator, the classification in effect at the time of such appeal shall continue in effect.

D. COST AND PRICE-LIST PROHIBITIONS

No member of this industry shall sell or exchange any ladders or ladder products at a price or upon such terms and conditions as will result in the customer paying for such goods less than the delivered cost to the seller as determined by a uniform cost accounting system to be set up by the Code Authority, subject to the approval of the Administrator, except as hereinafter provided.

The Code Authority shall promptly cause to be developed and submitted to the Administrator a uniform system of cost accounting designed to make possible the accurate determination by each member of the industry of his own individual cost.

Upon approval by the Administrator of such system of cost accounting, 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 or exchange any ladders or ladder products at a price below his own individual cost, except—

> to meet a lower price previously quoted or posted by a competitor. If such member, believing that such competitor is selling in violation of the Section, has complained to the Code Authority or to a properly authorized agency thereof, such member may meet the price of such competitor as aforesaid, only pending action upon such complaint.

In the interim between the effective date and the date the Code Authority directs that the uniform cost-accounting system be placed in use, no member of the industry shall sell his ladders or ladder products at a price less than his individual cost as determined by such cost system or method of determination of costs as is being used by him at the time the Code becomes effective, except as hereinbefore provided.

Since it has been the general recognized practice of the industry to sell products on the basis of printed price lists with discount sheets distributed to the trade, each member of the industry shall, within ten days of the effective date of this Code, file with the Code Authority price lists and discount sheets, showing his current prices and discounts to the various classes of customers as hereinbefore defined. Revised price lists and discount sheets may be filed from time to time thereafter with the Code Authority by any member of the industry, to become effective upon a date specified by such member of the industry, which date shall not be less than ten days after the filing of such revised prices at the office of the Code Authority. Copies of such revised prices, with notice of the effective date, shall be immediately sent 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 not less than five days previous to such effective date, shall take effect upon the date when the revised price list or discount sheet first filed shall go into effect.

No member of the industry shall sell or exchange any ladders or ladder products at prices lower or discounts greater or on more favorable terms than the schedules of such member on file at the office of the Code Authority as hereinbefore provided.

The operation of the foregoing provisions shall at all times be subject to the approval of the Administrator.

E. TRADE PRACTICES

The following shall be considered as unfair methods of competition in this industry:

(1) The defamation of competitors by imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or other misrepresentations.

(2) Enticing away the employees of competitors with the purpose and effect of hampering, injuring, or embarrassing competitors in their business. However, nothing herein contained shall prevent employees from seeking employment with other concerns.

(3) Any wilful attempt to induce a breach of any existing bona fide contract or any wilful attempt to prevent the performance of any contractual duty under any bona fide contract for the purchase or sale of ladders or ladder products.

(4) The entering into contracts for ladders or ladder products with purchasers without actual obligation on the part of the purchaser for a specified quantity or quality and/or merely for the purpose of securing to the buyer a special price which in effect discriminates between purchasers and tends to unreasonably restrain trade and injure competitors.

(5) The delivery of ladders which do not reasonably conform with the standard of samples submitted or representations made prior to securing the order, unless with the consent of the purchaser to a substitution prior to shipment.

(6) The entering into contracts which permit the buyer to cancel or provide for a reduced price in the event of a market decline and which do not permit the seller to cancel or provide for an enhanced price in the event of a market rise.

(7) Withholding from, or inserting in the invoice, anything which makes the invoice a false record, wholly or in part of the transaction represented on the face thereof.

(8) The payment or allowance of secret rebates, secret refunds, secret credits, unearned discounts, whether in the form of money or otherwise; or the acceptance of securities at more than the true market value as a means of effecting or concealing price discrimination.

(9) False statements, written or oral, concerning competitor's goods, or deceptive tests, or any act constituting a false statement as to the prices a competitor is quoting.

(10) The giving or offering to give, directly or indirectly, without other consideration therefor, money or anything of value to agents, employees, or representatives of customers or prospective customers, as an inducement to cause them to purchase or to contract for the purchase of ladders or ladder products from the maker of such gift or offer, or the selling or offering to sell other products at less than cost as an inducement to obtain the ladder business of such customers, or to influence them to refrain from dealing or contracting to deal with competitors. No allowances or payments shall be made to customers to cover advertising.

(11) The false marking or branding of ladders or ladder products, or any misrepresentation in connection with the advertising or sale of such items for the purpose of misleading purchasers.

(12) The making of false reports of capacity, production, costs, sales, orders, or shipments.

Article VII—General

(1) 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 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.

(2) The Administrator shall have the right, on review, to disapprove or modify any action taken by the Code Authority.

(3) Violation by any member of this industry of any provisions of this Code is an unfair method of competition, and the offender shall be subject to the penalties imposed by this Act.

(4) 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 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.

Approved Code No. 107.
Registry No. 304/11.

O

Approved Code No. 108

CODE OF FAIR COMPETITION

FOR THE

MOTOR FIRE APPARATUS MANUFACTURING INDUSTRY

As Approved on November 8, 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 Fire Apparatus 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 8, 1933.

29928——296-202——34

November 3, 1933.

The President,
The White House.

Sir: The proposed Code of Fair Competition for the Motor Fire Apparatus Manufacturing Industry was submitted to the Administrator on October 10th, 1933, by the Motor Fire Apparatus Manufacturers Association, representing approximately 70% of the number of manufacturers engaged in the industry, and 90% or more of the dollar volume of the industry. The Hearing was conducted in Washington, on October 24, 1933, and the Code was revised during the recess of this hearing and was submitted in its present form for approval. All persons who requested an appearance were properly heard in compliance with statutory and regulatory requirements.

Fire apparatus manufactured by this industry is individual and built to specifications; the market for the products manufactured by the industry is limited to municipalities, divisions of State or Federal Government, and large manufacturers, maintaining independent fire protection.

The Industry has suffered a tremendous decrease (approximately 70%) in its sales during the past four years. The capital invested in the Industry has been seriously depleted. The equipment of its principal purchasers, namely *municipalities*, is comparatively modern. Throughout this period, however, the wages of its employees have been steadily maintained, and the extremely high average hourly rate of approximately 72 cents bespeaks the fairness of the members during the depression period.

The number of employees has only decreased in the same period approximately 50%. With the provision of a maximum week of 35 hours and the possibility of credit extensions through possible Governmental loans to its limited consumer market, it is estimated that a 25% increase in wages and an additional 10% increase in employment will result.

Article I. Purposes.

Article II. Definitions.

Article III. Provides a maximum week of 35 hours with a tolerance of 3% for all employees except watchmen, outside salesmen, and delivery engineers and employees engaged in a managerial or executive capacity earning in excess of $35.00 per week. Employees engaged solely in maintenance and repair work, engineers, furnace firemen, and janitors are limited to 40 hours per week.

Article IV. Establishes a minimum rate per hour of 40 cents and a minimum rate for all employees of $14.00 and provides for full adjustments in all pay schedules.

Article V. Provides no person under 16 years of age may be employed. No one under 18 years of age may be employed in a hazardous occupation. Prohibition of reclassification.

Article VI. Provides for a code authority to consist of five individuals representing the industry and two additional nonvoting members may be appointed by the Administrator.

Article VII. Provides the fair trade practices of the industry.

Article VIII. Provides a merchandising plan.

Article IX. Modifications.

Article X. Monopolies.

Article XI. Provides for filing with association of changes in price.

Article XII. General.

Article XIII. Effective date.

FINDINGS

The Administrator finds:

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 Motor Fire Apparatus Manufacturers Association is truly representative of the Motor Fire Apparatus Manufacturing Industry and the bylaws of this association contain no inequitable restrictions 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 and will tend to effectuate the policy 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 FIRE APPARATUS 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 Motor Fire Apparatus 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 "motor fire apparatus manufacturing industry" or "industry" as used herein shall mean the manufacture in the United States and sale by manufacturers of motor-propelled fire apparatus, including pumping engines, aerial trucks, water towers, hook-and-ladder trucks, service trucks, chemical engines, hose cars, salvage cars, squad cars, all other motor-propelled vehicles and equipment for same, used for fire protection purposes, motor pick-up street sweepers, and service parts for same.

2. The application of the Code of Fair Competition to the products enumerated in this article shall be defined as follows:

(*a*) If the operation of any provision of this Code should interfere with the exercise of the existing lawful patent rights or rights under an existing lawful patent licensing agreement, anyone affected thereby may apply to the Code Authority, which shall have power to grant an exemption, subject to the approval of the Administrator.

(*b*) The products listed in Paragraph 1 shall be subject to all the provisions of the Code of Fair Competition and articles except as limited by subparagraph (*a*) hereof.

3. The term "member of the Industry" as used herein shall mean any employer engaged in the motor fire-apparatus manufacturers' industry.

4. The term "member of the Code" shall mean any member of the Industry who signifies assent to this Code.

5. The term "Association", as used herein, shall mean the Motor Fire Apparatus Manufacturers Association, a Trade Association organized UNDER the laws of the State of Delaware, and having its principal place of business at 100 West Tenth Street, Wilmington, Delaware.

6. 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.

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

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 said Act.

Article III—Hours of Labor

1. Members of the Industry shall so operate their plants that the average employment of all factory employees (with exceptions stated below) shall not exceed thirty-five hours per week for the period from the effective date to December 31, 1933, and quarterly thereafter, and the hours of each individual employee shall so far as practicable conform with this average and shall in no case exceed the same by more than three percent.

In order to give to employees such average of thirty-five hours per week, it will be necessary at times to operate for substantially longer hours, but no employee shall be employed for more than six days or 48 hours in any one week, and all such peaks shall be absorbed in such average.

2. No other employees except watchmen, outside salesmen, and delivery engineers as termed in this Industry, unless employed in a managerial or executive capacity and earning in no week less than $35.00, shall be permitted to work in excess of 48 hours in any one week, and not more than an average of 40 hours per week for the period from the effective date to December 31, 1933, and quarterly thereafter.

3. Employees engaged solely in maintenance and repair work, engineers, furnace firemen, and janitors shall not work more than 40 hours in any one week, or more than 8 hours in any twenty-four hour period, unless paid one and one-half hours' pay for each hour worked overtime.

Article IV—Wages

1. No member of the Industry shall pay any factory or mechanical worker or artisan less than 40 cents per hour.

2. No member of the Industry shall pay any accounting, clerical, office, service, sales, or other employees less than $14.00 per week.

3. Equitable adjustments in all pay schedules of factory employees above the minimum shall be made on or before thirty days subsequent to the effective date of this Code by any employers who have not heretofore made such adjustment; and the first reports of wages, required to be filed under this Code, shall contain all wage increases made since June 1, 1933. Pay schedules shall be subject to review and readjustment by the Administrator. In no case shall rates be decreased.

4. Office boys and girls under twenty-one years of age, superannuated employees, and/or pensioners may be paid at a rate not less than 80 percent of the foregoing minimum rates, but in no case shall this class of employee constitute more than 5 percent of the total number of employees.

5. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, 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 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 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 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 purpose of the Act.

7. 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. Provided, however, that if any employees 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 employer shall not be held to have violated the Section.

8. Employers shall post in a conspicuous place, accessible to all employees, the labor provisions 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.

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.

1. The Code Authority shall consist of five individuals representing members of the Industry selected by a method approved by the Administrator. The Administrator, in his discretion, may appoint not more than two additional members (without vote) to represent the Administrator.

2. The Code Authority is hereby constituted the agency for collecting statistical data as to costs, production, sales, and all other matters affecting the Industry as to which the Administrator may require information, and the members of the Industry shall furnish sworn statements or reports to the Code Authority as may be necessary in order to enable the Code Authority to collect and furnish to the Administrator the information required under the terms of the National Industrial Recovery Act. The members of the Industry shall keep their accounts in such form as may be necessary to enable them to furnish information desired by the Administrator. If the Code Authority should have reason to believe that any report submitted by any member of the Industry is inaccurate, it may designate a disinterested and impartial agency to verify such report by an examination of the relevant books and records of the member of the Industry concerned.

3. The Secretary of the Association 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.

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, 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.

5. The Code Authority shall designate an agent or agents to investigate complaints or violations of this Code. In the event of any willful violation being disclosed, the Code Authority may present evidence thereof to the proper department, agency, or judicial branch of the Government.

6. Any interested party shall have the right of complaint to the Code Authority and a prompt hearing and decision 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.

7. Any interested party shall have the right of appeal to the Administrator, under such rules and regulations as he shall prescribe, with respect to any decision, rule, regulation, order, or finding made by the Code Authority.

8. In addition to the information requested 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

No member of the Industry shall engage in any one of the practices condemned in the following Code of Ethics.

1. EMPLOYERS

(*a*) *Enticing employees from competitors.*—Maliciously enticing an employee or employees of competitors with the intent of unduly hampering, injuring, or embarrassing a competitor or competitors in the conduct of their business.

2. MERCHANDISE

(*a*) *Misrepresentation.*—Misrepresentation as to the quality, weight, or performance of any product sold or offered for sale by any member of the Industry.

(*b*) *Demonstrators.*—No member of the Industry shall reduce the price of a new apparatus under the guise that it is a demonstrator.

(1) All demonstrators now in stock at branches or factory, or in the hands of salesmen shall be registered with the Secretary of the Association. A proper description listing the capacity, type, and serial or factory number shall be given. The Secretary of the Association shall provide the members of the Industry with the list in question.

