

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

COPPER AND BRASS MILL
PRODUCTS INDUSTRY

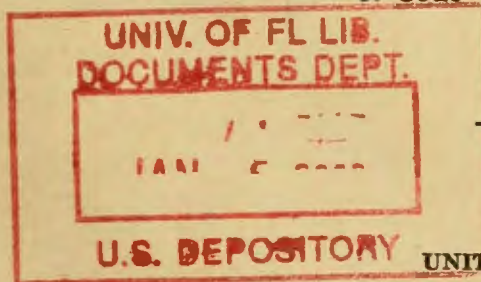
AS APPROVED ON NOVEMBER 2, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
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(II)

EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE COPPER AND BRASS MILL PRODUCTS 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 Copper and Brass Mill Products 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 approve the report and recommendations and adopt the findings of the Administrator, and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 2, 1933.

Approval recommended:
HUGH S. JOHNSON,
Administrator.

NOVEMBER 1, 1933.

The PRESIDENT,
The White House.

SIR: This is a report on the proposed Code of Fair Competition for the Copper and Brass Mill Products Industry, and on the hearing conducted thereon in Washington, D.C., on August 31, 1933, in accordance with the provisions of the National Industrial Recovery Act.

RÉSUMÉ OF THE CODE AS TO WAGES AND HOURS

The Code provides for a 40-hour week and an 8-hour day, except as to outside salesmen, executive and supervisory staffs, with a further provision that watchmen and power-house employees may work 48 hours in any week. Any employee may work in excess of the maximum hours in case of emergencies, but in such event payment of time and one half for overtime is provided.

Minimum wages are at the rate of 40 cents per hour for males and 35 cents for females, unless the hourly rate for the same class of work on July 15, 1929, was less than the respective minima, in which case the minimum rates are not to be less than the hourly rates on July 15, 1929, and in no event less than 35 cents for males and 30 cents for females.

The minimum wages provided are guaranteed whether the employee is compensated on a time rate, piece rate, or salary basis.

Child labor is prohibited. The continued employment of physically incapacitated employees and employers in clerical and laboratory work and messengers who may be under 18 years of age is permitted, provided the total number of both classes of employees does not exceed 5% of the total number of employees.

GENERAL STATEMENT AND ECONOMIC REPORT

This is the Copper and Brass rolling mill industry, as more specifically covered by the definition in the code. The code was submitted by the Copper and Brass Mill Products Association, an organization including in its membership more than 95% of the production of the industry. As of July 31, 1933, it represented a capital investment of \$152,000,000 and on that date the member firms employed approximately 24,000 persons.

Pertinent data on employment, wages, and hours, as submitted by the industry, is as follows:

	Number employed	Minimum wage rates	Average hours of work
1928.....	25,915	39.7	50-55
1929.....	28,324	39.9	50-55
January 1933.....	18,782	32.4	38
August 15, 1933.....	23,782	38.1	42
Under Code at August 15, 1933 rate of operation.....	24,000	40.0	40

Operation under substantially the provisions of the Code has resulted in the employment of approximately 5,000 additional employees since the first quarter of the year and an increase in the annual payroll of the industry of approximately \$4,500,000 is anticipated as a result of the Code.

The Executive Committee of the Copper and Brass Mill Products Association are set up as a planning and fair-practice agency to cooperate with the Administrator in the enforcement and administration of the code and all acts of the administrative group are made subject to the disapproval of the Administrator.

Certain products produced by the industry are used both for electrical and other purposes, and a difference of opinion arose between the manufacturers involved as to whether these products should be subject to the electrical code rather than the code of this industry. The different firms interested have agreed that they will settle the question among themselves and no difficulty of administration is anticipated.

I believe that the code is fair to Industry, to Labor, and to the Consumer, and in accordance with the intent and purpose of the National Industrial Recovery Act.

I find that:

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including without limitations, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Copper and Brass Mill Products Industry; and that

(c) The Code as recommended 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.

