



NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION
FOR THE
ASPHALTIC LIMESTONE
INDUSTRY

AS SUBMITTED ON AUGUST 22, 1933

REGISTRY No. 1026—08

**The Code for the Asphaltic Limestone Industry
in its present form merely reflects the proposal of the above-mentioned
industry, and none of the provisions contained therein are
to be regarded as having received the approval of
the National Recovery Administration
as applying to this industry**



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CODE OF FAIR COMPETITION FOR THE ASPHALTIC LIMESTONE INDUSTRY

ARTICLE I—PURPOSE

SECTION 1. In order to cooperate with the President of the United States and to effectuate the policy of Congress as expressed in Title I of the National Recovery Act, the Asphaltic Limestone Industry, as represented by the National Asphaltic Limestone Association, has adopted this code as a means of increasing employment, the establishment of fair and reasonable wages, the reduction of hours of labor, the improvement of working conditions, and the prevention of overproduction and of destructive and unfair competitive methods, to the end that this industry may be stabilized and placed on a sound basis and thereby be enabled to take its proper part in advancing the public welfare.

SEC. 2. The members of the National Asphaltic Limestone Association represent a substantial percentage of the producing capacity of the asphaltic limestone industry. It will not be the purpose of this code to further the establishment of a monopoly nor to eliminate, oppress, or discriminate against small industries.

ARTICLE II—DEFINITIONS

SECTION 1. As used in this code, the term "producer" is considered to be any person, firm, corporation, or association engaged in the quarrying, mining, and/or crushing, and/or grinding, and/or processing of asphaltic limestone or bituminous limestone for any and all purposes.

SEC. 2. The term "effective date", as used herein, is defined to be the tenth day after this code shall have been approved by the President of the United States.

SEC. 3. The term "association", as used herein, is defined to be the National Asphaltic Limestone Association.

ARTICLE III—ORGANIZATION AND ADMINISTRATION

SECTION 1. *Administration.*—This Code of Fair Competition shall be administered by the National Administrative Committee of the National Asphaltic Limestone Association. The provisions for election of the National Administrative Committee are given in the Articles of Organization and By-Laws of the Association, which are attached hereto as Appendix I.

SEC. 2. *Duties of National Administrative Committee.*—This Committee shall be the general planning, coordinating, and administering agency for the industry. This Committee is charged with the duty of formulating such rules and regulations as may be necessary for the administering and enforcement of this code. The Committee shall take such steps as, in its judgment, are necessary to full and proper administration of this code and shall, upon the complaint of

interested parties, or upon its own initiative, make such inquiry and investigation as to the operation of the code as may be necessary. The committee may appoint such subcommittees and may designate such other agents as it may determine.

This section shall not be construed as denying the right of any producer or producers to appeal to the National Recovery Administration.

SEC. 3. *State Administrative Committee.*—There shall be organized in each producing State a State Administrative Committee which committee shall administer the provisions of this Code of Fair Competition in that State, and in the normal market region reached by the producers of the State.

SEC. 4. *Duties of State Administrative Committee.*—This Committee shall serve, under the National Administrative Committee, as a planning, coordinating, and administrative agency in each marketing region.

SEC. 5. *Election of State Administrative Committee.*—Each producer in a producing State shall have the right to name one of its executive officers as a member of the State Administrative Committee.

SEC. 6. *Voting by the National Administrative Committee.*—Each member of this Committee shall be entitled to one vote irrespective of the amount of production of his own plant or of the State or marketing region which he represents.

SEC. 7. *Voting by State Administrative Committee.*—A meeting of the State Administrative Committee may be called at the instance of producers representing twenty-five percent of the number of companies within the producing State, or producers representing twenty-five percent of the production within the State, or at the call of either the Chairman of the State Administrative Committee or of the National Administrative Committee. At meetings of the State Administrative Committee voting shall be by ballot, each member to vote in accordance with his average annual production for the three preceding years, each to cast one vote for each one thousand tons, or major fraction thereof, of asphaltic limestone representing the average tonnage which he has manufactured and invoiced during the preceding three years.

