

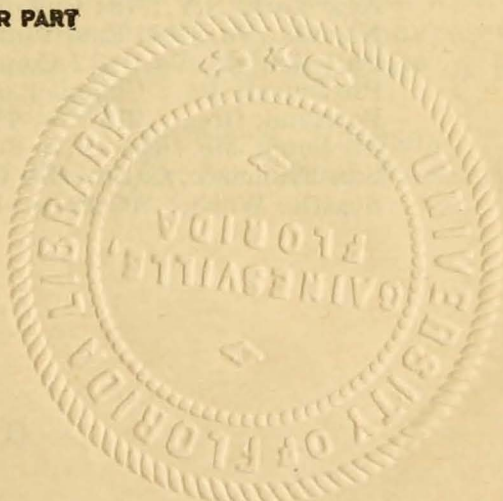
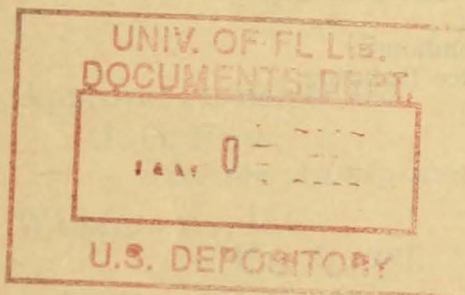
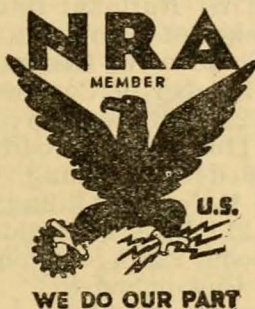
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

BATTING AND PADDING
INDUSTRY

AS APPROVED ON MAY 5, 1934

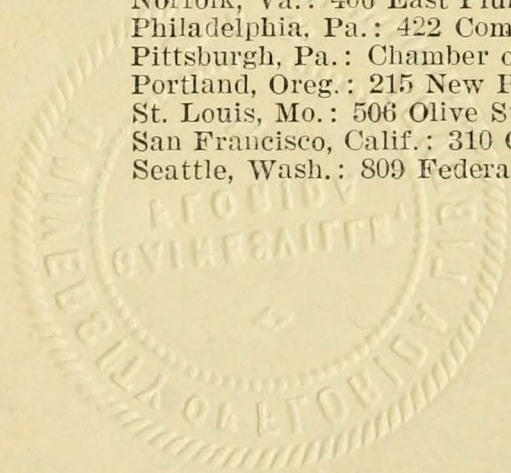


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Approved Code No. 417

CODE OF FAIR COMPETITION
FOR THE
BATTING AND PADDING INDUSTRY

As Approved on May 5, 1934

ORDER

CODE OF FAIR COMPETITION FOR THE BATTING AND PADDING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Batting and Padding Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

H. O. KING,
Division Administrator.

WASHINGTON, D.C.,
May 5, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Hearing on the Code of Fair Competition for the Batting and Padding Industry, conducted in Washington, D.C., on January 30, 1934.

In accordance with the customary procedure every person who filed a request for 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, claiming to represent 80 per cent of the capacity of the Industry.

GENERAL CHARACTERISTICS OF THE INDUSTRY

This Industry includes the manufacture of batts and pads used in the upholstering of automobile bodies, of furniture, and in the manufacture of comforters and mattresses as well as for insulating purposes. These products are manufactured principally from cotton, wool, or other resilient fibres by processing them over garnetts or cards.

This Industry which is over 50 years old was originally developed for the purpose of manufacturing mattress felts or batts for the Mattress Industry. Since that time it has become useful in the upholstering of furniture, while now over 50 per cent of the production of cotton batting is used by the Automobile Industry in the upholstering of automobile cushions.

In its processes, this Industry is related to the Dry Goods Cotton Batting Industry and to the Wadding Industry, although it is larger than the other two, consisting of approximately 65 plants throughout the country.

