

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

FARM EQUIPMENT
INDUSTRY

AS APPROVED ON OCTOBER 3, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

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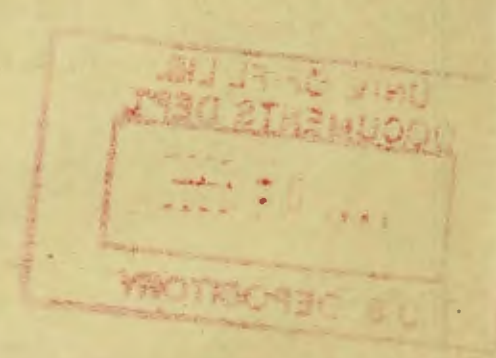
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(II)



EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE FARM EQUIPMENT 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 my approval of a Code of Fair Competition for the Farm Equipment Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

Now, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations, and findings of the Administrator and do order that the said Code of Fair Competition be and is hereby approved, except that the second paragraph of Article VIII must be eliminated.

FRANKLIN D. ROOSEVELT.

The WHITE HOUSE,
October 3, 1933.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

(III)

SEPTEMBER 27, 1933.

THE PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: I have the honor to submit and recommend for your approval the Code of Fair Competition for the Farm Equipment Industry.

The following exhibits are included or attached:

- (1) Final Code Submitted.
- (2) Notice of Hearing.
- (3) Statement of Procedure.
- (4) Transcript of the Records.
- (5) Statistical Analysis of the Division of Economic Research and Planning.
- (6) Report of Deputy Administrator.

An analysis of the provisions of the Code has been made by the Administration. I find that the Code complies with the requirements of Clauses 1 and 2 Subsection (a) of Section 3 of the National Recovery Act.

I am, my dear Mr. President,
Very sincerely yours,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE FARM EQUIPMENT INDUSTRY

ARTICLE I—PURPOSE

SECTION 1. The purpose of this Code is to reduce and relieve unemployment and to prevent unfair practices of competition in the Industry destructive of the interests of the public, employees, and employers.

ARTICLE II—DEFINITIONS

SECTION 1. As used in the Code the term "farm equipment" includes all equipment used in farm operations except automobiles, motor trucks, household utilities, barn and barnyard equipment, poultry equipment, and farm hardware such as hand rakes, shovels, spades, and hoes.

The term "industry" includes the manufacture and/or assembly and/or sale (other than at retail) of any such farm equipment and repair parts therefor whether manufactured by the maker of such equipment or others.

The term "employer" means but without limitation any individual, partnership, association, or corporation (including owned or controlled subsidiaries or affiliates) conducting any such operation.

The term "association" means National Association of Farm Equipment Manufacturers, an Illinois corporation.

The term "Executive Committee" or "Committee" means the Executive Committee (as from time to time constituted) of the Association.

The Code shall become effective on the third Monday after the Code has been approved by the President and the term "effective date" shall refer to such third Monday.

ARTICLE III—PARTICIPATION

SECTION 1. Membership in the Association shall be open to all employers in the Industry and no inequitable restrictions shall be imposed on admission to membership.

ARTICLE IV—ADMINISTRATION

SECTION 1. The Executive Committee of the Association is hereby constituted a coordinating agency for the Industry and shall act for it in the administration of this Code with the following powers:

(a) To collect from employers in the Industry all data and statistics required by this Code or by the President of the United States, or his agents, under the National Industrial Recovery Act.

(b) To represent the Industry in conferring with the President of the United States or his agents or any other federal governmental authority with respect to the administration of this Code and in respect of the National Industrial Recovery Act and any regulations issued thereunder. The Administration may appoint a representative or representatives to meet with said Committee from time to time as such representatives may request, and all data and statistics collected as aforesaid shall be made available to them.

(c) To hear and attempt to adjust complaints arising under the Code.

(d) To coordinate the administration of this Code with such Codes, if any, as may be adopted by any subdivision of this Industry or any related Industry, with a view to providing joint and harmonious action on all matters of common interest.

