

NATIONAL RECOVERY ADMINISTRATION

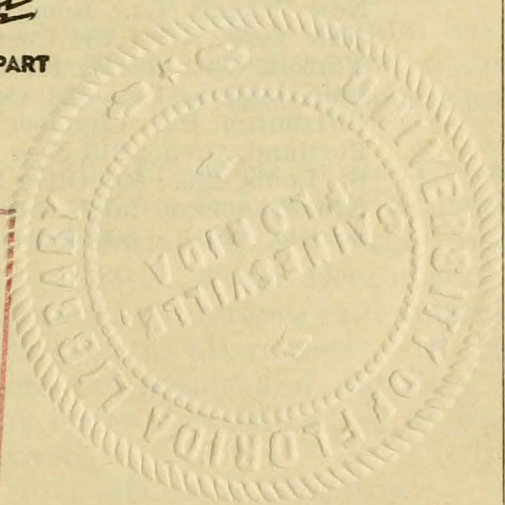
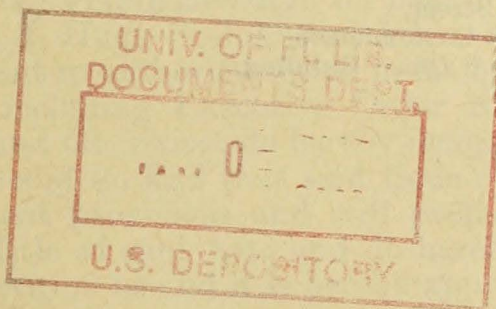
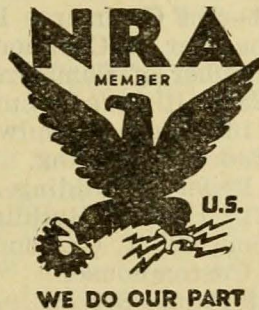
---

CODE OF FAIR COMPETITION

FOR THE

BALL CLAY PRODUCTION  
INDUSTRY

AS APPROVED ON JANUARY 16, 1934



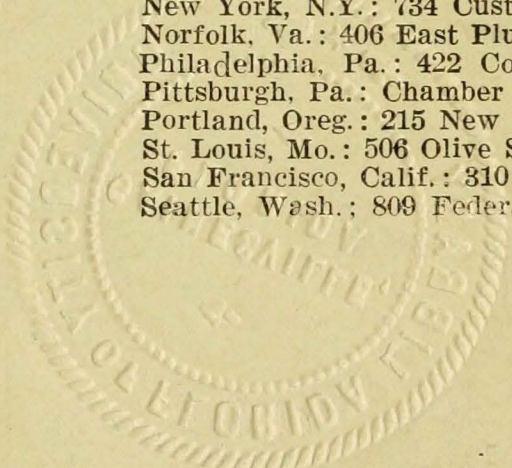
UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON: 1934



This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

**DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE**

Atlanta, Ga.: 504 Post Office Building.  
Birmingham, Ala.: 257 Federal Building.  
Boston, Mass.: 1801 Customhouse.  
Buffalo, N.Y.: Chamber of Commerce Building.  
Charleston, S.C.: Chamber of Commerce Building.  
Chicago, Ill.: Suite 1706, 201 North Wells Street.  
Cleveland, Ohio: Chamber of Commerce.  
Dallas, Tex.: Chamber of Commerce Building.  
Detroit, Mich.: 801 First National Bank Building.  
Houston, Tex.: Chamber of Commerce Building.  
Indianapolis, Ind.: Chamber of Commerce Building.  
Jacksonville, Fla.: Chamber of Commerce Building.  
Kansas City, Mo.: 1028 Baltimore Avenue.  
Los Angeles, Calif.: 1163 South Broadway.  
Louisville, Ky.: 408 Federal Building.  
Memphis, Tenn.: 229 Federal Building.  
Minneapolis, Minn.: 213 Federal Building.  
New Orleans, La.: Room 225-A, Customhouse.  
New York, N.Y.: 734 Customhouse.  
Norfolk, Va.: 406 East Plume Street.  
Philadelphia, Pa.: 422 Commercial Trust Building.  
Pittsburgh, Pa.: Chamber of Commerce Building.  
Portland, Oreg.: 215 New Post Office Building.  
St. Louis, Mo.: 506 Olive Street.  
San Francisco, Calif.: 310 Customhouse.  
Seattle, Wash.: 809 Federal Office Building.





Approved Code No. 207

**CODE OF FAIR COMPETITION**  
**FOR THE**  
**BALL CLAY PRODUCTION INDUSTRY**  
**As Approved on January 16, 1934**

---

**ORDER**  
**APPROVING CODE OF FAIR COMPETITION**  
**FOR THE**  
**BALL CLAY PRODUCTION 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 Ball Clay Production 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:

MALCOLM MUIR,  
*Division Administrator.*

WASHINGTON, D.C.,  
*January 16, 1934.*



The PRESIDENT,  
*The White House.*

SIR: This is a report on the Code of Fair Competition for the Ball Clay Production Industry, a hearing on which was conducted in Washington on the twelfth of December 1933, in accordance with the provisions of the National Industrial Recovery Act.