(2) Repossessed new and used cars shall also be registered with the Secretary of the Association showing from whom repossessed.

(3) When such apparatus is sold the Secretary of the Association shall be notified to whom sold and at what price.

(4) No further apparatus shall be built for demonstrations. Demonstrations at the factory or established branches shall not come within this meaning.

(5) New show cars shall not be sold except at the member of the Industry's established prices for new cars.

(*c*) *Obsolete Goods.*—The Code Authority shall make recommendations to the Administrator concerning the regulation of the disposal of obsolete goods.

3. INVOICING

(*a*) No member of the Industry shall invoice any customers for products other than those actually shipped against the invoice.

(*b*) No member of the Industry shall omit from any invoices any items pertaining to the sale.

(*c*) No member of the Industry shall permit a customer to make any deductions from the invoice not covered by the terms of sale in making his remittance.

(*d*) When a product is sold on a deferred payment plan, no member of the Industry shall allow a period to elapse after delivery of said product before interest on such deferred payments begins to accrue.

(*e*) No member of the Industry shall ship or in any way deliver free goods of any kind to any customer. This does not refer to replacements due to defective material or inferior workmanship.

(*f*) No member of the Industry shall sell any article whatsoever, whether or not a product of this Industry, at less than its published price, for the purpose of influencing the sale of motor fire apparatus, and/or motor pick-up street sweepers.

4. ADVERTISING

(*a*) No member of the Industry shall advertise, make statements or inferences, which directly or indirectly reflect falsely upon the character, merchandise, policies, or financial standing of any competitor.

5. SUBSIDIES

(*a*) Members of the Industry shall not encourage or permit lavish entertainment of a customer by their employees.

(*b*) No member of the Industry shall make any allowance to a customer for alleged but not actually defective merchandise, alleged but not actual shortages, or for adjusting alleged but unfounded complaints of any kind.

(*c*) No member of the Industry, or its representative or representatives, shall directly or indirectly offer or give any discount, gratuity, commission, service or accessory to a customer or his agent for the purpose of inducing the customer or his agent to purchase the products of the Industry as defined herein. Nothing herein shall prevent conduct pursuant to any warranty of the manufacturer.

6. SUNDRIES—INTERFERENCE WITH CONTRACTUAL RELATIONS

(*a*) 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.

(*b*) The Industry, subject to the approval of the Administrator, shall within thirty days following the effective date of this Code, determine a standard for trade-in allowances of used motor fire apparatus, and/or motor pick-up street sweepers, and the standard established shall be the basis of purchases of used motor fire apparatus, and/or motor pick-up street sweepers. Old apparatus, excepting motor pick-up street sweepers, taken in trade must be recovered from customer's possession. In event of resale to same customer, it shall not be sold at less than the amount allowed on purchase of new equipment.

(*c*) No member of the Industry shall sell any product of the Industry below cost, which shall be determined on the basis of a uniform system of cost accounting to be developed by the Code Authority, subject to the approval of the Administrator.

Article VIII—Merchandising Plan

Each member of the Industry shall adhere to the terms of the following Merchandising Plan:

(1) *Products.*—The following products are subject to all of the provisions of this Merchandising Plan:

(*a*) All pumping engines.
(*b*) All types of chemical cars.
(*c*) All types of hook-and-ladder trucks.
(*d*) All types of aerial trucks.
(*e*) All types of water towers.

(*f*) All types of hose and squad cars.
(*g*) All types of service trucks.
(*h*) All other types of motor-propelled vehicles used for fire-protection service.
(*i*) Motor Pick-up Street Sweepers.
(2) *Territory.*—This Merchandising Plan applies on sales for shipment from members of the Industry's factories, warehouses, and branches into all territory within the United States.
(3) *Classes of Buyers.*—The following are the principal classes of buyers in this Industry:
(*a*) Municipalities.
(*b*) Volunteer fire companies.
(*c*) Industrial concerns.
(*d*) State Governments and political subdivisions of same.
(*e*) U.S. Government.

4. *Prices.*—Prices shall be established as determined individually by each member of the Industry.

5. *Terms.*—Terms shall be as determined individually by each member of the Industry. However, the down payment in each case shall not be less than 33⅓% of the purchase price and deferred payments shall not extend beyond a period of two years, excepting in the case of motor pick-up street sweepers, in which case the down payment shall not be less than 25% of the purchase price and deferred payments shall not extend beyond a period of three years unless a motor pick-up street sweeper is sold on a lease plan, in which event the terms may be equal periodical payments extending over a period of not to exceed two years.

6. DISCOUNTS

(*a*) *Quantity Discounts.*—Excepting for motor pick-up street sweepers, the maximum for quantity discounts shall be as follows: 2% for 2 pieces, 3% for 3 pieces, 4% for 4 pieces, 5% for 5 pieces, 6% for 6 pieces, 7% for 7 pieces, 8% for 8 pieces, 9% for 9 pieces, 10% for 10 or more pieces.

NOTE.—"Pieces" referred to in "(a)" apply to units as defined in Paragraph (1).

PRODUCTS

(*b*) *Cash Discounts.*—Excepting for motor pick-up street sweepers, in addition to the quantity discounts a maximum discount of 5% may be allowed for cash sales, providing payment is made within 30 days from date of invoice.

Cash Discounts.—Cash discounts for motor pick-up street sweepers—a maximum discount of 2% may be allowed for cash sales, providing payment is made within 30 days from date of delivery.

7. *Standard Equipment Specification.*—The Code Authority shall make recommendations to the Administrator as to what constitutes standard equipment. Upon approval by the Administrator, such specifications shall embody the standards for the Industry.

8. *Order and Contract Forms.*—Each member of the Industry, excepting manufacturers of motor pick-up street sweepers, shall sell according to contracts substantially similar to uniform forms of con-

tract, to be prepared by the Code Authority as and when approved by the Administrator.

Article IX—Modification

1. This Code is hereby made expressly subject to the right of the President, pursuant to 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 cancel or modify his approval of this Code or of any conditions imposed by him upon such approval.

2. It is contemplated that from time to time additions to or modifications of this Code will be submitted to the President by the Industry, as experience or changes in circumstances may indicate. Upon approval by the President, such additions or modifications shall become part of this Code.

Article X—Monopolies, Etc.

1. Nothing herein contained shall be construed or applied so as to:
   (*a*) Promote monopolies or monopolistic practices.
   (*b*) Eliminate, oppress, or discriminate against small enterprises.

Article XI—Price Changes

1. Upon approval of this code by the President, each member of the Industry shall immediately file in the office of the secretary of the Association, a complete schedule of his prices and terms of sale then in effect on all motor fire apparatus and motor pick-up street sweepers, as defined in Article II of this Code.

Sufficient copies of such price schedules shall be filed to enable the secretary to distribute the same to all members of the Industry. The secretary shall distribute copies of such price schedules to each member of the association and to each non-member of the association who has assented to the code and has agreed to bear his reasonable share of the expenses of the administration of the code as provided in Section 4 of Article VI of this code. Upon the request of any other member of the industry for copies of such price schedules, the secretary of the Association shall furnish copies thereof to such applicant at a charge therefor not exceeding the actual cost of copies furnished plus postage.

2. No member of the Industry shall sell any motor fire apparatus or motor pick-up street sweeper at prices lower or on terms more favorable than the prices and terms in such filed schedules, unless a revised schedule is first filed by him as hereinafter provided.

3. Each member of the Industry may file a revised schedule of prices and terms of sale with the secretary of the association, to take effect within not less than fifteen (15) days after the date of filing such revised schedule. Upon the filing of such revised schedule by such member, the secretary of the association shall immediately notify all other members of the Industry of such change. There-

upon, all other members of the Industry may file revised schedules of their prices and terms of sale, which, if filed prior to the effective date of the revised schedule first filed, shall take effect upon such effective date.

4. The secretary of the association shall distribute to all members of the association and to all other members of the Industry who have assented to the code and agreed to bear their reasonable share of the expenses of administration of the code, copies of all such revised schedules. Upon request of any other member of the Industry, the secretary shall furnish such applicant with copies of such revised schedule at a price not exceeding the actual cost thereof plus the postage.

5. The price system herein prescribed shall apply to prices of all products of the Industry.

6. The operation of the foregoing provisions shall be at all times subject to the approval of the Administrator.

Article XII—General

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

Article XIII—Effective Date

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

Approved Code No. 108.
Registry No. 1421/B/02.

O

Approved Code No. 109

CODE OF FAIR COMPETITION

FOR THE

CRUSHED STONE, SAND AND GRAVEL, AND SLAG INDUSTRIES

As Approved on November 10, 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 Crushed Stone, Sand and Gravel, and Slag Industries, 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 respect 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 10, 1933.

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NOVEMBER 3, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the proposed Code of Fair Competition for the Crushed Stone, Sand and Gravel, and Slag Industries, and on the public hearing conducted thereon in Washington, D.C., on August 28 and 29, 1933, in accordance with the provisions of the National Industrial Recovery Act.

GENERAL STATEMENT

Crushed stone, sand and gravel, and slag, when grouped together, rank high in total value among mineral products in the United States, being exceeded in 1931 only by bituminous coal, anthracite coal, and pig iron. In the peak year of 1929 the products of the three industries represented a total value of $209,000,000, and some 40,000 wage earners were employed. The value (estimated) of these products fell off to $90,000,000 in 1932, while the present number of workers in the industries is about 50 percent of the number of 1929 employees.

HOURS AND WAGES

A 40-hour week is established, with minimum wages varying from 40¢ per hour in the northern states to 25¢ per hour in the deep south. In an intermediate zone the minimum is to be 30¢ per hour.

For certain special classes of employees, comparatively few in number, a maximum 48-hour week is permitted. All workers paid on the hourly basis are to receive time and one third when the prescribed weekly maximum hours are exceeded.

Child labor is prohibited. That the industries are concerned for safety and welfare of all employees is indicated by provisions in the Code requiring the development of standards of safety, the carrying of employees' compensation insurance, and the active support of accident-prevention programs.

ECONOMIC EFFECT OF THE CODE

The crushed stone, sand and gravel, and slag industries have in the past lacked any great degree of coordination, although each one has had its national trade association, active in engineering and economic research, which has been of benefit, it is believed, not only to the association members, but also to the industries at large and to the consuming public.

In working out this Code, the three industries propose a new form of cooperation, which has been expanded to include the producers of stone, sand, and gravel from local quarries or wayside pits. The inclusion of these local producers, doing business mostly with port-

able machinery and equipment, has developed special problems, which have been carefully considered from all angles in the evolution of the Code since the public hearing.

The industries submitting this Code have been operating on schedules averaging about 48 hours a week, so that with the proposed 40-hour week, there should be an increase in employment of approximately 20 percent. This by no means bring the industries back to the 1929 level of employment, but to attain such a level the extensive road-building projects now under way must be supplemented by an appreciable increase in building construction.

The Code as proposed is fair to Industry, to Labor, and to the Consumer, it is believed, and is thoroughly 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 Crushed Stone, Sand and Gravel, and Slag Industries; 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 Crushed Stone, Sand and Gravel, and Slag Industries.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

CRUSHED STONE, SAND AND GRAVEL, AND SLAG INDUSTRIES

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 Crushed Stone, Sand and Gravel, and Slag Industries and for such other Industries as with the approval of the President may be governed by its provisions, and shall be binding upon every member thereof.

Article II—Definitions

Section 1. *Industries.*—The term "industries" as used herein includes the quarrying, and/or crushing, and/or processing, and/or recovering of stone, sand, gravel, and/or slag for any or all purposes, and the producing and/or processing for any or all purposes of the products of such other industries as with the approval of the President may from time to time be governed by the provisions of this Code. *Includes "cold laid Bituminous Concrete."* [1]

Sec. 2. *Employee.*—The term "employee" as used herein includes any person engaged in the industries in any capacity receiving compensation for his services, irrespective of the nature or method 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 Industries.*—The term "member of the industries" as used herein includes anyone engaged in the industries as above defined, either as an employer or on his own behalf.

Sec. 5. *Producers.*—(a) *Crushed Stone Producer.*—The term "crushed stone producer" as used herein includes any member of the industries engaged in the quarrying, and/or crushing, and/or processing of stone for any or all purposes.

(b) *Sand and Gravel Producer.*—The term "sand and gravel producer" as used herein includes any member of the industries engaged in the recovering and/or processing of sand, and/or gravel for any or all purposes.

(c) *Slag Producer.*—The term "slag producer" as used herein includes any member of the industries engaged in the recovering and/or processing of slag resulting from furnace or smelting operations for any or all purposes.

(d) *Registered Producer.*—The term "registered producer" as used herein includes any producer as above defined, who has assented to this Code and has complied with the other provisions of Section 4 (c) of Article VI of this Code.

(*e*) *Industrial Sand Producer.—Any member of the industries engaged in the recovering and/or processing of sand for purposes other than construction and/or building—See Administrative Order No. 109–3, approved Dec. 27, 1933.*

[1] See Administrative Order No. 109–8, Approved Apr. 4, 1934.

Sec. 6. *Region.*—The term "region" as used herein includes any one of the several parts of the United States established as hereinafter set forth in Article VI of this Code.

Sec. 7. *District.*—The term "district" as used herein includes any subdivision of any region or regions established as provided for hereinafter.

Sec. 8. *Division.*—The term "division" as used herein includes those members of the industries engaged primarily in the production of one type or class of industry products, so specialized in nature as to warrant the establishment of a division.

