



**NATIONAL RECOVERY ADMINISTRATION**

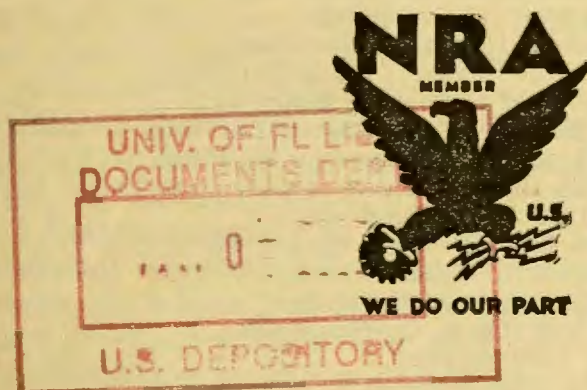
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**CODE OF FAIR COMPETITION**  
**FOR THE**  
**PLUMBAGO CRUCIBLE**  
**INDUSTRY**

**AS APPROVED ON OCTOBER 23, 1933**

**BY**

**PRESIDENT ROOSEVELT**



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

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(II)



## EXECUTIVE ORDER

### CODE OF FAIR COMPETITION FOR THE PLUMBAGO CRUCIBLE 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 Plumbago Crucible 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 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.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
*October 23, 1933.*

Approval Recommended:  
HUGH S. JOHNSON,  
*Administrator.*

(III)



OCTOBER 12, 1933.

THE PRESIDENT,  
*The White House.*

SIR: This is a report of the hearing on the Code of Fair Competition for the Plumbago Crucible Industry in the United States, conducted in Washington on October 4, 1933, in accordance with the provisions of the National Industrial Recovery Act.

#### PROVISIONS FOR HOURS AND WAGES

This Code limits the hours of work for employees to 40 a week, except as follows:

When demand places an unusual burden upon production employees may work 48 hours a week during one week in each month and will be paid time and one half for overtime in excess of 40 hours weekly. Kiln burners on continuous-process operations who have previously been employed up to 72 hours per week are now limited to 48 hours a week. This work is not laborious and is in the nature of a specialized or technical watchman's duties. The step down to 48 hours is a marked advance over the longer week. Usually two men only are needed for this work in each plant. Care and maintenance workers, stock and shipping clerks are given a 10 percent tolerance over the 40-hour week. Emergency maintenance and repair workers may exceed 40 hours, receiving the time and a half overtime wage.

The minimum wage provided is 40 cents to all employees except those physically handicapped.

Employees engaged in accounting, clerical, sales, and service work will receive not less than \$15.00 per week. Office boys and girls are to be paid not less than 80 percent of this latter figure.

The minimum age of factory employees will be 18 years, and of other employees, 16 years.

#### ECONOMIC EFFECT OF CODE

This Industry is contributing to reemployment by putting back to work approximately 28 percent of those employed on February 16, 1932. This will be accomplished through the reduction of normal hours from 48 to 40. While this is comparatively a small Industry, a large percentage of skilled workmen are required.

The minimum hourly rate for employees was 30 cents prior to adjustments made to conform with the spirit of the National Recovery Act. The increase in minimum hourly rates to 40 cents, and adjustments in wages to those in higher brackets, together with the new employees added, will represent an increase of over 30 percent in weekly pay roll, or approximately \$60,000 yearly.

One provision under Trade Practices is unusual:

Article VII, Section II, adherence to standards, eliminates the sale of second quality crucibles. This provision prevents the danger to



operatives which might occur if inferior quality products of the Industry were distributed and used. Safety of performance being a first consideration, high quality becomes essential. The crucibles, accessories and refractories containing plumbago or graphite, are sold for use in melting metals in the ferrous and nonferrous fields.

Sales of the Industry during the first six months of this year were about a third the rate of those in 1929, which follows the trend of other capital goods distribution. Then, too, although the products are essential in production of many highest quality metals, they compete in some markets with electric furnaces. Only by increasing business, which will depend largely upon activity in the metal industry where these products are used, can this Industry put a large percentage of employees back to work. In arriving at the terms expressed in the Code, it has shown its cooperation in complying with the spirit of the Act.

