

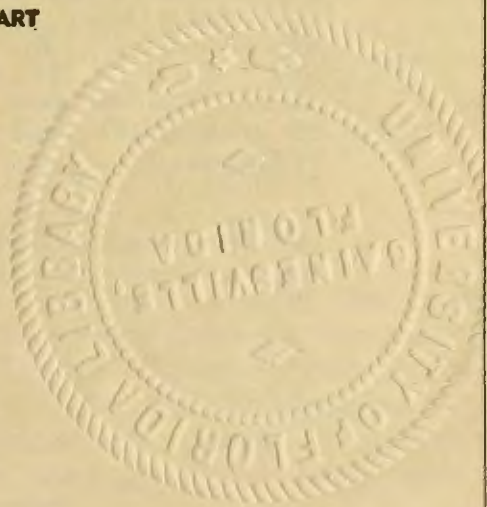
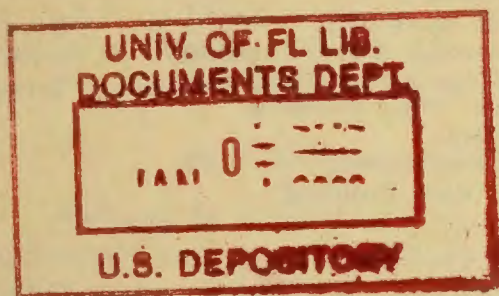
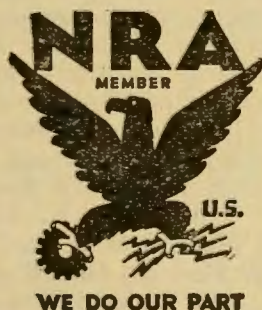
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

COPPER INDUSTRY

AS APPROVED ON APRIL 21, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1934

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Approved Code No. 401

CODE OF FAIR COMPETITION

FOR THE

COPPER INDUSTRY

As Approved on April 21, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE COPPER 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 Copper 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 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 purposes and policy of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved; provided, however, that (1) the provisions of Article VII be deleted entirely and there be substituted therefor the following to be called 'New Article VII':

NEW ARTICLE VII—MARKETING PROVISIONS

1. *Sales to be covered and reported.*—The provisions of this Article shall apply only to sales of duty free copper for domestic consumption except as provided in subsections (17) and (18) of Section 6 hereof. All sales of copper for domestic consumption shall be reported to the Sales Clearing Agent, and charged against sales quotas as hereinafter provided for, provided however, the tonnage of all other sales of duty free copper shall also be so reported.

2. *Filing of prices.*—At least two days prior to the effective date of the establishment of any sales quota pursuant to the provisions of this Code, each party to whom such sales quota has been assigned shall file with the Sales Clearing Agent a statement showing his selling price of copper, as herein defined, together with his existing differentials. Not later than during business hours of the day preceding the

effective date of the establishment of sales quota, the Sales Clearing Agent shall notify each member of his filed price and differentials, and also those of all other members, to become effective the next day. Thereafter selling prices and/or differentials may be changed by giving notice thereof to the Sales Clearing Agent prior to two o'clock P.M. (New York City time) on any business day except Saturday, which new price and/or differentials shall be effective at the beginning of business on the next business day. Notice to others shall be given in each case, as above provided. After notice of any such change of price and/or differential has been received by the Sales Clearing Agent any other party having a sales quota may give like notice during the balance of that day and in such case all such new prices and/or differentials shall become effective at the beginning of business on the following business day. After the effective date of this Code no sales of copper shall be made at a price or differential other than that specified by the seller in his filed statements and in effect at the time of the sale. The Code Authority shall have the average weighted sales price computed each day and immediately furnish it to the trade papers and public press as the "Quotation issued by the Code Authority for Copper offered for sale in the Domestic Market pursuant to the provisions of the Copper Code", and the trade papers and public press shall be requested to use this quotation only for copper so offered, and to issue a separate quotation for copper not offered for sale pursuant to the provisions of this Code. The Code Authority with the approval of the Administrator, or the Administrator on his own initiative, may from time to time make such other rules and regulations with reference to filing of prices and/or differentials and the averaging and publication thereof as it may deem necessary.

3. *Filing of treatment charges by secondary producers.*—In addition to selling prices as filed there may, and upon request of any two producers of secondary copper there shall, be filed by producers of secondary copper a schedule of treatment charges covering the different grades of scrap material and these may be amended in the same manner as any other filed prices. Custom smelters and/or refiners shall not treat on toll any secondary copper-bearing material except:

(a) Scrap or other similar material produced by fabricators or manufacturers in the normal course of fabricating operations and tendered by such fabricators for treatment and return to them, or

(b) Scrap or such other material, the treatment of which is the subject of contracts entered into prior to March 12, 1934, or renewals thereof if approved by the Code Authority for exception.

(c) The Code Authority with the approval of the Administrator may make other exceptions upon request by the custom smelters and/or refiners.

By "treatment on toll" is meant treating material for a service charge payable in money or metal, and returning the copper content in refinery shapes only or its equivalent, in whole or in part.

4. *Relief against excessive selling price.*—If at any time during the effective period of this Code the selling price of copper shall reach a level which in the judgment of the Code Authority or the Administrator is deemed to be unreasonably high, considered both with respect to the cost of production and with respect to the consuming public, the Code Authority with the approval of the Administrator, or the

Administrator on his own initiative, may temporarily suspend any or all of the marketing provisions contained in this Article VII as shall be deemed most effective in the holding of the prices to reasonable levels and in the event such action is deemed to be necessary any such stay may be made permanent.

5. *Exemption from sales plan.*—If at any time during the effective period of this Code anyone holding a sales quota thereunder shall, by virtue of the operation of the Sales Plan, have accumulated a deficit in his allocated sales in the aggregate equal to one full month's sales quota of such party, and he shall have notified the Code Authority of the existence of such deficit, and if thereafter such deficit should increase to an amount equal to the party's sales quota for one and one-third months, then upon the party giving a supplemental notice of the fact to the Code Authority, after an interval of at least ten days after said preliminary notice, all the provisions of this Article VII shall terminate, including the agreements referred to in subdivision 6, subsection 12, paragraph (c), of this Article VII.

6. *Sales plan—quotas and allocation.*—(1) From and after the effective date of this Code all sales of copper by those governed by this Code shall be made in conformity with the provisions of this Article VII.

The Administrator upon his own initiative, or the Code Authority with the approval of the Administrator, may establish rules and regulations to effectuate the purposes of the Sales Plan. Until the establishment of such rules and regulations by the Code Authority the Sales Clearing Agent shall set up rules and regulations which in his judgment are designed to carry out the spirit and intent and general purposes of the Sales Plan, subject to the review and disapproval of the Administrator. The purpose of this Sales Plan is to provide in so far as possible a first place in sales for current production and then to provide for a fair and equitable sale of stocks.

