



NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

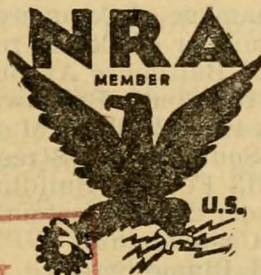
FOR THE

**BUILDERS SUPPLIES TRADE  
INDUSTRY**

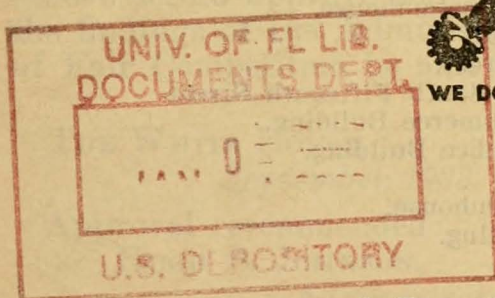
AS APPROVED ON OCTOBER 3, 1933

BY

PRESIDENT ROOSEVELT




WE DO OUR PART



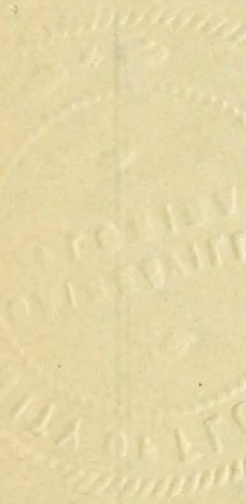
1. Executive order
2. Letter of Transmittal
3. Code

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## EXECUTIVE ORDER

### CODE OF FAIR COMPETITION FOR THE BUILDERS SUPPLIES 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 my approval of a Code of Fair Competition for the Builders Supplies 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 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,  
*September 1933.*

Approval recommended:

HUGH S. JOHNSON,  
*Administrator.*

(III)

SEPTEMBER 28, 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 Builders Supplies 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 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, and subsection (a) of section 7 of the National Industrial Recovery Act.

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

HUGH S. JOHNSON,  
*Administrator.*

(IV)

## CODE OF FAIR COMPETITION FOR DEALERS IN BUILDERS SUPPLIES SUBMITTED BY THE NATIONAL FEDERATION OF BUILDERS SUPPLY ASSOCIATIONS

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for Dealers in Builders Supplies and upon approval thereof by the President shall be the standards of fair competition for the Industry.

### I. DEFINITIONS

*Builders Supplies.*—The term “Builders Supplies” as used herein is broadly defined as those products used in building and construction work and commonly designated as fire resistant. The term “building supplies” as used herein specifically comprehends the following products:

Brick Mortars, Casement and Steel Sash, Cement and Cement Products, Cement Pipe, Ceramic Tile, Clay Roof Tile, Common Brick, Cut Stone, Dampers and Fireplace Accessories, Drain Tile, Face Brick, Fire Brick and Clay, Glazed Structural Tile, Gypsum Products, Hollow Tile, Lime and Lime Products, Mesh Re-enforcement, Metal Lath and kindred products, Mineral Aggregates, Mortar and Cement Colors, Molding Plasters, Roof and Flooring Slates, Sewer Pipe, Fine Lining and other Clay Products, Structural Terra Cotta and Waterproofing compounds.

*Dealer.*—For the purposes of administering this Code a dealer in builders supplies shall be defined, but without limitation, as any member of the industry not directly engaged in manufacturing, contracting, or in financing construction operations (except in the case of the individual home-owner building for his own use), possessing Warehouse facilities and other equipment commensurate with the needs of the market which he serves; who maintains an office open to serve the public throughout the entire year; who constantly warehouses an adequate line of builders supplies in sufficient quantity and variety to supply the normal needs of his community from his own stock.

*Member of the Industry.*—The term “Member of the Industry” as used herein shall include any business enterprise engaged in the sale of builders supplies to contractor or consumer.

*Builders Supply Industry.*—The term “Builders Supply Industry” as used herein shall include any business enterprise engaged in the sale of builders supplies to contractor or consumer.

*Employee.*—The term “employee” shall include any person employed by any person engaged in the Builders Supply Industry, irrespective of the nature of payment of his compensation.

