

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

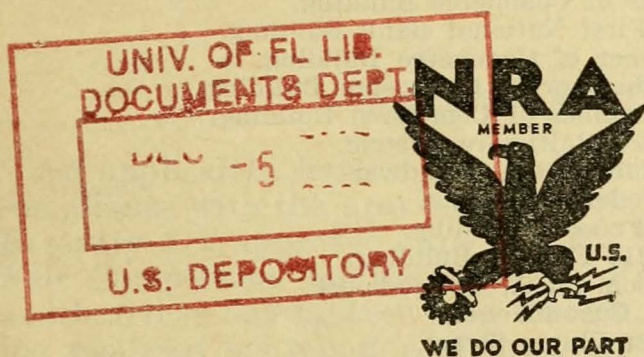
FOR THE

DOMESTIC FREIGHT
FORWARDING INDUSTRY

AS APPROVED ON DECEMBER 18, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

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Approved Code No. 162

CODE OF FAIR COMPETITION
FOR THE
DOMESTIC FREIGHT FORWARDING INDUSTRY
As Approved on December 18, 1933
BY
PRESIDENT ROOSEVELT

Executive Order

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 Domestic Freight Forwarding 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 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 the findings and approve the report and recommendations of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 18, 1933.

DECEMBER 6, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Domestic Freight Forwarding Industry of the United States, on which the hearing was conducted in Washington on the 17th of October 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS OF THIS CODE AS TO WAGES AND HOURS

Maximum hours for employees are established as follows: General office clerks—forty (40) hours in any one week. Local station and/or platform clerks or laborers—forty-eight (48) hours per week, averaged over any six (6) weeks' period. No employee is permitted to work more than twelve (12) days in any fourteen (14) day period.

No freight-house laborer to be paid at less than at the rate of forty (40¢) cents per hour. Office boys, messengers, sorting or pulling clerks to be paid at the rate of two dollars (\$2.00) per day of eight (8) hours. Junior Clerks to be paid at the rate of two dollars and fifty cents (\$2.50) per day of eight (8) hours. Senior Clerks to be paid not less than at the rate of three dollars and seventy-five cents (\$3.75) per day of eight (8) hours. All employees who work in excess of ten (10) hours in any one day shall be paid time and one half their normal hourly rate of pay for such excess.

Employment of any person under sixteen (16) years of age and any one under eighteen years (18) of age at occupations hazardous in nature or dangerous to health is prohibited.

ECONOMIC EFFECT OF THE CODE

The Domestic Freight Forwarding Industry represents an exception in the present depression in that it has added to its personnel and expanded steadily from year to year. Its personnel increased about fifty-five (55%) percent from 1929 to July 1933. There was a further increase in personnel of eighteen and four tenths (18.4%) percent and an increase in pay roll of about fourteen and seven tenths (14.7%) percent following compliance with the President's Reemployment Agreement. As a result of this Code, these gains will be consolidated and further improved.

Through the provisions of this Code the Industry has an opportunity to control the uneconomic practices and abuses previously indulged in by the irresponsible units to the disadvantage of the substantial concerns in the Industry. The standardizing and publishing of rates will remove the unfairness to shippers by reason of the past practice of competitors giving more favorable transportation costs through secret bargaining for lower rates.

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 Domestic Freight Forwarding 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.

From evidence adduced during this hearing and from recommendations and reports of the various Advisory Boards, it is believed that this Code as now proposed and revised is satisfactory to this Industry, labor, the public, and this Administration. It is recommended, therefore, that this Code, as herewith submitted, be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
DOMESTIC FREIGHT FORWARDING 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 Domestic Freight Forwarding Industry, and shall be the standard of fair competition for this Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

As used herein:

(a) The term "President" means the President of the United States.

(b) The terms "Act" and "Administrator" mean, respectively, the National Industrial Recovery Act and the Administrator of Title I of said Act.

(c) The term "Industry" means and includes the business of consolidating, assembling, and domestic forwarding of freight.

(d) The term "employee" includes any person engaged in the Industry in any capacity receiving compensation for his services irrespective of the nature or method of payment of such compensation.

(e) The term "employer" includes anyone by whom any such employee is compensated or employed.

(f) The term "member of the Industry" includes anyone engaged in the Industry either as an employer or on his own behalf.

(g) The term "member of the Code" includes any member of the Industry who shall expressly assent to this Code.

(h) The term "effective date" means the tenth day after this Code shall have been approved by the President of the United States.

