

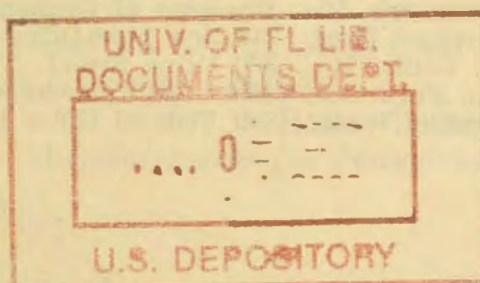
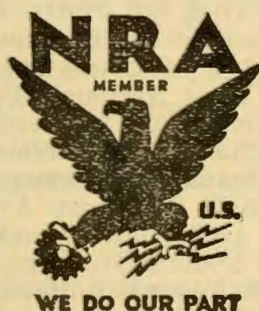
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

MANGANESE INDUSTRY

AS APPROVED ON MAY 11, 1934



UNITED STATES
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Approved Code No. 425

CODE OF FAIR COMPETITION

FOR THE

MANGANESE INDUSTRY

As Approved on May 11, 1934

ORDER

CODE OF FAIR COMPETITION FOR THE MANGANESE INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Manganese Industry, and hearings having been duly held thereon and the annexed report on said Code containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

K. M. SIMPSON,
Division Administrator.

WASHINGTON, D.C.,
May 11, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: The original Code of Fair Competition for the Manganese Industry was submitted on August 24th, 1933, by the American Manganese Producers Association, an unincorporated membership society organized in 1927, representing 90% of the known members of the Industry in volume of production. Several revisions of the Code were made prior to the public hearing held on January 26, 1934. The Code was revised during the recess of this hearing and submitted in its final form for approval. Every person who requested an appearance was properly heard in accordance with statutory and regulatory requirements.

The Manganese Industry includes the development, mining, milling, concentrating and beneficiating of domestic ores. About 95% of the manganese production is consumed in ferrous metallurgy and the remainder in the dry battery and chemical industries.

Before the World War the domestic production of manganese ore was very small compared with the domestic consumption. The average annual output from 1900 to 1914, inclusive, was about 5,000 long tons; imports during the same period averaged about 223,000 long tons. At the time of the World War the requirement for manganese in the United States expanded, and some of the transport of imported ore was seriously menaced. Domestic production grew under the impetus of exceptionally high prices and urgent governmental requests for increased output. In 1918 it reached a peak of nearly 306,000 tons, which was about 38% of the total manganese-ore requirements in the United States during that year. This state of affairs terminated abruptly with the signing of the armistice. Prices declined immediately, and many war-time contracts were cancelled; in consequence much domestic production became unprofitable, and a number of producers who had developed properties at a considerable cost, expecting the war to last much longer, faced heavy losses.

Under postwar conditions domestic production dwindled rapidly and by 1922 amounted to only 13,000 tons. Meanwhile, a demand for tariff protection had developed. Proponents of the tariff claimed that a domestic supply of such an important raw material as manganese ore was essential to the country in war and that the experience during the World War indicated that a substantial manganese-ore industry could be developed under proper tariff protection.

The tariff act of 1922, which became effective during the latter part of that year, established a duty of one cent per pound of contained manganese on imported ores containing in excess of 30% of manganese. The effect of this act was immediately reflected in the domestic price of manganese ore. Domestic production of man-

ganese ore rose to a postwar peak of 98,000 tons in 1925, which was equivalent to about 14% of the domestic requirements in that year. Nearly half of the 1925 output was derived from the rhodochrosite ores of the Butte district, and about a fifth of the total represented the production of battery ores from the Phillipsburg (Mont.) district. Imports increased from 425,000 tons in 1922 to 615,000 tons in 1925.

The increase in domestic production from 1922 to 1925 was accompanied by a steady increase in price, but by 1925 the production of foreign ores had increased to such an extent that there was severe competition for the world's markets and the price of manganese began a steady decline.

