

NATIONAL RECOVERY ADMINISTRATION

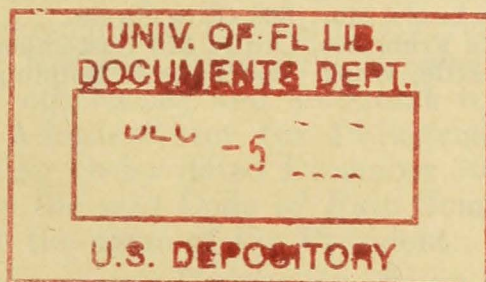
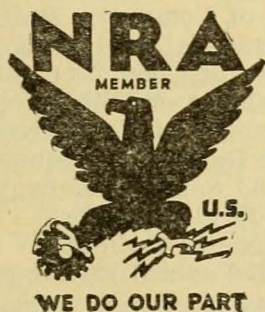
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CODE OF FAIR COMPETITION

FOR THE

RETAIL FARM  
EQUIPMENT TRADE

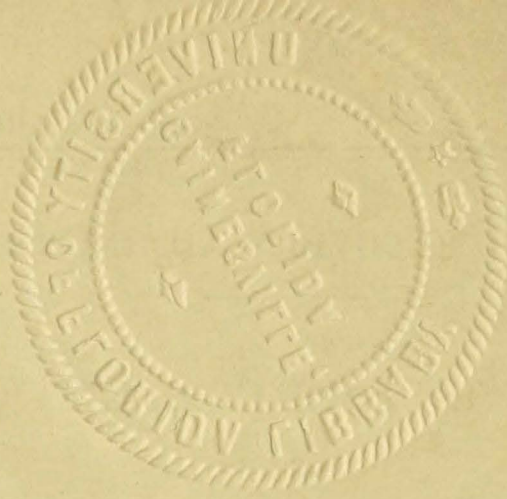
AS APPROVED ON JANUARY 6, 1934



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Approved Code No. 197

**CODE OF FAIR COMPETITION**  
**FOR THE**  
**RETAIL FARM EQUIPMENT TRADE**

As Approved on January 6, 1934

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**ORDER APPROVING CODE OF FAIR COMPETITION FOR  
THE RETAIL FARM EQUIPMENT TRADE**

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 the Code of Fair Competition for the Retail Farm Equipment Trade, and hearings having been duly held thereon; and an analysis, report, recommendation and findings on said Code by the Administrator directed to the President having been made, which are incorporated herein by reference; and it being found that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of Title I of said Act, and specifically that the requirements of Clauses (1) and (2) of Subsection (a) of Section 3 of said Act have been met:

NOW, THEREFORE, pursuant to the authority vested in the President by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise; and pursuant to authority vested in the undersigned Administrator for Industrial Recovery by Executive Orders, including Order dated December 30, 1933, and otherwise; it is ordered that the said Code of Fair Competition be and it hereby is approved in the name of the President.

THE PRESIDENT OF THE UNITED STATES OF AMERICA,  
By HUGH S. JOHNSON  
*Administrator for Industrial Recovery.*

Approval recommended:

MALCOLM MUIR

*Division Administrator.*

WASHINGTON, D.C.,  
*January 6, 1934.*



THE PRESIDENT,

*The White House.*

SIR: This is a report on the Code of Fair Competition for the Retail Farm Equipment Trade of the United States, the hearing having been held in Washington October 17, 1933, in accordance with the provisions of the National Industrial Recovery Act.

#### PROVISIONS ON HOURS AND WAGES

The distribution of farm equipment is made, to a large extent, through retail hardware dealers who are operating under the terms of the Retail Code. It is, therefore, essential that the provisions for hours and wages be identical with the Retail Code except for additional provisions for overtime during crop failure which create a real emergency and for the employment of superannuated or partially disabled employees.

#### ECONOMIC EFFECT OF THE CODE

The reduction in hours will show an increase of approximately 15 percent in number of employees with a consequent increase in payroll. The adoption of the minimum wage rate will also be productive of increases in many communities where employees have been decidedly underpaid.

Approximately twenty thousand employees are regularly engaged in the trade, serving rural communities through 12,000 implement and hardware stores located in these rural trade areas.