#### LABOR PROVISIONS OF CODE

The Code provides for a maximum work day of 10 hours and a maximum work week of 40 hours, averaged over a six-months period, provided that no employee be permitted to work more than 48 hours in any one week. The following are excepted:

(a) Employees in supervisory, outside sales or clerical capacities receiving \$35.00 per week or more;

(b) Employees engaged on emergency maintenance or emergency repair work and a limited number of employees (not exceeding 10% of the total number of employees in each plant) engaged in several special operations, all of whom shall be paid at least one and one-half times the normal rate of pay for time worked in excess of the maximum hours above specified.

The Code provides for minimum rates of pay of \$15.00 per week for office employees and of 37½ cents per hour in the North and 30 cents per hour in the South for other employees. To the extent practicable, wages above the minimum are to be equitably readjusted and in no case decreased.

The employment of persons under 16 years of age and, in occupations hazardous in nature or dangerous to health, of persons under 18 years of age is prohibited.

#### ECONOMIC EFFECTS OF THE CODE

This is a very small industry, but one which is distinct and well organized. Employment in the industry has decreased from about 400 workers in 1929 to about 260 at the present time. During the same period, volume of sales has decreased more than 70% and value of sales more than 75%.

The minimum wages provided for in the Code are more than 100% higher than the minimum wages paid in August of this year, and are higher than those paid in the year 1929. It is believed that the Code will increase the total amount paid to labor by this industry at least 38%.

The normal work week in this industry has been 60 hours and the restrictions on hours contained in the Code will undoubtedly increase employment. According to estimates by the industry, the increase will be about 25%.



## FINDINGS

The Assistant 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, therefore, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

JANUARY 16, 1934.



**CODE OF FAIR COMPETITION**  
**FOR THE**  
**BALL CLAY PRODUCTION 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 Ball Clay Production Industry, and shall be binding upon every member thereof.

**ARTICLE II—DEFINITIONS**

The term "Industry" as used herein includes the aggregate of those operations of each producer necessary for the production and sale of clay by such producer where the essential recoverable product thereof is Ball Clay.

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, except a member of the Industry.

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

The term "Member of the Industry" includes any one engaged in the industry as above defined, either as an employer or on his own behalf, except that it shall not include contractors as herein defined.

The term "Association" as used herein shall mean the United States Ball Clay Producers' Association.

The term "Contractor" as used herein includes all those stripping or producing ball clay under contract for a member of the industry, either from mines owned by the contractor, or from mines owned by the member of the industry for whom such stripping or producing is done.

The term "Southern Area" as used herein includes Virginia, Kentucky, and all states south thereof and east of the Mississippi River and also that portion of the State of Missouri south of the 37th parallel and east of the 91st meridian.

The term "Northern Area" as used herein includes all the United States on the North American Continent except that part included in the Southern Area.

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



## ARTICLE III—MAXIMUM HOURS

SECTION 1. Except as provided in Sections 2 and 3 of this Article, no employee shall be permitted to work in excess of forty (40) hours per week averaged over a semiannual period either from January 1 to June 30, or from July 1 to December 31, and the maximum hours of work for any employee during any one week shall not exceed forty-eight (48); no employee shall be permitted to work in excess of ten (10) hours in any twenty-four (24) hour period.

SEC. 2. These limitations as to hours of labor shall not apply to persons employed in supervisory, outside sales, or clerical capacities receiving a fixed salary at the rate of thirty-five (\$35.00) dollars per week or more.

SEC. 3. The maximum hours established in Section 1 of this Article shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property; nor shall they apply to a limited number of employees (not exceeding 10% of the total number of employees in each plant) engaged in the operating, maintenance, or firing of power shovels, and cranes, engaged in car loading and engaged in operations which must be performed before and after the regular working hours; but in any such special cases, at least one and one-half times the normal rate of pay shall be paid for time worked in excess of the maximum hours herein established.

SEC. 4. 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 hours permitted herein.

SEC. 5. Any employer who does the work of an employee shall be subject to the provisions of this Code as to hours of labor.

SEC. 6. All wages shall be paid at least twice per month and all salaries at least once a month, in lawful currency or negotiable check; these wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners or required by law.

## ARTICLE IV—MINIMUM WAGES

SECTION 1. No employee in the Northern Area shall be paid at less than the rate of thirty-seven and one half ( $37\frac{1}{2}$ ) cents per hour.

SEC. 2. No employee in the Southern Area shall be paid at less than the rate of thirty (30) cents per hour.

SEC. 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.

