

NATIONAL RECOVERY ADMINISTRATION

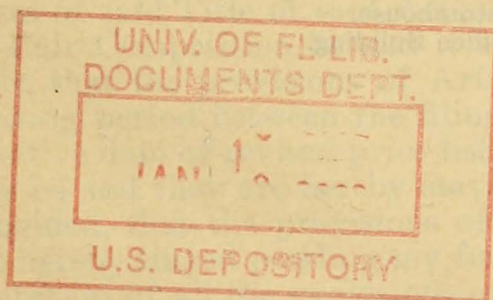
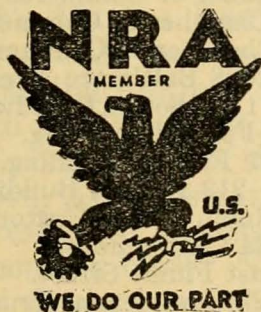
CODE OF FAIR COMPETITION

FOR THE

MARINE EQUIPMENT

MANUFACTURING INDUSTRY

AS APPROVED ON AUGUST 27, 1934

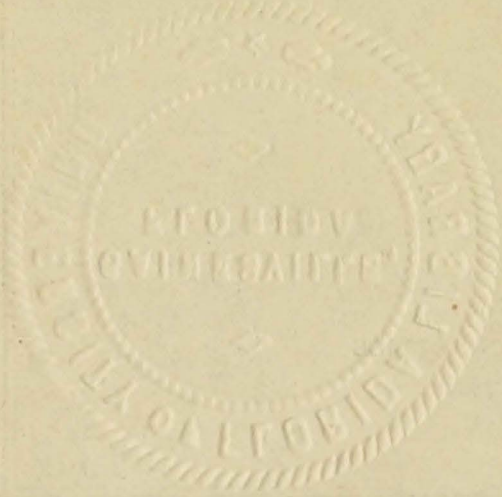


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Approved Code No. 509

CODE OF FAIR COMPETITION

FOR THE

MARINE EQUIPMENT MANUFACTURING INDUSTRY

As Approved on August 27, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE MARINE EQUIPMENT MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Marine Equipment Manufacturing Industry, and hearing having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article X, insofar as they prescribe a waiting period between the filing with the Code Authority and the effective date of revised price lists or revised terms and conditions of sale be and they are hereby stayed pending my further Order; and provided, that the provisions of Article X, Section 5, be and they are hereby stayed pending my further Order; and provided, that the operation of all the provisions of this Code be and they are hereby stayed as to all parties subject thereto insofar as they may apply to the products of the Gray Iron Foundry Industry, the Non-Ferrous Foundry Industry, and the Electrical Manufacturing Industry, for a period of 60 days during which time the Code Authorities for the Gray Iron Foundry Industry, the Non-Ferrous Foundry Industry, the Electrical Manufacturing Industry, and the Marine Equipment Manufacturing Industry shall seek through conference to adjust their differences regarding the definition of this Code, and report

to me within 60 days the results of such conferences; and provided further, that this stay may be extended by my further Order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

BARTON W. MURRAY,
Division Administrator.

WASHINGTON, D.C.,
August 27, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Marine Equipment Manufacturing Industry of the United States, the hearing having been held in Washington on the 22nd day of May in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Hours of employment are limited to 8 a day and 40 a week except for executives and managers earning \$35.00 or more weekly, salesmen and employees on emergency maintenance or repair work. During seasonal periods a tolerance of 48 hours in any 26-week period is permitted. Shipping employees may work 10 hours a day, but are limited to 80 hours in any two-week period. Time and one-half will be paid for all hours in excess of 8 a day and 40 a week except to shipping employees, who may be paid at the regular rate for 44 hours a week.

Watchmen may work 56 hours a week.

Forty cents an hour is established as a minimum wage for males and females except in the Southern area where 32½¢ an hour will be the minimum.

CHILD LABOR

No one under 16 years of age may be employed and no one under 18 years of age may be employed at hazardous occupations.

ECONOMIC EFFECT OF THE CODE

In 1933 this Industry, which comprises approximately 50 firms, employed about 1,000 persons. Since the adoption of 40-hour week as provided in this Code, employment has increased to 1,500 persons in July, 1934, or an increase of 50%.

The invested capital of the Industry is about \$5,000,000.00, and the average annual sales of its products over the past 5 years is approximately \$1,500,000.00.

FINDINGS

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

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, includ-

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

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

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

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

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

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

For these reasons, this Code has been approved by me subject to the following conditions:

That a stay be placed on the waiting period between the date of filing and the effective date of revised price lists or revised terms and conditions of sale as provided in Article X.

That a stay be placed on the operation of all the provisions of this Code insofar as they may apply to products of the Electrical Manufacturing Industry, the Non-Ferrous Foundry Industry, and the Gray Iron Foundry Industry for a period of 60 days, during which time the affected Code Authorities shall endeavor to adjust their differences and report to me, and which stay may be extended by my further Order.

