NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, ...er the seal of the National Archives of the United States, that the attached reproduction(s) is a true and ... copy of documents in his custody.

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5 - Dewey
58 - [illegible]
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SIGNATURE	
Milton O. Gustafson	
NAME: MILTON O. GUSTAFSON	DATE: 2-3-89
TITLE: Chief, Civil Reference Branch	
NAME AND ADDRESS OF DEPOSITORY: The National Archives Washington, DC 20408	

NA FORM 14007 (10-86)

THE ASBESTOS INDUSTRY

TRANSCRIPT OF THE HEARING

AND

APPENDIX

10/19/33

PLAINTIFF'S EXHIBIT 4223.0

1002-1-01

Volume No. III

CODE OF FAIR COMPETITION FOR

THE ASBESTOS INDUSTRY

TRANSCRIPT OF THE HEARING

AND

APPENDIX

10/19/33

I N D E X

ASBESTOS INDUSTRY

NATIONAL RECOVERY ADMINISTRATION

Washington, D. C.

October 19, 1933

HEARING ON

CODE OF FAIR COMPETITION

for the

ASBESTOS INDUSTRY.

The above-entitled matter came on for hearing at 10:00 o'clock a. m., in the Patio Room of the Carlton Hotel, Washington, D. C., Assistant Deputy Administrator George S. Brady, presiding.

There were also present:

Of the Industrial Advisory Board:

Mr. C. J. Stover.

Of the Labor Advisory Board:

Dr. Edmund Eckel.

Of the Consumers Advisory Board:

Mr. M. G. Johnston

Of the Planning and Research Division:

Mr.   Reed.

Of the Legal Division:

Mr. S. T. Ansell.

P R O C E E D I N G S

Assistant Deputy Brady: The public hearing on the proposed code of fair competition for the Asbestos Industry will please come to order.

I will ask our Legal Adviser, Mr. B. T. Ansell, to give you an outline first of the procedure.

Mr. Ansell: Gentlemen, this hearing is called in accordance with public notice issued by the Administrator, dated October 10, 1933, for hearing today.

These formal hearings in the Administration are not judicial. That is, they are not judicial trials, nor are they legislative inquiries. They are strictly administrative sessions.

Therefore, there will be no argument as to the law, or as to legal rights, permitted this morning.

They are set solely for the purpose of getting the facts; that is, evidence on which the Administrator may determine the necessities of the particular code.

Everyone who speaks upon the code this morning is regarded as a witness only. Counsel may speak, but they speak under the same conditions as any other witness.

We usually first hear the code presented and discussed by the Chairman of the Steering Committee of the proponents of the Code.

He may file certain amendments to the code as published, which we usually here discuss.

We may hear suggestions from the floor for the elimination of certain portions of the code, or for modifications of it, or additions to it.

The notice which was sent out by the Administration and which everyone interested is presumed to have received, provides the formal procedure for the conduct of this hearing.

However, the Assistant Deputy Administrator, who is the Administrator for our purposes this morning, Colonel George S. Brady, wishes me to inform you that it is not necessary, in a meeting of this size, that the procedure be strictly adhered to, especially in respect to the requirements that anyone wishing to speak must have sent his desire to the Administrator 24 hours in advance of this meeting.

Colonel Brady will hear anyone this morning who will send his name to him at the table here, with the request that he be heard upon any specific article.

There will be no rebuttal of witnesses who testify this morning. That is, there will be no argument on the floor.

The Assistant Deputy Administrator is the sole judge as to who shall be witnesses, and it is with his consent that you will speak.

He also is the sole authority to call any witnesses.

If anyone has prepared a written brief and should wish to file that rather than to be heard orally, or should wish to file such a brief as an addendum to any oral remarks, Colonel Brady will be glad to receive the brief at this hearing.

The entire conduct of the session is through the Assistant Deputy Administrator; not through any of his advisers, sitting here with him at this table. All questions to witnesses will be directed to the witnesses through Colonel Brady.

This hearing opens with the presentation of the code by the chairman of the code committee, Mr. Brown, of the Asbestos Institute.

STATEMENT OF MR. LEWIS H. BROWN,
President, JOHNS-MANVILLE CORP.,
And President, ASBESTOS INSTITUTE

Mr. Brown: Mr. Administrator and gentlemen: Following the program outlined by the Administrator, I will first proceed to present to the Secretary the following authorization papers:

1. I am hereby presenting the official letter of transmittal and the application blank together with a copy of the proposed code for the asbestos industry. While preliminary copies of these papers were filed with the National Recovery Administration at a previous date, those filed now contain the final information available.

2. Next I am filing notarized copies of the minutes of the meetings held by the five divisions of the asbestos industry authorizing a committee consisting of the following men to

represent the industry in connection with the presentation of the code to the National Recovery Administration:

Chairman --- Mr. Lewis H. Broan, President, Johns-Manville Corporation;

Asbestos Paper and Allied Products Division --- Mr. G. S. Gabrielson, representing the Sall Mountain Company;

Asbestos Cement Products Division --- Mr. A. S. Blagden, President, Keasbey & Mattison Company;

Asbestos Magnesia Products Division --- Mr. George D. Crabbs, Chairman of the Board, Philip Carey Manufacturing Company;

Asbestos Textile Products Division --- Mr. G. R. Weber, General Manager, United States Asbestos Division, Raybestos Manhattan, Inc.

Brake Lining Division --- Mr. Bradley Dewey, President, Dewey and Almy Chemical Company and The Multibestos Company;

3. I am presenting a letter containing a list of all of the companies in the industry divided into two groups, those who have signed the code and those who have not as yet signed the code.

4. I am also presenting a letter indicating the percentage of the industry in each division represented by the signers of the code and the proportions of the total industry represented by each of the five divisions. This letter indicates that the signers of the code represent more than 83 per cent

of the volume of the industry.

Mr. Administrator, I would like to present these papers.

(The various documents referred to are as follows:)

THE ASBESTOS INSTITUTE

TWENTY-TWO EAST FORTIETH STREET

NEW YORK, N. Y.

October 17th, 1933.

Mr. Malcolm Muir

Deputy Administrator

National Recovery Administration

Washington, D. C.

Re: Asbestos Industry Code

Index 1002/1/01.

Dear Sir:

Attached are twelve copies of the Code of Fair Competition for the Asbestos Industry as revised at meetings of the Divisions of the Asbestos Industry held at the Commodore Hotel, New York City, on September 27th, 1933.

In letters of even date I am submitting notarized copies of minutes of these meetings, with a list of companies who have signed the Code and those who have not signed, and an estimate of the volume of the Industry's production represented by the signers.

Very truly yours,

Lewis H. Brown
President.

CODE OF FAIR COMPETITION FOR THE ASBESTOS INDUSTRY.

ARTICLE I --- PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act the following provisions are submitted as a Code of Fair Competition for the Asbestos Industry, and upon approval by the President such provisions shall be the standard of fair competition in this Industry.

ARTICLE II --- DEFINITIONS

Whenever used in this Code or in any schedule or supplement appertaining thereto, the terms enumerated in this Article shall have the meanings herein defined unless the context shall otherwise clearly indicate.

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

Sec. 2. The term "the Administrator" means the Administrator appointed by the President under the National Industrial Recovery Act and at the time in office.

Sec. 3. The term "the Act" means the National Industrial Recovery Act as approved by the President, June 16, 1933.

Sec. 4. The term "products" means the products listed in Schedule I hereto attached.

Sec. 5. The term "the industry" as used herein shall mean and include the manufacturing and sale by the manufacturer either by himself or by sibsidiaries or affiliates or agencies of the manufacturer, of the products listed in Schedule I hereof.

Sec. 5 (a). The term "affiliates" means legal entities which by contract with the manufacturer perform the manufacturer's ordinary selling function for such manufacturer. It does not include jobbers, dealers, applying contractors and other such customary channels of distribution.

Sec. 5 (b). The term "subsidiary" means a legal entity which is controlled by the manufacturer or by a legal entity which controls or is controlled by the manufacturer.

Sec. 6. The term "Division" means a section of the asbestos industry comprising a group of manufacturers who manufacture and/or sell a group of related products as set forth in Schedule I. A manufacturer who manufactures products in more than one Division is a member of each such Division.

Sec. 7. The term "member of the industry" means any person, including without limitation any other legal entity, engaged in the Asbestos Industry, in the United States as defined in Section 5 above.

Sec. 8. The term "employee" means any person engaged in the asbestos industry, as defined in Section 5 above, in any capacity in the nature of employee, irrespective of the method of payment of his compensation.

Sec. 9. The term "employer" means any one by whom such employee is compensated.

Sec. 10. The term "learner" as used herein means a person who has had no previous experience in the manufacture of asbestos products and whose employment as such shall not exceed six weeks.

Sec. 11. The term "the Code" means this Code and all amendments thereof and all schedules and supplements appertaining thereto.

Sec. 12. The term "member of the Code" means any member of the Asbestos Industry who shall become a member of the Code as hereinafter provided in Section 1 (c) of Article VI.

Sec. 13. The term "the effective date" means the second Monday after the Code shall have been approved by the President.

Sec. 14. The term "the Institute" means The Asbestos Institute, an unincorporated association having an office in the City of New York, State of New York.

Sec. 15. The "Southern section" means the States of North Carolina, Tennessee, Arkansas, Oklahoma, Texas, New Mexico, and the States south thereof.

Sec. 16. The "Northern section" means that part of the United States not included in the Southern section.

Sec. 17. Population for the purpose of the Code shall be determined by reference to the 1930 Federal Census.

ARTICLE III --- HOURS OF LABOR

Section 1. Factory employees, mechanical workers, or artisans, except as hereinafter provided in sections 2 to 5 inclusive, shall not be employed (a) in excess of 40 hours per week, except that to meet seasonal requirements or emergencies 48 hours per week for not more than 6 weeks in any six months period shall be permitted if the average employment over the six months period is not more than 40 hours per week, (b) in excess of 8 hours in any 24-hour period, except that to meet seasonal requirements or emergencies more than 8 hours may be worked, provided time and one third is paid for overtime in any one day.

Sec. 2. There shall be a tolerance of 10 per cent additional hours for (a) employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities, (b) watchmen, firemen, and engineers, and (c) shippers and delivery employees; provided, however, that any such work by such employees in excess of an average of 44 hours per week over a six months' period shall be compensated for at the rate of time and one third.

Sec. 3. The limitation as to hours of labor in any 24 hours shall not apply to very special cases where restriction of hours of labor of highly skilled workers in continuous processes would unavoidably reduct prodiction; provided, however, that employees in such cases shall not work more than 48 hours in any one week.

Sec. 4. The limitation as to hoursof labor shall not apply (a) to outside sales or sales-service men, technicians (highly skilled factory workers are not to be classed as technicians), nor to persons in a managerial, executive, or supervisory capacity who receive more than $35.00 per week (foremen regularly engaged in manual labor shall not be considered to be in such supervisory capacity), nor (b) to employees engaged in emergency maintenance or repair work necessary because of breakdowns or involving danger to life and property, providing that such emergency overtime work in excess of 48 hours in any one week shall be paid for at the rate of time and one third.

Sec. 5. No employer shall work any accounting, clerical, office, inside sales, or other salaried employee not provided for above who receives less than $35.00 per week, more than an average of 40 hours per week during a six-month period, nor more than 48 hours per week in any one week.

Sec. 6. No employee shall be permitted to work a total number of hours in excess of the prescribed number, whether employed by one or more employers.

ARTICLE IV --- MINIMUM WAGES

Section 1. Except as provided in Section 2 to 6 below, the minimum wages that shall be paid to factory workers in the Northern section by any employer shall be at the rate of 40 cents per hour or of $16.00 per week of 40 hours of labor; except that for such light work as does not usually require the strength and skill of male labor, and for which male labor has not been used, the minimum rate paid to female employees may be at the rate of 35 cents per hour or at $14.00 per week of 40 hours of labor.

Sec. 2. In the Southern section the above-mentioned minimum rates shall be 2-1/2 cents per hour lower.

Sec. 3. The above Sections 1 and 2 establish minimum rates of pay, regardless of whether the employee is paid a time rate or for piecework performance.

Sec. 4. The minimum wage that shall be paid by employers to any accounting, clerical, office, or sales employee in any office, department, or establishment shall be at the following rates in cities of the sizes listed below and their immediate trade areas:

Over 500,000 population, not less than $15.00 per week.

Between 250,000 and 500,000, not less than $14.50 per week.

Under 250,000 population, not less than $14.00 per week.

Sec. 5. No employees in the classes mentioned in Section 4 of this article shall have their compensation reduced on account of any reduction in their weekly hours of employment made because of the requirements of Section 5, Article III.

Sec. 6. The minimum rate of pay paid to office or m messenger boys and girls and learners (the latter for not over the six weeks period specified in the definition of learners) may, in the case of those members of the Industry where the total of such classes never exceed 5 per cent of their total employees, be 20 per cent less than the rates specified in Sections 1 and 2 above for learners, and Section 4 above for office or messenger boys and girls.

Sec. 7. No distinction in rates shall be made between male and female employees where the same class of work is performed, regardless of whether compensation is calculated on an hourly, weekly, monthly, or piece work basis.

Sec. 8. Unless such readjustment has already been made because of the operation of the President's Reemployment Agreement, the wage rates of all employees receiving more than the minimum rates prescribed above, but less than $35.00 per week, shall be equitably readjusted.

Sec. 9. There shall be no evasion of the Code by any employer by reclassification of the functions of an employee. An employee shall not be included in one of the classifications exempted from the provisions of this Code unless the identical functions were identically classified on June 16, 1933.

ARTICLE V --- CHILD LABOR

No person under 16 years of age shall be employed in the Industry, and no person under 18 years of age when operating hazardous manufacturing machinery.

ARTICLE VI --- ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the Administration of the Code.

Section 1. Organization and constitution of the Code Authority.

(a) The Code Authority shall consist of six voting members seledted as specified in Article VI, Section 1 (e), and such additional members, if any, not exceeding three, as shall be appointed by the President. Such additional members shall not be vested with voting rights and shall serve without expense to the members of the Code.

(b) For purposes of administering the Code and selecting members of the Code Authority, the Asbestos Industry is divided into the following Divisions:

Asbestos Paper and Allied Products Division.

Asbestos Cement Products Division.

Asbestos Magnesia Products Division.

Asbestos Textile Products Division.

Asbestos Brake-Lining and Related Friction Products Division.

The products manufactured by members of each of said Divisions are set forth under the designated Divisions in Schedule I hereto attached.

(c) Every member of the Industry shall be eligible to membership in the Code and there shall be no inequitable restrictions upon such membership. Any member of the Industry desiring to become a member of the Code may do so by signing and delivering to the Institute or to the Code Authority a letter substantially in the form set forth in Schedule II, annexed hereto.

(d) Every member of the Industry who manufactures one or more of the products listed in Schedule I under a designated Division shall be a member of such Division.

(e) At least five voting members of the Code Authority shall be selected from members of the Code. One voting member shall be elected by a two-thirds vote of the members of each Division of the Code. The method of election and term of office shall be determined by the members of each Division. The sixth voting member shall be elected by a majority vote of the five so elected.