SEC. 4. The wage differentials for those employees receiving wages above the minimum shall, to the extent practicable, 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.

SEC. 5. No office or clerical employee shall be paid less than fifteen (\$15.00) dollars per week.



## ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the industry. No person under eighteen (18) years of age shall be employed in the industry at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within one month after the effective date of this Code a list of such operations or occupations, if there be any such. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a certificate or permit duly issued by the Authority in such State empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SEC. 2. (a) Employees shall have the right to organize and bargain collectively, through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such 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. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the provisions of the Act or of this Code.

SEC. 4. No member of the industry shall use a contractor for stripping or for the production of clay unless the contractor complies with all the labor provisions of this Code in regard to employees used in the production of such clay, and in such stripping operations. For all other purposes of this Code, the employees of such contractors, used in the stripping or in the production of such clay, shall be treated and considered as employees of the member of the industry taking the clay produced by such contractor or for whom such stripping is done.

SEC. 5. No provisions in this Code shall supersede any law within any State which imposes more stringent requirements on employers as to age of employees, wages, hours of work, or as to safety, health, or sanitary conditions, or insurance, or fire protection, or general working conditions, than are imposed by this Code.

SEC. 6. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

## ARTICLE VI—ORGANIZATION, POWERS, AND DUTIES OF THE CODE AUTHORITY

SECTION 1. To further effectuate the policies of the Act, the Board of Directors of the Association is hereby constituted the Code Authority.



SEC. 2. The Code Authority shall consist of the same number of members as the Board of Directors of the Association (which shall be six (6) in number on the effective date of this Code), or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter provided. The Administrator, in his discretion, may appoint not more than three (3) additional members without vote, to represent the Administrator, or such groups or interests as may be agreed upon, without expense to the industry.

SEC. 3. Each member of the industry becoming a member of the Association, shall be entitled to elect one director of that Association, and that member shall ipso facto become a member of the Code Authority.

SEC. 4. All those engaged in the industry may become members under and participate in the administration of this Code by becoming members of the Association. Said Association shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SEC. 5. 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, or any sub-Code Authority.

SEC. 6. The Secretary and the Treasurer, respectively, of the Association shall act as such officers of the Code Authority.

SEC. 7. The expenses of administering the Code shall be borne by the members of the Association. In addition to the dues collected by the Association as such, the Code Authority may from time to time make such assessments on account of such expenses against the members of the Association as it shall deem proper, and such assessments, subject to review and modification of the Administrator, shall be equally divided between and be borne by the members of the Association, and shall be payable as the Code Authority may specify. Failure of any member of the Association to pay the amount of any assessment against such member for a period of thirty (30) days after the date on which it became payable shall constitute a violation of the Code.

SEC. 8. The Code Authority shall have the following powers and duties to the extent permitted by the Act, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Code Authority:

(a) From time to time, to appoint and remove, and to fix the compensation of all such other officers, agents, employees, accountants, attorneys, and experts as the Code Authority shall deem necessary for the purpose of administering the Code;

(b) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon and adjust such com-



plaints and bring to the attention of the Administrator for prosecution, recommendations, and other action relative to unadjusted violations;

(c) To coordinate the administration of this Code with such other Codes, if any, as may be related to the industry, and to delegate to any other administrative authority, with the approval of the Administrator, such powers as will promote joint and harmonious action upon matters of common interest;

(d) To initiate, consider, and make recommendations for the modification or amendment of this Code;

(e) To obtain from members of the industry such reports and such other information as may be necessary or convenient for the use of the Code Authority and the Administrator in the administration and enforcement of the Code and to give assistance to members of the industry in improving methods, or in prescribing, with the approval of the Administrator, a uniform system of accounting and reporting. In addition to the information otherwise provided for in this Code 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; provided that nothing in this Code shall relieve any member of the Industry of any existing obligations to furnish reports to any Government agency.

SEC. 9. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose; nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority; nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties as such member, be liable to anyone for any action or omission to act, except for his own nonfeasance or malfeasance.

## ARTICLE VII—TRADE PRACTICES

SECTION 1. 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 practices or methods are unfair, provided that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

SEC. 2. In the event any specific trade practice rules hereafter become necessary they may, upon recommendation to and approval thereof by the Administrator, be made a part of this Code in the manner hereinafter provided for amendments to this Code.

SEC. 3. A violation by any member of the industry of any provision of this Article or the engaging in any practice hereafter declared by the Code Authority, with the approval of the President, to be an unfair trade practice, shall be a violation of this Code.

## ARTICLE VIII—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial



Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title 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. This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modification or amendment to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

#### ARTICLE IX—MONOPOLIES .

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

#### ARTICLE X—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual cost should be delayed. But when made such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

#### ARTICLE XI—EFFECTIVE DATE

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

Approved Code No. 207.

Registry No. 1013-04.