Accordingly, I hereby recommend the approval of this proposed Code of Fair Competition for the Copper and Brass Mill Products Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION OF THE COPPER AND BRASS MILL PRODUCTS INDUSTRY

ARTICLE I—DEFINITIONS

SECTION 1. The term "the President" means the President of the United States of America.

SEC. 2. The term "the Industry" means the industry of rolling, drawing and forming, and re-rolling and re-drawing, for sale in the open market, mill products, including sheets, strips, rods, wire, pipe, tubes and shapes of copper, brass, bronze or related alloys. It shall not include the manufacture of wire and cable of copper or copper alloy for electrical transmission.

SEC. 3. The term "manufacturer" includes all those engaged in manufacturing in the Industry as defined above.

SEC. 4. The term "Executive Committee" means the Executive Committee of the Copper and Brass Mill Products Association.

SEC. 5. The term "Administrator" as used in this Code means the Administrator appointed by the President to administer Title I of the National Industrial Recovery Act, and at the time in office.

ARTICLE II—GENERAL PURPOSE

SECTION 1. This Code is adopted pursuant to Title I of the National Industrial Recovery Act, and shall apply to all manufacturers.

SEC. 2. It is the purpose of this Code to set up standards of fair competition which will improve the conditions of employment of labor, eliminate unfair competitive practices, safeguard the interests of the buying public through an open and simple price structure, and otherwise rehabilitate the Industry, so as to carry out the policy of the National Industrial Recovery Act.

ARTICLE III—LABOR AND EMPLOYMENT

SECTION 1. *Minimum Age Limit.*—No person under eighteen years of age shall be employed, except that in clerical and laboratory work and for messengers the minimum age for employment shall be sixteen years, provided, however, that where a state law provides a higher minimum age no person below the age specified by such state law shall be employed within that state.

SEC. 2. *Old and Disabled Employees.*—The Industry heretofore has pursued the policy of retaining employees of long service records who have become incapable of full productive effort because of old age or physical disability by giving them work which is within their abilities to perform. This policy will be continued.

SEC. 3. *Minimum Wages.*—It is agreed that the following paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or piecework performance or salary basis.

The minimum wage of any male employee 18 years of age and over in the Industry shall be 40¢ per hour of work and the minimum wage of any female employee eighteen years of age and over shall be 35¢ per hour of work, unless the hourly rate for the same class of work on July 15, 1929 was less than the respective one of these minima, in which latter case the minimum shall not be less than the hourly rate on July 15, 1929 and in no event less than 35¢ for males and 30¢ for females; provided, however, that the difference in the above minimum wages shall not in any way be considered as a discrimination by reason of sex, and where in any case women do substantially the same work or perform substantially the same duties as male employees they shall receive the same wage as men receive for doing such work or performing such duties. The minimum wage for any employee between the ages of sixteen and eighteen years, as classified in Section 1 of this Article, and for old or partially incapacitated employees, as classified in Section 2 of this Article shall be not less than 80 percent of such minimum wage, but the total number of such employees shall not in any calendar month exceed 5 percent of the total number of employees; provided, however, that where a state law provides a higher minimum wage no person shall be employed in that state at a lower wage than that specified by such state law.

SEC. 4. *Maximum Hours of Work.*—The maximum hours that any employee, except outside salesmen, executive and supervisory staffs, shall work in any one day shall be eight hours, and in any calendar or pay-roll week 40 hours; provided, however, that watchmen and power house employees may work more than 8 hours per day and more than 40 hours per week, but not in excess of 48 hours in any week without overtime payment of employees. In case of emergencies of any character, such, for example, as those arising from the need of repairs or of meeting unusual requirements of peak production or shipment, any employee, upon request of the employer, may work a total number of hours greater than 8 hours in any one day, or 40 hours in any one calendar or pay-roll week, the excess work in such case over 8 hours in any day or over 40 hours in any one calendar or pay-roll week to be paid for at one and one half the regular hourly rate; but this provision shall not be construed to require more than one overtime payment for the same overtime work, and shall not apply to watchmen and power house employees except for time in excess of 48 hours per week.

