



**NATIONAL RECOVERY ADMINISTRATION**

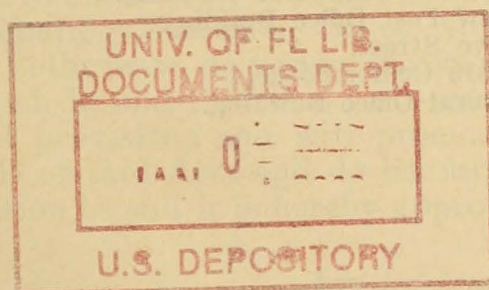
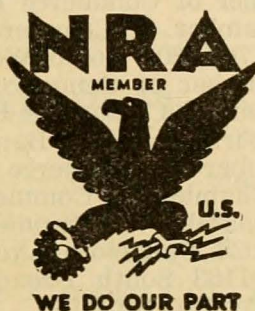
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**CODE OF FAIR COMPETITION**

**FOR THE**

**POWDER PUFF INDUSTRY**

**AS APPROVED ON JANUARY 17, 1934**



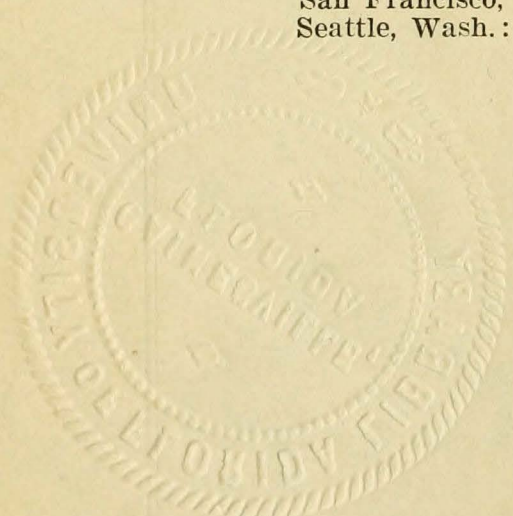
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Approved Code No. 216

**CODE OF FAIR COMPETITION**

FOR THE

**POWDER PUFF INDUSTRY**

As Approved on January 17, 1934

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**ORDER**

**APPROVING CODE OF FAIR COMPETITION**

FOR THE

**POWDER PUFF 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 approval of a Code of Fair Competition for the Powder Puff Industry, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President.

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise, do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval Recommended:

A. D. WHITESIDE,  
*Division Administrator.*

WASHINGTON, D.C.,  
*January 17, 1934.*



The PRESIDENT,  
*The White House.*

#### INTRODUCTION

SIR: This is the report of the Administrator on the application for, and public hearing on, the Code of Fair Competition for the Powder Puff Industry, as proposed by the Powder Puff Manufacturers Association. The public hearing was conducted in Washington on December 4, 1933. Every person who requested an appearance was freely heard in accordance with statutory and regulatory requirements.

There are 26 accredited manufacturers of powder puffs, 15 of which are members of the Association and account for approximately 85 percent of the total volume of the industry. Two manufacturers, not members of the Association, were present at the hearing.

#### ECONOMICAL AND STATISTICAL MATERIAL

The volume of sales in 1929, which was the peak year, was \$6,000,000, and the total employment was 3,000 employees. The estimated volume of sales for 1933 is set at \$4,500,000, and the number of employees at 2,000. With the operation of the President's Reemployment Agreement, employment has increased until it is now estimated to be only 10 percent under the 1929 level. Although it cannot be reasonably expected that the current employment figures will be increased a great deal, there is every reason to believe that there will be an appreciable increase in the purchasing power represented, because it was not uncommon formerly to find minimum wages of \$5, \$7, and \$8 per week and as little as \$3 per week. Estimates are that factory employees have worked an average of 48 hours per week throughout the period 1929 to 1933.

#### RÉSUMÉ OF CODE PROVISIONS

The Code establishes 40 hours as the basic week for production and 32½ cents per hour as the minimum rate of pay. The principal exception to the basic 40-hour week is the specialized employee, termed the "cutter", upon whose output depends the employment for the entire industry, who is permitted to work 100 hours per year in addition to the maximum of 40 hours.

The principal exception to the minimum-wage provision of thirty cents per hour is the learner, but the period of learning is limited to only two weeks. This provision seems justifiable because the industry is prohibiting "home work" which formerly accounted for a substantial part of the entire production.



Trade practices are standard and are not in any respect objectionable in view of the chaotic competitive conditions which have obtained.

#### FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant association is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

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

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

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

For these reasons, the Code has been approved.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

JANUARY 17, 1934.