(e) To authorize any person or persons to perform any of the foregoing duties subject to the supervision of the Committee.

ARTICLE V—HOURS OF LABOR AND RATES OF PAY

SECTION 1. No employer shall employ in the Industry any person under the age of 16 years.

SEC. 2. The demand for farm implements is subject to fluctuations not prevailing in any other industry. There is but one customer for these implements, the farmer, whose ability to buy is conditioned upon the price and quality of his crops. The farm demand even in times of comparative farm prosperity is greatly varied and often obliterated by unforeseeable weather conditions and pests, such as boll weevil, blask rust, Hessian fly, grasshopper, corn borer, chinch bug, and the like. At least 75% of the variations in farm yields is due to these causes. Likewise, a large emergency demand for other implements is often created by the same conditions. For example, the failure of the wheat crop in the southwest may result in unexpected corn planting, for which special implements must be provided, almost over night. To meet the farmers' immediate demands a considerable variation in factory hours has always been essential and must be permitted.

(a) On and after the effective date no employer shall work any accounting, clerical, service, sales, express, or delivery employees in the industry on a schedule of more than 48 hours in any one week or more than 40 hours a week on a six months' average.

For the purpose of adjusting operations to comply with the six months' average requirement any employer may adopt for each location such six-month period as is most appropriate for the business there conducted.

(b) On and after the effective date all employees mentioned in paragraph (a) of this Section shall be paid at a rate of not less than \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; and at a rate of not less than \$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; and at a rate of not less than \$14.00 per week in any city of between 2,500 and 250,000 population, or in the immediate trade area of such city; and in towns of less than 2,500 population all wages of such em-

ployees shall be increased by not less than 20 percent, provided that this shall not require wages in excess of \$12.00 per week.

(c) No employees of the classes mentioned in paragraph (a) of this Section shall have their compensation reduced on account of any reduction in the weekly hours of employment made to conform with the requirements of paragraph (a) of this Section.

(d) The provisions of this Section do not apply to employees receiving more than \$35.00 per week and paragraph (a) hereof does not apply to outside salesmen, collectors, field service men and service-parts foremen.

SEC. 3. Factory workers as used in this Section shall not include any employee of the classes mentioned in Section 2 (a) of this Article.

(a) On and after the effective date of this Code employers shall not operate on a schedule of hours of labor for their factory employees in the Industry in excess of 40 hours in any one week.

As to employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, there shall be a tolerance of 10%, and the schedule of hours of labor shall not apply to such employees in the case of emergency work. Any emergency time in any plant shall be reported monthly to the Association. 10% tolerance above 40 hours shall also be permitted for other factory workers where necessary to take care of seasonal peaks or special demands. In all cases, however, the average over a six months' period shall be not more than 40 hours per week.

The limitations as to hours of labor shall not apply to employees in a supervisory capacity receiving more than \$35.00 a week or to field service men.

(b) On and after the effective date of this Code, the minimum wage that shall be paid by employers to any of their factory workers in the Industry shall be at the following rates:

	<i>Cents per hour</i>
Zone A -----	40
Zone B -----	35
Zone C -----	30

Zone A is defined as cities of more than one million population, together with all industrial cities, towns, and villages in the same immediate manufacturing area. Zone C, the states of Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, Arkansas, Louisiana, Texas, and points east of the Mississippi River south Louisville, Kentucky; also all communities elsewhere in the United States of less than fifteen thousand population in which a majority of the adult male population is not engaged in manufacturing. Zone B, all territory in the United States except Zones A and C.

Where females perform the same work and duties as men the minimum rate of wages for females shall be the same as for men. Where females and youths perform different and light types of work the minimum wage rate may be five cents an hour lower than those specified above.

(c) The hourly rates of pay and the base rates for piecework for all factory workers paid at rates higher than the above minimum, and lower than \$30.00 per week, shall not be less than 85% of the rates

paid by the same employer or his predecessor in business for the same class of work at the same place on July 15, 1929; provided, that no employer shall be required hereby to pay a higher rate than other employers for the same class of work in the same immediate manufacturing area.