SEC. 8. *Organization of State Administrative Committee.*—At the first meeting the committee shall elect from its members a Chairman, a Vice Chairman, and a Secretary. These officers shall serve for one year, or until their successors are elected.

SEC. 9. *Interregional regulations.*—Proposals in respect to interpretation and enforcement of this code affecting more than one producing State or marketing region may be made to the National Administrative Committee by any State Administrative Committee and the decision of the National Administrative Committee shall be final.

SEC. 10. *Right of appeal.*—Appeal from any decision by a State Administrative Committee may be taken to the National Administrative Committee. The decision of the National Administrative Committee shall be final except for appeal to the National Recovery Administration. Any producer may exercise the right of appeal, as herein provided, from any decision affecting the interests of such producer.

SEC. 11. *Arbitration*.—Complaints or controversies, involving labor, the consuming interests, or other groups outside of the producing industry which cannot be satisfactorily settled by the National Administrative Committee, shall be referred to an Arbitration Board composed of equal representation from each of the groups involved in the complaint or controversy, together with a neutral arbiter selected by the appointed members of the Arbitration Board.

SEC. 12. *Statistics*.—All producers shall file with the Association such records as may be required by the National Administrative Committee regarding hours of labor, rates of wages, production, stocks on hand, sales, and such other information as may be necessary to accomplish the objective of this code. Such records shall be accompanied by affidavits of the producer certifying as to the accuracy thereof. All records so filed with the Association shall be held as confidential documents except that they may be available to the National Recovery Administration.

SEC. 13. *Administration expense*.—All producers subscribing to and governed by this code shall bear their proportionate share of the expense incident to the initiating, securing the approval of, and the administering of this code. These funds shall be collected through the Association. A report of receipts and disbursements shall be sent to each producer quarterly.

ARTICLE IV—HOURS OF LABOR AND RATES OF PAY

SECTION 1. *Labor conditions in accordance with the requirements of the National Industrial Recovery Act*.—

(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.

(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.

SEC. 2. *Hours of Labor*.—With the exceptions hereinafter set forth, no plant employee shall work more than an average of 35 hours per week in the six months' period from February 1 to August 1 or in the six months' period from August 1 to February 1. Provided further, that no plant employee shall work more than 48 hours in any one week nor more than 8 hours in any one day. No accounting clerical, or office employees shall work more than 40 hours in any one week. Exceptions to the maximum number of working hours outlined herein shall include professional, executive, administrative, or supervisory employees; traveling or outside salesmen; emergency employment occasioned by breakdowns and other factors beyond control; watchmen and employees, not exceeding 10% of the total number of employees, required to make it possible for the regular production organization to work the full allotted time.

SEC. 3. *Rates of Pay.*—(a) The minimum rate of pay per hour for unskilled labor in those States in which asphaltic limestone is produced shall be as follows:

State	Minimum rate
Alabama.....	\$0.30
Texas.....	.30
Oklahoma.....	.30

(b) On the effective date of this code, the wages of all employees above the classification of unskilled labor and not otherwise specified now receiving less than \$35.00 per week, shall be restored to the same hourly rate as paid on July 15, 1929, by the asphaltic limestone industry in each producing state, or shall be maintained on the same hourly rate as was in effect on July 15, 1933, whichever hourly rate may be the higher.

(c) The minimum rate of wage for accounting, clerical, or office employees shall be as follows: \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; \$14.50 per week in any city between 250,000 and 500,000 population, or in the immediate trade area of such city; \$14.00 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city, and \$12.00 per week in towns of less than 2,500 population. Population shall be determined by the 1930 Federal Census.

(d) Wages shall be paid in lawful money or bankable check at the option of the producer. Deductions may be made from pay of employees for house rentals, store accounts, and other legitimate items.

SEC. 4. *Piece-work.*—No piece-work shall be permitted which shall decrease the minimum hourly wage or increase the number of hours of work per week as provided in this code.

