

New York, N. Y.

February 6, 1934.

A meeting of the Executive Committee of the Lead Industries Association was held on Tuesday, February 6, 1934, at 2:00 P.M., in the Board Room of the National Lead Company, 111 Broadway, New York, N. Y.

**Present**

R. M. Roosevelt, Chairman  
Heath Steele  
H. Y. Walker  
E. L. Newhouse, Jr.  
W. C. Beschorman  
F. M. Carter  
R. G. McKay  
Andrew Fletcher  
I. H. Cornell  
J. A. McCarthy  
F. S. Mulock  
  
F. E. Wormser, Secretary.

**Representing**

Eagle-Picher Lead Company  
American Metal Co. Ltd.  
American Smelting & Refining Co.  
Federated Metals Corp.  
National Lead Company  
National Lead Company  
Reynolds Metals Co.  
St. Joseph Lead Co.  
St. Joseph Lead Co.  
United Metals Selling Co.  
United States Smelting Refining & Mining Co. Inc.

Vice President R. M. Roosevelt presided.

The Chairman stated that in order to provide a status in the Lead Industries Association for members not eligible under the change made by the Board of Directors on January 19, in membership qualifications, it would be desirable to modify the provision passed by the Board on January 19, establishing associate memberships. Accordingly, the following resolution was proposed:

Any individual, company, firm or corporation or other form of enterprise, producing or using lead or lead products, which is ineligible, under the terms of this Article, for full membership, is eligible for associate membership. Associate members shall have all the rights and privileges of other members except the right to vote.

as a substitute for the following;

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Any individual, company, firm or corporation using lead products, or manufacturing lead products not otherwise specified in this Article, is eligible for associate membership.

Associate members shall have all the rights

Motion carried.

The Chairman stated that an invitation had been received from Mr. Cleveland Dodge, to meet with the copper labor committee at the offices of the Phelps Dodge Corporation, on February 7, to confer on common code matters, an invitation extended also to the American Zinc Institute.

It was moved and seconded that a Committee be appointed to confer with the labor committee of the Copper Companies, with a view to presenting a united front on code labor matters.

Motion was lost.

The Secretary was requested to read the telegrams he had received from the Utah and Idaho mining companies, favoring proceeding with the adoption of the Lead Code without reference to the copper and zinc codes.

Without objection, and as a courtesy to the Copper Code Labor Committee, the Chairman appointed the Secretary as a representative of the Lead Industries Association, to explain the status of the Lead Code.

The new draft of the Code, dated February 6, was then read so far as all changes made from the previous draft of January 27 were concerned. All the changes made were approved by the Committee with Mr. McCarthy voting "No" on the changes in Article IV, Wages and Article VI, Code Authority, Section 6 (a), and Article XII, Modification, Section 2.

Mr. Steele did not vote.

In view of the common interest of copper, lead and zinc in the new Article XI "Application of the Code to Operations Wherein Other Metals are Produced", the Chairman appointed Messrs. Walker, McCarthy and the Secretary to confer with the copper interests, from whose proposed code the article had been lifted.

It was then regularly moved and seconded that the entire code, with the exception of Article XI, as represented by the draft of February 6, be approved.

Unanimously carried.

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The National Recovery Administration, having requested a resolution from the Lead Industries Association, authorizing the presentation of its Code, the following resolution was presented and carried:

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RESOLVED THAT the submission to the National Recovery Administration of the Proposed Code of Fair Competition for the Lead Industries by the Secretary on August 1, 1933, as authorized in the Minutes of the Executive Committee Meeting in New York City on July 28, 1933, and the successive submission of revised drafts of said Code, dated November 25, 1933 and December 8, 1933 respectively, together with the submission of the draft of said Code dated December 13, 1933, for presentation at a public hearing, together with the post-hearing revised drafts of January 6 and February 6, 1934, be hereby approved and

BE IT FURTHER RESOLVED THAT the President, or Vice President, or the Secretary of this Association be and they are hereby authorized to treat with the Administration in the conduct of the negotiations with the National Recovery Administration and to finally approve the Code of Fair Competition for the Lead Industries, as written in draft of February 6, 1934.

Meeting adjourned at 5:00 P.M.

  
Secretary.

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CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIES

## ARTICLE I

PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is submitted as a Code of Fair Competition for the Lead Industries and upon approval by the President, its provisions shall be the standards of fair competition for such Industry and shall be binding upon every member thereof.

## ARTICLE II

DEFINITIONS

Wherever used in this code, or any 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 terms "President," "Act," and "Administrator" shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

Section 2. The term "Member of Industry" includes all those engaged in the industry either as an employer or on his or its own behalf.

Section 3. The term "Employee" means and includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation, except a member of the industry.

Section 4. The term "Employer" means and includes anyone by whom any such employee is compensated or employed.

Section 5. The term "Apprentice" as used herein means an individual (usually a minor), bound by indenture executed in compliance with the laws of the State where the service provided for therein is to be performed to serve an employer for a term of years at a predetermined wage for the period of the indenture in order to learn a trade, art or profession.

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Section 6. The term "Industry" as used herein includes the mining of lead ore and/or the concentrating thereof, the smelting of lead ore and/or lead concentrates and/or lead bearing scrap, the refining of lead and/or lead bearing scrap and/or drosses, the manufacturing of pig lead, antimonial pig lead, lead pigments, metallic antimony, metallic lead products, allied products defined herein-after as "metallic lead products" and/or "Metallic foil products", and the original sale of such products by the member of industry producing or manufacturing the same either directly or indirectly through subsidiary and/or affiliated companies.

## Section 6 (Continued)

(a) "Lead Ore and Lead Concentrates" as used herein is defined to mean ore and the concentrates thereof, containing lead as the principal commercially-recoverable constituent.

(b) "Lead Mining", as used herein is defined to mean the mining and concentrating of lead ore and any further beneficiation there-to prior to the shipment to the smelter.

(c) "Lead Smelting and Refining" as used herein is defined to mean metallurgical and/or chemical treatment of lead ore, lead concentrates, lead bearing scrap, and/or drosses and/or any other lead bearing material into "Pig Lead", and/or "Antimonial Pig Lead."

(d) "Antimonial Pig Lead" - Inasmuch as antimony is a common constituent of most lead ores and a by-product of Lead Mining and Smelting and Refining - metallic antimony and antimonial alloy products (antimonial pig lead) shall be included within the provisions of this Code.

(e) "Lead Pigments" as used herein is defined to mean basic carbonate white lead (dry or in oil), basic lead sulphate (dry or in oil), litharge, red lead (dry or in oil), orange mineral or any other lead oxides, with or without metallic lead content.

(f) "Metallic Lead Products" as used herein is defined to mean extruded, rolled, cast or otherwise fabricated lead or lead alloy products, (except storage battery plates and lead covered cable) kindred products of metallic tin and tin alloy or other metal or metal alloy products, which are produced by members of industry on the same type of machinery and under similar labor and fabricating conditions.

(g) "Metallic Foil Products" as used herein is defined to mean lead and/or tin and/or zinc or their alloys or combinations thereof rolled to a thickness of .006 of an inch or less, whether attached or affixed to other materials or not.