#### 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 applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Plumbago Crucible Industry.

(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,

HUGH S. JOHNSON,  
*Administrator.*





# CODE OF FAIR COMPETITION FOR THE PLUMBAGO CRUCIBLE INDUSTRY

## ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Plumbago Crucible Industry, and upon approval by the President, shall be the standard of fair competition for this industry.

## ARTICLE II—DEFINITIONS

The term "Plumbago Crucible Industry" as used herein is defined to mean the manufacture for sale of crucibles, retorts, saggars, covers, stoppers, lids, stirring rods, brazing boxes and similar refractory products, all of which contain flake plumbago or graphite, irrespective of the amount of flake plumage or graphite contained therein.

The term "employee" as used herein includes any person engaged in any phase of the industry in any capacity in the nature of employee irrespective of the method of payment of his compensation.

The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

The term "member of the industry" includes any manufacturer who shall be subject to this Code.

The term "member of the code" includes any member of the industry who shall expressly signify assent to this Code.

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 said Act.

"Effective date" as used herein means the first Monday after this Code shall have been approved by the President of the United States.

## ARTICLE III—HOURS

1. On and after the effective date no employee shall work or be permitted to work in excess of 40 hours in any one week, with the following exceptions:

(a) Kiln burners shall be permitted to work not to exceed 48 hours in any one week, and

(b) There shall be a tolerance of ten percent (10%) over the maximum of 40 hours worked in any one week for employees engaged in the care and maintenance of plant and machinery, and for stock and shipping clerks.

(c) During any period in which a concentrated demand upon the Industry shall place an unusual and temporary burden for produc-



tion upon its facilities, employees may be permitted to work not more than 48 hours per week in not more than one week of any one month's period; provided, however, that in such special cases time and one half shall be paid for hours worked in excess of eight hours per day.

2. These limitations as to hours of labor shall not apply to persons employed in a supervisory capacity receiving more than \$35.00 per week, nor to outside salesmen, field-service men, and watchmen; provided, however, that watchmen shall have one day of rest in seven.

3. The maximum hours fixed in this Article III shall not apply to employees on emergency maintenance and repair work or to very special cases where restriction of hours of highly skilled workers would unavoidably reduce or delay production, but in any such special case time and one half shall be paid for hours worked in excess of 8 hours per day or 40 hours per week, and provided that not more than seven and one half ( $7\frac{1}{2}$ ) percent of the total pay roll for skilled employees in any one week period shall be employed in excess of the maximum of 40 hours per week on such special cases.

#### ARTICLE IV—WAGES

1. On and after the effective date the minimum wage that shall be paid to any employee by any employer in the Plumbago Crucible Industry shall be forty (40) cents per hour, except as provided in Section 5 of this Article IV. Where earnings of employees on piece-work rates are under the minimum wage required by this section 1 of Article IV, such rates shall be so adjusted as to conform with aforesaid minimum wage.

2. To assure employment to workers who are physically handicapped and to avoid their becoming a burden to the state, such employees are exempted from the provisions of this Article IV, provided, however, that such employees shall not exceed in number five (5) percent of the total number of workers employed by a member of the industry.

3. Each employer shall report to the Administrator through the Supervisory Agency, if and when required, the action taken by such employer in adjusting the hourly wage rates for all employees receiving more than the minimum rates provided in Section 1 of this Article IV, excepting those engaged in a supervisory capacity receiving more than \$35.00 per week.

4. In determining his classification under this Code, each employer shall be entitled to claim the benefit of the classification of occupations existing on June 16, 1933.

5. On and after the effective date all accounting, clerical, sales and service employees shall be paid at a rate of not less than \$15.00 per week, provided, however, that office boys or girls may be paid not less than 80 percent of such minimum wage, but the total amount paid to such office boys or girls at such reduced rate shall not exceed in any calendar month  $7\frac{1}{2}$  percent of the total amount paid by such employer to all employees covered by the provisions of this paragraph 5.

6. Every employer shall post in conspicuous places in his plant a full copy of this Code.



## ARTICLE V—CHILD LABOR

No person under eighteen (18) years of age shall be employed on manufacturing processes in the industry and no person under sixteen (16) years of age shall be employed as a messenger or in office or other work.

