

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

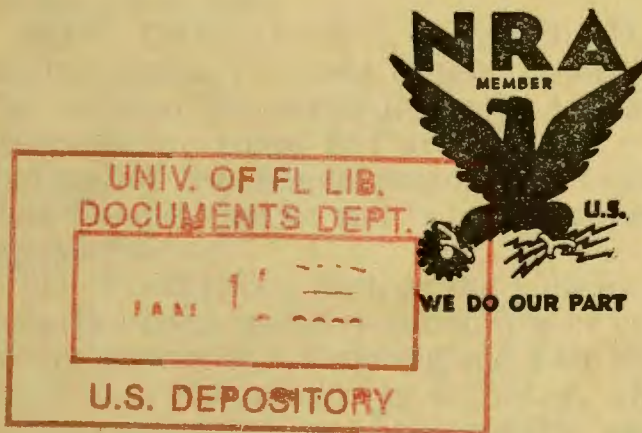
FOR THE

**GASOLINE PUMP
MANUFACTURING INDUSTRY**

AS APPROVED ON SEPTEMBER 18, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order of President Roosevelt
2. Report of Administrator
3. Report of Deputy Administrator
4. Text of Code

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR GASOLINE PUMP MANUFACTURING INDUSTRY

An application having been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Gasoline Pump Manufacturing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

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

(1) To effectuate further the policies of the act, a gasoline pump manufacturing industry committee be created to cooperate with the Administrator as a Planning and Fair Practice Agency for the Gasoline Pump Manufacturing Industry, which committee shall consist of five representatives of the gasoline pump manufacturing industry elected by a fair method of selection, to be approved by the Administrator, and three members without vote appointed by the Administrator.

FRANKLIN D. ROOSEVELT,
President.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

The WHITE HOUSE,
September 18, 1933.

SEPTEMBER 8, 1933.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: This is a report of the hearing on the Code of Fair Competition for the Gasoline Pump Manufacturing Industry in the United States, conducted in Washington on August 24th, 1933, in accordance with the provisions of the National Industrial Recovery Act.

The following exhibits are included and attached:

- (1) Final Code submitted
- (2) Notice of Hearing
- (3) Statement of Procedure
- (4) Statistical Analysis by Research and Planning Division
- (5) Transcript of the Records
- (6) List of Witnesses.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

II. MINIMUM WAGES

On and after the effective date the minimum wage that shall be paid by any employer in the Gasoline Pump Manufacturing Industry to any employee, regardless of whether the employee is compensated on the basis of a time rate, piecework performance, or otherwise, shall be at the rate of forty cents (40¢) per hour for forty (40) hours of labor: Provided, however, that where a State law fixes a higher minimum wage than that herein set forth, then and in such case, no employee shall receive a lower wage than that fixed by such State law.

III. HOURS OF LABOR

The maximum hours of labor per man per week shall be forty hours.

ECONOMIC EFFECT OF THE CODE

The Gasoline Pump Manufacturing Industry is one of the smaller industries in the United States with only about 3,000 employees.

The minimum wage now paid is 30¢ per hour. The provisions of the Code will raise the wage to 40¢ per hour, resulting in an increase in the pay roll of approximately 20 percent.

The Code has no provisions for regional or sex differentials.

The maximum hours at present do not generally exceed 40. Approving a 40-hour week under this Code will obviously add few employees to the pay roll. However, in order to reabsorb the unemployment in this industry it would be necessary to reduce the hours of employment to less than thirty per week. As a practical, work-

able proposition this would be decidedly unfair to the industry because—

(1) Some of the plants produce other products which are already governed by other 40-hour codes and shift their labor between the different types of production.

(2) Most of the plants are in localities where the maximum of labor in other outstanding plants is governed by 40-hour Codes. Reducing the hours to a point where the weekly earnings of employees in this industry would not offset those of workers under other 40-hour codes in the same locality would infringe on the available labor supply for this industry.

Under present conditions for practical considerations the reabsorption of the unemployed in this industry is practically impossible.

Findings.—The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof; and that—

(b) The Association imposes no inequitable restrictions on admission to membership therein and is truly representative of the Gasoline Pump Manufacturing Industry; and that—

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

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

Respectfully submitted.

HUGH S. JOHNSON,
Administrator.

AUGUST 8, 1933.

To: General Hugh S. Johnson, Administrator.

From: R. B. Paddock.

Subject: Report on the Code of Fair Competition for the Gasoline Pump Manufacturing Industry.