Section 7. The term "Division" as used herein includes respectively the several parts of the industry as enumerated below:

1. Lead mining division
2. Lead smelting and refining division
3. Lead pigments division
4. Metallic lead products division
5. Metallic foil products division

and such other and further divisions as may hereafter be created pursuant to the provisions of this Code.

Section 8. The term "Association" as used herein includes the "Lead Industries Association," an unincorporated membership society organized under the laws of the State of New York and having its principal office at 420 Lexington Avenue, New York City, and such other trade association as may hereafter participate in the activities under this code or in the selection of the code authority.

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Section 9. The term "Executive Committee" as used herein shall mean the Executive Committee of the Lead Industries Association.

Section 10. The term "Secretary" as used herein shall mean the Secretary of the Code Authority, who also shall be the Secretary of the Lead Industries Association.

Section 11. The term "Southern District" as used herein shall include the States of Texas, Mississippi, Alabama, Louisiana, and Florida.

ARTICLE IIIHOURS OF LABORMAXIMUM HOURS - Section 1

Effective on and after the second Monday following the effective date of this Code, no employee shall be permitted to work in any division of the industry in excess of 40 hours in any one week or in excess of 8 hours in any 24 hour period except as herein otherwise provided.

HOURS FOR CLERICAL AND OFFICE EMPLOYEES - Section 2

No person employed in clerical or office work shall be permitted to work in excess of 40 hours in any one week, except that during any one week in a one month period such employee shall be permitted to work a maximum of 48 hours in any such week. A normal day shall not exceed 8 hours.

EXCEPTIONS AS TO HOURS - Section 3

The limitation as to hours of labor as specified in Sections 1, 2 and 4 of this Article III shall not apply to the following:

(a) To employees engaged in emergency maintenance, or emergency repair work, involving breakdown or protection of life or property; provided that in such special cases not less than one and one-half times the normal wage rate for any employee so employed shall be paid for all hours worked in excess of 40 hours in any one week; provided that this overtime provision shall not apply in case of catastrophies involving loss of life. Such special cases, however, shall be reported to the Code Authority.

(b) Nor in the case of the Mining Division shall it apply to hoist men, power house men, or pump men, provided the total working hours of such employees shall not exceed 48 hours in any one week.

(c) Nor to outside sales or sales service men, nor to persons in a managerial, executive or supervisory capacity, who receive more than \$35.00 per week.

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(d) Watchmen, according to the nature of their responsibilities, may be permitted to work either 84 hours in any two-week period, or 48 hours in any one-week period, provided that such employees shall have at least one day's rest in each seven day period.

## (Section 3 Continued)

(e) There may be a tolerance of 10% additional hours over the 40 hours in any one week for employees engaged in the preparation, care and maintenance of machinery and production facilities, stock and shipping clerks and truck men engaged in outside delivery and pick-up service; provided, however, that at least one and one half times the normal wage rate for any employee so employed shall be paid for all hours worked in excess of 40 hours in any one week.

(f) The limitation as to maximum hours of work shall not apply to very special cases where restriction of hours of labor of skilled workers in continuous processes would unavoidably reduce or interrupt production because of demands inherent and peculiar within the process itself, provided, however, that such employees in such special cases shall not work more than forty-eight (48) hours in any one week, and provided that in such special cases at least one and one half times the normal wage rate shall be paid to any employee so employed, for hours worked above 40 hours per week. Such special cases, however, shall be reported to the Code Authority. Such special cases do not apply where one employee is acting in temporary relief for a fellow employee in continuous processes.

(g) During any period in which a concentrated demand upon any division of the industry, except mining, shall place an unusual and temporary burden for production work upon its facilities or to meet seasonal peak requirements or emergencies, an employee of any such division may be permitted to work not more than forty-eight (48) hours per week and not more than eight (8) hours in any one day in not more than eight (8) weeks in the first or last six (6) months of any calendar year.

STANDARD WEEK - Section 4.

No employee shall be permitted to work more than six days in any seven day period.

EMPLOYMENT BY SEVERAL EMPLOYERS - Section 5

No employer shall knowingly permit any employee to work for any time which when totalled with that already performed with another employer or employers in this industry exceeds the maximum permitted herein.

## ARTICLE IV

WAGESMINIMUM - Section 1

The minimum wage for each division of this industry shall be as follows:

|                                        | Cents per Hour |          |
|----------------------------------------|----------------|----------|
| 1. Lead mining division                | 40             |          |
| 2. Lead smelting and refining division | 35             |          |
| 3. Lead pigments division              | 40             |          |
| 4. Metallic lead products division     | 35             | LIA02523 |
| 5. Metallic foil products division     | 35             |          |

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provided that, as to the Smelting and Refining Division, in the Southern District, the minimum hourly rate shall be 30¢ per hour. Provided, however, that minimum wages in effect on July 1, 1933, which were above the minimum specified, shall in no case be reduced.

The minimum rates provided for hereinabove shall be considered as hiring rates applying to totally unskilled labor or common labor above ground in the Mining Division and to totally unskilled labor or common labor in the other divisions of the industry. In the Mining Division, the minimum hiring rate for underground common labor shall be not less than 45¢ per hour. Other classes of labor shall be compensated at rates above such minimums.

CLERICAL AND OFFICE EMPLOYEES - Section 2

No accounting, clerical, office, sales, or service employees working on a weekly basis in any office shall be paid less than at the rate of \$15.00 per week; provided, however, that office boys and girls and messengers shall be paid at a rate not less than 80% of the minimum hereinabove specified, and provided further that the number of such boys and girls and messengers so paid shall constitute not more than 5% of the total number of such employees of any one office of any one employer, but in any case such employer shall be entitled to one such employee.

PIECEWORK COMPENSATION-MINIMUM WAGES - Section 3

This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

FEMALE EMPLOYEES - Section 4

Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

WAGES ABOVE MINIMUM - Section 5

If an equitable adjustment of wages above the minimum fixed in this Code has not been made since July 1, 1933, there shall then be an equitable adjustment made within 60 days from date of the approval of this Code. Such equitable adjustment shall mean that the differentials existing prior to the formulation of this Code shall be maintained for employees other than persons engaged in managerial, executive or supervisory capacity who receive more than \$35.00 per week, provided, however, that in no event shall hourly rates of pay be reduced. If such equitable adjustment has not been made, the Code Authority shall submit for the approval of the Administrator a proposal for adjustment of wages above the minimum. Upon the approval by the Administrator, after such hearing as he may prescribe, such adjustments shall become effective.

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HANDICAPPED PERSONS - Section 6

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

APPRENTICES - Section 7

The use of apprentices shall be permitted where they are apprenticed to an employer by an indenture made pursuant to the laws of the state in which such service is to be performed, under any apprentice system established and maintained by such employer, provided such indenture agreements are filed with the Code Authority. Employers shall not be allowed to have apprentices in number exceeding 5% of the total number of skilled craftsmen of their special class, except that each employer shall be entitled to employ at least one such employee and in no case shall they be paid less than the minimum wage provided in Section 1 of Article IV.