*Employer.*—The term “Employer” as used herein includes any one by whom any such employee is compensated or employed.

*Code Authority.*—The term “Code Authority” as used throughout this Code refers to the Administrative Committee of this Code as established in Article VI hereof.

*President.*—The term “President” as used herein refers to the President of the United States or his duly authorized representative.

## II. RIGHTS OF LABOR

1. (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 or their agents in the designation of such representatives or in such 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.

2. Employers shall comply with the maximum hours of labor, minimum rates of wages, and other working conditions which shall be approved or prescribed by the President. An employer shall so administer work in his charge as to provide the maximum practicable continuity of employment for his work force.

2. (a) Employers shall not reclassify employees so as to defeat the purposes of the Act.

## III. HOURS OF LABOR

The maximum hours of labor of employees of persons subject to the jurisdiction of this Code, shall not exceed forty (40) hours in any one week in any of the forty-eight (48) states or the District of Columbia, with the four exceptions noted below:

(a) Executives employed in a managerial capacity who are paid Thirty-five (\$35.00) Dollars or more per week; outside salesmen, night and Sunday watchmen, and branch yard managers, each branch yard to be restricted to one branch manager.

(b) The maximum hours of labor of employees of dealers employing not more than two (2) persons in towns of less than 2,500 population which towns are not part of a larger trading area as defined in Article IV, shall be forty-eight (48) hours per week; provided at least sixty-six and two thirds ( $66\frac{2}{3}\%$ ) percent of the sales volume of said dealers is to persons engaged in agriculture; and provided further that such employees may work more than forty-eight (48) hours per week if paid time and a half (based on minimum hourly wage for a forty (40) hour week as provided in Article IV for all hours in excess of forty-eight (48)).

(c) Yard foremen, truck drivers, and their helpers shall be permitted to work up to forty-four (44) hours in any one week. Hours of labor beyond this maximum shall be paid on a basis of time and one half for every hour worked.

The maximum number of hours shall be reviewed by the code Authority three months from the effective date, and if business con-

ditions warrant it, the weekly number of hours which employees shall work will be shortened so that employment may be spread further.

#### IV. RATES OF WAGES

The weekly wages of all employees receiving more than the minimum wages specified in this Article shall not be reduced, notwithstanding any reduction in the number of working hours of such employees.

(a) Except to night and Sunday watchmen and subject to the exceptions noted below, employers shall pay in cities of 500,000 population or more not less than the minimum rate of wage per hour specified opposite the division in which such cities are located, nor less than 5 cents per hour less than the minimum rate of wage per hour hereinbelow specified opposite each such division in cities of less than 500,000 population or more than 75,000 population, nor less than 10 cents per hour less than the minimum rate of wage per hour specified opposite each such division in cities of less than 75,000 population, unless such cities are in a trade area as hereinafter defined. For the purposes of this paragraph, population shall be determined by reference to the 1930 Federal Census. The minimum rate per hour herein provided for shall be applicable to the immediate trade areas of cities as defined by the Chamber of Commerce of such cities.

Alabama, Georgia, Florida, North Carolina, South Carolina, Kentucky, Louisiana, Mississippi, Tennessee, Texas, Virginia, West Virginia, Arkansas, New Mexico, and Arizona, 35¢ per hr.

Delaware, Maryland, District of Columbia, Colorado, Wyoming, Oklahoma, Utah, Montana, Idaho, Washington, Oregon, Nevada, and southern division of California, 40¢ per hr.

California (northern division), Illinois, Indiana, Pennsylvania, New Jersey, Nebraska, New York (except New York City), Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, Minnesota, North Dakota, South Dakota, Iowa, Ohio, Missouri, Kansas, Wisconsin, Michigan, 45¢ per hr.

City of New York, 50¢ per hr.

It is agreed that the rates hereinabove set forth establish a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piecework rate. Each employer shall report to the Administrator adjustments made in his piece-rate schedule.

(b) The weekly wage for Clerical and Office Employees whose maximum hours are forty (40) shall not be less than that provided by the hourly rates in Article IV a.