SEC. 5. 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.

SEC. 6. 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.

SEC. 7. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SEC. 8. There shall be an equitable adjustment of wages above the minimums herein prescribed, to the end that so far as may be equi-

table the differentials which now exist between the wage rates paid to skilled workers and those paid for unskilled labor shall be preserved.

ARTICLE IV—SALES TERMS AND CONDITIONS

SECTION 1. *Credit Terms*.—All manufacturers shall adopt and maintain uniform credit terms, to be established by the Executive Committee. Such credit terms shall clearly appear on all quotations, contracts, invoices, and acceptances of orders.

SEC. 2. *Terms and Conditions of Contract*.—All manufacturers shall adopt and maintain fair and equitable uniform contract terms and conditions to be established by the Executive Committee.

SEC. 3. *Defaults*.—Neglect by manufacturers to enforce contracts, or variation from the terms or conditions of contracts when established, as hereinbefore provided, as a means of evading price schedules or securing the customer's favor, are forbidden as unfair competition.

SEC. 4. *Secret Rebates*.—No manufacturer shall grant secret rebates or concealed favors to customers.

SEC. 5. *Uniform Practices*.—It is the policy of this Code to bring about uniformity on the part of all manufacturers in regard to consignments, freight allowances, the granting of options, and other uniform fair and equitable sales practices, including treatment of distributors.

ARTICLE V—PRICE SCHEDULES

Every manufacturer shall issue and distribute to the trade, and shall file with the Executive Committee, price schedules clearly stating all products for sale by such manufacturer, the prices therefor, and the quantities to which such prices apply, and also the prices which such manufacturer offers to pay for scrap. Each manufacturer, upon issuing new price schedules or any revision thereof after the effective dates fixed as hereinafter provided in this Article, shall immediately file a copy of such schedules or revisions with the Executive Committee.

Sales directly or indirectly by a manufacturer of his products or purchases of scrap at prices other than those stated on the latest price schedules of such manufacturer filed with the Executive Committee are forbidden as unfair competition. Sales shall be deemed to include finished mill products supplied by a manufacturer to his subsidiary or a department for reworking, and such sales shall not be made at prices less than those stated on such manufacturer's latest price schedules filed with the Executive Committee.

Owing to the complexity of manufacturer's price schedules, time will be required for the construction of complete price schedules to conform with this Article V. Therefore, the provisions of this Code, in so far as they depend upon the price schedules provided for in this Article V, shall not become effective as to the respective products until dates which shall be fixed from time to time by the Executive Committee for each such product. The Executive Committee shall give written notice of every such effective date to each manufacturer who shall be a member of the Copper and Brass Mill Products Association, or if not a member, whose address shall be recorded with that Association.

On the effective dates fixed for the respective products the price schedules for each such product filed by each manufacturer shall

apply to all unshipped material on contracts outstanding on such date entered into subsequent to the effective date of this Code, but in no case shall such contracts be filled at prices lower than the base prices with the qualifying extras in the contract.

The Executive Committee shall consider the subject of contracts in existence on the effective date of this Code, and shall make recommendations to the Association as to the disposition of such contracts.

It is clearly understood that each manufacturer shall be free at all times to name the sale prices for his products and his purchase prices for scrap; but such prices shall be stated in price schedules to be filed with the Executive Committee, and shall be observed, as hereinabove provided.

ARTICLE VI—PRICE PROTECTION

The practice of giving to customers protection against advance in price and guaranty against decline in price is generally injurious, and is forbidden as unfair competition, except as specifically permitted by the price schedules referred to in Article V in the case of sales to distributors and sales under options in connection with job contracts.