All employers who have not heretofore adjusted wages to conform with these provisions shall do so within 15 days after the effective date of this Code.

SEC. 4. Exceptions to the above minimum rates are learners for a period up to ten weeks, messengers and office boys who shall receive not less than 80% of the minimum; and employees disabled by old age or other causes; but the total number of such excepted employees shall not exceed 5% of the total number of employees of any employer. The provisions, as to rates of wages, shall not apply to apprentices or learners working part time in conjunction with any public educational system.

SEC. 5. Within each state employers shall comply with all such state laws imposing more stringent requirements regulating the age of employees, wages, hours of work or health, fire or general working conditions than under this Code.

SEC. 6. The foregoing provisions in regard to wages of factory employees establish guaranteed minimum rates of pay regardless of whether the employee is compensated on the basis of a time rate or piecework performance, or otherwise.

SEC. 7. No employee shall be classified in any one of the excepted classes hereinabove defined unless he performs functions identical with those performed by employees thus classified on June 16, 1933.

SEC. 8. The maximum hours hereinabove provided mark the total number of hours during which any employee may be employed, whether by one or more employers; provided, however, that if any employee should work for more than one employer for an aggregate period in excess of such maximum, without the knowledge or connivance of any one of such employers, such employer shall not be deemed to have violated this section.

SEC. 9. Population shall be governed by the United States census of 1930.

ARTICLE VI—STATISTICS

SECTION 1. In addition to information required to be submitted to the Code authorities there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the National Industrial Recovery Act.

SEC. 2. Not later than the 28th day of each month each employer shall report to the secretary of the Association, in terms of percentage, the proportion which its aggregate sales of products in the Industry during the previous month bear to the corresponding sales of the same month of the previous year, and also the proportion which corresponding sales from the preceding January first to and including the previous month bear to those for the same period of the previous year. As part of the same report, the proportions which collections for the previous month and for the current year from January first to and including the previous month bear to col-

lections for the corresponding periods of the previous year shall also be reported in terms of percentage. Such statistics shall be available to all members of the Association, but the names of the employers reporting shall not be divulged.

ARTICLE VII—TRADE PRACTICES

SECTION 1. Within ten days after the effective date of this Code each employer in the Industry shall file with the Association a complete list of its prices (to jobbers and dealers), including delivery points, finance plans, terms and discounts, and thereafter shall file all changes therein as and when made. It shall be an unfair method of competition for any employer to give any concession directly or indirectly, by any means, from its lists of prices, delivery points, finance plans, terms, and discounts so filed as long as the same remain in force, and no change shall become effective in advance of filing the same with the Association which shall make such information available to employers in the Industry making competitive lines. Stationary grain separators shall not be sold on longer terms than 28 months from date of delivery to the user thereof; all other farm equipment shall not be sold on longer terms than two years from date of delivery to the user thereof and no part of a deferred payment shall be extended except for actual inability of the purchaser to make payment; and no understanding for renewal or extension of any payment shall be made prior to the sale of the merchandise to the user.

SEC. 2. The manufacture and sale of farm equipment produced by prison labor displaces a corresponding amount of free labor. Further, the products of such prison labor are customarily sold at prices below the cost of similar articles produced by private industry employing free labor and subject to taxes and other ordinary business expenses. The increased wages prescribed by this Code cannot be maintained against the competition of such prison-made products. To protect free labor against such competition, it is hereby declared to be an unfair act of competition and a violation of this Code to sell and ship prison-made products across state lines at lower prices than similar goods made by free labor can be sold under the provisions of this Code.

SEC. 3. So long as the maker of any trade-marked machine or implement (or his successor in business) continues to make and supply repair parts therefor, it shall be an unfair method of competition for any other person to make and supply repair parts for such machines or implements unless (a) the name of the maker of such repair parts is plainly marked on each part (or if this is impracticable on the package or tag) and unless (b) said parts are otherwise marked, packaged, and sold without imitative labels, and in such a manner as to clearly indicate to the ultimate user that they are not made by the maker of the original machine or implement.

