

NATIONAL RECOVERY ADMINISTRATION

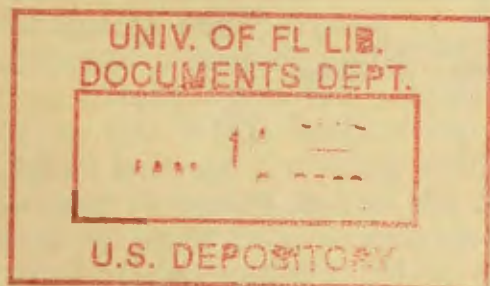
SUPPLEMENTARY
CODE OF FAIR COMPETITION

FOR THE

ROLLING MILL MACHINERY
AND EQUIPMENT INDUSTRY

(A Division of the Machinery and Allied Products Industry)

AS APPROVED ON JUNE 7, 1934



UNITED STATES
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SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

**ROLLING MILL MACHINERY AND EQUIPMENT
INDUSTRY**

As Approved on June 7, 1934

ORDER

**SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ROLLING MILL
MACHINERY AND EQUIPMENT INDUSTRY**

A DIVISION OF THE MACHINERY AND ALLIED PRODUCTS 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 Supplemental Code of Fair Competition for the Rolling Mill Machinery and Equipment Subdivision of Machinery and Allied Products Industry, and hearings having been duly held thereon and the annexed report on said Supplemental 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 Supplemental 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 Supplemental Code of Fair Competition be and it is hereby approved subject to the condition that the provisions of Article VIII, Section (a), insofar as they prescribe a waiting period between the filing with the Code Authority (or such agency as may be designated in the Supplemental Code) and the effective date of price lists, as originally filed and/or revised price lists or revised terms and conditions of sale, be and they hereby are stayed pending my further order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

BARTON W. MURRAY,
Acting Division Administrator.

WASHINGTON, D.C.,
June 7, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Supplemental Code of Fair Competition for the Rolling Mill Machinery and Equipment Subdivision of the Machinery and Allied Products Industry, public hearing having been conducted thereon in Washington, D.C., December 21, 1933, in accordance with the provisions of Title I of the National Industrial Recovery Act. Every person who filed a request for an appearance was freely heard in public and all statutory and regulatory requirements were complied with.

GENERAL STATEMENT

The Rolling Mill Machinery and Equipment Association, being truly representative of this Subdivision of the Machinery and Allied Products Industry, has elected to avail itself of the option of submitting a Supplemental Code of Fair Competition, as provided in paragraph (2), Article I of the Basic Code for the Machinery and Allied Products Industry approved by you on the seventeenth day of March, 1934.

This Subdivision represents a part of the capital goods industry, manufacturing and selling rolling mill machinery and equipment, including rolls (except hardened steel forged rolls, unless made and sold as a part of such rolling mill machinery and equipment) and including roll stands, tables, shears, roll lathes, tube mill machinery and all other auxiliary equipment and parts thereof used in the rolling and processing of ferrous and non-ferrous metals to produce commercially recognized rolling mill products.

ECONOMIC EFFECT

In 1929 this Subdivision of the Industry employed approximately 8,287 persons, including office employees.

Approximately 7,375 of the total number of persons employed or 89 per cent were estimated to have been factory wage earners. Since 1929 total factory employment declined from 7,375 workers to a minimum of 2,559 workers in the fourth quarter of 1932, or 65 per cent. Thereafter employment increased almost constantly to 4,639 in the fourth quarter of 1933, or 81 per cent.

Estimated annual sales in 1929 amounted to \$42,628,000 and had declined in 1932 to \$11,579,000 or 73 per cent. Thereafter, estimated annual sales increased to \$12,565,000 or 9 per cent.

Based on summarized National Recovery Administration questionnaire returns as of June 15, 1933, it is estimated that about 65 per cent of all factory workers worked more than 40 hours per week and that

30 per cent of the factory workers received less than 40 cents per hour, 25 per cent received less than 38 cents per hour, 19 per cent received less than 36 cents per hour, and 8 per cent received less than 32 cents per hour.

As of June 15, and November 15, 1933, the lowest minimum hourly rate paid by one or more of the 29 reporting concerns ranged between 20 and 24.9 cents per hour; however, 16 concerns of the 29 concerns reported minimum wages ranging between 30 cents and 34.9 cents per hour as of June 15, 1933, and 19 of 29 concerns reported minimum wages ranging between 40 cents and 44.9 cents as of November 15, 1933.