(2) Until such time as the Code Authority may determine that such member has failed to comply with the provisions of this Code and such determination has been approved for the purpose by the Administrator, the monthly sales quota for each primary producer of the industry listed below and the relative annual productive capacities of such members, arrived at solely for the purpose of establishing sales quotas, shall be as follows:

	Tons per annum	Monthly sales quotas
		<i>Percent</i>
Kennecott Copper Corporation.....	366, 500	1. 67
Anaconda Copper Mining Company.....	225, 000	1. 67
Phelps Dodge Corporation.....	168, 000	1. 67
United Verde Copper Company.....	68, 000	1. 90
Calumet & Hecla Consolidated Copper Company.....	50, 000	2. 20
Miami Copper Company.....	36, 000	2. 30
Magna Copper Company.....	25, 000	2. 50
United Verde Extension Mining Co.....	24, 000	2. 50
Consolidated Coppermines Co.....	21, 000	2. 70
Copper Range Company.....	17, 500	3. 00

(3) In addition to the sales quotas provided above an aggregate sales quota of 9,500 tons per month shall be allocated as individual sales quotas among the producers of secondary copper by some equitable method agreed upon by such producers and approved by

the Code Authority. In the event the producers of secondary copper are unable to agree then such allocation shall be made by the Administrator.

(4) Any producer who shall assent to the Code and/or Sales Plan who is entitled to, but has not received, a sales quota may apply for a sales quota. If, however, the product of such producer is treated by a custom smelter or refiner such custom smelter or refiner may, if the producer shall fail to apply for a quota, make application in its name but for the account of such producer. During the first sales period each producer of custom and by-product copper shall have a quota equal to fifty (50%) percent of the copper produced and treated at the treatment plant. The allocation of such quota in the amount of fifty (50%) percent of the production treated during such first sales period shall not serve as a precedent or in any way be controlling in the determination of the sales quota applied for by any such producer for the period subsequent to said first sales period.

(5) The Code Authority shall have no power to decrease sales quotas established pursuant to subsections (2) and (3), of this Section 6, save upon unanimous vote of the Code Authority and the consent of the party or parties whose quotas are to be thereby decreased. But the Code Authority upon a two-thirds vote of its membership and with the approval of the Administrator, may increase any such sales quota. In the event the sales quotas of primary producers are generally increased they shall be increased ratably to the end that the increase for each individual producer will be such as to arrive simultaneously at a sales quota equal to fifty (50%) percent of their respective capacities; and further in the event of any increase in quotas of primary producers proportionate increases shall be made in the sales quotas of secondary producers as shall be justified by the then existing conditions.

Nothing contained herein, however, shall be construed so as to limit the right of the Administrator at any time after proper notice and giving all parties an opportunity to be heard, to make such change as he may deem necessary in the sales quotas, or Sales Plan provided for herein.

(6) Until a change is approved by the Administrator and the Code Authority, or by the Administrator alone, the aggregate sales quotas given pursuant to Subsection (2) and Subsection (4) of this Section 6 shall not exceed twenty thousand five hundred (20,500) tons per month.

(7) Allocations of sales must be accepted by those holding sales quotas provided they have copper available for delivery within the delivery period covered by such allocation, except as provided in Subsection (14) hereof. A member unable to accept a sales allocation shall have no right subsequently to make up the deficiency, except that if any producer or producers of secondary copper have been unable to accept future sales allocations beyond the current month to the same extent that such future allocations have been accepted by primary producers, then commencing with the first of the month for which such future sales allocations have been made all sales subject to allocation shall be allocated to such secondary producers to the exclusion of primary producers to the extent of the current intake of such secondary producers until such time as each of the secondary producers are brought into a proper relation with such primary pro-

ducers as regards such allocated sales, provided, that this provision shall not be applied so as to give any producer of secondary copper a greater allocation of sales than if it had accepted all such future allocations.

(8) Sales as made shall be proportionately applied to sales quotas for the current month and at the end of the month unsold sales quotas shall be carried forward for sale and allocation during the following month, except that the unsold quotas carried forward at the end of each month for each secondary producer shall be adjusted to eliminate the tonnage by which its shortage of accumulated actual secondary intake as compared with its accumulated sales quota exceeds its sales quota for one and one-half months. If sales quotas for the current month have been sold then all sales in excess thereof shall be applied to the subsequent month for which the sales quotas have not been completely sold so that sales shall be applied to sales quotas for the current month, then to each of the two succeeding months. After the sales quotas of the current month and next two months have been sold, further sales during the current month shall be allocated to and applied to copper stocks; provided, however, that prior to a general allocation to copper stocks there shall first be set aside fifty percent (50%) of all sales then to be allocated to copper stocks, which fifty percent (50%) shall be divided so that two-fifths shall go to secondary producers in proportion to their respective holdings of secondary copper accumulated since October 1, 1933, but limited in any event to such accumulations, and three-fifths to by-product and other primary stocks, and then the remaining fifty (50%) percent (or whatever larger amount there may be available pursuant to the foregoing) shall be allocated to copper stocks generally and not to sales quotas. The Code Authority shall propose a plan for the handling of such allocations to stocks generally which shall be effective when approved by the Administrator, and which shall provide for the disposal of such accumulations by an orderly liquidation, and such sales from stocks shall be Blue Eagle Copper within the meaning of this Code.

(9) The sale of copper by any member of the Industry without first having received an assignment of a sales quota pursuant to the provisions of this Code, or otherwise in contravention of any of the provisions of this Code, shall be a violation of this Code; provided, however, that holders of copper who are without sales quotas and who are unable to obtain sales quotas and custom smelters and/or refineries whose intake is in excess of their sales quota and to the extent of such excess may sell such copper but it shall not be eligible to be called Blue Eagle Copper and shall not be considered copper offered for sale pursuant to the provisions of the Copper Code, and all invoices and papers covering such transactions shall be plainly marked "The copper covered in the transaction is *Not* Blue Eagle Copper and is *Not* qualified to be used in the manufacture of any articles for sale to the U.S. Government as provided for in the President's Order of Approval for the Code of Fair Competition for the Copper Industry." All sales of copper, however, shall be promptly reported to the Sales Clearing Agent of the Code Authority.

(10) It shall be a violation of this Code for any member of the Industry by any transaction with another member to buy, sell, exchange or receive any stocks of copper so as thereby to be allowed, or enable another to participate in the Sales Plan and/or receive a

sales quota and dispose of copper pursuant thereto, to an extent or in such manner as would not otherwise have been possible if such purchase, sale, exchange or receipt of copper had not taken place, provided, however, that this provision shall in no manner prohibit the bona fide sale of copper produced by the seller or owned by it on the effective date of this Code, in the event that such sale is made pursuant to the other provisions of this Code.

