

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

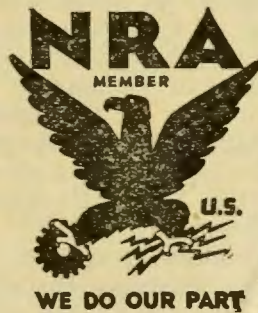
FOR THE

**CRUSHED STONE, SAND AND
GRAVEL, AND SLAG INDUSTRY**

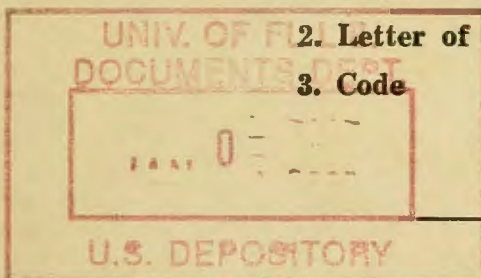
AS APPROVED ON NOVEMBER 10, 1933

BY

PRESIDENT ROOSEVELT



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



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EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE CRUSHED STONE, SAND AND GRAVEL, AND SLAG INDUSTRIES

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 respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

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

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,

November 10, 1933.

Approval recommended:

HUGH S. JOHNSON,

Administrator.

(III)

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.

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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.

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.

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, Mis-
souri, 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, Wiscon-
sin, 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.

(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) nonvoting members to the Code Authority as representatives of the Government. They are to be appointed for terms of from six months to one year

and if more than one is appointed, their terms are to be arranged so that they do not expire at the same time.

(b) In order that the Code Authority and/or the committees established herein shall at all times be truly representative of the industries as defined in Article II hereof and of such other industries as with the approval of the President may from time to time be governed by the provisions of this Code, 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 and/or the committees established herein are not truly representative or do 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 and/or such committees.

Members of the Code Authority representing each region shall be elected by the regional committees of their respective regions. The elected members and the ex officio members shall elect the twelve representatives at large. The Chairman of the Code Authority shall be selected by the full Code Authority from its membership.

Members of the Code Authority shall serve for one (1) year from the effective date, or until their successors are elected for a like term.

(c) *Registered Producers.*—Any member of the industries as defined in Article II hereof, or producers in other industries that with the approval of the President may from time to time be governed by the provisions of this Code, shall be entitled to participate in and share the benefits of the activities of the Code Authority and of other committees established herein and to participate in the selection of members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its establishment and administration. The reasonable share of these expenses shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration. Such a participant in the Code activities is hereinafter referred to as a "registered producer."

(d) *Regional Committees.*—The registered crushed stone, sand and gravel, and slag producers in each region in which they are producing materials shall elect in the manner prescribed in Section 7 (c) of this Article, an even and like number from their respective industries consisting of not less than four (4) nor more than ten (10) to the regional committee. The members so elected by each of these industries shall elect one (1) additional member from each of these industries to the regional committee.

This committee shall be equitably representative of the small, intermediate, and large producing companies of each industry within the region, 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. This committee shall also be elected with due regard to representation from each of the states composing the region.

Members of a regional committee shall serve for one year from the effective date, or until their successors are elected for a like term.

(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 subcommittee 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, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

ARTICLE VII—TRADE PRACTICES

SECTION 1. 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 indirectly 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 case 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.



