

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

INDUSTRY ENGAGED IN THE

SMELTING AND REFINING OF

SECONDARY METALS INTO BRASS

AND BRONZE ALLOYS IN INGOT FORM

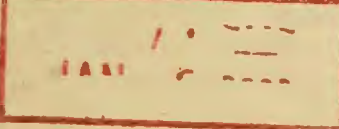
AS APPROVED ON DECEMBER 21, 1933

BY

PRESIDENT ROOSEVELT



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U.S. DEPOSITORY

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Approved Code No. 173

CODE OF FAIR COMPETITION

FOR THE

**INDUSTRY ENGAGED IN THE SMELTING AND
REFINING OF SECONDARY METALS INTO BRASS
AND BRONZE ALLOYS IN INGOT FORM**

As Approved on December 21, 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 Industry Engaged in the Smelting and Refining of Secondary Metals into Brass and Bronze Alloys in Ingot Form, 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 the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings 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 21, 1933.

DECEMBER 16, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition proposed for the Industry Engaged In The Smelting and Refining Of Secondary Metals Into Brass And Bronze Alloys In Ingot Form, and on the hearing conducted thereon in Washington, D.C., on October 13, 1933, in accordance with the provisions of the National Industrial Recovery Act.

RÉSUMÉ OF CODE AS TO WAGES AND HOURS

The Code provides a standard work week of 40 hours, except during peak periods, which are limited to 6 weeks in any 6 months. No employee shall work more than 6 days or more than 48 hours in any one week, or more than 10 hours in any one day.

These provisions are applicable except in cases of emergency, and to employees engaged in executive, supervisory, or technical capacities receiving \$35.00 or more per week, and to outside salesmen.

Watchmen may be employed not to exceed 56 hours, and not more than 6 days in any one week.

Employees working in excess of 40 hours per week shall be paid not less than one and one half times their normal rate.

While the uncertainties of production processes in the Industry make it difficult always to assure an 8-hour day, the Industry recognizes the principle of the 8-hour day, and the Code contains a statement to that effect.

A minimum wage of 35¢ per hour is provided, with a rate of \$15.00 per week for office employees, except that a limited number of office boys and girls may be paid at the rate of \$12.00 per week. Learners, who may be so classified for a period of 3 months, may be paid not less than 80% of the minimum wage.

Child labor is prohibited, and no person under 18 years of age shall be employed in any hazardous occupation.

GENERAL STATEMENT

The smelting and refining of secondary metals into brass and bronze alloys in ingot form is a distinct industry, with most of its plants located in the district east of the Mississippi River and north of the Ohio River. A number of concerns smelt, refine, manufacture or otherwise process other nonferrous metals and alloys, using secondary metals principally as raw materials. All of the product of the Industry is cast into ingots or pigs weighing from 20 to 35 pounds each, which are used for recasting into finished castings by the general foundry trade.

During the past twenty years the Industry has enjoyed a remarkable development along scientific lines. The result of a survey made

by the Non-Ferrous Ingot Metal Institute in 1929, to determine the nature and number of the specifications which had been requisitioned from its members during the preceding year, indicated that over 600 separate specifications had been served by the members of the Institute during that year. In the last three years the Non-Ferrous Ingot Metal Institute, in cooperation with the American Society for Testing Materials, has succeeded in reducing its standard specifications for brass and bronze alloys in ingot form to approximately 30.

The furnaces used in the Industry vary in production capacity from 500 to 100,000 pounds. Most of the types used by the larger units are operated continuously and were formerly operated on a 2-shift program over campaigns of 2 to 6 weeks, requiring long hours of work. A change to the 3-shift program resulted in an increase of about 40% in the number of men used.

During 1929 there were about 1,180 employees in the Industry. In 1932 the number of employees decreased to a low of 360, but under the President's Re-Employment Agreement, this number rose again to over 900. Prior to the President's Re-Employment Agreement the hours for labor averaged from 54 to 60 per week, and it is estimated that under the Code the number of employees will be greater than the figure shown for 1929.

The Industry states that its minimum wage had dropped to 24¢ per hour and estimates that the increased minimum, the readjustment of wages above the minimum, and the increase in employment under the Code will greatly increase the buying power of employees in the Industry.