(c) The weekly wage for Clerical and Office Employees provided for by Paragraph (b) of Article III shall be the same as employees whose maximum hours are forty (40) per week and provided that time and one half shall be paid for hours in excess of forty-eight (48) and provided that no such employee shall receive less than \$12.00 for such 48-hour week.

(d) Rates of wages for labor used in the handling and delivery of material above the minimum provided in paragraph (a) within each metropolitan or urban area shall, as to all dealers in each respec-

tive area, be not less than such rates as shall be agreed upon by the majority of all dealers in builders' supplies in each trading area, after the approval thereof by the Code Authority and by the Administrator.

(e) The weekly wages of persons employed for a maximum greater than forty (40) hours per week as provided by paragraph (b) of Article III of this Code shall not be increased by reason of their employment for more than forty (40) hours per week, provided such employees shall be paid time and one half (based on minimum hourly wage of a forty (40) hour week as provided in this Article) for all hours worked in excess of forty-eight (48).

## V. CHILD LABOR

(a) The minimum age for employees in the Builders Supply Industry shall be the legal limit as provided by the laws of the State in which the operation is located, but in no instance less than eighteen (18) years.

(b) Persons subject to the jurisdiction of this Code shall comply with any law of any Governmental unit imposing more stringent requirements regulating wages, hours of work, health, fire, or general working conditions than are imposed by this Code.

## VI. ADMINISTRATION AND ENFORCEMENT

The administration of this Code, which shall govern the fair competitive practices of all members of the industry as defined in Article I, Section (a) of this Code, shall be under the direction of the Code Authority. The Code Authority shall be elected from the Directors of the National Federation of Builders Supply Associations by such directors and shall be composed of seven (7) members. The Administrator, if he so elects and after consultation with the Code Authority, may appoint not more than two additional members of the Code Authority. The Administrator may also appoint not more than three (3) nonvoting members of said Code Authority, who shall serve as representatives of and advisors to the President.

The Code Authority shall appoint appropriate agencies for the Administration of this Code and shall delegate to such agencies all necessary authority for the Administration of this Code, including the authority to approve such rules and regulations as may not be inconsistent with this Code which shall apply to all dealers within such trading area after such rules and regulations have been approved by the National Recovery Administration. However, the Code Authority shall reserve the power to administer the provisions of this Code.

For the administration of this Code in the case of dealers in builders supplies, whether in whole or in part, who are members of the National Retail Lumber Dealers Association but who are not also members of a federated group of the National Federation of Builders Supply Association, the Code Authority shall appoint as its agent or representative the same agent or representative as shall have been appointed by the Code Authority for the Code of Fair Competition for the Retail Lumber and Building Material Trade for the adminis-

tration of the Code of Fair Competition for which it is the controlling authority.

The Code Authority, in conjunction with the National Recovery Administration, is empowered to act as follows:

(a) To appoint within each federated group, in cooperation with the appropriate division under the Code of Fair Competition for the retail lumber and building material trade, a joint Interpretation Committee, with equal representation, of such number as may be deemed advisable. This Committee shall be empowered to interpret the provisions of the trade practice rules of the Code of Fair Competition for the retail lumber and building material trade and of this Code insofar as such rules affect dealers in lumber and builders supplies. This Committee shall coordinate trade practice regulations of Subdivisions under the Codes of Fair Competition aforesaid wherever necessary. The interpretations and decisions of this Joint Committee shall be subject to the appeal as hereinafter provided for.

The Code Authority shall appoint a National Joint Interpretation Committee in cooperation with the Code Authority for the Retail Lumber and Building Material trade, with equal representation, of such number as the two Code Authorities shall jointly determine. This Committee shall review appeals from the decision of the Joint Interpretation Committee appointed within the Federated groups. The decisions of such Joint Interpretation Committee shall be subject only to review as prescribed by the Administrator in accordance with the law.

(b) To obtain from all dealers, either directly or through authorized agents, such data as to volume and character of business and such reports as shall in its judgment be necessary to the proper administration of the provisions of this Code.

(c) To make such inquiry and investigation as it may deem desirable as to the operation of this Code, and to make such reports as the Administrator may direct, periodically, or as often as he may request. In addition to information required to be submitted to the code authority, 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.