Respectfully,

HUGH S. JOHNSON,
Administrator.

AUGUST 27, 1934.

CODE OF FAIR COMPETITION FOR THE MARINE EQUIPMENT MANUFACTURING INDUSTRY

ARTICLE I—PURPOSES

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

ARTICLE II—DEFINITIONS

The term "Marine Equipment Manufacturing Industry", hereafter referred to as the Industry, is defined to mean the fabrication or manufacture for sale of equipment exclusively for marine usage to include specifically the following lines:

Air Ports

Anchors, forged, cast-iron or malleable-iron, weighing 500 pounds or less.

Binnacles

Blocks, yacht, type of cast iron, malleable iron, brass or lignum vitae.

Boat fenders

Buoy rods

Calking tools

Cargo hooks, boat hooks, and poles

Chocks

Cleats

Controls for marine engines (spark, throttle, and reverse gear)

Deck plates

Eye and chain plates

Flag pole sockets

Fog horns, whistles and sirens,—marine type

Galley sinks of sheet metal and/or enameled iron

Gasoline strainers

Grapnels

Lavatories, manually operated marine pump type, and fittings therefor

Life preservers, other than cork

Lighting fixtures, marine type

Manhold plates, marine type

Marine cushions

Marine lock sets

Marine mufflers

Marine scrapers

Marine shaft bearings of rubber, fibre, babbitt and/or brass

Marine stoves other than wood or coal burning type

Mast and spar bands, belaying pins, and fittings therefor
 Mast track
 Mooring bitts
 Navigation lights
 Oars and paddles (except sawmill operations)
 Oar tips and oar leathers
 Propellers, finished, bronze and/or nonferrous metal, (forty-eight (48) inches or less in diameter)
 Pumps, bilge (manually operated) of cast iron, cast brass, or sheet metal
 Pumps, galley and lavatory (manually operated) up to 2" diameter
 Pumps, gear, of bronze, up to 1" pipe size
 Rowlocks
 Sail slides
 Sea-cocks and through hull connections up to 2"
 Searchlights, marine type up to 14" diameter
 Self bailers
 Sheet metal products of standard marine design, including ventilators, buoys, scoops, screens, etc.
 Snaps, boat and jib
 Stanchion fittings (except standard pipe fittings)
 Steering equipment (manually operated) for boats up to 100 feet long
 Thimbles, solid
 Toilets (manually operated), marine pump type, up to 3" inside cylinder diameter
 Turnbuckles, pipe and bronze
 Underwater hull fittings 3" and less
 Windlasses or winches (manually operated)
 And such other items of equipment made particularly for marine usage when approved by the Administrator upon the recommendation of the Code Authority.
 The term "Employee," as used herein, includes any and all persons engaged in the Industry, however compensated, except a member of the Industry.
 The term "Employer," as used herein, includes any one by whom such employee is compensated or employed.
 The term "Member of the Industry," as used herein, includes but without limitation, any individual, partnership, association, corporation or other form of enterprise engaged in the Industry either as an employer or on his or its own behalf.
 The term "President", "Act", and "Administrator", as used herein, shall mean respectively the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.
 The term "Association", as used herein, is defined to mean the Marine Equipment Manufacturers Association.

ARTICLE III—HOURS

SECTION 1. No employee shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hour period, except as herein otherwise provided.

SECTION 2. The provisions of this Article limiting hours of work shall not apply to traveling salesmen, or to persons engaged in a managerial or executive capacity who earn not less than thirty-five (\$35.00) dollars per week.

SECTION 3. The maximum hours fixed in Section 1 shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least one and one-half ($1\frac{1}{2}$) times the regular rate shall be paid for all hours worked in excess of eight (8) hours in any day or forty (40) hours in any week.

SECTION 4. The maximum hours fixed in Section 1 shall not apply for six (6) weeks in any twenty-six (26) weeks' period, during which time, however, overtime shall not exceed eight (8) hours in any one (1) week; provided, however, that in any such special case at least one and one-half ($1\frac{1}{2}$) times the regular rate of pay shall be paid for hours worked in excess of eight (8) hours in any day or forty (40) hours in any week.

SECTION 5. The maximum hours fixed in Section 1 shall not apply to shipping department employees who may be employed forty (40) hours per week averaged over a two-week period, providing that no employee shall work in excess of ten (10) hours in any one day and provided further that in any such case at least one and one-half ($1\frac{1}{2}$) times the regular rate of pay shall be paid for all hours worked in excess of eight (8) hours in any one day or forty-four (44) hours in any one week.

SECTION 6. No employee shall be permitted to work more than six (6) days in any seven (7) day period.