The marketing provisions of the proposed Code have for their purpose the elimination of unfair trade provisions, and it is believed that their adoption will aid in the orderly marketing of the products of the Industry.

I believe that the Code as proposed is fair to Industry and to Labor and in accordance with the intent and purpose of the National Industry Recovery Act.

The Deputy 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 Industry Engaged in the Smelting and Refining of Secondary Metals into Brass and Bronze Alloys in Ingot Form; 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.

Accordingly, I hereby recommend the approval of this proposed Code of Fair Competition for the Industry Engaged in the Smelting and Refining of Secondary Metals into Brass and Bronze Alloys in Ingot Form.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

INDUSTRY ENGAGED IN THE SMELTING AND REFINING OF SECONDARY METALS INTO BRASS AND BRONZE ALLOYS IN INGOT FORM

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 Industry Engaged in the Smelting and Refining of Secondary Metals into Brass and Bronze Alloys in Ingot Form, and upon approval by the President its provisions shall be the standards of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "industry" as used herein includes all producers engaged in the smelting and refining of secondary metals into brass and bronze alloys in ingot form.

The term "member of the industry" includes but without limitation any individual, partnership, association, corporation, or other form of enterprise engaged in the industry, either as an employer or on his own behalf.

The term "employee" as used herein includes any and all persons engaged in the industry, however compensated, excepting a member of the industry.

The terms "President", "Act", and "Administrator" as used herein mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

ARTICLE III—WORKING HOURS

SECTION 1. The standard workweek of the industry shall not exceed 40 hours per week, except during peak periods, which are limited to 6 weeks in any 6 months. Provided, however, that no employee shall be employed more than 6 days or more than 48 hours in any one week, or more than 10 hours in any one day.

SEC. 2. The above hours shall not apply to any employees in the case of emergencies where the safety of men or the protection or preservation of property necessitates longer hours; nor shall they apply to employees in executive, supervisory, or technical capacities receiving \$35.00 or more per week, or outside salesmen; nor to watch-

men who may be employed not to exceed 56 hours in any one week and not more than 6 days in any one week.

SEC. 3. Employees working in excess of 40 hours per week shall be paid not less than one and one half times their normal rate.

SEC. 4. The industry recognizes the desirability and accepts the principle of the 8-hour working day for labor and, insofar as it reasonably can, the industry will endeavor to employ its labor on that basis.

SEC. 5. If any employer of labor in this industry is also an employer of labor in any other industry, the provisions of this Code shall apply to and affect only that part of his business which is included in the business of smelting and refining of secondary metals into brass and bronze alloys in ingot form.

SEC. 6. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers in this industry, exceeds the maximum permitted herein.

ARTICLE IV—WAGES

SECTION 1. On and after the effective date, office employees shall be paid not less than at the rate of \$15.00 per week, except that office boys and girls may be paid at the rate of \$12.00 per week. The number of such office boys and girls shall not exceed 5% of the total number of office employees, except that each office may have one such office boy or girl.

SEC. 2. The minimum wage per hour which shall be paid to other employees in the industry shall be at the rate of 35¢ per hour, except as herein otherwise provided.

SEC. 3. This article establishes a minimum rate of pay for any pay period which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

SEC. 4. Learners shall be paid not less than 80% of the minimum wage, and the total number of such learners shall not exceed 5% of the number of employees of such employer. The learning period shall not exceed 3 months.

SEC. 5. Equitable adjustments shall be made of the wages of employees now receiving more than the minimum wage as herein provided. Such equitable adjustments shall mean that differentials existing prior to the formation of this Code shall be maintained for all employees. Within 30 days each member shall report to the Administrator through the Code Authority all such readjustments.

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

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 before May 1, 1934, 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.

SEC. 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) That 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) That 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. 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.

SEC. 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.

SEC. 5. Standards for safety and health shall be submitted by the Code Authority to the Administrator within six (6) months after the effective date of this Code.

SEC. 6. *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.

SEC. 7. *Posting.*—All employers shall post complete copies of the labor provisions of this Code in conspicuous places accessible to all employees.

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

SECTION 1. There shall forthwith be constituted a Code Authority consisting of 5 persons, 4 of whom shall be selected by the Non-Ferrous Ingot Metal Institute and one of whom shall be selected by the Associate members of said Institute.

SEC. 2. In addition to the membership as above provided, there may be not to exceed three members, without vote and without expense to the industry, to be appointed by the Administrator.

