



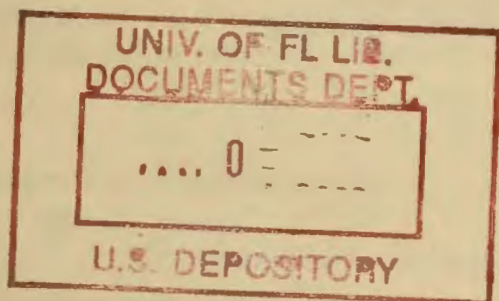
NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION

FOR THE

CLAY AND SHALE ROOFING
TILE INDUSTRY

AS APPROVED ON DECEMBER 7, 1934



UNITED STATES
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Approved Code No. 389—Amendment No. 2

AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

CLAY AND SHALE ROOFING TILE INDUSTRY

As Approved on December 7, 1934

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE CLAY
AND SHALE ROOFING TILE 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 an amendment to a Code of Fair Competition for the Clay and Shale Roofing Tile Industry, and hearings having been duly held thereon and the annexed report on said amendment containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive Orders of the President, including Executive Order No. 6859, and otherwise, does hereby incorporate by reference said annexed report and does find that said amendment and the code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policies and purposes of said title of said act; and does hereby order that said amendment be and it is hereby approved, and that the previous approval of said code is hereby modified to include an approval of said code in its entirety as amended.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer*.

Approval recommended:

W. P. ELLIS,
Acting Division Administrator.

WASHINGTON, D. C.,
December 7, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on an amendment to the Code of Fair Competition for the Clay and Shale Roofing Tile Industry, a hearing on which amendment was conducted in Washington on the first of August, 1934, in accordance with the provisions of the National Industrial Recovery Act.

The modifications of Section 1 of Article III, Section 2 of Article IV, Sections 1 and 4 of Article V, Sections 7 and 10 (c) of Article VI, and Rules 2 and 16 of Article VII were requested by the National Recovery Administration. These changes clarify the language and make the Code conform more nearly to present policy.

The modifications of Sections 5 and 11 of Article VI were requested by the Industry. These changes eliminate New Mexico from the Pacific Coast Region and clarify the powers and duties of the Regional Control Committee for this region.

The addition of Rules 17, 18 and 19 to Article VII was requested by the Industry. This addition provides certain fair trade practice rules for the Pacific Coast Region which are thought to be necessary for the proper regulation of the Industry within that Region.

The addition of the new Sub-Article VII-A was requested by the Industry. This Sub-Article provides for the open filing of prices in the Pacific Coast Region.

FINDINGS

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

We find that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the 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 of labor and management under adequate governmental sanction 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) The Code as amended complies in all respects with the pertinent provision 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.

(c) The Code empowers the Code Authority to present the aforesaid amendment on behalf of the industry as a whole.

(d) The amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendment and the Code as amended are 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 amendment.

For these reasons, therefore, we have approved this amendment.

For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

DECEMBER 7, 1934.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE CLAY AND SHALE ROOFING TILE INDUSTRY

Article III, Section 1 is amended by deleting the word "employed" wherever it appears in said section and by inserting in lieu thereof the words "permitted to work".

Article III, Section 1 (b) is amended by adding the following sentence: "The term 'outside salesman' shall mean and include any employee whose principal duties shall consist of soliciting orders outside of sales office, factories, or headquarters."

Article IV, Section 2 is amended by inserting the word "at" between the words "than the" where they first appear in said section.

Article V, Section 1 is amended by deleting the word "or" where it first appears in said section and by substituting therefor the word "nor".

Article V, Section 4 is amended by deleting said section and inserting in lieu thereof a new Section 4 to read as follows: "No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge so as to defeat the purposes or provisions of the Act or of this Code."

Article VI, Section 5 is amended by deleting said section and inserting in lieu thereof a new Section 5 to read as follows: "To further effectuate the policies of the Act, a Pacific Coast Region, comprising the States of California, Washington, Oregon, Idaho, Nevada and Arizona is hereby established. A Regional Control Committee, consisting of three (3) members, shall be elected by a fair method approved by the National Industrial Recovery Board, by the members of the Industry in the above-named region; provided that no member of the Industry shall be represented by more than one (1) member on the Regional Control Committee. The Code Authority may delegate to such Regional Control Committee such powers and duties as may be necessary for the administration of this Code in this region, but such delegation shall not relieve the Code Authority of its duties or its responsibilities under the Code. The National Industrial Recovery Board may appoint from one (1) to three (3) members to serve without vote on such Regional Control Committee. Members so appointed shall be given notice of, and may sit at all meetings of the Regional Control Committee."

