

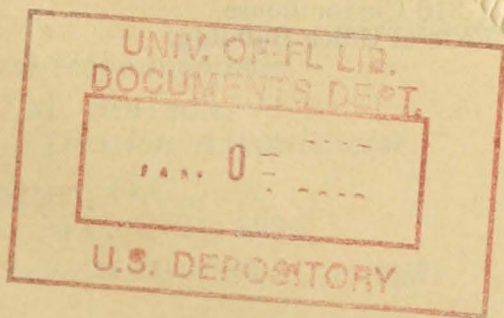
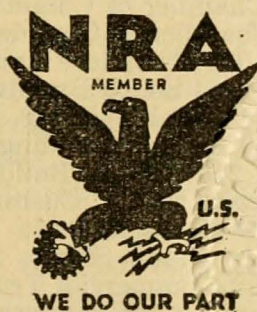
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

TALC AND SOAPSTONE
INDUSTRY

AS APPROVED ON MARCH 21, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1934

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 801 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 422 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Office Building.

Approved Code No. 350

CODE OF FAIR COMPETITION
FOR THE
TALC AND SOAPSTONE INDUSTRY

As Approved on March 21, 1934

ORDER

CODE OF FAIR COMPETITION FOR THE TALC AND SOAPSTONE 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 Talc and Soapstone Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

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

Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

K. M. SIMPSON,
Division Administrator.

Washington, D.C.,
MARCH 21, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: The original code of Fair Competition for the Talc and Soapstone Industry was submitted on August 28th, 1933, by the National Association of Talc and Soapstone Producers, an unincorporated membership society organized in 1933, representing in excess of 90% of the known members of Industry and 90% of the volume of production. Several revisions of the Code were made prior to the Public Hearing which was held on November 21, 1933. The Code was revised during the recess of this hearing and submitted in its present form for approval. Every person who requested an appearance was properly heard in accordance with statutory and regulatory requirements.

The terms Talc and Soapstone are used jointly in the definition of this Industry because Talc is present in varying amounts in all true substitutes, and because of their physical characteristics they have a common soapy feel. Talc and Soapstone, strictly speaking, are hydrated silicates of magnesium in varying proportions. Pyrophyllite is also included within the products of Industry. Because of its physical characteristics it closely resembles Talc in color, luster and feel and is employed as a substitute for many of its products.

Talc, in commercial quantities occurs only in areas of highly crystalline schists and other regional metamorphic rocks. The commercial deposits are confined chiefly to the Appalachian Mountain areas of the Atlantic States from New York to Georgia and to the mountainous belt of the Pacific Coast, notably in California and Washington.

The uses of Talc are determined largely by its physical properties. Thus, its colloidal nature and its high retention make it valuable as a paper filler. It is also used as a filler in paint and other products. Its soapy feel and absence of grit render it peculiarly adaptable to the manufacture of toilet powders and cosmetics. Talc is employed commercially in many ways, but because of inherent differences in physical and chemical properties material from all deposits cannot be applied equally to all uses.

Ground talc is used extensively as a filler in paint, paper, rubber, textiles and various other products. It is also employed for foundry facings, lubricants, and various toilet preparations, in ceramics and in glass making, and also as a polishing agent. Large quantities of Low grade talc are used in the manufacture of composition roofing. Off-color talc is consumed in increasing amounts for rock-dusting coal mines.

Certain grades of talc, because of their electrical resistance, and remarkable property of hardening under heat treatment, are used in the manufacture of electrical fittings, as bushings, blocks, tubes, disks, etc., and are sold under the trade name of Lava Products. Massive talc is also used in the manufacture of crayons and pencils. 95% of the total talc output is sold in pulverized form.

The potentialities of the Industry are proportionate to the grade of talc produced and the rates of pay heretofore have been in the same proportion. The rates of pay which have been paid in the south have been as low as 7½¢ per hour in the Georgia section, and 15¢ per hour has been a common rate of pay in Virginia.