SEC. 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, 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.

SEC. 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.

SEC. 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 accepting their reasonable share of the cost of its preparation and administration. Such reasonable share of the expenses of preparation and 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 facts as may be deemed equitable.

SEC. 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.

SEC. 7. 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.

(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.

(b) To adopt By-Laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To approve recommendations for the exceptions to the marketing provisions of this Code.

(d) To obtain from members of the industry such information and reports as are required for the administration of the Code and to provide for submission by members of such 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 government 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 government agency. No individual reports shall be disclosed to any other member of the industry or to any other party except to such governmental agencies as may be directed by the Administrator.

(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, 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) 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.

(g) To secure from members of the industry participating in and sharing the benefits of the Code Authority an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(h) 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 to recommend to the Administrator measures for industrial planning, including stabilization of employment.

(i) To employ such agents and assistants as may be necessary to perform the duties herein prescribed.

ARTICLE VII—MARKETING AND TRADE PRACTICE RULES

(a) Each member of the industry shall file with the Code Authority the prices at which he is offering his products for sale; which prices shall not be less than his current cost as determined by a uniform system of cost accounting as provided for in Section (k) of this Article; and provided, that any member of the industry may file prices below his current cost so determined in order to meet the competition of any other member of the industry who has filed prices in accordance with this Section.

(b) In determining current cost, the cost of raw materials used in the manufactured product shall be computed on the basis of the replacement cost thereof prevailing as of the date of sale.

(c) Any member of the industry desiring to change the price or prices of his products shall notify the Code Authority of all changes to be made sufficiently in advance thereof so that the Code Authority will receive such notice at least one day previous to such change.

(d) Published prices 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.

(e) Terms of sale shall be fully stated and strictly adhered to and invoice shall show same.

(f) There shall be no discrimination between customers. Difference in price based upon quantity shall not constitute discrimination.

(g) Prices and discounts shall be openly and publicly announced.

(h) A uniform sales contract shall be established and used by the industry, subject to the approval of the Administrator.

(i) All contracts shall be equally binding upon both parties and are not subject to repudiation.

(j) The following are unfair trade practices, and a violation of any one or more of them constitutes a violation of this Code:

1. Selling below openly and publicly announced prices and terms as provided for in Sections (a) and (c) of this Article.

2. Secret allowances or secret rebates of any kind.

3. False dating of contracts or billings.

4. Allowances by any name or of any nature which are not justified by the facts and are made in collusion with the buyer for the purpose or effect of defeating the provisions of this Code.

5. Storage of products of the industry in consumers' warehouses or sales on consignment to consumers, except under circumstances to be defined by the Code Authority, where peculiar circumstances of the industry make the practice advisable.

6. Special services or privileges to certain purchasers when not extended to all purchasers under like terms and conditions.

7. Making false or misleading statements about competitors' products, or regarding the character, management, or financial standing of a competitor.

8. False or misleading advertising, mislabeling, or misbranding.

9. The adoption of brands (either in design or name) which so closely approximate the brands or trade-marks of a competitor as to deceive or confuse a buyer by similarity of appearance or brand.

10. Inducing or attempting to induce a breach or a cancelation of a contract between a competitor and his customer.

11. Maliciously enticing away the employees of a competitor with the purpose and intent of unduly hampering, injuring, and embarrassing a competitor in his business. Nothing herein shall prevent any employee from offering his services to a competitor or prevent any member from employing an employee of another member where the initiative in such change of employment comes solely from the employee.

12. Giving or permitting to be given, or directly offering 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. Commercial bribery provisions 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.

13. Guaranty against decline in price.

14. Payment of brokerage in excess of the usual and customary commission with the purpose or effect of defeating the provisions of this Code.

(k) Every member of the industry shall use a cost accounting system which conforms to the principles of and is at least as detailed and complete as the uniform method of costing to be prescribed by the Code Authority and approved by the Administrator.

ARTICLE VIII—EXPORT TRADE

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 of unfabricated products of this industry.

ARTICLE IX—MODIFICATION

(a) 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 said Act.



(b) This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modifications 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.

ARTICLE X—MONOPOLIES

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 shall become effective 10 days after its approval by the President.

Approved Code No. 173.
Registry No. 1218-1-05.

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