PAYMENTS - Section 8

An employer shall make payment of all wages due 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 the State laws. Wages shall be paid at least semi-monthly and salaries at least at the end of every month. No employer shall withhold wages.

## ARTICLE V

GENERAL LABOR PROVISIONSCHILD LABOR - Section 1

On and after the effective date, no person under 18 years of age shall be employed in the Lead Industry except in clerical, office, sale, service, technical and engineering department, and no person under 16 years of age shall be employed in any capacity.

PROVISIONS FROM THE ACT - Section 2

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

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

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

RECLASSIFICATION OF EMPLOYEES - Section 3.

No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

STANDARDS FOR SAFETY AND HEALTH - Section 4.

Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment. Standards of safety and health for each division of the industry shall be submitted to the Administrator within six (6) months after approval of the Code.

STATE LAWS - Section 5.

No provision in this Code shall supersede any State or Federal Law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance or fire protection, than are imposed by this Code.

POSTING - Section 6.

All employers shall keep posted complete copies of this Code and all amendments thereto in conspicuous places accessible to employees.

COMPANY TOWN AND STORES - Section 7.

Employees other than maintenance or supervisory men, or those necessary to protect property, shall not be required as a condition of employment, to live in homes rented from the employer. No employee shall be required as a condition of employment, to trade at the store owned or specified by an employer.

LABOR AGREEMENTS - Section 8.

Labor agreements now in force between members of the Industry and their employees shall be affected only by such provisions in this Code as may prescribe higher wages and shorter hours than are provided for in such agreements.

DISMISSAL FOR COMPLAINT - Section 9.

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No employee shall be dismissed by reason of making a complaint or giving evidence with respect to a violation of a code.

## ARTICLE VI

ORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITYORGANIZATION AND CONSTITUTION - Section 1.

A Code Authority to administer this Code is hereby established and shall consist of the members of the Executive Committee of the Lead Industries Association, the Secretary of said Association, and such division chairmen who have respectively been elected to such office by such divisions in an equitable manner, approved by the Administrator, so as to be truly representative of such divisions respectively, and who are not members of the Executive Committee; in addition to membership as provided there may be one to three members, without vote and without expense to the industry, to be appointed by the Administrator to serve for terms of six or twelve months from the date of appointment. On the effective date of this Code the voting members of the Code Authority shall consist of eleven members but such number is subject to variation due to the contents of the foregoing provision. It is contemplated that supplementary codes of fair competition not inconsistent with this Basic Code will be adopted for each division of the industry. When and if such supplementary codes are submitted and approved they shall contain provisions for a sub-code authority selected in an equitable manner so as to be truly representative of such division of the industry subject to the approval of the Administrator, to administer the provisions of this Basic Code and the provisions of such supplementary code, and in addition this Basic Code Authority may delegate such of its powers and duties as it deems necessary to such division code authority of such supplementary code, provided, however, that any interested party shall have a right of appeal from any act or decision of such sub-code authority to the code authority of this Basic Code.

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

Section 3. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that any basic Code Authority or Sub-Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of such Code Authority.

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Section 4. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

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Section 5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful misfeasance or non-feasance.

POWERS AND DUTIES - Section 6.

The Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove or modify, after such hearing as he may prescribe, any action taken by the Code Authority. Subsequently if the Administrator shall determine that any action of a Code Authority or any agency thereof is unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended for a period of not to exceed thirty (30) days to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action, which shall be taken only upon approval by the Administrator.

(a) To insure the execution of the provisions of this Code and to provide for the compliance of the industry with the provisions of the Act. To receive complaints of violations of this Code and disputes arising thereunder, except as otherwise hereinafter provided for in subdivision

(h) of this section, make investigations thereof, provide hearings thereon, adjust such complaints and make such decisions as are necessary thereon and to interpret the provisions of the Code and to bring violations of this Code to the attention of the Administrator for prosecution, recommendation and other action.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the industry such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, which information and reports will be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any Government agency. No individual reports submitted to the Administrator and/or such Government agencies as the Administrator may designate, shall be disclosed to any other member of the industry or any other party except to such Government agencies as may be directed by the Administrator.

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

(e) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to the industry.

(f) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the industry who have assented to, and are complying with, this Code.

(g) To call meetings of any division of the Lead Industries to consider control of production through voluntary agreement, and to recommend to the Administrator such measures as have been voluntarily agreed upon covering fair trade practices, industrial planning, and production control, including stabilization of employment and conservation of natural resources.

(h) Within ninety days after the effective date of this Code the Code Authority shall submit to the Administrator for his approval a plan for the establishment of a National Industrial Relations Board for the industry, consisting of an equal number of representatives of employers and employees. Provision shall be made in such plan for division of the country into districts and the creation of regional industrial relations board to comprise an equal number of representatives of employers and employees truly representative of such districts. The creation and functioning of these boards, including the selection of representatives of employees, shall be in accordance with Section 7 of the Act. Provision shall also be made for the appointment of an impartial person on each board, national and regional, to vote only where such board is unable to render a majority decision. This plan shall provide that the regional boards shall have the authority to hear and adjudicate all complaints and disputes arising out of Articles III, IV and V of the Code, and the National Industrial Relations Board shall pass on all appeals from the regional boards solely on the basis of the record as certified by the Regional Boards to the National Industrial Relations Board. Before any such plan is approved, it shall be submitted to the Labor Advisory Board of the National Recovery Administration for their consideration and recommendations. The Administrator shall have the right, after such notice and hearing as he may specify, to review, disapprove or modify such plan and the plan shall become effective as a part of this Code when and as approved by him.

## ARTICLE VII

### GENERAL TRADE PRACTICE PROVISIONS

The Code Authority shall take all steps necessary to prevent any member of the industry engaging in any unfair trade practice; however, due to the nature of the industry, unfair trade practices have not constituted a problem in the past except as to certain divisions of the industry. Therefore, in Articles VIII, IX and X hereof, there are established trade practice rules for the Lead Pigments Division, Metallic Lead Products Division and Metallic Foil Products Division respectively, and it is contemplated that trade practice rules applicable to the industry as a whole and separate rules for other divisions of the industry will later be established by amendment as hereinafter provided.

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CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIESARTICLE VIIITRADE PRACTICE RULES FOR LEAD PIGMENTS DIVISION

Section 1. The following described acts shall be deemed unfair competition for Division 3 (Lead Pigments), and shall constitute a violation of this Code:

(a) Misbranding or misrepresentation of lead pigments.

(b) No member of the industry shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent, or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. This commercial bribery provision shall not be construed to prohibit free and general distribution of articles commonly used for advertising, except, so far as such articles are actually used for commercial bribery as herein above defined.

(c) Inducing or in any manner attempting to induce a breach, default or cancellation of a contract between a competitor and his customer during the term of such contract.

(d) Guaranteeing for a definite time the life and/or service of lead pigments.

(e) Making false or derogatory statements with respect to the prices, policies, products, practices, business or credit of any competitor.

(f) No merchandise shall be sold at a concession, or used as an inducement, to influence the sale of any lead products, nor shall any concession be given in the price or terms of sale of a lead product to influence the sale of any other merchandise.