Sec. 9. *Marketer.*—The term "marketer" as used herein includes any registered producer selling products of the industries in any district.

Sec. 10. *Effective Date.*—The term "effective date" as used herein shall mean the beginning of the tenth day after the approval of this Code by the President.

Sec. 11. *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. *Working Time.*—No employee, except as set forth in this Article and in Article IV, shall be permitted to work in excess of forty (40) hours in any one week.

Sec. 2. *Exceptions.*—The maximum hours specified in Section 1 of this Article shall not apply to commercial travelling salesmen; or to employees engaged in executive or managerial or clerical capacities who receive not less than $35.00 per week; or to the following employees:

(a) Employees working as crews on floating equipment engaged solely in dredging and/or transportation on navigable waters, provided the Code Authority as set up in Article VI of this Code shall prepare and submit, not later than January 1, 1934, a schedule of minimum wages and maximum hours for such employees, and upon the approval of the Administrator such schedule shall at once become effective.

(b) Employees engaged in clerical or office work, provided the total working hours of such employees shall not exceed forty-two (42) hours per week averaged over any three (3) months in any six (6) months' period, or six (6) days in any one week.

(c) Employees engaged in outside delivery service, provided the total working hours of such employees shall not exceed forty-eight (48) hours in any one week.

(d) Employees engaged in emergency repair work involving breakdowns or protection of life or property, comprising not more than five (5) percent of the total number of employees, provided the total working hours of such employees shall not exceed forty-eight (48) hours in any one week.

(e) Employees engaged as watchmen, provided the total working hours of such employees shall not exceed sixty (60) hours in any one week.

Article IV—Wages

Section 1. *Rates of Pay.*—(a) No employee, except as hereinafter set forth, shall be paid at less than the hourly rates specified in the following schedule which is made a part of this Code:

(1) Alabama, Florida, Georgia, Mississippi, South Carolina	$0.25
(2) Arizona, Arkansas, Kentucky, Louisiana, New Mexico, North Carolina, Oklahoma, Tennessee, Texas, Virginia, West Virginia east	.30
(3) California, Colorado, Connecticut, District of Columbia, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, including all operations on Ohio River, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia west, Wisconsin, Wyoming	.40

(b) For the purposes of paragraph (a) of this section, "West Virginia east" shall be the part of West Virginia south and east of a straight line drawn between the intersection of the boundaries of the states of Kentucky, Virginia, and West Virginia and the point farthest south on the western boundary of Maryland; and "West Virginia west" shall be the remainder of the state of West Virginia.

(c) Employees engaged solely as water boys, comprising not more than four (4) percent of the total number of employees, (but in any case there may be at least one water boy) may be paid at not less than eighty (80) percent of the hourly wages prescribed herein.

(d) This section establishes a minimum rate of pay, regardless of whether an employee is compensated on a time rate, piecework, or other basis.

(e) To the extent practicable, weekly earnings shall not be decreased, notwithstanding that hourly 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 July 15, 1933.

(f) No employee working on an hourly basis shall be paid less than one and one third times his hourly rate, for all time in excess of the maximum weekly hours prescribed herein.

Sec. 2. *Salaried Employees.*—(a) No accounting, clerical, or office employee shall be paid less than the rate of $15.00 per week in any city of 500,000 or more population, or in the immediate trade area of such city; or less than the rate of $14.00 per week in any city between 100,000 and 500,000 population, or in the immediate trade area of such city; or less than $13.00 per week in any city between 2,500 and 100,000 population, or in the immediate trade area of such city; or less than $12.00 per week in any city under

2,500 population. Population for the purposes of this paragraph shall be determined by reference to the 1930 Federal Census.

(b) No watchman paid on a weekly basis shall be paid at less than the rate of $13.00 per week in the States listed in paragraphs (1) and (2) of Section 1 (a) of this Article; or at less than the rate of $14.00 per week in the States listed in paragraph (3) of Section 1 (a) of this Article.

SEC. 3. *Method of Payment.*—(a) An employer shall make payment of all wages due in lawful currency or by negotiable check therefor, payable on demand. Wages of employees paid on an hourly basis shall be paid at least twice a month and salaries at least once a month. These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by wage earners.

(b) 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 his employees.

ARTICLE V—LABOR PROVISIONS

SECTION 1. *Child Labor.*—No person under sixteen (16) years of age shall be employed in the industries, or anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority as hereinafter established shall submit to the Administrator not later than 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 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. *Labor Protection.*—(a) 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 prescribed in this Code.

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

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(c) Each employer shall post in conspicuous places full copies of this Code.

(d) Each employer shall provide for the health and safety of his employees while engaged in the discharge of their duties. He shall 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 these industries.

SEC. 4. *Accident prevention.*—Every producer governed by this Code shall lend his cooperation and active support to the program of his trade association for the reduction of accidents in the conduct of his operations. No producer shall be permitted to expose his employees to unnecessarily dangerous working hazards and cases of culpable disregard of the life and health of employees shall constitute a violation of this Code. The Code Authority as hereinafter established shall present to the Administrator within six months after the effective date, such standards of safety as in its judgment will further the purposes of this section.

SEC. 5. *Company facilities.*—(a) 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 homes rented from the employer.

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

ARTICLE VI—ADMINISTRATION

SECTION 1. *Regions.*—For the purpose of administration of this Code, the United States shall be divided into sixteen regions as indicated in the following tabulation, which is hereby constituted and made a part of this Code. The Code Authority as hereinafter provided may from time to time revise such region or regions affected, subject to the approval of the Administrator.

Region No. 1.—Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

Region No. 2.—New York.

Region No. 3.—Pennsylvania, New Jersey, and Delaware.

Region No. 4.—West Virginia, Virginia, Maryland, and District of Columbia.

Region No. 5.—South Carolina, Georgia, Alabama, Florida, and Mississippi.

Region No. 6.—North Carolina, Kentucky, and Tennessee.

Region No. 7.—Arkansas, Louisiana, and Texas.

Region No. 8.—Ohio.

Region No. 9.—Illinois and Indiana.

Region No. 10.—Michigan and Wisconsin.

Region No. 11.—North Dakota, South Dakota, and Minnesota.

Region No. 12.—Nebraska and Iowa.

Region No. 13.—Kansas, Missouri, and Oklahoma.

Region No. 14.—Wyoming, Colorado, New Mexico, Utah, and Arizona.

Region No. 15.—California and Nevada.

Region No. 16.—Montana, Washington, Oregon, and Idaho.

SEC. 2. *Districts.*—Each region may be divided into subdivisions which shall be known as districts, to facilitate local organization, to administer this Code and to provide self-determination of local issues within the provisions of this Code and subject to the rulings of the regional committee and/or the Code Authority. Such districts may be established by the marketers in any marketing area subject to the approval of the regional committee. When a marketing area is situated in more than one region, a district may be established subject to approval of the regional committees affected.

SEC. 3. *Divisions.*—Any group of members of the industries, after submitting to the Administrator proof that they represent two thirds of the production, or two thirds of the producers, of any one type or class of industry products, so specialized in nature as to warrant the establishment of a division, and that they are primarily engaged in the production of such specialized products, may petition the Administrator to constitute such members a division of the industries or of any one industry governed by the provisions of this Code. Upon such submission of proof and the receipt of such petition, the Administrator, after such hearing as he may prescribe, and after securing the recommendation of the Code Authority, may designate such members and all those in their class a division of the industries. Such members shall be governed by the provisions of this Code, with such exceptions as may be approved from time to time by the Code Authority and the Administrator.

SEC. 4. *Committees*—(a) *Code Authority.*—To effectuate the policies of the Act a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code. The Code Authority shall consist of:

(1) One (1) member representing the crushed stone industry and one (1) member representing the sand and gravel industry from each region, and also one (1) member representing the slag industry from each region in which slag is produced.

(2) Twelve (12) members at large, of whom at least one (1) shall be chosen from Regions 1, 2, and 3 as hereinbefore specified; at least one (1) from Regions 4, 5, 6, and 7; at least one (1) from Regions 8, 9, and 10; and at least one (1) from Regions 11, 12, 13, 14, 15, and 16.

(3) The president and one association staff representative to serve as ex officio members, of each trade association truly representative of any industry that with the approval of the President may from time to time be governed by the provisions of this Code. Such associations are hereby initially designated as the National Crushed Stone Association, Inc., the National Sand and Gravel Association, Inc., and the National Slag Association, or such successor associations as may be constituted by action of the members thereof.

(4) Representatives, selected by an equitable method to be approved by the Administrator, of such industries as with the approval of the President may from time to time be governed by the provisions of this Code.

(5) The President may appoint (from one to three) non-voting members to the Code Authority as representatives of the Government. They are to be appointed for terms of from six months to one year

(e) *District Committees.*—The registered crushed stone, sand, and gravel, and slag producers in each established district in which they are marketing, shall elect, in the manner prescribed in Section 7 (d) of this Article, an even and like number from their respective industries consisting of not less than two (2) nor more than six (6) to the district committee. The members so elected by each of these industries shall elect one (1) additional member from each of these industries to the district committee.

This committee shall be equitably representative of the small, intermediate, and large producing companies marketing within the district, with not more than one (1) representative from a single company, except that a producer may have more than one (1) but not more than three (3) representatives in order to give voting parity to the industry or industries represented by that producer or producers.

Members of a district committee shall serve for one year from the effective date, or until their successors are elected for a like term.

(f) *Division Committees.*—The registered producers in any division shall elect, in the manner prescribed in Section 7 (e) of this Article, a division committee. This committee shall be equitably representative of the small, intermediate, and large producers within the division, with not more than one (1) representative from a single producer.

Members of a division committee shall serve for one (1) year from the effective date, or until their successors are elected for a like term.

SEC. 5. *Duties of Committees.*—(a) *Duties of Code Authority.*—The Code Authority shall be the general planning, coordinating, and administrative agency for the industries governed by this Code and shall adopt such rules and regulations as, in its judgment, and subject to modification or disapproval by the Administrator, are necessary for the proper administration of the Code.

Without limiting the foregoing, the Code Authority shall have the following specific powers, subject to disapproval or modification by the Administrator:

(1) To obtain from members of the industries, periodically, or as often as it may direct, reports 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, sworn or unsworn as it may specify, or as the Administrator may from time to time require.

(2) To delegate to the regional, district, or division committees the authority to collect from members of the industries, in such regions, districts, or divisions such information and data as may be necessary for such committees properly to administer this Code; provided, however, that such information and data shall be held as confidential information by such committees, except that such information and data shall be available to the Code Authority and the Administrator.

(3) To delegate to the trade associations of the industries governed by this Code or to such subcommittees or such other agents or agencies as it may designate such of the administrative powers as may practicably be performed by them, and properly to compensate them therefor; provided, however, that such delegation shall

not relieve the Code Authority of responsibility, and provided further that in the performance of any such delegated functions, such trade associations, subcommittees, or other agents or agencies shall comply with all applicable provisions of this Code.

(4) To keep accurate records and accounts of the expenses incident to the establishing and administering of this Code, and of doing such other things as it may have been, or may be, authorized or instructed by the Administrator to do; and to render from time to time such reports to the various committees and members of the industries as may in the judgment of the Code Authority seem proper.

(5) To provide for the collection at intervals of funds to cover these costs and expenses and to designate through what agency and in what manner they shall be collected, subject, however, to the provisions of Section 4 (c) of this Article.

(6) To collect and furnish to governmental agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

(7) To establish from its own membership an Executive Committee which, in the interim between meetings of the Code Authority, shall have all of the powers and authority of the Code Authority. This Executive Committee shall consist initially of not more than fifteen (15) members from the industries governed by this Code, and shall be equally and equitably representative of such industries. The representatives of the Government appointed as provided in paragraph (5) of Section 4 (a) of Article VI of this Code may also serve on the Executive Committee. The Code Authority may enlarge the Executive Committee in order to provide for equitable representation of such industries as with the approval of the President may from time to time be governed by this Code.

The Executive Committee shall refer for hearing and determination questions exclusively affecting any particular industry or industries to the members of the committee representing the industry or industries, respectively. Such members shall then act as a subcommittee with power to hear and determine the question under consideration for the entire Executive Committee. The members of the Executive Committee shall serve until their successors are elected.

(8) To make such inquiries and investigations and to hold such hearings as to the operation of this Code upon the complaint of interested parties, or upon its own initiative, as may be necessary properly to administer the provisions of this Code.

(9) To appoint regional committees in any region or regions where committees are not elected pursuant to the provisions of this Code within thirty (30) days after the effective date. Any regional committee thus appointed shall hold office only until a regional committee for that region has been elected and qualified in accordance with the provisions of this Code.

(10) To establish or designate an agency on planning and fair practice which shall cooperate with the Code Authority in developing fair inter and intra trade practices and industrial planning, including the regularization of employment and stabilization of employees for the industry.

(b) *Duties of Regional Committees.*—The regional committees shall administer the provisions of the Code in their respective regions, provided, however, that their acts be reviewed by the Code Authority and subject to its disapproval or modification, and may be reviewed and disapproved or modified by the Administrator. Each regional committee shall refer for hearing and determination questions exclusively affecting any particular industry or industries to those members of its committee elected thereon by said industry or industries respectively. Such members shall then act as a sub-committee with power to hear and determine the question in dispute for the entire regional committee subject to the right of appeal as hereinafter set forth.