(11) All allocations of sales quotas and stock shall be made by the Sales Clearing Agent. A computation shall be made by the Sales Clearing Agent daily of the percentage of sales applied to each sales quota in relation to the aggregate of all quotas and a daily allocation shall be made at the average price of all sales made on that date, after making such eliminations and additions, as to sales, as may be required by virtue of the other provisions of this Code. In the event, at the end of the month, sales and purchases are necessary between those holding sales quotas in order to adjust actual sales to sales quotas, they shall be made pursuant to the daily computations and allocations made by the Sales Clearing Agent during that month. Proper allowance shall be made by the Sales Clearing Agent for differentials including freight charges, varying types and quality of copper, sales commissions, and time of delivery. Full information may be obtained upon request from the Sales Clearing Agent concerning any such computations or allocations.

(12) In order to maintain the proper relation between sales and production:

(a) Any primary producer in operation and producing copper on the effective date, or any other primary producer not producing copper on that date but which after the effective date resumes such production, which fails to produce its sales quota reasonably averaged over a period of three months, or such longer period as the Code Authority or the Administrator may have approved, shall thereafter lose its right to participate in the allocation of sales by the Sales Clearing Agent proportionately to the extent of such decrease in production; provided, however, that the foregoing provision shall not apply in the event of a shutdown or decrease in production on account of causes beyond the control of the producer or for any reason which, in the opinion of the Code Authority and the Administrator, or the Administrator on his own initiative, justifies such shutdown or decreased production; provided, further, that in addition to limitation on sales of primary copper provided in this Article VII primary producers shall limit their production so as to conform to the plan and purpose of this Code, and to coordinate the production of primary copper with current sales, quotes in order to avoid excessive accumulation of stocks and any failure reasonably so to do to the satisfaction of the Code Authority shall be a violation of this Code.

(b) No specific limitations or requirements shall be imposed upon the intake of secondary copper producers, but in lieu thereof sales of secondary copper shall be controlled and limited as provided in this Article VII. Custom smelters and/or refiners shall endeavor, so far as practicable, to limit their intake of secondary copper so as to conform to the plan and purpose of this Code, and to coordinate the flow of copper and of intake material with current sales quotas in order to avoid excessive accumulation of stocks.

(c) All consumers of copper, including fabricating or manufacturing companies owned or controlled by producers who are members of the

Industry, shall be urged by the Code Authority to assist in the stabilization of the Industry by regular monthly purchases of copper in as large an amount as may be practicable in each case, and shall be similarly urged to enter into agreements to make such purchases. Upon the execution of such an agreement by a copper consumer in form and substance satisfactory to the Code Authority, or the Administrator, and for so long as the terms of such agreement are complied with, and no other copper other than Blue Eagle Copper is purchased, all copper sold and/or fabricated by such consumer shall be "Blue Eagle Copper", as defined herein. The Code Authority of this Industry shall cooperate with the Code Authority and/or Supervisory Agency of the Copper and Brass Mill Products Industry and the Wire and Cable Subdivision of the Electrical Manufacturing Industry in effectuating the purposes of the marketing and fair trade practice provisions of this Code.

(d) For the purpose of the Sales Plan, sales and/or transfers of copper by a member holding a sales quota (including any of its subsidiaries or affiliates) to its fabricating plants or to any subsidiary fabricating company, shall not be subject to said plan, except to the extent set forth in agreements made by the fabricating subsidiaries of such producer under the terms of the preceding paragraph (c); provided, however, that in case a member owning a fabricating plant or the fabricating subsidiaries of any one holding a sales quota should fail to make an agreement under the terms of the preceding paragraph (c), the sales of copper by that member shall be determined by the Administrator or in the event of his unwillingness to act, by the Code Authority.

(e) In order to provide equitably for an increase in employment by increasing current production and/or to facilitate liquidation of excessive copper stocks in a manner which will not interfere with the operation of the Sales Plan pursuant to the provisions of this Code, the Code Authority, with the approval of the Administrator, may negotiate bulk sales of copper to, through, and/or with the approval of government agencies, provided, however, that no commitment shall be made for or become binding on any member of the Industry unless he shall accept the allocation made to him by the Code Authority of his proportionate share of any sale so negotiated, except to the extent he is obligated to sell copper under the provisions of this Code.

(13) All sales of copper made during the period from March 22, 1934, to the effective date of this Code shall be deemed for the purposes of the Code to be sales made after the effective date and shall be allocated in accordance with the Sales Plan provided for herein. All sales commitments under subsection (c) of Section 12 of this Article shall also date from March 22, 1934, and be included in the first sales period.

(14) In order to facilitate the sale of the aggregate of all sales quotas in any current month, any one having a sales quota may, prior to the first of each month, with the approval of the Code Authority, waive his sales quota or any part thereof, for the following month.

(15) In no event, however, shall any member of the industry be required to accept allocation of sales made pursuant to the Sales Plan which will require him to reduce the amount of copper stocks held by him and unsold on March 1, 1934, less stocks liquidated by

such member since that date, by more than 25% thereof, but no such limitation shall apply until the Code Authority receives notice from any such member of the Industry that further sales will require him to reduce his stocks beyond that percentage.

(16) The first sales period shall be deemed to terminate on the last day of the current month in which the effective date of the Code occurs, subject to the provisions of subsection (13) of this Section 6 and accordingly the first sales period shall extend from March 22, 1934, to the last day of the month in which such effective date occurs. The sales quota for such first sales period shall be decreased or increased as the case may be if necessary so as to bear the proper proportion to the number of days in such first sales period.

(17) In addition to other limitations which may exist pursuant to other provisions of this Code, the Code Authority with the approval of the Administrator, or the Administrator on his own initiative, may make rules and regulations governing any sales of copper in excess of sales quotas, which may limit the quantity of copper which may be sold and may also make such provisions as may be necessary to prevent excessive purchases by consumers in relation to their reasonable requirements for the immediate future; provided, however, that no provisions shall prohibit any member of the Industry from selling the full production requirements of any of its subsidiary fabricating companies.

(18) No member of the Industry shall engage in destructive price cutting.