The Industry in general may be looked upon as a very minor activity as evidenced by the fact that in 1931 there were 163,752 short tons, valued at \$1,852,472 produced in the United States—more than half of the value of the talc mined in 1931 was produced in the State of New York. The financial status of the Industry is in a most precarious condition. The low wage rates in the South, under the terms of this Code, have been increased to 25¢ per hour minimum for labor above ground, and 30¢ per hour minimum for labor underground; and 35¢ per hour minimum above ground and 40¢ per hour minimum underground, in the North. The maximum of 40 hours per week as outlined in this Code, and the new minimum rates per hour for the Industry, as well as the provision for adjustment of wages above the minimum, should result in a further spreading of not only the available work among the workers, but also an increased consumer purchasing power.

ARTICLE I. *Purpose*.—States the purpose of the Code.

ARTICLE II. *Definitions*.—Accurately defines specific terms applicable to the Talc and Soapstone Industry as used in this Code.

ARTICLE III. *Hours*.—The maximum hours are limited to forty hours per week for employees engaged in the mining and processing of products and labor incident thereto, except that during six weeks in any six month period of any calendar year in order to meet seasonal peak demands, employees may be permitted to work not more than 48 hours per week and not more than eight hours in any one day, with the proviso that time and one half shall be paid to any employee so employed for hours worked in excess of 40 hours per week or 8 hours per day. Office, salaried and other employees not covered by the above who receive less than \$35.00 per week shall not be permitted to work in excess of 40 hours in any one week, except that they may be permitted to work 48 hours in any one week in any one month period. Watchmen shall be permitted to work either 84 hours in a two week period or 56 hours in a one week period, provided, such employees shall have at least one day's rest in every seven. Employees engaged in an executive, managerial or supervisory capacity who receive not less than \$35.00 per week, and those engaged in emergency repairs or maintenance, where the safety of life, or health, or the protection of property demands longer hours, are not subject to hourly limitations. No employee shall be permitted to work more than six days in any seven day period.

ARTICLE IV. The minimum wages for employees engaged in the mining and the processing of products or any labor incident thereto shall not be paid less than 40¢ per hour underground and 35¢ per hour above ground in the northern zone, and 30¢ per hour underground and 25¢ per hour above ground in the southern zone. The minimum rates for female employees shall be 80% of the respective minimum above-ground rates for the northern and southern zones. No person employed in clerical or office work shall be paid less than at the rate of \$15.00 per week, except that office boys and girls and messengers may be paid 80% of the established minimum for office employees.

The established minimum rate of pay for work performed for any pay period shall apply, irrespective of whether an employee is actually compensated on a time-rate, piecework or other basis. Provision is made for the employment of handicapped persons. Provision is also made for the adjustment of wages above the minimum fixed in this Code if such adjustment has not been made prior to the approval of this Code.

ARTICLE V. *General Labor Provisions*.—Provides that no employer shall employ any person under 16 years of age, and that no person under 18 years of age shall be employed except in clerical, office, sales, technical and engineering departments. This Article also sets forth mandatory provisions respecting the rights of employees to organize and bargain collectively. It also provides for matters having to do with reclassification of employees, standards for safety and health, the observance of state laws and the posting of complete copies of this Code so that they are accessible to employees.

ARTICLE VI. *Administration*.—Establishes a Code Authority consisting of six members to be selected by a fair method of election so as to be truly representative of the Industry, subject to the approval of the Administrator. In addition to the six members above named there may be one or three representatives without vote, and without expense to the Industry, to be appointed by the Administrator for such terms as he may specify. In addition to the organization of the Code Authority, the powers and duties thereof are outlined in this Article.

ARTICLE VII. *Marketing and Trade Practice Rules*.—Sets forth Trade Practices for the Industry.

ARTICLE VIII. *Export Trade*.—No provision of this Code relating to terms of selling, shipping or marketing shall apply to export trade, or sales or shipments for export trade or transactions in the foreign commerce of the United States.

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

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. *Price Increases*.—This Article indicates that the increase in selling prices, so far as possible, will be limited to actual increases in seller's costs.

ARTICLE XII. *Termination*.—This Code and all supplementary provisions thereto shall expire on June 16, 1935, or at the earliest date prior thereto on which it shall be declared that the emergency recognized by Title I of the Act has ended.