The regional committee shall maintain the authoritative list of registered producers in each region. Each registered producer shall sign a certificate of compliance with this Code, and shall report such data as to production as may be required by the committee. The regional committee shall not continue the name of any producer on the list who has failed to pay his proportionate share of the expense incidental to the establishment and administration of this Code as provided for in Section 4 (c) of this Article.

(c) *Duties of District Committees.*—The district committee shall administer the provisions of this Code in their districts, provided, however, that their acts be reviewed by their respective regional committees and subject to their disapproval or modification. The acts of such district committees may be reviewed and disapproved or modified by the Administrator. Each district committee shall refer for hearing and determination, questions exclusively affecting any particular industry or industries to those members elected thereon by the said particular industry or industries respectively. Such members shall then act as a subcommittee with power to hear and determine the question in dispute for the entire district committee subject to the right of appeal as hereinafter set forth.

(d) *Duties of Division Committees.*—Each division committee shall have power of self-government in respect to all conditions and problems relating exclusively to said division. It may establish territorial and other subcommittees, and prescribe such duties, rules, and regulations as are deemed necessary to carry out the purposes of the Act and of this Code. The right of appeal from the decisions of a subordinate committee to the next higher committee, to the Code Authority and to the Administrator, is hereby established. Furthermore, the Administrator shall have the right directly to review and disapprove or modify any action of any committee or subcommittee. Any such division committee may present to the Code Authority and to the Administrator recommendations designed to supplement the provisions of this Code, insofar as they relate to the members and operation of such division. Upon approval by the President after such notice and hearing as he may prescribe, such recommendations shall have full force and effect and shall be considered as an integral part of this Code.

Sec. 6. *Interregional Regulations.*—Proposals in respect to the administration of this Code affecting more than one region may be made to the Code Authority by the regional committee of any affected

region, and the decision of the Code Authority shall be conclusive, subject, however, to the powers reserved herein to the Administrator.

SEC. 7. *Voting*—(a) *Committees.*—Each member of the Code Authority, the regional committees, the district committees, the state committees, and the division committees, shall be entitled to one vote in the proceedings thereof, and a majority vote shall govern.

(b) *Producers.*—Each registered producer as defined in Section 4 (c) of this Article shall be entitled to one vote, except as otherwise provided in this section; provided any such producer who within one year prior to the effective date has sold and shipped the products of any or all the industries governed by this Code may vote individually and separately as a member of any or all of such industries.

(c) *Meeting and Voting Within a Region.*—A meeting of producers within a region may be called at the instance of producers representing 25 percent of the production within a region, or representing 25 percent of the number of producers within a region, or at the call of either the regional committee or the Code Authority. The registered producers of each industry shall vote for members to represent their industry, as follows: An agreed upon number of representatives of each industry shall be elected by the registered producers of the respective industries, each of whom shall have one vote irrespective of production. A like number of representatives of each industry shall be elected by the registered producers of the respective industries who shall vote in accordance with their average annual production sold and shipped during the five preceding calendar years. In the event a registered producer has not been producing material throughout the five preceding calendar years his basis of voting shall be determined as the average annual rate of production sold and shipped during his period of operation, provided that his period of operation has been more than one calendar year. In the event that he has operated less than one calendar year then he shall be entitled to as many votes as is equal to his production sold and shipped in tons or cubic yards according to established practice divided by 25,000. Each producer shall have one vote for each 25,000 units or major fraction thereof of average annual production sold and shipped. The unit in each case shall be in accordance with established practice within the region. After the representatives of each industry have been elected in the manner above set forth they shall elect from their industry one additional member. Except for the election of the regional committee all of the voting shall be on the basis that each registered producer shall have one vote.

(d) *Meeting and Voting Within a District.*—A meeting within a district may be called at the instance of marketers representing 25 percent of the production sold and shipped within the district or representing 25 percent of the number of producers marketing within the district, or at the call of either the district committee or the regional committee. The marketers of each industry shall vote for members who shall represent their industry as follows: An agreed-upon number of representatives of each industry shall be elected by the marketers of that industry, each of whom shall have one vote irrespective of delivered sales. An equal number of the representatives of each industry on the district committee shall be elected by the marketers of that industry, who shall vote in accordance with

their average annual production sold and shipped within the district for the five preceding calendar years. In the event a marketer has not been selling materials within a district throughout the five preceding calendar years his basis of voting shall be determined as the average annual production sold and shipped in tons or cubic yards during the period he has been selling in the district. Each marketer shall have one vote for each 25,000 units or major fraction thereof of average annual sales. The unit in each case shall be in accordance with established practice within the district. After the representatives of each industry have been elected in the manner herein set forth they shall elect from their industry one additional member. Except for the election of the district committee, all of the voting shall be on the basis that each marketer shall have one vote.

(e) *Meeting and Voting Within a Division.*—A meeting within a division may be called at the instance of producers representing twenty-five (25) percent of the production, or representing twenty-five (25) percent of the producers within the division, or at the call of the Code Authority. The registered producers shall vote for members of the committee to represent their division, in such number and upon such equitable basis as may be approved by the Administrator.

Sec. 8. *Right of Appeal.*—Appeal from any decision by a district committee may be taken to the regional committee or committees of the region or regions in which such district is located. Appeal from any decision by a regional or division committee may be taken to the Code Authority or its accredited representative. The decision of the Code Authority or its accredited representative shall be final except for appeal to the Administrator. Any producer may exercise the right of appeal as herein provided from any decision affecting the interests of such producer. Questions on original hearing or an appeal exclusively affecting any particular industry shall in every instance be referred for hearing and determination to those members of the committee elected thereon by said particular industry or industries, respectively

Sec. 9. *Arbitration.*—Complaints or controversies, involving labor, the consuming interests, or groups outside of the industries which cannot be satisfactorily settled by the Code Authority may, with the consent of the interested parties, be referred to an arbitration board composed of equal representation from each of the groups involved in the complaint or controversy, together with a neutral arbiter selected by the appointed members of the arbitration board. The decision of the arbitration board shall be final.

Sec. 10. *Administration Expenses.*—All of the costs and expenses of establishing and administering this Code shall be borne by the registered producers in the industries governed by this Code. It is hereby agreed by and between such producers, and each for himself and with the Code Authority, that each such producer shall pay at the time required such assessments covering the aforesaid cost as may be required by the Code Authority. The Code Authority may appoint such agents or agencies as it may designate for the collection of these assessments. These costs as herein referred to shall be equitably distributed among the registered producers in the various industries by the Code Authority, in conformity with Section 4 (c) of this Article.

SEC. 11. *Trade Association.*—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.

ARTICLE VII—TRADE PRACTICES [2]

SECTION 1. *Unfair Methods.*—The following practices constitute unfair methods of competition for members of the industries and are prohibited.

(a) *Secret Rebates.*—To make 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 extending to certain purchasers special service or privilege not extended to all purchasers under like terms and conditions.

(b) *Contract Interference.*—To interfere wilfully with anyone 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, with the intent and/or effect of thereby destroying or appropriating in whole or in part the property or business of another engaged in the industries governed by this Code.

(c) *Defamation.*—To defame 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 material.

(d) *Misrepresentation.*—To sell or offer for sale any industry product in such manner as knowingly to deceive purchasers or prospective purchasers as to the quality, quantity, size, grade, or substance of such product.

(e) *Misbranding.*—To mark or brand any product 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 such product.

(f) *Commercial Bribery.*—To offer or give commissions, prizes, gifts, excessive entertainment, or other benefits as an act of commercial bribery to anyone in connection with the sale, purchase, or use of any industry product, or as an inducement thereto.

(g) *Lump-Sum Bidding.*—To sell any industry product except on a unit-price basis.

(h) *Contingent Selling.*—To enter into any agreement for furnishing any industry product contingent upon the sale or purchase of any other product or service, or other contingency not appearing in the contract.

(i) *Jobbers and Distributors.*—Since the great volume of industry products is sold by producers direct to consumers no producer indi-

[2] Section 2 (e), 3 and 4 does not apply to producers of stone for chemical, metallurgical, and/or similar purposes—See Administrative Order No. 109–14, Approved May 10, 1934.

rectly shall violate this Code by disposing of his industry products through a middleman whom he controls by stock ownership or otherwise and who does not adhere to the standards of fair competition established in this Code.

SEC. 2. *Cost Determination.*—(a) Within 120 days after the effective date, the Code Authority shall establish, subject to the approval of the Administrator, a standard uniform accounting and costing system for each industry governed by the provisions of this Code.

(b) When approved by the Administrator full information concerning such uniform standard systems shall be distributed by the Code Authority to all members of the industries. Thereafter each member shall adhere to the standard uniform system for the industry or industries in which he is engaged to the extent of incorporating in his calculations of cost all of the elements prescribed by such system.

(c) Any district committee may, if it so elects, and subject to the approval of its regional committee and the Code Authority, adopt for the producers selling within that district, the open-price policy prescribed in paragraphs (d) and (e) of this section.

(d) No producer selling within a district described in paragraph (c) of this section shall sell any product at less than his prime plant cost thereof, plus ten (10) percent. Such cost shall be computed in accordance with the standard uniform accounting and costing system for the industry in which the producer is engaged and shall include all items of cost exclusive of return on capital invested, interest on borrowed capital, depreciation, depletion, administration, selling costs, and reserves.

(e) In any district where the open-price policy is adopted each producer selling within the district shall file with the district committee not less than five (5) days in advance of the effective date thereof, all prices, terms, and conditions of sale, which shall be f.o.b. plant, or delivered, or both, as may be directed by the district committee. Such prices, terms, and conditions of sale shall continue in effect until other prices, terms, and conditions of sale have been duly filed as herein provided. The district committee shall immediately cause copies of all such prices, terms, and conditions of sale filed with it to be distributed among the producers selling within the district, and to be made available for public information.

No provision contained herein shall be construed as preventing any producer selling within a district from meeting, as of their effective date, the prices, terms, and conditions of sale, filed as herein provided by any other producer.

Except as provided in the foregoing no producer selling within a district shall deviate from the prices, terms, and conditions of sale filed by him as herein provided.

SEC. 3. *Uniform Terms of Sale.*—In each region, district, or division, the regional, district, or division committee, as the case may be, may establish, subject to the approval of the Administrator, terms of sale uniform within each region, district, or division. Such terms shall be binding upon all producers selling in that region, district, or division.

SEC. 4. *Uniform Credit Practices.*—In each region, district, or division, the regional, district, or division committee, as the came may be, may establish, subject to the approval of the Administrator,

credit practices uniform within such region, district, or division. Such practices shall be binding upon all producers selling in that region, district, or division.

SEC. 5. *Plant Capacity and New Production.*—(a) To promote the fullest possible utilization of the present productive capacity of the industries governed by this Code, to curb uneconomic overproduction in the various regions herein established, and otherwise to effectuate the purposes of the Act there shall be elected in each state, as hereinafter provided, a standing committee which shall survey its State to ascertain the available sources of supply of the products of these industries within the State, the capacity of existing production facilities and the relation between existing capacity and the actual and potential demand in such state. This committee shall be known as the state committee and shall consist of three (3) stationary-plant producers and three (3) portable-plant producers, together with one (1) additional member who shall be elected by these six and may be chosen from outside the industries. The six representative members of the committee shall be registered producers as defined in Article II of this Code and shall be elected at the time of the election of the regional committee of the region in which the state is located. Members of a state committee shall serve for one year from the effective date or until their successors are elected for a like term. The representatives of the stationary-plant producers shall be elected by a majority of the registered stationary-plant producers voting and the representatives of the portable-plant producers shall be elected by a majority of the registered portable-plant producers voting. The survey and findings reported by each of these committees shall be filed with the appropriate regional committee, which shall transmit a copy thereof to the Code Authority and to the Administrator.

(b) If in the judgment of such a state committee, its survey and findings warrant such action, it may after due notice and hearing determine and define the areas, if any, within its state in which an ample supply of the products of the industries governed by this Code is economically available from existing production facilities. The minutes of such hearing, together with the findings of the state committee and a map showing accurately the boundaries of such areas, shall be filed by each state committee with the appropriate regional committee, which shall transmit a copy thereof to the Code Authority and the Administrator and, moreover, a copy of the map, together with a summary of the committee's findings, shall be mailed to each registered producer within the region and to all governmental authorities who may properly be interested therein. The Administrator shall review said data and examine said map, and if he shall find that in the area or areas shown on such map an ample supply of the products of the industries governed by this Code is in fact economically available from existing production facilities, such area or areas shall be established as "permissive areas" and subject to the provisions contained in the remaining paragraphs of this section.

(c) If any state committee so recommend, the regional committee shall require, subject to review and disapproval by the Administrator, that before a new plant is installed or the producing capacity of an existing plant increased within any permissive area, notice of such intent shall be filed with the regional committee of the

region in which such action is contemplated. Upon receipt of such notice the regional committee shall refer it to the state committee or committees in which such permissive area may be located, who shall collect promptly and with diligence full information concerning existing production capacity in that area. If, in the judgment of the state committee, these data disclose that such new capacity will not tend to defeat the purposes of the Act as herein set forth, the regional committee within fifteen (15) days after the receipt of such notice shall grant permission for the proposed increase in capacity. If, however, in the judgment of the state committee these data disclose that within the said area an ample supply of the products of the industries governed by this Code is economically available and that such proposed increase in capacity does tend to defeat the purposes of the Act by further increasing overproduction or otherwise, it shall be the duty of the regional committee within fifteen (15) days after the receipt of such notice to recommend to the Code Authority that permission to increase the production capacity in that area be denied. The decision of the Code Authority shall be final except as it may be modified or revised by the Administrator.