No manufacturer shall enter into any understanding or agreement with a customer that a contract or order accepted from such customer is to be binding only in case of an advance in price over the price named in such contract or order. Where a contract or order is in good faith put into transit to the manufacturer, the manufacturer may accept such contract or order, notwithstanding an advance of price between that time and its receipt by the manufacturer. A manufacturer may accept a contract or order based upon a quotation offered by him, provided the customer accepts the quotation promptly and in good faith, notwithstanding a price advance between the date of the quotation and the acceptance thereof by the customer. Except as hereinbefore provided, no manufacturer after an advance in his price shall accept a contract or order at the price effective prior to such advance. A manufacturer may accept a contract or order at his price in effect at the time of the receipt thereof, notwithstanding the price has declined below the price named in such contract or order.

ARTICLE VII—DISTRIBUTORS

The selling of the products of the industry to distributors at prices lower than prices given to other customers is recognized as a proper trade practice, provided such lower prices are fully and clearly set forth in the price schedules of the manufacturer as provided in Article V. No manufacturer shall give such lower price to any buyer unless he be a distributor of acceptable credit, regularly engaged in the wholesale business and carrying adequate stocks of the manufacturer's products.

Whereas, the great preponderance of sales by manufacturers in this industry is made without the intervention of distributors and the sale by distributors, where such services are used, at a price less than the manufacturer's published price schedules would unfairly break down the open price structure provided for in Article V hereof, any manufacturer may enter into an agreement with a distributor by which such distributor may agree that he will sell the products purchased from such manufacturer at not less than the prices contained

in the published price schedules of such manufacturer in effect at the time of any such sale.

ARTICLE VIII—INTERMEMBER SALES

Sales of mill products by any manufacturer to other manufacturers for resale in the same form as purchased, may be made on any basis mutually satisfactory to them.

ARTICLE IX—GENERAL UNFAIR PRACTICES

SECTION 1. *Adherence to Standards.*—Deviation from standard specifications to be established by the Copper and Brass Mill Products Association for products of the Industry for the purpose of evading the provisions of this Code is forbidden as unfair competition.

SEC. 2. *Lump Sum Bidding.*—All bids shall be based on the price schedules showing each item separately and items shall not be lumped for bidding in any manner other than provided in such price schedules.

SEC. 3. *Trade Marks and Trade Names.*—The imitation of the trade marks or trade names of other manufacturers having the tendency to mislead or deceive customers or prospective customers, or consumers, or the tendency injuriously to affect the business of such competing manufacturers, is prohibited as an unfair method of competition.

SEC. 4. *False Labeling.*—The false marking, labeling, or branding of any product which has the tendency to mislead or deceive customers, or prospective customers, or consumers as to the quality, size, material, character, or grade of such product, is prohibited as an unfair method of competition.

SEC. 5. *False Advertising.*—The making or causing or permitting to be made or published of any false, untrue, or deceptive advertisement, or the assertion in such advertisement of exaggerated claims, concerning the grade, quality, character, material, origin, or size, which has the tendency to mislead or deceive customers, or prospective customers, or the ultimate retail purchasers, or the tendency to injure the business of a competing manufacturer, is prohibited as an unfair method of competition.

SEC. 6. *Commercial Bribery.*—The direct or indirect giving, permitting to be given, or offering of money or anything of value, by a manufacturer, or his agents, employees, salesmen, or representatives, to the agents, employees, buyers, or representatives of customers or prospective customers, or to the customers themselves, for the purpose of inducing such customers, or their agents, employees, buyers, or representatives, to purchase or contract to purchase products from the manufacturer making such gift, or suffering the same to be made, or to refrain from dealing or contracting to deal with competing manufacturers, is prohibited as an unfair method of competition.

SEC. 7. *Defamation of Competitors.*—The defamation or disparagement of competing manufacturers by falsely imputing to them dishonorable conduct, inability to perform contracts or to make deliveries, questionable credit standing, or by other false reports having the tendency to mislead or deceive customers or prospective customers, is prohibited as an unfair method of competition.