(19) Whenever, upon complaint or on its own initiative without complaint, and after affording an opportunity to any interested party to be heard, the Code Authority is of the opinion that an emergency exists within the Industry in that destructive price cutting and/or excessive production is being engaged in to such an extent as to render ineffectual or seriously endanger the effectuation of the purposes of this Code or of the Act so as to require the establishment of minimum prices for the sale of copper and/or regulation of production, the Code Authority shall certify any such conclusion to the Administrator and, upon his approval thereof, after hearing on such notice as he may prescribe, such minimum prices and/or regulation of production may be established and the Code Authority may adopt rules and regulations satisfactory to the Administrator governing the establishment of such minimum prices for the sale of copper and/or regulation of production based on such factors and/or conditions as may be found necessary to meet such emergency; provided, however, that no provision of this Code or of any rules and regulations which may be promulgated pursuant thereto shall be interpreted so as to require any member of the Industry to reduce his production below his sales quota as originally established pursuant to the provisions of this Code. When a minimum price as herein provided for shall be established any sale below such price will be considered destructive price cutting and a violation of this Code; and (2) there shall be added to, and as a part of Article VIII the following provision:

In order to facilitate the enforcement of the Executive Order of the President No. 6246, dated August 10, 1933, and the Executive Order of the President No. 6646, dated March 14, 1934, concerning Government Contracts for supplies, and to effectuate the purpose of the Act and this Code, it is provided that:

(a) Only copper sold pursuant to the marketing provisions of this Code shall be entitled to be called "Blue Eagle Copper" and only "Blue Eagle Copper" shall qualify as complying with the Executive Orders above referred to. Certificates for the purpose of complying with said Executive Orders of the President shall provide that all articles covered by such certificates shall be completely free of any copper save "Blue Eagle Copper."

(b) For no other purpose of this Code shall copper be deemed to be such copper as has been sold pursuant to the provisions of this Code if the same shall contain any copper other than "Blue Eagle Copper."

(c) The Code Authority, or the Administrator, shall provide rules and regulations for determining the eligibility of copper to be called "Blue Eagle Copper."

(d) All "Blue Eagle Copper" shall either be stamped with the replica of the N.R.A. insignia when such copper passes through the smelter and/or refinery, or be accompanied by a certificate by such smelter, refiner, and/or Code Authority that such copper is "Blue Eagle Copper."

(3) The last sentence of Section 2, Article IX, shall be changed to read as follows: "Any action taken by the Coordinating Committee under any of the provisions of this Article IX shall be subject to the approval of the Administrator"; and

(4) The last two sentences of Section 5 (d), Article VI, which impose the costs of investigation, examination, or audit on a member of the Industry complained against if the complaint is justified and on a complainant member of the Industry if the complaint is not justified, shall be effective only as to those members of the Industry who shall have assented to the Code.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

K. M. SIMPSON,
Division Administrator.

WASHINGTON, D.C.
April 21, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Copper Industry, as revised after a Public Hearing conducted in Washington, D.C., on March 12 and 13, 1934, adjourned and reconvened on March 20, 1934, in accordance with the provisions of the National Industrial Recovery Act.

GENERAL STATEMENT

Before outlining in detail the provisions of this Code it seems appropriate to describe the condition of the Industry and some of the problems facing it.

Copper is practically an indestructible metal. Nearly all the copper that has been mined is either in use or available for use. Refined copper is derived from two sources, primary or new copper produced from mining operations, and secondary copper resulting from the reprocessing of materials containing copper which is flowing back to the market in the form of junk or scrap. In recent years secondary copper has supplied about twenty percent (20%) of the total consumption. However, the flow of scrap back on the market is not in direct proportion to consumption and in the last year the percentage of scrap has been somewhat higher.

Copper is mined in many states. The more important, and practically the only mines in operation are located in Arizona, Utah, Montana, Nevada, New Mexico, and Michigan.

The annual production capacity of domestic mines is approximately 1,000,000 tons of copper per year. To this must be added an estimated production of 125,000 tons of secondary copper. As of January 31, 1934, stocks of copper amounted to approximately 775,000 tons. Subtracting from these stocks, normal mill inventories and future sales commitments, there was approximately 450,000 tons of free stocks on hand.

If the probable production of copper from scrap was added to the free stocks there would be 575,000 tons of copper on hand at the end of the next twelve months less actual consumption. With an estimated consumption of 400,000 tons per year, it is apparent that there is copper on hand or coming in the market from scrap to take care of domestic requirements for eighteen months without any current mine production.

In other words, if all the copper mines were to shut down for eighteen months there would be sufficient copper available for all estimated needs during that period.

The number of people employed in the Industry averaged about 45,000 per year for the period from 1923 to 1929 inclusive. Since the latter date employment has gradually decreased. There were approximately 16,000 employees in 1933.

A large number of those employed in the Industry live in communities built around the mines. In most cases there is no other type of employment available in the community. The falling off of employment has been felt very acutely and has resulted in great hardships, distress and suffering. It is imperative that current production be maintained at a rate equal to current consumption, in order to keep as many as possible employed. To do this it is necessary to freeze a large part of the existing stocks and a plan is provided that should accomplish this.

Another factor in the situation is the development of large copper deposits in Africa. The copper produced from this source together with Canadian and South American production is enough to care for world requirements. Due to low labor costs this foreign copper is produced at a price that this country has difficulty in meeting.

The United States price of copper at refinery for the last fifteen years has been as follows:

Prices in cents per pound

Year	High	Low	Yearly average	Year	High	Low	Yearly average
1919-----	22.319	14.856	18.691	1927-----	13.774	12.370	12.020
1920-----	18.918	13.188	17.456	1928-----	15.844	13.823	14.570
1921-----	13.555	11.634	12.502	1929-----	21.257	16.603	18.107
1922-----	14.074	12.567	13.382	1930-----	17.775	9.597	12.982
1923-----	16.832	12.574	14.421	1931-----	9.854	6.558	8.116
1924-----	14.260	12.327	13.024	1932-----	7.060	4.813	5.555
1925-----	14.709	13.252	14.042	1933-----	8.775	4.775	7.025
1926-----	14.174	13.302	13.795				

Prior to 1919 the lowest average yearly price was 9.56¢ per pound in 1894. The normal price heretofore has been about 13¢ per pound.

Copper has maintained a reasonable relation to the value of gold. The present market price in terms of gold is under five cents per pound.

Improved equipment, mining mill and smelting practices have gradually reduced the cost of producing copper but the present average cost including reasonable depletion is in excess of the present selling price.

The Industry, faced with these problems of excessive stocks, low consumption and a depressed price, has endeavored ever since the passage of the National Industrial Recovery Act, to work out a Code that would offer a solution to their difficulties. The Industry was unable to agree among themselves on a plan and finally submitted a Code covering only the labor, administrative, and mandatory provisions, with the permissive right to submit to the Administration at a later date a plan agreeable to all members to cover problems of production, sales and price.

The National Recovery Administration felt however, that in view of the necessity of maintaining employment, and to provide for an orderly recovery through regular purchases of copper and the freezing of existing stocks, a plan should be provided and made effective immediately to accomplish this end.

There is therefore, included in the Administrative Order of Approval a plan which it is believed will accomplish this and the Industry has indicated a willingness to cooperate in making this effective.

WAGES AND HOURS

A 40-hour week averaged over three months is established and provision made for an impartial investigation to be made covering the averaging feature.

Wage rates ranging from 30¢ to 47½¢ per hour are established. Equitable adjustments are to be made in all wage rates above the minimum. It is further provided that in no event shall any wage rates be reduced. No one under 18 years of age shall be employed except in clerical and similar office work where an age limit of 16 years is set.

