



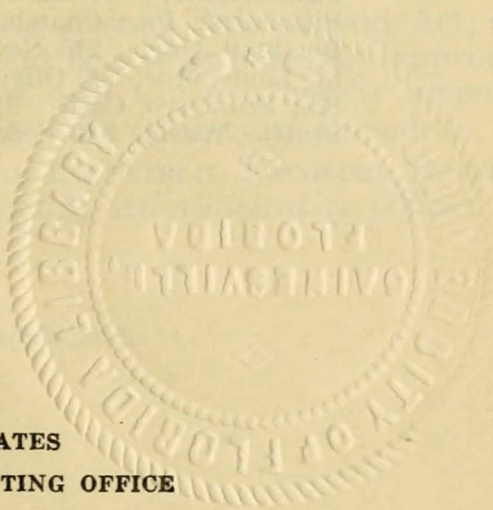
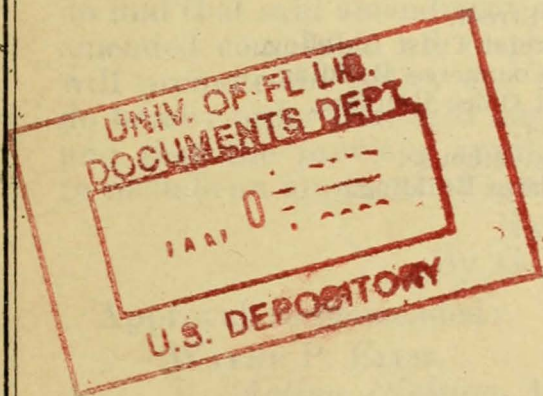
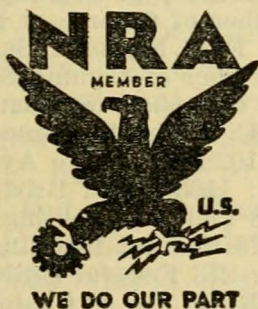
NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION

FOR THE

CONCRETE MASONRY INDUSTRY

AS APPROVED ON OCTOBER 10, 1934

UNITED STATES
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Approved Code No. 133—Amendment No. 2

AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

CONCRETE MASONRY INDUSTRY

As Approved on October 10, 1934

ORDER

APPROVING AMENDMENT TO THE CODE OF FAIR COMPETITION FOR THE CONCRETE MASONRY 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 an amendment to the Code of Fair Competition for the Concrete Masonry Industry, and hearings having been duly held thereon and the annexed report on said amendment, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, we, the National Industrial Recovery Board, pursuant to authority vested in us by Executive Orders of the President, including Executive Order No. 6859, dated September 27, 1934, and otherwise; do hereby incorporate, by reference, said annexed report and do find that said amendment and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purpose of said Title of said Act, and do hereby order that said amendment be and it is hereby approved, and that the previous approval of said Code is hereby amended to include an approval of said Code in its entirety as amended.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By G. A. LYNCH, *Administrative Officer*.

Approval recommended:

WAYNE P. ELLIS,
Acting Division Administrator.

WASHINGTON, D. C.,
October 10, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: An application has been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, for an amendment to the Code of Fair Competition for the Concrete Masonry Industry, submitted by the Code Authority for the Concrete Masonry Industry.

The purpose of this amendment is primarily to clarify and strengthen a number of provisions in the Code and to permit the inclusion of sub-divisions of the Industry at a later date. Existing provisions have been revised, and new provisions have been added to more effectively create employment, protect wage payments, permit employment of handicapped persons, prevent reclassification of labor through subterfuge, prevent improper dismissal of employees, and provide for the safety and health of employees. The provisions relating to administration have been completely re-written for clarity and to conform to existing policy, and recommended procedure. The provisions relating to secret rebates and commercial bribery have been revised for clarity and to conform with Administrative policy. The provision relating to price listing has been revised to make such lists available for inspection of all interested parties. The effect of the amendment is briefly that the position of the employee in the Industry is strengthened and his welfare given more protection, and that the administration of the Code may proceed along more definite and constructive lines.

