

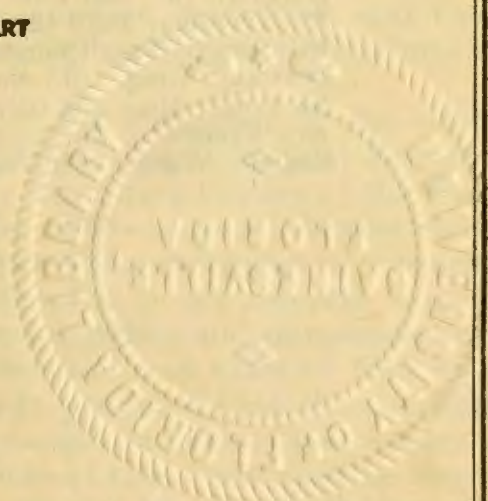
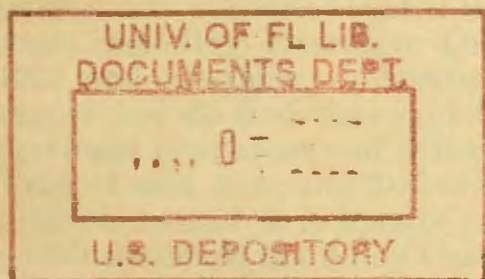
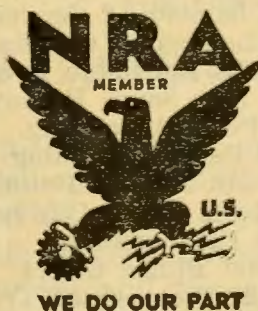
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

ALLOY CASTING INDUSTRY

AS APPROVED ON JANUARY 30, 1934



UNITED STATES
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Approved Code No. 237

CODE OF FAIR COMPETITION
FOR THE
ALLOY CASTING INDUSTRY

As Approved on January 30, 1934

ORDER
APPROVING CODE OF FAIR COMPETITION
FOR THE
ALLOY CASTING 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 Alloy Casting 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; provided that the continued participation of the Alloy Casting Association in the Code Authority after thirty days from the effective date of this Code shall be contingent upon its amending its constitution and by-laws to the satisfaction of the Administrator; and further provided that the provisions of Article VII, (Section 1), insofar as they prescribe a waiting period between the filing with the Code Authority and the effective date of revised price lists or revised terms and conditions of sale be

and they are hereby stayed pending my further Order either within a period of sixty days from the effective date of this Code or after the completion of a study of open price associations now being conducted by the National Recovery Administration.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended.

W. A. HARRIMAN,
Division Administrator.

WASHINGTON, D.C.,
January 30, 1934.

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Alloy Casting Industry as revised after the hearing conducted thereon in Washington, D.C., on November 2, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS REGARDING HOURS AND WAGES

This Code provides for a maximum work week of forty (40) hours, with permission for forty-eight (48) hours per week during peak periods, not to exceed twelve (12) weeks in any year. A tolerance of ten (10) percent longer hours is provided for repair work employees during emergencies.

Those who are exempted from the provision for maximum hours are managers, executives, and research technicians, receiving more than thirty-five dollars (\$35.00) per week, outside salesmen and service men and watchmen. The watchmen are limited to fifty-six (56) hours per week.

The minimum wage rate provided is forty (40) cents per hour, regardless of the basis upon which workers are compensated. Exceptions are made for partially incapacitated workers. Office workers are to be paid not less than fifteen dollars (\$15.00) per week, and office boys and girls are to be paid at not less than eighty (80) percent of the minimum weekly wage.

Equitable adjustments of wages above the minimum are provided for and employers are prohibited from reclassifying employees so as to defeat the purpose of the Act.

ECONOMIC AND STATISTICAL MATERIAL

The industry is small and comparatively new. The invested capital amounts to \$4,000,000 and the annual sales volume, calculated on the rate of operations during November, was \$1,700,000 although the annual capacity of the industry, expressed in dollar volume, is \$16,000,000.

The number of employees in 1929 was 900, in 1932 it was 500, in October 1933, 600, and under the Code it is estimated that 650 persons will be employed, an increase of about nine (9) percent. It is estimated that the pay roll of the industry will be increased about \$1,000 per week.