Article VI, Section 7 is amended by deleting said section and substituting in lieu thereof a new Section 7 to read as follows: "In order that the Code Authority and the Regional Control Committee hereinabove provided for shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the National Industrial Recovery Board may prescribe such hearings as it may deem proper; and thereafter if the Board shall

find that the Code Authority and/or the Regional Control Committee is not truly representative or does not in other respects comply with the provisions of the Act, it may require an appropriate modification of the Code Authority and/or the Regional Control Committee."

Article VI, Section 10, Subsection (c) is amended by deleting said Subsection (c) and by substituting in lieu thereof a new Subsection (c) to read as follows: "To obtain from members of the Industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the Industry subject to this Code shall furnish such statistical information as the National Industrial Recovery Board may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and State Agencies as that Board may designate; provided that nothing in this Code shall relieve any member of the Industry of any existing obligations to furnish reports to any Government agency. No individual report shall be disclosed to any other member of the Industry or to any other party except to such other Governmental agencies as may be directed by the National Industrial Recovery Board."

Article VI, Section 11 is amended by deleting said Section 11 and by substituting in lieu thereof a new Section 11 and Subsections 11 (a), 11 (b) and 11 (c) to read as follows: "The provisions of this section shall apply to and affect members of the Industry only when such members sell or offer to sell the products of the Industry in or into the Pacific Coast region.

(a) Subject to the approval of the National Industrial Recovery Board, the Regional Control Committee may set up and define districts within the region and may establish District Committees, chosen by a fair method of selection approved by the National Industrial Recovery Board. The Regional Control Committee may use such District Committees or other agencies as it deems proper for carrying out its administration of the Code provided for herein; provided that nothing shall relieve the Regional Control Committee of its duties and responsibilities under the Code.

(b) The Regional Control Committee may study conditions in the Industry and submit recommendations for a marketing plan which, upon approval of the National Industrial Recovery Board, shall become binding upon all members of the Industry as to all sales made in or into such region.

(c) The Regional Control Committee may recommend, from time to time, classifications and standards of quality for the various types of products manufactured in the region and, upon approval of the National Industrial Recovery Board, after such notice and hearing as it may prescribe, such classification and standards shall be adhered to by members of the Industry when manufacturing products for sale in or into said region. No member of the Industry shall sell, or offer for sale as standard products, any products for which classifications and/or standards have been established except in accordance with such classifications and/or standards, either as a subterfuge to effect a lower price or for any other reason."

Article VII, Rule 2 is amended by deleting said Rule and substituting in lieu thereof the following Rule 2: "No member of the

Industry shall defame a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or by falsely disparaging the grade or quality of his goods."

Article VII, Rule 16 is amended by deleting the word "find" and substituting therefor the word "finding".

Article VII is amended by adding thereto Rules 17, 18 and 19 to read as follows:

"RULE 17. No member of the Industry selling or offering to sell in the Pacific Coast Region shall knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any material particular.

"RULE 18. No member of the Industry selling or offering to sell in the Pacific Coast Region shall make lump-sum bids on clay and shale roofing tile and/or special shapes for the purpose of concealing the unit prices on the items contained therein, or guarantee that any specific quantities will do the job which are known to be insufficient for the purpose.

"RULE 19. No member of the Industry selling or offering to sell in the Pacific Coast Region shall make any bids on clay and shale roofing tile in a lump sum or otherwise when its acceptance is contingent upon the acceptance of a bid on any other clay products or on any other building material or commodity."

Article VII is amended by adding thereto Sub-Article VII-A to read as follows: "The provisions of this Sub-Article VII-A shall apply to and affect members of the Industry only when such members sell or offer to sell the products of the Industry in or into the Pacific Coast Region."