SEC. 4. It shall be an unfair method of competition to sell below current delivered cost. In determining overheads (production, selling, collection and distribution), the percentages applicable to the year 1926 may be used if lower than current figures.

Any employer in the Industry who wishes to sell a product at less than cost (either generally or in certain territory) (a) to introduce a product new to its lines, or (b) so that its line shall be sufficiently varied to adequately compete with other employers in the Industry, or (c) so that the line of its dealers shall be sufficiently complete to adequately compete with other dealers, may do so provided (1) that it may not sell any such product for a less price or on more liberal terms than the price and terms in the same territory of its competitor who sells for the lowest price which is not less than cost; (2) that such employer in the Industry first notifies the Association of the product and territory involved.

This Section does not apply to obsolete merchandise or to merchandise which is substantially shopworn.

SEC. 5. The preceding provisions of this Article do not apply to second-hand merchandise except that full payment shall be required within two years from date of delivery.

SEC. 6. As trade practices in foreign countries are governed by foreign laws and as foreign manufacturers are not subject to this Code, it is understood the provisions of this Article do not apply to export trade.

SEC. 7. No person shall take part in any method of competition defined as unfair in this Code.

ARTICLE VIII

As required by Section 7 (a) of the Act, the following provisions are conditions of this Code: "(1) That 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 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; (2) that no employee and no one seeking employment shall be required as a condition to employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) that employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President."

Without in any way attempting to qualify or modify, by interpretation, the foregoing requirements of the National Industrial Recovery Act, employers in this Industry may exercise their right to select, retain, or advance employees on the basis of individual merit, without regard to their membership or nonmembership in any organization. (See Note on p. 7.)

ARTICLE IX

This Code is hereby made expressly subject to the right of the President, pursuant to Section 10 (b) 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 particularly, but without limitation, to cancel or modify his approval of this Code or any conditions imposed by him upon such approval.

ARTICLE X

No person consenting to this Code shall be held to have consented to any modification thereof or to any particular interpretation of the National Industrial Recovery Act if invalid.

ARTICLE XI

This Code may be amended by appropriate action of the Industry and approval of the President. This Code and any amendments thereof shall remain in effect until November 1, 1934, unless sooner terminated by action or approval of the President. It is contemplated from time to time supplementary provisions to this Code or additional codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices, and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act.

Any proposals for amendments to this Code or supplemental agreements with respect to wages, hours, trade practices, or any other matters, shall be first submitted to the Committee, which shall consider the same and confer with employers in the Industry affected thereby to the extent the Committee deems advisable. The Committee, as representing the entire Industry, shall have no power to approve or recommend any amendments or supplemental agreements, but may arrange for a hearing before the President or his agents or other Federal governmental authorities on any proposal which a substantial proportion of the Industry, or the division thereof affected by the proposal, desires to present, and shall notify all members of the Association of the time and place of the hearing.

NOTE.—This paragraph has been eliminated as required by the Executive Order, for the reasons stated by the President in a letter to the Administrator of October 19, 1933, reading as follows:

OCTOBER 19, 1933.

General HUGH S. JOHNSON,
Administrator for National Recovery,
Washington, D.C.

DEAR GENERAL JOHNSON: Following our recent discussion of various misunderstandings and misinterpretations of Section 7 (a) of the National Industrial Recovery Act, I wish to advise you of my position.

Because it is evident that the insertion of any interpretation of Section 7 (a) in a Code of Fair Competition leads only to further controversy and confusion, no such interpretation should be incorporated in any Code. While there is nothing in the provisions of Section 7 (a) to interfere with the bona fide exercise of the right of an employer to select, retain, or advance employees on the basis of individual merit, Section 7 (a) does clearly prohibit the pretended exercise of this right by an employer simply as a device for compelling employees to refrain from exercising the rights of self-organization, designation of representatives, and collective bargaining, which are guaranteed to all employees in said Section 7 (a).

Very truly yours,

FRANKLIN D. ROOSEVELT.