(f) The Code Authority shall adopt its own rules of procedure and may appoint such officers or agencies as it may deem necessary properly to administer the Code. It shall delegate to a Sub-Code Authority of each member Division, consisting of three members elected by each Division, the administration of all articles except III, IV, V, and X of the Code. All contacts with the Administrator relating to the administration of Articles III, IV, V, and X of the Code shall be by the Code Authority.

(g) The members of each division shall adopt their own rules of procedure with respect to administering the Code, not inconsistent with the Act or with the Code, subject to review by the Administrator. Each Division may appoint agents, not members of the Industry, to investigate complaints of violation of the Code by members of the Division under rules which shall not be inconsistent with the provisions of the Act or of the Code.

(h) All members of the Code shall bear their proportionate share of the expense of maintenance of the Code Authority and its activities. Such expenses shall be assessed upon an equitable basis (proportionate to dollar sales or volume of production as Divisions may determine) by the Code Authority, subject to review by the Administrator. Assessments shall be paid by members of the Code in the manner and at such times as shall be directed by the Code Authority.

Sec. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act and subject to review by the Administrator.

(a) With a view to keeping the President and the members of the Code informed as to the observance or non-observance of the Code and as to whether the members of the Industry are taking appropriate steps to effectuate the declared policy of the Act, the Code Authority shall report to the Administrator at such times and concerning such conditions in the Industry as he may from time to time require. Each member of the Code shall file in such office as the Code Authority may designate and at such time, in such form and for such periods as required by the Code Authrority, duly certified reports with respect to wages, hours of labor, conditions of employment, number of employees, production, and other matters pertinent to the proper supervision of the industry as determined by the Code Authority. Any additional special reports required by the Administrator will be supplied without expense to the Code Authority. 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 purposes recited in Section 3 (a) of the Act.

(b) All confidential information of any nature so requested shall be collected through agents not connected with the Industry, selected by the Code Authority, and such information shall be kept confidential by the said agents except when required by the Code Authority for the proper administration of the Code. Only such information shall be requested by the Code Authority which is appropriate to the proper supervision of the Industry or to the administration of the Code.

(c) The Code Authority may designate agents not members of the Industry to investigate complaints of violations of the Code. The members of the Industry shall facilitate such investigations by opening their correspondence, books, and accounts relating to alleged violation for examination by such authorized agents and by furnishing relevant information. All such information shall be kept confidential by the agents except that in the event of any such violation being substantiated, the Code Authority shall be informed and may present evidence thereof to the proper department of the Government. If, upon such investigation, any complaint of a violation of the Code shall be substantiated in any material respect, the member of the Code guilty of such violation shall pay the cost of the investigation; otherwise the cost shall be borne by the complainant. The guilty member shall be subject to all penalties provided for in the Act, and, if a member of the code, any other penalties provided for by said member's Division of the Code.

(d) The Code Authority shall study conditions in the Industry and, subject to approval by four of its voting members and by a three-fourths vote of the Code members of each Division present at a meeting expressly called for that purpose, shall make such recommendations from time to time to the Administrator, as it deems desirable to further the policies of the Act, which, upon the approval of the President or the Administrator or such other lawful officer as may be constituted, shall become a part of the Code and shall have full force and effect as provisions hereof.

Sec. 3. Appeals.

(a) Any interested party shall have the right of complaint to the Code Authority or a Sub-Code Authority, and a prompt hearing and decision thereon, under such rules and regulations as the Code Authority shall prescribe, in respect to any act of any member of the Industry or in respect to any agent or agency, designated by the Code Authority or Sub-Code Authority, to act in its behalf.

(b) Any interested party shall have the right of appeal to the Administrator, under such rules and regulations as he shall prescribe, with respect to any decision, rule, regulation, order, or finding made by the Code Authority or a Sub-Code Authority.

Sec. 4 Codes of Ethics and Merchandising Plans.

(a) The Code Authority may, with the approval of four of its voting members and by a three-fourths vote of the Code members of each Division present at a meeting expressly called for that purpose, and subject to review by the Administrator, formulate a Code of Ethics for all members of the Industry which will amplify and define the provisions of Article VII hereof.

(b) The members of each Division of the Industry may prepare Simplification and Standardization Specifications and a Merchandising Plan for such Division, incorporating the merchandising policies best calculated to promote fair competition in such Division. Subject to the review of the Administrator, every such merchandising plan or simplification and standardization specifications, when approved by three fourths of the Code members of the Division and filed with the Sub-Code Authority, shall be binding upon all members of the Industry who are members of the Division to which such merchandising plan or specifications apply. Changes may be made in any such merchandising plan or specifications in the same manner that the originals were established.

Sec. 5. Any notice, demand, or request required or permitted to be given to or to be made upon any member of the Industry shall be sufficiently given if mailed by registered mail, postage prepaid, addressed to such member of the Industry, at his address on file with the Secretary of the Code Authority.

ARTICLE VII --- UNFAIR TRADE PRACTICES

For the purposes of the Code the following shall constitute unfair trade practices:

Section 1. To invoice fictitiously, ship in excess of quantities invoiced, price at prices for a trade classification to which buyer is not properly entitled, permit unwarranted deductions, make fictitious or excessive allowances or guarantees.

Sec. 2. To grant secret rebates in any form, give or sell other materials at lower than prevailing prices to influence a sale, give imporper "cut backs" or rebate to any buyer for stock on hand at date of any price decline.

Sec. 3. To subsidize buyers by special donations, give premiums, lavishly entertain a customer or prospective customer or their employees, split commissions, pay part or all of a customer's or prospective customer's expenses, buy of a customer or prospective customer other commodities at higher than prevailing open market prices, make improper advertising allowances, give gratuities or make loans or otherwise improperly influence business, consign stock or allow other than published terms, or fail to prescribe definite terms, or make improper price maintenance guarantees.

Sec. 4. (a) To sell or offer any product with intent to deceive.

(b) To defame a competitor.

(c) To purchase a stock of competitor's materials from a customer or prospective customer.

(d) To misbrand material or to imitate the trade marks, trade names, slogans or advertising matter of a competitor.

(e) To improperly entice away a competitor's employees.

Sec. 5. To sell for export until the buyer has agreed not to resell the goods within the United States

Sec. 6. Using or employing any unfair trade practice shall be a violation of the Code and any member of the Industry who shall directly or indirectly through any officer, employee, agent or representative, knowingly use or employ any such unfair practices shall have violated the Code.

ARTICLE VIII --- PUBLICITY OF PRICES, TERMS AND CONDITIONS OF SALE

The purpose of the following publicity requirements of the Code is to insure complete publicity of all prices, terms and conditions of sale to manufacturers and to the trade concerned, and thus to promote fair competition. The trade concerned shall be all the trade of the members of the Industry directly affected by such prices, terms or conditions of sale in the territory to which the same apply.

Section 1. Each member of the Industry shall have the right individually to establish new prices, terms and conditions of sale from time to time not inconsistent with the provisions of the Code.

Sec. 2. No member of the Industry shall sell, pay a rebate, or allow a deduction at any time to any person except upon prices, terms, and conditions of sale then in effect and/or published in such manner as may hereinafter be required by the Code.

Sec. 3. Upon the effective date of the Code every member of a Division of the Industry shall forthwith file in the office designated for such Division a schedule of his prices, terms, and conditions of sale then in effect for distribution to all members of the Division in the manner and to the extent determined by the Sub-Code Authority of such Division. The members of each Division may determine the extent to which such schedules shall be open to inspection by members of the trade.

Sec. 4. In the event of any change being made by a member of the Industry in any price, term, or condition of sale, he shall, if so determined by the members of the Division of which he is a member do either one or both of the following:

(a) Immediately publish to the trade concerned every such change and coincidentally file in the office designated for his Division full and complete copies of every such change in price and terms and conditions of sale for immediate distribution to the members of the Division; or

(b) File full and complete copies of every contemplated change in prices, terms, and conditions of sale in the office designated by his Division within such periods as may be designated for such Division, but not exceeding five days in advance of the effective date of such change. Copies thereof shall in such cases be immediately filed with the Sub-Code Authority of the Division and then distributed to the trade concerned as required by the Division, in the manner provided in Article VIII, Section 3.

When a member of the Industry is a member of more than one Division the publicity requirements of any Division of which he shall be a member shall apply only to changes in prices, terms, and conditions of sale of products listed under such Division in Schedule I of the Code.

Merchandising plans adopted pursuant to Section 4 of

Article VI, containing provisions with reference to publicity of prices, terms, or conditions of sale, shall be controlling with respect to the members of the Division for which any such merchandising plan may be established, even though such provisions supplement or vary the publicity requirements of this Article VIII.

Sec. 5. After dates to be specified by each Sub-Code Authority for its Division no member of the Division shall sell to any buyer until the buyer has agreed (1) to observe all the provisions of Section 4 of Article VI and Articles VII, VIII, and IX of the Code in so far as they are applicable, and (2) to maintain vendor's sale or suggested resale prices.

ARTICLE IX --- SELLING BELOW COST

Section 1. No member of the Industry shall initiate a price for the sale of any product to the trade at a net price after all discounts which shall be below the said member's current total cost thereof. Such current total cost shall include all items properly chargeable to the operation of such member's business, including replacement cost of raw materials, manufacturing, selling, transportation, depreciation, interest charges on borrowed money, all items of overhead expense, and all other items in conformity with sound accounting practices; provided, however, that any member of the industry may sell below his own current total cost to meet prices established on products of essentially similar grade and quality by another member of the Industry.

Sec. 2. Complaints may be filed with a Sub-Code Authority against any member of its Division of the Industry to the effect that said member has made a sale at a price believed to be below said member's current total cost and not to meet existing competition in the Industry. Said Sub-Code Authority may in its discretion investigate such complaints, and if it finds that said prices were not made to meet existing competition in the Industry, it shall designate a firm of certified public accountants to investigate whether or not the prices complained of were below said member's current total cost in conformity with sound accounting practice. The said accountants shall report their conclusions to the Sub-Code Authority without disclosing confidential details and if the Sub-Code Authority finds after receiving such report, that such member actually sold below his current total cost and not to meet existing competition in the industry, then the cost of the investigation shall be paid by said member if a member of the Code, otherwise by the complainant. The guilty member shall be subject to all penalties provided for in the Act and if amember of the code, any other penalties provided for by said member's Division of the Code.

ARTICLE X --- LABOR PROVISIONS

Section 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint or coercion of employers oflabor, 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. 2. 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. 3. 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. 4. Without in any way attempting to qualify or modify, by interpretation, the foregoing requirements of the Act, employers in this Industry may exercise their right to select, retain, or advance employees on the basis of individual merit, without regard to their membership or non-membership in any organization.

ARTICLE XI --- GENERAL

Section 1. For the purposes of the Code, all transactions between manufacturers who are members of the industry and their respective subsidiaries or affiliates, as defined in Article II, Section 5, 5 (a) and 5 (b), shall be considered as interdepartmental transactions of the manufacturer. No such manufacturer shall sell to such subsidiary or affiliate unless such subsidiary or affiliate shall agree to and does conform to the pertinent provisions of this Code.

Sec. 2. Nothing contained in the Code shall be construed as prohibiting any member of the Industry from exercising its and/or their lawful patent rights or as requiring any member of the Industry to do any act in conflict with the terms of any patent licensing agreement.

Sec. 3. Section 4 of Article VI and Articles VII, VIII, and IX, of the Code shall not apply to products exported from the United States.

Sec. 4. Nothing contained in the Code shall be deemed to constitute any of the members thereof partners for any purpose. No member of the Code shall be liable in any manner by reason of his participation therein to any one for any act of any member or agent of the Code Authority. No member of the Code except as otherwise provided herein and no member of the Industry or of the Code Authority, and no agent of the Industry, shall be liable to anyone or in any manner other than as provided in the Act, or in the Code, for any act or failure to act under the Code.

Sec. 5. Where the costs of executing contracts entered into in the Asbestos Industry prior to the effective date are increased by the application of the provisions of the Code to the Industry, x it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise. The Code Authority is constituted an agency to assist in effecting such arbitral proceedings and adjustments.

Sec. 6. As required by Section 10 (b) Title I of the Act, the following provision is contained in the Code: The President may from time to time cancel or modify any order, approval, license, rule or regulation issued under this Title.

Sec. 7. By presenting the Code the members of the Industry assenting thereto do not thereby consent to any modification thereof, and they reserve the right to object individually or jointly to any such modification.

ARTICLE XII --- AMENDMENTS TO THE CODE.

It is contemplated that from time to time supplementary provisions to the Code or additional codes may be submitted for the approval of the President to prevent unfair competition in prices or other unfair or destructive practices and to effectuate the other purposes and policies of Title I of the Act. Such provisions of the Code as are not required to be included therein by the Act, may, with the approval of the President, be modified or eliminated if it appears that the public needs are not being served thereby, and as changes in circumstances or experience may indicate. The provisions of the Code shall remain in effect unless and until so modified or eliminated, or until the expiration of the Act; namely, June 16, 1935, unlwss sooner terminated in accordance with law for such case made and provided.

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SCHEDULE I

DIVISIONS OF THE ASBESTOS INDUSTRY AND PRUDUCTS INCLUDED

1. Asbestos Paper and Allied Products:

All Asbestos Papers

All Types of Asbestos Millboard

Asbestos and Wool Felt Pipe Covering

Air Cell Pipe Covering

Asbestos Laminated Pipe Covering

Pipe Covering Accessories

Asbestos Insulating Cement

2. Asbestos Cement Products:

Asbestos Shingles

Asbestos Corrugated Lumber

Asbestos Flat Lumber

Impregnated Asbestos Lumber

Asbestos Wallboard Plain

Asbestos Board Pre-Decorated

Asbestos Encased Insulating Board

Miscellaneous Molded Products

3. Asbestos Magnesia Products:

85 per cent Magnesia Pipe Covering, Blocks and Cements

High Temperature Insulation, Blocks and Cement

Insulating Bricks

Carbonate of Magnesia

4. Asbestos Textile Products:

All Types of Asbestos Roving

All Types of Asbestos Yarn

All Types of Asbestos Cloth

All Types of Asbestos Listing

All Types of Asbestos Tubing

All Types of Asbestos Cord

Carded Asbestos Fibre Made from Crude Asbestos

5. Brake Lining and Related Friction Products:

Brake Lining and/or Clutch Facings, excepting only friction elements made exclusively of metal or wood.

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THE ASBESTOS INSTITUTE

TWENTY-TWO EAST FORTIETH STREET

NEW YORK, N.Y.

October 17th, 1933.

Mr. Malcolm Muir

Deputy Administrator

National Recovery Administration

Washington, D. C.

Re: Asbestos Industry Code

Index - 1002/1/01

Dear Sir:

I attach hereto four notarized copies of the minutes of meetings of the five Divisions of the Asbestos Industry held at the Commodore Hotel, New York City, on September 27th, 1933.

In order to conform to the organization under the proposed Code, these meetings were called as meetings of Divisions of the Industry and not as Divisions of the Asbestos Institute.

The minutes show that more than 75 per cent of the production of each Division was represented at these meetings and that each Division agreed to the Code as revised at the meetings.

The minutes also include a resolution, passed unanimously in each Division, appointing the following men to present the Code for the Industry and negotiate Code matters with the National Recovery Administration.