Based on estimated man-hour requirements as of November 15, 1933, the maximum hour provisions will probably cause little re-employment, consequently, will only increase as the result of increased 1933, amounted to 148,678 with an average hour week of 31.6. Employment, consequently, will only increase as the result of increased production and hence increased man-hour requirements.

RÉSUMÉ OF THE SUPPLEMENTAL CODE

Article I states the purpose of the Supplemental Code.

Article II accurately defines specific terms employed in this Supplemental Code.

Article III. The labor provisions of the Basic Code for the Machinery and Allied Products Industry as approved March 17, 1934, are incorporated by reference as the labor provisions of this Supplemental Code.

Article IV adopts the relevant portions of Article II "Definitions" and Article VI, "Administration"; and Articles VIII, "Modifications and Termination", and IX, "Withdrawal" of the Basic Code for the Machinery and Allied Products Industry, as approved March 17, 1934.

Article V establishes a Code Authority consisting of six members, one of whom may be elected from and by the employers who are non-members of the applicant association. The Administrator in his discretion may appoint one additional member (without vote and without expense to the Subdivision).

Article VI provides for an accounting system and methods of cost finding and/or estimating.

Article VII provides for the determination of a lowest reasonable cost when an emergency exists as a result of destructive price-cutting.

Article VIII provides for methods of setting up, revising and filing price lists and discount sheets and terms of sale and payment.

Article IX sets forth the fair trade practices that have been especially designed to restrain unfair competition in this Subdivision.

Article X defines export territory and provides that filed price lists are not applicable to export shipments.

Article XI contains the mandatory provisions contained in Section 10 (b) of the Act and also provides for the submission of proposed amendments to the Supplemental Code.

Article XII provides for the withdrawal of this Subdivision from jurisdiction of the Basic Code Authority and for the continued

functioning of this Subdivision as an individual industry under its own Code.

Article XIII stipulates that there shall be no inequitable restrictions and provides against monopolies.

Article XIV gives the effective date of this Supplemental Code.

FINDINGS

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

I find that:

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

(c) The Supplemental 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 subdivision of the industry; and that said association imposes no inequitable restrictions on admission to membership therein.

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

(e) The Supplemental 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 Supplemental Code.

For these reasons, therefore, I have approved this Supplemental Code, provided that certain provisions relating to price publication are stayed as stated in the Order.

Respectfully,

HUGH S. JOHNSON,
Administrator.

JUNE 7, 1934.

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ROLLING MILL MACHINERY AND EQUIPMENT INDUSTRY

A DIVISION OF THE MACHINERY AND ALLIED PRODUCTS INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a Supplemental Code for the Rolling Mill Machinery and Equipment Subdivision of the Machinery and Allied Products Industry, and together with the Code of Fair Competition of Machinery and Allied Products Industry, shall be the standard of fair competition for this Subdivision and shall be binding on every employer therein.

ARTICLE II—DEFINITIONS

“Applicant” means the Rolling Mill Machinery and Equipment Association, a trade organization which organization is truly representative of this Subdivision, all members of which are engaged in the manufacture for sale of the products of the Rolling Mill Machinery and Equipment Subdivision of the Machinery and Allied Products Industry.

“Industry” means the Machinery and Allied Products Industry, as defined in its Code of Fair Competition as approved by the President, and as such definition may from time to time be amended.

“Subdivision” means the Rolling Mill Machinery and Equipment Subdivision of the Machinery and Allied Products Industry as defined and set forth in paragraph 29 Article II of the Code of Fair Competition of the Machinery and Allied Products Industry as follows:

“Rolling Mill Machinery and Equipment Subdivision means the manufacture for sale of rolling mill machinery and equipment, including rolls (except hardened steel forged rolls unless made and sold as a part of such rolling mill machinery and equipment) and including roll stands, tables, shears, roll lathes, tube mill machinery and all other auxiliary equipment and parts thereof used in the rolling and processing of ferrous and non-ferrous metals to produce commercially recognized rolling-mill products, and includes all those engaged in such manufacture for sale.”

“Code” means the Code of Fair Competition of the Machinery and Allied Products Industry as approved by the President March 17, 1934, and as from time to time amended.