## ARTICLE VI—ADMINISTRATION

1. To further effectuate the policies of the Act, a Supervisory Agency is hereby set up to cooperate with the Administrator in the administration of this Code.

2. The Supervisory Agency shall consist of five (5) individuals, or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint not more than three (3) additional members (who shall be without vote), to represent the Administrator or such groups or interests as may be agreed upon.

3. The Supervisory Agency shall be elected at a meeting of the members of the industry called immediately after the approval by the President of this Code and held immediately prior to the effective date thereof. The meeting shall be called by the Crucible Manufacturers Association and notice thereof shall be sent by telegram or registered mail a reasonable time in advance of the meeting to all known members of the industry. The notice shall specifically state that voting at the meeting may be in person or by proxy. The members of the Supervisory Agency shall be elected by a majority vote of the employers present, in person or by proxy as such, each employer to have one vote.

4. Vacancies on the Supervisory Agency caused by death or resignation or because a member has ceased to be connected with the Industry, shall be filled in the same manner indicated in Section 3 of this Article VI and such meeting or meetings called for the purpose shall be called and notices sent out in exactly the same manner as when electing the members of the Supervisory Agency in the first instance.

5. With a view to keeping the President and the Administrator informed as to the observance or nonobservance of this Code, and as to whether the Plumbago Crucible Industry is taking appropriate steps to effectuate in all respects the declared policy of the National Industrial Recovery Act, each member of the industry shall prepare and file with such person or organization as the Supervisory Agency may designate, if and whenever required by the Administrator, an earnings statement and balance sheet, statistics of plant capacity, volume of production, volume of sales in units and dollars, orders received, unfilled orders, stocks on hand, inventory, both raw and finished, number of employees, wage rates, employee earnings, hours of work, and such other data or information as the Administrator may from time to time require.

6. In addition to the information required to be submitted to the Supervisory Agency, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 8 (a) of the National Industrial Recovery Act.



7. Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in accordance with the provisions of Section 5 of this Article VI shall be confidential, and the statistics, data, and information of one member of the industry shall not be revealed to any other member. For the purpose of facilitating the administration and enforcement of the provisions of this Code, the Supervisory Agency, by their duly authorized representatives (who shall not be in the employ of any employer affected by this Code), and subject to the approval of the Administrator, shall have access to any and all statistics, data, and information that may be furnished in accordance with the provisions of this Code.

#### ARTICLE VII—PARTICIPATION

Members of the industry shall be entitled to participate in and share the benefits of the activities of the Supervisory Agency and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expense of its administration. The reasonable share of the expenses of administration shall be determined by the Supervisory Agency, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

#### ARTICLE VIII—TRADE PRACTICES

1. Within ten days after the effective date each member of the industry shall file with every other member, through the Supervisory Agency, a complete list of its then existing crucible prices, delivery points, terms, conditions of sale, and trade discounts, and shall file in like manner all changes therein as and when made.

2. *Credits*.—Each member of the Industry shall exercise his own free and independent judgment with respect to credits he will extend to his trade, but it is the sense of the industry that a liberal and fair credit information exchange shall be the policy in order to prevent a customer of the industry from overextending his credit with the industry.

3. Each of the following acts and practices is deemed to be inimical to the best interests of the Plumbago Crucible Industry, and of the public, and each is, therefore, hereby declared to be, and to constitute, an unfair method of competition, viz:—

4. *Inducing Breach of Contract*.—The willful interference by anyone, by any means or device whatsoever, with any existing contract or firm order between a seller and a purchaser of the products of the industry as defined in Article II.

5. *Secret Rebates*.—(a) Withholding from, or inserting in an invoice for any products of the industry facts which make the invoice a false record wholly or in part of the transaction represented on the face thereof, and/or the payment or allowance of secret rebates, refunds, credits, unearned discounts, whether in the form of money or otherwise, or the extension to certain purchasers of service or privileges not extended to all purchasers under like terms and conditions.



(b) Shipment of any quantity of the products of the industry in excess of that for which a proper charge is made.

(c) Unwarranted rejection allowances or shortage claims, by connivance or otherwise, between seller and purchaser.