Lewis H. Brown	-	All Divisions
Bradley Dewey	-	Brake Lining
A. S. Blagden	-	Asbestos Cement Products
G. R. Weber	-	Asbestos Textile Products
G. C. Gabrielson	-	Paper and Allied Products
G. D. Crabbs	-	Magnesia Products

Very truly yours,

Lewis H. Brown

President.

LHB:mn

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THE ASBESTOS INSTITUTE

TWENTY-TWO EAST FORTIETH STREET

NEW YORK, N.Y.

October 17, 1933.

Mr. Malcolm Muir

Deputy Administrator

National Recovery Administration

Washington, D. C.

RE: Asbestos Industry Code

Index - 1002/1/01

Dear Sir:

Attached is a list of companies in the Asbestos Industry who have signed the Code of Fair Competition as revised September 27, 1933 at meetings of the five Divisions of the Industry.

According to our very best estimates the signers of the Code, to date, represent over 83 per cent of the production in this Industry. The following table sets forth the proportion of total production of the Industry in each Division and the proportion represented by the companies which have signed.

Divisions	Proportion of the Industry	Proportion of Division Production Represented by Signers	Proportion of the Industry Represented by Signers of the Code
Paper Products	13.5%	80%	10.8%
Asbestos Cement Products	16.5	85	14.0
Magnesia Products	9.0	85	7.7
Textile Products	16.0	75	13.0
Brake Lining and Allied Products	45.0	85	38.3
Total	100.0		83.8

Very truly yours,

Lewis H. Brown

President.

LHB:mn

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MEMBERS OF THE ASBESTOS INDUSTRY WHICH HAVE SIGNED THE PROPOSED CODE OF FAIR COMPETITION FOR THE ASBESTOS INDUSTRY AS REVISED SEPTEMBER 27, 1933.

Allbestos Corporation

21st St. & Godfrey Ave.

Germantown, Phila. Pa.

American Brakeblok Corp.

332 S. Michigan Ave.

Chicago, Ills.

Asbestos Fibre Spinning Co.

North Wales, Pa.

Asbestos Ltd. Inc.

8 West 40th Street

New York, N. Y.

Asbestos Mfg. Co.

Sabine Street

Huntington, Indiana

Atlas Asbestos Co.

North Wales, Pa.

The Philip Carey Co.

Lockland, Cincinnati, O.

Ehret Magnesia Mfg. Co.

Valley Forge, Pa.

Emsco Asbestos Co.

Downey, Calif.

Ferodo & Asbestos Inc.

New Brunswick, N. J.

Garlock Packing Co.

Palmyra, New York

Gatke Corp.

228 N. LaSalle St.

Chicago, Ills.

Johns-Manville Corp.

22 E. 40 St.

New York, N. Y.

Keasbey & Mattison Co.

Ambler, Pa.

Multibestos Co.

Cambridge B, Mass.

National Asbestos Mfg. Co.

Jersey City, N. J.

Norristown Magnesia & Asbestos Co.

Norristown, Pa.

Raybestos Division, Raybestos Manhattan Inc.

Bridgeport, Conn.

Rex-Hide Inc.

East Brady, Pa.

The Ruberoid Co.

95 Madison Avenue

New York, N. Y.

Russell Mfg. Co.

Middletown, Conn.

Sall Mountain Co.

30 Broad Street,

New York, N. Y.

Scandinavia Belting Co.

248 Central Ave.

Newark, N. J.

Smith & Kanzler

Elizabeth, N. J.

Southern Asbestos Co.

Charlotte, N. C.

Standard Asbestos Mfg. Co.

822 W. Lake St.

Chicago, Ills.

The Thermoid Co.

Trenton, N. J.

Union Asbestos & Rubber Co.

310 S. Michigan Avenue

Chicago, Ills.

Worldbestos Corp.

Paterson, N. J.

52 Courtland St.

S. K. Wellman Co.

1381 East 49th Street

Cleveland, Ohio

MEMBERS OF THE ASBESTOS INDUSTRY WHICH HAVE NOT SIGNED THE PROPOSED CODE OF FAIR COMPETITION FOR THE ASBESTOS INDUSTRY.

American Asbestos Co.
Box 15
Norristown, Pa.

Armstrong Cork & Insulation Co.
Lancaster, Pa.

Baldwin Rubber co.
Pontiac, Michigan

Brassbestos Brake Lining Co.
Preakness Avenue
Patterson, N. J.

Burrell Belting Co.
416 S. Hermitage Ave.
Chicago, Illinois

Carolina Asbestos Co.
Davidson, N. C.

Cheney Chemical Co.
Cleveland, Ohio

Colt Patent Fire Arms Mfg, Co.
Hartford, Conn.

R. J. Dorn Co.
New Orleans, La.

Durwyllan Company

35-61 Kentucky Ave.

Patterson, N. J.

Firestone Tire & Rubber Co.

Firestone Park

Akron, Ohio

Gates Rubber Co.

Denver, Colo.

Glendenning Rubber & Asbestos Co.

Billerica, Mass.

Hoosier Friction Prod. Corp.

North Manchester, Ind.

Laher Auto Spring Co.

26th & Magnolia Sts.

Oakland, Calif.

Marine Chemical Co.

San Francisco, Calif.

Marshall Asbestos Corp.

P. O. Box 417

Troy, New York

L. J. Miley Co.

1462 S. Michigan Ave.

Chicago, Ills.

Mohawk Asbestos Division

Creo-Dipt

N. Tonowanda, New York

Palmer Asbestos Co.

St. Matthews, Kentucky

Plant Rubber & Asbestos Works

537 Brannan

San Francisco, Calif.

Rockbestos Products Corp.

New Haven, Conn.

Rosendale-Reddaway Co.

32 Euclid Avenue

Newark, N. J.

E, M. Smith Co.

639 S. Clarence

Los Angeles, Calif.

Manning J. Smith Belting Co.

10th & Allegheny Ave.

Philadelphia, Pa.

Southern Friction Fabric Co.

P. O. Box 1392

Charlotte, N. C.

Standard Brake Lining Co.

Gleasondale, Mass.

Swan Rubber Co.

Bucyrus, Ohio

Wood Insert Brake Lining Co.

725 Pioneer Bldg.

St. Paul, Minn.

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THE ASBESTOS INSTITUTE

TWENTY-TWO EAST FORTIETH STREET

NEW YORK, N. Y.

October 17, 1933.

Mr. Malcolm Muir

Deputy Administrator

National Recovery Administration

Washington, D. C.

Re: Asbestos Industry Code

Index - 1002/1/01

Dear Sir:

Attached are four copies of the formal Application for Presentation of a Code of Fair Competition.

These should replace the application forms filed with the National Recovery Administration on August 7th.

Very truly yours,

Lewis H. Brown

President.

The Code, as printed in preparation for the public hearing, represents in reality the fourth revision of the Code. Incorporated in this Code as it now stands are many, many changes that were the result of meetings, conversations and negotiations with officials of the National Recovery Administration and the representatives of the various labor, legal and similar boards.

The Code as printed, therefore, represents a great mahy concessions and compromises which have vinally been agreed to by the signers of the Code and represents many departures from the Code as originally presented to the Administration. While there are undoubtedly numerous changes that the members of the industry would like to make in the code, nevertheless it now represents the agreement that has been reached and the members of the industry who have signed the code and who represent a very large majority of the total industry are willing to accept this code as the charter of the Asbestos Industry and, if it is approved in this form, are willing to proceed from this point on in a sincere and earnest attempt to administer the provisions of the code in the interests of the whole industry and of all those connected with it.

Hence, we do not have any official changes to make in the Code as printed for public hearing, with the exception of the following minor typographical errors that perhaps should be mentioned at this time so that correction can be made before the final copy of the code is approved.

For your information, I will say that my references refer to the copy of the code printed by the United States Government Printing Office. The following errors should be corrected:

In Article III, Section 3, on Page 2, in the next to the last line after the word "production" insert a period (.) and eliminate the balance of the sentence reading, "provided, however, that employees in such cases shall not work more than 48 hours in any one week." This clause was left in by the printer and was not agreed to by the industry.

In Article VI, Section 2, sub-head C, on Page 6, in the next to the last line, change the word "of" to "if", thus making the sentence read, "and if a member of the code, any other penalties provided for said member's Division of the Code." This is a purely typographical error on the part of the printer.

For the benefit of those interested, I should now like briefly to present some data in reference to the Asbestos Industry that may have some bearing on the acceptance of the Code.

Up until the nevessity for organization was brought about through the passage of the National Recovery Act, the Asbestos Industry had never been organized as a unit. Between the middle of May and the end of July, 1933, those manufacturers in the United States who have been competing in the markets with products made from the common mineral asbestos were brought together for the sole purpose of cooperating with the Government under the National Recovery Administration.

Asbestos is a peculiar, fibrous mineral that has been known to man for many hundreds of years. Legends handed down assert that it was known to the early Greeks and that the Em- perorCharlemagne had a tablecloth made of it, which, when it became dirty, was cleansed by throwing it into a blazing fire from which it was extracted without harm.

The mineral is found in large quantities in three important areas; namely, Canada, South Africa and Russia. There are also deposits, some of which have been mined for many years, in other countries, the most important of which, perhaps, are those in the United States where we have several mines in Arizona and at least one in Vermont. But in terms of tonnage the greatest quantity of fibre is produced in the three areas which I just mentioned.

These facts, however, are only of general interest since the Code here presented does not cover mining but only manufacturers of products containing some asbestos fibre and also includes some closely allied products in which there may be no asbestos fibre but which are manufactured by the same group of manufacturers and sold through the same channels of trade or to the same kind of customers.

While asbestos fibre has been known to man a long time, it is only during the last seventy-five years that he has really learned to make use of it in a substantial way in commercial products.

In order to understand the complexity and diversity of the products manufactured by members of the Asbestos Industry, it is necessary that I mention very briefly now this Industry came into being in this country.

The earliest manufacturer, starting just prior to the Civil War, in this country, had only a brief knowledge of asbestos fibre and its peculiar resistance to heat and fire, to weather and decay, and that it was the only fibrous substance having these properties that could be spun and woven.

The pioneers in the industry started out to find uses for this mineral. With the crudest of implements and with the most primitive type of research they began to create the products that are now commonly used by most of the major industries in the world and to organize companies and build factories to manufacture and sell these products.

Over the years the products increased in number as the needs of customers were determined and the means for satisfying those needs discovered.

The first two types ofproducts that were developed were made from asbestos paper and asbestos textile products which were made by spinning and weaving the asbestos fibre.

Next came asbestos cement products in which the asbestos fibre is used as a reinforcing agent. These products were developed after Portland cement became popularized as a building material.

In this same class came the use of asbestos fibre as a binding material in high temperature insulation products which were developed to prevent the transference of heat from boilers and pipes.

And, last but not least, the largest group of all, which is the brake lining and related friction products materials, which with the advent of the automobile developed into the largest use in terms of dollar volume of any of the groups mentioned.

Asbestos has also found a large use in the manufacture ofpackings which are used in almost every industrial plant in the country. The group of manufacturers who make asbestos packings might well have become a section of the Asbestos Industry were it not for the fact that packings are also made from other materials such as rubber, copper and graphite with the result that these manufacturers have organized themselves as a separate group and are presenting a separate code of fair competition to the National Recovery Administration.

As time went on, employees who had learned the business with the older companies separated themselves and organized competing companies, or other groups of citizens seeing the success of the early pioneers organized companies to produce similar competing products, or inventors who had discovered new adaptations to meet the needs of industry organized companies to develop, manufacture and sell products made in accordance with their new inventions.

Thus it came about that we have companies in this industry who manufacture all of the products listed in Schedule I of the Code, and we have other companies who manufacture part of these products but not the balance and we hav also companies who manufacture only one group of these products.

With such a situation it is only natural that while the basic interests of the manufacturers may be the same and whereas their iproblems may be similar, nevertheless because of the wide diversity and lack of standardization of the products manufactured it was necessary that we divide the industry into several groups whose problems were as nearly similar as possible.

For this reason the basix organization of the asbestos industry id divided into five divisions. Each manufacturer has membership in one or more divisions depending upon whether or not he manufactures the products classified in each division. Hence, you will understand that some manufacturers are members of all five divisions, others are members of two or more, and still other manufacturers are members of only one division.

While this sounds complicated, it is in fact relatively simple. It is not an arbitrary classification but rather one that is a result of long practical experience and more or less the manner in which companies themselves subdivide their business.

There is one other general statement that I think should be made in order to clarify just what the Asbestos Industry consists of: namely, that a very large number of the companies who are members of the Asbestos Industry also manufacture other products that are not related in any way to this manufacturing group and are therefore classified under other codes that are being submitted to the National Recovery Administration.

In the beginning, some of the members of this industry were dealing with more than fifteen different codes and it was in an effort to simplify this problem to some extent that the Asbestos Industry was organized and at least five of these smaller groups were brought under one code.

Another fact that needs to be understood about this industry is that it manufactures a great variety of products. Items in which any one company sells more than a few hundred thousand dollars a year are rare and the business itself is characterized by a relatively small volume of sales on any particular item or line. The important corollary to this fact is that relatively little advance planning is possible and by far the greatest majority of the products in this industry are made up after the order is received from the customer.

It is for this reason that the industry must be given great flexibility in the number of hours of work permitted so that it can take care of the needs of the many industries which this industry supplies.

For the purpose of this Code, therefore, the Asbestos Industry is composed of manufacturers producing and selling products made wholly or in part of asbestos fibre and includes some few items that are so closely allied as to be practically inseparable but may not, of necessity, included asbestos fibre. Schedule I of the Code on page 12 lists the five divisions of the Asbestos Industry and the products included.

Members of the industry are therefore companies with their subsidiaries, affiliates and agencies who manufacture the products listed in Schedule I.

In explanation of the figures that I am about to give you on the size of this industry, I wish to say that in some cases it has been most difficult to secure any adequate figures for th the reason that most of the companies keep their figures on their business as a whole and a large number of the members of this industry also manufacture other lines ofproducts that are not included in this industry. Hence, there was no reason in years past for segregating the figures on the particular products now included in the Asbestos Industry and while diligent effort has been made to secure adequate statistics, it is impossible in many instances to get them covering past years.

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However, from those data collected it appears that in 1929 this Industry as defined in this Code employed approximately 9,000 workers and that on this basis total employees engaged in this Industry must have totalled between 10,000 and 11,000 employees. Sales amounted to 60% of the 1929 level and ~~sales~~ were about 38% of the pre-depression value.

It must be kept in mind that in dealing with these averages the figures will vary considerably for the five Divisions of the Industry. For example, some of the products of certain Divisions are largely used in the building industry. As you know, the Dodge statistics for contracts let in the twenty-seven States east of the Rocky Mountains showed for the five years prior to 1930 an average volume of building in excess of $6,000,000,000 per year. In 1932 the total was less than $1,400,000,000 and in 1933 the total would appear to be only slightly in excess of $1,000,000,000 which is a decline of more than 80%. Hence those products that are directly related to building suffered most and unemployment developed to the greatest extent in the factories making those products.

Moreover, as a result of the financial difficulties with which the country is confronted and the lack of mortgage money, there has been only a very small revival so far in the building business and hence inthose Divisions the figures on re-employment are not as encouraging as we would like.