## **CODE OF FAIR COMPETITION**

### **FOR THE**

## **POWDER PUFF INDUSTRY**

### **ARTICLE I—PURPOSES**

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Powder Puff Industry, and shall be the standard of fair competition for such Industry, and shall be binding upon every member thereof.

### **ARTICLE II—DEFINITIONS**

The term "Powder Puff Industry" as used herein includes the manufacture and/or primary distribution of powder puffs and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

The term "employee" as used herein includes anyone engaged in the Industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

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

The term "member of the Industry" includes anyone engaged in the Industry as above defined, either as an employer or on his own behalf.

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

### **ARTICLE III—HOURS**

1. No employee, except as provided in Section 2 of this Article, shall be permitted to work in excess of 40 hours in any one week or 8 hours in any twenty-four-hour period.

2. Any male employee 18 years of age or over engaged in cutting materials shall be permitted to work 100 hours per year in addition to the maximum hours established in Section 1 of this Article, provided that in no event shall such additional hours exceed 10 in any one week or 2 in any twenty-four-hour period; and provided, further, that any employee working such additional hours shall be compensated at one and one-third times the normal rate.



3. No employee shall be permitted to work more than 24 days in any twenty-eight day period.

4. The provisions of this Article shall not apply to outside salesmen or to employees engaged in a managerial or executive capacity who earn not less than \$35.00 per week.

#### ARTICLE IV—WAGES

1. No employee shall be paid at less than the rate of 32½¢ per hour, except that a learner shall be paid at not less than 24¢ per hour for a period of not over two weeks, provided, however, that no employee who has performed similar work for any employer in the Industry for a total of two weeks or more within the preceding two years shall be classed as a learner.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

3. No employee whose full time weekly hours for the four weeks ended June 17, 1933, are reduced by the provisions of this Code by 20% or less, shall have his or her full time weekly earnings reduced. No employee whose full time weekly hours are reduced by the provisions of this Code, in excess of 20%, shall have his or her said earnings reduced by more than 50% of the amount calculated by multiplying the reduction in hours in excess of 20% by the hourly rate.

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

#### ARTICLE V—GENERAL LABOR PROVISIONS

1. *Child Labor Provision.*—No person under 16 years of age shall be employed in the Industry nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

2. *Provisions From The Act.*—(a) Employees shall have the right to organize and bargain collectively; through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.



(b) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

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

3. *Reclassification of Employees.*—No employer shall reclassify employees or duties or occupations performed for the purpose of defeating the provisions of the Act or of this Code.

4. *Standards For Safety and Health.*—Every employer shall provide for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator within six (6) months after the effective date of this Code.

5. *State Laws.*—No provisions in this Code shall supersede any law within any State which imposes more stringent requirements on employers as to age of employees, wages, hours of work, or as to safety, health, or sanitary conditions, or insurance, or fire protection, or general working conditions, than are imposed by this Code.

6. *Posting.*—Each employer shall post in conspicuous places in his plant, accessible to employees, copies of Articles III, IV, and V of this Code.

7. *Home Work.*—All members of the Industry shall arrange to discontinue the system of home work by February 1, 1934. If, however, this provision works an unreasonable hardship on any employer, he may, upon appeal to the Code Authority, and subject to the approval of the Administrator, be allowed additional time up to a total of two months in which to complete its abolishment.

## ARTICLE VI—ORGANIZATION, POWERS, AND DUTIES OF CODE AUTHORITY

### ORGANIZATION

1. To further effectuate the policies of the Act, the Code Authority is hereby constituted to administer this Code.

2. The Code Authority shall consist of six individuals, or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth, and of such additional members, without vote, as the Administrator, in his discretion, may appoint to represent such groups or governmental agencies as he may designate.

The Code Authority members shall be selected as follows:

Any member of the Industry who has qualified as provided in Section 5 of this Article shall be entitled to one vote in the nomination and election of the members of the Code Authority. The proponents of the Code shall arrange for such nomination and election within 90 days of the effective date of this Code. In the interim, the regularly elected officers of the Powder Puff Manufacturers' Association shall fulfill the functions and discharge the duties of the Code Authority.



3. Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

4. In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide 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, or any sub-Code Authority.

5. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expense of preparation, presentation, and administration of this Code. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

6. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or non-feasance.

#### POWERS AND DUTIES

7. The Code Authority shall have the following powers and duties in addition to those elsewhere provided in this Code:

(a) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and to submit the same to the Administrator for his approval together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such other information as to its activities as the Administrator may deem necessary to effect the purposes of the Act.

