

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

GRINDING WHEEL INDUSTRY

AS APPROVED ON DECEMBER 21, 1933

BY

PRESIDENT ROOSEVELT



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Approved Code No. 170

CODE OF FAIR COMPETITION

FOR THE

GRINDING WHEEL INDUSTRY

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 Grinding Wheel Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of 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 adopt and approve the report and recommendations and 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.

(287)

DECEMBER 8, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Grinding Wheel Industry in the United States, the hearing having been conducted in Washington on October 26, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS FOR HOURS AND WAGES

The maximum of 40 hours a week and 8 hours a day is provided for factory employees except during peak periods when they will be permitted 36 additional hours in any 3-month period, but not more than 48 hours in any one week. Time and a half will be paid for hours in excess of 40 per week and 8 per day to the above employees including emergency maintenance and repair workers who will not be limited in hours, and to shipping crews who will have a tolerance of 10 percent over the normal maximum hours. Kiln tenders will be limited to 48 hours a week, and watchmen to 56 hours. Office employees will be limited to an average of 40 hours in any one week over a 3-month period, and 48 hours in any one week. Those in a managerial, executive, or supervisory capacity will not be limited in hours.

The minimum wage to factory workers will be 40 cents to male and female employees engaged in the same work. To female employees not engaged in the same work as men, the minimum pay will be 35 cents. Learners will receive no less than 80 percent of the above minimum rates. Office employees will be paid \$15 per week, except for office boys and girls and messengers, who will receive 80 percent of this minimum.

CHILD LABOR

The minimum age of employees in this industry will be 16 years, except in hazardous occupations, where the minimum age will be 18 years.

ECONOMIC EFFECT OF CODE

The 40-hour maximum week adopted by the President's Reemployment Agreement and provided by the Code, and the new business since June 1933, have increased employment 30 percent. The maximum hours during the early part of 1933 and in previous years were as high as 60 per week. The average working time in 1929 was 51½ hours per week. Employment dropped from 4,254 persons in 1929 to 2,160 in the early part of 1933 or 49 percent. Since June, this figure has increased to 2,674, or almost to the 1931 employment level.

The minimum pay for employees in this industry in 1929 and since June 1933, has been 30 cents, and less than this during the depression. Thus the minimum of 40 and 35 cents provided by the Code should raise the standard of wages appreciably.

Sales of this Industry have decreased from \$29,980,000 in 1929 to \$7,647,000 in 1932 or over 74 percent. In 1929, sales were 62 percent of the \$48,000,000 production capacity of 41 concerns; and in 1932, 15 percent of the \$50,000,000 capacity of the present 42 concerns.

FINDINGS

The Administrator finds that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Industry; and that

(c) The Code as recommended is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code is approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

GRINDING WHEEL INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Grinding Wheel Industry, and upon approval by the President shall be the standard of fair competition for this industry, and binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "Grinding Wheel Industry" or "Industry" as used herein shall mean the manufacture and the sale by the manufacturers of grinding wheels, bricks, stones, segments, blocks, and solid discs which are employed in grinding, sharpening, polishing, and for the removal of stock of metal, stone, wood, and other materials, but is not defined to mean the fashioning and selling of natural sandstone wheels, including natural sandstone pulpstones.

The term "Association" means the Grinding Wheel Manufacturers' Association.

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

The term "employer" as used herein, includes anyone for whose benefit such an employee is so engaged.

The term "learner" as used herein, means a person having no previous experience in the Industry and whose period of employment in the Industry as such shall not exceed three months.

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 or its own behalf.

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

The term "Act" means Title I of the National Industry Recovery Act.

The term "Administrator" means the Administrator for Industrial Recovery.

The term "Administration" means the National Recovery Administration.

"Effective date" as used herein, means the third Monday after the day this Code shall have been approved by the President of the United States.

ARTICLE III—HOURS

SECTION 1. No accounting, clerical, office, service or sales employees (except outside salesmen), or any other employee shall, except as hereinafter provided, work or be permitted to work more than a maximum week of forty (40) hours averaged over a three-month period; provided, however, that such employees shall not be employed more than forty-eight (48) hours in any week; and provided further that no employees to whom this Section 1 applies shall work more than six (6) days in any calendar week.

SEC. 2. No factory or mechanical worker or artisan shall, except as hereinafter provided, work or be permitted to work in excess of forty (40) hours in any seven (7) day period, or eight (8) hours in any twenty-four (24) hour period; provided, however, that, during any period in which a concentrated demand upon any division of the Industry shall place an unusual and temporary burden for production upon its facilities, an employee of such division may be permitted to work not more than thirty-six (36) additional hours in any three (3) month period, but not more than forty-eight (48) hours in any seven (7) day period; and provided further that no employee to whom this Section 2 applies shall work more than six (6) days in any calendar week.