“Person” means a natural person, a partnership, a corporation, an association, a trust, a trustee, a trustee in bankruptcy, a receiver or other entity.

"Employer" means any person engaged in this Subdivision either on his own behalf or as an employer of labor.

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

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

"The Administrator" means the Administrator for Industrial Recovery.

"Basic Code Authority" means the Code Authority for the Machinery and Allied Products Industry as constituted by the Code.

"Code Authority" means the Code Authority constituted for this Subdivision as provided by the Code and by this Supplemental Code.

"Group Code Authority" means the Code Authority for any group or product classification within this Subdivision.

"Publish" means to make available to the public.

ARTICLE III—EMPLOYMENT PROVISIONS

The following Articles of the Code, viz: Article III, "Working Hours"; Article IV, "Wages"; and Article V, "General Labor Provisions" are hereby made a part of this Supplemental Code, with the same effect as if they were written into this Supplemental Code.

ARTICLE IV—ADOPTION OF OTHER PROVISIONS OF CODE

The following Articles of the Code, viz: Article II "Definitions" and Article VI, "Administration", to the extent that they shall be applicable to this Supplemental Code as such or as it may hereafter be administered as an autonomous Code; Article VIII, "Modifications and Termination"; and Article IX, "Withdrawal" are hereby adopted and made a part of this Supplemental Code, with the same effect as if they were written into this Supplemental Code.

ARTICLE V—ADMINISTRATION

(a) A Code Authority for this Subdivision is hereby constituted to administer, supervise and facilitate the enforcement of the Code and of this Supplemental Code in the manner and to the extent provided in the Code and in this Supplemental Code.

(b) During a period not to exceed sixty (60) days following the effective date and pending the election of the permanent Code Authority, the executive committee of the Applicant shall constitute a temporary Code Authority. The Administrator, in his discretion, may appoint one additional member (without vote and without expense to the Subdivision).

(c) The Applicant shall, by written notice sent by registered mail to all employers known to the Applicant, call a meeting of employers to be held within sixty (60) days after the effective date for the purpose of adopting procedural rules and regulations for the election, organization and operation of the permanent Code Authority and electing a permanent Code Authority which shall consist of six members, one of whom may be elected from and by the non-members of the Applicant, if such representation shall be so desired by such non-members. The Administrator in his discretion may appoint one additional member (without vote and without expense to the Sub-

division). The permanent Code Authority so elected and appointed shall succeed the temporary Code Authority.

(d) Any employer shall be entitled to vote at the election of the permanent Code Authority and at other meetings of employers and share in the benefits of the activities of Code Authority and may participate in any endeavors of Code Authority in the preparation of any amendments or revisions of, or additions or supplements to, this Supplemental Code by paying or agreeing to pay to the Code Authority, as and when assessed, his pro rata share of the costs of administering the Supplemental Code, computed on the basis of each employer's proportionate share to the annual average of sales billed f.o.b. plant for the preceding two (2) calendar years, as reported to the Code Authority, to be computed at the beginning of each calendar year and to apply through the then current year, or other equitable basis.

(e) Action by employers in any Subdivision meeting for the election of Code Authority shall be by vote of the employers entitled to vote as provided in Section (d) and subject to Section (c) of this Article V, each such employer to have one vote only. Action by employers in any Subdivision meeting for the adoption of procedural rules, revisions or additions to the Supplemental Code, or the transaction of other business of the Subdivision under this Supplemental Code, shall be by vote of the employers in the Subdivision who are entitled to vote thereat as provided in Section (d), Article V, of the Supplemental Code and are present in person or by proxy duly executed and filed with Code Authority; cast and computed in the manner provided in Section (d), Article VI of the Code. All questions as to the number of votes which each employer shall be entitled to cast at any meeting of employers other than the meeting held to vote for the election of the permanent Code Authority shall be determined by Code Authority, in accordance with Section (d) Article VI of the Code.

(f) Employers in this Subdivision having a common interest and common problems may be grouped by Code Authority for administrative purposes. There may be a Group Code Authority approved or appointed by Code Authority for each such group.

(g) If formal complaint is made to Code Authority that provisions of this Supplemental Code have been violated by any employer, Code Authority or the proper Group Code Authority may, to the extent permitted by the Act, cause such investigation or audit to be made as may be deemed necessary. If such investigation is made by Group Code Authority it shall report the result of such investigation or audit to Code Authority for action.