(b) To obtain from members of the Industry for use of the Code Authority, for the Administrator in the administration and enforcement of the Code, and for the information of the President, reports based on periods of one, two, or four weeks, or multiples thereof, as soon as the necessary readjustment within the Industry can be made and to give assistance to members of the Industry in improving methods, or in prescribing a uniform system of accounting and



reporting. All individual reports shall be kept confidential as to members of the Industry and only general summaries thereof may be published.

(c) To receive complaints of violations of this Code, make investigations thereof, and bring to the attention of the Administrator recommendations and information relative thereto for such action as in his discretion the facts warrant.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To coordinate the administration of this Code with such other Codes, if any, as may be related to the Industry, or any subdivision thereof, and to delegate to any other administrative authority, with the approval of the Administrator, such powers as will promote joint and harmonious action upon matters of common interest.

(f) To secure an equitable and proportionate payment of the expenses of maintaining the Code Authority and its activities from members of the Industry.

(g) To cooperate with the Administrator in regulating the use of the N.R.A. Code Insignia solely by those employers who have assented to, and are complying with, this Code.

(h) To establish or designate an agency on Planning and Fair Practice to which shall be added by the Administrator a representative instructed to safeguard the interests of the consumer, which shall cooperate with the Code Authority in developing fair inter- and intra-trade practices and industrial planning, including the regularization of employment and stabilization of employees for the Industry. Any such recommended practices being amendments to the Code must be approved by the President.

(i) To initiate, consider, and make recommendations for the modification or amendment of this Code.

(j) The Code Authority may appoint and remove and fix the compensation of such employees, accountants, attorneys, and officers as it shall deem necessary or proper for the purpose of administering the Code.

(k) If it shall be represented to the Administrator by any interested party, or he shall determine upon his own motion, that any action of the Code Authority, or of any subdivision Code Authority, is unfair to any private interest or contrary to the public interest, the Administrator may require that such action be suspended for a period of not to exceed thirty (30) days to afford an opportunity for investigation of the merits of such complaint and further consideration by the Code Authority pending final action, to be taken only upon approval by the Administrator.

#### GENERAL ADMINISTRATIVE PROVISION

8. In addition to the information required to be submitted to the Code Authority as set forth in this Article 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.

9. An appeal from any action by the Code Authority affecting the rights of any employer or employee in the Industry may be taken to the Administrator.

## ARTICLE VII—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the Industry and are prohibited:

1. *False Marking or Branding.*—The false marking or branding of any product of the Industry which has the tendency to mislead or deceive customers or prospective customers, whether as to the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry, or otherwise.

2. *Misrepresentation or False or Misleading Advertising.*—The making or causing or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the Industry, or the credit terms, values, policies, or services of any member of the Industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

3. *Commercial Bribery.*—No member of the Industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another, in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal, or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising except so far as such articles are actually used for commercial bribery as hereinabove defined.

4. *Interference with Contractual Relations.*—Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply, or interfering with or obstructing the performance of any such contractual duties or services.

5. *Secret Rebates.*—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

6. *Defamation.*—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representations or by the false disparagement of the grade or quality of their goods.

7. *Sales of Seconds.*—The sale or offer for sale, at a reduced price, of rejects, factory seconds, or other defective merchandise by any member of the Industry in excess of 4% of his total production. Any such sale shall be reported to the Code Authority. Sales in excess of 4% may be permitted by the Code Authority upon a



showing that such restriction works an undue hardship upon a member of the Industry, but the granting of such permission must not allow such member an unfair competitive advantage nor work to the detriment of other members.

8. *Processing Materials Furnished by Others.*—The sale of the service of processing materials furnished by others at less than the price arrived at by deducting the market cost of such materials, if purchased by the member concerned, from the price established by such member for the finished product.

9. *Sales Below Cost.*—To sell or offer to sell any product below its cost, except to meet the competition of a member of the Industry whose cost is lower. Each member of the Industry shall determine cost in accordance with a cost accounting system capable of application by all members to be formulated by the Code Authority and approved by the Administrator.

10. *Terms of Sale.*—Terms shall not exceed 2% discount for cash within 10 days from date of invoice, or 30 days net, with the privilege of giving E.O.M. (end of months) dating.

#### ARTICLE VIII—MODIFICATION

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

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

#### ARTICLE IX—MONOPOLIES

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

#### ARTICLE X—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases should be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

#### ARTICLE XI—EFFECTIVE DATE

This Code shall become effective on the tenth day after date.

Approved Code No. 216.

Registry No. 299-1-20.