Total sales of equipment through members of the trade amounted to \$519,000,000 in 1929. It is a trade so closely identified with agriculture that planting and harvest periods coupled with emergency crop failures constitute peak periods.

Increased employment will be effected largely through the addition of part-time employees during the peak seasons. It is estimated that approximately three thousand part and full time employees will be added and that payrolls will be increased by at least \$300,000 yearly as a result of the application of the Code to the trade.

It will be noted that although members of the trade in towns or trade areas of less than 2,500 population and employing less than five persons are exempt from the hour and wage requirements of the code, the application of all other provisions is universal to all the trade.

#### FINDINGS

I find that—

(a) The Code will promote the policies and purposes of Title I of the Act, including removal of obstructions to the free flow of inter-



state 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 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 Trade normally employs less than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as revised complies in all respects with the pertinent provisions of Title I of the Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the Retail Farm Equipment group was and is a trade group truly representative of the aforesaid Trade; and that said group imposes no inequitable restrictions on admission to membership therein.

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

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

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

For these reasons, this Code has been approved by me.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

WASHINGTON, D.C.,  
*January 6, 1934.*



# **CODE OF FAIR COMPETITION**

## **FOR THE**

### **RETAIL FARM EQUIPMENT TRADE**

#### **ARTICLE I—PURPOSE**

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the retail farm-equipment trade, and, upon approval of the Administrator, shall be the standard of fair competition for such trade, and shall be binding upon every member thereof.

#### **ARTICLE II—DEFINITIONS**

(a) The term "retail farm-equipment trade" as used herein, includes distributing at retail of all equipment and repair parts for the operation, upkeep, and development of the farm, including raising, harvesting, and storing of crops, dairying, stock, and poultry raising, or any other agricultural pursuit.

(b) The qualifications of a "dealer" are that he shall have a suitable place of business with an adequate stock to serve the community in which he operates; shall have the proper means commensurate with the volume of business in that community of displaying goods in current demand; shall carry a reasonable supply of repairs properly to serve his customers; shall have a sufficient investment in his business that he may be able to perform the duties above outlined; and furnish the usual legitimate service necessary properly to promote his business and conduct his affairs upon such a basis as will assure permanency of business relationship.

Nothing in this section (b) shall be construed to exclude in any way as a member of the trade and/or from the operation of this code anyone who distributes at retail equipment and/or repair parts for the operation, upkeep, and development of the farm, as defined in section (a) of this Article II.

(c) The term "employee" as used herein, is anyone engaged in the trade in any capacity receiving compensation for his services, irrespective of the nature, or method of payment, of such compensation.

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

(e) The term "member of the trade" includes anyone, including individuals, firms, coopartnerships, corporations, cooperative asso-



ciations, commission agencies, agents, contract dealers, and manufacturers' retail store representatives and all other legal entities engaged in the trade.

(f) The terms "President", "Act", and "Administrator", as used herein shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator for Industrial Recovery under Title I of said Act.

(g) The term "South" as used herein shall mean Virginia, West Virginia, Maryland, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Oklahoma, New Mexico, Texas, and the District of Columbia.

(h) Population shall be determined by reference to the 1930 Federal Census.

(i) Junior employee: The term "junior employee" as used herein shall mean an employee under eighteen (18) years of age.

(j) Apprentice Employee: The term "apprentice employee" as used herein shall mean an employee with less than six (6) months experience in the retail trade.

### ARTICLE III—MEMBERSHIP

(a) Membership in the Federation of Implement Dealers' Associations of the United States is and shall be open to any dealer engaged in the distribution at retail of farm equipment and repair parts as defined above, through membership in an affiliated association, or through individual membership.

(b) No inequitable restrictions on admission to membership are or may be imposed by the Federations or any of their constituent associations hereinbefore or hereinafter referred to.

(c) Membership by a dealer in the Federations of Implement Dealers' Associations of the United States, or any of their constituent associations shall not be requisite for the purchase of farm equipment.

### ARTICLE IV—ADMINISTRATION

(a) Immediately following the effective date of this Code as provided in Article XIV, the Administrator shall appoint a temporary Code Authority which shall consist of six members, three of whom shall be appointed from the members of the Code Committee of the National Farm Implement Dealers' Association and three from the Code Committee of the Eastern Federation of Farm Equipment Dealers, and not more than three members, without vote, to represent the Administrator or such groups or interests as may be agreed upon. Such temporary Code Authority so established shall serve for a period of not to exceed sixty days immediately following the said effective date of the Code and shall have all the powers, duties, and obligations herein provided for the Central Code Authority.