ARTICLE XIII. *Effective date*.—This Code shall become effective beginning ten days after its approval by the Administrator.

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

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce

which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of Industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

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

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

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

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

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

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

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 21, 1934.

CODE OF FAIR COMPETITION FOR THE TALC AND SOAPSTONE INDUSTRY

ARTICLE I—PURPOSES

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

ARTICLE II—DEFINITIONS

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

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

SECTION 2. The term "Act" means Title I of the National Industrial Recovery Act.

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

SECTION 4. The term "Talc and Soapstone Industry" or "Industry" as used herein means the mining and/or milling and/or shaping and/or sawing of talc and soapstone and/or the original sale of such industry products by a member of Industry either by himself or by his agent which includes without limitation any person or corporation occupying a subsidiary or controlling relationship or one of common, mutual or joint ownership or control with a member of Industry.

(a) The term "Industry Products" as used herein includes crude talc and/or soapstone, crushed talc and/or soapstone, pulverized talc and/or soapstone, sawed and fabricated talc and/or soapstone, and for the purposes of this Code shall also include like products of talcose materials including pyrophyllite.

SECTION 5. The term "Member of the Industry" includes anyone engaged in the Industry either as an employer or on his or its own behalf.

SECTION 6. The term "Employee" means and includes anyone engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation, except a member of the Industry.

SECTION 7. The term "Employer" means and includes anyone by whom any such employee is employed or compensated.

SECTION 8. The term "Southern Zone" as used herein shall include the States of Virginia, Tennessee, North Carolina, Georgia and Alabama.

SECTION 9. The term "Northern Zone" as used herein shall include all other territory of the United States except as defined in "Southern Zone".

SECTION 10. The term "Association" as used herein means The National Association of Talc and Soapstone Producers, an unincorporated membership society whose principal place of business is located at Chester, Vermont.

SECTION 11. The term "Secretary" shall mean the Secretary-Treasurer of the National Association of Talc and Soapstone Producers.

ARTICLE III—HOURS OF LABOR

SECTION 1. *Maximum Hours.*—On and after the effective date of this Code, no employee shall be permitted to work in excess of forty hours in any one week or eight hours in any twenty-four hour period except as herein otherwise provided. A normal work day shall not exceed eight hours.

SECTION 2. *Hours for Clerical and Office Employees.*—On and after the effective date of this Code, no person employed in clerical or office work shall be permitted to work in excess of forty hours in any one week, except that during any one week in any one month period such employee shall be permitted to work a maximum of forty-eight hours in any such week. A normal work day shall not exceed eight hours.

SECTION 3. *Exceptions as to Hours.*—The limitation as to hours of labor as specified in Sections 1, 2 and 4 of this Article III shall not apply to the following:

(a) To employees engaged in emergency maintenance, or emergency repair work, involving breakdown or the protection of life or property; provided, that in such special cases not less than one and one-half times the normal wage rate for any employee so employed shall be paid for all hours worked in excess of forty hours in any one week, or eight hours in any one day; provided, that this overtime provision shall not apply in cases of catastrophies involving loss of life or property. Such special cases, however, shall be reported to the Code Authority.

(b) To persons engaged in a managerial, executive or supervisory capacity, who receive not less than \$35.00 per week in the Northern Zone and not less than \$30.00 per week in the Southern Zone, and to outside sales or service men.

(c) To watchmen, who, according to the nature of their responsibilities, may be permitted to work not more than eighty-four hours in any two week period or fifty-six hours in any one week, provided that such employees shall have at least one day's rest in each seven day period.

(d) To employees engaged in the preparation, care and maintenance of machinery and production facilities, stock and shipping clerks, and truckmen engaged in outside delivery and pick-up service who may be granted a tolerance of 10% additional hours over the forty hours in any one week and may be permitted to work not more than forty-four hours in any one week.