While the tariff was being considered in 1929, Congress was requested by the manganese-ore producers to increase the tariff on manganese ore and to extend the duty to ores containing less than 30% of manganese. It was claimed that the domestic industry had progressed under the protection granted it in 1922 and that further protection was needed to put the processes being developed to treat low-grade ores on a commercial basis. Opponents of the tariff contended that the record of production under seven years of protection proved the contention made by them in 1922—that the known reserves were insufficient to provide an adequate supply of manganese, even with tariff protection. They also contended that the imposition of high duties to sustain production from low-grade ore bodies was uneconomical and placed an unnecessary burden on the steel industry. The price of manganese continued to decline steadily during 1929.

The Manganese Industry enjoys a unique position in that its product is an essential constituent in the manufacture of steel. A substitute may be developed ultimately, but under existing prices and metallurgical technique there is none. The ratio of manganese consumption to steel production is about 14 pounds to one ton.

For use in ferrous metallurgy, manganese is converted into various alloys; ferromanganese, containing 78% to 82% manganese; spiegel-eisen, containing 18% to 22% manganese, silicomanganese, containing 55% to 70% manganese; and silicospiegel, containing 18% to 22% manganese. About 90% of the manganese consumed is in the form of ferromanganese.

The Industry is confronted with the problem of reviving the production of low grade manganese ores and the attempt to develop high grade ores. It is generally conceded that the reserves are inadequate to develop a representative manganese industry in this country. Efforts have been made to beneficiate low grade ores. The costs of production, plus subsequent treatment, are too high to meet competition of foreign ores even with an increase in the present tariffs.

Investigations indicate that the domestic manganese industry is incapable of producing a substantial amount of ferro-manganese grade ores at world prices.

The tariff acts of 1922 and 1929 have done but little to stimulate a domestic manganese industry.

Because of the stagnant condition of the industry, an industry in the strict interpretation of the act does not exist. Because of the

fact that manganese does occupy a pivotal position as an emergency war material, and also because of the fact that the industry did, under stress of war demands and high prices, produce up to 38% of our requirements, the sponsor's application for a Code of Fair Competition for the Manganese Industry has been granted.

Article I. Purposes. States the purpose of the Code.

Article II. Definitions. Accurately defines specific terms applicable to the Manganese Industry as used in this Code.

Article III. Hours. The maximum hours are limited to forty hours per week for employees engaged in the processing of products and labor incident thereto. Watchmen shall be permitted to work either 84 hours in a two week period or 56 hours in any one week according to the nature of their responsibilities, with one day rest in every seven. Office, salaried and other employees not covered above who receive less than \$35.00 per week shall not be permitted to work in excess of an average of forty hours per week during any one month, nor more than 48 hours in any one week. Employees engaged in an executive, managerial or supervisory capacity who receive not less than \$35.00 per week are not subject to any hourly limitations. The maximum hours shall not apply in cases of emergencies or repair where safety of life or health or protection of property necessitates longer hours.

Article IV. Wages. The minimum wages for employees engaged in the processing of products or any labor incident thereto is at the rate of 40¢ per hour above ground and 47½¢ per hour underground in the Northwestern Section, and 40¢ per hour above ground and 45¢ per hour underground in the Northern Section, and 30¢ per hour above ground and 35¢ per hour underground in the Southern Section except as otherwise provided. The minimum rates shall be construed as the hiring rates applying to common or totally unskilled labor; and all other classes of labor, including piece workers, shall be compensated at rates above these minimums. The established minimum rate of pay for the work performed in any pay period shall apply irrespective of whether an employee is actually compensated on a time rate, piece rate, or other basis. Provision is also made for the employing of handicapped persons. No person employed in clerical or office work shall be paid less than at the rate of \$15.00 per week, except that office boys and girls and messengers may be paid at a rate not less than 80% of the minimum paid office employees.

Article V. General Labor Provisions. Provides that no employer shall employ any person under 16 years of age and that no person under 18 years shall be employed at operations or occupations which are hazardous in nature or dangerous to health. This Article also sets forth the mandatory provision respecting the rights of employees to organize and bargain collectively. This Article also provides for matters having to do with reclassification of employees, standards for safety and health, the observance of State laws and the posting of complete copies of this Code so that they are accessible to employees.

Article VI. Administration. Establishes a Code Authority consisting of nine members, five of whom shall be the executive committee of the American Manganese Producers Association. Four other members of the Industry (not members of the executive com-

mittee) truly representative of the various interests of the industry to be elected by a fair method of selection, approved by the Administrator. In addition to the organization of the Code Authority, the powers and duties thereof are outlined in this Article.