ECONOMIC EFFECT OF THE CODE

Copper is largely used in the Capital or Durable Goods Industry and any increase in consumption is dependent upon increased activity in these branches of Industry.

While it is impossible under present conditions to provide for any but a slight increase in employment the Code provisions will undoubtedly prevent the closing of mines now in operation, avoid destructive price cutting, and at the same time provide adequate control of prices in the public interest.

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 association is an industrial association truly representative of the afore-said 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, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

APRIL 21, 1934.

CODE OF FAIR COMPETITION FOR THE COPPER INDUSTRY

ARTICLE I—PURPOSES

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 Copper Industry, and shall be the standard of fair competition for such industry and binding upon every member thereof.

ARTICLE II—DEFINITIONS

As used in this Code, words and phrases have the following meanings:

1. The term 'Copper Industry' or 'Industry' includes the mining, production, treatment, and/or sale of copper in the United States, but excludes (1) the fabrication thereof or the sale thereof in fabricated form, and (2) such minor operations either in whole or in part in relation to secondary copper as will not jeopardize or materially affect the purposes of the Code, the exclusion of which may be specifically approved by the Administrator.

2. The term "member of the Industry" or "member" means anyone engaged in the Copper Industry or in one or more of the phases involved therein.

3. The term "copper" includes lake copper, electrolytic copper, casting and best select (fire-refined) copper of whatever grade, bessemer, blister and black copper of whatever grade, but does not include fabricated copper in any form. The term "Copper" does not include casting copper produced from scrap by fire-refining suitable for casting purposes in foundry use and for copperizing steel but not suitable for rolling or drawing or for use in copper or brass sheet, wire, tube or rod mills.

4. The term "Primary Copper", as distinguished from secondary copper and by-product copper hereinafter defined, means new copper derived or procured after the effective date of the Code from mining or metallurgical operations in the United States, including copper commonly known as "Custom Copper" produced from the same sources as primary copper.

5. The term "Secondary Copper" or "Secondary Metal", as distinguished from primary copper and by-product copper as herein defined, means that copper produced in the United States by smelters and refiners by re-working scrap-copper, scrap-brass, and scrap alloys containing copper, excluding any copper classed as copper stocks on the effective date of this Code.

6. The term "By-Product Copper" means copper produced or recovered incidental to or as a by-product in the treatment and recovery of other metals or materials, from ores, concentrates or iron pyrites.

7. The term "Custom Copper" means primary copper produced by custom smelters and/or refiners from purchased ores, concentrates, matte or blister copper derived from primary sources.

8. The term "Fire-Refined Copper" means copper produced from copper-bearing material, either primary or secondary, through treatment by fire for the purpose of removing impurities.

9. The term "Lake-Copper" means fire-refined primary copper produced in the State of Michigan.

10. The term "Primary Producer" means any member of the industry who is a producer of primary copper.

11. The term "Custom Smelters and/or Refiners" means those members of the industry, sometimes hereinafter referred to as "Secondary Producers" or "Producers of Secondary Metal", who have facilities for production of electrolytic copper and who receive primary ores, copper concentrates, blister copper, scrap copper, junk copper and/or by-product copper for processing into copper, either charging the shipper a treatment charge and returning the resulting copper to the shipper or purchasing the material outright and selling the copper produced therefrom to consumers.

12. The term "Production" in relation to primary copper means the resulting finished merchantable product derived from the treatment of ores, concentrates and other copper-bearing or partly processed material together with any substantial increase in copper-bearing material above ground or removed from the mine, without duplication. The intent of this method of computation as to primary copper production is to correlate actual mine production with production as defined and as limited herein, and without allowing an intermediate accumulation of ores, concentrates or partly processed material.

13. The term "Intake", in relation to secondary copper means the tonnage of secondary copper priced each day by Custom Smelters and/or Refiners; not including any pricings of custom copper and/or of by-product copper.

14. The terms "Stocks of Copper", "Copper Stocks" or "Stocks" mean stocks or inventories of copper, as defined, in the United States, in the hands of members of the industry and their owned or controlled subsidiaries, excluding bessemer, blister and black copper and copper in bond.

15. The term "Electrolytic Copper Wire Bars" or "Electrolytic Wire Bars" means electrolytically-refined copper cast into standard shapes suitable for rolling and drawing in copper wire and rod mills.

16. The term "Productive Capacity" of any primary producer, for the purposes of this Code means the tons of copper such producer is stated to be able to produce with its present plant and equipment in a period of one year, but capacities as herein stated are relative and do not necessarily signify the maximum which any member of the industry is able to produce in a single year.

17. The term "Selling Price" as used herein means the price at which electrolytic wire bars of standard size are sold on the basis of Connecticut Valley delivery, and shall be subject to applicable differentials for delivery at other points, and for the other shapes and grades.

18. The term "Employee" 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.

19. The term "Employer" includes anyone by whom any such employee is compensated or employed.

20. The term "Apprentice" means an employee who is regularly engaged in learning a trade under a course of training designed to advance him systematically in the various operations of such trade to become a competently skilled mechanic.

21. The term "Northeastern Wage District" is defined as comprising all states east of the Mississippi River and north of the Ohio River, and north of the states of West Virginia, Maryland, Delaware, except the states of Michigan, Wisconsin and Minnesota. The term "Southeastern Wage District" is defined as comprising all states east of the Mississippi River, and south of the states included in the Northeastern Wage District except West Virginia. The term "Great Lakes Wage District" comprises the states of Michigan, Wisconsin and Minnesota, and the term "Southwestern Wage District" comprises the states of Arizona, New Mexico, and Texas, and the term "Northwestern Wage District" comprises all states west of the Mississippi River, and the Territory of Alaska, except the three states in the Southwestern Wage District.

22. The term "Owning and Controlling" or similar terms with reference to a subsidiary company means the ownership either directly or indirectly of a majority of the voting capital stock of the subsidiary company.

23. The term "Affiliate" means (1) a company in which another company has a substantial interest through the ownership of its voting capital stock, but less than a majority thereof, or (2) a company under common ownership or control with respect to one or more other companies.

24. The terms "President", "Act" and "Administrator" mean, respectively, the President of the United States, the National Industrial Recovery Act and the Administrator of Title I of said Act.

25. The term "Code Authority" means the authority provided for under Section 1 of Article VI hereof.

26. The term "Fabricator" means one engaged in the processing of copper for the purposes of sale in fabricated form.

27. The term "Consumer" means anyone who purchases copper for fabrication or other manufacturing purposes.

28. The term "Association" as used herein means the United States Copper Association, an unincorporated association having its principal offices at 33 Rector Street, New York, N. Y.