SEC. 5. *Penal labor.*—No penal labor shall be used in the production of asphaltic limestone.

SEC. 6. *Child labor.*—The minimum age for labor employed in the asphaltic limestone industry shall be the legal limit as provided by the laws of the state in which the operation is located, but in no case shall this age be less than 16 years.

ARTICLE V—MARKETING PRACTICES

SECTION 1. *Selling Below Cost.*—Sound economic principles require the sale of material at such a price, or prices, as will realize to the producer the fair average cost of production and sale plus a reasonable margin of profit; and, therefore, no producer shall sell his product below the average annual cost of production and sale based on normal market operations for his market area.

SEC. 2. *Uniform Cost Accounting.*—The National Administrative Committee shall establish a uniform cost accounting system, and each producer shall adhere to the uniform system adopted for this industry, to the extent of incorporating in all calculations of cost all the elements outlined in the standard cost accounting system.

SEC. 3. *Determination of Costs.*—Each State Administrative Committee may determine the average production cost for such State, and no producer selling his product in that State, or in the market region supplied by producers of that State, shall sell below such determined cost. The average cost as determined shall be subject to the review and approval of the National Administrative Committee.

SEC. 4. *Uniform Terms of Sale.*—All quotations and contracts for the sale of any product of a producer shall be in writing and shall contain a definite statement of price, quantity, terms of payment, time and place of delivery, and all other items necessary to form a complete understanding.

SEC. 5. *Uniform Credit Practices.*—The National Administrative Committee may establish uniform credit practices which shall be binding upon all producers.

ARTICLE VI—PLANT CAPACITY AND NEW PRODUCTION

SECTION 1. To promote the fullest possible utilization of the present excessive production capacity of the industry, and to effectuate the other purposes of the National Industrial Recovery Act, before a new plant may be established or the producing capacity of an existing plant be increased, or an existing plant be removed from one producing site to another, formal notice of such intent must be given to the State Administrative Committee of the state or market area in which the new production capacities are to be located. Upon receipt of such notice, the State Administrative Committee shall promptly collect complete information concerning the existing production capacity in that state and in the adjacent market area. If this investigation discloses that such new production capacity will not tend to defeat the purposes of the National Industrial Recovery Act as herein set forth, then the State Administrative Committee shall grant permission for the proposed increase in production capacity in that state or in the adjacent market area. If, however, this investigation discloses that commercial production of asphaltic limestone is economically available in adequate quantity in the market area, and such proposed increase in production capacity does tend to defeat the purposes of the National Industrial Recovery Act as herein set forth, the State Administrative Committee shall then deny permission to increase the production capacity in that state or adjacent market area, and shall so recommend to the National Administrative Committee. The final decision of the National Administrative Committee shall be binding, except for appeal only to the National Recovery Administration.

SEC. 2. The provisions of Section 1 shall not be construed as preventing a producer established and in operation on July 1, 1933, from improving the efficiency of his plant through the installation of new machinery or adopting such methods as will lower production costs. It will be permissible for a producer established and in operation prior to July 1, 1933, to move his plant to another quarry site belonging to the same producer, provided that increased production capacity in the market region is not developed as a result of such movement.

ARTICLE VII—UNFAIR COMPETITIVE PRACTICES

SECTION 1. *Secret Rebates*.—No producer shall make a secret prepayment of transportation charges or permit the payment or allowance of secret rebates, refunds, credits or unearned discounts, whether in the form of money or otherwise, or the giving of premiums, or extending to certain purchasers special service or privilege not extended to all purchasers under like terms and conditions.

SEC. 2. *Interference in Contracts*.—No producer shall wilfully interfere with any person, firm, corporation or association by any means or device whatsoever, in any existing contract or order between a seller and a purchaser in or about the production, manufacture, transportation, purchase, or sale of the product handled by the industry or the performance of any contractual duty or service connected therewith, destroying or appropriating in whole or in part the patronage, property or business of another engaged in the asphaltic limestone industry.