RETURNED GOODS - Section 2.

No member of the industry shall permit the return of merchandise without first giving consent for its return. On such goods as are accepted for return, a reasonable charge shall be made and freight charges must be prepaid by the shipper returning the merchandise, except in the case of defective products or where in some other way, the manufacturer may be responsible.

PRICE SCHEDULES - Section 3.

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Each member of the industry engaged in the manufacture and sale of lead pigments shall file with the Secretary within ten (10) days after the effective date of this Code, a list of the prices at which his products will be sold and a memorandum of any of his conditions of sale at variance with those set forth in Schedule "A" attached. Any change in prices or conditions of sale shall be reported to the Secretary in such manner as to reach his office within twenty-four (24) hours after

the effective date of such change. Any member making a sale or quotation, which does not conform to the bases he then has on file, shall notify the Secretary in detail by letter mailed within twenty-four (24) hours. The information supplied the Secretary shall be re-issued immediately to the reporting members.

#### REPORTS - Section 4.

Each member of the Lead Pigments Industry, as defined in Article II, shall submit promptly to the Secretary the following periodic reports for compilation and re-issuance in such manner as may be determined by the Division.

- (a) Monthly reports of total production
- (b) Stocks on hand of finished merchandise at the beginning of each month.
- (c) Monthly reports of total shipments.

### ARTICLE IX

#### TRADE PRACTICE RULES FOR METALLIC LEAD PRODUCTS DIVISION

Section 1. The following described acts shall be deemed unfair competition for Division 4 (Metallic Lead Products), and shall constitute a violation of this Code:

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

(b) Giving excessive entertainment or making allowance for sales promotion and advertising in excess of actual amount expended.

(c) Misbranding or misrepresenting the percentage or quality of various metals in any products.

(d) Giving of secret rebates or refunds of any kind.

(e) Accepting orders guaranteed against a decline in price.

(f) Making false or derogatory statements with respect to competitors' prices, policies, products, practices, business or credit.

(g) Giving any other product at a concession in price or giving it away free, in order to influence the sale of any lead product.

(h) Changing prices after the award of a contract.

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(i) Contracting for unspecified quantities at a fixed price or giving options at fixed prices for unspecified quantities.

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(j) Inducing or in any manner attempting to induce a breach, default or cancellation of a contract between a competitor and his customer during the term of such contract.

(k) Taking back obsolete or damaged material at any value other than its value as secondary material.

(l) To cancel any undelivered portion of a contract for the purpose of effectuating a new contract with the buyer.

Section 2. The following unfair trade practices apply to the Type Metal Business only:

(a) Attaching drum tags to competitors' dross drums without receiving authority to do so from the prospect or customer.

(b) Failing to return competitors' drums to their owner within a period not exceeding thirty days from time of their receipt.

## ARTICLE X

TRADE PRACTICE RULES FOR METALLIC FOIL PRODUCTS DIVISION

Section 1. The following described acts shall be deemed unfair competition for Division 5 (Metallic Foil Products) and shall constitute a violation of this Code:

(a) No member of the Division shall publish untruthful advertising nor shall any member in any way misrepresent any goods or credit terms.

(b) No member of the Division shall knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any particular.

(c) No member of the Division shall secretly offer to make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise.

## ARTICLE XI

EXPORT TRADE

No provision of this Code relating to prices or terms of selling, shipping or marketing shall apply to export trade or sales or shipments for export trade.

## ARTICLE XII

MODIFICATION

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Section 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of sub-section (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under said Act.



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

Section 3. Additions or amendments to this Code, or supplemental Codes affecting or pertaining to the several divisions of the lead industries, may be proposed by any interested party and shall be referred to the Division affected or interested, which shall pass upon the said proposal in accordance with the rules established for said Division. Should the Division approve of the said proposed amendment or addition to the Code, it shall be then forwarded by the said Division to the Executive Committee of the Lead Industries Association, which shall give two weeks' notice to its members of a hearing. Thereafter, if the proposed addition or amendment is approved by the said Executive Committee by a vote of the entire Committee, with not more than one member dissenting or absent, the proposed addition or amendment shall be submitted to the Administrator and after such notice and hearing as the Administrator may prescribe and when approved by him, such additions or amendments shall become a part of this Code and have the same force and effect as any other provision of this Code. Nothing in this section shall be construed to prevent the right of any interested party to appeal directly to the Administrator for a modification of this Code.

#### ARTICLE XIII

##### MONOPOLIES

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

#### ARTICLE XIV

##### EFFECTIVE DATE

This Code shall be in effect beginning ten (10) days after its approval by the Administrator.

LIAC2532

January 27, 1934.

SCHEDULE "A"

ARTICLE I. STANDARD CONDITIONS FOR SALE OF LEAD OXIDES

A. "Sale" or "Order" as used herein includes any transaction whereby a member of the industry makes a quotation on, or becomes obligated to sell and deliver material.

B. Whatever terminology may be used, the intent and meaning thereof shall conform to the following requirements of sale.

- (1) Material - Dry Oxides of lead, or mixtures consisting principally thereof, each grade of material to be specifically designated.
- (2) Quantity - Any amount as agreed between buyer and seller.
- (3) Packages - As agreed between buyer and seller.
- (4) Price -
  - (a) Seller's card or quoted price in effect on date order is received with allowances as follows:
    - (1) Not more than 1/2¢ per pound for minimum shipment of 5 tons for one buyer at one time to one destination.
    - (2) Not more than 3/4¢ per pound for minimum shipment of 20 tons for one buyer to one destination by:
      - (A) Rail in one carload
      - (B) Truck within a period of three days
  - (b) These allowances may also be applied to emergency shipments of smaller quantities only when seller has an order on hand for five (5) tons or twenty (20) tons for immediate shipment, or such quantity en route to the same destination.
  - (c) No protection against decline in Seller's price may be given.
  - (d) Red Lead containing 97 per cent or 98 per cent Pb3O4 shall be so marked on the package and shall be sold at 1/8¢ and 3/8¢ per pound, respectively, over Seller's price for grades of lower Pb3O4 content.
- (5) Delivery - F.O.B. cars Seller's shipping point, or by truck, F.O.B. Buyer's premises.
- (6) Transportation Allowance -
  - (a) Since transportation is included in the Seller's price, the actual freight paid by Buyer shall be allowed as a deduction. No cartage allowance shall be made to Buyer for use of his own truck.
  - (b) If shipment is made by Buyer's boat, Seller may allow actual amount he would have paid for like transportation at minimum published tariffs in effect on date of shipment.

- (7) Shipment - Shall be made at least within thirty (30) days from date order is received.
- (8) Terms - Net thirty days, less 1 per cent for cash in ten days from date of shipment.
- (9) Taxes - Any tax or other charge imposed by Federal Law upon the production and/or sale and/or shipment of lead oxides shall be added to the price to be paid by the Buyer on any transaction to which such charge is applicable.