SEC. 3. The maximum hours fixed in the foregoing paragraphs shall not apply to employees in a managerial, executive, or supervisory capacity (not including underforemen or bosses engaged on production work) receiving thirty-five (35) dollars or more per week, nor to employees engaged in taking annual inventory, or on emergency, maintenance, and repair work involving break-downs or protection of life and property.

SEC. 4. All employees to whom Sections 2 and 3 of this Article III apply, except managerial, executive, and supervisory employees receiving thirty-five (35) dollars or more per week, who work more than forty (40) hours in any seven (7) day period or more than eight (8) hours in any twenty-four (24) hour period, shall be paid not less than one and one half (1½) times their normal rate of pay for said excess.

SEC. 5. No watchmen shall be permitted to work in excess of fifty-six (56) hours in any one week.

SEC. 6. Kiln tenders shall be permitted to work a maximum of forty-eight (48) hours per week to meet the demand of emergency peaks in production.

SEC. 7. Employees engaged on shipping crews, including truck drivers, shall be permitted a tolerance of ten (10) percent over the maximum hours provided in Sections (1) and (2) of this Article III.

ARTICLE IV—WAGES

SECTION 1. No male employee, except as hereinafter provided, shall be paid at less than the rate of forty (40) cents an hour and no female employee shall be paid at less than the rate of thirty-five (35) cents an hour; provided, however, that learners may be paid not less than 80% of such minimum wage. The number of employees so paid as learners shall not exceed 5% of the total number of em-

ployees of any one employer, but in any case such employer shall be entitled to two (2) such employees.

SEC. 2. This Article IV establishes minimum rates of pay, regardless of whether the employee is compensated on the basis of a time-rate or a piecework performance, or otherwise.

SEC. 3. 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. Each employer shall file with the Code Authority a list of all such persons employed by him.

SEC. 4. The minimum wage that shall be paid to employees to whom Section (1) of Article III applies, shall not be less than fifteen (15) dollars per week; provided, however, that office boys and girls and messengers shall be paid at a rate not less than eighty (80) percent of the minimum salary provided in this Section (4) of Article IV; and provided further that the number of such office boys and girls and messengers so paid shall constitute not more than five (5) percent of the total number of employees of any one employer, and in any case, such employer shall be entitled to two (2) such employees.

SEC. 5. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 6. The wage rates for all operations and duties shall be equitably adjusted when this Code becomes effective, and in making such adjustments, in no case shall the hourly rate be decreased. Each member of the industry shall report all such adjustments to the Code Authority within 30 days of the effective date.

SEC. 7. 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.

ARTICLE V—CHILD LABOR

No person under sixteen (16) years of age shall be employed in the Industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or dangerous to health. The Code Authority shall submit to the administrator before February 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.

ARTICLE VI—GENERAL LABOR PROVISIONS

SECTION 1. 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 employ-

ers 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.

SEC. 2. 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.

SEC. 3. 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. 4. Within each State, no provision of this Code shall supersede any laws of such State imposing more stringent requirements, regulating the age of employees, wages, hours of work, or health, fire or general working conditions, than under this Code.

SEC. 5. Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

SEC. 6. All employers shall post complete copies of the labor provisions of this Code in conspicuous places accessible to employees.

ARTICLE VII—ADMINISTRATION

SECTION 1. (a) To effectuate the policies of Title I of the National Industrial Recovery Act a Code Authority is hereby designated to cooperate with the Administrator as a Planning and Fair Practice Agency for the Grinding Wheel Industry. The Code Authority shall consist of seven (7) members of the Industry who are members of the Association and one member of the Industry who is not a member of the Association, selected by a fair method of selection, provided any nonmembers of the Association in the Industry desire such representation.

(b) In addition to membership as above provided, there may be from one to three members, without vote, as representatives of the Administrator, to be appointed by him, to serve for terms of six (6) months to one (1) year from the date of appointment.

(c) The Board of Directors of the Grinding Wheel Manufacturers Association shall appoint the members of the Code Authority to represent the said Association and those may or may not be members of the Board of Directors, and the nonmembers of the Association shall nominate and elect their member by a fair method subject to the approval of the Administrator.

(d) Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restriction on membership, and (2) submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(e) 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.

(f) 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.

SEC. 2. 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 approve or disapprove any action taken by the Code Authority:

(a) To collect from every member of the Industry such information concerning wage rates and hours of work as may be required to enable the Code Authority to determine whether there has been compliance with the provisions of the National Industrial Recovery Act and with the provisions of this Code, and such further information as may be required to enable the Industry through said Code Authority to report required information to the Administrator.