(d) The Administrator upon notice to the Code Authority or the regional committee directly involved may at any time suspend the provisions of paragraph (c) of this Section.

(e) Neither the provisions of this Section nor any recommendation adopted by the Administrator pursuant thereto shall be construed as preventing any producer from improving the efficiency of his plant through the installation of new equipment or adopting any methods designed to lower production costs.

(f) The provisions of this Section shall remain in effect for a period of one (1) year after the effective date and thereafter until production in the industries governed by this Code shall reach seventy (70) percent of the available production capacity.

Article VIII—Modification

Section 1. *Statutory Provisions.*—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 the 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. 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 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 beginning of the tenth day after its approval by the President.

Approved Code No. 109.
Registry No. 1037/1/01.

O

Approved Code No. 110

CODE OF FAIR COMPETITION

FOR THE

HARDWOOD DISTILLATION INDUSTRY

As Approved on November 10, 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 Hardwood Distillation 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 10, 1933.

29930——296-204——34

November 10, 1933.

The President,
The White House.

Sir: This is a report of the hearing on the Code of Fair Competition for the Hardwood Distillation Industry, conducted in Washington on the third of October, 1933, in accordance with the provisions of the National Industrial Recovery Act.

ECONOMIC EFFECT OF THE CODE

The Industry covered by this Code is one of subjecting to distillation either hardwood unfit for lumbering or the byproducts of lumbering activities in the hardwood forests. The results of this distillation are charcoal, acetate products, and methanol. A large part of the labor involved in the industry is engaged in the cutting up of hardwood into suitable sizes for the retorts and carting this wood to the retorts. As a whole, the employees, other than those engaged in chemical control at the retorts, are not skilled factory workers.

The two products other than charcoal are chemicals competing with chemicals made by the chemical industry, usually as byproducts. The costing of byproducts comes under the general rule of joint costs and as a consequence, the methanol and acetate products of the hardwood distillation industry are subjected to severe competition by the synthetic products. It is believed that any serious rise in costs in this industry would serve still further to curtail volume of product. A considerable proportion of the labor in this industry is engaged in operations in the woods similar to those under the Lumber Code. The provisions of the Hardwood Distillation Code as to hours are generally similar to those of the Lumber Code, while the wage provisions are slightly better than those in the Lumber Code.

The number of factory employees in this industry in 1930 was nearly 3,000. This number has dropped to approximately 1,500 in 1933. It does not appear that this reduction has come about through technical improvements in the industry, but rather through reduced volume of output. The low point in the industry in July 1932 showed less than 1,000 employees engaged in the industry.

The number of employees engaged in wood cutting and hauling and other operations outside of the factory normally is approximately three times as many. A considerable portion of the outside work of this type is not on a full-time basis.

The maximum hours set out in this Code should increase employment by as much as 25%. This, coupled with an increase in wages of which 16.5%, will represent an improvement in purchasing power which, while small in absolute quantity, will be large for the industry and represent an appreciable step toward the goal set up in 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 Hardwood Distillation 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

HARDWOOD DISTILLATION INDUSTRY

Article I—Purpose

This code is set up for the purpose of increasing employment, establishing fair and adequate wages, effecting reduction of hours, improving standards of labor, and eliminating unfair trade practices, to the end of rehabilitating the wood distillation industry. It is the declared purpose of the subscribers to this code to bring rates of wages to levels necessary for the highest practicable standard of living, and to restore the income of the industry to levels which will make possible the payment of such wages and avoid further depletion of capital assets.

Article II—Definitions

The term "Hardwood Distillation Industry" as used herein, and hereinafter referred to as "the Industry", includes the carbonization and/or distillation of wood and the manufacture of charcoal pig iron and such associated enterprises as may from time to time, subject to the approval of the President, be included under the provisions of this Code.

The term "Division" as used herein means a specific geographic area in which Hardwood Distillation is practiced. There are three such divisions—the Eastern, comprises the states of New York, Pennsylvania, and West Virginia; the Western, comprises the states of Michigan and Wisconsin; the Southern, comprises the states of Tennessee, Kentucky, and Arkansas.

The term "Wood Chemical Institute, Inc.", as used herein means the trade association of those engaged in the carbonization and/or distillation of wood, and any subdivisions thereof.

The term "Emergency Executive Committee" as used herein means a committee composed of the President of the Wood Chemical Institute, Inc., and four members elected by, and representative of, the Divisions of the Industry.

The term "Code Authority" as used herein means the Authority set up under Art. VI-A(1) hereof.

The term "Member of the Industry" as used herein includes anyone engaged in the Industry as above defined, whether as an employer or on his own behalf.

The term "Product" as used herein includes charcoal, methanol, and/or its compounds, acetate of lime, acetic acid, and charcoal pig iron.

The term "Employee" as used herein includes any person engaged in any capacity in the nature of employee, irrespective of the method of payment of his compensation.

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

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.

Population for the purposes of this code shall be determined by reference to the 1930 Federal census.

Article III—Hours

No employee shall be permitted to work more than an average of 40 hours per week in any six months' period nor more than 48 hours in any one week nor more than eight hours in any one day, except the following:

(a) Employees in a managerial, executive, or supervisory capacity earning in excess of $150.00 per month.

(b) Outside salesmen.

(c) *Night Watchmen.*—This exemption shall not affect more than 2% of the total employees, but each plant may have at least one such employee.

(d) *Teamsters and Truck Drivers.*—Transportation distances, topographical and weather conditions make it impossible to comply strictly with the maximum hourly schedule, but employment of teamsters shall not be allowed in excess of an average of 48 hours per week over any 6 months' period. Employment of truck drivers shall not be allowed during any six months' period for more than an average of 44 hours per week, nor more than 48 hours in any one week. The foregoing provisions shall not affect more than 20% of the total employees of any one plant.

(e) Employees engaged in a continuous process operation, where adequate qualified labor cannot be made available, and where restriction of hours would unavoidably reduce production; in such cases the maximum weekly hours shall not be in excess of 48 hours.

(f) Chemists and clerical employees in isolated communities of less than 1,500 population, who may be employed not more than 48 hours per week.

(g) Employees engaged on emergency work due to heavy snowfall shall be excepted from the general hours' provisions, but at least time and one-third shall be paid for hours worked in excess of 8 hours per day, and these employees shall be granted 1 full day of rest in 7. Such employment in excess of 48 hours per week shall be subject to the specific permission of the Code Authority.

(h) All employees not specified above shall be paid time and one-third for hours worked in excess of 8 hours per day, with the exception of maintenance and repair men for whom there shall be a tolerance of 10% above 8 hours per day.

(i) No employees shall work, or be permitted to work for a total number of hours in excess of the number of hours prescribed above, whether employed by one or more employers.

Article IV—Wages

1. The minimum wages per hour paid to employees shall not be less than 30¢ per hour in the Eastern and Western Divisions or less than 25¢ per hour in the Southern Division, except the following, whose wages per hour shall not be less than 80% of the minimum wages specified in this paragraph; these exceptions shall not affect more than 8% of the total number of employees in any one plant.

(a) Males between 16 and 18 years of age when the lack of the income would work a hardship on their dependents.

(b) In the Southern Division females employed for packing charcoal in paper bags.

(c) Those physically handicapped.

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. All chemists and clerical employees paid on a salary basis shall be paid not less than $14 per week.

4. All part-time workers shall be paid on an hourly basis at not less than the minimum hourly rates prescribed in Article IV, Section (1).

5. There shall be no evasion of this Code by reclassification of the functions of workers. A worker shall not be included in one of the exceptions specified in Article III unless the identical functions were identically classified on June 15, 1933.

6. Salaried employees, heretofore receiving in excess of the minimum set forth in Article IV (3) shall not have their salaries reduced. Wage earners heretofore receiving in excess of the minimum set forth in Article IV Section (1) shall not have their hourly rate reduced.

Article V—Child Labor

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

Article VI—Administration

To effectuate the policies of this Code, a Code Authority is hereby set up to cooperate with the Administration for the administering of this Code.

A. *Organization.*—1. The Code Authority shall consist of the Emergency Executive Committee of the Hardwood Distillation Industry, which is to consist of a representative or representatives of each division, selected by the said division by a fair manner of election, together with the President of the Wood Chemical Institute, Inc. The Eastern Division shall select two representatives, the Western Division shall select one representative, and the Southern Division shall select one representative. The President may appoint not more than three members who shall be without vote.

2. Participation in the administration of this Code, and any subsequent revision of or addition thereto shall be extended to any member of the Industry who may accept the proper pro rata share of the

cost and responsibility of creating and administering it, either by becoming a member of the Wood Chemical Institute, Inc., by paying the dues that shall be levied on members of the Wood Chemical Institute, Inc., as prescribed by the by-laws of said institute or by paying to the Code Authority his proportionate share of the cost of creating and administration of this Code, based on his rated cordage, or as may otherwise be determined by the Code Authority, subject to the approval of the Administrator. No initiation or entrance fees to the Wood Chemical Institute, Inc., shall be charged.

3. Each trade or industrial association 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 purpose of the Act.

4. 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.

5. All members of the Industry shall have the right to appeal to the President from decisions of the Code Authority.

B. *Duties and Powers.*—The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to approval by the Administrator:

1. To administer this Code in conformity with the provisions of the National Industrial Recovery Act under the authority of the President.

2. To collect and compile all necessary data as provided in Article VII hereof.

3. To submit to the National Recovery Administration for approval amendments proposed by any division or member thereof, or initiated by the Code Authority itself.

4. To secure current information concerning the competition in domestic markets of imported products of this and competing industries, 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 products.

C. *Operative Provisions.*—The Code Authority shall study the functioning and operation of the industry under this Code, with a view to making recommendations to the Administrator which it deems desirable for modification or addition to the trade practice regulations and rules and regulations contained in this Code.

Article VII—Statistics

In order to provide data necessary for the administration of the National Industrial Recovery Act, the members of the industry shall furnish, and the Code Authority shall collect, all data and statistics which may be called for under this Code.

1. Any data and/or statistics of a confidential nature shall be collected by a certified public accountant selected by the Code Authority. The information so collected shall be disseminated only so combined with other information of the same type that disclosure of individual operation shall be impossible.

2. In addition to information required to be submitted to the Code Authority, there will 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 VIII—Costing

The Code Authority shall, after a study of the conditions in the Industry, prepare and submit to the Administrator for approval a uniform system of accounting, specifying the items of cost to be included, with an allocation of these costs to the products of the Industry.

Article IX—Rules of Trade Practice

The Code Authority shall study trade practice rules 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, shall become a part of this Code and have full force and effect as provisions hereof. The following trade practices are hereby prohibited:

1. For any member of the Industry to sell the products of the Industry below his individual cost of production of such products as determined in accordance with the uniform system of accounting referred to in Article VIII, after it has been approved by the Administrator.

2. 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 provisions not extended to all purchasers under like terms and conditions.

3. No member of the Industry shall render false invoices subject to adjustments.

4. No extra or special freight allowances shall be made to stimulate sales.

5. No product shall be sold with a guarantee against a decline in price before or after delivery.

6. Where specifications for any products of the Industry have been approved by the Public Health Service of the United States, by state or local authorities and agreed to by the Code Authority on behalf of the Industry, no member of the Industry shall sell such products in violation of such specifications.

7. 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.

Article X—General

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. 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 Sec. 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.

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.

6. No provision in this Code shall be interpreted or applied in such manner as to:

(a) Promote monopolies or monopolistic practice;
(b) Permit or encourage unfair competition;
(c) Eliminate or oppress small enterprise; or
(d) Discriminate against small enterprises.

7. Where the cost of executing contracts entered into by the members of the Industry prior to June 16, 1933, is increased by the application of the provisions of the National Industrial Recovery Act a fair and appropriate adjustment of such contracts to reflect such increased costs may be attempted by negotiation or by arbitration.

8. Each employer shall post in conspicuous places in his plant full copies of this Code.

9. This Code shall take effect on the first Monday after its approval by the President of the United States.

Approved Code No. 110.
Registry No. 699/03.

O

SUPPLEMENT

30528°—34——1

EXECUTIVE ORDER

Funeral Vehicle and Ambulance Supplement to Code of Fair Competition for the Automobile 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 Supplement to the Code of Fair Competition for the Automobile Manufacturing Industry covering Fair Trade Practices for the Funeral Vehicle and Ambulance Subdivision, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the Supplement, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Supplement 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 supplement be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
Hugh S. Johnson,
Administrator.

The White House,
November 8, 1933.

LETTER OF TRANSMITTAL

NOVEMBER 2, 1933.

The PRESIDENT,
The White House.

SIR: The proposed supplement to the Code of Fair Competition of the Automobile Manufacturing Industry, covering fair trade practices for the Funeral Vehicle and Ambulances Subdivision of said Industry, was submitted by the Funeral Vehicle and Ambulance Manufacturers Association, representing 70% of the members of the Industry, and 85% of the Dollar Volume of the Industry. The hearing was conducted in Washington on October 16, 1933, and all persons requesting an appearance were publicly heard in accordance with the statutory and regulatory requirements.