(b) Within sixty days immediately following the effective date of the Code, as provided in Article XIV, the permanent Central Code Authority shall be organized and constituted to succeed to all the powers, duties, and obligations of the temporary Code Authority provided in Section (a) of this Article. The Central Code Authority shall consist of one member from each constituent association of the Federations of Implement Dealers Associations of the United States, to be elected by the respective associations, each member to have equal vote, and not to exceed seven additional members to be elected by members of the trade who are nonmembers of the Federations and who have agreed to conform with the provisions of and bear their reasonable share of the cost of administering the Code, each said nonmember to have equal vote. The Administrator may appoint not more than three members of said Central Code Authority, without vote, to represent him or such groups or interests as may be agreed upon.

(c) Members of the trade 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 creation and administration. The reasonable share of the expense of creation and administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(d) The Central Code Authority shall have the following duties and powers to the extent permitted by this Act, subject to the right of the Administrator on review to approve or disapprove any action taken by the said Central Code Authority.

The Central Code Authority shall be charged with the administration of the provisions of this Code, and with the duties thereof, through agents or otherwise; of conducting hearings and adjusting complaints, considering proposals for amendments to this Code, making recommendations thereon, and otherwise administering its provisions.

The Central Code Authority shall elect from its membership an Executive Committee of five members, with representation thereon from each division.

Because of the wide variance in agricultural conditions and practices of the eastern and western sections of the United States, there are hereby created for the purpose of administration the following divisions:

The Eastern Division of the Federations is comprised of the following constituent associations:

- New England Farm Equipment Dealers' Association
- New York Farm Equipment Dealers' Association
- Eastern Farm Equipment Dealers' Association
- Virginia Farm Equipment Dealers' Association
- North Carolina Farm Equipment Dealers' Association
- Western Pennsylvania Farm Equipment Dealers' Association



The Western Division of the Federations is comprised of the following constituent associations:

Western Retail Implement and Hardware Association  
 Minnesota Implement Dealers' Association  
 Iowa Implement Dealers' Association  
 Wisconsin Implement Dealers' Association  
 Michigan Farm Equipment Association  
 Illinois Implement Dealers' Association  
 North Dakota Implement Dealers' Association  
 South Dakota Implement Dealers' Association  
 Mississippi Valley Farm Equipment Association  
 Mid-West Implement Dealers' Association  
 Pacific Northwest Hardware and Implement Association  
 Indiana Implement Dealers' Association  
 Kentucky Hardware and Implement Association  
 Mountain States Hardware and Implement Association  
 Oregon Retail Hardware and Implement Association  
 California Retail Hardware and Implement Association  
 Panhandle Hardware and Implement Association  
 Idaho Retail Hardware and Implement Association  
 Montana Implement and Hardware Association  
 Ohio Implement Dealers' Association  
 Texas Hardware and Implement Association

The Executive Committee shall appoint a managing director for each of the two divisions, eastern and western, each such managing director to appoint his own assistants and define the territory to be served by each director.

The Executive Committee shall also appoint a board of three members of the Central Code Authority from each of the two divisions, each such board to act in a strictly advisory capacity to the managing director of its own division.

The Central Code Authority may establish other divisions and define the territory to be served by each, and such divisions shall be accorded representation on the Central Code Authority.

For the administration of this code in each division or subdivision of the association, the Central Code Authority shall appoint appropriate agencies and delegate to them all necessary power and authority for the administration of this code within each division and subdivision.

(e) To obtain from members of the trade 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 trade or any other party except to such governmental agencies as may be directed by the Administrator.



## ARTICLE V—MAXIMUM WORKING HOURS

SECTION 1. On and after the effective date of this Code establishments in the retail trade shall elect to operate upon one of the following schedules of hours of labor.

(a) Any establishment may elect to remain open for business less than fifty-six (56) hours but not less than fifty-two (52) hours per week, unless its store hours were less than fifty-two (52) hours prior to June 1, 1933, in which case such establishment shall not reduce its store hours; no employee of an establishment electing to operate in accordance with this Section (a) shall work more than forty (40) hours per week, nor more than eight (8) hours per day, nor more than six (6) days per week.