This is a report of the hearing on the Code of Fair Competition for the Gasoline Pump Manufacturing Industry of the United States, conducted in Washington on the 24th of August 1933, in accordance with the provisions of the National Recovery Act. All persons requesting to be heard were given full opportunity to present pertinent facts.

The following exhibits are included and attached:

A. Reports submitted by—

- (1) Industrial Advisory Board
- (2) Consumers' Advisory Board
- (3) Labor Advisory Board
- (4) Legal Division
- (5) Research and Planning Division ¹

B. The Code ¹ as finally proposed, revised, and accepted by the Gasoline Pump Manufacturing Industry.

¹ These are included in a group of papers for submission to the President and are not duplicated herein.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

II. MINIMUM WAGES

On and after the effective date the minimum wage that shall be paid by any employer in the Gasoline Pump Manufacturing Industry to any employee, regardless of whether the employee is compensated on the basis of a time rate, piecework performance, or otherwise, shall be at the rate of forty cents (40¢) per hour for forty (40) hours of labor: Provided, however, that where a State law fixes a higher minimum wage than that herein set forth, then and in such case no employee shall receive a lower wage than that fixed by such State law.

III. HOURS OF LABOR

The maximum hours of labor per man per week shall be forty hours.

Findings.—The Deputy Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The Association imposes no inequitable restrictions on admission to membership therein and is truly representative of the Gasoline Pump Manufacturing Industry; and that

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

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

Respectfully submitted.

R. B. PADDOCK,
Deputy Administrator.

CODE OF FAIR COMPETITION FOR THE GASOLINE PUMP MANUFACTURING INDUSTRY

To effectuate the policy of Title I of the National Industrial Recovery Act, the following is established as a Code of Fair Competition for the Gasoline Pump Manufacturing Industry.

I. DEFINITIONS

The term "Gasoline Pump Manufacturing Industry" is defined to mean the manufacture and sale by the manufacturers of dispensing gasoline pumps of the meter, visible or blind types, operated either by hand or power; kerosene tanks in unit combination; low-pressure grease pumps and oil pumps and other low-pressure lubricating outfits for transmissions and differentials; hand trucks for carrying portable outfits for dispensing gasoline, kerosene, grease, oil, and other petroleum products; and other equipment used in the dispensing of these products for consumption.

II. MINIMUM WAGE

On and after the effective date the minimum wage that shall be paid by any employer in the Gasoline Pump Manufacturing Industry to any employee, regardless of whether the employee is compensated on the basis of a time rate, piecework performance, or otherwise, shall be at the rate of forty cents (40¢) per hour for forty (40) hours of labor: Provided, however, that where a State law fixes a higher minimum wage than that herein set forth, then, and in such case, no employee shall receive a lower wage than that fixed by such State law.

The existing amounts by which wage rates in the higher-paid classes exceed wages in the lower-paid classes shall be maintained.

III. HOURS OF LABOR

The maximum hours of labor per man per week shall be forty (40) hours.

IV

On and after the effective date no member of this industry shall employ or have in their employ any person under the age of 16 years; and further provided that no person under 18 years of age shall be employed or permitted to work on or in connection with metal-working machines: Provided, however, that where a State law specifies a higher minimum age no member of this industry shall employ within that State a person below the age specified by such State law.

As required by Section 7 (a) of Title I of the National Industrial Recovery Act, it is provided:

"(1) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection;

"(2) That no employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

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

VI. STANDARDS

Nothing in this section shall apply to or affect in any way contracts between members of the Gasoline Pump Manufacturing Industry and others in existence prior to the effective date of this Code.

1. All contracts for the sale of equipment covered by this Code shall contain a definite and true statement of price, quantity, terms of payment, place of delivery, date, name of purchaser, and all other items necessary to form a complete contract. Further, that all contracts shall state that all the terms and conditions contained therein are in conformity with the letter and spirit of this Code.

2. Each manufacturer in the industry shall, immediately following the effective date of this Code, cancel all options, quotations, and guaranteed prices outstanding on such date, insofar as such cancellation can lawfully be effected.

3. All invoices shall contain a full statement of all the facts necessary to make such an invoice a complete actual record of the transaction represented on the face thereof.

4. Conditions and terms of sale for the equipment covered by this Code shall be as follows:

(a) 30 days net; not in excess of 2 percent for cash in ten days from date of invoice; or 90 days, provided that not less than 25 percent of the purchase price accompanies order and the remainder is payable in three equal monthly payments thereafter; or six months, provided that not less than 20 percent of the purchase price accompanies the order and the remainder divided into six equal monthly installments, with a carrying charge of 5 percent of the unpaid portion; or twelve months, provided that not less than 20 percent of the purchase price accompanies the order and the remainder divided into twelve equal monthly installments, with a carrying charge of 7 percent of the unpaid portion. No terms longer than twelve months shall be allowed. Allowance for unearned carrying charges when installment accounts are paid before maturity may be made.

