

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

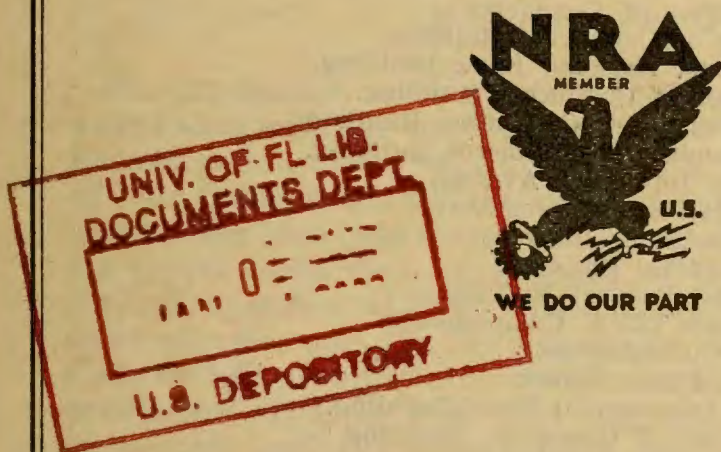
FOR THE

**WHOLESALE AUTOMOTIVE
TRADE**

AS APPROVED ON DECEMBER 18, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
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Approved Code No. 163

CODE OF FAIR COMPETITION
FOR THE
WHOLESALE AUTOMOTIVE TRADE

As Approved on December 18, 1933

BY

PRESIDENT ROOSEVELT

Executive Order

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 Wholesale Automotive Trade, 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 it is hereby, approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 18, 1933.

(185)

DECEMBER 9, 1933.

The PRESIDENT,
The White House.

SIR: The proposed Code of Fair Competition for the Wholesale Automotive Trade was submitted to the Administrator on August 9, 1933, by the Motor and Equipment Wholesalers Association, Incorporated, in cooperation with the National Standard Parts Association, the National Automotive Parts Association, the Automotive Electric Association, the Automotive Engine Rebuilders Association, and the National Wheel and Rim Association, representing approximately 70% of the total volume of sales and members of the Trade.

The Hearing was conducted in Washington on October 21, 1933, and the Code was revised during the recess of this Hearing and is submitted in its present form for approval. Every person who requested an appearance was properly heard in accordance with statutory and regulatory requirements.

The Trade is nation-wide in character and has had a large increase in number of establishments in the past few years as indicated by the figures submitted showing 2,503 wholesale outlets in 1929 compared with more than 5,000 at the present time with a corresponding increase in the number of persons employed from 32,062 in 1929 to 63,500 in 1932. It supplies replacement parts, accessories, service tools, equipment, and products to more than 200,000 outlets for maintaining and servicing the more than 20,000,000 motor vehicles which are now in use.

During the past four years the Trade experienced an indicated decline in sales of between 40% and 50%. Over this same period, according to figures submitted by the Trade, the unit sale dropped from \$16.45 to \$3.69. This has resulted in maintaining the number of employees per establishment in spite of the decline in volume of business.

It is estimated that, giving due consideration to reemployment already effected, the Labor provisions in this Code will result in reemployment of more than 6,000 workers and a proportionate increase in payroll.

ARTICLE I—DEFINITIONS

Accurately defines specific terms used in the Code.

ARTICLE II—WAGES

The minimum wage for all employees, except office, salaried, and handicapped employees and learners and apprentices, is at the rate of 40 cents per hour. The minimum wage for office or salaried employees is \$15.00 per week in cities of over 500,000 population, and \$14.00 in cities of less than 500,000 population or in the immediate

vicinity thereof. Handicapped persons shall be paid not less than 80% of the minimum wage subject to certificate authorized by the United States Department of Labor. Learners and apprentices shall be paid not less than 80% of the minimum wage and they shall not exceed 5% of the total number of employees. The minimum wage is established irrespective of the method of compensation for all classes of employees. Provision is made for equitable adjustments in all pay schedules of employees above the minimum and female employees shall receive the same pay as male employees for similar work.

ARTICLE III—HOURS

Employees, excepting executive, administrative, and supervisory employees receiving not less than \$35.00 per week, and traveling and commissioned sales people, are limited to a maximum of 44 hours per week and 8 hours per day, except that for two weeks in each six months' period for inventory purposes, the maximum shall be 48 hours per week.

