

NATIONAL RECOVERY ADMINISTRATION

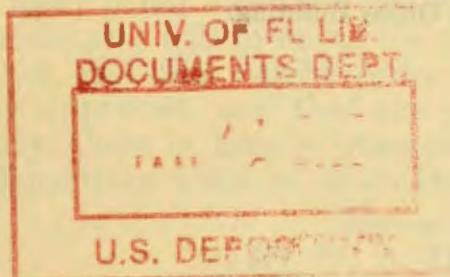
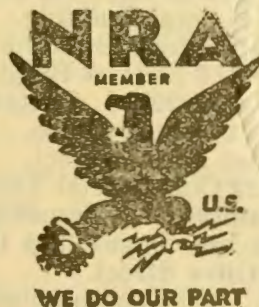
AMENDMENT TO SUPPLEMENTARY
CODE OF FAIR COMPETITION

FOR THE

SHOE SHANK
MANUFACTURING INDUSTRY

(A Division of the Fabricated Metal Products
Manufacturing and Metal Finishing
and Metal Coating Industry)

AS APPROVED ON JANUARY 31, 1935



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Approved Code No. 84F—Amendment No. 2

AMENDMENT TO SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

SHOE SHANK MANUFACTURING INDUSTRY

As Approved on January 31, 1935

ORDER

APPROVING AMENDMENT OF SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE SHOE SHANK MANUFACTURING INDUSTRY

A DIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING 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 the Supplementary Code of Fair Competition for the Shoe Shank Manufacturing Industry, and a Notice of Opportunity to be Heard having been duly given 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, dated September 27, 1934, and otherwise, does hereby incorporate by reference said annexed report and does find that said Amendment and the Supplementary 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 Supplementary Code is hereby amended to include an approval of said Supplementary Code in its entirety as amended.

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

Approval recommended:

KILBOURNE JOHNSTON,
Acting Division Administrator.

WASHINGTON, D. C.,
January 31, 1935.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on an Amendment to the Supplementary Code of Fair Competition for the Shoe Shank Manufacturing Industry, a Division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, to incorporate the principles contained in Office Memorandum No. 228, dated June 7, 1934, relating to pricing practices and costing and accounting provisions. This Amendment was proposed in accordance with Article VII of the Supplementary Code as approved on February 21, 1934, and a Notice of Opportunity to be Heard was given on August 8, 1934.

FINDINGS

The Assistant Deputy Administrator in his final report to the National Industrial Recovery Board on said Amendment to said Supplementary Code having found as herein set forth and on the basis of all the proceedings in this matter:

It is found that:

(a) The Amendment to said Supplementary Code and the Supplementary 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 among trade groups, by inducing and maintaining united 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 Supplementary Code as amended 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.

(c) The Supplementary Code empowers the Supplementary Code Authority to present the aforesaid Amendment on behalf of the Industry as a whole.

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

(e) The Amendment and the Supplementary Code as amended are 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 the approval of said Amendment.

For these reasons, therefore, this Amendment has been approved.
For the National Industrial Recovery Board:

W. A. HARRIMAN,
Administrative Officer.

JANUARY 31, 1935.

AMENDMENT TO SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE SHOE SHANK MANUFACTURING INDUSTRY

A DIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND METAL FINISHING AND METAL COATING INDUSTRY

Amend: Article V, by changing the Title to read:

Open Price Filing, Methods of Cost Finding and Accounting and Unfair Trade Practices.

Amend: Article V, by renumbering the old Section 1 as Section 4; delete the present Subsections (a), (b) and (c) thereof and reletter Subsections (d) to (j) inclusive in new Section 4 to (a) to (g) inclusive.