(b) Any establishment may elect to remain open for business fifty-six (56) hours or more per week but less than sixty-three (63) hours per week; no employee of such establishment shall work more than forty-four (44) hours per week, nor more than nine (9) hours per day, nor more than six (6) days per week.

(c) Any establishment may elect to remain open for business sixty-three (63) hours or more per week; no employee of such establishment shall work more than forty-eight (48) hours per week, nor more than ten (10) hours per day, nor more than six (6) days per week.

No employee shall work for two or more establishments a greater number of hours, in the aggregate, than he would be permitted to work for that one of such establishments which operates upon the schedule of fewest operating hours.

No employee not included in the foregoing Sections (a), (b), and (c) and not specifically excepted hereinafter, shall work more than forty (40) hours per week, nor more than eight (8) hours per day, nor more than six (6) days per week.

SEC. 2. On or within one week after the effective date of this Code every retail establishment shall designate under which of the Groups set forth in the preceding Section 1 it elects to operate and shall post and maintain in a conspicuous place in the establishment a copy of such election showing its store hours and employee working hours.

SEC. 3. (a) No establishment may change from the Group in which it has elected to operate except upon December 31 of any year.

(b) Any establishment, however, may at any time increase its store hours, provided it maintains the basic employee work week of the Group in which it originally elected to operate.

(c) Any establishment may, for a period not to exceed three (3) months during the Summer, temporarily reduce its store hours, but the weekly wage of its employees shall not on that account be reduced.

SEC. 4. (a) *Professional persons, outside salesmen, outside collectors, field and repair service men, and watchmen.*—The maximum period of labor prescribed in Section 1 of this Article shall not apply to professional persons employed and working at their profession, or to outside salesmen, outside collectors, field and repair service men, and watchmen.

(b) *Maintenance and outside service employees.*—The maximum periods of labor prescribed in Section 1 of this Article shall not apply



to maintenance and outside service employees; but such employees shall not work more than six (6) hours per week above the maximum hours per week otherwise prescribed by Section 1 unless they are paid at the rate of time and one-third for all hours over such additional six (6) hours per week.

(c) *Executives*.—Subject to the conditions set forth in Section 5 of this Article, executives receiving \$35.00 or more per week in cities of over 500,000 population, or receiving \$30.00 or more per week in cities of 100,000 to 500,000 population, or receiving \$27.50 or more per week in cities of 25,000 to 100,000 population, or receiving \$25.00 or more per week in cities, towns, villages, and other places under 25,000 population, may work in excess of the maximum periods of labor prescribed in Section 1 of this Article. In the South, executives paid not less than ten (10) percent below the wages so specified may work in excess of such maximum periods.

(d) *Peak periods*.—At harvest, inventory, and other peak times, for a period not to exceed two (2) weeks in the first six (6) months of the calendar year and not to exceed three (3) weeks in the second six (6) months, an employee whose basic workweek is forty (40) hours may work not more than forty-eight (48) hours per week and nine (9) hours per day; an employee whose basic workweek is forty-four (44) hours may work not more than fifty-two (52) hours per week and nine and one half ( $9\frac{1}{2}$ ) hours per day; an employee whose basic workweek is forty-eight (48) hours may work not more than fifty-six (56) hours per week and ten (10) hours per day. All such work may be without the payment of overtime.

SEC. 5. In case of crop failure or the destruction of crops by hail, black rust, or pests, such as boll weevil, Hessian fly, grasshoppers, corn borer, chinch bugs and the like, creating an abnormal demand for equipment for replanting or reseeding to other crops, any employee may be permitted to work more than eight (8) hours per day at the regular daily rate of pay.

SEC. 6. Notwithstanding the provisions of the foregoing sections of this Article, and regardless of the number of persons otherwise permitted to work unrestricted hours, the total number of workers in any establishment (whether such workers are executives, proprietors, partners, persons not receiving monetary wages, or others) who shall be permitted to work unrestricted hours shall not exceed the following ratio: In establishments comprised of twenty (20) workers or less the total number of workers who may work unrestricted hours (not including those workers specified in Section 4 (a) of this Article) shall not exceed one worker for every five (5) workers or fraction thereof; in establishments comprised of more than twenty (20) workers the total number of workers who may work unrestricted hours (not including those workers specified in Section 4 (a) of this Article) shall not exceed one worker for every five (5) workers for the first twenty (20) workers, and shall not exceed one worker for every eight (8) workers above twenty (20).