(h) Any vacancy on the Code Authority, due to death or resignation or because a member thereof has ceased to be connected with the Subdivision shall be filled at a meeting of employers called by Code Authority on at least ten days' notice by registered mail sent to all employers in the Subdivision and by a vote similar to the vote by which the retired member was originally elected.

(i) The Code Authority may appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Subdivision for the purpose of formulating fair trade practices to govern the relation-

ships between production and distribution employers under this Supplemental Code and under such others to the extent that such fair trade practices may be proposed to the Administrator as amendments to this Supplemental Code and such other Codes.

ARTICLE VI—ACCOUNTING AND COSTING

The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all employers of the Subdivision. After such system and methods have been formulated, full details concerning them shall be made available to all employers. Thereafter all employers shall determine and/or estimate costs in accordance with the principles of such methods.

ARTICLE VII—SELLING BELOW REASONABLE COST

When the Code Authority determines that an emergency exists in this Subdivision and that the cause thereof is destructive price-cutting such as to render ineffective or seriously endanger the maintenance of the provisions of this Supplemental Code, the Code Authority may cause to be determined the lowest reasonable cost of the products of this Subdivision, such determination to be subject to such notice and hearing as the Administrator may require. The Administrator may approve, disapprove, or modify the determination. Thereafter, during the period of the emergency, it shall be an unfair trade practice for any employer of the Subdivision to sell or offer to sell any products of the Subdivision for which the lowest reasonable cost has been determined, at such prices or upon such terms or conditions of sale that the buyer will pay less therefor than the lowest reasonable cost of such products.

When it appears that conditions have changed, the Code Authority upon its own initiative or upon the request of any interested party, shall cause the determination to be reviewed.

ARTICLE VIII—PRICE LISTS

(a) If and when Code Authority determines that in any group of the Subdivision it has been the generally recognized practice to sell a specified product on the basis of net price lists, or price lists with discount sheets, and terms of sale and payment, each employer engaged in the manufacture of such product shall, within ten (10) days after notice of such determination, file with Code Authority a net price list, or a price list with discount sheet, as the case may be, individually prepared by him, showing his current prices, or prices and discounts, and terms of sale and payment for such specified product, and Code Authority shall immediately publish and send copies thereof to all known employers who are cooperating under this Supplemental Code as described in Article V (d) and engaged in the manufacture of such specified products.

Revised price lists and/or discount sheets and/or terms of sale and payment may be filed from time to time thereafter with the Code Authority by any such employer, to become operative upon the

date specified therein, but such revised price lists and/or discount sheets and/or terms of sale and payment shall be filed with the Code Authority ten (10) days in advance of the operative date. Copies thereof, with notice of the operative date specified, shall be immediately published and sent to all employers cooperating under this Supplemental Code as described in Article V (d), any of whom may file, if he so desires, revisions of his price lists and/or discount sheets and/or terms of sale and payment, which shall become effective upon the date when the revised price lists and/or discount sheets and/or terms of sale and payment first filed shall go into effect.¹

(b) If and when Code Authority shall determine that in any group of the Subdivision not now selling its product on the basis of price lists, with or without discount sheets, with terms of sale and payment, the distribution or marketing conditions in the group are the same as, or similar, to the distribution or marketing conditions in a group where the use of price lists, with or without discount sheets and terms of sale and payment is well recognized, and that a system of selling on net price lists or price lists and discount sheets with terms of sale and payment for such specified product should be put into effect in such group, then each employer in such group shall within twenty (20) days after notice of such determination, file with Code Authority net price lists or price lists and discount sheets, with terms of sale and payment, showing his prices and discounts and terms of sale and payment, and such price lists and/or discount sheets and/or terms of sale and payment may be thereafter revised in the manner hereinbefore provided. Provided that Code Authority shall make no determination to place any product of the Subdivision (not now on a price list basis) on a price list basis, as provided in this Section, unless affirmative consent to such determination is given by a majority vote of employers who are at that time cooperating under this Supplemental Code as described in Article V (d), and are engaged in manufacturing such product. The eligibility requirements, method, and effect of such voting shall be the same as is provided by Article V hereof.