(d) Giving away any products of the industry as samples.

6. *Commercial Bribery*.—The paying of or promising to pay to an employee of a customer or prospective customer a commission or consideration of any character for the purpose of influencing or having influenced a sale.

7. *Defamation of a Competitor*.—The defamation of a competitor in any manner, either by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or a false disparagement of the grade or quality of his goods or otherwise.

8. *Fraud and Misrepresentation*.—(a) The making, causing or permitting to be made or published any false or deceptive statement by way of advertisement or otherwise concerning grade, quality, character, nature, origin, manufacture, or preparation of any products of the industry.

(b) The marking or branding of any products of the industry in a manner which tends to mislead or deceive purchasers, prospective purchasers and/or consumers with respect to the quantity, quality, grade, or substance of the goods purchased. Quality of brands and kinds of product shall be clearly defined and expressed by the seller. No recognized grade, kind, or type of any products of the industry shall be misbranded or misrepresented to include it in some other price classification.

9. *Pooled or Combination Orders*.—The sale of any products of the industry to separate purchasers as a full-carload or other group lot at a sales price which does not take into consideration any added expense involved in such method of shipment.

10. *Terms of Sales*.—The failure on the part of members of the industry or their agents or dealers to adhere strictly to published terms of sale as filed with the Supervisory Agency.

11. *Adherence to Standards*.—Because of the high temperatures to which plumbago crucibles are subjected in melting furnaces, and the consequent danger to operatives who may be required to handle defective, or so-called "Seconds" or off-size crucibles (that is, those sizes of stationary and tilting types of crucibles which have been standardized and which do not conform in outside dimensions to the standards approved by the American Standards Association), the sale of these crucibles is condemned as a form of unfair competition; provided, however, the determination of the amount of allowable tolerances is discretionary with the Supervisory Agency, and subject to the review of the Administrator.

12. *Replacements*.—The replacement of any products of the industry without charge, or the rebate of a portion of the sales price of any such products, when defects or poor service are claimed by the customer, unless the fault is traceable to the member of the industry and the adjustment is reported to the Supervisory Agency at the time it is made.



13. *Test Crucibles.*—The distribution of crucibles among the trade without charge as “test crucibles” for the purpose of obtaining new accounts or customers.

14. *Consignments.*—The shipment of any products of the industry on a consignment basis, excepting to a properly accredited agent of a member of the industry.

15. *Contracts.*—Entering into contracts which do not represent the bona-fide sale of products of the industry in stated and fixed quantities, with a spread therefrom of not to exceed ten (10) percent, and for shipment within a stated period from the date of contract of not to exceed six (6) months.

16. *Unearned Commissions.*—The payment of a commisison to an agent or dealer who is owned or controlled in whole or in part by any buyer's organization, or to any fictitious agent or dealer created for the purpose of passing to the consumer or to the consumer's friends, all or any part of a commission.

17. *Special Crucibles.*—Listing orders for special crucibles of standard types otherwise than on the basis of not less than the nearest higher member on the adopted scale of standard sizes, by weight comparison to the adopted scale.

18. *Terms of Sale.*—Selling or offering to sell on terms more liberal than net 30 days, subject to a cash discount of one percent (1%) ten days.

#### ARTICLE IX—GENERAL

1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from 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. 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.

3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

4. 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.

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

6. Within each state this Code shall not supersede any laws of such state imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions than under this Code.

#### ARTICLE X—SEGREGATION OF INDUSTRY

If any employer of labor also employs labor in any other industry, the provisions of this Code shall apply to and affect only that part of his business which is included in this Industry.

#### ARTICLE XI—PREVENTION OF MONOPOLIES

No provision in this Code shall be interpreted or applied in such a manner as to:

- (1) Promote monopolies,
- (2) Permit or encourage unfair competition,
- (3) Eliminate or oppress small enterprises, or
- (4) Discriminate against small enterprises.

#### ARTICLE XII—PRICE INCREASES

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

#### ARTICLE XIII—TERM AND TERMINATION OF CODE

After its effective date this Code shall continue in effect, subject to amendment or modification as herein provided until terminated by law.