ARTICLE IV—CHILD LABOR

Provides that no person under sixteen years of age may be employed and no person under eighteen years of age may be employed in a hazardous occupation.

ARTICLE V—PRICES

Provides for a uniform system of cost accounting subject to variations necessary to meet conditions affecting any individual member of the Trade. Provides further, that no member of the Trade shall sell below his individual cost.

ARTICLE VI

Provides that a committee consisting of representatives of the Code Authority of the Trade, the National Automobile Chamber of Commerce, the Automotive Parts and Equipment Manufacturing Industry, and the Motor Vehicle Retailing Trade shall make a complete study of alleged unfair and discriminatory practices in the Trade. The committee shall report its findings to the Administrator within ninety days from the date of approval of this Code. If, upon the basis of such report, the Administrator shall find that such unfair and discriminatory practices do exist, the provisions for maintenance of resale schedules of branded or trade marked merchandise set forth in this Article shall become effective; provided, however, that the Administrator may make such modification as may be indicated by the facts found and recommendations made.

ARTICLE VII—TRADE PRACTICE RULES

Sets forth Fair Trade Practices for the Trade.

ARTICLE VIII—ORGANIZATION AND PROCEDURE

Establishes a Code Authority consisting of a specified number of representatives of the Associations which submitted this Code and such additional representatives as may be selected to represent interests not members of such Associations. The Administrator may designate not more than three representatives to participate in the conferences of the Code Authority. Provides for obtaining statistics.

ARTICLE IX—AMENDMENTS

Sets forth provisions respecting modification and amendments, provision required in Section 10 (b) of Title I of the National Industrial Recovery Act.

ARTICLE X—GENERAL

Sets forth the mandatory provisions respecting right of employees to organize and bargain collectively and a provision that no member of the Code shall be held to have consented to any modification thereof or to any provision or interpretation of the National Industrial Recovery Act if declared unconstitutional by the Supreme Court of the United States. Defines the effective date.

FINDINGS

The Administrator finds that:

(a) This Code complies in all respects with the pertinent phrases of Title I of the Act including without limitation subsection (a) of Section 7 and subsection (b) of Section 10 thereof, and that;

(b) The Associations which submitted this Code together with those persons who participated in its subsequent revisions are truly representative of the Wholesale Automotive Trade and their Bylaws contain no inequitable restrictions on membership, and that;

(c) The Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION

FOR THE

WHOLESALE AUTOMOTIVE TRADE

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Wholesale Automotive Trade, and shall be binding upon every member thereof.

ARTICLE I—DEFINITIONS

The terms "wholesale automotive trade" and "trade" as herein used shall mean the selling of automotive merchandise to retailers by any person, whether such person purchases or manufactures such merchandise. The terms shall likewise include the machining or secondary processing of automotive merchandise, such as cylinder reboring, piston grinding, piston pin fitting, or the reconditioning, repairing, or installing of any component part or unit of equipment by one who sells as aforesaid.

The term "member of the trade" shall mean anyone engaged in the wholesale automotive trade as hereinabove defined, either as an employer or on his own behalf.

The term "member of the Code" as used herein means any "member of the Trade" who assents to this Code.

The term "wholesaler" shall mean anyone engaged in the wholesale automotive trade as hereinabove defined who purchases the automotive merchandise which he sells.

The term "automotive merchandise" as used herein is defined to include any and all parts, equipment, tools, accessories, and supplies used in the repair and maintenance of motor vehicles (meaning automobiles, including passenger cars, trucks, truck tractors, busses, taxicabs, hearses, ambulances, and other commercial vehicles for use on the highway, excluding motorcycles, fire apparatus, and tractors other than truck tractors) stationary, internal-combustion engines and aeronautical and marine engines, excepting tire and petroleum products and such other products related to the motor vehicle industry as may be specifically covered by any code applying to the wholesale distribution thereof duly approved by the President.

The term "employee" as used herein includes any person engaged in any phase of the trade in any capacity in the nature of employee irrespective of the method of payment of his compensation.

The term "employer" as used herein includes anyone for whose benefit such an employee is so engaged.

The term "National Administrative Committee" as herein used is a committee of the Wholesale Automotive Trade composed of representatives of the following National Trade Associations: The Motor and Equipment Wholesalers Association, 400 West Madison Street, Chicago, Illinois; The National Standard Parts Association, Eaton Tower, Detroit, Michigan; The National Automotive Parts Association, 2211 Woodward Avenue, Detroit, Michigan; The Automotive Electric Association, Cleveland, Ohio; the Automotive Engine

Rebuilders Association, Indianapolis, Indiana; National Wheel & Rim Association, Chicago, Illinois.