SECTION 1. Each member of the Industry shall file with a confidential and disinterested agent of the Regional Control Committee or, if none, then with such an agent designated by the National Industrial Recovery Board, identified list of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale for the Pacific Coast Region (hereinafter in this Article referred to as "price terms"), which lists shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the Industry as are sold or offered for sale by said member, and for such non-standard products of said members as shall be designated by the Regional Control Committee. Said price terms shall in the first instance be filed within ten days after the effective date of this provision. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means notify said member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the Industry selling or offering to sell within the Pacific Coast Region and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the Regional Control Committee in the preparation and distribution thereof and be available for inspection by any of their customers at the office of such agent. Said lists or

revisions or any part thereof shall not be made available to any person until released to all such members of the Industry and their customers, as aforesaid; provided that prices filed in the first instance shall not be released until the expiration of the aforesaid ten day period after the effective date of this provision. The Regional Control Committee shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the National Industrial Recovery Board. Upon request, the Regional Control Committee shall furnish to the National Industrial Recovery Board or any duly designated agent of the National Industrial Recovery Board copies of any such lists or revisions of price terms.

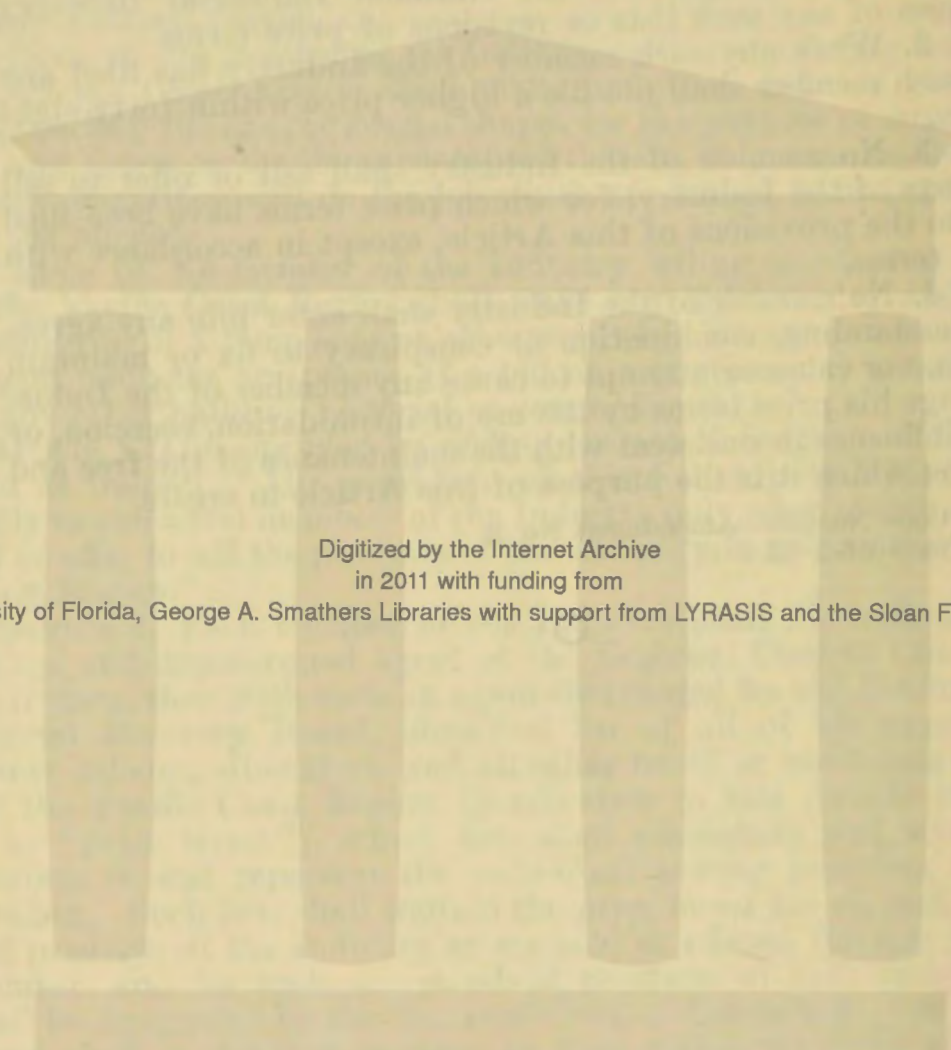
SECTION 2. When any such member of the Industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

SECTION 3. No member of the Industry shall sell or offer to sell any products of the Industry, for which price terms have been filed pursuant to the provisions of this Article, except in accordance with such price terms.

SECTION 4. No member of the Industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any member of the Industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Article to create."

Approved Code No. 389—Amendment No. 2.
Registry No. 1036-1-02.





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