Figures as to capital investment in this business are in-complete. The reason for this is that the members of the Division have been unable to segregate accurately the proportion of their plants devoted to the manufacture of asbestos products. However, I estimate that the capital assets involved in this industry, if they could be properly segregrated, would approximately be at least $50,000,000.

In this Industry there are 58 different companies. There are, however, many subsidiary companies which are not included in this figure. These companies operate 71 plants. Most of the plants are located East of the Mississippi River and North of the Ohio River. A few are located in the Pacific Coast. There are also a few plants in the Southern States although the proportion of employees in the South, as defined in the Code, amounts to less than 4 per cent of the total. The difficulty, however, with these plants in the South is that they either also manufacture textiles and operate under the Textile Code or are in localities adjoinging factories who operate under the Textile Code and it is therefore imperative that insofar as these plants in the South are concerned they be given consideration until such time as the Textile Industry in the South changes the basic conditions under which they operate.

It has been impossible to secure complete detailed statistics as to exact capacity of the factories engaged in the manufacture of asbestos products. The reason for this is that there are so many different items that can be manufactured on the given machinery that the amount at capacity that could be turned out of any one item would be very large whereas the necessity of producing goods in the variety in which the orders are actually received makes it almost impossible to arrive at any accurate figures as to capacity. However, it is estimated that even in 1929 there were only a few plants working at actual capcity and in that period of the greatest volume ever known to the Industry, the plants might still have taken care of at least 25 per cent volume. Hence it can be seen that in 1932 when sales volume was off 62 per cent, the plants were operating at only about 30 per cent of capacity.

The Asbestos Industry as covered by this Code is dependent largely upon other basic industries in this country, as follows:

1. Automobile and truck business
2. Building industry
3. Electrical industry
4. Oil industry
5. Chemical industry
6. Railroads
7. Steel and Iron industries
8. Miscellaneous

A brief review of that list will indicate that practically all of the products of the Asbestos Industry are primarily used in what might be termed capital asset expenditures and in the repair and maintenance of capital goods. Moreover, it is common knowledge that most of the capital goods industries have suffered a very large depreciation of their volume with consequent excessive losses.

The tremendous loss of volume in these industries has naturally been reflected in proportionate losses to the Asbestos Industry and has resulted in not only great hardship to our employees, but has also brought losses to the companies in the Industry. While it is impossible to segregate the published statements of companies to show only the profits or losses as applied to asbestos products, nevertheless I have taken the published statements for 1932 of nine companies out of the 58 and these figures may be considered typical. They indicate net losses of $3,918,168.

Furthermore, it is safe to say that with very few exceptions the companies in the Asbestos Industry lost money last year and the extent that they may have reduced their losses in the first sox months of this year was due largely to the further reduction of expenses. It also indicates quite clearly why it required considerable courage for the employers in this Industry to sign up under the President's Reemployment Agreement and to deliberately undertake to increase their costs inthe face of the conditions then existing.

However, I am proud to state that the first act of the Asbestos Industry, after its organization at the end of July 1933, was to come to Washington and file a Code of Fair Practice and sign the President's Reemployment Agreement. From August, practically every company in the Asbestos Industry has been flying the Blue Eagle and doing their part in the war on the depression.

The minimum wages and maximum hours in the proposed Code of Fair Competition for the Asbestos Industry are so nearly the same as those under which the Industry has been operating since August under the President's Reemployment Agreement, that a few facts as to the changes that have taken place in employment, hours of work, and wages, bear directly on the reasons why we are asking for a continuance of a 40 hour week and a minimum of 40¢ in the North and 37½¢ in the South.

These facts have been gathered from members of the Industry and cover 85 to 90 per cent of the wage earners engaged in manufacturing products covered by the Code.

In the following data, I will give you the outstanding facts.

A. Employment. If we take the number of factory employees in 1929 as 100, then in February 1933 employment had declined to 59. This means that 41 out of every 100 employees engaged in the Industry in 1929 were no longer employed in February 1933.

However, the effort of employers to spread employment is indicated very clearly by the fact that if we take the number of man hours in 1929 as 100, the number utilized in 1933 was only 38, thus indicating that whereas the number of man hours was reduced 62 per cent. This indicates very clearly that employers in this Industry were making every possible effort to keeptogether as many of their trained employees as they possibly could.

In May 1933, Spring business had brought some small improvement in employment, raising the index from 59 to 62 and the men hours employed from 38 to 48.

However, at the endcof Aughst, after the Industry had adopted the President's Reemployment Agreement, the index of employment had arisen to 90, thus indicating that at that time the Industry was employing within 10 per cent as many employees in factories as in 1929; whereas the index of man hours employed had only risen to 71, thus indicating clearly the effect of the 40 hour week in the spreading of employment.

If we look at the figures from the standpoint of average hours worked per factory employee, the same change is evident. In August 1929, factory employees worked on an average of 52.8 hours per week. In the last week in August in which the statistics were taken, there was a decrease in the average weekly hours worked as compared with 1929 of 28.8 per cent and a decrease of 9 per cent as compared with May of this year.

If we analyze the statistics on the average hourly earnings, we see that in August 1929, the average rate per hour of employees in this industry was 52.9 cents and I amy say by way of explanation, that this Industry is characterized by a large group of unskilled labor at close to the minimum rates and also a relatively large group of highly skilled who receive a great deal more than minimum wages.

As stated before, in August 1929 the average hourly earnings were 52.9 cents. In May 1933, they were 42.7 cents. Thus the average increase in hourly earnings since May of this year amounted to 15 per cent; and the decrease in hourly earnings between August 1929 and August 1933 amounted to only 8 per cent, which is much more than offset by the cost of living as compared to 1929.

Figures compiled from our Industry indicate that in August 1929 the average earnings were $27.97, due, as you will understand, to the fact that the average factory employee worked almost 53 hours per week. In May 1933 when the average hours worked was 41.4, the pay envelo-e contained on an average of $17.49 and in the latter part of August, as a result of the changed conditions brought about as a result of the President's Reemployment Agreement, employees average weekly earnings were $19.48 for 40 hours of work, equivalent after correcting for a 23 per cent drop in the cost of living to $25.30 in 1929.

To summarize, this Industry with a 40 hour week under present conditions has been able to give work to more than 90 per cent of the factory workers which were employed in 1929, even though our business in dollar volume is still less than 50 per cent higher than the minimum required by the C9de and show a 15 per cent increase since May of 1933.

In further reference to Article IV of the Code covering wages, May I point out that Section 7 which reads, "no distinction shall be made between male and female employees where the same class of work is performed", represents a distinct advance in the actual conditions that have occurred in the Industry for over seventy-five years and that this forward step repre- sehts a distinct increase in cost to the manufacturers even though in August 1933 only about 10 per cent of the total factory employees were women.

In reference to Article V of the Code covering Child Labor, I wish to state the Industry is at the present time employing no person under 16 years of age and has agreed that the Code include the provision that no person under 18 years shall be employed when operating hazaradous manufacturing machinery.

That part of the factory cost of the products of the Asbestos Industry represented by wages paid to labor, varies for different products from 15 per cent to 40 per cent. Large items are, of course, the cost of raw materials and the cost of power and steam for processing, as well as the charges on the large capital investment necessary to manufacture these products. In principle, the majority of the members of the Asbestos Industry are not opposed to the payment of higher wage rates but are only concerned with the problem of business recovery to a point where the selling price can cover the costs of doing business, including such labor costs, and leave a reasonable profit for the stockholders who have invested their savings in these businesses. This Industry sells its products primarily to other large industries and in the building construction field. The building constructions field will lag behind the general recovery of business by as much as one or two years if we are to judge by the history of the past. In selling to large industries, we are confronted with companies who themselves are having to meet rising costs of doing business and whose purchasing agents are doing everything they possibly can to keep down the costs of their raw materials until the time element will enable them to secure prices for their products adequate to cover replacement costs.

Hence the Asbestor Industry has gone as far as it can, and perhaps further than it should in the minimum wages outlined in the proposed code. Many of our products are sold to industries on the basis of annual requirement contracts so that costs of advanced selling prices remain where they were set at the end of 1932. In other words, the time element in the Asbestos Industry as a whole moves slowly. The recovery of replacement costs will prove difficult and particularly as it applies to many of the smaller companies whose capital reserves are small, may well prove embarrassing and dangerous before the volume of business increases to such a point that they will be able to support increased labor and raw material costs, as well as charges on fixed assets capable of producing several times the current volume of business.

In reference to Article III, Hours of Labor, I wish to refer again to the fact that employers in the Asbestos Industry are not opposed eventually to shorter hours, if in fact this will enable the country to absorb the unemployed. But the reduction from 52.8 hours in 1929 to the present 40 hour week, is quite a remarkable accomplishment, considering that Industry generally required several decades to reduce the average working hour s of factory employees from more than 60 to about 48. Furthermore, in our industry further reduction of hours could only be accomplished if the testile industry were to make the same readjustment.

I would also like to call to your attention that in this Code, provision is made for payment for over-time work. This is an innovation in the industry. It represents a very big concession to the viewpoint of the Labor Board of the N.R.A. and has been agreed to by the members of the Asbestos Industry only because it acts as a penalty to check the amount of over-time work used.

The provisions of the Code under Article III have been worked out as a result of the practical experience of the members of the Industry in connection with the President's Reemployment Agreement. They are in no sense intended to evade the essential purpose of the Act which is to increase purchasing power and employment. With that the members of the Industry are in sympathy.

But flexibility is of the utmost importance in our Industry and without flexibility it is practically impossible to operate without excessive cost.

While I mentioned the importance of flexibility before, I would like to amplify my remarks somewhat on that subject.

To take a very concrete case, I would like to mention the Brake Lining Division of the Industry, which together with that portion of the Textile Division which manufacturers yarn out of which Brake Lining is woven, represents 50 per cent or more of the Industry. One of the large markets for Brake Lining are the manufacturers of automobiles. Three automobile companies manufacture 75 per cent of the number of automobiles manufactured each year. Speaking in round figures, about ten feet of brake lining is required for each new automobile produced. Automobile companies are famous for having developed the system of having their raw materials come in one door of the factory and applied directly to the car with a minimum of inventory on hand. The result has been that the manufacturers who supply the Brake Lining to the automobile manufacturers have had to perfect their processes to a high defree of efficiency in order to meet this basic requirement. Production schedules of automobiles change frequently and telegraph and telephone orders are a common occurrence which require the utmost speed in manufacture and delivery if the entire production chain of an autobobile plant is to be kept moving.

Hence the Asbestos Industry cannot agree to fixed rules that absolutely limit the hours of work. Where there are so many different items as to size and kind manufactured, it is imperative that employees engaged in the preparation, care, and maintenance of plant, machinery, and production facilities must be able to set up and change over machines at times that do not interfere with the regular production run. And while we in this industry do not have very many continuous process workers, nevertheless, where they are employed, it is essential that rigid limitations on these processes be not imposed.

Moreover, a great many of the factories engaged in manufacturing Asbestos products are small, necessitating many of the employees being skilled in more than one activity and thus passing from one operation to another. For example, from the statistical reports turned in by the various Divisions of the Asbestos Institute, the Departments or Factories engaged in manufacturing these particular products are tabulated as a total of 62 plants of which 38 employed less than 100 factory workers; and in the Brake Lining Division, out of 23 plants, 15 employed less than 100 workers.

In addition to the above, this Industry is confronted with a very wide seasonal variation in sales. In order to get specific data on this, we asked the members of each Division for information as to the percentages of total sales for the year that are shipped in eachmonth of the year. While these tables involve a great many figures, a careful analysis indicates that on the average the volume of production in the highest month of the year is 2½ times as great as in the lowest mongh and in some Divisions of the Industry, the ratio of the highest month averages three times as great as in the lowest month. In many companies it runs up to 10 to 1.

This, on the face of it, indicates not only a need of reserve capacity, but it also indicates clearly the need of flexibility unless the industry resorts to constant hiring and firing of employees, which is certainly unsatisfactory to the emplpyee and to the employer. Only a fraction of the problem can be taken care of by manipulating inventories because changes in specifications take place to such an extent that only in a relativley small portion of the business can inventories be built up to take care of seasonal peaks.

Article VI of the Code covers administration. The Code authority is set up as a representative body of the Industry to administer the Code and has no connection with any trade association or institute. Membership in the Divisions are open to any member of the Industry and there are no inequitable restrictions upon such membership. One member of the Code Authority is elected by a two-thirds vote of themembers of each Division and the Division representatives thus chosen elect an additional member.

Sub-Code Authorities are set up in each Division to administer those provisions of the Code that deal with the sale of goods and unfair trade practice acts of the members of the Division.

Members of the Code agree to bear their proportionate share of the expense of the Code Authorities and its activities and no effort is made to assess part of these expenses against a member of the Industry who is not a signer of the Code.

The duties and powers of the Code Authority are defined, all of which are subject to the review of the Administrator of the National Industrial Recovery Act. Ample provision is made for appeal on any point on the part of any interested party to the Code Authority or to the Administrator so that the rights of every member of the Industry are amply protected. Thus unfair requests for confidential information can be the cause of an appeal to the Administrator.

Provision is made for the development and promulgation of codes of ethics and merchandising plans best calculated to promote fair competition in each Dicision. Such plans cannot at this time be made a part of the Code because some of them are still in process of being worked out. Furthermore, as worked out they must be easily changed to correct mistakes and abuses. If the Code itself had to wait until each of the five Divisions had irrevocably agreed upon all the details of a common merchandising plan, I am afraid that the termination data of the

National Industrial Recovery Act would arrive before any code whatever was adopted. Hence if the first problem of this Act, which is the reduction of unemployment and the increase of purchasing power, is to become an accomplished fact, permanent codes must be adopted and provisions must be made for industry later to solve their many complicated and difficult problems to whatever extent the large majority of the Industry is able to agree upon such plans.

Article Vll covers simply a statement of recognized untrade practices. It is written in general terms primarily because trade practices differ in the five different Divisions of the Industry and the uniform detailed definition of a trade practice might not be acceptable in all Divisions.

Articles Vlll and lX of the Code are designed primarily to bring about some improvement in the competitive conditions that have been characteristic of the Asbestos Industry for many years. Because of the large number of companies engaged in the Asbestos Industry and because of the lack of standardization of products, this Industry has been characterized for years by cutthroat competition, price wars, secret prices and rebates, misclassification of customers, selling below cost and other unethical and unfair practices which have been destructive and disastrous to capital in our business and which has also had its effect upon labor conditions in our business, because if capital cannot earn an adequate wage and if unbridled competition exists, then labor has to suffer also. Hence in our Code you will find provisions which, it is hoped, will tend to correct at least part of these abuses both for the benefit of capital and labor equally. Moreover, competition is so much a part of this Industry that our customers will also be protected.

As a result of the rapid growth of this Industry from 1914 to 1929, it is at present over-built and has the capacity to produce three times more than the demand requires. This over-capacity was developed primarily to take care of the building constßuction industry as well as to keep pace with the tremendously rapid development of the automotive industry and the oil industry. Anyone who studies these facts carefully will realize that this Industry is not going to get back to the volume of the boom period of 1914 to 1929. The problem that confronts this Industry is trying to organize ourselves so as to make a fair profit on a much lower volume of business. But it is a very serious problem that confronts both the stockholders, the management and the employees in this Industry.