(d) Directly, or through properly authorized agents, to hear and adjust complaints; to arbitrate disputes; to consider proposals for change and amendment to this Code and to make appropriate recommendation to the Administrator.

(e) Upon approval by the Administrator, to ratify such territorial divisions within each federated association to be known as metropolitan or urban trade areas or to establish such areas, if necessary, and, directly or through its agents, to administer such rules and regulations, not inconsistent with this Code, and subject to the approval of the Administrator as may be agreed upon by the majority of dealers within such trade areas so approved or established.

(f) To consider and take such action as may be appropriate with reference to any infraction of this Code or as to any dispute arising from its operations. When such authority has been delegated by the Code Authority to an agent the parties at interest shall have

the right of appeal to the Code Authority if they so desire and the findings of the Code Authority shall be subject to review as prescribed by the Administrator in accordance with the law.

(g) For cause and after complaint, the Code Authority or its authorized agent shall be vested with the authority to hear any dealer in builders' supplies in order to make effective the purposes and intent of this Code, prior to citing such dealer to the Administrator for such action as the law may provide.

(h) To prepare and maintain, either directly or through its agents, a current and complete list of dealers in builders' supplies, which list shall be available only to the inspection of the Code Authority and the President.

(i) No inequitable restriction on admission to membership shall be imposed by the National Federation of Builders Supply Associations or by any of its federated groups, and no changes or modifications in the Articles of Agreement or bylaws shall be adopted by the National Federation of the Builders Supply Associations or by any of its federated groups which will tend to make such associations or federated group not truly representative of the industry as herein defined.

## VII. COST OF ADMINISTRATION

The reasonable cost of initiation, approval, and administration of this Code shall be assessed on a pro rata basis upon members of the industry and accepting the benefits of the activities of the Code Authority under this Code, and shall be based upon the total volume of sales of builders supplies as defined within this Code. The Code Authority or its authorized agent shall determine the appropriate sum due from each such member of the industry, such determination to be subject to review by the Administrator.

Members of the industry, who comply with the requirements of this Code and who agree in writing, either individually or through the federated group of which they are members, to abide by the requirements of this Code and to pay their reasonable share of the expense of initiation, approval, and administration thereof, shall be entitled to the benefit of the activities of the Code Authority thereunder and to make use of the National Recovery Administration Code Insignia.

The Code Authority shall be charged with the collection of this sum or it may delegate the collection to proper agents.

(Explanatory Note: When the administration of this Code is delegated by the Code Authority of this Code to the agent appointed by the Code Authority for the Code of Fair Competition for Retail Dealers in Lumber, Lumber Products, Building Material, and Building Specialties, the pro rata cost of Administration shall be the same as for all other dealers in Builders Supplies but shall be paid to the last-mentioned Code Authority to be used by them in the administration of this Code.)

## VIII. AFFIDAVITS OF COMPLIANCE

Each dealer in builders supplies shall submit to the Code Authority or its authorized agent upon demand, but not more frequently

than monthly, an affidavit properly executed before a Notary Public, certifying that he has complied with the provisions of this Code setting forth the schedule of rates of wages, hours of labor, and maintenance of all other rules as set forth within this Code. These affidavits shall be filed with the Code Authority and shall be available at all times to the inspection of the President.

## IX. UNIFORM COST ACCOUNTING

(a) It is the judgment of the Builders Supply Industry that accurate knowledge of costs is indispensable to the proper administration of the provisions of this Code. Each dealer in builders' supplies subject to the jurisdiction of this Code may install such simplified uniform system of accounting as may be recommended by the Code authority (or its properly authorized agent) and approved by the Administrator.

(b) No member of the industry shall sell any material below cost. Cost shall be interpreted as the actual cost of merchandise, plus every element of expense involved in completing the sale and delivery of merchandise to the customer.

In determining the cost involved in completing the sale and delivery of merchandise to the purchaser, commonly known as overhead, the statistical mode shall be applied.

(c) All prices, terms, and conditions of sale as developed under the uniform cost accounting system or established by appropriate rule or regulation within any trade area shall be published by each dealer within each trade area and shall be filed with the Code Authority or its delegated agent. Any deviation from such published prices, terms, and conditions of sale until new prices, terms, and conditions of sale shall have been published and filed shall be construed as unfair competitive practice.