The term "President" as used herein means the President of the United States.

The terms "Act" and "Administrator" as used herein mean respectively Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

ARTICLE II—WAGES

The following provisions as to wages are established for wholesalers:

A. (1) Except as provided in Section B of this Article, the minimum rate of pay that shall be paid to any employee shall be forty cents per hour; except that learners and apprentices, with less than three months' experience in the trade may be paid not less than 80% of said minimum rate, but the number of learners and apprentices employed by any wholesaler receiving less than the minimum rate shall not exceed 5% of the total number of employees of such wholesaler; provided, however, the wholesaler may so classify at least one employee.

(2) This section establishes the minimum rate of pay which shall be paid for an hour's work, irrespective of whether an employee is actually compensated on time rate, piece work, or any other basis, except as specified in Section B.

When a piece work employee is required to be on duty a specified time he shall receive, even though not productively engaged for such time, the minimum rate of pay herein specified.

B. The minimum compensation that shall be paid to any office or salaried employee in the wholesale automotive trade shall be at the following rates:

1. In cities over 500,000 population, or in the immediate vicinity thereof, at the rate of fifteen dollars (\$15.00) per week.

2. In cities of less than 500,000 population, or in the immediate vicinity thereof, at the rate of fourteen dollars (\$14.00) per week.

C. Equitable adjustments in all pay schedules of employees above the minimum shall be made within 30 days after effective date of this Code by any employers who have not heretofore made such adjustments, and the first reports of wages required to be filed under this Code shall contain all wage increases made since May 1, 1933.

D. Wages shall be paid weekly or semimonthly in lawful money or by negotiable check.

E. A person whose earning capacity is limited because of age or physical or mental handicap may be employed at light work at a wage not less than 80% of 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.

F. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

ARTICLE III—HOURS

The following provisions as to hours are established for wholesalers:

(A) Employees, excepting executive, administrative, and supervisory employees receiving not less than \$35.00 per week and traveling and commission sales people shall not work or be permitted to work in excess of forty-four hours in any one week, or for more than eight hours in any twenty-four hour period, except that they may work, or be permitted to work a maximum of forty-eight hours per week for a period of two weeks in each six months for inventory purposes. No executive, employer, or partner in a partnership, when working beyond forty-four hours per week, may perform the work or take the place of any employees subject to the maximum hour limitations of this Code.

(B) The maximum hours herein above provided mark the total number of hours during which any employee may be employed in the trade, whether by one or more employers.

(C) No employee or other person shall be classified in any one of the exempted classes herein above defined, unless he performs functions performed by employees thus classified on June 16, 1933.

(D) Hours shall be worked consecutively with reasonable time out for lunch.

(E) No employee whose normal full-time weekly hours for the four weeks ending July 1, 1933, are reduced by less than 20% shall have his or her full-time earnings reduced. No employee whose normal full-time weekly hours are reduced 20% or more shall have his or her full-time weekly earnings reduced by more than 10%.

ARTICLE IV—CHILD LABOR

No person under sixteen years of age may be employed by any wholesaler. No person under eighteen years of age shall be employed in the trade in occupations which are hazardous in nature or dangerous to health.

ARTICLE V—PRICES

(A) The Code Authority shall establish a uniform system of cost accounting, suitable for and applicable to the wholesale automotive trade. Upon approval thereof by the Administrator, such system of cost accounting shall be used by every member of the trade, with such variations therefrom or exceptions thereto as may be required by the conditions affecting any individual member of the trade and as may be approved by the Code Authority.

(B) No member of the trade shall sell or exchange any automotive merchandise at a price or upon such terms or conditions as will result in the customer paying for the goods received less than the cost to the seller, determined in accordance with the uniform system of cost accounting hereinabove described, except as provided in Section F in Article VII; and further provided that this provision shall not be construed in such manner as to interfere with the sale and/or exchange of merchandise between one member of the trade and another; and further provided this provision shall not apply when manufacturers resale schedules may be less than herein provided.