The solutions of this same problem that are being discussed bų some of the natural resources industries are impractical for this Industry. With such a diversity of products and such a lack of standardization of specifications, there is no possibility of stabilization and economic planning through pro-rating of production. Nor is there any inclination nor intention on the part of the Industry to fix prices except insofar as certain items are controlled by patent rights administered by owners of patents.

We recognize clearly that merely being public as to prices, terms and conditions of sale will not solve the basic problems of this Industry, but it is hoped that this forward step will at least eliminate some of the unfair trade practices that have existed in the past and will tend to eliminate unfair discrimination as to customers and tend to bring about stabilization at some level. Whether stabilization takes place at a profitable level can only be determined by the bitterness and extent of the competitive struggle and the economic factors involved, but with the provisions of publicity enforced, it will at least be a struggle in the open.

Article 1X, it is hoped, will serve in some measure as a brake to prevent the possibility of some investigation taking place if destructive competition does carry selling prices below cost. But it also provides that, pending such investigation, the hands of one competitor shall not be tied by a rule of law promulgated in the Code while a competitor who has developed an economic advantage or pretends to have one takes away his business without a struggle.

Moreover, in those cases where one member of the Industry has a low cost as the result of his enjoying a large volume order (for example, the Brake Lining business of Ford, General Motors or Chrysler), it is obvious that unless a competitor is allowed to meet such a members price (this regardless of his own present cost), then such a competitor may never be able to build up enough business so to distribute his overhead as to meet his competitors cost. Thus without such a provision one member of the intustry might by rule of law be given a monopoly and small industries prevented from growing. Clearly this is not the intent and purpose of the Act.

In brief, this Code provides for competition, but it also makes possible the gradual working out, by members of the Industry, of rules and regulations for the conduct of this business that will change the competitive struggle from what might be likened to Indian warfare to a more logical use of competitive weapons. It is hoped that, by so doing, the Industry will gradually bring itself out of the depression and into a condition of prosperity tnat will enable it to pay fair wages to its employees and taxes to the Government.

Article X of the Code contains the labor provisions as prescribed by the National Recovery Act and, in addition, Section 4 which is commonly known as the "merit clause".

This section has caused a great deal of argument and discussion. I do not wish to go into the matter again here because I am sure that we are all familiar with both sides of the question. The members of this Industry, however, are firm in their conviction that Congress, in passing the National

Industrial Recovery Act, covered only one side of a problem which like most problems has two sides.

The Asbestos Industry has never been characterized by labor disputes. As pointed out previously, most of the factories are small and the contact between management and labor very close. Hence this clause is inserted in the Code not to create controversy but to clarify, if clarification is needed as a means of avoiding misunderstanding in the future and to continue a basis of understanding that has existed in the past.

In closing, I would like to call your attention to Article Xl, Section 7, which reads: "By presenting the Code the members of the Industry assenting hereto do not thereby consent to any modification thereof, and reserve the right to object individually or jointly to any such modification," This provision does not in any way attempt to restrict the right of the President under Section 10 (b) Title 1 of the Act but it does indicate that members of this Industry have signed this Code as written and if any changes are made therein, then we must obtain their consent before their signatures can be binding.

This provision is not inserted with any intent to make more difficult the promulgation of the Code of Fair Competition for the Industry but siiply because the Asbestos Industry is extremely complex and provisions that may be acceptable to one Division of the Industry may be entirely unacceptable to another Division because the conditions under which it operates are entirely different. Hence it would be eminently unfair for even a well-qualified representative of a Division to bind a majority of the members of that Division without their knowledge or consent.

In conclusion, this Code of Fair Competition represents the result of months of work by the members of this Industry and their acts to date indicate clearly that they are sincerely and earnestly trying to carry out the purposes of the National Industrial Recovery Act. This is the first time that the Asbestos Industry has ever been brought together in a unified group capable of constructive work. The extent to which this Industry will continue to operate as a unit beyond the expiration of the President(s Reemployment Agreement, which expires the end of this year, will depend largely upon the promulgation by the National Recovery Administration of this Code of Fair Competition.

I hope that the time element involved in compiling and promulgating such a code is therefore as short as possible.

OTSMITH FLS AT 11:00

Mr. Administrator, I would like to reserve permission, if you will give it to me, to later submit some few other facts.

Assistant Deputy Brady: You may do that.

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Assistant Deputy Brady: Mr. Brown, I simply want to say here that if the future work of your Institute is to be judged by the way you have prepared the code and prepared this brief, I think you are going to have wonderful success.

I want to compliment you and your Code Committee on the information that has been packed into this brief, and I want to call it to the particular attention of our Research Department, Mr. Spencer Reed, for study, before he prepares his report, and also to our Labor representative, Dr. Edmund Eckel, for his study.

We will take up the code, article by article.

Number 1 is standard. There is nothing on that.

Article II.

Mr. George W. Mills, of the Philip Carey Manufacturing Company, has asked to be heard on that.

STATEMENT OF MR. GEORGE D. CRABBS,
President, THE PHILIP CAREY MANUFACTURING COMPANY

Mr. Crabbs: We desire to submit this brief to clarify certain things.

Assistant Deputy Brady: Are you Mr. Mills?

Mr. Crabbs: George D. Crabbs.

I desire to submit this brief, as I have suggested, clarifying and modifying Article II, Section 5 (a), and Article

XI, Section 1.

I have a copy, Mr. Administrator, and want to submit it.

Assistant Deputy Brady: It may be put into the record at this point.

(The brief referred to is as follows:)

CODE OF FAIR COMPETITION FOR THE ASBESTOS INDUSTRY

BRIEF OF

THE PHILIP CAREY MANUFACTURING COMPANY

FILED AT THE PUBLIC HEARING OCTOBER 19, 1933.

The Philip Carey Manufacturing Company, a member of the Asbestos Industry, suggests modifying Article II, Section 5 (a) and Article XI, Section 1, of the proposed Code of Fair Competition.

The Sections with the modifications we xrequest are set fòrth below and for convenience we have underscored the portions which we suggest adding.

Article II, Section 5 (a), embodying our propose amendment would read as follows:

The term "affiliates" means legal entities which, by contract with the manufacturer, performs the manufacturer's selling function <u>exclusively</u> for such manufacturer <u>in an exclusive territory.</u> It does not include jobbers, dealers, applying contractors and other such customary channels of distribution <u>which do not come within the above definition</u>.

Article XI, Section 1, embodying our proposed amendment would read as follows:

For the purposos of the code, all transactions between manufacturers who are members of the industry and their respective subsidiaries or affiliates, as defined in Article II, Sections 5, 5 (a) and 5 (b), shall be considered as interdepartmental transactions of the manufacturer. No such manufacturer shall sell to such subsidiary or affiliate unless such subsidiary or affiliate shall agree in writing to conform, and does conform, to the pertinent provisions of this code and also agrees to maintain prices, terms and conditions of sale provided for in the manufacturer's current published prices, terms and conditions of sale. A manufacturer shall be responsible to the full extent of the penalties provided herein for any and all acts by such manufacturer's subsidiaries, or affiliates, or agencies, under this code.

The Philip Carey Manufacturing Company is one of the large companies in the Asbestos Industry, having been manufacturing and selling asbestos products for upward of fifty years. It sells its products through the Philip Carey Company, a wholly owned subsidiary of the Philip Carey Manufacturing Company. In this Industry there are many different methods of distribution, but for upward of twenty-five years the Philip Carey Manufacturing Company and its subsidiary, The Philip Carey Company, have consistently used two methods of distribution.

(1) Branch offices of the Philip Carey Company located in

various cities throughout the country and operated to sell Carey products in defined territories.

(2) District Distributors under contract with the Philip Carey Company, allotting to the Distributor an exclusive territory, in which exclusive territory the distributor has the exclusive right to sell Carey products. (These District Distributors correspond to the affiliates provided for in the Code submitted.)

In selling and distributing The Philip Carey Company has upward of seventy branches and District Distributors. Of this number thirty-five are District Distributors. These District Distributors perform in the selling and distributing of the products, the same function that a branch office performs. This District Distributor method of distribution has been used continuously for upward of twenty-five years and many of the present District Distributors have served in the same capacity throughout that entire period. These District Distributors have contracts with The Philip Carey Company, many of them being ten year contracts, under which a separate territory is provided for distributor and he is given the sole right within that territory to sell Carey products. These contracts are exclusive in that they give to the distributor the exclusive right to sell Carey products in an exclusive territory.

In territories where the Philip Carey Company does not have District Distributors, it has branch offices. The District

Distributors in their respective territories function just as the branch offices function in other territories.

This method of distribution through District Distributors under contracts, covers a very large portion of the United States.

For instance, District Distributors are located in:

Albuquerque, New Mexico

Birmingham, Alabama

Buffalo, New York

Chattanooga, Tennessee

Chicago, Illinois

Cleveland, Ohio

Denver, Colorado

El Paso, Texas

Ft. Smith, Arkansas

Jacksonville, Florida

Los Angeles, California

Memphis, Tennessee

Minneapolis, Minnesota

New Orleans, Louisiana

New York City, New York

Portland, Oregon

San Francisco, California

Seattle, Washington

Washington, D. C.

and other points in the United States. This method of distribution is the established policy of The Philip Carey Manufacturing Company. These distributors having the exclusive right to Sell Carey products each in his own separate exclusive territory, with branch offices of The Philip Carey Company each operating in another like territory, provide a complete and thorough distribution of the products of The Philip Carey Manufacturing Company throughout the United States.

The amendments proposed and suggested above to Article II, Section 5-(a), and Article XI, Section 1, are for the purpose of bringing within the scope of the code the method of doing business through affiliates. These affiliates correspond under the definition with the District Distributors which The Philip Carey Manufacturing Company and its wholly owned subsidiary, The Philip Carey Company, have been using for years, a method which because of contracts they are required to continue. The proposed amendments enable the continuation of this method of doing business without in any way interfering with existing contracts, having several or more years to run, with upward of thirty District Distributors.

By inserting in Article II, Section 5 (a), the restriction as to the affiliate having exclusive rights in an exclusive territory, there will be no overlapping of territories between affiliates of the same manufacturer which would tend to confusion in the Industry and would probably result in unfair situations arising as well as difficult problems regarding violations or alleged violations of the provisions of the code. With an affiliate operating in an exclusive territory exclusively for a given manufacturer it would, in so far as that territory is concerned, be a comparatively simple matter to trace the activities of that member of the Industry and thereby reduce the problems of the Code Authority and the Administrator.

By our suggested amendment to Article II, Section 5 (a), we also narrow the definition of an affiliate so that the affiliate will approximate more closely the branch operation by giving the affiliate the exclusive right in an exclusive territory to sell to all classes of trade in that territory just as a branch would if located therein.

The addition to Article II, Section 5 (a), of the words "which do not come within the above definition" we submit clarifies and more clearly defines affiliates by excluding from the definition of affiliates any and all customary channels of distribution that are not legal entities having a contract with a manufacturer of the character provided for in the definition of affiliates.

The proposed addition to Article XI, Section 1, tends to place these affiliates or subsidiaries, in the same position, having the same obligations and being liable for the same penalties as a manufacturer or a branch of any manufacturer. By providing that the affiliaties maintain the prices, terms and conditions

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of sale set by the manufacturer, the affiliate becomes, for the purpose of the code, a branch of the manufacturer. Where there are two or more manufacturers operating in a given territory one through a branch, another through a subsidiary, and the third through an affiliate, under the amendment as we propose it, the products of each manufacturer will be sold and distributed on the same basis in that territory with the same obligations under the code. Under this proposed amendment any violations of the provisions of the Code, or the Code of Ethics or Merchandising Plan which may be approved under the Code, or of published prices, terms and conditions of sale, will apply whether a manufacturer is operating through a branch, a subsidiary, or an affiliate.

As submitted, Article XI, Section 1, of the Code after providing for "transactions between manufacturers *** and their respective subsidiaries or affiliates" provides that the "subsidiary or affiliate shall agree to and doew conform to the pertinent provisions of this Code". If this means that the affiliate or subsidiary shall conform to and maintain the prices, terms and conditions of sale provided in the manufacturer's published prices, terms and conditions of sale under Article VIII of the Code, there can be no objection to the addition which we suggest to this Article XI. If the Article without our suggested addition means something else, then we submit that there should be a limitation requiring the subsidiaries and affiliates to maintain the manufacturer's published prices, terms and conditions of sale. Without this there would not be any publicity under Article VIII of the Code between the manufacturers operating in a territory in which some of them had a branch or traveling salesman while others operated through affiliates as an affiliate would not be bound by published schedule of the manufacturer he represented.

We submit that by the suggested amendments, subsidiaries, affiliates and branches will all be substantially in the same position respecting their competitive activities in the market and this we believe and submit is as it should be.

We respectfully urge, therefore, that our amendments to Article II, Section 5 (a), and Article XI, Section 1, be embodied in the Code as finally approved.

Respectfully,

THE PHILIP CAREY MANUFACTURING COMPANY

By G. D. Crabbs.

President.

Assistant Deputy Brady: Is there anything else on that article?

Article III. Someone has asked to be heard on that.

Articles III and IV are usually considered together, hours and wages.

STATEMENT OF WALDO C. HOLDEN, ON BEHALF OF THE AMERICAN FEDERATION OF LABOR FOR THE WORKERS IN THE ASBESTOS INDUSTRY.

Mr. Holden: Mr. Administrator, I have a brief on that.

Assistant Deputy BradyP Mr. Waldo C. Holden. You want to read this?

Mr. Holden: If I may.

(Reading:) ARTICLE III --- HOURS OF LABOR

Section (1) Substitute: No employee shall be permitted to work in excess of 35 hours in any one week, or 7 hours in any 24 hour period. To accommodate seasonal demands, the hours of work for factory employees may be increased to 40 during any 12 weeks in the year. All such work, however, shall be paid at the rate of time and one-half for all hours over 7 per day or 35 per week.

Section (2) to be eliminated from the code.

Section (3) to be eliminated from the code.

Section (4) The limitation as to hours of labor shall not apply to outside salesmen, not to persons in a managerial, executive, or supervisory capacity who receive more than $35.00 per week.

These maximum hours fixed in the above section shall not apply to any employee on emergency maintanance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least one and one-half times his normal rate shall be paid for hours worked in excess of the maximum hours herein provided.

Section (5) No employer shall work any accounting, clerical, office, inside sales, or other salaried employee not provided for above who receives less than $35.00 per week, more than 35 hours per week.

REASONS FOR PROPOSED CHANGES

Hours of Labor. The reco mmendation of a 35 hour week for this industry isnot only one step toward the work-week which must be effected if unemployment is to be reabsorbed.

Current statistics are not available, but in 1931 wage earners in the industry had declined to 69 per cent of the 1929 figure. (Table I).

Considering, therefore, that unemployment in general has doubled since 1931, it is obvious that a 30 hour week or less is necessary to restore the former employees to their places.

A general allowance for hours to be worked over the maximum specified is not felt to be necessary, because actual records for the industry do not show substantial fluctuations from month to month. (Tables II and III).

Actually, the variations in total wage earners by months have in all cases, except for December, 1929, been within limits of 10 per cent above or below the yearly average. Furthermore, increases and decreases to these maximums and minimums have been gradual.