SEC. 3. *Unfair Sales Promotion*.—No producer shall attempt to capitalize on or take unfair advantage of legitimate sales promotion of his competitor.

SEC. 4. *Defamation of Competitor*.—No producer shall defame a competitor by words or acts, falsely imputing to him dishonorable conduct, inability to perform contracts or questionable credit standing, or by the false disparagement of the grade or quality of his material.

SEC. 5. *Conformity with Specification Requirements*.—No producer shall sell or offer for sale any product of the industry with intent to deceive customers or prospective customers as to the quality, quantity, size, grade, or substance of such product.

SEC. 6. *Misbranding*.—No producer shall mark or brand products of the industry for the purpose or with the effect of misleading or deceiving purchasers with respect to the quality, quantity, size, grade, or substance of the materials purchased.

SEC. 7. *Payment of Commission*.—No producer shall pay or promise to pay to any employee of a customer or prospective customer, a commission or consideration of any character for the purpose of inducing, or compensating for, a sale.

SEC. 8. *Commercial Bribery*.—No producer shall offer or give commissions, prizes, premiums, gifts, excessive entertainment, or other benefits as an act of commercial bribery to anyone in connection with the sale, purchase, or use of his products, or as an inducement thereto.

SEC. 9. *Lump-Sum Bidding and Contingent Selling*.—(a) No producer shall sell his product except on a unit-price basis.

(b) No producer shall enter into any contract for furnishing any of his products contingent upon the sale or purchase of any other thing, the performance of any other service, or any other contingency not appearing in the contract or complying with this code.

SEC. 10. *Antidumping*.—No producer shipping his product into regions, or subdivisions thereof, outside of the natural market area in which his plant is located, shall sell such material below the general market price prevailing in the region into which shipments are made.

SEC. 11. *Enticement of Employees*.—No producer shall entice employees from a competitor for the purpose of interfering with his business.

SEC. 12. *Accident Prevention.*—Every producer shall lend his co-operation and active support to the program of his Association for the reduction of accidents in the conduct of his operations. No producer shall be permitted to expose his employees to unnecessarily dangerous working hazards, and cases of flagrant disregard of the life and health of employees shall constitute a violation of this code. Every producer shall carry and keep in force adequate Workmen's Compensation and Public Liability Insurance.

SEC. 13. *Enforcing Observance by Agents and Distributors.*—No producer shall permit his products to be handled by a middleman, salesman, agent, jobber, or distributor standing between producer and consumer who violates, in any way, the provisions of this Code of Fair Competition. Violation by such middleman, salesman, agent, jobber, or distributor shall be considered as a violation of this code on the part of the producer whose product is so handled.

SEC. 14. *Observance of Patent Rights.*—Producers shall observe all patent or trade-mark rights belonging to other producers, and violation of such rights shall be considered as a violation of the provisions of this code as well as of the laws of the United States.

ARTICLE VIII—ENFORCEMENT

SECTION 1. Any producer shall have the right to bring to the attention of his State Administrative Committee any violation of any section of this code. The State Administrative Committee shall thereupon undertake such steps as may be necessary to enforce the requirements of this code and, if necessary, refer the question in dispute to the National Administrative Committee, which shall then undertake such steps as may be necessary to correct such unfair competitive practice.

ARTICLE IX—CHANGES IN THE CODE

SECTION 1. This code and all provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Clause 10 (b) of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically to the right of the President to cancel or modify his approval of this code or any conditions imposed by him upon his approval thereof.

SEC. 2. The National Administrative Committee shall, from time to time, make such recommendations to the President for changes in this code as it shall be authorized to do by a majority of the votes cast by the producers engaged in the industry governed by this code, after each producer shall have been given a fair opportunity to vote upon such change. Such vote may be by letter ballot.

ARTICLE X

SECTION 1. This code as approved by the President of the United States shall become mandatory upon all producers of asphaltic limestone throughout the United States.