ARTICLE VI

It has been alleged that certain unfair and discriminatory practices exist in the trade which tend to eliminate or oppress small enterprises and to promote monopolies. Accordingly, it is provided that the Code Authority shall designate a representative or representatives who, in cooperation with such representative or representatives as may be designated by the National Automobile Chamber of Commerce, the Code Authority for the Automotive Parts and Equipment Manufacturing Industry, and the Emergency National Committee for the Motor Vehicle Retailing Trade, shall make a complete study of the aforesaid alleged unfair and discriminatory practices.

The number of such representatives shall be determined by the Administrator, but the respective designating authorities shall be entitled to equal representation. The Administrator shall have the power to designate a chairman for such committee who may or may not be one of such representatives. If the National Automobile Chamber of Commerce, or the Code Authority for the Automotive Parts and Equipment Manufacturing Industry, or the Emergency National Committee for the Motor Vehicle Retailing Trade should refuse or neglect to designate representatives, the study shall nevertheless proceed.

The facts found, together with such recommendations as may be calculated to effectuate the policy of Title I of the National Industrial Recovery Act, shall be reported by such Committee to the Administrator as soon as possible, but in any event within ninety days from the date of approval of this Code. If, upon the basis of such report, the Administrator shall find that such unfair and discriminatory practices do exist and that the execution of the provisions hereinafter set forth will effectuate the purposes of the Act and will not be contrary to the public interest, and shall notify the respective authorities hereinabove described to that effect, the following provisions shall become effective as a part of this Code immediately upon such notification:

(1) The sale by any member of the Trade of any branded or trade-marked merchandise at a price lower or on terms more favorable than the prices and terms in the currently published suggested resale schedules of the manufacturer thereof, is an unfair method of competition.

(2) The sale by any member of the Trade of any article of automotive merchandise known to the Trade to be identical with and to be manufactured by the manufacturer of some branded or trade-marked article at a price lower or on terms more favorable than the prices and terms in the currently published suggested resale schedules of said manufacturer for said branded or trade-marked article, is an unfair method of competition.

(3) The sale by any member of the Trade of any article of automotive merchandise in such manner as to indicate to the purchaser thereof that such article is identical with and manufactured by the manufacturer of some branded or trade-marked article at a price lower or on terms more favorable than the prices and terms in the currently published suggested resale schedules of said manufacturer

for said branded or trade-marked article, is an unfair method of competition.

Provided, however, that the Administrator, in connection with such notification to the respective authorities aforesaid, may make such modification of the aforesaid provisions as may be indicated by the facts found and recommendations made.

ARTICLE VII—TRADE PRACTICE RULES

The following are unfair methods of competition and if engaged in by any member of the trade shall constitute a violation of this Code:

(A) Marking, branding, or failure to brand, or the describing of merchandise in catalogues or circulars for the purpose or with the effect of misleading or deceiving purchasers or prospective purchasers in any material particular is an unfair method of competition.

(B) The making of statements by advertisement or otherwise and selling or offering to sell any automotive merchandise with intent to deceive purchasers or prospective purchasers is an unfair method of competition.

(C) To prevent unfair methods of competition, the Code Authority shall, subject to the disapproval of the Administrator, establish a fair and equitable classification of accounts, and such classification shall be adhered to by all members of the Trade. No member of the Trade shall sell merchandise to any customer at prices lower than are offered to all other customers of the same class for the same quantity, grade, quality, or style. Provided, however, that due allowance may be made for differences in transportation costs, it being understood that transportation costs may be equalized by any individual member of the trade acting independently as between recognized wholesaling centers.

If any application of the foregoing classification should work unjust hardship upon any member of the Trade or any customer, such members of the Trade or customer may appeal to the Code Authority, which shall have power to make such reclassification as justice requires. If the Code Authority should refuse relief or should fail to take action upon any appeal within fifteen (15) days, such member or customer may appeal to the Administrator, who shall have power to grant relief.

(D) No cash discount of greater than 2% shall be allowed by any member of the Trade. No cash discount shall be allowed where payment of an invoice is made by warrant, note, or trade acceptance, or where there is an unpaid balance due, unless such balance is due to and confined to items in dispute.

The Code Authority may recommend to the Administrator such other provisions in regard to uniform credit terms, as shall seem necessary to help stabilize the trade. Upon approval thereof by the Administrator, after such hearing as may be prescribed, such provisions shall become part of this Code.

(E) Accepting an order for a large quantity of merchandise at a large quantity price with the intention of making delivery of less than the quantity ordered is unfair method of competition.