The tolerances proposed in Section 3, with the privilege of a six months' average, detract seriously from the advantages which result from a flat maximum allowance and render any follow-up ofhours in the industry much more difficult.

Since overtime is permitted under Section 4, for maintenance or repair work, under special conditions, it is not necessary to provide a longer work-week for these men.

In the case of other exceptions, it will be found thab by working the hours specified, while not necessarily the same hours of the day as manufacturing departments, additional hours will not be needed.

(Tables I and II and III are made a part of this record in the form of an appendix, and will be found immediately following the transcript of the proceedings of this hearing.)

Mr. Holden: (Continuing to read:)

ARTICLE IV --- MINIMUM WAGES

Section (1) Substitute: No employee shall be paid at less than the rate of $16.00 per week of thirty-five hours.

Section (2) to be eliminated from the code.

(Section (3) Substitute: This Article establishes a minimum rate ofpay, regardless of whether an employee is compensated on a time rate, piece work, or other basis.

Section (4) Substitute: Accounting, clerical or office employees shall not be paid less than at the rate of $16.00 per week.

Section (5) Substitute: The wage rates for occupations other than those receiving the minimum wage herein prescribed shall at least maintain the difference in earning for these occupations for a full-time week, existing on or about October, 1, 1929; provided, however, that these rates shall be subject to reconsideration and adjustment by the Administrator.

Section (6) to be eliminated from the code.

Add Section (10) An employer shall make payment of all wages as due in lawful currency or by negotiable check, therefore payable on demand.

These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earner.

ARTICLE IV --- MINIMUM WAGES

In this article the following wage differentials are made: first, between male employees and female employees;

second, between the Northern section and the Southern section; third, for clerical workers, between the different sizes of communities; fourth, between regular employees and learners and apprentices.

The recommendation in all cases is for a $16.00 per week minimum.

None of the exceptions made should be included.

The article provides "No distinction in rates shall be made between male and female employees where the same class of work is performed.

This is one of the fundamental principles of our program, and is very essential.

The tendency to pay female employees at a lower wage has grown largely from the fact that the market price for female labor is lower. In many cases, the work performed by these female employees is of a skilled and dextrous nature, which can not be performed so efficiently by men. Such work, therefore, is fully entitled to the minimum wage received by men, and in many cases to a higher wage.

Assistant Deputy Brady: Mr. Holden, may I ask if you heard Mr. Brown's statement on what the industry is doing in this respect?

They are already operating under those conditions. They are receiving the same rate.

I wonder if you are working according to the old code, or the new provisions.

Mr. Holden: I have to, primarily, because that is all I have to work with.

Assistant Deputy Brady: All right.

Mr. Holden: My main point here is that the minimum is specified, without variations.

A blanket minimum wage for women is unfair to the women employees who are doing more skilled work than many men.

The differentials proposed between the North and the South, and between different sized communities, are not based on an absolute difference in the cost of living.

Due to the interplay of various factors, there may be variations in the cost of living throughout the country; but because of the complicated interplay between the effect of population on cost of living and the effect of locality on the cost of living it is not equitable to set up the differentials as outlined.

With regard to the minimum rate of pay for office or messenger boys or girls, and for learners, this is another departure from our purpose; namely, to establish an absolute minimum throughout the industry. Not only do such exemptions weaken our purpose, but further, in many cases, these special allowances prove to be serious flaws in our plan.

STATEMENT OF MR. GUY GEORGE GABRIELSON,
ON BEHALF OF THE SALL MOUNTAIN COMPANY.

Mr. Gabrielson: Mr. Administrator, I would like to submit a brief.

Assistant Deputy Brady: Did you ask to be heard?

Mr. Gabrielson: I merely want to point out that I have a brief that I wish to file for the record.

Assistant Deputy Brady: If you will send your name to the chair, we will call on you, on the article that you want to be heard on, at that time.

Mr. Gabrielson: You have passed the article already.

Assistant Deputy Brady: What is your name?

Mr. Gabrielson: Guy George Gabrielson, President of the Sall Mountain Company.

Assistant Deputy Brady: You may go ahead.

Mr. Gabrielson: I just want to present a brief on behalf of the Sall Mountain Company.

Assistant Deputy Brady: Do you want to say anything about it?

Mr. Gabrielson: No.

Assistant Deputy Brady: It will be received, and will go into the record at this point.

(The brief feferred to is as follows:)

Memorandum submitted by theSall Mountain Company at the public hearing on the code of fair competition for the Asbestos Industry on October 19, 1933.

1. This memorandum is submitted based on the proposed Code of Fair Competition for the Asbestos Industry, as revised September 27, 1933, and set for public hearing October 19th, 1933.

2. Article II, Section 5, 5a and 5b and Article XI, Section 1, permit a member of the industry to sell to subsidiaries, affiliates, or agencies without the disclosure of prices as called for by Article VIII. If it is to be the purpose of the industry to have an open price policy, we believe that this should be carried the entire way, the only exception to be where a member of the industry is selling to another corporation all of whose stock of every kind, nature and description and its entire capital is owned by the manufacturer. Allowing any member of the industry to sell at an undisclosed price beyond that point is bound to create unfair competition, particularly where the so-called affiliate is not only a reseller, but also an applier of asbestos products. If, as a matter of policy, the publicity of prices, terms and conditions of sale called for by Article VIII is a desirable one, there is no reason why this should not be extended to all forms of selling, with the one exception heretofore noted.

3. With the above statements which are to be construed

as a reservation the Sall Mountain Company subscribes to the Code, as hereinbefore described.

SALL MOUNTAIN COMPANY

BY GUY GEORGE GABRIELSON

PRESIDENT.

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Assistant Deputy Brady: Mr. Brown, may I ask you with regard to Article III, Section 2, where you are averaging for overtime payment, over a six months' period?

Don't you feel that that would involve complicated figuring?

Suppose someone left in the middle of that period, or end of it, how would you figure that overtime?

Mr. Brown: In case a man left in the middle of that time?

Assistant Deputy Brady: Yes.

Mr. Brown: I should say, if he had worked overtime, we would have to make a settlement with him on the basis of that, irrespective of the day that he left, but this problem applies primarily to a group of employees who are not changing very often.

They are watchmen, machinists; making ~~over~~ plants, maintenance of plants, and of machinery; and, in actual practice generally are a rather stabilized group of employees, because of their knowledge and skill.

In a small plant they know so many different jobs that they are pretty much assured of continuous employment.

What we were trying to do there was simply to work out a tolerance and, if they worked more than an average week, then, we are willing to pay them time and one-third.

Assistant Deputy Brady: Well, isn't that average a misprint?

Isn't that after forty hours?

Mr. Brown: No.

These people are permitted to work ten per cent additional hours over and above forty hours per week, which makes an average of forty-four hours per week, or eight and eight-tenths hours in any day, and, primarily, the reason for that is that many of these people, for example, in a group, you have to change over the machinery, make certain alterations, keep it in shape, so that the regular groups of employees can operate on their regular hours.

Secondly, on shippers and delivery employees, we have a group who, when the day is finished, have to finish getting the work of the balance of the organization into the cars, or into the express offices, or the mail, and there is a little time required to clean up and get it on its way, if we are to get prompt shipment, which is so vital to this industry.

Assistant Deputy Brady: That does not mean Saturday, work half a day Saturday?

Mr. Brown: No, not necessarily.

It means forty-four hours per week. It does not say that they shall not work on Saturday. It primarily means that they have to work extra hours; either before, getting ready in the morning, making the set-up, or, in the evening, after the machinery has closed down, so they can start off next day.

It is simply one of those provisions which provides for a flexible type of planning. We have tried to handle our organization on that line.

Many of them are small organizations.

We are required to make prompt shipments, and we have got to have flexibility. It is an important thing to us. It is for flexibility.

Assistant Deputy Brady: Doctor Eckel, Labor Adviser, would like to ask one or two questions on these provisions, at this time.

Doctor Eckel: There is just one, to clarify the point, Mr. Brown.

That is: Subsection "A" in Section 2, seems to correspond almost exactly, but not quite, to subssection B, in section 4.

But, they have a different basis of hours.

That is, one is on a forty-four hour limit, and the other on a forty-eight hour limit.

Don't you think that those two groups are essentially the same?

Mr. Brown: Well, that was not the intended purpose; it was not intended to be.

Doctor Eckel: No; I think it was not.

Mr. Brown: But it is written in there.

Doctor Eckel: It needs clarifying.

Mr. Brown: What I am trying to explain, in this group, in section 4, the industry had in mind emergencies.

A plant is flooded, and you have got an emergency, work that does not matter about an eight-hour day, or anything else, and you have got a day or two of intensive work, from everybody that you can throw in, to get the plant in operation.

For instance, a fire occurs, and the plant is semi-gutted, or any other emergency of that kind takes place, and that is what we are trying to get at in that particular section of the code.

Assistant Deputy Brady: Mr. Brown, is your particular code committee going to be in town after this hearing, this afternoon?

Mr. Brown: Yes.

Assistant Deputy Brady: We have found by experience that if you can clear up the little points, especially about hours and labor, before you leave, it saves a lot of time for us later.

Mr. Brown: We will be delighted to go into session this afternoon, or tomorrow, if necessary.

Assistant Deputy Brady: This may be all right, but they need, perhaps, a little clarification, to explain why you have some of those things in the code.

If I can not be present myself, I will have somebody from the office, one of my assistants, present, and he can meet you immediately after you take this up with Doctor Eckel.

Any time that is convenient to him this afternoon possibly would be better, and you can get away.

Mr. Brown: That will be perfectly satisfactory. We will be willing to be here on any of these, today and tomorrow, whichever you want.

Assistant Deputy Brady: Article V. There is nothing on that, I believe.

STATEMENT OF MR. WALDO C. HOLDEN.
(Resumed.)

Mr. Holden: I understand that I am on record for and including Article V.

Assistant Deputy Brady: Mr. Holden.

Mr. Holden: Article V --- Child Labor.

Substitute: No person under 16 years of age shall be employed in the industry, and no person under 18 years of age in manufacturing operations.

ARTICLE V -- Child Labor

Our recommendation for the exclusion of all persons under 18 years of age from manufacturing operations is based on the recommendation of the Hazardous Occupations Committee, urging the exclusion of all minors under 18 from occupations involving exposure to asbestos dust.

Furthermore, I include for the record a statement by the Children's Bureau of the Department of Labor, which covers not only the dust hazard in this industry, but also the ever-present hazard from machine processes. In addition to the 18 year minimum which this evidence justifies, such materials must be given full consideration in determining the maximum hours and minimum wages which are specified in the approved code.

EXHIBIT 1 --

Re: Hazards in the manufacture of asbestos products.

Children's Bureau, Dept. of Labor.

No statistics are available in the Census as to the number of minors under 18 years of age employed in establishments manufacturing asbestos products. According to the Census of Manufactures for 1929 (Vol 2, page 827), the average number of wage earners in all asbestos manufacturing establishments in 1929 was 15,358. The number of persons under 18 working in this industry is therefore comparatively small, but the hazard is such that minors under 18 should be prohibited from manufacturing processes. There is not only a mechanical hazard, but also a health hazard from the asbestos dust. (Occupation and Health, No. 37, International Labor Office, Geneva, 1925. (Asbestos)).

While processes differ to a certain extent in different establishments, the August, 1932, Industry Report (Atlanta Retail Credit Association, Atlanta, Georgia) gives a brief summary of the general methods used in making products of asbestos: After the asbestos has been mined and milled and received by the manufacturer, it is sent to the picking machines to be graded and separated according to kind and size; the fibre is then carded or combed by machines into strands so that all the fibres lay in the same direction. It is next sent to the spinning room where it is converted into yarns of various types. Copper or brass wires may be inserted into the fibre by a twisting machines to increase tensile strength.

The asbestos is then ready for weaving into sizes and thicknesses varying from 1/8th inch to 120 inches wide and from 1/8th inch to 1½ inches thick.

The making of asbestos paper is much like the making of any pulp paper and involves similar mechanical hazards; millboard is made in a somewhat similar manner except that it is pressed between plates in hydraulic presses and after drying is cut into convenient sizes; shingles may be made of the fibre and cement, in which case they are subjected to tremendous hydraulic pressure.

From this, it will be seen that the manufacture of products from asbestos requires the use of numerous power driven machines carding, picking, spinning, twisting and weaving machines, mixing machines, presses of all kinds, punches for punching holes into shingles, paint spraying machines for spraying paint on shingles, etc.

Studies of industrial accidents have shown not only that power driven machinery is one of the major causes of accidents to minors, but that it causes a larger proportion of accidents to minors than to adults, thus indicating the need for special protection of immature workers from machine hazards.

For instance, in a study of industrial injuries to minors made by the Children's Bureau, it was found that in Massachusetts nearly twice as large percentage of the accidents from all causes to minors under 21 than of the accidents to adults, was due to power driven machinery. Children's Bureau Publication

No. 152, U.S. Dept. of Labor.

The recent report of the New Jersey Department of Labor, "Compensable Cases Closed during the Year ending December 31, 1932", bears out the same trend.

In a total of 20,198 compensable accidents, that is, accidents causing death, permanent disability or disability of more than 7 days, machines caused 27.4 per cent of the accidents to minors 16 and 17 as compared with 11.2 per cent of the accidents to persons 18 years of age and over. Industrial Accident report, New Jersey Department of Labor, Bureau of Statistics and Records.

Moreover, the Children's Bureau Report cited above showed that minors 16 and 17 years old suffered proportionately more severe injuries than either the younger or older workers.

Death or permanent partial disability resulted from 13.4 per cent of all injuries to workers 16 and 17 years of age; for workers under 16 corresponding percentage was 10.7 and for workers 18, 19, and 20, it was 12.7.

Industrial Accident Report, New Jersey Department of Labor, Bureau of Statistics and Records, page 88.

The Hazardous Occupations Committee, a technical committee of safety engineers, industrial hygienists, and labor law administrators, in its report in 1932 urged the exclusion of all it's minors under 18 from occupations involving exposure to asbestos dust.

Assistant Deputy Brady: Article VI.

I have some names of witnesses here that have not stated the article, so that if any of them are to be heard on Article VI, you might mention your names now.

STATEMENT OF MR. HOWARD SNOW,
General Manager and Treasurer,
SOUTHERN FRICTION FABRIC COMPANY.

Mr. Snow: Mr. Administrator, I would like to file a brief.

Assistant Deputy Brady: Mr. Snow.

Mr. Snow: Shall I read these sections now?

Assistant Deputy Brady: Yes.

Mr. Snow: Mr. Administrator, this is filed by the Southern Friction Fabric Company, covering two sections in the code.

It reads as follows:

October 18, 1933.

BRIEF

To the Administration of the N. R. A.:

Re: Asbestos Code.

We, the undersigned, having reviewed the proposed Code of Fair Competition for the Asbestos Industry, request the following amendments to the code for the reasons stated:

Section 5 of Article VIII

Insert after the word "buyer" at the end of line 2, the words "more than one trial order".

This is to permit those of us that sell by mail to avoid delay in filling first orders.