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ARTICLE II. STANDARD CONDITIONS FOR SALE OF BASIC LEAD CARBONATE  
(DRY WHITE LEAD)

- A. "Sale" or "Order" as used herein includes any transaction whereby a member of the industry makes a quotation on or becomes obligated to sell and deliver material.
- B. Whatever terminology may be used, the intent and meaning thereof shall conform to the following requirements of sale.
- (1) Quantity - Any amount as agreed between buyer and seller.
  - (2) Period - As desired, to be specified.
  - (3) Packages - As agreed between buyer and seller.
  - (4) Price -
    - (a) Spot Sales - Seller's card or quoted price in effect on date order is received.
    - (b) Contract Sales -
      - (1) Seller's price on date contract is made with protection against advance or decline on the undelivered portion to the end of the current calendar quarter.
      - (2) On contracts extending beyond the current calendar quarter, the price applying to subsequent deliveries shall be seller's price in effect on the first day of the calendar quarter in which they are made, with protection against advance or decline on the undelivered portion to the end of each quarter.
    - (c) The price for minimum 20 ton lots for one buyer to one destination, shipped by rail in one carload, or delivered by truck within a period of three days, shall be 1/4¢ per pound less than that charged for smaller quantities.
    - (d) Emergency shipments may be made at the 20 ton price only to those customers for whom the Seller has a 20 ton order on hand for the same material for immediate shipment or a carload (20 tons) en route to the same destination.
  - (5) Delivery - F.O.B. cars Seller's shipping point, or by truck, F.O.B. Buyer's premises.
  - (6) Transportation Allowance - Since transportation is included in the Seller's price, the actual freight paid by the Buyer shall be allowed as deduction. No cartage allowance shall be made to Buyer for use of his own truck.

- (7) Shipment -  
    (a) Spot Sales - Within thirty days from date order is received.  
    (b) Contract Sales - Within the period covered by the contract.
- (8) Terms - Net thirty days, less 1 per cent for cash in ten days from date of shipment.
- (9) Taxes - Any tax or other charge imposed by Federal Law upon the production and/or sale and/or shipment of lead oxides shall be added to the price to be paid by the Buyer on any transaction to which such charge is applicable.

LIAC2537

February 6, 1934.

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIES

## ARTICLE I

PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Code is established as a Code of Fair Competition for the Lead Industries and its provisions shall be the standards of fair competition for such Industry and shall be binding upon every member thereof.

## ARTICLE II

DEFINITIONS

Wherever used in this code, or any 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 terms "President", "Act", and "Administrator" shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

Section 2. The term "Member of Industry" includes all those engaged in the industry either as an employer or on his or its own behalf.

Section 3. The term "Employee" means and includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation, except a member of the industry.

Section 4. The term "Employer" means and includes anyone by whom any such employee is compensated or employed.

Section 5. The term "Apprentice" as used herein means an individual (usually a minor), bound by indenture executed in compliance with the laws of the State where the service provided for therein is to be performed to serve an employer for a term of years at a predetermined wage for the period of the indenture in order to learn a trade, art or profession.

Section 6. The term "Industry" as used herein includes the mining of lead ore and/or the concentrating thereof, the smelting of lead ore and/or lead concentrates and/or lead bearing scrap, the refining of lead and/or lead bearing scrap and/or drosses, the manufacturing of pig lead, antimonial pig lead, lead pigments, metallic antimony, metallic lead products, allied products defined hereinafter as "metallic lead products" and/or "metallic foil products," and the original sale of such products by the member of industry producing or manufacturing the same either directly or indirectly through subsidiary and/or affiliated companies.

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(a) "Lead Ore and Lead Concentrates" as used herein is defined to mean ore and the concentrates thereof; containing lead as the principal commercially recoverable constituent.

(b) "Lead Mining", as used herein is defined to mean the mining and concentrating of lead ore and any further beneficiation there-to prior to the shipment to the smelter.

(c) "Lead Smelting and Refining" as used herein is defined to mean metallurgical and/or chemical treatment of lead ore, lead concentrates, lead bearing scrap, and/or drosses and/or any other lead bearing material into "Pig Lead", and/or "Antimonial Pig Lead."

(d) "Antimonial Pig Lead" - Inasmuch as antimony is a common constituent of most lead ores and a by-product of Lead Mining and Smelting and Refining - metallic antimony and antimonial alloy products (antimonial pig lead) shall be included within the provisions of this Code.

(e) "Lead Pigments" as used herein is defined to mean basic carbonate white lead (dry or in oil), basic lead sulphate (dry or in oil), litharge, red lead (dry or in oil), orange mineral or any other lead oxides, with or without metallic lead content.

(f) "Metallic Lead Products" as used herein is defined to mean extruded, rolled, cast or otherwise fabricated lead or lead alloy products, (except storage battery plates and lead covered cable) kindred products of metallic tin and tin alloy or other metal or metal alloy products, which are produced by members of industry on the same type of machinery and under similar labor and fabricating conditions.

(g) "Metallic Foil Products" as used herein is defined to mean lead and/or tin and/or zinc or their alloys or combinations thereof rolled to a thickness of .006 of an inch or less, whether attached or affixed to other materials or not.

Section 7. The term "Division as used herein includes respectively the several parts of the industry as enumerated below:

1. Lead mining division.
2. Lead smelting and refining division.
3. Lead pigments division.
4. Metallic lead products division
5. Metallic foil products division

and such other and further divisions as may hereafter be created pursuant to the provisions of this Code.

Section 8. The term "Association" as used herein includes the "Lead Industries Association", an unincorporated membership society organized under the laws of the State of New York and having its principal office at 420 Lexington Avenue, New York City, and such other trade associations as may hereafter participate in the activities under this code or in the selection of the code authority.

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Section 9. The term "Executive Committee" as used herein shall mean the Executive Committee of the Lead Industries Association.

Section 10. The term "Secretary" as used herein shall mean the Secretary of the Code Authority, who also shall be the Secretary of the Lead Industries Association.

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIES

Section 11. The term "Southern District" as used herein shall include the states of Texas, Mississippi, Alabama, Louisiana, and Florida.

## ARTICLE III

HOURS OF LABORMAXIMUM HOURS - Section 1

Effective on and after the second Monday following the effective date of this Code, no employee shall be permitted to work in any division of the industry in excess of 40 hours in any one week or in excess of 8 hours in any 24 hour period except as herein otherwise provided.

HOURS FOR CLERICAL AND OFFICE EMPLOYEES - Section 2

No person employed in clerical or office work shall be permitted to work in excess of 40 hours in any one week, except that during any one week in a one month period such employee shall be permitted to work a maximum of 48 hours in any such week. A normal day shall not exceed 8 hours.

EXCEPTIONS AS TO HOURS - Section 3

The limitation as to hours of labor as specified in Sections 1, 2 and 4 of this Article III shall not apply to the following:

(a) To employees engaged in emergency maintenance, or emergency repair work, involving breakdown or protection of life or property; provided that in such special cases not less than one and one-half times the normal wage rate for any employee so employed shall be paid for all hours worked in excess of 40 hours in any one week; provided that this overtime provision shall not apply in case of catastrophies involving loss of life. Such special cases, however, shall be reported to the Code Authority.