29. The term "United States" means the part of the United States on the North American Continent.

30. The term "Effective Date" is the date upon which this Code becomes operative and effective.

ARTICLE III—HOURS OF LABOR

MAXIMUM HOURS

1. On and after the effective date of this Code no employee shall be permitted to work in excess of 40 hours per week, averaged over a three-month period, or in excess of eight hours in any twenty-four hour

period except as herein otherwise provided. Every employer at the end of each quarter shall report to the Code Authority, in such detail as may be required by it or by the Administrator, any action taken by the employer in connection with the averaging feature herein provided, giving the number of man-hours so worked, the reasons therefor and the ratio which such man-hours bear to the total number of man-hours worked during said quarter. Such report shall be transmitted by the Code Authority to the Administrator. The Administrator may, at his discretion, appoint an impartial investigator to review conditions in the industry concerning the averaging provisions herein. Such investigator shall contact employers and employees and, on completion of his review, shall report to the Administrator and forward a copy of such report to the Code Authority.

HOURS FOR CLERICAL AND OFFICE EMPLOYEES

2. No person employed in clerical or office work shall be permitted to work in excess of 40 hours per week, except that during any one week in a one-month period such employee shall be permitted to work a maximum of 48 hours in any such week, and except as herein otherwise provided. A normal day shall not exceed eight hours.

EXCEPTIONS AS TO HOURS

3. The limitation as to hours of labor specified in Sections 1 and 2 of this Article III shall not apply to the following:

(a) To employees engaged in emergency maintenance, or emergency repair work involving breakdown or protection of life or property; provided that in such special cases one and one-half times the normal wage rate for any employee so employed shall be paid for all hours worked in excess of 8 per day, or 40 per week. Such special cases, however, shall be reported to the Administrator through the Code Authority.

(b) To outside salesmen, nor to persons in an executive, managerial, technical, technical engineering, or supervisory capacity, who receive \$35.00 or more per week.

(c) To hoistmen, powerhousemen, and pumpmen, who may be permitted to work a total of forty-eight hours per week.

(d) In the case of operations with three shifts in a twenty-four hour period where only in order to change shifts, it is necessary for employees to work more than eight hours in one twenty-four hour period, the provisions concerning working in excess of 8 hours in any one twenty-four hour period shall not apply.

(e) In the case of shut-down properties or other special situations which may require modification of Sections 1 and 2 of Article III, the Administrator on request of the member of the Industry and after investigation and such public hearing as he may deem necessary may make special rules and modifications.

(f) To necessary clerical help that must work concurrently with employees described in Section 1 hereof and/or (a) to (d) inclusive of this Section 3, which clerical help may be permitted to work not in excess of the number of hours which such employees shall work.

EMPLOYMENT BY SEVERAL EMPLOYERS

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

ARTICLE IV—WAGES

MINIMUM

1. The minimum wage rates (except as hereinafter otherwise provided) for this Industry for the various districts shall be not less than as follows:

	<i>Cents per hour</i>
(a) Great Lakes Wage District:	
Surface Labor.....	32½
Underground Labor.....	37½
(b) Northeastern Wage District:	
Surface Labor.....	37½
(c) Southeastern Wage District:	
Surface Labor.....	35
(d) Southwestern Wage District:	
Surface Labor.....	30
Underground Labor.....	45
(e) Northwestern Wage District:	
Surface Labor.....	40
Underground Labor.....	47½

provided, however, that minimum wage rates in effect in any district on March 1, 1934, which were above the minimums specified herein for that district shall in no case be reduced; and provided further, that the underground rate in the Ray District of Arizona shall be not less than 38¢ per hour.

CLERICAL AND OFFICE EMPLOYEES

2. No accounting, clerical, office, sales or service employee in any office shall be paid less than at the rate of \$18.00 per week; provided, however, that office boys and girls and messengers shall be paid not less than at the rate of 80% of the minimum hereinabove specified; 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 one office of any one employer, but in any case such employer shall be entitled to employ one such employee at not less than such reduced rate.

WAGES ABOVE MINIMUM

3. If an equitable adjustment of the differentials in the wage rates above the minimums fixed in this Code has not been made since July 1, 1933, there shall then be such adjustment, if necessary, made within 60 days from date of the approval of this Code. Such equitable adjustment shall mean that the differentials in amount existing prior to the formulation of this Code shall be maintained for employees other than persons enumerated in Article III, Section 3, paragraph (b), provided, however, that in no event shall hourly rates of pay be reduced.

HANDICAPPED PERSONS

4. 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 employee obtains from the State Authority designated by the United States Department of Labor a certificate authorizing such employee'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 such certificates. Each employer shall file a list of such persons employed by him, with the Code Authority.

METHOD OF WAGE PAYMENT

5. When due, an employer shall make payment of all wages in lawful currency or by negotiable check therefor, payable on demand. No employer shall withhold wages unless so required by law. 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 Law. Wages shall be paid at no greater interval than every semi-month, and salaries at no greater interval than every month.

PIECE WORK COMPENSATION—MINIMUM WAGES

6. This Article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on time rate, piece work, or other basis.

APPRENTICES

7. Employment of apprentices at rates of compensation below the minimum provided herein shall be permitted where they are apprenticed to an employer under any apprentice system established and maintained by such employer. No employer shall employ apprentices in number exceeding 10% of the total number of skilled craftsmen of their special class employed by such employer except that each employer shall be entitled to employ at least one such employee for each special class.

ARTICLE V—GENERAL LABOR PROVISIONS

CHILD LABOR

1. On and after the effective date, no person under 18 years of age shall be employed, in the Copper 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.

PROVISIONS FROM THE ACT

2. (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.

RECLASSIFICATION OF EMPLOYEES

3. 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.

STATE LAWS

4. 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.

STANDARD FOR SAFETY AND HEALTH

5. 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 of safety and health for each division of the industry shall be submitted to the Administrator within six months after approval of the Code.

POSTING

6. All employers shall keep posted complete copies of the Labor Provisions of this Code and all amendments thereto in conspicuous places accessible to employees.

COMPANY TOWN AND STORES

7. No employee, other than maintenance or supervisory men, or those necessary to protect property, shall be required, as a condition of employment, to live in any house owned by or rented from his employer. No employee shall be required, as a condition of employment, to trade at any store owned or specified by an employer.

ARTICLE VI—ADMINISTRATION CODE AUTHORITY

1. *Membership.*—A Code Authority to supervise the administration and enforcement of the Code is hereby created which shall consist of eleven members to be selected in the following manner:

(a) Three members, one to be appointed by each of the three largest primary producers as shown by figures filed with the Administrator by the United States Copper Association, January 1934.....	3
(b) Two members, to be elected by all other primary producers.....	2
(c) Two members, to be elected by custom smelters, refiners and other producers of secondary copper subject to the provisions of this Code.....	2
(d) Two members, only one of whom may be connected with a member of the Industry; such members to be appointed upon the written designation of six members of group (a), (b), and (c) of which six, two shall be the members elected under (c).....	2
(e) One member, to be appointed by the Supervisory Agency of the Wire and Cable Subdivision of the Electrical Manufacturing Industry.....	1
(f) One member, to be appointed by the Code Authority of the Copper and Brass Mill Products Industry.....	1
Total.....	<hr/> 11

The Administrator, in his discretion, may appoint not to exceed three members without vote, and without compensation from the Industry to cooperate with the Code Authority in the Administration of the Code, and to serve for such term as the Administrator may determine. Any member of the Industry may appoint a representative to attend meetings of the Code Authority but such representative shall have no vote.