(i) Population for the purposes of this Code shall be determined by reference to the 1930 Federal Census.

ARTICLE III—HOURS

1. No local station and/or platform clerk or laborer shall be permitted to work in excess of an average of forty-eight (48) hours per week during any six (6) week period.

2. No general office clerks shall be permitted to work in excess of forty (40) hours in any one week.

3. No employee shall be permitted to work more than twelve (12) days in any fourteen (14) day period.

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 permitted herein.

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

6. The provisions of this Article shall not apply to persons employed as solicitors, or employed in an executive or managerial capacity who earn not less than thirty dollars (\$30.00) per week, in cities of less than 250,000 population, or in cities of 250,000 population or more, not less than thirty-five dollars (\$35.00) per week.

ARTICLE IV—WAGES

1. No freight house laborer shall be paid at less than the rate of forty (40) cents per hour.

2. No office boy, messenger, sorting or pulling clerk shall be paid less than at the rate of two dollars (\$2.00) per day of eight (8) hours.

3. No Junior Clerk shall be paid less than at the rate of two dollars and fifty cents (\$2.50) per day of eight (8) hours.

4. No Senior Clerk shall be paid less than at the rate of three dollars and seventy-five cents (\$3.75) per day of eight (8) hours.

5. All employees who work more than ten (10) hours in any one (1) day shall be paid one and one half ($1\frac{1}{2}$) times their normal hourly rate of pay for all time worked in excess of ten (10) hours in any one (1) day.

6. This Article establishes a minimum rate of pay which shall apply irrespective of whether an employee is actually compensated on a time-rate, piece-work, or other basis.

7. Unless an equitable adjustment of all wages above minimum has been made since June 16, 1933, there shall be such an equitable adjustment, and to that end, within thirty (30) days from the approval of this Code, the Code Authority shall submit for the approval of the Administrator a proposal for adjustment in wages above the minimum. Upon approval by the Administrator, after such hearing as he may prescribe, such proposal shall become binding as a part of this Code; provided, however, in no event shall hourly rates of pay be reduced.

8. A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage of not less than 80% of the minimum established by this Code, if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him. The number of such employees of any employer shall not exceed 5% of the total employees of any such employer.

ARTICLE V—GENERAL LABOR PROVISIONS

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 at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the Administrator within thirty (30) days a list of such operations or occupations. 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.

2. In compliance with Section 7 (a) of the Act it is provided:

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

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

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

3. No employer shall reclassify employees or duties of occupations performed for the purpose of defeating the provisions of the Act or of this Code.

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

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

6. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

ARTICLE VI—ORGANIZATION

CODE AUTHORITY

A Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. (a) The Board of Directors of the Domestic Freight Forwarding Association, as a body, shall constitute the Code Authority, but shall not number more than ten (10) voting members to which may be added, if the Administrator so determines, an additional voting representative from the members of the Industry who are not members of the Domestic Freight Forwarding Association, the method of whose selection shall be subject to the approval of the Administrator.

(b) In addition to membership as above provided, there may be not more than three (3) members, without vote, to be appointed by the Administrator. Such members are to be appointed for terms of from six (6) months to one (1) year. The terms of such members shall be so arranged that they do not expire at the same time.

2. The Domestic Freight Forwarding Association and any other association directly or indirectly participating in the selection or activities of the Code Authority shall (a) impose no inequitable restrictions on membership, and (b) submit to the Administrator true copies of 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.

3. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may 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.

4. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the member or members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of the administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

5. 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 be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or nonfeasance.

6. No decision of the Code Authority shall be made without the favorable vote of seventy percent (70%) of the members of the Code Authority.

POWERS AND DUTIES OF THE CODE AUTHORITY

7. 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 any action taken by the Code Authority.

(a) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and to submit the same to the Administrator for his approval, together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such other information as to its activities as the Administrator may deem necessary to effect the purposes of the Act.

(b) To obtain from members of the Industry reports in respect to wages, hours of labor, conditions of employment, and other matters

pertinent thereto in order that the President may be kept informed with respect to the observance of the Code, and to make such reports available to the Administrator.

(c) To make recommendations to the Administrator for modifications of the Code.

(d) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations, and information relative to unadjusted violations.