(b) Nor in the case of the Mining Division shall it apply to hoist men, power house men, or pump men, provided the total working hours of such employees shall not exceed 48 hours in any one week.

(c) Nor to outside sales or sales service men, nor to persons in a managerial, executive or supervisory capacity, who receive \$35.00 per week or more.

(d) Watchmen, according to the nature of their responsibilities, may be permitted to work 56 hours in any one-week period, provided that such employees shall have at least one day's rest in each seven day period.

(e) There may be a tolerance of 10% additional hours over the 40 hours in any one week for employees engaged in the preparation, care and maintenance of machinery and production facilities, stock and shipping clerks and truck men engaged in outside delivery and pick-up service; provided, however, that at least one and one-half times the normal wage rate for any employee so employed shall be paid for all hours worked in excess of 40 hours in any one week.



(f) The limitation as to maximum hours of work shall not apply to very special cases where restriction of hours of labor of skilled workers in continuous processes would unavoidably reduce or interrupt production because of demands inherent and peculiar within the process itself, provided, however, that such employees in such special cases shall not work more than forty-eight (48) hours in any one week, and provided that in such special cases at least one and one-half times the normal wage rate shall be paid to any employee so employed for hours worked above 40 hours per week. Such special cases, however, shall be reported to the Code Authority. The limitation of hours does not apply where one employee is acting in temporary relief for a fellow employee in continuous processes.

(g) During any period in which a concentrated demand upon any division of the industry, except mining, shall place an unusual and temporary burden for production work upon its facilities or to meet seasonal peak requirements or emergencies, an employee of any such division may be permitted to work not more than forty-eight (48) hours per week and not more than eight (8) hours in any one day in not more than six (6) weeks in six (6) months of any calendar year, provided that not less than time and one-half the normal rate shall be paid to any employee so employed for hours worked above forty (40) hours per week or eight (8) hours per day. All such overtime worked shall be reported to the Code Authority.

#### STANDARD WEEK - Section 4.

No employee shall be permitted to work more than six days in any seven day period.

#### EMPLOYMENT BY SEVERAL EMPLOYERS - Section 5.

No employer shall knowingly permit any employee to work for any time which when totalled with that already performed with another employer or employers in this industry exceeds the maximum permitted herein.

### ARTICLE IV

#### WAGES

##### MINIMUM - Section 1.

The minimum wage for each division of this industry shall be as follows:

|                                        | Cents per hour |                 |
|----------------------------------------|----------------|-----------------|
| 1. Lead mining division                | Surface--40    | Underground--45 |
| 2. Lead smelting and refining division | 35             |                 |
| 3. Lead pigments division              | 40             |                 |
| 4. Metallic lead products division     | 35             |                 |
| 5. Metallic foil products division     | 35             |                 |

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provided that, as to the Smelting and Refining Division, in the Southern District, the minimum hourly rate shall be 30¢ per hour. Minimum wages in all divisions of the industry in effect on July 1, 1933, which were above the minimum specified, shall in no case be reduced.

February 6, 1934.

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIES

The minimum rates provided for hereinabove shall be considered as hiring rates applying to totally unskilled labor or common labor above ground in the Mining Division and totally unskilled labor or common labor in the other divisions of the industry. In the Mining Division, the minimum hiring rate for underground common labor shall be not less than 45¢ per hour. Other classes of labor shall be compensated at rates above such minimums.

CLERICAL AND OFFICE EMPLOYEES - Section 2.

No accounting, clerical, office, sales, or service employees working on a weekly basis in any office shall be paid less than at the rate of \$15.00 per week; provided, however, that office boys and girls and messengers shall be paid at a rate not less than 80% of the minimum hereinabove specified, and provided further that the number of such boys and girls and messengers so paid shall constitute not more than 5% of the total number of such employees of any one office of any one employer, but in any case each employer shall be entitled to one such employee.

PIECEWORK COMPENSATION - MINIMUM WAGES - Section 3

This article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piecework, or other basis.

FEMALE EMPLOYEES - Section 4.

Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

WAGES ABOVE MINIMUM - Section 5.

If an equitable adjustment of wages above the minimum fixed in this Code has not been made since July 1, 1933, there shall then be an equitable adjustment made within 60 days from date of the approval of this Code. Such equitable adjustment shall mean that the differentials existing prior to the formulation of this Code shall be maintained for employees other than persons engaged in managerial, executive or supervisory capacity who receive \$35.00 per week or more, provided, however, that in no event shall hourly rates of pay be reduced. If such equitable adjustment has not been made, the Code Authority shall submit for the approval of the Administrator a proposal for adjustment of wages above the minimum. Upon the approval by the Administrator, after such hearing as he may prescribe, such adjustments shall become effective.

HANDICAPPED PERSONS - Section 6

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

## APPRENTICES - Section 7.

The use of apprentices shall be permitted where they are apprenticed to an employer by an indenture made pursuant to the laws of the state in which such service is to be performed, under any apprentice system established and maintained by such employer, provided such indenture agreements are filed with the Code Authority. Employers shall not be allowed to have apprentices in number exceeding 5% of the total number of skilled craftsmen of their special class, except that each employer shall be entitled to employ at least one such employee and in no case shall they be paid less than the minimum wage provided in Section 1 of Article IV.

## PAYMENTS - Section 8.

An employer shall make payment of all wages due 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 the State laws. Wages shall be paid at least semi-monthly and salaries at least at the end of every month. No employer shall withhold wages.

## ARTICLE V

### GENERAL LABOR PROVISIONS

## CHILD LABOR - Section 1.

On and after the effective date, no person under 18 years of age shall be employed in the Lead Industry except in clerical, office, sale, service, technical and engineering departments, and no person under 16 years of age shall be employed in any capacity. In any State, an employer shall be deemed to have complied with this provision as to age of employees if he shall have on file a certificate or permit duly signed by the Authority in such State empowered to issue Employment or Age Certificates or permits showing that the employee is of the required age.

## PROVISIONS FROM THE ACT - Section 2.

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

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

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

February 6, 1936.

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIESRECLASSIFICATION OF EMPLOYEES - Section 3.

No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

STANDARDS FOR SAFETY AND HEALTH - Section 4.

Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment. Standards of safety and health for each division of the industry shall be submitted to the Administrator within six (6) months after approval of the Code.

STATE LAWS - Section 5.

No provision in this Code shall supersede any State or Federal Law which imposes on employers more stringent requirements as to age of employees, wages, hours of work, or as to safety, health, sanitary or general working conditions, or insurance or fire protection, than are imposed by this Code.

POSTING - Section 6.

All employers shall keep posted complete copies of this Code and all amendments thereto in conspicuous places accessible to employees.

COMPANY TOWN AND STORES - Section 7.

Employees other than maintenance or supervisory men, or those necessary to protect property, shall not be required as a condition of employment, to live in homes rented from the employer. No employee shall be required as a condition of employment, to trade at the store owned or specified by an employer.

DISMISSAL FOR COMPLAINT - Section 8.

No employee shall be dismissed by reason of making a complaint or giving evidence with respect to a violation of a code.