(e) To production employees, mechanical workers, or artisans who, during any period in which a concentrated demand upon any division of the Industry shall place an unusual and temporary burden for production work upon its facilities, or to meet seasonal, or peak requirements, or emergencies, may be permitted to work not more than forty-eight hours per week and not more than eight hours in any one day in not more than six weeks in six months of any calendar

year, provided that not less than time and one-half the normal rate shall be paid to any employee so employed for hours worked in excess of forty hours per week, or eight hours per day. All overtime worked in such peak periods shall be reported to the Code Authority.

(f) To skilled workers in continuous processes, the interruption of which would unavoidably reduce production because of demands inherent and peculiar within the process itself, provided, however, that such employees in such cases shall not work more than forty-eight hours in any one week, and provided that in such special cases at least one and one-half times the normal wage rate shall be paid to any employee so employed for hours worked above forty hours per week. Provided that in cases where an employee is acting in temporary relief for a fellow employee in continuous processes the overtime provision hereinabove set forth shall not apply. Such special cases as set forth hereinabove shall be reported to the Code Authority.

(g) To hoist men, power house men, or pump men; provided the total working hours of such employees shall not exceed forty-eight hours in any one week.

SECTION 4. *Standard Week*.—No employee shall be permitted to work more than six days in any seven day period.

SECTION 5. *Employment by Several Employers*.—No employer shall knowingly permit any employee to work for any time which, when totalled with that already performed with another employer, or employers, in this Industry, or otherwise, exceeds the maximum permitted herein.

ARTICLE IV—WAGES

SECTION 1. *Minimum Wages*.—On and after the effective date of this Code, no employee, except as herein otherwise specified, shall be paid in any pay period less than at the rate of 40¢ per hour “underground” and 35¢ per hour “above ground” in the Northern Zone and 30¢ per hour “underground” and 25¢ per hour “above ground” in the Southern Zone. The minimum rates for female employees shall be 80% of the above respective minimum “above ground” rates for the Northern Zone and Southern Zone. The minimum rates herein provided shall be construed as hiring rates applying to totally unskilled or common labor. Other classes of labor shall be compensated at rates above such minimum. Minimum wages which were in effect prior to date of approval of this Code, which were above the minimum specified shall in no case be reduced.

SECTION 2. *Clerical and Office Employees*.—No accounting, clerical, sales or service employee working on a weekly basis in any office shall be paid less than at the rate of \$15.00 per week; provided, however, that office boys and girls and messengers may be paid at a rate not less than 80% of such minimum; and provided further that the number of such boys and girls and messengers so paid shall constitute not more than 5% of the total number of such employees of any office of any one employer, but in any case each employer shall be entitled to at least one such employee.

SECTION 3. *Piecework Compensation—Minimum Wages*.—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.

SECTION 4. *Female Employees*.—Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees, and when they displace male employees they shall receive the same rate of pay as the men they displace.

SECTION 5. *Wages Above the Minimum*.—Within 60 days from the date of approval of this Code an adjustment of wages above the minimum provided in this Code shall be made by employers who have not heretofore made such adjustment. Such adjustment shall mean that differentials in compensation between employees receiving the minimum wage and employees above the minimum wage existing prior to the date of approval of this Code shall be maintained; provided, however, that in no event shall rates of pay be reduced. Each member of the Industry shall make a report of such adjustment whether made prior to or subsequent to date of approval of this Code, to the Code Authority.

SECTION 6. *Handicapped Persons*.—A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, 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 such person's employment at such wages and for such hours as shall be stated in the certificate. Such authority shall be guided by the instructions of the United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

SECTION 7. *Payment of Wages*.—An employer shall make payment of all wages in lawful currency or by negotiable check therefor payable on demand. These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners, or required by State Laws. Pay periods for wages shall be at least semi-monthly, and for salaries at the end of every month. Employers shall agree not to withhold wages.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. *Child labor*.—On and after the effective date of this Code, no person under 18 years of age shall be employed in the Talc and Soapstone Industry except in clerical, office, sales, service, technical and engineering departments, and no person under 16 years of age shall be employed in any capacity. In any state an employer shall be deemed to have complied with this provision as to age of employees if he shall have on file a certificate or permit duly signed by the Authority of such state empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SECTION 2. *Provisions of the 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, and