This Subdivision of the Automobile Industry from its peak in 1929 to the beginning of 1933, has experienced a drop in sales of approximately 40%. The fair trade practices as set forth in the Supplement, we believe are essential to the industrial recovery of the Subdivision. The fair trade practices as contained in this Supplement, we believe are necessary to the rahabilitation of the Subdivision.

Article I. States the purposes of the Supplement.

Article II. Defines accurately specific references in the Subdivision of the Supplement.

Article III. Establishes Subdivision authority for Funeral Vehicle and Ambulance Subdivision to Automobile Manufacturing Industry.

Article IV. Determines method of cost and defines manner in which information shall be obtained.

Article V. Sets forth fair trade practices of the Subdivision.

Article VI. Contains the Mandatory Subdivisions of the National Recovery Act.

FINDINGS

The Administrator finds: A. This Supplement complies in all respects with the pertinent phrases of Title I of the Act, including without limitation Subsection (b) of Section 10 thereof; B. The Funeral Vehicle and Ambulance Manufacturers Association is truly representative of the Funeral Vehicle Manufacturing Subdivision of the Automobile Manufacturing Industry, and the articles of Association contain no inequitable restrictions on membership; C. The Supplement is not designed to promote monopolies or eliminate or oppress small enterprises, and will not operate to discriminate against them and will tend to effectuate the policies of Title I of the National Recovery Act.

It is recommended therefore, that this Supplement to the Code of the Automobile Manufacturing Industry be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

SUPPLEMENT TO CODE OF FAIR COMPETITION FOR THE AUTOMOBILE MANUFACTURING INDUSTRY COVERING FAIR TRADE PRACTICES FOR THE FUNERAL VEHICLE AND AMBULANCE SUBDIVISION OF THE SAID INDUSTRY

Article I—Purpose

Pursuant to Article X of the Code of Fair Competition for the Automobile Manufacturing Industry, duly approved by the President on August 26, 1933, the following provisions relating to fair trade practices for the Funeral Vehicle and Ambulance Subdivision of the Automobile Manufacturing Industry are submitted in behalf of said subdivision, and upon approval by the President shall be binding upon every member of said Subdivision.

Article II—Definitions

1. The term "Funeral Vehicles and Ambulances" and/or "Products" as used herein shall mean hearses, ambulances, combination hearses and ambulances, funeral service cars and special vehicles and/or bodies therefor.

2. The term "Hearse" shall mean a motor vehicle designed for transportation of the dead.

3. The term "Ambulance" shall mean a motor vehicle designed for the transportation of the sick or wounded.

4. The term "Service Car" shall mean a motor vehicle designed for the transportation of materials and equipment used in the funeral service and burial of the dead.

5. The term "Subdivision" as used herein shall mean the manufacturing and assembling within the United States of Funeral Vehicles and Ambulances as hereinabove defined, and of component and repair parts and accessories by manufacturers or assemblers of Funeral Vehicles and Ambulances.

6. The term "Association" as used herein shall mean the Funeral Vehicle and Ambulance Manufacturers Association, a Trade Association having its office at Cincinnati, Ohio.

7. The term "Member of the Subdvision" as used herein shall mean anyone engaged in the Subdivision as hereinabove defined, either as an employer or on his own behalf.

8. The term "Code Member of the Subdivision" shall mean any member of the Subdivision who signifies assent to the Code of Fair Competition for the Automobile Manufacturing Industry as approved by the President on August 26, 1933, and to this Supplement thereto.

9. The term "Effective Date" as used herein means the 10th day after this Supplement shall have been approved by the President of the United States.

Article III—Code Authority Organization

Each Code Member of the Subdivision shall be entitled to participate in the Code activities of such committee as shall be designated by the National Automobile Chamber of Commerce, pursuant to paragraph (c) of Article VI of the Code of Fair Competition for the Automobile Manufacturing Industry approved August 26, 1933, to function as a "Subdivision Authority" under the supervision of the Chamber. (Such committee shall be hereinafter referred to as the Subdivision Authority.) Each Code Member of the Subdivision shall contribute his equitable and proportionate share toward defraying the expenses incurred in the administration of this Supplement. Such equitable and proportionate share shall be determined by the Subdivision Authority under the supervision of the Chamber and subject to the approval of the Administrator.

Article IV—Powers and Duties

1. (*a*) Within 10 days after the effective date of this Supplement all members of this Subdivision shall file with the Subdivision Authority schedules of their net prices to "Jobbers", "Distributors", and "Dealers." Each member of the Subdivision shall adhere to his own quoted prices so filed. If any member desires to change such prices, he shall first file a revised schedule of prices with the "Subdivision Authority."

(*b*) Each member of the Subdivision shall file, together with his schedule of prices, specifications, and a complete description of the model covered by each price.

(*c*) Each member of the Subdivision shall file with the Subdivision Authority, in addition to the foregoing schedules, complete price lists for extra equipment which may be offered or sold over and above specification equipment.

(*d*) No member of the "Subdivision" shall sell or offer for sale any Funeral Vehicles or Ambulances at prices lower or on terms more favorable than those included in his own schedules filed as hereinabove provided.

(*e*) For the purpose of this Section 1, the following definitions shall apply:

The term "Jobber" or "Distributor" shall mean:

(v) anyone engaged in the business of selling funeral vehicles to the funeral trade, who has a place of business separate and distinct from the establishment of any Funeral Director; or

(z) anyone engaged in the business of selling ambulances.

The term "Dealer" shall mean anyone engaged in whole or in part in the business of Motor Vehicle Retailing who

(x) sells funeral vehicles to the funeral trade, and has a place of business separate and distinct from the establishment of any funeral director; or

(y) sells ambulances.

2. No member of the "Subdivision" shall sell funeral vehicles or ambulances at a net realized price less than the cost of such product to such member. Cost shall be computed on the basis of a uniform

formula or uniform formulæ of cost accounting prescribed by the Subdivision Authority, and subject to approval of the Administrator.

Each "Member" of the "Subdivision" shall from time to time on request of the "Subdivision Authority" submit his costs computed on the basis of such formula or formulæ.

3. 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.

Article V—Trade Practices

1. The following trade practices are hereby declared to be unfair, and no member of the Subdivision shall engage in any such practice.

(*a*) Selling Funeral Vehicles and Ambulances to any buyer at a price or upon terms and conditions not available to all other buyers of the same class.

(*b*) The secret payment or allowance of rebate, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise.

(*c*) 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.

(*d*) The offering or giving of prizes, commissions, or gifts in connection with the sale of products as an inducement to promote such sale.

(*e*) The selling or offering for sale of more than one article at an aggregate price less than the total of the regularly established unit prices of such member therefor.

(*f*) The giving or permitting to give or offer to give, directly or indirectly, of 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, to induce such agents, employees, or representatives 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.

(*g*) The false marking or pricing of any kind of products of the "Subdivision" in order to mislead or deceive customers or prospective customers.

(*h*) The making or causing or knowingly permitting to be made or published of any false or deceptive statement by way of advertisement or otherwise, having the tendency to mislead or deceive customers or prospective customers.

(*i*) Imitation of competitors' trade marks.

(*j*) False disparagement of competitors or their products.

(*k*) The malicious inducing of employees away from competitors.

2. Nothing in this Supplement 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 this Supplement or with the National Recovery Act.

Article VI—General

1. No provision of this Supplement shall be interpreted or applied in such manner as to

(*a*) permit monopolies or monopolistic practices.

(*b*) eliminate or oppress small enterprises or discriminate against small enterprises.

2. No inequitable restrictions upon membership in the Association shall at any time be imposed.

3. This Supplement is hereby made expressly subject to the right of the President pursuant to 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 the said Act, and specifically but without limitation to the right of the President to cancel or modify his approval of this code or of any conditions imposed upon him upon such approval.

4. By presenting this Supplement the members assenting hereto do not thereby consent to any modification thereof, and they reserve the right to object individually or jointly to any such modifications.

5. Such provisions of this Supplement as are not required to be included therein by the National Industrial Recovery Act may, upon the application of the Subdivision and with the approval of the President, be modified or eliminated.

AMENDMENT

EXECUTIVE ORDER

Amendment No. 1 to Code of Fair Competition for the Cotton Textile Industry

An application having been duly made by the Cotton Textile Industry Committee under date of August 23, 1933, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, and pursuant to sections 9 and 10 of the Code of Fair Competition for the Cotton Textile Industry, approved July 9, 1933, for my approval of modifications of said Code of Fair Competition for the Cotton Textile Industry proposed in said application, and full hearings having been held thereon and the Administrator, under date of November 3, 1933, having rendered his report containing an analysis of said modifications together with his recommendations and findings with respect thereto, and the Administrator having found as set forth in said report, that the said modifications comply 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 said modifications of the Code of Fair Competition for the Cotton Textile Industry be, and they hereby are approved and made a part of said code.

FRANKLIN D. ROOSEVELT.

Approval recommended:
Hugh S. Johnson,
Administrator.

The White House,
November 9, 1933.

LETTER OF TRANSMITTAL

November 3, 1933.

The President,
The White House.

INTRODUCTION

Sir: This is a report on the Hearing of the modification of the Code of Fair Competition for the Cotton Textile Industry to include under the provisions of that Code the Cotton Thread Industry, the Yarn Mercerizing Industry, and the Cotton and Rayon Finishing Industry as proposed by the following groups and approved by the Cotton Textile Industry Committee:

1. The Thread Institute.
2. The National Association of Finishers of Textile Fabrics.
3. The Mercerizers Association of America.

This Hearing was held in the auditorium of the Department of Commerce Building, in Washington, D.C., on October 9th, in accordance with the provisions of the National Industrial Recovery Act. Every person who filed an appearance was freely heard in public and all statutory and regulatory requirements were complied with.

Attached herewith is a copy of the modification which was presented by duly qualified and authorized representatives of the abovementioned groups, complying with the statutory requirements, as representing 78%, 75%, and 75% of their industries, respectively.

EVIDENCE SUBMITTED

It was brought out at the Hearing that almost immediately after the adoption of the Cotton Textile Code consideration was given by the Cotton and Rayon Finishers to the formulation of a separate code applicable to the finishing operations. An Executive Order was obtained applying, to the Fnishing division of the industry, the basic provisions of the cotton code with a slight modification as to minimum wage.

Consideration of the problems, however, led to the conclusion that the same line of reasoning which had resulted in the consolidation of cotton and rayon weaving indicated that the cotton and rayon finishing operations should not be segregated from the fundamental cotton and rayon weaving part of the industry.

Mills weaving cotton and rayon, or cotton alone, and finishing their own products are so numerous, and their finishing operations so closely interwoven with the other operations of these plants, that to attempt to disentangle and cut off those various operations in the same plan to place them under the authority of separate and divergent codes would be impracticable.

The finishing operations in these mills were already being conducted under the Cotton Textile Code and the logical course seemed

to all to be to then extend the operations of the consolidated cotton and rayon code to the cotton and rayon finishing operations of the job and corporation finishers as well as the mill finishers.

It was further brought out that the operations of the manufacture of thread begins with the spinning of yarn, which is already under the Cotton Textile Code, and there is neither logic nor practicability in arbitrarily attempting to cut in two what in integrated plants is a naturally connected operation and, therefore, a part of an operation under the Cotton Textile Code.

Confusion has been avoided by the fact that the representatives of the Thread Industry applied for and secured an Executive Order making applicable the basic provisions of the Cotton Textile Code to thread operations.

The next branch of the industry to which these amendments relate is the manufacturing of mercerized cotton yarn. This branch of the industry is already under the Cotton Textile Code and has complied with it from the start.

The amendment which affects it relates to a definition of the productive macninery characteristic of this branch of the industry, so as to bring the operation of this machinery under the same 80-hour limitation which generally prevails in the industry.

It was then shown that these amendments are directed toward rounding out the scope of the operations of what has now become a cotton and rayon textile code to cover the interdependent businesses of the manufacture of yarn and thread, and the weaving and finishing of cotton and rayon fabrics.

It was also shown at the Hearing that the part of the modification as originally submitted defining the Finishing subdivision of the Cotton Textile Industry was inequitable insofar as it was defined to include plants finishing all rayon materials exclusively which in actuality belonged to the Silk and Rayon Finishing Industry. Subsequent to the Hearing, this controversial point was cleared up by representatives of the cotton and rayon, and silk and rayon groups.

RÉSUMÉ OF PROVISIONS OF THE MODIFICATION

The maximum hours and minimum wages of the three industries applying for admission under the provisions of the Cotton Textile Code are the same as those in the Code itself, with the following exceptions: The Cotton and Rayon Finishers provide for a dollar a week higher minimum wage in the North and in the South than the other industries falling under the provisions of the Code.

Machine hours for productive machinery are restricted to two shifts of forty hours each in all three branches of industry coming under the provisions of the Code, with the exception of the so-called Mill Finishers. For this group it is provided that the operating of finishing machinery, except printing machinery, for a sufficient number of hours to finish the fabrics woven on their own looms only, or cotton thread made on their own machinery only, shall not be deemed a violation of the Code until any such finishing operation exceeds two shifts of forty hours each be determined to be an unfair competitive practice.

FINDINGS

The Administration finds that:

(a) The Code as amended 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.

(b) The applicant groups impose no inequitable restrictions on admission to membership therein, and are truly representative of their respective industries.

(c) The provisions of the Code as amended 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 Clauses one and two of the National Industrial Recovery Act.