ARTICLE VIORGANIZATION, POWERS AND DUTIES OF THE CODE AUTHORITYORGANIZATION AND CONSTITUTION - Section 1.

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A Code Authority to administer this Code is hereby established and shall consist of the members of the Executive Committee of the Lead Industries Association, the Secretary of said Association, and such division chairmen who have respectively been elected to such office by such divisions in an equitable manner, approved by the Administrator, so as to be truly representative of such divisions respectively, and who are not members of the Executive Committee; in addition to membership as above provided there may be one to three members, without vote and without expense to the industry, to be appointed by the

Administrator to serve for terms of six or twelve months from the date of appointment. On the effective date of this Code the voting members of the Code Authority shall consist of eleven members but such number is subject to variation due to the contents of the foregoing provision. It is contemplated that supplementary codes of fair competition not inconsistent with this Basic Code will be adopted for each division of the industry. When and if such supplementary codes are submitted and approved they shall contain provisions for a Divisional Code Authority selected in an equitable manner so as to be truly representative of such division of the industry subject to the approval of the Administrator, to administer the provisions of this Basic Code and the provisions of such supplementary code, and in addition this Basic Code authority may delegate such of its powers and duties as it deems necessary to such division code authority of such supplementary code, provided, however, that any interested party shall have a right of appeal from any act or decision of such Divisional Code Authority to the code authority of this Basic Code.

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

Section 3. In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such hearings as he may deem proper; and thereafter if he shall find that any basic Code Authority or Divisional Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of such Code Authority.

Section 4. Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of the administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable.

Section 5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Code Authority. Nor shall any member of the Code Authority exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Code, except for his own wilful misfeasance or non-feasance.

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIESPOWERS AND DUTIES - Section 6.

The Code Authority shall have the following further powers and duties, the exercise of which shall be reported to the Administrator and shall be subject to his right, on review, to disapprove, after such hearing as he may prescribe, any action taken by the Code Authority. Subsequently if the Administrator shall determine that any action of a Code Authority or any agency thereof is unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended for a period of not to exceed thirty (3) days to afford an opportunity for investigation of the merits of such action and further consideration by such code authority or agency pending final action, which shall be taken only upon approval by the Administrator.

(a) Subject to such rules and regulations as may be issued by the Administrator to insure the execution of the provisions of this Code and provide for the compliance of the industry with the provisions of the Act; and receive complaints of violations of this Code and disputes arising thereunder, except as otherwise herein-after provided for in subdivision (h) of this section, make investigations thereof, provide hearings thereon, adjust such complaints and make such decisions as are necessary thereon and to interpret the provisions of the Code and to bring violations of this Code to the attention of the Administrator for prosecution, recommendation and other action.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from members of the industry such information and reports as are required for the administration of the Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3(a) of the Act, which information and reports shall be submitted by members to such administrative and/or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the industry of any existing obligations to furnish reports to any Government agency. No individual reports submitted to the Administrator and/or such Government agencies as the Administrator may designate, shall be disclosed to any other member of the industry or any other party except to such Government agencies as may be directed by the Administrator.

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

(e) To make recommendations to the Administrator for the coordination of the administration of this Code with such other codes, if any, as may be related to the industry.

(f) To cooperative with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the industry who have assented to, and are complying with, this Code.

(g) To call meetings of any division of the Lead Industries to consider control of production through voluntary agreement, and to recommend to the Administrator such measures as have been voluntarily agreed upon covering fair trade practices, industrial planning, and production control, including stabilization of employment and conservation of natural resources.

(h) Within ninety days after the effective date of this Code the Code Authority shall submit to the Administrator for his approval a plan for the establishment of a National Industrial Relations Board for the industry, consisting of an equal number of representative of employers and employees. Provision shall be made in such plan for division of the country into districts and the creation of regional industrial relations boards to comprise an equal number of representatives of employers and employees truly representative of such districts. The creation and functioning of these boards, including the selection of representatives of employees, shall be in accordance with Section 7 of the Act. Provision shall also be made for the appointment of an impartial person on each board, national and regional, to vote only where such board is unable to render a majority decision. This plan shall provide that the the regional boards shall have the authority to hear and adjudicate all complaints and disputes arising out of Articles III, IV and V of the Code, and the National Industrial Relations Board shall pass on all appeals from the regional boards solely on the basis of the record as certified by the Regional Boards to the National Industrial Relations Board. Before any such plan is approved, it shall be submitted to the Labor Advisory Board of the National Recovery Administration for their consideration and recommendations. The Administrator shall have the right, after such notice and hearing as he may specify, to review, disapprove or modify such plan and the plan shall become effective as a part of this Code when and as approved by him.

## ARTICLE VII

### TRADE PRACTICE RULES FOR LEAD PIGMENTS DIVISION

Section 1. The following described acts shall be deemed unfair competition for Division 3 (Lead Pigments), and shall constitute a violation of this Code:

(a) Misbranding or misrepresentation of lead pigments.

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

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIES

(c) Inducing or in any manner attempting to induce a breach, default or cancellation of a contract between a competitor and his customer during the term of such contract.

(d) Guaranteeing for a definite time the life and/or service of lead pigments.

(e) Making false or derogatory statements with respect to the prices, policies, products, practices, business or credit of any competitor.

(f) No merchandise shall be sold at a concession, or used as an inducement, to influence the sale of any lead products, nor shall any concession be given in the price or terms of sale of a lead product to influence the sale of any other merchandise.

Section 2. Each member of the industry engaged in the manufacture and sale of lead pigments shall file with the Secretary within ten (10) days after the effective date of this Code, a list of the prices at which his products will be sold and a memorandum of any of his conditions of sale at variance with those set forth in Schedule "A" attached. Any change in prices or conditions of sale shall be reported to the Secretary in such manner as to reach his office within twenty-four (24) hours after the effective date of such change. Any member making a sale or quotation, which does not conform to the basis he then has on file, shall notify the Secretary in detail by letter mailed within twenty-four (24) hours. The information supplied the Secretary shall be re-issued immediately to the reporting members.

Section 3. Each member of the Lead Pigments Industry, as defined in Article II, shall submit promptly to the Secretary the following periodic reports for compilation and re-issuance in such manner as may be determined by the Division.

- (a) Monthly reports of total production.
- (b) Stocks on hand of finished merchandise at the beginning of each month.
- (c) Monthly reports of total shipments.

## ARTICLE VIII

TRADE PRACTICE RULES FOR METALLIC LEAD PRODUCTS DIVISION

Section 1. The following described acts shall be deemed unfair competition for Division 4 (Metallic Lead Products), and shall constitute a violation of this Code:

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



(b) Making allowance for sales promotion and advertising in excess of actual amount expended, or making excessive expenditures on behalf of or for the benefit of a customer.

(c) Misbranding or misrepresenting the percentage or quality of various metals in any products.

(d) No member of the Division shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise.

(e) Accepting orders guaranteed against a decline in price.

(f) Making false or derogatory statements with respect to competitors' prices, policies, products, practices, business or credit.

(g) Giving any other product at a concession in price or giving it away free, in order to influence the sale of any lead product.

(h) Changing prices after the award of a contract.