(b) Except for bona fide test or demonstration purposes, no equipment covered by this Code shall be loaned, leased, consigned, given away, or sold on a basis of payment governed by the gallonage dispensed or on terms other than those agreed upon above.

(c) The following standard guarantee:

The manufacturer guarantees all parts of the equipment shipped under this agreement for one year and no more from date of invoice thereof against defective material or workmanship (but not against damage caused by accident, abuse, or faulty installation) when the equipment is installed in accordance with the manufacturer's specifications, and will repair or replace free of charge (F.O.B. factory) all such defective parts if returned to the factory, charges prepaid. The manufacturer's liability for damages caused by any such defective parts shall be limited to such repair or replacement and in no event shall the manufacturer be liable for indirect or consequential damage.

VII

The following are declared to be unfair trade practices and are prohibited:

(a) The payment or allowance of secret rebates, refunds, credits or unearned discounts, commissions to customers, or their employees, whether in the form of money or otherwise, or the extension of services or privileges to certain purchasers not extended to all purchasers under like terms and conditions.

(b) Discrimination in price of equipment covered by this Code between purchasers of the same class; provided, however, that nothing in this rule shall be construed to prevent the publication and use of the quantity discount specified herein; and provided further, that nothing herein contained shall prevent any member of the industry engaged in selling goods from selecting their own customers in bona fide transactions.

(c) The inducing or attempt to induce the breach of a contract between a competitor and his customer.

(d) The variable practice on the part of sellers of requiring purchasers in some instances to pay published freight and/or warehouse charges and in other instances of assuming such charges.

(e) Quoting a total price of any schedule of equipment covered by this code which does not show unit prices and any addition or deduction on any other basis than the unit price shown.

(f) The making of contracts, blanket orders, or other commitments guaranteeing prices except for firm orders for definite quantities for delivery within ninety (90) days from date of order. In each such case the order must stipulate that it is not cancellable and that any equipment not ordered out at the end of the period shall be billed to, and paid for by, the customer.

(g) The unreasonable trade-in on purchase or any other form of unreasonable allowance for used equipment.

(h) The authorizing or permitting of the refunding by commissioned salesmen of all or any part of their commission to any customer.

(i) The making of any allowance for installation by a manufacturer either directly or through his authorized representative, jobber, or commission salesman.

VIII

The following practices affecting the seller's product are declared to be unfair methods of competition and are condemned by the industry:

(a) The marking, branding, or failure to mark or brand a product for the purpose or with the effect of misleading or deceiving purchasers, or prospective purchasers, with respect to the quantity, quality, size, grade, or substance of product purchased.

(b) The publication or circulation concerning any member of the Industry, of any false, misleading, or deceptive statement by way of advertisement or otherwise as to the grade, quality, quantity, character, composition, or origin of the product.

(c) The sale or offer to sell any product with intent to deceive purchasers or prospective purchasers with respect to the quantity, quality, size, grade, or substance of such product.

IX

No member of the Gasoline Pump Manufacturing Industry shall sell or exchange any product of the industry at a price below his own individual cost of production as determined by a standard cost accounting system, to be set up by the Executive Committee for the Gasoline Pump Manufacturing Industry, subject to the approval and supervision of the Administration.

(a) Pursuant to the above provisions, the Executive Committee shall endeavor to develop and submit to the Administrator for approval within 120 days after the effective date of this Code a uniform system of cost accounting designed to make possible the accurate determination by each member of the industry of his own individual cost of production.

Upon approval by the Administrator of such system of cost accounting, complete advice concerning it shall be distributed by the Executive Committee to all members of the Gasoline Pump Manufacturing Industry. Thereafter, no member of the industry shall sell or exchange any product of the industry at a price below his own individual cost.