FINDINGS

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

We find that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the 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 trade groups by inducing and maintaining unit action of labor and management under adequate governmental sanction 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 labor, and by otherwise rehabilitating industry.

(b) The Code as amended 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.

(c) The Code empowers the Code Authority to present the afore-said amendment on behalf of the Industry as a whole.

(d) The amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendment and the Code as amended are 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 amendment.

For these reasons, therefore, we have approved this amendment.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By G. A. LYNCH, *Administrative Officer*.

OCTOBER 10, 1934.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE CONCRETE MASONRY INDUSTRY

AMENDMENT No. 1

Article II, Section 1, entitled "Industry" to be amended to read as follows:

"The term 'Industry' as used herein includes the manufacture, and sale by those who manufacture, of block, brick, or tile building units made of Portland Cement Concrete, primarily for structural use, and such related branches or sub-divisions as may from time to time be included under the provisions of this Code".

AMENDMENT No. 6

Article III, Section 2 (c) to be amended by re-writing the Section as follows:

"Watchmen, provided no such employees shall be permitted to work in excess of fifty-six (56) hours in any one week; provided further, however, that in idle plants not operating and which have not operated for the previous two weeks, watchmen shall not be permitted to work in excess of sixty-four (64) hours in any one week."

AMENDMENT No. 7

Article III to be amended by adding the following new Section as Section 7:

"Standards as to the maximum hours of labor, minimum rates of pay, and such other conditions of employment as may be necessary to effectuate the policies of Title I of the Act may be established for any area by mutual agreements between employers and employees arrived at and approved pursuant to the provisions of Section 7 (b) of the Act, provided that the wage and hour provisions of such agreement shall not be less favorable to employees than the wage, hour and other labor provisions established in this Code."

AMENDMENT No. 8

Article IV, Section 2 (d) to be amended by substituting the following therefor:

"These wages shall be exempt from any payments or pensions, insurance or sick benefits, other than those voluntarily paid by the wage earners, or required by law, and such wages shall be paid in lawful currency or by negotiable check, payable on demand. Pay periods for wages shall be at least weekly, and for salaries at least monthly. The employer or his agent shall accept no rebates directly or indirectly on such wages";

and by adding a new Section, Section 3 as follows:

"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 U. S. 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 U. S. 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."

AMENDMENT No. 9

Article V, Section 4 to be amended by striking out present Section 4 in the Code and substituting the following therefor:

"*Reclassification.*—Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act or of this Code, nor engage in any other subterfuge for such purposes."

AMENDMENT No. 10

Article V, Section 5 to be amended by adding certain words thereto in order that the complete Section as amended shall read as follows:

"Each employer shall provide for the safety and health of his employees. He shall not be relieved from complying with all national, state, and local ordinances and provisions of safety measures referring to safety and health measures and the welfare of employees insofar as the same may apply to his special type of work, nor from protecting his employees by workmen's compensation insurance. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within three (3) months after the effective date of this amendment."

AMENDMENT No. 11

Article V to be amended by adding thereto the following section, as Section 8:

"No employee shall be dismissed or demoted for making a complaint or giving evidence with respect to an alleged violation of this Code."

AMENDMENT No. 12

Article IV, Section 1 (a)—Amend by striking out the words:

"No factory or mechanical worker or artisan", and substituting therefor the words: "Except as provided in subsections (b) and (c) of this Section, no employee", so that Section 1 (a) will read as follows:

"Except as provided in Subsections (b) and (c) of this Section, no employee shall be paid at less than at the rate of forty (40) cents per hour, except that in Region Number 4 as defined in Article VI of this Code, the minimum shall be thirty (30) cents per hour."

AMENDMENT No. 13

Delete the whole of Article VI, with exception of Section 14 as amended August 13, 1934, and substitute in lieu thereof the following:

"Article VI—Administration.

SECTION 1. *Regions*.—To facilitate administration, the industry shall be divided into five regions, as follows:

(1) Maine, Vermont, New Hampshire, New York, Massachusetts, Connecticut, Rhode Island.