ARTICLE X—ADMINISTRATION

To further effectuate the policies of the National Industrial Recovery Act, the Executive Committee is set up to cooperate with the President as a planning and fair practice agency for the Industry. The President in his discretion may appoint not to exceed three non-voting representatives to serve with the Executive Committee in the administration of this Code. Such agency may from time to time present to the President recommendations based on conditions in the industry as they may develop, which will tend to effectuate the operation of the provisions of this Code and the policy of the National Industrial Recovery Act, and in particular along the following lines:

(1) Recommendations as to the requirements by the President of such report of statistical information from persons engaged in the industry as may be required to secure the proper observance of the Code and the stabilization of employment.

(2) Recommendations for the making of requirements by the President as to practices by persons engaged in the Industry as to methods and conditions of trading, the naming and reporting of prices which might be appropriate to avoid discrimination, to prevent and eliminate unfair and destructive competitive prices and practices.

Such recommendations, when approved by the President, shall have the same force and effect as any other provisions of this Code.

Such agency is also set up to cooperate with the President in making investigations as to the functioning and observance of any of the provisions of this Code at its own instance, or on complaint by any person affected.

To further effectuate the policies of the Industrial Recovery Act, the Executive Committee shall hold itself in readiness to assist and keep the Administrator fully advised and to meet with the Administrator's representative from time to time as requested, to consider and study any suggestions or proposals presented upon behalf of the Administrator or any member of the Industry regarding the operation, observance, or administration of this Code.

In addition to information required to be submitted to the Executive Committee, 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 National Industrial Recovery Act.

ARTICLE XI—REPORTS

SECTION 1. *Reports on Shipments.*—Each manufacturer shall report his shipments monthly to the American Bureau of Metal Statistics, or to such other organization or person as may be designated by the Copper and Brass Mill Products Association, in the form provided for the purpose.

SEC. 2. *Reports on Job Contracts.*—Each manufacturer shall report to the Executive Committee all contracts written for merchandise products, such as pipe and tube, extruded architectural shapes, sheet, roll, and strip copper for buildings, giving quantities, amounts, and the account within three days after the receipt of the contract by such manufacturer.

SEC. 3. *Reports of Defaults and Cancellations.*—Each manufacturer shall report to the Executive Committee all defaults on contracts or

cancellations thereof, giving the attending circumstances and the action actually taken by such manufacturer with respect to such defaults and/or cancellations.

SEC. 4. The Secretary or other officer designated by the Executive Committee shall receive the reports called for by Sections 2 and 3 of this Article XI.

SEC. 5. *Reports.*—Every manufacturer shall furnish any special or general reports requested by the Administrator.

ARTICLE XII—MODIFICATION AND SUPPLEMENTS

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. It is contemplated that from time to time supplementary provisions to this Code or additional codes may 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. Pursuant to Subsection (b) of Section 10 of Title I of the National Industrial Recovery Act, the President may from time to time cancel or modify any order, approval, license, rule or regulation issued under said Title.

ARTICLE XIII—MONOPOLISTIC PRACTICES

It is expressly understood that no provision in this Code shall be interpreted in such a way as to condone or permit conduct or operations tending to promote monopolies or to eliminate or oppress small enterprises, or to discriminate against them.

ARTICLE XIV—EFFECTIVE DATE

This Code shall become effective on the second Monday following its approval by the President.

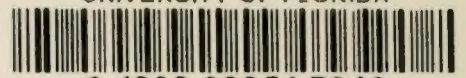
ARTICLE XV

Any action taken by the Executive Committee or by the Copper and Brass Mill Products Association or any group within the Industry for the purpose of making effective the provisions of this Code may, in the discretion of the Executive Committee, be submitted to the Administrator for approval, and shall in any case be subject to the disapproval of the Administrator.

ARTICLE XVI

No inequitable restrictions shall be imposed upon membership in the Copper and Brass Mill Products Association or its successors.

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