SEC. 7. *Hours of work to be consecutive*.—The hours worked by any employee during each day shall be consecutive, provided that an interval not longer than one hour may be allowed for each regular meal period, and such interval not counted as part of the employee's



working time. Any rest period which may be given employees shall not be deducted from such employee's working time.

SEC. 8. *Extra working hour on one day a week.*—On one day each week employees may work one extra hour, but such hour is to be included within the maximum hours permitted each week.

## ARTICLE VI—WAGES

SECTION 1. *Basic schedules of wages.*—On and after the effective date of this Code, the minimum weekly rates of wages which shall be paid for a work week as specified in Article V—whether such wages are calculated upon an hourly, weekly, monthly, commission, or any other basis—shall, except as hereinafter provided, be as follows:

(a) Within cities of over 500,000 population, no employee shall be paid less than at the rate of \$14.00 per week for a forty (40) hour work week, or less than at the rate of \$14.50 per week for a forty-four (44) hour work week, or less than at the rate of \$15.00 per week for a forty-eight (48) hour work week.

(b) Within cities of from 100,000 to 500,000 population, no employee shall be paid less than at the rate of \$13.00 per week for a forty (40) hour workweek, or less than at the rate of \$13.50 per week for a forty-four (44) hour workweek, or less than at the rate of \$14.00 per week for a forty-eight (48) hour workweek.

(c) Within cities of from 25,000 to 100,000 population, no employee shall be paid less than at the rate of \$12.00 per week for a forty (40) hour workweek, or less than at the rate of \$12.50 per week for a forty-four (44) hour workweek, or less than at the rate of \$13.00 per week for a forty-eight (48) hour workweek.

(d) Within cities, towns, villages of from 2,500 to 25,000 population the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$11.00 per week and provided further that no employee shall be paid less than at the rate of \$10.00 per week.

(e) Within towns, villages, and other places with less than 2,500 population, the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$10.00 per week; subject, however, to the President's Executive Order of October 23, 1933, relating to the employment of five persons or less in towns of 2,500 population or less, which is attached hereto and made a part hereof as Schedule A.

The minimum wages paid to professional persons, outside salesmen, outside collectors, watchmen, field and repair service men, and maintenance and outside service employees shall be upon the basis of the basic employee workweek upon which the establishment by which they are employed has elected to operate.

The minimum wages of any employee not included in the foregoing paragraphs and not specifically excepted hereinafter shall be upon the basis of a forty (40) hour workweek.



A person whose earning capacity is limited because of age or physical or mental handicap may be employed on light work at a wage below the minimum established by this Code if the employer obtains from the State Authority designated by the United States Department of Labor a certificate authorizing his employment at such wages and for such hours as shall be stated in the certificate. Each employer shall file with the Code Authority a list of all such persons employed by him.

SEC. 2. *Juniors and apprentices.*—Junior and apprentice employees may be paid at the rate of \$1.00 less per week than the minimum wage otherwise applicable; it is provided, however, that no employee shall be classified both as a junior and as an apprentice employee, and it is further provided that the number of employees classified as junior and as apprentice employees, combined, shall not exceed a ratio of one such employee to every five employees or fraction thereof up to twenty (20), and one such employee to every ten (10) employees above twenty (20).

SEC. 3. *Southern wage differential.*—In the South, within cities of over 25,000 population, the minimum wages prescribed in the foregoing sections may be at the rate of \$1.00 less per week; within cities, towns, and villages of from 2,500 to 25,000 population the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$10.00 per week, and provided further that no employee shall be paid less than at the rate of \$9.00 per week except as provided in Section 2 of this Article; within cities, towns, villages, and other places under 2,500 population the wages of all classes of employees shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) percent, provided that this shall not require an increase in wages to more than the rate of \$9.00 per week.

SEC. 4. *Part-time employees.*—Part-time employees shall be paid not less than at an hourly rate proportionate to the rates prescribed in the foregoing sections of this Article.