Because of the resilience of the product it must be packed in very loose bales or boxes, thus making storage of the product practically impossible. Further, if the product is permitted to stand for any length of time, it loses its resilience and becomes compact by its own weight.

The peak periods in the Automobile and Furniture Industries have a very definite effect in bringing about peak periods in this Industry.

PROVISIONS OF THE CODE

The labor provisions of this Code are similar in many ways to those of the Code of Fair Competition for the Bedding Industry because of the fact that many of the manufacturers of batting and padding also manufacture products which go into the manufacture of mattresses.

Since many of these plants exist in textile centers, the minimum wage rate in the northern section of the United States is 32½¢ per hour while in the southern section it is 30¢ per hour as established in the Code of Fair Competition for the Cotton Textile Industry.

Provisions relative to maximum hours call for a work week of 40 hours with a maximum of 48 hours permitted for 8 weeks during any 6 months period, as a peak period is necessary to the Industry in view of the seasonal demand from the Automobile and Furniture Industries as described above.

Because of unfortunate conditions which have existed within the Industry during the past few years, it has been found necessary to include certain provisions prohibiting the use of second hand materials, which has been an upsetting factor throughout the Industry for some time. Certain other provisions are included relative to Trade Practices within the Industry which it is felt desirable to include to aid in stabilizing the Industry.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, the Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MAY 5, 1934.

CODE OF FAIR COMPETITION FOR THE BATTING AND PADDING 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 Batting and Padding Industry and shall be the standard of fair competition for this Industry, and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "Industry" as used herein means and includes the manufacture and primary sale of batts and pads, which are used primarily by the purchaser to upholster automobile bodies, to upholster furniture, and for insulating purposes, as well as in the manufacture of comforters and mattresses, and other products so filled. These batts and pads are manufactured principally from cotton, wool, or other resilient fibres, or materials, processed over garnett machines, cards, or stuffing machines for resale purposes.

2. The term "Association" as applied to the Industry means the Associated Batting Manufacturers of the United States.

3. The term "Secretary" means the Secretary of the Association.

4. The term "member of the Industry" includes but without limitation any individual, partnership, association, corporation or other form of enterprise engaged in the Industry as above defined, whether as an employer or on his own behalf.

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

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

7. The terms "President", "Act", and "Administrator" as used herein mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty (40) hours per week except that for eight (8) weeks during any six (6) months' period employees may be permitted to work forty-eight (48) hours per week. The foregoing provisions do not apply to:

(a) Outside salesmen, or employees engaged in emergency maintenance or emergency repair work, or persons employed in a managerial, supervisory, or executive capacity who earn not less than thirty-five (\$35.00) per week.

(b) Firemen, engineers, cleaners, truck drivers, and shipping crews who may be permitted a ten per cent (10%) tolerance over the hours specified.

(c) Watchmen who shall not be permitted to work more than fifty-six (56) hours a week.

ARTICLE IV—WAGES

1. No employee shall be paid at less than the rate of thirty-two and one-half cents ($32\frac{1}{2}\text{¢}$) per hour in the Northern Section of the United States, nor thirty cents (30¢) per hour in the Southern Section of the United States.

(a) The Southern Section is defined as comprising North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Oklahoma, Texas, and Virginia; and the Northern Section is defined to include all other states in the United States proper including the District of Columbia.

(b) Learners without previous experience in this Industry may be employed at a minimum wage rate of eighty per cent (80%) of the minimum wage rate prescribed by this Article provided that the period of learning shall be not more than thirty (30) days, and provided further, that the number of such learners shall, at no time, exceed five per cent (5%) of the total employees in any particular plant in this Industry; provided, further, that no employee may serve more than one learning period within this Industry.

2. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, 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 U. S. Department of Labor, a certificate authorizing such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the U. S. Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

3. 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.