(c) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

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

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

SECTION 5. *State Laws.*—No provision in this Code shall supersede any State or Federal Law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

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

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

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

SECTION 1. *Organization and Constitution.*—A Code Authority to administer this Code is hereby constituted and shall consist of six members. Five of such members shall be voting members. Two of such voting members shall be selected by members of the Industry in the Southern zone to represent such zone, and shall be truly representative of the members of the Industry in such zone. Two such voting members shall be selected by members of the Industry in the Northern zone by members of the Industry in such zone and shall be truly representative of the members of the Industry in such zone. One other such member shall be selected by the members of the entire Industry, and shall be representative of the Industry as a whole. The Secretary-Treasurer of the National Association of Talc and Soapstone Producers shall be Secretary and a non-voting member of the Code Authority. The election of all members to the Code Authority shall be by a fair and equitable method of selection to be approved by the Administrator. The Code Authority shall make investigations as to the functioning and observance of any of the provisions of this Code at its own instance or upon the complaint of any person affected, and shall report the result thereof to the Administrator.

SECTION 2. In addition to the above membership there may be not more than three additional members, without vote and without expense to the Industry to be appointed by the Administrator to serve for a six month or a twelve month term from date of appointment as he may specify.

SECTION 3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall, (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its Articles of Association, By-Laws, Rules and Regulations, and any amendments when made thereto, together with such other information as to membership, organization and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 4. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

SECTION 5. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

SECTION 6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful misfeasance or nonfeasance.

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

(a) To insure the execution of the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act subject to such rules and regulations as the Administrator may prescribe.

(b) To adopt By-Laws and Rules and Regulations for its procedure and for the administration and enforcement of the Code. The Code Authority shall promptly furnish to the Administrator true copies of the By-Laws, Rules and Regulations adopted pursuant to this paragraph.

(c) To obtain from members of the Industry through a confidential agency such statistical information and reports as are required for the administration of the Code and to provide for submission by members of the Industry of such statistical information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports shall be submitted by members of the Industry to such Federal and State 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 any other party except to such governmental agencies as may be directed by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

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

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

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

(h) The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the Industry. After such system and methods have been formulated, full details concerning them shall be made available to all members. Thereafter, all members shall determine and/or estimate costs in accordance with the principles of such methods.

ARTICLE VII—MARKETING AND TRADE PRACTICE RULES

SECTION 1. *Price Schedule.*—(a) Each member of the Industry within twenty days after the effective date of this Code shall file with the Code Authority the price or prices and terms and conditions of sale at which he is offering his products for sale, which products are in direct or indirect competition with other members of the Industry; this original filing to become effective on the date of such filing. The Code Authority forthwith on such original filing shall notify all known members of the Industry of the contents thereof and shall

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

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

(c) The Code Authority shall prescribe rules and regulations providing for the sale of distress merchandise, surplus inventories, products not up to specification, and to meet the competition of other materials competitive with the products of this Industry, which shall become effective upon approval by the Administrator. No member of the Industry shall sell any goods of any of the classes above described for the purpose of violating the provisions of this Code or of defeating the purposes of the Act, except in full compliance with such rules and regulations.

SECTION 2. *Trade Practice Rules.*—The following trade practices are declared to constitute methods of unfair competition between members of the Industry, and no member of the Industry shall use or engage in any of them, directly or indirectly, through any officer, agent, or employee. Engaging in any one of such trade practices or of any other practices which hereafter may be declared to be unfair methods of competition by the Code Authority, approved by the Administrator, shall be deemed a violation of this Code.

(a) Failing to file price schedules or changes therein, as required by Section 1 of this Article.

(b) Selling of any Industry product by a Member of the Industry at a price below the open, filed or publicly announced price schedules of such member, or to deviate from the conditions of sale contained in such schedules filed pursuant to Section 1 of this Article.

(c) Selling products of the Industry below cost of production as determined pursuant to Sub-Section (h) of Section 7 of Article VI; provided, however, that a member of the Industry shall be permitted to file prices and sell at such filed rates in order to meet the filed prices of a competitor, and provided further that sales necessary to meet the competition of other materials with Talc and Soapstone, or sales necessary in order to dispose of distress merchandise, may be made at other than filed prices pursuant to the provisions of Section 1 (c) of this Article VII. Full information concerning such sales shall be reported to the Code Authority and shall be given to all members of the Industry.