SEC. 5. *Weekly wages above minimum not to be reduced.*—The weekly wages of all classes of employees receiving more than the minimum wages prescribed in this Article shall not be reduced from the rates existing upon July 15, 1933, notwithstanding any reduction in the number of working hours of such employees.

## ARTICLE VII—GENERAL LABOR PROVISIONS

SECTION 1. *Collective bargaining.*—(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.



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

SEC. 2. *Child labor*.—On and after the effective date of this Code, no person under the age of sixteen (16) years shall be employed, except that persons fourteen (14) and fifteen (15) years of age may be employed either—

(a) for a period not to exceed three (3) hours per day during six (6) days in any one week, or

(b) for one day per week, such day not to exceed eight (8) hours.

In either case, all such hours of work shall be between 7 a.m. and 7 p.m. and shall not conflict with the employee's hours of day school. It is provided, however, that no person under the age of sixteen (16) years shall be employed in delivering merchandise from motor vehicles.

SEC. 3. No provision of this Code shall supersede any law within any State which makes more stringent requirements on employers as to hours of work, wages, or age of employees than are imposed by this Code.

SEC. 4. Each employer shall post in conspicuous places, accessible to employees, full copies of this Code.

SEC. 5. Employers engaged only locally in the trade (and not in a business in or affecting interstate commerce) who do not employ more than five persons and who are located in towns of less than 2,500 population which are not in the immediate area of a city or town of larger population than 2,500 shall not be subject to the operation of Articles V and VI and Sections 2 and 4 of this Article VII.

#### ARTICLE VIII—TRADE PRACTICES

The following practices constitute unfair methods of competition for the members of the retail farm equipment trade and are prohibited:

(a) *Price cutting*.—No member of the trade shall sell any product in the Trade at a price below his own individual cost. However, any member may meet the price competition of any one whose costs under this code provision are lower. Cost is defined as the wholesale invoice price, plus transportation cost, plus overhead. Overhead shall include all elements of expense (including servicing) which are involved in the conduct of the business as may be determined by an accounting method to be proposed by the Code Authority and approved by the Administrator.

Nothing in this Section (a), Article VIII, shall apply to the sale of merchandise which is obsolete, damaged, or the sale of which is being discontinued by said dealer, provided same are labelled, advertised, or offered for sale as such, but no discontinued merchandise shall be sold below cost if a new dealer has offered to buy the same under Section (d) of this Article.

(b) *Advertising*.—The making or causing or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statements by way of advertising or otherwise, whether concerning the grade, quantity, quality, substance, character, nature,



origin, size, finish, or preparation, of any merchandise offered for sale by the trade, or the credit terms, values, policies, or service of any member of the trade or otherwise, having the tendency or capacity to mislead customers or prospective customers.

(c) *Interference with contractual relations.*—Wilfully inducing or attempting to induce the breach of existing contracts between competitors and their customers by any false or deceptive means whatsoever, or interfering with or obstructing the performance of any such contractual relations or services by any such means, with the purpose and effect of unduly hampering, injuring, or embarrassing competitors.

(d) *Transfer of dealer agency contracts.*—To accept from the manufacturer the transfer of a dealer agency contract without offering to purchase from the former agent his marketable stock of that line of merchandise at replacement prices of identical goods provided, however, that there shall be no such obligation to offer to purchase from a dealer who has violated the provisions of his contract with the manufacturer, or has voluntarily discontinued contractual relations with such manufacturer.

(e) *Secret rebates.*—The secret payment or allowances of rebates, refunds, commissions, or credits, or discounts, whether in the form of money or otherwise, or the secret extension to any purchaser of privileges or services not extended to all purchasers under like terms or conditions.

(f) *Prison-made goods.*—Pending the formation of a compact or code between the several states and the United States to insure the manufacture and sale of prison-made goods on a fair competitive basis with goods not so produced, the following provisions of this code shall be stayed for a period of ninety days, but not thereafter:

(1) To protect free labor against the competition of products produced in penal, charitable, or reformatory institutions or by the inmates thereof, it is hereby declared to be an unfair act of competition and a violation of this code to sell, offer for sale, or deliver prison made products at prices lower than that at which similar goods made by free labor can be sold under the provisions of this Code.