(2) Pennsylvania, Maryland, New Jersey, Delaware, District of Columbia, West Virginia.

(3) Indiana, Michigan, Wisconsin, Kansas, Illinois, Minnesota, Iowa, Ohio, Missouri, North Dakota, South Dakota, Nebraska.

(4) Texas, Oklahoma, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Virginia, North Carolina, South Carolina, Georgia, Alabama, Florida.

(5) Arizona, California, Colorado, Idaho, Montana, Nevada, Wyoming, New Mexico, Oregon, Utah, Washington.

SECTION 2. The regions as established in Section 1 above may be revised and/or subdivided upon application by the Code Authority and approval by the Administrator.

SECTION 3. A Code Authority is hereby established for the administration of this Code, and shall consist of eight (8) members to be elected as hereinafter provided, together with such additional members as may be required to represent new divisions as provided in Section 13 (b) of this Article. In addition to the membership as above provided there may be three (3) members, without vote, to be known as Administration Members, to be appointed by the Administrator to serve for such time as he may specify.

SECTION 4. The Code Authority shall be elected in the following manner: The members of the Industry in each division shall, by a fair method of election to be approved by the Administrator, select its representatives to serve as members of the Code Authority, and the proportionate representation of each division on the Code Authority shall be based on the relative annual production (or volume of business) of the members of the Industry in each division. In the event of any vacancy occurring, the Code Authority shall elect a member to fill such vacancy, provided that the proper representation of each division is maintained.

SECTION 5. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority or of any regional or subregional administrative committee shall: (1) impose no inequitable restriction on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities, as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 6. 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 provide 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 7. 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 be liable to anyone for any action or omission to act under the Code, except for his own willful malfeasance or nonfeasance.

SECTION 8. If the Administrator shall at any time determine that any action of a 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 (30) days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 9. Subject to such rules and regulations as may be issued by the Administrator, the Code Authority shall have the following powers and duties, in addition to these authorized by other provisions of this Code.

(a) To insure the execution of the provisions of this Code and to provide for the compliance of the industry with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from members of the industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the industry subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and State Agencies as he may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any Governmental Agency. No individual report shall be disclosed to any other member of the industry or any other party except to such other 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 and such other Codes, if any, as may be related to or affect members of the industry.

(f) The Code Authority may present to the Administrator recommendations based upon conditions in the industry as they may develop from time to time, which recommendations will tend to ef-

fectuate the operation of this Code and the policies of the Act. Such recommendations, upon approval by the Administrator, shall become effective as a part of this Code.

(g) To recommend to the Administrator any action or measures deemed advisable, including further fair trade practice provisions to govern members of the industry in their relations with each other or with other industries; measures for industrial planning, and stabilization of employment; and including modifications of this Code which shall become effective as part hereof upon approval by the Administrator after such notice and hearing as he may specify.

(h) To provide appropriate facilities for arbitration by the members of the Industry, and subject to the approval of the Administrator, to prescribe rules of procedure and rules to affect compliance with awards and determinations.

SECTION 10. *Regional Committees*.—Members of the Industry in any division in any region, as defined in Section 1 of this Article, may establish Regional Committees by means of some fair method of election, subject to the approval of the Code Authority and the Administrator. The Code Authority on its own motion may, or upon petition of 25 per cent of the members of the industry in any division in any region shall, call a meeting of all the members of the industry in any division in any region for the purpose of organizing and electing a Regional Committee.

SECTION 11. *Sub-Regional Committees*.—If, in pursuance of Section 2 of this Article, any region may be divided into sub-regions, each such sub-region may establish a Sub-Regional Committee by means of some fair method of election, subject to the approval of the Code Authority and the Administrator.

SECTION 12-a. Regional and Sub-Regional Committees elected in conformity with Sections 10 and 11 of this Article shall have such powers and duties as may be delegated by the Code Authority, provided, however, that all minutes and records shall be filed with the Code Authority, and provided, further that any action of any such committee shall be subject to the review and disapproval of the Code Authority.