FINDINGS

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 Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial group truly representative of the aforesaid Industry; and that said group 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, I have approved this Code subject to the following condition: that the continued participation of the Alloy Casting Association in the Code Authority after thirty days from the effective date of this Code shall be contingent upon its amending its constitution and bylaws to the satisfaction of the Administrator.

Respectfully,

HUGH S. JOHNSON,
Administrator.

JANUARY 30, 1934.

CODE OF FAIR COMPETITION
FOR THE
ALLOY CASTING INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Alloy Casting Industry, which shall be the standard of fair competition for the industry, and shall be binding upon every member thereof.

ARTICLE I—DEFINITIONS

The term "alloy castings" as used herein includes only castings containing nickel and/or chromium in excess of 16% and substantially free from copper, zinc, lead, or tin, except that this Code shall not apply to alloy castings produced and/or sold as a part of the products, including finished and semifinished parts thereof, of an owning or affiliated company but not sold in the open market as rough alloy castings (as distinguished from finished and/or semifinished parts) in competition with similar rough castings produced by other manufacturers.

The term "affiliated company" means a company whose relations to another company are such that either one has directly or indirectly more than 50% stock interest in the other, or that a third company has directly or indirectly more than 50% stock interest in both.

The term "member of the industry" as used herein means and includes any manufacturer of products subject to this code.

The term "association" as used herein means the Alloy Casting Association, Inc., a nonprofit corporation devoted to the betterment of the industry and the effectuation of the National Industrial Recovery Act.

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.

The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

ARTICLE II—HOURS

SECTION 1. Except as hereinafter stated no employer shall employ any employee for more than forty (40) hours in any week, provided, however, that in order to meet increased demands over which the employers have no control, the said hours of employment may

be increased to meet such contingencies, but in no event shall such employees work more than a total of forty-eight (48) hours per week for not to exceed twelve (12) weeks in any year. Repair-work employees, to the extent required by emergencies may be employed up to 10% longer hours than other factory employees.

SEC. 2. All employees of every kind and character of every employer are included in this Article II, except executives, those employed in a managerial or executive or supervisory capacity, or as research technicians, who receive more than \$35 per week, traveling and outside salesmen, and outside service men, when expenses are paid by the company; and watchmen, provided that such watchmen are not employed in excess of 56 hours per week, or six days out of seven.

SEC. 3. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers, exceeds the maximum permitted herein.

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

ARTICLE III—WAGES

SECTION 1. No employee of an employer shall be paid less than forty (40) cents per hour, except as hereinafter provided.

SEC. 2. This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

SEC. 3. No employee engaged in office or clerical work and no salaried employees shall be paid less than at the rate of \$15.00 per week excepting office or messenger boys or girls who shall be paid at the rate of not less than 80% of the above minimum salary. One such messenger or office boy or girl may be employed in any office regardless of the number of employees and additional such messenger or office boys or girls may be employed not to exceed one to each twenty other office employees.

SEC. 4. Not later than ninety (90) days after the effective date of this Code, each employer in the industry shall report to the Administrator, through the Code Authority hereinafter provided for, the action taken by such employer in adjusting the hourly wage rates for all employees receiving more than the minimum rates provided in Sections 1 and 3 of this Article III. Such adjustment shall not reduce the hourly wage rate of any such employee.

SEC. 5. 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.

ARTICLE IV—GENERAL LABOR PROVISIONS

SECTION 1. 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 within ninety (90) days a list of such operations or occupations.

SEC. 2. In compliance with Section 7 (a) of the Act, it is provided that:

(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, 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.

SEC. 3. No employer shall reclassify employees or duties or occupations for the purpose of defeating the purposes or provisions of the Act or of this Code or engage in any subterfuge for such purpose.

SEC. 4. No employer or employee shall contract his work to any person except when such person is subject to the provisions of this Code.

SEC. 5. Every employer shall make reasonable provision to the extent required by existing law for the safety and health of his employees at the place and during the hours of their employment.

SEC. 6. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on an employer regulating age of employees, wages, hours of work, or health, fire, or general working conditions than under this Code.