Article VII. Marketing and Trade Practice Rules. Sets forth fair trade practices for the industry, as also setting forth open price schedules which are effective immediately after filing.

Article VIII. Export Trade. No provision of this Code relating to terms of selling or prices, shipping or marketing, shall apply to export trade or sales or shipments for export trade.

Article IX. Modification. This Code and all its provisions thereof are expressly made subject to the right of the President, in accordance with Sub-section (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under said Act. Provision is made that an amendment may be proposed by any interested party. Provision is also made so that the Code Authority may make recommendations for modifications of this Code to the Administrator which shall become effective as a part of this Code upon approval by the Administrator after such notice and hearing as he may prescribe.

Article X. 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.

Article XI. Effective Date. This Code becomes effective beginning ten days after its approval by the Administrator.

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

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

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

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Sub-section (a) of Section 3, Sub-section (a) of Section 7, and Sub-section (b) of Section 10 thereof, and that the applicant association is an industrial association truly representative of the aforesaid industry, and that said association imposes no inequitable restrictions on admission to membership therein.

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

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, therefore, this Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MAY 11, 1934.

CODE OF FAIR COMPETITION FOR THE MANGANESE INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Manganese Industry and its provisions are the standards of fair competition for such Industry and are binding upon every member thereof.

ARTICLE II—DEFINITIONS

Wherever used in this Code or any supplement appertaining thereto, the terms enumerated in this Article shall have the meanings herein defined unless the context shall otherwise clearly indicate.

SECTION 1. The term "President" means the President of the United States of America.

SECTION 2. The term "Act" as used herein means the National Industrial Recovery Act approved by the President June 16, 1933.

SECTION 3. The term "Administrator" as used herein means the Administrator for Industrial Recovery.

SECTION 4. The term "Member of the Industry" as used herein includes all those engaged in the Industry either as an employer or on his or its own behalf.

SECTION 5. The term "Employee" as used herein includes anyone engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation, except a member of the Industry.

SECTION 6. The term "Employer" as used herein means anyone by whom such employee is employed or compensated.

SECTION 7. The term "Industry" as used herein includes the mining in the United States, including territories, of Manganese Ore and/or the concentrating of and/or beneficiating of ores in which manganese constitutes the principal recoverable constituent of economic value, and the original sale of such products by the one producing and/or manufacturing the same either directly or indirectly through subsidiary and/or affiliated companies.

SECTION 8. The term "Association" as used herein includes the American Manganese Producers Association, an unincorporated membership society organized in Washington, D.C. on August 2, 1927, and having its principal office at the National Press Building, Washington, D.C., and such other Trade Associations as may hereafter participate in the activities under this Code or in the selection of the Code Authority.

SECTION 9. The term "Executive Committee" as used herein shall mean the Executive Committee of the American Manganese Producers Association.

SECTION 10. The term "Northwestern Section" as used herein shall include California, Colorado, Idaho, Montana, Nevada, Oregon, North Dakota, South Dakota, Utah, Washington and Wyoming.

SECTION 11. The term "Southern Section" as used herein shall include Alabama, Arizona, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia. Territories shall be considered to be in the Southern Section.

SECTION 12. The term "Northern Section" as used herein shall include all other states in the United States on the North American Continent having Manganese-bearing deposits in which manganese represents the principal recoverable constituent of economic value.

SECTION 13. Population for the purposes of this Code shall be determined by reference to the Federal Census of 1930.

ARTICLE III—HOURS

SECTION 1. *Maximum Hours.*—On and after the effective date of this Code, no employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period, except as herein otherwise provided.

SECTION 2. *Hours for Clerical and Office Employees.*—On and after the effective date of this Code, no person employed in clerical or office work shall be permitted to work more than an average of forty (40) hours per week during any one month period nor more than forty-eight (48) hours in any one week.

SECTION 3. *Exceptions As To Hours.*—Limitation of hours as provided for in this Article shall not apply to traveling salesmen, technicians, (highly skilled factory workers are not to be classed as technicians), nor to (a) persons in a managerial, executive, or supervisory capacity who receive not less than \$35.00 per week, nor to (b) employees engaged in emergency maintenance or emergency repair work involving breakdown or protection of life or property; provided that such emergency overtime work in excess of forty (40) hours in any one week, or in excess of eight (8) hours in any one day, shall be paid for at the rate of time and one half.