(d) Paying or allowing rebates, refunds, commissions, credits or unearned discounts, whether in the form of money or otherwise, or the extension of special services or privileges to certain purchasers which are not extended to all purchasers under similar circumstances, for the purpose or with the effect of violating the provisions of this Code.

(e) Pre-paying freight charges with the intent or effect of granting discriminatory credit allowance.

(f) Allowing in any form, adjustments, discounts, credits or refunds for the purpose or with the effect of altering retroactively the price quoted, in such manner as to create price discrimination.

(g) Pre-dating or post dating any invoice or sales contract, except to conform to a bona fide agreement entered into on the pre-date.

(h) Repudiating a contract entered into in good faith when the purpose or effect of such repudiation is to create an unfair price advantage for a member of the Industry.

(i) Inducing or attempting to induce the breach of an existing contract between a competitor and his customer or source of supply; or interfering with or obstructing in any manner the performance of the contractual duties or services of another.

(j) Requiring that the purchase or lease of any products or equipment be a prerequisite to the purchase or lease of any other products or equipment.

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

(l) Knowingly shipping a lower grade of material than is described in the contract or order.

(m) Deviating from the published and previously established specifications, for the purpose of influencing a customer or prospective customer.

(n) Selling through any agent other than an exclusive agent, when an exclusive agency exists, without the consent of such exclusive agent, or selling or attempting to sell through more than one agent, except with the full knowledge of each agent.

(o) Making any contract with a purchaser to protect such purchaser against a decline in price.

(p) Knowingly publishing advertising, whether printed, radio, display or otherwise, which is misleading or inaccurate in any material particular; or misrepresenting any goods or products of the Industry as to use, trade-mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content, preparation, or making any misrepresentation as to credit terms, values, policies, services or the nature or form of the business conducted.

(q) Branding, marking or packing any goods or products in any manner, which is intended to or does deceive or mislead purchasers with respect to brand, or trade-mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content, or preparation of such goods or products.

(r) Knowingly publishing advertising which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services.

(s) Knowingly withholding from, or inserting in any quotation or invoice, any statement which makes it inaccurate in any material particular.

(t) Publishing or circulating unjustified or unwarranted threats of legal proceedings, having the effect of harassing competitors or intimidating their customers.

(u) 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. This commercial bribery provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

ARTICLE VIII—EXPORT TRADE

No provision of this Code relating to terms of selling, shipping, or marketing shall apply to export trade or sales or shipment for export trade, or transactions in the foreign commerce of the United States.

ARTICLE IX—MODIFICATION

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

2. Such of the provisions of this Code as are not required to be included therein by the Act may, with the approval of the Administrator be amended as provided in Section 3 hereof, in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience; all the provisions of this Code, unless so modified or eliminated, shall remain in effect until the expiration date of Title I of the Act.

3. An amendment may be proposed by any interested party either to the Code Authority or directly by or to the Administrator. All proposed amendments shall be referred to the Code Authority, who shall give members of the Industry an opportunity to be heard thereon, and thereafter the Code Authority may make such recommendations thereon as is deemed proper, provided, however, that when approved by the Administrator as necessary to effectuate the policies of the Act, after such notice and hearing as he may prescribe, any proposed amendment shall thereupon become effective as a part of this Code.

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

ARTICLE X—MONOPOLIES

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

ARTICLE XI—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases except such as may be required to meet individual cost should

be delayed, but when made such increases should, so far as possible, be limited to actual additional increases in the seller's costs.

ARTICLE XII—TERMINATION

This Code and all supplementary provisions thereto shall expire on June 16, 1935, or on 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 Title I of the Act has ended.

ARTICLE XIII—EFFECTIVE DATE

This Code shall become effective beginning ten (10) days after its approval by the Administrator.

Approved Code No. 350.

Registry No. 1039-10.



UNIVERSITY OF FLORIDA



3 1262 08486 8651