SEC. 7. Each employer shall post in conspicuous places Articles II, III, and IV, the Labor Provisions of this Code.

ARTICLE V—ADMINISTRATION

SECTION 1. To further effectuate the policies of the National Industrial Recovery Act, the 7 members of the Executive Committee of the Association then in office are set up to cooperate with the Administrator of the National Industrial Recovery Act as the "Code Authority" to administer the provisions of this Code. If the Administrator hereafter shall find that the Code Authority is not truly representative of the industry or does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selecting the Code Authority. The Administrator may appoint from one to three representatives without vote to serve on the Code Authority whose terms of office shall be so arranged that the services of not more than one expires in any one year.

These appointees shall be persons not having or representing interests selfish or antagonistic to the interest of members of the Alloy Casting Industry. Absence of such representatives from any meeting of this Committee shall not prevent its complete functioning.¹

SEC. 2. Members of the industry shall be entitled to share the benefits of the activities of the Code Authority 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. 3. The manufacturers engaged in the industry will furnish such information and make such reports to the Code Authority as may be necessary in order to enable the Code Authority to collect and furnish to the Government the information required under the terms of the National Industrial Recovery Act. 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 purpose recited in Section 3 (a) of the National Industrial Recovery Act. The manufacturers shall keep their accounts in such form as may be necessary to enable them to furnish information desired by the Government.

SEC. 4. Members of the Industry having a common interest and common problems may group themselves for administrative purposes in various subdivisions or product classifications, subject to the approval of the Code Authority. The majority of members in each subdivision or product classification may appoint its agency, with supervisory and/or administrative powers, subject to the Code Authority. In the event that no such agency is so appointed, then the Code Authority may appoint such agency. If formal complaint is made to the Code Authority that the provisions of this Code have been violated by any member or members of the Industry, the agency for the subdivision or product classification to which the complaint refers, shall institute such inquiry as may be necessary to develop the facts and shall report the results of such inquiry to the Code Authority.

SEC. 5. The Code Authority may act by or through any committee or representative or representatives to which or to whom it may from time to time delegate authority. Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed or obtained in accordance with any of the provisions of this Code shall be confidential. The statistics, data, and information of one manufacturer engaged in the Industry shall not be revealed to any other manufacturer engaged in the Industry except that for the purpose of enforcing or administering the provisions of this Code, the Code Authority by its duly authorized representatives (who shall not be connected with or in the employ of any manufacturer engaged in the Industry affected by this Code) shall have access to any and all statistics, data, and information that may be

¹ See par. 2 of order approving this Code.

furnished or obtained in accordance with any of the provisions of this Code.

SEC. 6. The Jurisdiction of this Code and of the Code Authority over any manufacturer engaged in the Industry is expressly limited to that portion of the business and employment of such manufacturer which is within the Industry.

SEC. 7. Any alleged violation of the provisions of this Code shall be investigated by an unbiased authorized representative or representatives of the Code Authority as provided for in Article V, Section 5, and members of the Industry shall facilitate such investigations by opening their pertinent correspondence, books and accounts for examination and by furnishing relevant information. Upon the disclosure of any violation of any provision of this Code, the Code Authority shall present evidence thereof to the Administrator.

SEC. 8. Recognizing that violation of any provision of this Code will disrupt the normal course of fair competition in the Industry and cause serious damage and that it will be impossible fairly to assess the amount of such damage, each member of the association who shall violate any such provision shall pay to the association, in trust as and for liquidated damages, a sum equal to 25% of the invoice value of any alloy casting sold in violation of any such provision, such funds to be applied to the administration of this Code. The Code Authority by the affirmative vote of two-thirds may waive any liability for such liquidated damages as may be imposed by or pursuant to this provision of this Code, if in its discretion it so decides that such violation was innocently made and that the collection of such damages is not necessary in order to effectuate the policy of Title I of the National Industrial Recovery Act.

SEC. 9. The Code Authority shall make a careful study of the question of limitation of alloy melting capacity and shall submit to the Administrator for his approval such plan or plans as are deemed necessary and which will further effectuate the policies of the National Industrial Recovery Act.