Section 3 of Article Vl

Add the following as sub-division (c) of the above section and article:

"Provided any concern promptly file such appeals with a Sub-Code Authority and cooperates toward the prompt decision thereof, any restrictions which arise from the Merchandising Plan or Rulings of the Sub-Code Authority provided for herein but supplemental to and not specifically covered by this Code, if disputed by a member on the grounds that said restrictions or rulings will handicap his legitimate methods of operation or distribution tending toward jeopardizing his existence, will not be binding on such member until such appeal has been heard and finally decided."

The reason for the above is that under the Code we are delegating to a Sub-Code Authority which will in all probability consist chiefly of competitors power to originate and approve subject only to the review of the Administrator and appeal to same, merchandise policies governing the entire industry and therefore our own operations and distribution.

SOUTHERN FRICTION FABRIC COMPANY

By Howafd Snow
General Manager and Treasurer

Assistant Deputy Brady: Article VII, unfair trade practices.

Is there someone to be heard on that?

Our Consumers' Adviser, Mr. M. G. Johnston, has certain questions to ask about Articles VII and VIII and IX, but he says that it is not necessary to bring it out here. He would like to be in, or have a meeting with the Code Committee on those articles.

I think that the Industrial Adviser, --- in fact, all of the advisers, --- might meet together with your Code Committee before you leave Washington.

At the same time, you can take into consideration the present protests and briefs that have been filed, so that they may be cleared up and you can get the code then, in the time that you expect it.

Article VIII.

Mr. Snow, your name is down on this again.

Mr. Snc : I have covered that.

STATEMENT OF MR. G. F. STONE,
REPRESENTING THE KEASBEY &
MATTISON COMPANY, AMBLER,
PENNSYLVANIA.

Mr. Stone: I think the other name is Stone.

Assistant Deputy Brady: Mr. G. F. Stone.

Mr. Stone: My name is G. F. Stone. I represent Mr.

A. S. Blagden, President of the Keasby and Mattison Company, and I have his brief, which I wish to submit.

In his brief he asks for a modification or amendment to Article VIII, Section 5, simply in the interest of clarification of the wording.

If necessary, I will read this, or do you wish me to submit it for the record?

Assistant Deputy Brady: Just as you say. If you wish to file it, it will be considered in exactly the same manner as if it were read, and it will be put into the record at this point.

Mr. Stone: I will leave it, then, for the record.

(The brief referred to is as follows:)

KEASBY & MATTISON COMPANY

AMBLER, PENNSYLVANIA

Brief submitted at public hearing on code for the Asbestos Industry, Carlton Hotel, Washington, D. C., October 19, 1933.

The Keasby & Mattison Company, Ambler, Pennsylvania, a member of the Asbestos Industry, through its President, Mr. A. S. Blagden, submits a minor amendment to Article VIII, Section 5, of the proposed Asbestos Code, for the purposes of clarification, as follows:

"After dates to be specified by each Sub-Code Authority for its Division no member of the Division shall sell to any

Buyer for resale unless the buyer has agreed in writing

(1) To observe all the provisions of ventors merchandising plans as adopted under the Code, in so far as they are applicable, and

(2) To maintain vendors sale or suggested resale prices."

We are in accord with the intent and spirit of the amendment in the proposed code, but feel that the above clarification of wording is necessary.

KEASBY & MATTISON COMPANY

A. S. Blagden

President.

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Assistant Deputy Brady: Article IX.

Mr. Brown? I am not going to raise any objections, because it is not my business, but I desire to call attention to something on which I know that various Advisory Boards have already registered objection in other cases.

That is in Section 1, Article IX, all items of overhead expense.

That is a thing that I think leads to all kinds of trouble, and I would like to have you clear that point up, particularly with the Consumers' and Legal Advisers.

Article X.

STATEMENT OF MR. WALDO C. HOLDEN
(Resumed.)

Mr. Holden: Article X --- Labor Provisions.

Section (4) to be eliminated from the code.

Add Section (5) Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employer regulating the age of employees, wages, hours of work, or health, fire or general working conditions than under this Code.

Add Section (6) Each employer shall post in conspicuous places full copies of this Code.

Assistant Deputy Brady: Did you say anything about the merit clause?

Mr. Holden: I mentioned it.

Assistant Deputy Brady: Is there anyone else to be heard?

STATEMENT OF MR. JOHN W. GARVEY,
General Representative of the
INTERNATIONAL HOD CARRIERS'
BUILDING AND COMMON LABORERS'
UNION OF AMERICA, 25 SCHOOL ST.,
QUINCY, MASSACHUSETTS.

Mr. Garvey: Mr. Administrator, I filed an appearance.

Assistant Deputy Brady: What is your name, please?

Mr. Garvey: John W. Garvey.

Assistant Deputy Brady: Yes.

We have Mr. Garvey on here, but it was not stated what article you wanted to comment on.

Mr. Garvey: I want to present a brief on Articles III, IV, VI, and X.

With yourpermission, I will present the brief, but I would like to present our objections to Article X.

Assistant Deputy Brady: All right.

Mr. Garvey: The last objection we wish to make is to Section 4 of Article X, dealing with the "right to select, retain, or advance employees on the basis of individual merit," which we desire to be eliminated from the Code, because it is inconsistent with Section 7 (a), of the National Industrial Recovery Act.

I will file the brief.

It will cover the other articles.

Assistant Deputy Brady: It may go into the record at this point.

(The brief referred to is as follows:)

Brief presented by Joseph V. Moreschi, General President, and John W. Garvey, General Representative, of the International Hod Carriers' Building and Common Laborers' Union of America, 25 School Street, Quincy, Massachusetts, at the Asbestos Industry Code hearing, Carlton Hotel, Washington, D. C., October 19, 1933.

The International Hod Carriers', Building and Common Laborers' Union of America wishes to go on record on behalf of the laborers in the Asbestos Industry protesting against certain articles in the proposed code for the said industry as well as offering certain recommendations.

We object strongly to Article 111 on hours of labor. It is a well known fact how great the unemployment situation is in this country and so as to carry out one of the purposes of the Industrial Recovery Act, unemployment must be greatly reduced so as to put more men back to the limited amount of work that there is. Therefore, we ask that sections 1, 2, and 3 be revised and that our recommendation be considered as a possible solution to relieve this great unemployment problem. We recommend that the maximum hours of labor in the Asbestos Industry excluding managerial work shall not be more than 30 hours per week consisting of 5 days of 6 hours each; and in case of an emergency an employee may be employed more than the maximum of 30 hours but in no case more than 36 hours per week, and all time employed over the maximum of 30 hours shall be paid the customary double time so as to enforce the restriction to employ more men.

The next article we strongly object to is Article 1V on the minimum wages, because the proposed minimum wages of 40¢ and 37½¢ for the North and South respectively is entirely too low and inadequate, and it will never bring about conditions so as to improve the standards of labor, nor will it increase the purchasing power. We ask that this article be revised and in it's place we recommend that the minimum wage rate for the laborers in this industry shall be not less than sixty-two and half (.62½) cents per hour irrespective of northern or southern divisions.

The thing we want to object to is Article Vl on Administration. We request that a representative of labor should be included in the Code Authority which will carry out the effectiveness of this code so that he will look after the laborers' welfare as well as to create a better understanding between employer and employe. This representative of labor shall have the right to file amendments or revisions, and when approved, shall become binding to this code.

The last objection we wish to make is that Section 4, of Article X, dealing with the "right to select, retain, or advance employees on the basis of individual merit", be eliminated from the code because it is inconsistent with Section 7 (a) of the N.I.R.A.

An Auditor: May I ask whom Mr. Garvey, who just spoke, represents?

Mr. Garvey: I am General Representative of the International Hod Carriers' Building and Common Laborers' Union of America.

Assistant Deputy Brady: Article XI. No one has asked to be heard on that.

Article XII.

Schedule I.

Mr. Brown, I had something to ask you on that. As I understand, asbestos insulation and asbestos board do not come under this code.

Mr. Brown: Asbestos insulation does come under the code.

Assistant Deputy Brady: They do?

I see it here.

Mr. Brown: High temperature insulation, and all insulating lines do come under the code.

Assistant Deputy Brady: Did you know that there was a code filed by the Asbestos Insulation Industry of western --- of certain western States?

I desire to call your attention to that.

Mr. Brown: No. I did not know that.

Assistant Deputy Brady: It might be a good idea to look that over.

Mr. Brown: Are they applying that to contractors?

Assistant Deputy Brady: Well, I will not answer any questions on it.

I will let you see the code.

I do not know enough about it in detail.

Mr. Brown: All right.

I knew that one group of contractors, who are not manufacturers, were planning to formulate a code covering activities in the western States, and they were invited into our organization.

That was in the N. R. A., operating through the Construction League.

I think that was under Mr. Pirnie. Under Mr. Pirnie's activities.

They were organizing a national group of contractors, and they should rightfully become an association, or a subheading, or comply with the provisions of that code.

I would like to see their letter, however.

Assistant Deputy Brady: No one else has asked to be heard.

The procedure from now on is that within forty-eight hours the Administrator, or his Deputy or Deputies, gets a report from each of the five divisions that are advisory to the Administrator.

On the basis of those reports, and on the basis of the briefs that are filed the judgment is made on this code of fair competition.

The Administration does not want to be arbitrary, especially on anything that relates to your own trade practices. That is why we insist on saying that, in these public hearings, that if the Code Committee will stay long enough in Washington to get together and iron those things out, it will be better for them, and make it easier and better for us.

This will enable us to get the code out without a great deal of correspondence, which takes up time.

In this case, I must compliment you that you have ironed out practically all of your difficulties, in advance, and the Legal Adviser tells me that there is very little if anything to go over with him.

I suggest that you do see him before you leave, and I hope you will bear in mind that we will try to get your code out in a very rapid shape.

One thing more, Mr. Brown.

While you are in Washington, I would like to have you come into the office and see if I can not have arrangements made for your code committee to meet Mr. Muir, who is the Deputy Administrator, and I would like to tell him what a fine job you have done.

Mr. Brown: Thank you.

We will do that.

Assistant Deputy Brady: If there is nothing else, the meeting is recessed, and not closed definitely.

The purpose of that is that any of these further meetings are really a part of this hearing, so that anyone who has any objections still may come along and be present, or file any additional briefs.

There has never been a case, except in the coal code, that the hearing has had to be opened again publicly, and I am sure it will not in this case.

The meeting is recessed.

(Thereupon, at 11:35 o'clock a. m., a recess was taken as indicated.)

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TABLE I A S B E S T O S P R O D U C T S

WAGE EARNERS, WAGES, VALUE OF PRODUCTS, WAGE PERCENTAGE OF VALUE OF PRODUCTS

Index 1929-100

Census of Manufactures

Year	Wage Earners (Avg. for year)	Index*	Wages	Index*	Avg.* Weekly Wage	Value of Products
1925	12,215	79.5	$15,763,990	77.1	$24.82	$80,144,39
1927	12,283	80.0	16,280,105	79.7	25.49	87,200,88
1929	15,358	100.0	20,437,126	100.0	25.59	101,597,17
1931	10,714	69.8	11,625,768	56.9	20.87	60,574,57

Year	Wage Percentage* of Value of Products
1925	19.7
1927	18.7
1929	20.1
1931	19.2

*Computed

ASBESTOS PRODUCTS

WAGE EARNERS BY MONTHS - EXPRESSED AS PERCENTAGE OF YEAR AVERAGE CENSUS OF MANUFACTURES

TABLE II

Other Than Steam Packing and Pipe & Boiler Covering

Year	Jan.	Feb.	Mar.	Aprl.	May	June	July	Aug.	Sept.
1925	5647	5586	5783	5921	5931	6073	6236	6397	6416
1929	7567	7809	8019	8284	8461	8481	8550	8742	8543
1931	6117	6324	6386	6307	6469	6241	5993	5796	5661
1925	92.1	91.1	94.4	96.6	96.8	99.1	101.7	104.4	104.7
1929	94.7	96.5	99.1	102.4	104.6	104.8	105.7	108.0	105.6
1931	101.8	105.2	106.3	105.0	107.7	103.9	99.8	96.5	94.2

Year	Oct.	Nov.	Dec.	Average
1925	6444	6526	6587	6129
1929	8060	7556	7038	8092
1931	5647	5563	5600	6009
1925	105.1	106.5	107.5	
1929	99.6	93.4	87.0	
1931	94.0	92.6	93.2	

ASBESTOS PRODUCTS

WAGE EARNERS BY MONTHS-EXPRESSED AS PERCENTAGE OF YEAR AVERAGE

CENSUS OF MANUFACTURES

TABLE III

Steam & Other Packing, Pipe & Boiler Covering, & Gaskets, not elsewhere classified

Year	Jan.	Feb.	Mar.	Aprl.	May	June	July
1925	5648	5848	5874	5934	6003	6046	6136
1929	6603	7083	7215	7539	7948	8061	7913
1931	4655	4879	5042	4948	5107	4967	4721
1925	92.8	96.1	96.5	98.6	99.3	100.8	101.7
1929	90.9	97.5	99.3	103.8	109.4	110.9	108.9
1931	98.9	103.7	107.2	105.2	108.5	105.6	100.3

Year	Aug.	Sept.	Oct.	Nov.	Dec.	Average
1925	6187	6296	6291	6363	6406	6086*
1929	7412	7106	7038	6804	6468	7266
1931	4593	4407	4405	4395	4340	4705
1925	101.7	103.5	103.4	104.6	105.3	
1929	102.0	97.8	96.9	93.6	89.0	
1931	97.6	93.7	93.6	93.4	92.2	

*Computed

Volume No. III

AMENDMENTS TO

CODE OF FAIR COMPETITION FOR

ASBESTOS INDUSTRY

TRANSCRIPT OF ORAL TESTIMONY

AT PUBLIC HEARING

2/19/34

Checked and approved
for [illegible]
Division [illegible]
April 3 1934

U. S. GOVERNMENT PRINTING OFFICE: 1933 [illegible]

INDEX TO WITNESSES

ASBESTOS INDUSTRY

March 19, 1934

Cyl 1

Asbestos

NATIONAL RECOVERY ADMINISTRATION

Washington, D. C.

March 19, 1934

HEARING ON AMENDMENTS

TO THE CODE OF FAIR COMPETITION

FOR THE

ASBESTOS INDUSTRY

* * *

The above-entitled matter came on for hearing at 2:30 o'clock p.m., Room A, Washington Hotel, Assistant Deputy Administrator A. C. Cook presiding.

There were present also:

Dr. W. L. Schurz

Of the Labor Advisory Board:

Solomon Barkin

Virgil Bankson

Of the Consumers' Advisory Board:

A. W. McQuillen

Of the Planning and Research Division:

W. Kinnear

Of the Legal Division:

W. Earle Butler

PROCEEDINGS

Assistant Deputy Cook: The meeting will please come to order. This is a hearing on the proposed amendments to the

Code of Fair Competition for the Asbestos Industry, approved code #80, and is called in accordance with the notice of hearing #192-B.

These hearings on amendments are more or less the same as hearings on an original code. The hearings are not judicial nor legislative in character, but are administrative. There is no argument on the floor as to law or legal right permitted. The hearings constitute a convenient way to get evidence, and all persons who are heard are heard as witnesses.

The Administrator is the sole judge as to who will be witnesses, and, technically, witnesses should file applications to be heard twenty-four hours in advance of the hearing, but because of the fact that we desire to get all the evidence possible, if there is anyone here who has not filed a request to be heard, if he will pass his name up to the Chair he will be called on at the proper time.