Save as otherwise provided in this Code all action taken by the Code Authority shall be effective only upon the affirmative vote of six (6) voting members of the Code Authority.

2. *Manner of Election or Appointment of Members.*—Voting members of the Code Authority shall be appointed by each unit having the right of appointment or by each group in the manner specified, or if not specified, then as may be determined by the group, or failing of such determination, by some equitable method of selection approved by the Administrator, and shall hold office for a term of one year, or such shorter period as the appointing group may designate, or until their successors are elected and qualified.

Each unit or group may fill any vacancy at the expiration of terms of office or when vacancies otherwise occur. Each unit or group may name one or more alternates for each of its members of the Code Authority to act in the absence of any such member.

With respect to representation on the Code Authority each company, together with its owned and/or controlled subsidiaries or affiliates, shall be treated as one entity, and only one representative of such entity shall be eligible to membership on the Code Authority at one time.

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.

3. *General Provisions.*—(a) Nothing herein contained shall be deemed to constitute the members of the Industry partners for any purpose. No agreement hereto or acquiescence in the provisions

hereof shall be deemed the agreement with or acquiescence in any statement of fact herein by any member of the industry, and in particular as regards the respective productive capacities or production quotas of the primary producers. Accordingly, any member of the Industry may agree to the provisions hereof or acquiesce herein on the understanding that the Code is and shall continue an emergency measure, and that for all purposes the provisions hereof shall expire on June 16, 1935, and further that any such member shall not be prejudiced in any manner or for any purpose after the expiration of the term of this Code by reason of any agreement hereto or acquiescence in the provisions hereof.

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

4. *Organization.*—The Code Authority shall select a Chairman, Secretary, Treasurer, Sales Clearing Agent, and such other officers as it may deem necessary. It may appoint committees, the members of which need not be members of the Code Authority, to perform administrative duties hereunder; provided, however, that it shall not delegate to any such committee any specific authority and power granted to it under the provisions of the Code.

5. *Powers and Duties.*—The Code Authority, subject to such general rules and regulations as may be issued by the Administrator shall have the following powers and duties in addition to those otherwise expressly conferred under the provisions of this Code, the exercise of which shall be reported to the Administrator. Any action taken by the Code Authority shall be subject to the right of the Administrator to disapprove the same, after review and such hearing as he may prescribe, if he shall determine that such action is unfair or unjust to any member of the industry, or contrary to the public interest. Pending such hearing and after 24-hours' notice to the Code Authority the Administrator may require that such action be suspended for a reasonable period not to exceed 30 days to afford an opportunity for further investigation of the merits of such action and further consideration thereof by the Code Authority pending final action, which final action shall be taken only upon approval by the Administrator;

(a) To insure the execution of the provisions of this Code and provide for compliance by the Industry with the provisions thereof;

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

(c) To receive complaints of violations of the Code and disputes arising thereunder. If any member of the Industry or other interested person shall request the Code Authority to take action on a matter, the Code Authority shall within ten days after such request has been received by it advise such member or other interested person of the action taken thereon. Any member or other interested person shall have the right to present any question to the Administrator for his action; provided that the Code Authority shall first have had opportunity to act thereon;

(d) To make investigation of any reported or alleged violation of the Code. When formal complaint is made to the Code Authority by any member of the industry or the Code Authority shall learn of any alleged violation, the Code Authority shall designate an impartial agency other than the Association to make such investigation as is necessary to determine the facts of the alleged violation, and to that end such agency shall be authorized to conduct such examination or audit into the pertinent data and records as may be necessary. Such agency shall report to the Code Authority its findings as to whether or not the alleged violation of the Code was actually committed. If such agency shall report that the violation did not occur, the facts ascertained in the investigation shall be confidential to the investigating agency and shall not be disclosed by it. If such agency shall report that the violation did occur and if a satisfactory adjustment thereof cannot be reached by the Code Authority, the findings of the investigating agency, together with its data and records in the case, shall be reported to the Administrator. The expense of the investigation, examination or audit shall, when made on the complaint of any member, be borne by such member if the complaint was not justified. In the event that the complaint was justified, such expense shall be borne by the member or members against whom the complaint was made.¹

(e) To obtain from members of the Industry such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information, and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any other member of the industry or any other party except to such governmental agencies as may be directed by the Administrator.

(f) To obtain from the members of the Industry such other reports as may be deemed necessary to enable the Code Authority to be informed as to the observance or non-observance of the Code, and as to whether the Industry is taking proper steps to effectuate, in all respects, the declared policy of the National Industrial Recovery Act. Such reports shall be on prescribed forms covering employment and production statistics and such other information as the Code Authority may request. All data, reports and statistics from the individual members of the Industry furnished under the provisions of this subsection (f) except as otherwise provided herein, shall be confidential and shall be filed with the Secretary for compilation. The Secretary shall submit such data and statistics to the Code Authority and to members of the Industry reporting, in the form only of combined totals for the Industry unless otherwise permitted by the unanimous consent of the members reporting. If any reports received by the Secretary indicate a violation of any of the provisions of this Code by any member of the Industry, the Secretary shall report such facts to the Code Authority.

¹ See paragraph 2 (2) (4) of order approving this Code.

(g) To use such association or other agency as it deems proper to carry out any of its activities prescribed by the Code, provided, however, that nothing herein shall relieve the Code Authority of its duties or responsibilities under the Code and that such association or agency shall at all times be subject to and comply with the provisions hereof. Any Association and any other agency directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its Articles of Association, By-Laws, Regulations, and any amendments when made thereto, together with such other information as to membership, organization and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(h) To make recommendations to the Administrator for the co-ordination of the administration of this Code with such Codes, if any, as may be related to the inquiry, and to cooperate with the Code Authorities of related industries to carry out the provisions of this Code.

(i) The Code Authority may, by means of audit or otherwise, check the accuracy of all reports made by and/or to its Sales Clearing Agent and by members and provide for such audit of the same and of the books and accounts as may be deemed necessary from time to time. The report as to such examination shall not disclose the facts thereof unless it shall find that the reports which were investigated were not accurate, and in such case the report shall indicate merely the particulars in which the reports were inaccurate. Otherwise, the information obtained by the investigating agency in making the examination and audit shall be confidential.