4. Rates of pay in excess of the minimum hereinbefore prescribed shall be equitably adjusted in order to preserve equitable differentials. All such adjustments made since June 1, 1933, shall be reported to the Code Authority.

ARTICLE V—GENERAL LABOR PROVISIONS

1. On and after the effective date of this Code no employer shall employ anyone under the age of sixteen (16) years, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or dangerous 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. In compliance with Section 7 (a) of Title I of the Act:

(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.

3. Every employer shall provide for the safety and health of employees during the hours and at the places of their employment.

Standards for safety and health shall be submitted by the Code Authority to the Administrator within six months after the effective date of this Code.

4. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purpose or provisions of the Act or of this Code.

5. Each employer shall post in conspicuous places full copies of Articles III, IV, and V of this Code, and such other Articles and in accordance with such regulations as are required by the Administrator.

ARTICLE VI—ADMINISTRATION

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

(a) The Code Authority shall consist of five (5) members, four (4) members to be elected by and from the members of the Association, and one (1) to be elected by and from the non-members. The method of election shall be approved by the Administrator.

(b) The Administrator may appoint not more than three (3) members without vote or expense to the Industry to represent the Administrator on the Code Authority.

(c) The Code Authority shall be elected within twenty (20) days after the approval of this Code.

(d) If the representative of the "non-member" group to the Code Authority is not elected within twenty (20) days after the approval of the Code, the Board of Directors of the Association may elect a member to the Code Authority to fill that place, subject to the approval of the Administrator.

2. 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.

3. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative, or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

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, as provided in Section 1 (a) of this Article, by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the cost and expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to approval by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

5. *Powers and Duties of the Code Authority.*—The Code Authority shall have the following further powers and duties:

(a) To insure the execution of the provisions of this Code and to provide, subject to rules and regulations established by the Administrator, for the compliance of the Industry with the provisions of the Act: provided, however that this shall not be construed to deprive duly authorized governmental agencies of their power to enforce the provisions of this Code or of the Act.

(b) To cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code at its own instance or on complaint of any person affected and shall report the same to the Administrator.

(c) To make recommendations to the Administrator for the coordination of the Administration of this Code with such other codes, if any, as may be related to the Industry.

(d) Subject to the approval of the Administrator, to assess upon members of the Industry an equitable and proportionate share of the reasonable cost and expenses of maintaining the Code and the activities of the Code Authority, which amount shall be paid by each member of this Industry.

(e) To obtain from members of the Industry such information and reports as are required for the administration of the Code and in addition to information required to be submitted to any Code Authority, all or any of the persons subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act to such Federal and State agencies as the Administrator may designate; nor shall anything in any Code relieve any person of existing obligations to furnish reports to government agencies. No individual reports shall be disclosed to any member of the Industry or any other party except to such governmental agencies as may be directed by the President.

(f) To determine how tare shall be dealt with in selling its products, subject to the approval of the Administrator.

(g) To determine the basis of future sales, subject to the approval of the Administrator.

(h) To select a committee to set up standards for products of the Industry which shall be the standards for the Industry subject to disapproval by the Administrator.

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

(j) To cooperate with the Administrator in regulating the use of any National Recovery Administration Code Insignia solely by those members of the Industry who are complying with this Code.

6. Any member of the Industry shall have the right to appeal to the Administrator, under such rules and regulations as he may prescribe, in respect to any rule, regulations, or other course of action, issued or taken by the Code Authority.

7. Nothing contained in this Code shall constitute the members of the Code Authority or members of the Association participating in the activities of the Code Authority partners for any purpose. Nor shall any member of the Code Authority or members of the Association participating in the activities of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority hereinbefore mentioned. Nor shall any member of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or non-feasance.

8. If the Administrator shall determine that any action of a Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE VII—TRADE PRACTICES

1. Within thirty (30) days after the effective date each member of the Batting and Padding Industry shall register with the Code Authority all garnett machines, cards, or stuffing machines used for the manufacture of Batting and Padding for resale, existing in his factory, or factories, or on order with manufacturers, or in process of being manufactured on January 1, 1934.