(d) No employer shall sell builders' supplies as herein defined, below cost. For the purpose of this paragraph, cost is defined to include the actual cost of merchandise to the seller plus actual overhead. Overhead shall include actual disbursed expense involved in selling and delivering merchandise as determined by accounting methods approved by the Code Authority and the Administrator, in accordance with Article IX, Paragraph (a), of this Code, and shall be computed by the statistical mode method. If at any time the Code Authority desires to change this method of computing costs, application shall be made to the Administrator for a revision of the factors to be included in the determination of costs, or for a revision of the method by which such factors are determined or both, or if at any time the Administrator, upon his own initiative, desires to change this method of computing costs he may make such appropriate revisions thereof as he may deem necessary.

## X. RULES OF FAIR PRACTICE

(a) No dealer in builders' supplies shall make or permit of any secret rebate, refund, credit, or unearned discount, in the form of money, or otherwise; nor shall he give premiums or extend to certain

purchasers any special service or privilege not extended to all purchasers under like terms and conditions.

(b) Uniform contracts and maximum terms of sale shall be established by the Code Authority or its authorized agent after approval thereof by the Administrator for each trade area and any deviation from these contracts or any terms of sale in excess of such maximum terms shall constitute an unfair competitive practice.

(c) The acceptance of any secret rebate, refund, or concession by any dealer which is not accorded to all similar dealers from any source of supply shall constitute an unfair competitive practice.

(d) No dealer in builders' supplies shall defame a competitor by word or action which shall falsely impute to him dishonorable conduct or intent nor shall he falsely disparage the quality of his material.

(e) No dealer in builders' supplies shall wilfully interfere with another dealer by any means or device whatsoever in any existing contract or order when such interference is for the purpose or has the effect of destroying or appropriating the patronage, property, or business of another dealer.

(f) No dealer in builders' supplies shall offer or give commissions, prizes, premiums, gifts or excessive entertainment to anyone in connection with the sale, purchase or use of any product distributed by dealers in builders' supplies or as an inducement to such sale, purchase, or use.

(g) Inducing a competitor's salesman or credit man to leave his employment for the purpose of injuring a competitor's business shall constitute an unfair competitive practice.

(h) No dealer in builders' supplies shall mark or brand products of any industry for the purpose of, or with the effect of, misleading or deceiving purchasers with respect to quality, quantity, size, grade, or substance of the materials purchased.

(i) No dealer in builders' supplies shall sell any article at less than cost, nor shall he permit of delivery concession for the purpose, directly or indirectly, or with the effect of furthering the sale of some other product.

(j) No dealer in builders' supplies shall agree or guarantee to furnish sufficient quantities of building material for any building or construction operation at a lump-sum price. To quote such lump-sum bid shall constitute an unfair trade practice.

## XI. MONOPOLIES

It is not the purpose or intent of this Code, and no provision of this Code shall be so interpreted or administered, as to eliminate or oppress small enterprises or to discriminate against them or to promote a monopoly or monopolistic practices.

## XII. EFFECTIVE DATE

All provisions of this Code shall become effective and operative ten (10) days after the Code is approved by the President of the United States.

## XIII. CHANGE IN THE CODE

(a) A change in this Code may be recommended to the President of the United States after it shall have been approved by a majority of the representatives selected by all of the Federated Associations, which group shall serve as the Board of Directors for the National Federation of Builders Supply Associations.

(b) This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of the Clause 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 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.

(c) Any decision, rule, regulation, order, or finding made or course of action followed pursuant to the provisions of this Code may be cancelled or modified by the Administrator upon complaint of any interested party through the Code Authority or upon his own initiative whenever the Administrator shall determine such action necessary to effectuate the provisions of Title I of the National Recovery Act.

Supplements, amendments, or additions of this Code may, from time to time, be submitted for the approval of the President of the United States.

Respectfully submitted for the acceptance and approval by the President of the United States.

NATIONAL FEDERATION OF BUILDERS

SUPPLY ASSOCIATIONS,

(Signed) L. I. MACQUEEN,

*Chairman of Code Committee.*