(2) Nothing herein shall be construed to supersede or interfere with the operation of the Act of Congress approved January 19, 1929, being Public No. 669 of the 70th Congress and entitled "An Act to Divest Goods, Wares, and Merchandise Manufactured, Produced, or Mined by Convicts or Prisoners of their Interstate Character in Certain Cases", which Act is known as the Hawes-Cooper Act, or the provisions of any state legislation enacted thereunder or effective upon the effective date of said Hawes-Cooper Act, the said effective date being January 19, 1934.

(g) *Trade-ins.*—Selling trade-in merchandise or livestock below the price allowed thereon by the member of the trade plus the cost, if any, of reconditioning such merchandise; provided, however, that such sale price upon trade-in merchandise or livestock remaining unsold at the end of the first year after it was traded in may be reduced not to exceed 25 percent of the price allowed thereon, (plus cost, if any, of reconditioning); provided, further, that trade-in



merchandise or livestock remaining unsold at the end of the second year after it was traded in may be sold without restriction.

(h) *Other unfair practices*.—Nothing in this code shall limit the effect of any adjudication by the courts or holding by the Federal Trade Commission on complaint, finding and order that any practice or method is unfair provided that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

#### ARTICLE IX—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 X—COORDINATION

It shall be the policy of this trade to coordinate the administration of this code with such codes, if any, as may be adopted by any subdivisions of this trade or related trade, with a view of providing joint and harmonious action on all matters of common interest.

#### ARTICLE XI—VIOLATIONS

Violations of this Code or any subdivision thereof, or the violation of any approved rules issued thereunder or of any agreement entered into under this Code, or the violation through any false statement or report made to the President or the Code Authority by any person subject thereto shall, after determination thereof by the Administrator, constitute an unfair method of competition and the offender shall be subject to the penalties provided by law.

#### ARTICLE XII—MODIFICATION

(a) This code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this code or any conditions imposed by him upon his approval thereof.

(b) This code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and such notice of hearing as he shall specify, and to become effective on his approval.

#### ARTICLE XIII—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and service increase as rapidly as wages, it is recognized that price in-



creases should be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

#### ARTICLE XIV—EFFECTIVE DATE

This code and amendments thereto shall be in effect beginning the third Monday after approval thereof by the Administrator, and shall apply to all members of the trade, excepting that those members of the trade located in towns of less than 2,500 population are permitted labor exemptions only as provided in Section 5, Article VII.

Approved Code No. 197.

Registry No. 1303-07.



## SCHEDULE A

### EXECUTIVE ORDER

In order to effectuate the policy of title I of the National Industrial Recovery Act, approved June 16, 1933, and to provide for equitable enforcement of agreements heretofore made with the President and codes approved by the President under said act, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of said National Industrial Recovery Act, hereby prescribe the following rules and regulations which shall have the effect of modifying any inconsistent provisions of any order, approval, rule or regulation heretofore issued under title I of said act.

1. The provisions of the President's reemployment agreement, issued July 27, 1933, shall not be held to apply to employers engaged only locally in retail trade or in local service industries (and not in a business in or affecting interstate commerce) who do not employ more than five persons and who are located in towns of less than 2,500 population (according to the 1930 Federal census) which are not in the immediate trade area of a city of larger population, except so far as such employers who have signed the President's reemployment agreement desire to continue to comply with the terms of said agreement after the date of this order; and this release of such employers who have heretofore signed the President's reemployment agreement shall be further extended so as to release to the same extent all such employers of obligations not voluntarily assumed under the provisions of a code of fair competition approved by the President. This exemption is intended to relieve small business enterprises in small towns from fixed obligations which might impose exceptional hardship, but it is expected that all such enterprises will conform to the fullest extent possible with the requirements which would be otherwise obligatory upon them.

2. In view of general increases in prices which may or may not be justified in specific instances by increased costs caused by compliance with the President's reemployment agreement, or with approved codes of fair competition, the Administrator for Industrial Recovery is hereby directed to cause to be conducted such investigations as may be necessary to determine the extent to which manufacturers and producers have increased prices following, or in anticipation of, the approval of codes of fair competition, or after the signing of the President's reemployment agreement, and to set up adequate organizations for the handling of complaints against such price increases and of local complaints against retail price increases alleged to be contrary to the requirements of codes of fair competition, or the President's reemployment agreement, or in conflict with the policy of the National Industrial Recovery Act.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,  
October 23, 1933.







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