In addition to information required to be submitted to the Code Authority, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

(b) The Code Authority shall study this Code and the operation thereof and shall make any recommendations from time to time to the Administrator which it deems desirable for modification or addition thereto which upon approval of the President of the United States, after such hearing as he may prescribe, shall become a part of this Code and have full force and effect as provisions hereof.

ARTICLE VIII—TRADE PRACTICES

It shall be an unfair method of competition and a violation of this Code for any member of the Industry to engage in any of the following practices:

(1) The false marking or branding of the products of the Industry, with the intent of misleading or deceiving purchasers with respect to the quantity, quality, size, or substance of the goods purchased.

(2) Making or causing or permitting to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the quality, quantity, substance, character, nature, origin, size, or preparation of any product of the Industry, having the tendency and capacity to mislead or deceive purchasers or prospective purchasers or to affect injuriously the business of competitors.

(3) The imitation of the trade marks, trade names, slogans, or other marks of identification of competitors, having the tendency and

capacity to mislead or deceive purchasers or prospective purchasers, or to affect injuriously the business of such competitors.

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

(5) Wilfully inducing or attempting to induce the breach of existing contracts between competitors and their customers, or interfering with or obstructing the performance of any such contractual duties or services, with the purpose and effect of hampering, injuring, or embarrassing competitors in their business.

(6) Initiating negotiations with employees of competitors to entice them away or induce them to violate their products.

(7) The making of promises of delivery that are misleading or that cannot reasonably be fulfilled.

(8) The secret payment or allowance to any customer of rebates, refunds, or credits, whether in the form of money or otherwise.

(9) The paying or promising to pay the customers or their employees, or prospective customers, of a commission or consideration of any character; or unwarranted entertainment or improper gratuities for the purpose of inducing or compensating for a sale. This provision shall not be construed to prohibit free and general distribution of articles commonly used for advertisement except so far as such articles are actually used for commercial bribery as hereinabove defined.

(10) The sale or offering for sale of any products under a guarantee of performance because of the impossibility of defining and maintaining the conditions under which such a guarantee can honestly be made. Guarantees of material and workmanship are quite proper.

(11) The shipping of products not conforming in respect to dimensional tolerances to the standards of the Association to a user of products for trial or on regular orders, unless specified by the user, thus putting his competitor at a disadvantage when the consumer compiles relative cost figures; provided, however, that if the application of these standards should at any time work unjust hardship upon any member of the Industry, such member may appeal to the Code Authority, which shall have the power to grant such relief as justice may require. If the Code Authority should deny relief or should fail to take action upon any application for relief within twenty (20) days from the date of said application, such member may appeal to the Administrator, who shall have power to grant such relief.

(12) No member of the Industry shall sell or exchange any products at a price below his own individual cost, except to meet the cost of a lower cost producer who is not violating the provisions of this Code, provided that nothing in this paragraph (12) shall prohibit the sale below cost of obsolete or discontinued lines, distress merchandise, or any other article inferior to the standard product, where such conditions of obsolescence, damage, or inferiority is clearly indicated.

(13) Each member of the Industry shall within thirty (30) days after the effective date of the Code file with the Code Authority a



net price list or a price list and discount sheet, as the case may be, individually prepared by him, showing his current prices or prices and discounts and terms of payment, and if he so desires the name of his customers to whom limit prices are quoted. This information will be open to examination at the office of the Code Authority and each member of the Industry will have a right to examination of these records to the same degree that he has furnished similar information. No member of the Industry will deviate from his lists thus filed until revised lists have been filed with the Code Authority and copies thereof shall be available for examination by all members of the Industry to the same degree as they are supplying revised information. No member of the Industry shall sell his products at prices or terms more favorable than those provided in his current net price list or price lists and discount sheets as submitted to the Code Authority, except as otherwise provided herein.

(14) Wheels may be furnished for trial purposes under the following terms: Full payment is to be made if wheels are satisfactory, or if partially satisfactory and usable, to be paid for on the basis of value received, or if unusable, to be returned for full credit. All trial shipments shall be invoiced at the member's established prices. Any deviation from these terms except where the amount involved is less than two (\$2.00) dollars shall be considered unfair competition.

(15) The giving away of or offering free trial wheels or products except where the amount involved is less than two (\$2.00) dollars is hereby considered as unfair competition.

(16) Price guarantees shall be given only on bona fide orders covering definite quantities of definite specifications and the price prevailing on the date the order is placed may apply only to all orders calling for shipment within eight (8) weeks of the date of the order. On such shipments as may be deferred beyond the eight (8) weeks' period at the request of the customer, the price prevailing at the time of shipment shall apply. Provided further, that notwithstanding the provisions of Section (13) of this Article VIII, any written quotation accepted by a customer within ten days for shipment within eight (8) weeks may be filled at the prices shown on such written quotation.

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 subsection (b) of Section 10 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, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

Approved Code No. 170.
Registry No. 1001-03.