(j) Whenever any action may be taken by the Code Authority on a question affecting only a single member of the Industry or a single group of members of the Industry, the single member or group of members whom the decision of the Code Authority shall affect may request an arbitration. Upon such request the question upon which such action was taken shall be resubmitted by the Code Authority for decision to a committee of three arbitrators, one of whom shall be selected by the Code Authority, one by the member or group of members affected, and the third shall be chosen by the first two. In the event the first two arbitrators, appointed as hereinbefore provided, cannot agree upon a third arbitrator, said arbitrator shall be selected by the Administrator. The decision of any two of three arbitrators when rendered shall be entered with the same effect as the final decision of the Code Authority.

6. *Participation and Expense.*—Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be assessed against each such member of the Industry by the Code Authority on such equitable basis as may be deemed proper by the Code Authority, with the concurrence of at least one member of each of the first three groups specified in Section 1 of this Article.

ARTICLE VII—PRODUCTION AND SALES²

The existence in the United States of large surplus stocks of copper has created a condition under which the selling price of the product of this industry has been unduly depressed. Further unrestricted overproduction can only result in further accumulations and an aggravation of the foregoing condition.

Accordingly, for the purpose of conserving a natural resource of national importance; of cooperating in the highest possible degree in the National Recovery program, particularly with reference to employment; and of bringing about a sound and stable basis for the industry as a whole, the members of the industry, the holders of stocks of copper and others interested, may enter into voluntary agreements for the attainment of any of the following purposes, subject in each case to the approval of the Administrator and the Code Authority, which agreements shall only be binding on members parties thereto:

1. To regulate copper production in the United States with due regard to consumptive demand, the liquidating of surplus stocks and the necessity of maintaining employment in the industry at the highest possible level.
2. To withhold, in whole or in part, surplus stocks from the market during the present emergency period.
3. To regulate, curtail, and allot the volume of current production in such manner as shall be agreed upon by the parties participating in such regulation, curtailment, or allotment.
4. To provide a plan involving a minimum sales price with due regard to cost of production and in connection therewith a plan for the regulation and allocation of sales; and
5. To take such other steps by negotiation and mutual agreement as may be deemed necessary for the accomplishment of the purposes hereinbefore set forth.

ARTICLE VIII—TRADE PRACTICES

The following acts as described shall constitute unfair methods of competition by members of the Industry in respect of copper sold and/or delivered for consumption in the United States:

1. The sales or exchange of copper in refinery shapes at premiums or discounts other than those established and recognized in the trade, and in accordance with statements filed with the Code Authority;
2. The sale, transfer, or exchange of copper in a manner planned and effective to impair or defeat the purposes of this Code;
3. The alloying of copper in any manner for the purpose of evading the provisions of this Code;
4. A failure within 30 calendar days after receipt at plant to price custom copper, by-product and secondary copper material. Copper-bearing material received at plant prior to the effective date of this Code shall be exempt from this provision;
5. The sale of copper to persons other than consumers of copper and dealers, provided, however, that there shall be no prohibition against exchanges of copper customarily heretofore made between producers and/or custom smelters;

² This Article deleted and new Article substituted—see paragraph 2 (1) of order approving this Code.

6. Sales of copper made for delivery further ahead than the three months following the month of sale.

This Code and the provisions thereof shall be the standard of fair competition for the copper industry in the United States, and every violation of the standard established in the Code shall be deemed an unfair method of competition and shall subject the party guilty of any such violation to penalties as provided in Title I of the Act.³

ARTICLE IX—APPLICABILITY OF CODE TO VARIOUS OPERATIONS

1. If any member of the industry is also a member of any other industry, provisions of this Code shall apply only to that portion of its business which is a part of the Copper Industry.

2. Where there is any question as to whether copper is the major production from the operations which do or which might produce lead, zinc, gold, silver or other materials, then in any and every such event the question as to which Code of Fair Competition shall govern such plant or mine operations of any such member of this industry shall be referred to a Coordination Committee. This Coordination Committee shall be composed of two members to be appointed by each of the Code Authorities for such industries as may be involved in each particular question. In the event such Committee, is unable to reach a majority conclusion, then either the Committee shall elect an additional impartial member or upon their failure so to agree on such additional impartial member, the Administrator then may appoint such additional impartial member. Any member of the Industry, the operations of which may raise such a question, shall file a statement of fact with the Code Authority for its industry, and such statement shall contain a statement of its preference as to the Code it would prefer to have such operations be governed by, and such preference shall be granted unless such Coordination Committee shall find that the granting thereof would be unfair in view of the rights of others or that it would have a tendency contrary to the effectuation of the policies of the Act. Any action taken by the Coordinating Committee shall be referred to the Administrator and shall be subject to his disapproval.⁴

3. Within ten days after the effective date of this Code any member of this industry may file such statement of fact and preference as to being governed by any of such other Codes which may at that time be in effect. Thereafter upon any such other Code becoming effective such statement may then be filed; provided, however, that until any such statement is filed and decision is made thereon by such Coordination Committee, such operation of such member of this industry shall be governed by the provisions of this Code.

4. From time to time thereafter if conditions change members of this industry shall be entitled to file such statements of fact and preference as to change of portion of their operations from the jurisdiction of one Code to the jurisdiction of another, and in such event they shall be handled in the same manner as provided for above.

5. The foregoing Sections 1 to 4 inclusive of this Article IX, shall not be effective until Codes of Fair Competition for the lead and zinc industries, containing an article substantially the same as this Article

³ Addenda to this Article added—see paragraph 2 (2) of order approving this Code.

⁴ See paragraph 2 (2) (3) of order approving this Code.

IX, have been approved and are in effect and certified copies of such approved codes have been filed with the Code Authority for this Industry.

ARTICLE X—MODIFICATIONS

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

2. The provisions of Articles I to VI, inclusive, and Articles VIII and IX of this Code, excepting those required to be included therein by the Act, may 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; but no amendment may be made under the provisions of Sections 2 and 3 of this Article X in respect of the subject matter of Article VII.

3. Any such amendment referred to in Section 2 hereof may be proposed by any member of the Industry either to the Code Authority or to the Administrator. Any such proposed amendment shall be referred to the Code Authority who shall give members of the Industry an opportunity to be heard thereon. After any such amendment has been recommended by the Code Authority and upon approval by the Administrator, after such hearings as he may deem necessary, it shall become effective as a part of this Code.

ARTICLE XI—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 XII—EFFECTIVE DATE, TERM AND TERMINATION OF CODE

This Code shall become effective on the 5th calendar day after its approval by the President.

The term of this Code shall be from the effective date to June 16, 1935, subject to the provisions hereof and of the National Industrial Recovery Act, as effective June 16, 1933.

Approved Code No. 401.
Registry No. 1209-1-02.



UNIVERSITY OF FLORIDA



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