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

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

AMENDMENT NO. 1 TO CODE OF FAIR COMPETITION FOR THE COTTON TEXTILE INDUSTRY

(a) There shall be added to the definition of the term "Cotton Textile Industry" in Section I of said Code, the following:

> and/or (3) the finishing of any of the foregoing fabrics, whether woven of cotton or rayon or other synthetic fibre or of a mixture of any of these fibres with any other fibres, provided that such finishing operations are carried on by (a) concerns engaged in the weaving of cotton and/or rayon or other synthetic fibre, (b) concerns engaged solely in finishing cotton woven fabrics, (c) concerns primarily equipped for and primarily engaged in finishing cotton woven fabrics who may also be engaged in finishing rayon and/or other synthetic fibre fabrics and/or (4) the manufacture of sewing, crochet, embroidery, and/or darning cotton thread.

so that the completed sentence shall read as follows:

> The term "Cotton Textile Industry" as used herein is defined to mean (1) the manufacture of cotton yarns and/or cotton woven fabrics, whether as a final process or as a part of a larger or further process, and/or (2) the manufacture of woven rayon fabrics, 18″ or more in width, the warp of which is primarily rayon or other synthetic fibre yarn, whether finished or unfinished, and/or (3) the finishing of any of the foregoing fabrics, whether woven of cotton or rayon or other synthetic fibre or of a mixture of any of these fibres with any other fibres, provided that such finishing operations are carried on by (a) concerns engaged in the weaving of cotton and/or rayon or other synthetic fibre, (b) concerns engaged solely in finishing cotton woven fabrics, (c) concerns primarily equipped for and primarily engaged in finishing cotton woven fabrics who may also be engaged in finishing rayon and/or other synthetic fibre fabrics and/or (4) the manufacture of sewing, crochet, embroidery, and/or darning cotton thread.

(b) There shall be added to the definition of "Productive machinery" in Section I of said Code, the following:

> (3) printing machines; (4) piece dyeing machines; (5) starching and/or drying machines, operating on fabrics and not on raw stock or yarn or cotton thread where the same are used for the major operation in the production of plain bleached or unbleached fabrics which are not dyed or printed; (6) all machinery used for spooling, winding, reeling, or skeining as a final process to produce cotton thread ready for sale as a finished

article; (7) cone winding machines, reels, through tube cop machines and parallel tube winding machines used in the production of mercerized yarn only.

so that the completed sentence shall read as follows:

The term "productive machinery" as used herein is defined to mean (1) spinning spindles; (2) looms; (3) printing machines; (4) piece dying machines; (5) starching and/or drying machines, operating on fabrics and not on raw stock or yarn or cotton thread where the same are used for the major operation in the production of plain bleached or unbleached fabrics which are not dyed or printed; (6) all machinery used for spooling, winding, reeling, or skeining as a final process to produce cotton thread ready for sale as a finished article; (7) cone winding machines, reels, through tube cop machines and parallel tube winding machines used in the production of mercerized yarn only.

(c) There shall be added to the definition of the term "effective date" in Section I of said Code, the following:

provided that the "effective date" of the provisions of this code which relate to the finishing and cotton thread manufacturing subdivisions of the industry shall be the next Monday after the approval of such provisions, except as heretofore approved and effective."

so that the completed sentence shall read as follows:

The term, "effective date" as used herein is defined to be July 17, 1933, or if this code shall not have been approved by the President two weeks prior thereto, then the second Monday after such approval; Provided that the "effective date" of the provisions of this code which relate to the finishing and cotton thread manufacturing subdivisions of the industry shall be the next Monday after the approval of such provisions, except as heretofore approved and effective.

(d) There shall be added to the definitions in Section I of said Code the following definitions:

The term "job finishers" as used herein is defined to mean those finishers who do not purchase or own either the grey or the finished fabrics, but merely perform processing and finishing services under a contract with the owner of the goods, who usually is a "converter."

The term "corporation finishers" as used herein is defined to mean those finishers who own or have a direct or indirect interest in grey and finished fabrics and who process and finish the goods for their own account and requirements, and/or for other accounts.

The term "mill finishers" as used herein is defined to mean those mills which are engaged in the weaving of fabrics or production of cotton thread and engaged in auxiliary finishing operations solely on the fabrics or cotton thread so produced by them.

The term "manufacturers of cotton thread" as used herein is defined to mean all producers of sewing, crochet, embroidery,

electricians, firemen, office and supervisory staff, shipping, watching and outside crews, and cleaners—in excess of 40 hours per week; Provided, employees engaged in the operation of such machines as dyeing, bleaching, drying, and mercerizing machines, when used only as a part of continuous chemical processes where the goods would be jeopardized by interruption, may, in such emergency, work more than 40 hours per week, but not in excess of 48 hours per week. Employers in the Cotton Textile Industry shall not operate productive machinery for more than two shifts of 40 hours each per week; provided, however, that the operating of finishing machinery, except printing machinery, owned by mill finishers for a sufficient number of hours to finish the fabrics woven on their own looms only or cotton thread made on their own machinery only shall not be deemed a violation of this section, until any such finishing operation exceeding two shifts of 40 hours each be determined to be an unfair competitive practice.

(g) In the first sentence of Section VI of said Code the word "and" shall be omitted before the words "the National Rayon Weavers Association", and there shall be inserted after those words the following:

the National Association of Finishers of Textile Fabrics, the Thread Institute, and the Mercerizers' Association of America,

so that the completed sentence shall read as follows:

To further effectuate the policies of the Act, the Cotton Textile Industry Committee, the applicant herein, or such successor committee or committees as may hereafter be constituted by the action of the Cotton-Textile Institute, the American Cotton Manufacturers' Association, the National Association of Cotton Manufacturers, the National Rayon Weavers' Association, the National Association of Finishers of Textile Fabrics, the Thread Institute, and the Mercerizers' Association of America, is set up to cooperate with the Administrator as a Planning and Fair Practice Agency for the Cotton Textile Industry.

(h) In subdivision (2) of subsection 3 of Section VI of said Code, there shall be inserted after the word "spindles" the following:

or printing, dyeing, starching, and/or drying machines operating on fabrics as the same are used for the major operation in the production and finishing of plain bleached and unbleached fabrics, or machinery used for spooling, winding, reeling, or skeining as a final process to produce cotton thread ready for sale as a finished article or cone winding machines, reels through tube cop machines and parallel tube winding machines used in the production of mercerized yarn only.

so that the completed subsection 3 of Section VI shall read as follows:

3. Recommendations (1) for the requirement by the Administrator of registration by persons engaged in the Cotton Textile Industry of their productive machinery, (2) for the requirement by the Administrator that prior to the installation of additional

productive machinery by persons engaged or engaging in the Cotton Textile Industry, except for the replacement of a similar number of existing looms or spindles or printing, dyeing, starching, and/or drying machines operating on fabrics as the same are used for the major operation in the production and finishing of plain bleached and unbleached fabrics, or machinery used for spooling, winding, reeling, or skeining as a final process to produce cotton thread ready for sale as a finished article or cone winding machines, reels, through tube cop machines and parallel tube winding machines used in the production of mercerized yarn only, or to bring the operation of existing productive machinery into balance 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, and (3) for the granting or withholding by the Administrator of such certificates if so required by him.

(i) There shall be added to Section VI of said Code a new paragraph which shall read as follows:

It shall be the duty of such Agency acting as the Code Authority for this Industry to designate representatives to act on a joint committee with representatives of any other code authority of a related industry, having reciprocal provisions in its Code, to consider questions regarded by either code authority as of common concern with reference to the effectuation of the policies of the Act (including questions as to whether the operations of a given concern come within the jurisdiction of one or the other of the respective Codes), and to take such action as they may jointly agree to be appropriate subject to the veto of the Administrator.

(j) There shall be added to Section XIII of said Code, immediately after the phrase "between the wage rates paid various classes of employees", the phrase "classified according to occupations" and the words "Paragraph 6" shall be changed to "Section VI", so that the completed Section XIII shall read as follows:

XIII. The amount of differences existing prior to July 17, 1933, between the wage rates paid various classes of employees classified according to occupations (receiving more than the established minimum wage) shall not be decreased—in no event, however, shall any employer pay any employee a wage rate which will yield a less wage for a workweek of 40 hours than such employee was receiving for the same class of work for the longer week of 48 hours or more prevailing prior to July 17, 1933. It shall be a function of the Planning and Fair Practice Agency provided for in Section VI of the Code to observe the operation of these provisions and recommend such further provisions as experience may indicate to be appropriate to effecutate their purposes.

LABOR PROVISIONS

EXECUTIVE ORDER

Labor Provisions for the Beet Sugar 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 Beet Sugar Industry, and hearings having been held thereon by the Secretary of Agriculture and the Administrator pursuant to Executive order of June 26, 1933, and an application having been duly made to the Administrator for approval of the Labor Provisions for the Beet Sugar Industry 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 it is necessary for the Labor Provisions for the Beet Sugar Industry to be approved so that they may be in effect during the coming season's operations of the industry which are about to commence, 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 Beet Sugar Industry be and are hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:
Hugh S. Johnson,
Administrator.

The White House,
October 27, 1933.

LETTER OF TRANSMITTAL

October 10, 1933.

The President,
The White House.

My Dear Mr. President: I have the honor to submit and recommend for your approval, the Labor Provisions for the Beet Sugar Industry to be made part of a Code of Fair Competition for this Industry.

By Executive Order of June 26, 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 Hearing on the Labor Provisions for the Beet Sugar Industry on August 30, 1933, in the Hearing Room of the United States Tariff Commission and the Deputy Administrator has recommended approval of these provisions in the report transmitted herewith, which I approve and adopt.

Under the Executive Order of June 26, 1933, the Secretary of Agriculture is vested with the powers and functions conferred by Title I of the National Industrial Recovery Act with respect to other provisions of Codes of Fair Competition submitted by trades, industries, or subdivisions thereof handling foods and foodstuffs. The Secretary of Agriculture held a hearing on a Proposed Basic Code of Fair Competition as Amended submitted for the Beet Sugar Industry, August 30, 1933, in the Hearing Room of the United States Tariff Commission. Because of the relation of this Code to other Agreements affecting the entire sugar industry of the United States, the Secretary of Agriculture has advised the Deputy Administrator that the Code of Fair Competition now before him will not be submitted to you for approval at this time but that he is agreeable to our complying with the petition of the representatives of the Beet Sugar Industry for approval of the Labor Provisions for the industry.

In the report of the Deputy it appears that:

(1) The provisions of the code relating to maximum hours of labor are believed to be such that employment in the industry will be increased by between twenty and twenty-five percent, or five thousand to six thousand additional employees.

(2) No employer in the industry will employ any minor under the age of 16 years, and no person under 18 years of age shall be employed in the loading and unloading of sugar; provided, however, that when a State Law specifies a higher minimum age no member of the industry shall employ within said State any person below the age specified by such State Law.

(3) Briefs were filed at the hearing on these provisions which describe conditions of labor in the Beet Fields, relating to both living conditions and conditions of employment, which have come from reliable sources, namely, from the Children's Bureau of the United States Department of Labor and the National Child Labor Committee. The Deputy recommends, and I concur in his recommendation, that the President authorize the Secretary of Labor to appoint a Committee to make a survey of labor conditions in the beet fields to be filed with the Secretary of Labor. This Committee should include representatives of the Beet Growers, the Beet Sugar Industry, Labor, and the Public, and I recommend this suggestion especially to your consideration.

I find that the Labor Provisions comply with Section 7 (a) and Section 10 (b) of the National Industrial Recovery Act.

Accordingly, I hereby recommend the approval of the Labor Provisions for the Beet Sugar Industry.

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

LABOR PROVISIONS FOR THE BEET SUGAR INDUSTRY

The following provisions, designated Article I, to and including Article XI, are to be made part of a Code of Fair Competition for the Beet Sugar Industry, and when so incorporated will be construed in their relation to the other provisions of said Code.

Wherever the term "Code" or "Code of Fair Competition" appear in the following provisions, Article I to and including Article IX, it is understood that said terms relate only to these Labor Provisions until they are incorporated in the Code of Fair Competition.

Article I

The effective date of these Labor Provisions shall be the tenth day after their approval by the President of the United States.

Article II

No beet-sugar company shall employ any person under sixteen years of age, and no person under eighteen years of age shall be employed in the loading and unloading of sugar; provided, however, that where a State Law specifies a higher minimum age, no member of the industry shall employ within said State any person below the age specified by such State Law.

Article III

(1) No accounting, clerical, office, or sales employees (except outside salesmen) shall be required or permitted to work for more than forty (40) hours in any one week.

(2) No factory or mechanical worker or artisan, or other employee not specifically mentioned herein or in paragraph 1 of this article, who is subject to the provisions of the N.I.R.A. shall be required or permitted to work more than a maximum week of forty hours, and no such worker shall be employed more than eight hours in any one day. Watchmen shall not be required or permitted to work more than a maximum of eighty-four hours in any two weeks' period.

(3) The maximum hours fixed in paragraphs 1 and 2 of this article shall not apply during the time of receiving the beet crop and of the manufacture of sugar therefrom not to exceed 120 days in each operating season in states other than California, or more than 135 days in said state, but during such time no accounting, clerical, office, or sales employee may be employed or permitted to work more than forty-eight hours in any one week, or more than eight hours in any one day, and no factory or mechanical worker or artisan may be employed or permitted to work more than a maximum week of fifty-six hours or more than eight hours in any one day; nor shall the

maximum hours fixed in the foregoing paragraphs 1 and 2 of this Article or in the above provisions of this paragraph (3) apply to—

(a) Employees engaged in the receiving of the beet crop from, or the delivery of pulp to, farmers;

(b) Employees in a managerial, executive, or supervisory capacity who now receive, or during the period of sugar manufacture will receive, more than $35 per week;

(c) Employees on emergency maintenance and repair work, or engaged in the emergency loading of sugar, but in any such case under section (c) time and one third shall be paid for each hour in excess of eight hours a day.