Insert new Sections 1, 2 and 3, as follows:

SECTION 1. Each member of the Industry shall file with a confidential and disinterested agent of the Supplementary Code Authority, or, if none, then with such an agent designated by the National Industrial Recovery Board, identified lists of all of his prices, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this Section referred to as "price terms", which lists shall completely and accurately conform to and represent the individual pricing practices of said member. Such lists shall contain the price terms for all such standard products of the Industry as are sold or offered for sale by said member and for such non-standard products of said member as shall be designated by the Supplementary Code Authority. Said price terms shall in the first instance be filed within thirty days after the date of approval of this provision. Price terms and revised price terms shall become effective immediately upon receipt thereof by said agent. Immediately upon receipt thereof, said agent shall by telegraph or other equally prompt means notify said member of the time of such receipt. Such lists and revisions, together with the effective time thereof, shall upon receipt be immediately and simultaneously distributed to all members of the Industry and to all of their customers who have applied therefor and have offered to defray the cost actually incurred by the Supplementary Code Authority in the preparation and distribution thereof, and shall be available for inspection by any of their customers at the office of such agent. Said lists or revisions or any part thereof shall not be made available to any person until released to all members of the Industry and their customers, as aforesaid, provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid thirty day period after the approval of this Section. The Supplementary Code Authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the National Industrial Recovery Board. Upon request the Supplementary Code

Authority shall furnish to the National Industrial Recovery Board or any duly designated agent of the National Industrial Recovery Board copies of any such lists or revisions of price terms.

When any member of the Industry has filed any revision, such member shall not file a higher price within forty-eight (48) hours.

No member of the Industry shall sell or offer to sell any products of the Industry, for which price terms have been filed pursuant to the provisions of this Section, except in accordance with such price terms, provided, however, that nothing in Article V of this Supplementary Code shall apply to sales between members of the Industry; provided, further, that no sales shall be made from one member to another at a discount from filed prices of more than ten (10) percent.

Dropped lines, seconds or surplus stocks may be disposed of by any member of the Industry at any price and on any terms and conditions, but only if such member of the Industry prior to such disposal has filed with the Supplementary Code Authority his statement in writing, setting forth the fact of, reasons for and terms of such proposed disposal.

No member of the Industry shall enter into any agreement, understanding, combination or conspiracy to fix or maintain price terms, nor cause or attempt to cause any member of the Industry to change his price terms by the use of intimidation, coercion, or any other influence inconsistent with the maintenance of the free and open market which it is the purpose of this Section to create.

SECTION 2. (a) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the Industry or of any other Industry or the customers of either may at any time complain to the Supplementary Code Authority that any filed price constitutes unfair competition as destructive price-cutting, imperiling small enterprises or tending toward monopoly or the impairment of code wages and working conditions. The Supplementary Code Authority shall within five (5) days afford an opportunity to the member filing the price to answer such complaint and shall within fourteen (14) days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of NRA, which shall render a report and recommendation thereon to the National Industrial Recovery Board.

(b) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of the emergency provisions in the two following paragraphs, is forbidden.

(c) *Emergency Provisions.*—If the National Industrial Recovery Board, after investigation, shall at any time find both (1) that an emergency has arisen within the Industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions, which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the Industry for a limited period is necessary to mitigate the conditions constituting such emergency and



to effectuate the purposes of the Act, the Supplementary Code Authority may cause an impartial agency to investigate costs and to recommend to the National Industrial Recovery Board a determination of the stated minimum price of the product affected by the emergency, and thereupon the National Industrial Recovery Board may proceed to determine such stated minimum price.

When the National Industrial Recovery Board shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purposes of the National Industrial Recovery Act, it shall publish such price. Thereafter during such stated period, no member of the Industry shall sell such specified products at a net realized price below said stated minimum price, and any such sales shall be deemed destructive price cutting. From time to time, the Supplementary Code Authority may recommend review or reconsideration or the National Industrial Recovery Board may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

SECTION 3. The Supplementary Code Authority shall cause to be formulated methods of cost finding and accounting capable of use by all members of the Industry, and shall submit such methods to the National Industrial Recovery Board for review. If approved by the National Industrial Recovery Board, full information concerning such methods shall be made available to all members of the Industry. Thereafter, each member of the Industry shall utilize such methods to the extent found practicable. Nothing herein contained shall be construed to permit the Supplementary Code Authority, any agent thereof, or any member of the Industry to suggest uniform additions, percentages or differentials or other uniform items of cost which are designed to bring about arbitrary uniformity of costs or prices.

Approved Code No. 84F—Amendment No. 2.
Registry No. 929-1-01.