SECTION 4. Limitation as to hours of a twenty-four (24) hour day period shall not apply to very special cases where restrictions of hours of labor of highly skilled workers in continuous processes would unavoidably reduce production, provided, however, that such employees in any case shall not work more than forty-eight (48) hours in any one week and that such emergency overtime in excess of the normal eight (8) hours in any one day or forty (40) hours in any one week shall be paid for at the rate of time and one half.

SECTION 5. There shall be a tolerance of 10% additional hours over the forty (40) hours per week or eight (8) hours in any twenty-four (24) hour day for (a) employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, (b) firemen and engineers, and (c) shippers and delivery employees, provided, however, that any such work by any such employee in excess of forty (40) hours per week or eight (8) hours per day shall be compensated for at the rate of time and one half.

SECTION 6. *Watchmen*.—Watchmen, depending on the nature of their responsibilities, may work not more than eighty-four (84) hours during any two (2) week period or not more than fifty-six (56) hours in any one week.

SECTION 7. *Employment by Several Employers*.—No employer shall knowingly permit any employee to work for any time which, when totalled with that already performed with another employer or employers in this Industry, exceeds the maximum permitted herein.

SECTION 8. *Standard Week*.—No employee shall be permitted to work more than six days in any seven day period.

ARTICLE IV—WAGES

SECTION 1. *Minimum Wages*.—On and after the effective date of this Code no employee shall be paid in any pay period less than at the rate of forty (40) cents per hour "above ground" and forty-seven and one half (47½) cents per hour "underground" in the North Western Section, and forty (40) cents per hour "above ground" and forty-five (45) cents per hour "underground" in the Northern Section and thirty (30) cents per hour "above ground" and thirty-five (35) cents per hour "underground" in the Southern Section except as otherwise herein provided. These minimum rates hereinabove shall be construed as the hiring rates applying to common or totally unskilled labor. Other classes of labor, including piece workers, shall be compensated at rates above these minimums. The minimum rates in effect on July 1st, 1933, which were above these minimums specified, shall in no case be reduced.

SECTION 2. *Piece Work Compensation*.—The established minimum rate of pay for any pay period shall apply irrespective of whether an employee is actually compensated on a time rate, piece rate, or other basis.

SECTION 3. *Wages above Minimum*.—Equitable adjustments in all pay schedules of employees shall be made within thirty (30) days after the effective date of this Code by any employer who has not heretofore made such adjustments under the National Industrial Recovery Act. Within sixty (60) days after the effective date of this Code each member of this Industry shall make a report of such adjustment whether made prior to or subsequent to date of approval of this Code to the Code Authority.

SECTION 4. *Clerical and Office Employees*.—No accounting, clerical, office, sales or service employee in any office shall be paid less than at the rate of fifteen (\$15.00) dollars per week, provided, however, that office boys and girls and messengers may be paid at a rate not less than 80% of such minimum, and provided further, that the number of such boys and girls and messengers so paid shall constitute not more than 5% of the total number of such employees in any one office of any one employer, but in any case such employer shall be entitled to one such employee. No employee named in Section 4, Article IV, in regular employment shall have their weekly wage reduced on account of any reduction of weekly hours of employment made because of the requirements of Section 1 of Article III.

SECTION 5. *Female Employees.*—Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees, and when they displace male employees they shall receive the same rate of earnings as the men they displace.

SECTION 6. *Handicapped Persons.*—A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below 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; such authority shall be guided by the instructions of the United States Department of Labor in issuing such certificates; each employer shall file with the Code Authority a list of all such persons employed by him.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child Labor.*—No person under 16 years of age shall be employed in the Industry. No person under 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 days from the approval of this Code 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 signed by the Authority in such state empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. *Provisions From The Act.*—In compliance with Section 7 (a) of the Act it is provided:

(a) 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.

(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.

SECTION 3. *Reclassification of Employees.*—No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

SECTION 4. *Standards for Safety and Health.*—Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health for the Industry shall be submitted to the Administrator within six months after the date of approval of the Code.

SECTION 5. *State Laws*.—No provision in this Code shall supersede any State or Federal law which imposes on employers more stringent requirements 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.