(b) Since it has been the general, recognized practice of the Gasoline Pump Manufacturing Industry to sell its products on the basis of printed net price lists, or price lists with discount sheets and fixed terms of payment which are distributed to the trade, each manufacturer shall, within five days after the effective date of this Code, file with the Executive Committee of the Gasoline Pump Manufacturing Industry a net price list or a price list and discount sheet as the case may be, individually prepared by him, showing his current prices, or prices and discounts, and terms of payment, and the Executive Committee shall immediately send copies thereof to all known manufacturers of the Industry. Revised price lists, with or without discount sheets, may be filed from time to time thereafter

with the Executive Committee by any manufacturer in the industry to become effective upon a date specified by such manufacturer in the industry, which date shall be not less than 10 days after the filing of such revised prices at the office of the Executive Committee and copies thereof with notice of the effective date specified shall be immediately sent to all known manufacturers of the Industry who thereupon may file, if they so desire, revisions of their price lists and/or discount sheets, which, if filed not less than five days previous to such effective date, shall take effect upon the date when the revised price list or discount sheet first filed shall go into effect.

If the Executive Committee shall determine that any manufacturer in the industry is not now selling its products on the basis of price lists, with or without discount sheets, with fixed terms of payment and that a system of selling on net price lists or price list and discount sheets should be put into effect, then such manufacturer within ten (10) days after notice of the decision of the Executive Committee under this paragraph shall file with the Executive Committee net price lists, or price lists with discount sheets, containing fixed terms of payment; such price lists and/or discount sheets and terms of payment may be revised in the manner hereinabove provided. However, it is provided that the determination of the Executive Committee as aforesaid shall be subject to the approval of the Administrator.

(c) No manufacturer in the industry shall sell any product of the industry at prices lower or discounts greater or on more favorable terms of payment than the approved schedule of such manufacturer on file at the office of the Executive Committee as above provided.

(d) It is hereby provided that the operation of the foregoing provisions in regard to price lists shall at all times be subject to the approval of the Administrator and, if it is the belief of the Executive Committee or of any manufacturer in the industry that any price list submitted represents sales below the cost of production of the manufacturer submitting same, the date of effectiveness of such list shall automatically be delayed an additional ten days in order that an investigation may be made to determine the propriety of such objection. If it is found that any price list represents figures below the cost of production as defined by the Executive Committee and approved by the Administrator, the quotations shall be withdrawn and revised prices submitted.

X. ADMINISTRATION

With a view to keeping the President of the United States and the Administrator informed as to the observance or nonobservance of this Code, and as to whether the Gasoline Pump Manufacturing Industry is taking appropriate steps to effectuate in all respects the declared policy of the National Industrial Recovery Act, the Executive Committee of the Gasoline Pump Manufacturing Industry is hereby constituted and shall be composed of five members, chosen by a fair method of selection and approved by the Administrator. Each employer shall file with the Secretary of the Executive Committee statistics covering the number of employees, wage rates, em-

ployee earnings and hours of work, and, upon the request of the Executive Committee, subject to the approval of the Administrator, copies of invoices and all books or records pertaining thereto and such other data or information as may be from time to time required by the Administrator or by the Executive Committee, subject to the approval of the Administrator.

Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in accordance with the provisions of Article X shall be confidential, and the statistics, data, and other information of one employer shall not be revealed to any other employer except insofar as may be necessary for the effective administration and enforcement of this Code.

X-A

Where the costs of executing contracts entered into in the Gasoline Pump Manufacturing Industry prior to the Approval of the President of the United States of this Code are increased by the application of the provisions of that Act to the industry, it is equitable and promotive of the purposes of the National Industrial Recovery Act that appropriate adjustment of such contracts to reflect such increased costs be arrived at by arbitral proceeding or otherwise, and the Gasoline Pump Manufacturers Association, the applicant for this Code, is constituted an agency to assist in effecting such adjustments.

XI

Any employer may participate in the endeavors of the Executive Committee of the Gasoline Pump Manufacturing Industry relative to the revisions or additions to the Code by accepting the proper pro-rata share of the costs and responsibility of creating and administering it.

XII

This Code, and all the provisions thereof, are expressly made subject to the right of the President, in accordance with the provision of Clause 10 (b) of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation, issued under Title I of the said Act, and specifically to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

XIII

Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate. They shall remain in effect unless and until so modified or eliminated or until the expiration of the Act. It is contemplated that from time to time supplementary provisions to this Code or additional codes will be submitted for the approval of the President, to prevent unfair competition in

price and other unfair and destructive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with provisions thereof.

XV

This Code of Fair Competition shall become effective on the approval of same by the President of the United States.

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

NELSON S. TALBOTT,

President, Gasoline Pump Manufacturers' Assn.

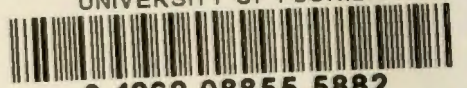
G. DENNY MOORE,

Secretary, Gasoline Pump Manufacturers' Assn.

SEPTEMBER 7, 1933.



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