

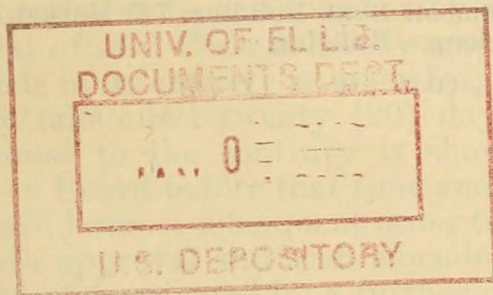
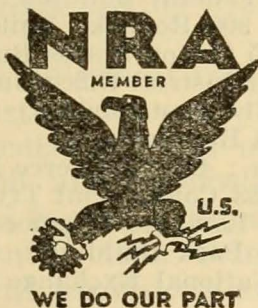
NATIONAL RECOVERY ADMINISTRATION


AMENDMENT TO
CODE OF FAIR COMPETITION

FOR THE

ASPHALT SHINGLE AND ROOFING
MANUFACTURING INDUSTRY

AS APPROVED ON MARCH 21, 1935

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AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

ASPHALT SHINGLE AND ROOFING
MANUFACTURING INDUSTRY

As Approved on March 21, 1935

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE
ASPHALT SHINGLE AND ROOFING MANUFACTURING 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 an amendment to a Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said amendment, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, the National Industrial Recovery Board, pursuant to authority vested in it by Executive orders of the President, including Executive Order No. 6859, and otherwise, does hereby incorporate by reference, said annexed report and does find that said amendment and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said title of said act, and does hereby order that said amendment be and it is hereby approved, and that the previous approval of said Code is hereby amended to include an approval of said Code in its entirety as amended, such approval and such amendment to take effect twenty (20) days from the date hereof, unless good cause to the contrary is shown to the National Industrial Recovery Board before that time and the National Industrial Recovery Board issues a subsequent order to that effect; provided, however, that such approval and such amendment shall remain in effect until modified or terminated by a further order of the National Industrial Recovery Board.

NATIONAL INDUSTRIAL RECOVERY BOARD,
By W. A. HARRIMAN, *Administrative Officer*.

Approval recommended:

W. P. ELLIS,
Division Administrator.

WASHINGTON, D. C.
March 21, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,

The White House.

SIR: An application has been duly made pursuant to and in full compliance with the provisions of the National Industrial Recovery Act for an amendment to the Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry, submitted by the Code Authority for the Asphalt Shingle and Roofing Manufacturing Industry.

The purpose and effect of the amendment is to provide that those members of the Industry who may desire to do so may enter into an agreement among themselves for payment of liquidated damages upon determination by the National Industrial Recovery Board or other agency established as provided in the amendment, of violation of any provision of the Code of Fair Competition for the Asphalt Shingle and Roofing Manufacturing Industry.

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

We find that:

(a) The amendment to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the 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 of labor and management under adequate governmental sanction 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) The Code as amended complies in all respects with the pertinent provision 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.

(c) The amendment and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(d) The amendment and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

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

For these reasons, therefore, we have approved this amendment.
For the National Industrial Recovery Board:

W. A. HARRIMAN,

Administrative Officer.

MARCH 21, 1935.

AMENDMENT TO CODE OF FAIR COMPETITION FOR THE ASPHALT SHINGLE AND ROOFING MANUFACTURING INDUSTRY

ARTICLE XIV—LIQUIDATED DAMAGE AGREEMENT

Recognizing that the violation by any member of the Industry of any provision of this Code will disrupt the normal course of fair competition in the industry and cause serious damage to others, and that it will be impossible accurately to determine the amount of such damage, it is hereby provided that those members who may desire to do so may enter into an agreement among themselves embodying the following provisions:

SECTION 1. Each member of the Industry assenting to the agreement and violating any provision of this Code shall pay to the Treasurer of the Code Authority, as an individual and not as Treasurer, in trust, as and for liquidated damages, upon determination of violation by the National Industrial Recovery Board or any impartial agency or person nominated by the Code Authority or designated by the assenters to this agreement and approved by the National Industrial Recovery Board, amounts as set forth below:

(a) For the violation of any wage provision, an amount equal to the difference between the wages which have been paid and the wages which would have been paid if the member had complied with the applicable provisions of the Code;

(b) For the violation of any hour provision, an amount equal to the wages payable for the overtime at the regular rate payable under the terms of the Code, to the employee or employees who worked overtime;

(c) For the violation of any labor provision of the Code other than an hour or wage provision, one hundred (\$100.00) dollars;

(d) For the violation of any provision of the Code (other than a labor provision) involving a transaction incidental to or connected with a sale of any product of the Industry, an amount equal to twenty-five percent of the actual selling price of the product sold in violation of any such provision, or of the net price at which the products should have been sold under the Code, if determinable, whichever is the higher;

(e) For the violation of any provision of the Code (other than a labor provision) not involving a transaction incidental to or connected with a sale of any product of the Industry, Two hundred and fifty (\$250.00) dollars.