Witnesses may appear on proposals for elimination of specific portions of a code, on proposals for modifications, or on proposal for additions thereto.

There is no rebuttal permitted on the floor, but anyone may file a brief, and in such a small crowd if the material is at hand he may ask it to be heard, and I will hear him , and written briefs may be filed, and they will be given exactly the same attention as if the statements were made on the floor. All questions are to be directed through the Administrator.

The code modifications and amendments will be presented by Mr. G. G. Gabrielson.

STATEMENT OF G. G. GABRIELSON

REPRESENTING THE CODE COMMITTEE

Mr. Gabrielson: Mr. Administrator, I should like to divide these so-called amendments into two groups.

Amendment #4 and amendment #6 to be in one group. And the balance of the amendments in another group. The balance of the amendments, leaving aside 4 and 6, are for the purpose of clarification only. A question arose in the discussions of the Code Authority meetings as to just what was meant by certain words in the code, and these were suggestions made at that meeting to propose as amendments in order to clarify the provisions of the code.

Amendment #1, which amends Article VI, Section 1 (e), the code as it now stands reads as follows:

"At least five voting members of the Code Authority shall be selected from the members of the code. One voting member shall be elected by a two-thirds vote of the members of each division of the code."

After the word "division" the amendment inserts the three words "who are members", so the sentence will read:

"One voting member shall be elected by a two-thirds vote of the members of each division are are members of the code."

A question arose as to whether or not an industry who could be classified as in a particular division would have a right to vote for a member of the code authority, even though they had not signed the code. And it was our intention with the insertion of this amendment that only those members of the division who are members of the code be permitted to vote for the election of a member of the Code Authority. Amendment #2 is in the next paragraph. That is sub-division (f) of section 1 of Article VI, at the top of the page. The sentence reads as follows:

"It shall delegate to a sub-code authority of the member division consisting of three members elected by each division the administration of all articles except 3, 4, 15 and 16 of the code, subject to the review of the Administrator. Amendment #2, I will read it now with that amendment in:

"It shall delegate to a sub-code authority of each member division consisting of three members elected by the members of the code of each division. We again confine the election of a sub-code authority in each division to the members of the code of that division. That is carrying out the same thought as Amendment #1. Amendment #3 occurs in paragraph (g), section 1 of Article VI. The section at present reads: The members of each division shall adopt their own rules of procedure with respect to administering the code not inconup for the moment, and take up amendment #7, which occurs in Article IX, section 2, which is similar to the amendment #5 that I just read.

The code as it appears now in this particular portion says:

"The guilty member shall be subject to all penalties provided for in the Act, and if a member of the code any other penalties provided for by said member's division of the code."

As amended it would read:

"The guilty member of the industry shall be subject to all penalties provided for in the Act", and so forth.

I think that was the original intention in drawing it, but this is purely a matter of more clearly stating what was in the minds of the drafters of this code.

Now, Mr. Deputy Administrator, as far as the other two amendments are concerned, which are amendments numbers 4 and 6, amendment #4 is a suggested addition to Article VI, section 1 (g), an additional sentence added to the last of that paragraph, the sentende to read as follows:

"Each division may upon the approval of the sub-code authority of such division and by three-quarters of the code members of the division create sub-divisions within each division."

Assistant Deputy Cook: Just what is the purpose of that, Mr. Gabrielson, will you tell us, please?

Mr. Gabrielson: As the code was originally set up there were divisions created, five in number. They appear in schedule 1 of the code. Division #1 is the Asbestos Paper and Allied Products.

Division #2, Asbestos Cement products.

Division #3, Asbestos Magnesia products.

Division #4, Asbestos Technical products.

And #5, Brake Lining and related friction products.

The reason for this amendment was brought about very forcibly in attempting to work out a merchandising plan in Division #1, which is the Asbestor Paper and Allied Products Division. It developed that theremexisted a different type of distribution. Different customs had grown up so that certain members of the Division were only engaged in one of the five, had no relation at all to the other parts of the division. If we knew as much at the time this code was proposed as we do now I think we would probably have created more divisions. But as a matter of working it out, as discussed in the Code Authority and the different sub-code authority meetings it was thought better to make an amendment to the code which would make it permissive for the division to sub-divide itself in order to more smoothly function.

Now, if I may bring in the amendment #6 with this, I think you will more clearly understand why this amendment #4 was proposed. Amendment #6 was passed by the Code Authority and the sub-divisions, more by the divisions, rather, and then, through an error on the part of the secretary of the sub-code authority was sent down to the Department worded incorrectly. As soon as that was discovered the secretary of the Code Authority took the matter up with the Administration.

Now, the amendment to #6, If I may, Mr. Deputy Administrator, I should like to go through the three phases of this. The original provision, the proposal as forwarded to the Administration originally, and with your permission, offering from the floor the amendment to that provision, amendment #6, has to do with Article VI, section 4 (b), and now included in the code this paragraph reads as follows:

"The members of each division of the industry may prepare simplifications and standardization specifications and a merchandising plan for such division, incorporating the merchandising policies best calculated to promote fair competition in such division subject to the review of the Administrator, every such merchandising plan or specification and standardization specifications when approved by three-quarters of the code members of the division and filed with the sub-code authority shall be binding upon all members of the industry who are members of the division to which such merchandising plan or specifications apply. Changes may be made in any such merchandising plan or specifications in the same manner that the originals were established."

The amendment which I should like to read now as it was submitted originally to the Administrator carries out the thought that I was discussing with you on amendment #4. It is permitting a division to set up sub-divisional merchandising plan.

The proposal is to delete all of the paragraph (b) that was just read and to substitute in place and instead thereof the following, so that section 4 (b) will read as follows:

"The members of each division of the industry or any sub-division thereof may prepare simplifications and standardization specifications and a merchandising plan for each division or subdivision thereof, as the case may be, incorporating the merchandising policies best calculated to promote fair competition in such division or sub-division, subject to the review of the Administrator. If such merchandising plan or simplification and standardization specifications when approved by the Code Authority of such divisision and by three-quarters of the code members of a division or sub-division, as the case may be, and filed with the sub-code authority, shall be binding upon all members of the industry who are members of the division or sub-division in which such merchandising plan or specifications apply. Changes may be made in such merchandising plan or specifications in the same manner."

That is as the amendment came down, but was, through a mistake, as I stated, in the secretary's office, it had left out certain methods of approval.

I should like, with your permission, to amend that. I shall state the amendments first, and then read the section as amended. In the second sentence of the originally proposed amendment it says: "When approved by the sub-code authority of such division and by". After the word "by" insert the word "either". Continuing on, "either three-fourths of the code members of that division or sub-division, as the case may be." Then add on there as an amendment to the amendment, the following:

"who are present at a meeting expressly called for that purpose, or by a three-quarters vote of the members of the division or sub-division by written ballot as the case may be." So the amendmended amendment will read as follows:

"The members of each division of the industry or any sub-division thereof may prepare simplification and standardization specifications and a merchandising plan for each division or sub-division thereof as the case may be, incorporating the merchandising and policies best calculated to promote fair competition in each division or sub-division, subject to the review of the Administrator. Every such merchandising plan or simplification and standardization specifications when approved by the sub-code authority of such division and by either three-quarters of the code members of the division or the sub-division, as the case may be, who are present at a meeting expressly called for that purpose, or by a three-quarters vote of the members of the division or sub-division by written ballot, as the case may be, shall be binding upon all members of the industry who are included or come within," that is, strike out the words "members of, included, or come within the division or subdivision to which such merchandising plan or specifications apply; changes may be made in such merchandising plan or specifications in the same manner."

Assistant Deputy Cook: This brings up a question, Mr. Gabrielson. This change reached us too late to be advertised with the original amendments, or, rather, too late to change the original amendments.

Mr. Gabrielson: Have you all three of those?

Assistant Deputy Cook: Yes.

Mr. Gabrielson: All three changes I just read?

Assistant Deputy Cook: Yes.

Mr. Gabrielson: That is the word "either", and the inclusion of the longer one?

Assistant Deputy Cook: Mr. Haynes sent them to us.

Mr. Gabrielson: In the last one strike out the word" "members of", putting in the words "included or come within the division."

Assistant Deputy Cook: Yes.

Mr. Gabrielson: Yes.

Assistant Deputy Cook: I will ask the Legal Advisor to tell us the proper steps in cases where an amendment amends an amendment which has not been offered in connection with the original amendment.

Mr. Butler: I think the proper procedure at this time would be to inform Mr. Gabrielson that a 15 day stay period be tacked onto this approval of the Administrator, giving any controversial problem a chance to have an opportunity to be heard on it. And if they do not within that time it will be approved, and if there is any controversy over it a hearing can be renoticed, or this particular amendment can be noticed properly.

Mr. Gabrielson: Is that, may I ask, 15 days from today's hearing or 15 days from the time the Administrator approves it?

Mr. Butler: Fifteen days from the time the Administrator approves it.

Mr. Gabrielson: May I ask another question?

Mr. Butler: Yes sir.

Mr. Gabrielson: Does that also mean that he will approve it subject to a 15 day stay, or he will merely look it over and issuethe 15 day stay and then approve it at the end of the 15 days?

Mr. Butler: I do not know what he will do. My recommendation would be after a 15 day stay it would go into effect.

Mr. Gabrielson: Automatically?

Mr. Butler: That would be my recommendation, but without committing the Deputy or myself.

Assistant Deputy Cook: Do you have some other statements, Mr. Gabrielson, you wish to make at this time?

Mr. Gabrielson: I think not. I think that covers what I have in mind.

Assistant Deputy Cook: No one has asked to be heard on amendment #1, no one on #2, #3, #4, #5, or #6, or #7. Do the advisors have anything to offer at this time?

(No response.)

Mr. Bankson: Mr. Cook, may I submit for the record certa recommendations which we would like to submit for the industry?

Assistant Deputy Cook: Is this something you wish to put in the record?

Mr. Bankson: Yes; I do not want to read it. I would simply like to have the industry consider it, so that at the next conference of amendments it might be then considered more fully.

Assistant Deputy Cook: According to the notice of hearing only proposals germane to the original amendment can be considered at this time. We will be glad to have the industry consider these proposals for future action.

(The recommendations referred to are as follows:)

AMENDMENTS TO THE CODE OF FAIR COMPETITION FOR

THE ASBESTOS INDUSTRY

Article III.

Section 1. Add, "nor more than six (6) days in any seven (7) day period," and change sub-section (b) to read, "in excess of eight (8) hours in any twenty-four (24) hour period, except that to meet seasonal requirements or emergencies more than eight (8) hours may be worked, provided, that time and one-third is paid for overtime in excess of eight (8) hours in any one day and/or forty (40) hours in any one week."

Section 2. In place of the clause beginning with the word "provided." "Provided that any such work by such employes in excess of eight (8) hours per day and forty (40) hours per week shall be compensated for at the rate of time and one-third."

Section 3. Add "provided that all hours in excess of eight (8) hours in any one day and/or forty-(40) hours in any one week."

Section 4. (a) Delete phrase, "sales-service men, technicians" etc. (b) "providing that such emergency overtime work in excess of eight hours in any one day and/or forty (40) hours in any one week shall be paid for at the rate of time and one-third."

Section 5. Delete, "Less than thirty five ($35.00) dollars per week." Change to "an average of forty (40) hours per week during a four (4) week period, nor more than forty-eight (48) hours during any one week."

Section 6. Substitute for "a six month period", "four weeks"

ARTICLE IV.

Section 1. Eliminate "except that for such light work as does not usually require the strength and skill of make labor - - - to end of paragraph."

Section 2. Delete.

Add:

Section 10. An employer shall not make payment of wages due other than in lawful currency or by negotiable check therefor payable on demand. These wages shall be exempt from any payments for pensions, insurance or sick benefits other than those voluntarily paid by the wage earners, or required by law. Pay-periods for wages shall be at least at the end of every week, and salaries at least at the end of every month. The employer or his agent shall accept no rebates directly or indirectly nor give anything of value or extend favors to any persons for the purpose of influencing rates of wages or the working conditions of his employes.

ARTICLE X.

Add:

Section 6. Every employer shall provide for the health and safety of his workmen. He shall comply with all Nationa, State, and local ordinances and provisions of safety and health; and to protect his employes by Workmen's Compensation Insurance according to the amounts required in the State of jurisdiction or the United States Employes Compensation Insurance if that State has not established a compensation scheme forthis industry.

Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six months after the effective date of this code.

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Mr. McQuillen: Mr. Administrator, this merchandising plan that is discussed in amendment 6 - -

Mr. Gabrielson: Yes sir.

Mr. McQuillen: Does that refer to the merchandising plans that were submitted some time in January I think for consideration?

Mr. Gabrielson: The merchandising plan that was submitted in January, as I understand it, was the merchandising plan of the brake-lining division. This has no reference to the the brake-lining division as such, and I do not understand that they expect to have any sub-division of that merchandise plan at all. You see the way the code is arranged each division prepares and submits their own divisional merchandising plan.

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These amendments to the code as submitted here today are to assist region #1. I have heard no statements or any intention on the part of other divisions, or of any of the other four divisions to create sub-divisions within their own divisional activities. The merchandising plan of the particular division I understand to have assumed as a unit.

Mr. McQuillen: Any merchandising plan will be submitted only to the Code Authorityfor their consideration?

Mr. Gabrielson: No, they will be submitted to the subcode authority and will be subject to the review of the Administrator.

Mr. McQuillen: Would you object to changing that to code approval?

Mr. Gabrielson: Yes. I would. I would because it would make it inconsistent with the balance of the code. Throughout the rest of the code it is provided in regard to various other things "subject to the review of the Administrator."

Mr. McQuillen: Any time a merchandising plan would definitely affect the market?

Mr. Gabrielson: We hope so.

Mr. McQuillen: It will be quite important that the Administration should approve any such plan or disapprove it?

Mr. Gabrielson: Under the present thought that we have now, the set-up that we have it says, "subject to the review of the Administrator." It refers to the merchandising plan approved by three-fourths of the code members of the division and filed with the sub-code authority shall be binding upon all members of the industry, etc. The plan we have pursued is that, as your records in the department will show, is that when we had our code prepared and when we had our merchandise plan prepared, rather, we brought it to the Administration and are working on it, working it out with the Administrator. I do not think that merchandising plan has been concluded yet. I do not believe it has been approved yet; in fact, the general code authority of the Asbestos Industry has been advised that the Administration and the particular division, which is the Brake-Lining Division, have finally worked out all of their difficulties and differences in regard to the merchandising plan. We would very much prefer to keep this amendment (1) with the other terminology in the asbestos code "subject to review."

Assistant Deputy Cook: Do you not think we can discuss that after the meeting, Mr. Gabrielson, and also the Legal Division?

Mr. Gabrielson: Yes.

Assistant Deputy Cook: Is there anything else to come before the meeting? The next step in the procedure is for the Advisors to report to the Deputy within 48 hours, after which the Deputy renders his decision and takes up the matter further.

If there is nothing else to come before the meeting, we will be adjourned subject to the call of the Administrator.

(Whereupon at 3:15 o'clock p.m., on March 19, 1934 the above hearing was adjourned subject to the call of the Administrator)