(c) Code Authority, for the purpose of determining the lowest reasonable cost, shall, to the extent permitted by the Act, have power, on its own initiative, or on the complaint of any employer, to investigate any price or the terms of sale and payment for any product of any employer; and, for the purpose of the investigation thereof, to require such employer to furnish such information concerning the cost of manufacturing and selling such product as Code Authority shall deem necessary or proper for such purpose and as the Act may allow.

No employer shall sell directly or indirectly by any means whatsoever, any product of the Subdivision covered by provisions of this Article VIII at a price or at discounts or on terms of sale and payment, different from those provided in his own current net price lists, or price lists and discount sheets, and terms of sale and payment.

¹ See paragraph 2 of order approving this Code.

ARTICLE IX—TRADE PRACTICES

Each of the following acts and practices is deemed to be inimical to the best interests of the Subdivision and of the public and each is, therefore, hereby declared to be, and to constitute, an unfair method of competition, and is hereby prohibited, viz:

1. The secret payment or allowance of a rebate, refund, commission, credit, unearned discount, or excess allowance in the form of money or otherwise, or the offering or extending to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

2. The payment, or promise to pay, to any agent, fiduciary, or representative, of money or valuable thing, with or without the knowledge of his principal, for the purpose of influencing any sale to his principal. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising, except so far as such articles are actually used for commercial bribery as hereinabove defined.

3. Any discrimination between purchasers of the same class, by the sale of any standardized article having a published price, at any price below the seller's published price, by means of direct or indirect price concessions, or by means of any privilege not extended to such purchasers generally.

4. The publishing of advertising (whether printed, radio, display or of any other nature) which is misleading or inaccurate in any material particular, or the misrepresenting of any goods (including but without limitation its use, trade-mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

5. The publishing or circulating of threats of suits for infringement of patents or trade-marks, or of any other legal proceedings, not in good faith, which would tend to harass competitors or intimidate their customers.

6. The engaging in destructive price-cutting by any employer of this Subdivision.

ARTICLE X—SALES FOR EXPORT

The provisions of this Supplemental Code concerning pricing and marketing shall not apply to direct export sales of any product or to sales of any product destined ultimately for export. The term "export" shall include all shipments to all places without the several states of the United States and the District of Columbia; provided, however, that no shipment to any territory or possession of the United States shall be considered an export when any employer is engaged in the Subdivision in such territory or possession.

ARTICLE XI—MODIFICATIONS

(a) As provided by Section 10 (b) of the Act, the President may from time to time cancel or modify any order, approval, license, rule or regulation issued under Title I of the Act.

(b) Any amendments, additions, revisions, or supplements of this Supplemental Code, proposed by Code Authority, and authorized by the affirmative vote of a majority of the employers, shall be in full force and effect upon approval by the President. The eligibility requirements, method and effect of such voting shall be the same as provided by Article V (d) hereof.

ARTICLE XII—WITHDRAWAL

Upon thirty days' notice to the Basic Code Authority and to the Administrator, this Subdivision may, upon the concurring affirmative vote of employers within the said Subdivision entitled to cast two-thirds or more of all the votes that might be cast by all employers within the Subdivision entitled to vote thereon, withdraw from the jurisdiction of the Basic Code Authority. The eligibility of voters and the method and effect of such voting shall be in accordance with the provisions of Article V hereof. After and in the event such withdrawal is accomplished, this Supplemental Code, together with the provisions of the Code, shall become and be the sole code governing this Subdivision, and the Code Authority shall for this Subdivision become and be the sole Code Authority and shall perform all the functions with respect thereto.

ARTICLE XIII—MONOPOLIES

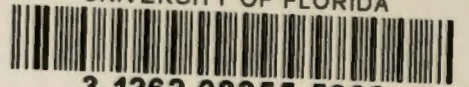
Applicant imposes and shall impose no inequitable restrictions on membership therein. The Supplemental Code presented by it is not designed to promote monopoly, and shall not be so construed or applied as to oppress or eliminate small enterprises or discriminate against them, and is designed to effectuate the policy of the Act.

ARTICLE XIV—EFFECTIVE DATE

This Supplemental Code shall become effective and binding on all persons engaged in the Subdivision on the eleventh day after its approval by the President.

Approved Code No. 347—Supplement No. 14.
Registry No. 1399-36.

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