SECTION 2. Each member of the Industry assenting to this article shall furnish the Treasurer of the Code Authority, as an individual, with the bond of a surety company, approved for the purpose by the Code Authority, providing for the payment to the Treasurer by said Surety Company of any and all damages, payable from

time to time by such member to the Treasurer, individually, pursuant to the provisions of this article. The bond so furnished shall be in the form approved by the Code Authority. All such payments shall be due and payable by the Surety Company promptly upon receipt of a certificate of the Code Authority, signed by the Chairman or by any three members thereof, certifying to the Surety Company that damages in a specified amount have been duly assessed against said member pursuant to this article; that demand for the payment thereof has been duly made upon said member of the Industry; that three days have elapsed since such demand, and that the said damages have not been paid. The bond so furnished shall be in a sum determined by the Code Authority with the approval of the member furnishing the same but such sum shall in no case be less than \$5,000.00 nor more than \$50,000.00. The member furnishing the bond shall maintain the same in effect during the life of this agreement. In the event of an assessment for damages being set aside, the Treasurer shall return to the member of the Industry or to the Surety Company, whichever paid the same, any amount found to have been improperly assessed.

SECTION 3. All amounts so paid to or collected by the Treasurer of the Code Authority, under the provisions of this Article, shall be applied by him as follows: First, if the violation shall have been of a labor provision of the Code, equitable distribution of all damages paid therefor shall be made among all employees directly affected by such violation; Second, if the violation shall have been of a Code provision other than a labor provision, the damages arising therefrom shall be utilized to defray proper expenses of Code Administration, and the balance, if any, remaining in the hands of the Treasurer shall be distributed semi-annually among members of the Industry who have assented hereto and who have not been determined to have been guilty of a violation of a Code provision during the preceding semi-annual period, on the basis of the most recent assessment made against members of the Industry for the expense of Code administration.

SECTION 4. Assent to this article by any member of the Industry shall be evidenced by a signed statement signifying assent, filed with the Code Authority. Failure to assent to this Article shall not deprive any member of any other right or privilege under the Code. By so assenting, each member agrees with every other member and the Treasurer, individually (1) that violation of a Code provision shall breach this agreement and shall render the violator liable for the payment of liquidated damages as herein provided, (2) all rights and causes of action arising hereunder are assigned to the Treasurer, individually and in trust, and (3) that the Treasurer, as such assignee and as attorney in fact for each assenting member, may take all proper legal action concerning damages found due hereunder.

SECTION 5. The Code Authority may waive liability for payment of liquidated damages for any violation it finds to have been innocently made and resulting in no material injury, and may reduce the amount of damages assessed against a member of the Industry. If, in the opinion of the Code Authority, such reduction in the case under consideration would be equitable and would further the purposes of the National Industrial Recovery Act.

SECTION 6. The Treasurer of the Code Authority, as an individual, and not as Treasurer, by accepting office or continuing in office, accepts the trust established by this contract and agrees to perform the duties of Trustee hereunder until his successor in office may have been appointed.

SECTION 7. This contract may be terminated by vote of two-thirds ($\frac{2}{3}$) of the parties hereto, such termination to take effect immediately upon notice in writing to said Treasurer of the Code Authority; provided, however, such termination shall not relieve any member from payment of liquidated damages due as a result of any violation committed prior to said termination.

SECTION 8. Nothing contained herein shall be construed or applied to (a) deprive any person of any right or right of action arising out of this Code, or (b) relieve any member of the Industry from any contractual or legal obligation arising out of this Code or of the Act or otherwise; nor shall violation of this agreement by an assenting member be deemed a violation of the Code, so as to subject the violator to any consequence arising under Section 3 (b), Section 3 (c), or Section 3 (f) of the National Industrial Recovery Act, nor to any criminal prosecution of any kind.

Approved Code No. 99—Amendment No. 1.
Registry No. 1003-1-01.