SECTION 6. *Posting*.—All employers shall post and keep posted complete copies of this Code and any amendments thereto in conspicuous places accessible to employees.

SECTION 7. *Company Town and Stores*.—Employees other than maintenance or supervisory men, or those necessary to protect property, shall not be required as a condition of employment to live in homes rented from the employer. No employee shall be required as a condition of employment to trade at a store owned or specified by an employer.

SECTION 8. *Payment of Wages*.—An employer shall make payment of all wages in lawful currency, or by negotiable check therefor, payable on demand. These wages shall be exempt from any payments for pensions, insurance or sick benefits other than those voluntarily paid by the wage earners or required by the State laws. Pay periods for wages shall be at least semi-monthly and for salaries at the end of every month. Employers shall agree not to withhold wages.

SECTION 9. *Dismissal for Complaint*.—No employee shall be dismissed by reason of making a complaint or giving evidence with respect to a violation of a Code.

ARTICLE VI—ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITY

SECTION 1. *Organization and Constitution*.—A Code Authority to administer this Code is hereby established and shall consist of nine voting members, five of whom shall be members of the Executive Committee of the American Manganese Producers Association and four other members of the Industry (not members of the Executive Committee) truly representative of the various interests of the Industry elected by a fair method of selection approved by the Administrator. This Code Authority shall make investigations as to the functioning and observance of any provisions of this Code at its own instance or upon complaint of any person affected and shall report the same to the Administrator.

SECTION 2. In addition to the above membership of the Code Authority, there may be one and not more than three members without vote, and without compensation by the Industry, appointed by the Administrator to serve for six month and twelve month terms from the date of appointment as he may specify.

SECTION 3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall, (1) impose no inequitable restrictions on membership and, (2) submit to the Administrator true copies of its Articles of Association, By-Laws, Rules and 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.

SECTION 4. 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 prescribe 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.

SECTION 5. 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 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 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.

SECTION 6. 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, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own willful misfeasance or nonfeasance.

SECTION 7. *Powers and Duties.*—Subject to such rules and regulations as may be issued by the Administrator, the Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove any action taken by the Code Authority. If the Administrator shall determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

(a) To insure the execution of the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act, subject to rules and regulations prescribed by the Administrator. To receive complaints of violations of this Code or disputes arising thereunder, make investigations thereof, provide hearings thereon, adjust such complaints and make such decisions as are necessary thereon and to interpret the provisions of the Code and to bring to the attention of the Administrator for prosecution, recommendation, and such other necessary action relative to unadjusted violations or disputes.

(b) To adopt By-laws, Rules and Regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the Industry, through a confidential agency, such statistical information and reports as are required

for the administration of the Code and to provide for submission by members of such statistical information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members to such administrative and/or governmental agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the Industry of any existing obligations to furnish reports to any governmental agency. No individual reports shall be disclosed to any other member of the Industry of any other party except to such governmental agencies as may be directed by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, 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.

(e) To make recommendations to the Administrator for the coordination of the administration of this Code with such other Codes, if any, as may be related to the Industry.

(f) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the Industry who have assented to, and are complying with, this Code.

(g) To recommend to the Administrator further fair trade practice provisions to govern members of the Industry in their relations with each other or with other industries, and concerning control of production through voluntary agreement, and to recommend to the Administrator measures for industrial planning, including stabilization of employment and the conservation of natural mineral resources.

(h) To make studies with a view to the establishing of classifications and standards of quality for products of the Industry in cooperation with some Federal agency, preferably the Bureau of Standards of the United States Department of Commerce.

ARTICLE VII—MARKETING AND TRADE PRACTICE RULES

SECTION 1. *Trade Practice Rules.*—The following trade practices are declared to constitute unfair methods of competition between members of the Industry, and no member of the Industry shall use any of them either directly or indirectly through any officer, agent or employee; the violation of any one or more of these or any further trade practices which hereafter may be established upon recommendation by the Code Authority and approval by the Administrator after such notice and hearing as he may prescribe, shall be a violation of this Code.