(d) Highly skilled workers on continuous processes in special cases of emergency, due to illness of workers or to causes beyond the control of management, where overtime is necessary to prevent deterioration of materials in process, but in any such case under section (d) time and a third shall be paid for each hour in excess of eight hours a day, and reports shall be made monthly to the Administrative Committee stating the number of hours so worked in excess of the maximum.

Article IV

(1) No company shall pay any of the classes of employees mentioned in paragraph 1 of Article III hereof less than $15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than $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 $14.00 per week in any city or town of less than 250,000 population, or in the immediate trade area thereof. Population for the purposes of the code shall be determined by reference to the 1930 Federal Census.

(2) No company shall pay any employee of the classes mentioned in paragraph 2 of Article III, and who is within the provisions of the National Industrial Recovery Act, less than 32½ cents per hour. This minimum rate of pay shall apply regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance.

Employees paid on an hourly rate above the minimum rates provided herein shall continue to receive at least the same rates per hour as heretofore. In all cases where the number of hours of employment per week are reduced by the provisions hereof, the hourly wage rates will be equitably increased. Where a State Law specifies a higher minimum wage no member of the Industry shall employ within each State any person at a rate below the wage specified by such State Law.

Article V

Pursuant to subsection (a) of Section 7 of the National Industrial Recovery Act, this Code is 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 interferences, 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.

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

Article VI

This Code may be amended at any time by affirmative vote of the Beet Sugar Manufacturers whose aggregate deliveries of sugar during the year ending October 1 next preceding the date of such vote constituted at least sixty percent of the total deliveries of beet sugar during such year in Continental United States by all beet-sugar manufacturers, provided any such amendment is approved by the President or his representatives.

Article VII

This Code shall continue in effect until terminated by the President, or by the affirmative vote of Beet Sugar Manufacturers whose aggregate deliveries of sugar during the year ending October 1 next preceding the date of such vote constituted at least sixty percent of the total deliveries of beet sugar during such year in the United States, or until such date as the President by proclamation, or the Congress by joint resolution, shall declare that the emergency recognized by the National Industrial Recovery Act has ended.

Article VIII

In accordance with 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 this title.

In addition to information required to be submitted to the Administrative Committee, 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 IX

(a) In order that these Labor Provisions may be administered in accordance with the terms thereof and in accordance with the policies of the National Industrial Recovery Act, an Administrative Committee, which shall be representative of the industry and of the associations signatory to these Labor Provisions, shall be appointed by the Presidents of the United States Beet Sugar Association and the Farmers' and Manufacturers' Beet Sugar Association, subject to the approval of the Board of Directors of both Associations and subject to the approval of the Administrator of the National Indus-

trial Recovery Act. The Administrator of the National Industrial Recovery Act shall be allowed representation on this Administrative Committee of the Beet Sugar Industry, if desired.

The Administrative Committee shall represent the industry in the administration and enforcement of these Labor Provisions and, in addition to the specific powers herein conferred, shall have all general powers necessary to assist the Administrator of the National Industrial Recovery Act in the administration and enforcement of these provisions.

(b) It is understood that the Administrator of the National Industrial Recovery Act has complete jurisdiction over clauses relating to wages, hours, and conditions of employment. Any violation of the Labor Provisions or any problems or complaints relating to the observance of these Labor Provisions shall be reported to the Administrative Committee, which shall obtain such information as in its opinion shall be necessary to establish the facts; and if it shall appear to the Administrative Committee that there has been a violation of these Labor Provisions, it shall report the violation to the Administrator of the National Industrial Recovery Act or take such other action as said Administrator may approve to enforce the provisions of the Act.

(c) The cost of administering these Labor Provisions, compilation of statistical data and such other activities as may be necessary, shall be apportioned pro rata so far as practicable, to all persons in the industry.

(d) The Administrative Committee shall undertake any duties which may be required by the Administrator of the National Industrial Recovery Act to carry out the terms of these Labor Provisions, and shall recommend to the Administrator any further requirements which may be necessary. Such recommendations, when approved by the Administrator, shall have the force of provisions of the Code.

EXECUTIVE ORDERS

EXECUTIVE ORDER

IN THE MATTER OF THE APPLICATION OF THE GREENSBORO LUMBER COMPANY AND H. A. TAYLOR, FOR CERTAIN EXEMPTIONS FROM THE CODE OF FAIR COMPETITION FOR THE LUMBER AND TIMBER PRODUCTS INDUSTRIES

A Code of Fair Competition for the Lumber and Timber Products Industries has been heretofore approved by me. After such approval, and in accordance with the provisions of my further Executive Order dated July 15, 1933, hearings have been granted by the Administrator to the named applicants, allegedly directly affected by said Code, who have claimed that applications thereof have been unjust to them and have applied for an exemption therefrom with reference to the minimum wage provided in the said Code.

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, dated September 15, 1933, 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 1 of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, and in accordance with the provisions of my Executive Order dated July 15, 1933, providing for hearing on the application of Codes under certain circumstances, do order that the application for exemption by the above-named applicants, be and it is hereby denied.

FRANKLIN D. ROOSEVELT.

Approval Recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 20, 1933.

[No. 6346]

EXECUTIVE ORDER

FURTHER STAY OF PART I, SECTION 1 (c) OF CODE OF FAIR COMPETITION FOR THE UNDERWEAR AND ALLIED PRODUCTS MANUFACTURING INDUSTRY

A Code of Fair Competition for the Underwear and Allied Products Manufacturing Industry having been approved by me September 18, 1933 on condition that all manufacturers included within the provisions of Part I, Section 1 (c) of said Code be granted a stay of fourteen (14) days after the effective date thereof, during which period they might show cause to the Administrator why they should not be included under the provisions of such Section, and public hearings having been held thereon October 14, 1933,

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 grant an additional stay of said provisions pending the determination by the Administrator of the issues with respect thereto.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
October 20, 1933.

[No. 6347]

EXECUTIVE ORDER

Defining Effect of Certain Provisions in Codes of Fair Competition upon Cooperative Organizations

In a number of Codes of Fair Competition which have heretofore been approved or submitted for approval pursuant to Title I of the National Industrial Recovery Act, approved June 16, 1933, there have been included provisions designed to limit or prohibit the payment or allowance of rebates, refunds, or unearned discounts, whether in the form of money or in any other form, and the extension to certain purchasers of services or privileges not extended to all purchasers under similar terms and conditions. Question has arisen as to whether provisions of such tenor do not preclude the payment of patronage dividends to members by bona fide and legitimate cooperative organizations, including farmers cooperative associations, corporations or societies, hereinafter designated farmers' cooperatives.

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,

I, Franklin D. Roosevelt, President of the United States, do hereby order that no provision in any code of Fair Competition, agreement or license which has heretofore been or may hereafter be approved, prescribed, or issued pursuant to Title I of the National Industrial Recovery Act, shall be so construed or applied as to prohibit the payment of patronage dividends in accordance with law to any member by any bona fide and legitimate cooperative organization, including any farmers' cooperative, duly organized under the laws of any state, territory, or the District of Columbia or of the United States, if such patronage dividends are paid out of actual earnings of such cooperative organization and are not paid at the time when such member makes a purchase from such cooperative organization.

FRANKLIN D. ROOSEVELT.

Approval recommended:
Hugh S. Johnson,
Administrator.

The White House,
October 23, 1933.

[No. 6355]

EXECUTIVE ORDER

Rules and Regulations Under the National Industrial Recovery Act

In order to effectuate the policy of Title I of the National Industrial Recovery Act, approved June 16, 1933, and to provide for equitable enforcement of agreements heretofore made with the President and codes approved by the President under said Act, 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. The provisions of the President's Reemployment Agreement, issued July 27, 1933, shall not be held to apply to employers engaged only locally in retail trade or in local service industries (and not in a business in or affecting interstate commerce) who do not employ more than five persons and who are located in towns of less than 2500 population (according to the 1930 Federal Census) which are not in the immediate trade area of a city of larger population, except so far as such employers who have signed the President's Reemployment Agreement desire to continue to comply with the terms of said agreement after the date of this order; and this release of such employers who have heretofore signed the President's Reemployment Agreement shall be further extended so as to release to the same extent all such employers of obligations not voluntarily assumed under the provisions of a Code of Fair Competition approved by the President. This exemption is intended to relieve small business enterprises in small towns from fixed obligations which might impose exceptional hardship; but it is expected that all such enterprises will conform to the fullest extent possible with the requirements which would be otherwise obligatory upon them.

In view of general increases in prices which may or may not be justified in specific instances by increased costs caused by compliance with the President's Reemployment Agreement, or with approved Codes of Fair Competition, the Administrator for Industrial Recovery is hereby directed to cause to be conducted such investigations as may be necessary to determine the extent to which manufacturers and producers have increased prices following, or in anticipation of, the approval of Codes of Fair Competition, or after the signing of the President's Reemployment Agreement, and to set up adequate organizations for the handling of complaints against such price increases and of local complaints against retail price increases alleged to be contrary to the requirements of Codes of Fair Competition, or the President's Reemployment Agreement, or in conflict with the policy of the National Industrial Recovery Act.

FRANKLIN D. ROOSEVELT.

The White House,
October 23, 1933.

[No. 6354]

EXECUTIVE ORDER

To Effectuate the Provisions of Section 3 (e) of Title I of the National Industrial Recovery Act

By virtue of the authority vested in me by Title I of the National Industrial Recovery Act of June 16, 1933, (Public, No. 67, 73d Congress), I hereby prescribe the following procedure and delegate the following authority with respect to complaints and investigations under Section 3 (e) of said Title:

I. The Administrator heretofore appointed by me to administer Title I of the National Industrial Recovery Act (herein referred to as the Administrator), proceeding upon his own motion or upon complaint, is hereby empowered to make such preliminary investigations as he may deem advisable with reference to matters relating to relief under Section 3 (e) of said Title.

II. The Administrator shall prescribe regulations to govern the making of complaints under said Section 3 (e) of said Title and may receive such complaints.

III. With reference to any such complaint or preliminary investigation on his own motion, the Administrator shall be entitled to such sworn or unsworn information from interested parties as he may deem desirable, and after an examination of the complaint, if any, and such information as may be available, shall determine whether the showing made or the facts disclosed appear to warrant further investigation, and shall make his recommendations to me in order that in the light of such recommendations I may direct that no further action be taken, or may cause the United States Tariff Commission to make an immediate investigation and may specify such public notice and hearing as I deem advisable, in either event all interested parties to be duly notified.

IV. When so directed, the United States Tariff Commission shall make an immediate investigation, giving precedence over all other matters to such investigation; if directed shall give such public notice and hold such hearings as I shall specify; shall make its findings of fact and recommendations having due regard for the provisions of said Section 3 (e); and shall submit the same, together with a report of all proceedings, to me, and shall transmit a copy of such findings, recommendations and report to the Administrator.

V. The Administrator, after such investigation by the United States Tariff Commission and after any specified hearings and upon the basis of the findings, recommendations, and report transmitted to him, shall recommend to me such action as he may deem best devised to effectuate the policy of said Title.

FRANKLIN D. ROOSEVELT.

The White House,
October 23, 1933.

[No. 6353]

EXECUTIVE ORDER

IN THE MATTER OF THE APPLICATION OF KAPLAN BROTHERS FOR CERTAIN EXEMPTIONS FROM THE CODE OF FAIR COMPETITION FOR THE ARTIFICIAL FLOWER AND FEATHER INDUSTRY

A Code of Fair Competition for the Artificial Flower and Feather Industry has been heretofore approved by me. After such approval, and in accordance with the provisions of my further Executive Order dated July 15, 1933, hearings have been granted by the Administrator to the named applicants, allegedly directly affected by said Code, who have claimed that applications thereof have been unjust to them and have applied for an exemption therefrom.

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, dated October 30, 1933, 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, and in accordance with the provisions of my Executive Order dated July 15, 1933, providing for hearing on the application of Codes under certain circumstances, do order that the application for exemption by the above-named applicants, be and it is hereby denied.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 4, 1933.

[No. 6403]

EXECUTIVE ORDER

A Code of Fair Competition for the Cotton Textile Industry was approved by me July 9, 1933. At that time the provision limiting machine hours was stayed for a period of three weeks as applied to the production of tire yarns or fabrics for rubber tires. After further hearings the Administrator on July 30, 1933, in accordance with the Executive Order issued by me July 15, 1933, further stayed the application of said provision of the Code pending determination by me of the issues raised by the application for exemption from such provision of the Code.

Pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, the application for exemption from the machine hour provision of said Code as applied to the use of machinery in the production of tire yarns or fabrics for rubber tires is hereby denied and beginning November 13, 1933, the above-mentioned stay of said provision shall be terminated, and no further exemption from or exceptions to the provision of said Code shall be made except by me upon recommendation of the Cotton Textile Industry Committee and the Administrator, or the Administrator, or as approved by me.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 6, 1933.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

[No. 6407]

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