(e) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(f) If the Administrator shall so require, to create as an agency of the Code Authority, a Joint Industrial Relations Board, consisting of an equal number of representatives of employers and employees, and an impartial chairman elected by the members of the Board, to deal with all matters in the Code relating to hours, wages, and general labor provisions. The designated employees' representatives shall be truly representative of the employees of the Industry.

(g) To cooperate with the Administrator in regulating the use of the N.R.A. Insignia solely by those employers who have agreed to, and are complying with, this Code.

(h) To establish or designate an agency on planning and fair practice which shall cooperate with the Code Authority in developing fair inter and intra trade practices, and the stabilization of employment.

(i) The Code Authority shall, as soon as possible after the effective date hereof, appoint three (3) individuals who shall, jointly with three (3) individuals appointed by any other Transportation Code Authority, hear and determine, subject to the approval of the Administrator, any question which may be referred to them by either the Code Authority of this Code or any other Transportation Code Authority for adjudication. In case such joint committee fails or refuses to decide within ten (10) days any question submitted, the matter shall be referred to the Administrator for final disposition.

8. In addition to the information required to be submitted to the Code Authority as set forth in this Article 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.

ARTICLE VII—RATES AND TARIFFS

1. The Code Authority shall appoint committees on rates, tariffs, charges, and terminal rules and regulations for each freight service movement. Each committee shall have full authority to investigate into and make recommendations to the Code Authority for the par-

ticular freight service movement. Each of such committees shall consist of representatives of each member of the Industry who conducts business in all railroad freight association territories of the United States and of representatives of each other member of the Industry who operates in the particular freight service movement under review.

If the Code Authority shall find that such rates and tariffs are fair and reasonable and in the interest of fair competition and are not more than the rates and tariffs of common carriers, prescribed by or on file with the Interstate Commerce Commission for the same or similar services, then such approved rates and tariffs shall become binding on all members of the Industry on their effective date. Due opportunity for a hearing, however, shall be afforded by the Code Authority to dissenting members of the Code, who, prior to the effective date of the recommended rate, tariff or charge, file protest thereon with the Code Authority.

All decisions and findings of the Code Authority in the matter of rates, tariffs, charges, and terminal rules and regulations relating thereto, shall be subject to the right of the Administrator on his own motion or on complaint filed, to review, suspend or cancel any such decision or finding.

ARTICLE VIII—REGISTRATION

Each member of the Industry shall within thirty (30) days after the approval of this Code register with the Code Authority a list of his officers, places of business, and freight service movements, and submit evidence of compliance with this Code and such other conditions as shall hereafter be approved by the President after such notice and hearing as he shall prescribe. After the said expiration of the said thirty (30) days, the conduct of such domestic freight forwarding business without such registration with the Code Authority, is declared an unfair competitive practice and in violation of this Code.

ARTICLE IX—UNFAIR TRADE PRACTICES

1. For all purposes of the Code the acts described in this Article shall constitute unfair practices. Any member of the Industry who shall directly, or indirectly, through any officer, employee, agent, or representative, knowingly use, employ, or permit to be employed, any of such unfair practices shall be guilty of a violation of the Code.

(a) Assessing or collecting less than the rates or charges approved under the terms of Article VII of this Code; or granting or allowing any rebate or concession and/or using any subterfuge to defeat such approved tariffs.

(b) Contracting, either in writing or orally, with any customer for the transporting of merchandise, or giving service in relation to the same, for any given period of time.

(c) Willful misrepresentation or defamation of another member's services, methods, personal or financial standing.

(d) Giving, permitting to be given, or offering to give, anything of value for the purpose of influencing or rewarding the action of any



employee or agent of another in relation to the business of the employer of such employee or the principal of such agent without the knowledge of such employer or principal.

(e) Maliciously attempting to induce the breach of an existing contract between a competitor and his employees; or willfully interfering with or obstructing performance of such contractual duties or services.

2. Within ten (10) days from the effective date hereof, the Code Authority shall prepare and submit to the Administrator, a list of specific unfair competitive practices within the Industry. Upon approval thereof by the President after such notice and hearing thereon as the Administrator may specify, such unfair competitive practices so listed shall become parts of this Code.

ARTICLE X—GENERAL

1. 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.

2. 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 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.

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

4. This Code shall continue in effect for the period provided in the Act, unless sooner terminated in accordance with the law in such case made and provided. When so terminated all obligations and liabilities under the Code shall cease.

5. This Code shall become effective upon the tenth day after this Code shall have been approved by the President of the United States.

Approved Code No. 162.
Registry No. 1411-25.