(j) Inducing or in any manner attempting to induce a breach, default or cancellation of a contract between a competitor and his customer during the terms of such contract.

(i) Contracting for unspecified quantities at a fixed price or giving options at fixed prices for unspecified quantities.

(k) Taking back obsolete or damaged material at any value other than its value as secondary material.

(l) To cancel any undelivered portion of a contract for the purpose of effectuating a new contract with the buyer.

Section 2. The following unfair trade practices apply to the Type Metal Business only:

(a) Attaching drum tags to competitors' dross drums without receiving authority to do so from the prospect or customer.

(b) Failing to return competitor's drums to their owner within a period not exceeding thirty days from time of their receipt.

#### ARTICLE IX

#### TRADE PRACTICE RULES FOR METALLIC FOIL PRODUCTS DIVISION

Section 1. The following described acts shall be deemed unfair competition for Division 5 (Metallic Foil Products) and shall constitute a violation of this Code:

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(a) No member of the Division shall publish untruthful advertising nor shall any member in any way misrepresent any goods or credit terms.

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(b) No member of the Division shall knowingly withhold from or insert in any quotation or invoice any statement that makes it inaccurate in any particular.

(c) No member of the Division shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form or money or otherwise.

ARTICLE XEXPORT TRADE

No provision of this Code relating to prices or terms of selling, shipping or marketing, shall apply to export trade or sales or shipments for export trade.

ARTICLE XIAPPLICATION OF CODE TO OPERATIONS WHEREIN OTHER METALS ARE PRODUCED

Section 1. If any member of the industry is also a member of any other industry, provisions of this Code can apply only to that portion of its business which is a part of the lead industry.

Section 2. Where there is any question as to whether lead is the major production from the operations which do or which might produce lead, zinc, copper, gold, silver or other materials, then in any and every such event the question as to which Code of Fair Competition shall govern such operations of any such member of this industry, shall be referred to a Coordination Committee. This Coordination Committee shall be composed of two members to be appointed by each of the Code Authorities for such industries as may be involved in each particular question. In the event such Committee is unable to reach a majority conclusion, then either the Committee shall elect an additional impartial member or upon their failure so to agree on such additional impartial member, the Administrator then may appoint such additional impartial committee member. Any member of the industry, the operations of which may raise such a question, shall file a statement of fact with the Code Authority for its industry, and such statement shall contain a statement of its preference as to the Code it would prefer to have such operations be governed by, and such preference shall be granted unless such Coordination Committee shall find that the granting thereof would be unfair in view of the rights of others or that it would have a tendency contrary to the effectuation of the policies of the Act.

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Section 3. Within ten (10) days after the effective date of this Code, any member of this industry may file such a statement of fact and preference as to being governed by any of such other Codes which may at that time be in effect. Thereafter upon any such other Code becoming effective, such statement may then be filed; provided, however, that until any such statement is filed and decision is made thereon by such Coordination Committee, such operation of such member of this industry shall be governed by the provisions of this Code.

Section 4. From time to time thereafter if conditions change, members of this industry shall be entitled to file such statements of fact and preference as to change of a portion of their operations from the jurisdiction of one Code to the jurisdiction of another, and in such event they shall be handled in the same manner as provided for above.

## ARTICLE XII

### MODIFICATION

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

Section 2. Such of the provisions of this Code as are not required to be included therein by the Act may, with the approval of the Administrator, be modified or eliminated in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience; all the provisions of this Code, unless so modified or eliminated, shall remain in effect until June 16, 1935.

Section 3. An amendment to this Code or any codes supplemental thereto affecting or pertaining to the several divisions of the Lead Industries may be proposed by any interested party either to the Divisional Code Authority, the Basic Code Authority, or directly by or to the Administrator. All such proposed amendments shall be referred to the Division affected or interested and then shall be submitted by said Division to the Basic Code Authority who shall give members of the Industry an opportunity to be heard thereon, and thereafter the Code Authority may make such recommendations thereon as are deemed proper; provided, however, that when approved by the Administrator as necessary to effectuate the policies of the Act, after such notice and hearing as he may prescribe, any proposed amendment shall thereupon become effective as a part of this Code.

## ARTICLE XIII

### MONOPOLIES

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

## ARTICLE XIV

### EFFECTIVE DATE

This Code shall be in effect beginning ten (10) days after is approval by the Administrator.

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February 6, 1934.

SCHEDULE "A"

CODE OF FAIR COMPETITION FOR THE LEAD INDUSTRIES

ARTICLE I -- STANDARD CONDITIONS FOR SALE OF LEAD OXIDES

A. "Sale" or "Order" as used herein includes any transaction whereby a member of the industry makes a quotation on, or becomes obligated to sell and deliver material.

B. Whatever terminology may be used, the intent and meaning thereof shall conform to the following requirements of sale:

- (1) Material - Dry Oxides of lead, or mixtures consisting principally thereof, each grade of material to be specifically designated.
- (2) Quantity - Any amount as agreed between buyer and seller.
- (3) Packages - As agreed between buyer and seller.
- (4) Price -
  - (a) Seller's card or quoted price in effect on date order is received with allowances as follows:
    - (1) Not more than 1/2¢ per pound for minimum shipment of 5 tons for one buyer at one time to one destination.
    - (2) Not more than 3/4¢ per pound for minimum shipment of 20 tons for one buyer at one time to one destination by:
      - (a) Rail in one carload
      - (b) Truck within a period of three days.
    - (b) These allowances may also be applied to emergency shipments of smaller quantities only when seller has an order on hand for five (5) tons or twenty (20) tons for immediate shipment, or such quantity enroute to the same destination.
    - (c) No protection against decline in Seller's price may be given.
    - (d) Red Lead containing 97 per cent or 98 per cent  $Pb_3O_4$  shall be so marked on the package and shall be sold at not less than 1/8¢ and 3/8¢ per pound, respectively over Seller's price for grades of lower  $Pb_3O_4$  content.
  - (5) Delivery - F.O.B. cars Seller's shipping point, or by truck, F.O.B. Buyer's premises.
  - (6) Transportation Allowance -
    - (a) Since transportation is included in the Seller's price, the actual freight paid by Buyer shall be allowed as a deduction. No cartage allowance shall be made to Buyer for use of his own truck.
    - (b) If shipment is made by Buyer's boat, Seller may allow actual amount he would have paid for like transportation at minimum published tariffs in effect on date of shipment.

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(Continued)

- (7) Shipment - Shall be made at least within thirty (30) days from date order is received.
- (8) Terms - Net thirty days, less 1 per cent for cash in ten days from date of shipment.
- (9) Taxes - Any tax or other charge imposed by Federal Law upon the production and/or sale and/or shipment of lead oxides shall be added to the price to be paid by the Buyer on any transaction to which such charge is applicable.

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SCHEDULE "A"

- (8) Terms - Net thirty days, less 1 per cent for cash in ten days from date of shipment.
- (9) Taxes - Any tax or other charge imposed by Federal Law upon the production and/or sale and/or shipment of white lead shall be added to the price to be paid by the Buyer on any transaction to which such charge is applicable.

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