(F) When a member of the Trade deems it necessary to liquidate surplus, slow-moving stock of merchandise, dropped lines, seconds,

or inventories which must be converted into cash to meet emergency needs, such merchandise may be disposed of in such manner and on such terms and conditions as the Code Authority may approve and as are necessary to move such merchandise into buyers' hands, provided that all invoices covering sales of merchandise so sold shall plainly display the following wording: "Special Close-out Prices." Failure to observe this rule or increasing such stock during liquidation at the special prices is an unfair method of competition. If the Code Authority should deny approval as aforesaid, or should fail to notify the member of the trade affected of its decision within 10 days after application for approval, such member of the trade may appeal to the Administrator, who may grant approval.

It is recommended with reference to the above rule that any wholesaler finding himself in this position should first offer the surplus of merchandise to the manufacturer or seller thereof, and, failing disposal of such merchandise by this method, should offer same to his competitors in the district or local group.

(G) The consignment of goods is an unfair trade practice unless the consignor obtains the approval of the Code Authority. If the Code Authority refuses approval or should fail to notify the member of the trade affected of its decision within 10 days after application for approval such member of the trade may appeal to the Administrator, who may grant approval. Consignment as used herein shall include, but without limitations, the carrying of floating ledger balances.

(H) To give, directly or indirectly, or to permit to be given, or to offer money or anything of value to customers, prospective customers, employees, or representatives of customers or prospective customers, as an inducement to influence sales or to influence such customers or employees to refrain from dealing or contracting to deal with competitors, is an unfair method of competition. This rule includes the giving or permitting to be given, or holding oneself as giving so-called "Free Deals" and "free" mechanical service except as provided by the manufacturers' warranty and/or sales policy in connection with the sale of merchandise or mechanical service by automotive wholesalers.

(I) The practice of coercion in the wholesale distribution of automotive products in any form whatsoever or through the instrumentality of any devices whatsoever is unfair competition.

(J) Willfully 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 duties or services by any such means, is unfair trade practice.

(K) The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations, or the false disparagement of the grade or quality of their goods, is unfair trade practice.

(L) Willfully withholding from or inserting in the invoice statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, is an unfair trade practice.

(M) The minimum hours of any store or service operation in the Wholesale Automotive Trade shall be fifty-two hours in any one week unless such hours were less than 52 hours per week before July 1, 1933, in which case such hours less than 52 may apply.

No member of the trade shall perform any store or service operation on Sundays and/or holidays as are generally observed in any given district as applying to that district.

Emergency sales or service may be performed in hours not specified in this section under such conditions as the Code Authority may prescribe, subject to the disapproval of the Administrator.

ARTICLE VIII—ORGANIZATION AND PROCEDURE

(A) There is hereby constituted a Code Authority for the purpose of assisting the Administrator in administering, supervising, and promoting the performance of the provisions of this Code by the members of the Wholesale Automotive Trade.

(B) The Code Authority shall consist of twenty-two (22) members of the trade selected in a manner herein provided for from among the memberships of the associations specifically named in designating the National Administrative Committee (defined in Article I of this Code) in the following proportions:

Five representatives of the Motor and Equipment Wholesalers Association;

Five representatives of the National Standard Parts Association;

Three representatives of the Automotive Electric Association;

Three representatives of the National Wheel & Rim Association;

Three representatives of the National Automotive Parts Association;

Three representatives of the Automotive Engine Rebuilders Association.

Additional members of the Code Authority may be selected from members of the Trade to provide representation of interests not in the membership of any of the herein named associations in such manner and under such conditions as the Administrator may prescribe.

The members of the Code Authority selected from the memberships of the herein named associations shall be chosen as follows: The board of directors or corresponding authority of each association shall appoint a nominating committee not later than fifteen (15) days from the date of approval of this code by the President. Each said committee shall within twenty (20) days from the date of its appointment submit to the secretary of its association names of nominees to the Code Authority, numbering not less than twice the number of representatives from said association. The secretary of each association shall immediately transmit the names of such nominees to the membership of his respective association.

Additional nominations may be made by the members of each association by petition signed by not less than ten members, provided that said petition is filed with the secretary of the association addressed to the headquarters of the association not later than twenty (20) days after the date of notification by the secretary of nominees by the nominating committee.

The secretary shall immediately transmit to the members a ballot containing the names of all nominees, said ballot to be returned in a self-addressed envelope directed to the Board of Directors or other corresponding authority, care of headquarters of the association not later than twenty (20) days from the date of its transmittal to members. The Board of Directors or a duly authorized board of canvassers shall immediately canvas the result and certify same to the national administrative committee, who shall immediately certify said result to the Administrator.