TERMS

2. Terms shall not exceed thirty (30) days net from date of invoice, or net twenty-fifth proximo. No cash or trade discount shall be allowed, except as provided in Section 7 of Article VIII permitting reasonable differentials for quantity if fixed at the time of the sale.

ARTICLE VIII—UNFAIR TRADE PRACTICES

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

1. Using of second-hand or previously used cotton in the manufacture of batts.

“Previously used cotton” is defined to mean any cotton which has been manufactured and used for the purpose for which it was manufactured, or used for any other purpose. This provision does not apply to manchester, burlap or jute bagging, sisal, or to be sterilized wool, but prohibits the use of all second-hand material such as might be reclaimed from comforters, mattresses, bedding of any kind, old automobile upholstery, old upholstered furniture, or the like.

In every place where batting is made, the owners or their agents shall permit their plants (or portion of their plants) to be inspected by any authorized agent of the Code Authority representative for this Industry in order to satisfy the Code Authority that the provisions of this Section are being complied with.

2. *Malfeasance*.—Resorting to any methods of sale which will constitute an evasion or violation of any Trade Practice set forth herein.

3. *Rebates*.—Directly offering or making, for the purpose of influencing a sale, any payment or allowance of a gift, rebate, refund, commission, credit, unearned discount, or excess allowance, whether in the form of money or otherwise. Nor shall any member of the Industry, for the purpose of influencing a sale, offer or extend to any customer any special service or privilege.

4. *False Billing*.—Knowingly withholding from or inserting in any quotation or invoices any statement that makes it inaccurate in any material particular.

5. *Postdating and Predating Quotations*.—Postdating and predating orders, invoices, statements, or other sales documents.

6. *Repudiating Contracts*.—Repudiating contracts by sellers on a rising market, or permitting buyers to repudiate on a declining market.

7. *Retroactive Quantity Discounts*.—Granting a retroactive discount or rebate based on cumulative quantities purchased over a given period. This shall not be construed so as to prohibit reasonable differentials for quantity if fixed at the time of the sale.

8. *Sales Contracts*.—Making a sales contract or purchase contract which is not equally binding on both parties regardless of price fluctuations.

9. *Trade Acceptances*.—Accepting a “Trade Acceptance” or note in settlement of any accounts due, unless such acceptance or note bears a rate of interest of not less than six percent (6%) per annum from the date the invoice is due, provided this is not in conflict with any State Law regarding such practice.

10. *Guaranteeing Merchandise*.—Guaranteeing merchandise against a decline in price.

11. Selling a purchaser his requirements for any given period without specifying a definite quantity and a definite price.

ARTICLE IX—SALES BELOW COST

It is hereby declared to be the policy to be followed by all members of the Industry to refrain from destructive price cutting. It is agreed to be to the best interests of the consumer, the individual manufacturer, and also that of his employees, and productive of the greatest possible economic recovery for all members of the Industry to avoid the destructive economic waste caused by selling below cost.

The Code Authority may adopt, as soon as practicable, either a uniform cost accounting system, a reasonable and appropriate system for the interchange of price lists among members of the Industry, or a system for determining standard minimum costs. The system so adopted shall be binding on all members of the Industry, when approved by the Administrator. Only a violation of such approved system shall be basis for complaint to any grievance committee under this Article.

ARTICLE X—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

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

ARTICLE XI

No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements than are imposed by this Code.

ARTICLE XII—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 XIII—SPECIAL AGREEMENTS

Reasonable notice of the submission of any agreement authorized to be submitted to the President by virtue and under authority of Section 4 (a) of the Act shall be given to the Code Authority by any member of the Industry who proposes to make such agreement.

ARTICLE XIV—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval and shall continue in effect during the period of the National Industrial Recovery Act.

Approved Code No. 417.

Registry No. 221-1-02.

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