SECTION 12-b. The Code Authority may use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, 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.

SECTION 13-a. For the purpose of the election of the Code Authority and to facilitate the administration of this Code, the following divisions of the industry are hereby established.

(1) The Cinder Unit Division, which shall consist of those members of the Industry who manufacture block, brick or tile building units, primarily for structural use, in which the aggregate chiefly used is cinders.

(2) The Concrete Masonry Unit Division which shall consist of those members of the industry who manufacture block, brick or tile building units, primarily for structural use, in which the aggregate used is chiefly other than cinders.

SECTION 13-b. Divisions of the Industry may be established upon application to the Administrator by truly representative associations or groups after such hearing and notice as he may prescribe, and such divisions shall have representation on the Code Authority in equitable proportion to the other divisions represented on the Code Authority, and such members of the Code Authority shall be elected by a method to be approved by the Administrator.

SECTION 13-c. Each Member of the Industry shall make such sworn reports to the Code Authority as to wages, hours of labor, number of employees, production, stocks on hand, sales, and such other matters as the Code Authority may require for the administration of this Code.

SECTION 13-d. Each Member of the Industry shall keep accurate and complete records of its transactions in the Industry whenever such records may be required under any of the provisions of this Code, and shall furnish accurate reports based upon such records concerning any of such activities when required by the Code Authority or the Administrator. If the Code Authority or the Administrator shall determine that substantial doubt exists as to the accuracy of any such report, so much of the pertinent books, records and papers of such Member as may be required for the verification of such report may be examined by an impartial agency, agreed upon between the Code Authority and such Member, or, in the absence of agreement, appointed by the Administrator. In no case shall the facts disclosed by such examination be made available in identifiable form to any competitor, whether on the Code Authority or otherwise, or be given any other publication, except such as may be required for the proper administration or enforcement of the provisions of this Code.

AMENDMENT No. 16

Article VII, Section 1 (c). Amend by striking out second word, "define", and substituting therefor the word, "defame", in order that sub-section may read as follows: "To defame a competitor by words or acts, falsely imputing to him dishonorable conduct, inability to perform contracts, or questionable credit standing, or by the false disparagement of the grade or quality of his products."

AMENDMENT No. 17

Article VII, Section 1 (i) and Section 1 (j). Amend by striking out sub-sections (i) and (j) and substituting therefor the following:

"(i) *Secret Rebates*.—To secretly offer or make any payment of allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise, nor to secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale."

"(j) *Commercial Bribery*.—To give, permit to be given or directly offer to give, anything of value for the purpose of influencing or regarding 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 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."

AMENDMENT No. 19

Amend Article VII, Section 3 by changing the period in Line 6 to a semi-colon and add thereafter the following words:

"Such price lists or copies thereof to be made available during all business days for the inspection of any and all interested parties."; and by substituting the following for the first sentence in the second paragraph of Section 3 of Article VII:

"The Code Authority shall immediately send copies thereof to all such members of the Industry and their customers as shall apply therefor and defray the cost thereof"; in order that the revised Section 3 of Article VII shall read as follows:

"Published Prices.—Each member of the Industry shall publish and distribute to the trade his price lists for sales to consumers and/or middlemen for various types, kinds, and grades of products of the Industry, which shall include credit terms, trade and cash discounts, schedules of freight and cartage charges; copies of which shall at the same time be submitted to the Code Authority; such price lists or copies thereof to be made available during all business days for the inspection of any and all interested parties.

The Code Authority shall immediately send copies thereof to all such members of the Industry and their customers as shall apply therefor and defray the cost thereof. Any revision of such price lists or other such information which may be thereafter made, shall be published to the trade and filed with the Code Authority to become effective on the date specified, but such revised price lists shall be filed at least five days in advance of the effective date. Failure to adhere to such published price lists, discounts, terms, or other conditions of sale, shall constitute an unfair method of competition."

Approved Code No. 133—Amendment No. 2.

Registry No. 1011-1-02.