SEC. 10. If the Administrator shall determine that any action of a Code Authority or any agency thereof is unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended for a period of not to exceed thirty days 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 be taken only upon approval by the Administrator.

ARTICLE VI—TRADE PRACTICE RULES

1. For all purposes of the Code the acts described in this article shall constitute unfair practices. Any member of the industry who shall directly, or indirectly through any officer, employee, agent or representative use, employ, or permit to be employed, any of such unfair practices shall be guilty of a violation of the Code.

(a) The use of other than actual shipping weights as a basis for billing except for machined products specifically classified by the Code Authority.

(b) Assuming transportation expense on pattern equipment either to or from manufacturer's plant.

(c) Assumption of responsibility for machine work, labor charges, or other expenses incurred by the customer on castings which are rejected as defective.

(d) Assumption of any cost for inspection of castings by outside individuals or agents when done at the request of the purchaser.

(e) The selling or advertising for sale and/or marking of products with the intent to mislead or deceive a purchaser or prospective purchaser regarding their quality, substance, or service features.

(f) The fictitious invoicing of products.

(g) Permitting a customer to make any deduction from the invoice not covered by the terms of sale.

(h) The shipping or other delivering of free goods of any kind to any customer for resale or consumer's commercial use.

(i) 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. 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.

(j) To purchase from customers any commodity at a price in excess of the published prevailing open-market price for the commodity in question; to purchase scrap materials of another manufacturer from customers at a price in excess of the published prevailing market price for such materials; to pay more for his own scrap than 2¢ per pound premium over prevailing market prices. This provision shall not be construed as abrogating any existing contract whereby a manufacturer is obligated to take back scrap from castings of his own manufacture at a fixed price.

(k) The giving of terms more favorable than net thirty days from date of shipment. A discount of $\frac{1}{2}$ of 1% may be allowed, providing payment is made within ten days from date of shipment.

(l) Absorb all or any part of the machining cost of castings sold as machined castings.

(m) The selling of products other than alloy castings at prices below the prevailing market to influence a sale of alloy castings.

ARTICLE VII—OPEN PRICE PROVISION

SECTION 1. Each member of the Industry manufacturing products falling within any subdivision or product classification, as described in Article V, Section 4, shall, within ten (10) days after notice of the establishment of any subdivision or product classification, file with the agency for such subdivision or product classification a price list prepared by such member of the Industry, showing his current prices and the agency shall immediately send copies thereof to all members of the Industry engaged in the manufacture of such specified product. Revised price lists may be filed from time to time thereafter with the agency by any such member of the Industry to become effective upon the date specified therein but such revised price list shall be filed with the agency not less than eight

(8) nor more than ten (10) days in advance of the effective date. Copies of such revised price lists with notice of the effective date specified shall be immediately sent to all members of the Industry manufacturing such product who thereupon may file, if they so desire, revisions of their price lists specifying the effective date which may be on or after the date when the revised price list first filed shall go into effect. No member of the Industry shall sell directly or indirectly by any means whatsoever any product of the Industry at a price less than the price shown for such product in the list filed by such member.²

ARTICLE VIII—AMENDMENTS AND SUPPLEMENTS

SECTION 1. This Code, except as to provisions required by the Act, may be modified and supplemented on the basis of experience or changes in circumstances, such modifications and supplements to be based upon application to the Administrator and such notice and hearing as he shall specify, in compliance with Section 3 (a) of the Act and to become effective on approval of the Administrator.

SEC. 2. The President of the United States may from time to time cancel or modify any order, approval, license, rule, or regulation issued under Title I of the National Industrial Recovery Act.

ARTICLE IX

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.

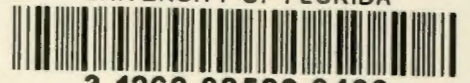
ARTICLE X

This Code shall be effective at 12:01 A.M. on the fifth calendar day after its approval by the President of the United States, and shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall, by proclamation, or the Congress shall, by Joint Resolution, declare that the emergency recognized by Section 1 of the National Industrial Recovery Act has ended.

Approved Code No. 237.
Registry No. 1201-1-02.

² See par. 2 of order approving this Code.

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