Participation in the selection of members of the Code Authority chosen from the memberships of the associations shall be limited to duly accredited representatives in the associations of members thereof who are members of the trade. Only such duly accredited representatives shall be eligible for election to the Code Authority as representatives of such associations.

The National Administrative Committee as constituted on the date of approval of this Code shall be the Code Authority until procedure governing election as herein above provided shall have been complied with.

The Code Authority as constituted on the date of approval of this Code and as determined in accordance with procedure herein provided shall have the power to delegate its authority as it may determine subject to the disapproval of the Administrator, provided, however, that no such delegation shall relieve it of its duties and responsibilities under this Code.

Vacancies in the membership of the Code Authority may be filled by the Code Authority in such manner as it may prescribe subject to the disapproval of the Administrator, provided that the person or persons selected to fill such vacancy or vacancies be selected from the membership of the association in which it or they occur.

The Code Authority as elected in the manner herein provided shall serve until the date of the expiration of the Act, or sooner if the President shall have declared the emergency under which the Act was created to have ended.

(C) No inequitable restrictions upon membership in any of the associations which designated the National Administrative Committee or in any other association, national or local, which participates in the administration of this code, shall at any time be imposed.

(D) The Code Authority shall have the powers and duties prescribed in this Code, subject to the right of the Administrator, upon review, to disapprove any action taken by the Code Authority.

With a view to keeping the Administrator informed as to the observance or nonobservance of this code and as to whether appropriate steps are being taken to effectuate the purposes of the Act, each member of this trade shall furnish certified reports to the Code Authority when and in such form as it shall, subject to the disapproval of the Administrator, prescribe. Each member of the Code shall permit a disinterested agency, designated by the Code Authority, with the approval of the Administrator, to make such examination of the relevant records of each member of this trade as may, subject to the approval of the Administrator, be necessary for the purpose of verifying the accuracy of such reports.

(E) The Administrator may designate not more than three representatives to participate in the conferences of the Code Authority with respect to the application of this Code and such representatives shall have access to all data and statistics collected by the Code Authority as hereinabove provided. The Code Authority shall hold itself in readiness to assist the Administrator and to meet with the Administrator's representatives from time to time as required, to consider and study any suggestions or proposals presented upon behalf of the Administrator or any member of the trade regarding the operation, observance, or administration of this Code. Such representatives shall receive such notice of meetings of the Code Authority as is given to members of the Code Authority.

(F) Any and all information with respect to sales volume, costs, and other details of operations as may be furnished by the members of the trade to the Code Authority shall be considered confidential and shall not be supplied or made available to others except to the duly appointed and constituted representative of the President.

(G) In addition to information required to be submitted under this Code there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

(H) Each member of the Code shall bear his proportionate share toward the cost of preparation and administration of the Code, including the cost of assembly and analysis of such reports and data as may be required under the Code and the cost of the maintenance of the Administrative agency and its activities. Said proportionate share shall be determined by the Code Authority with the approval of the Administrator. Only members of the Code may participate in the activities of the Code Authority.

(I) In order that the Code Authority shall at all times be truly representative of the trade 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.

ARTICLE IX—AMENDMENTS

(A) This Code and all provisions thereof are expressly made subject to the right of the President, in accordance with the provision of 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 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) Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate, upon application of the Code Authority and approval by the President after such hearings as may be prescribed. It is contemplated that from time to time



supplementary provisions or supplementary codes to this Code 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 consistent with the provisions hereof.

ARTICLE X—GENERAL

(A) No provision in this Code shall be interpreted or applied in such manner as to promote monopolies, permit or encourage unfair competition, eliminate or oppress or discriminate against small enterprises.

(B) If any employer of labor in the wholesale automotive industry is also an employer of labor in any other industry, the provisions of this Code shall apply to and affect only that part of his business which is included in the wholesale automotive industry.

(C) (1) 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; (2) 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 (3) employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

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

(E) No member of this Code shall be held to have consented to any modification thereof or to any provision or interpretation of the National Industrial Recovery Act if declared unconstitutional by the Supreme Court of the United States.

(F) All employers shall post the labor provisions of this Code in conspicuous places accessible to employees.

(G) 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.

(H) The effective date of this Code shall be the 10th day after the date of its approval by the President of the United States.