SECTION 2 (a) *Price Schedules.*—Each member of the Industry within ten days after the effective date of this Code shall file with the Code Authority the price or prices and terms and conditions of sale at which he is offering his products for sale; this original filing to become effective on the date of such filing. The Code Authority forthwith on such original filing shall notify all members of the Industry of the contents thereof and shall make the same available to

the public. Any member of the Industry desiring to change the price or prices of his products and terms and conditions of sale shall notify the Code Authority of such intention by filing his revised schedule which shall become effective immediately thereafter and shall be distributed to the Members of the Industry and be made available to the general public.

(b) Such price schedules shall include terms of payment, length of bookings, or contracts and f.o.b. point and such other provisions as may be necessary to fully inform the trade of all conditions of sale.

(c) The failing to file such price schedules or any change therein.

(d) The selling below such open or publicly announced price schedules or the deviating from such terms and conditions of sale as are set forth in Section 2, Subsection (a) of this Article.

SECTION 3. The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

SECTION 4. The prepayment of freight charges with the intent or with the effect of granting discriminatory credit allowance.

SECTION 5. The allowance in any form of adjustment, discount, credits, or refunds, for the purpose or with the effect of altering retroactively the price quoted, in such manner as to create price discrimination.

SECTION 6. The predating or postdating of any invoice or sales contract except to conform to a bona-fide agreement entered into on the predate.

SECTION 7. The false marking of any product of the Industry or the intentional misrepresentation of analysis of content or of any size or weight or the making of, causing or permitting to be made or publishing of any false, misleading, or deceptive statement by way of advertisement, invoice, or otherwise concerning the size, quality, quantity, character, nature, preparation, or origin of any Industry product.

SECTION 8. The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or other false representation or false disparagement of the grade or quality of their goods.

SECTION 9. The imitation or copying of written or oral form of trade marks, trade names, or slogans owned and used by a competitor.

SECTION 10. Inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply, or interfering with or obstructing the performance of such contractual duties or services.

SECTION 11. No member of the Industry shall ship goods on consignment except under circumstances to be defined by the Code Authority with the approval of the Administrator (where peculiar circumstances of the Industry require the practice).

SECTION 12. No member of the Industry shall require that the purchase or lease of any goods be a prerequisite to the purchase or lease of any other goods.

SECTION 13. No member of the Industry shall give, permit to be given, or directly offer to give anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. This commercial bribery provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

SECTION 14. Giving of gratuities or special commissions to buyers or rewards or payments to the employees of buyers or the lavish entertainment thereof.

SECTION 15. No member of the Industry shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers. Failure to prosecute in due course shall be evidence that any such threat is unwarranted or unjustified.

SECTION 16. Aiding or abetting any person, firm, association, or corporation in any unfair practice herein set out.

SECTION 17. Procuring, otherwise than with the consent of any member of the Industry, any information concerning the business of such member which is properly regarded by it as a trade secret as held confidential within its organization, other than information relating to a violation of any provision of this Code.

SECTION. 18. Consciously shipping a lower grade of material than is permitted in the contract or order.

ARTICLE VIII—EXPORT TRADE

SECTION 1. No provision of this Code relating to prices or terms of selling, shipping, or marketing shall apply to export trade or sales or shipments for export trade.

ARTICLE IX—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of Sub-Section (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under said Act.

SECTION 2. Such of the provisions of this Code as are not required to be included therein by the Act may, with the approval of the Administrator, be modified or eliminated in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience; all the provisions of this Code, unless so modified or eliminated, shall remain in effect during the life of the Act.

SECTION 3. An amendment may be proposed by any interested party, either to the Code Authority or directly by or to the Administrator. All proposed amendments shall be referred to the Code Authority, who shall give members of the Industry an opportunity to be heard thereon, and thereafter the Code Authority may make

such recommendations thereon as is deemed proper, provided, however, that when approved by the Administrator as necessary to effectuate the policies of the Act, after such notice and hearing as he may prescribe, any proposed amendment shall thereupon become effective as a part of this Code.

SECTION 4. The Code Authority may make recommendations for modifications of this Code to the Administrator which shall become effective as a part of this Code upon approval by the Administrator after such notice and hearing as he may prescribe.

ARTICLE X—MONOPOLIES

No provision of this Code shall be so applied as to promote monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XI—EFFECTIVE DATE

This Code shall become effective beginning ten days after its approval by the Administrator.

Approved Code No. 425.

Registry No. 1218-06.





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