SECTION 7. Watchmen shall not be permitted to work in excess of fifty-six (56) hours in any week.

SECTION 8. No employer shall knowingly permit any employee to work for any time, which, when totaled with that already performed for another employer or employers, exceeds the maximum prescribed herein.

SECTION 9. Employers who personally perform manual work or are engaged in mechanical operations shall not exceed the prescribed maximum number of hours.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid less than at the rate of forty (40) cents per hour, except as herein otherwise provided.

SECTION 2. No employee engaged in the production of boat oars and paddles, (excepting sawmill operations), shall be paid less than at the rate of forty (40) cents per hour, excepting in the Southern wage area comprising the States of North Carolina, South Carolina, Florida, Georgia, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas, in which no employee shall be paid less than at the rate of thirty-five (35) cents per hour.

SECTION 3. No employee engaged in sewing and other operations in the production of life preservers, boat fenders, and similar products, shall be paid less than at the rate of thirty-five (35) cents per hour, excepting in the Southern wage area comprising the States of North Carolina, South Carolina, Florida, Georgia, Alabama, Ten-

nessee, Mississippi, Arkansas, Louisiana, Oklahoma, and Texas, in which no employee shall be paid less than at the rate of thirty-two and one-half ($32\frac{1}{2}$) cents per hour.

SECTION 4. No clerical or office employee shall be paid less than at the rate of fifteen (\$15.00) dollars per week.

SECTION 5. Office boys and girls may be paid not less than eighty (80) per cent of the minimum salary provided for clerical or office employees in Section 4 of this Article; provided that the number of such office boys and girls so paid shall not exceed five (5) per cent of the total number of clerical or office employees in any establishment, but in any case an employer shall be entitled to employ one (1) such employee.

SECTION 6. This Article establishes a minimum rate of pay regardless of whether an employee is compensated on a time-rate, piece-work, or other basis.

SECTION 7. There shall be an equitable adjustment of all wage rates above the minimum unless this has already been done, but in no case shall the wages above minimum be decreased as a result of this adjustment. The action taken by each member shall be reported to the Code Authority within thirty (30) days after the effective date and to the Administrator on request.

SECTION 8. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees; and where they displace men, they shall receive the same rate of earnings as the men they displace. The Code Authority shall within ninety days after the effective date of this Code file with the Administrator a description of all occupations in the Industry in which both men and women are employed.

SECTION 9. A person whose earning capacity is limited because of age, physical or mental handicap, or other infirmity, 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 such person's 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 United States Department of Labor in issuing certificates to such persons. Each employer shall file monthly with the Code Authority a list of all such persons employed by him, showing the wages paid to, and the maximum hours of work for such employee.

SECTION 10. Every 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 State laws. Wages shall be paid at least at the end of every two-week period, and salaries at least at the end of every month. No employer shall withhold wages. The employer or his agents shall accept no rebates directly or indirectly on such wages nor give anything of value or extend favors to any person for the purpose of influencing rates of wages or the working conditions of his employees.

SECTION 11. No employee shall be dismissed or demoted by reason of making a complaint or giving evidence with respect to a violation of this Code.

ARTICLE V—GENERAL LABOR PROVISIONS

SECTION 1. No person under sixteen (16) years of age shall be employed in the Industry. No person under eighteen (18) years of age shall be employed at operations or occupations which are hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within ninety (90) days after approval of this Code a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision as to age if he shall have on file a valid 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.

SECTION 2. It is hereby provided: That 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.

That 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.

That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SECTION 3. No employer shall reclassify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purpose or provisions of the Act or of this Code.

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

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 health, general working conditions, or fire protection, than are imposed by this Code.

SECTION 6. All employers shall post and keep posted copies of the labor provisions of this Code in conspicuous places accessible to all employees. Every member of the Industry shall comply with all rules and regulations relative to the posting of provisions of Codes of Fair Competition which may from time to time be prescribed by the Administrator.

ARTICLE VI—ORGANIZATION AND ADMINISTRATION

SECTION 1. (a) During the period not to exceed sixty (60) days following the effective date, the Code Committee of the Industry shall constitute a temporary Code Authority until the Code Authority is elected.

(b) The Code Authority shall consist of seven (7) individuals, or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint not more than three (3) additional members (without vote) to represent the Administrator or such groups or interests as he may provide.

(c) Five (5) members of the Code Authority shall be elected by members of the Industry who are members of the Association. This election shall be held at a meeting of the Association, such meeting to be called by the Association within thirty (30) days after the approval of this Code. Notice of such meeting shall be sent to all known members of the Industry who are members of the Association and each member shall be entitled to vote on the basis of one (1) vote for every \$25,000.00 or fraction of sales up to and including \$100,000.00; one (1) vote for every \$50,000.00 or fraction from \$100,000.00 to \$200,000.00; one (1) vote for every \$100,000.00 or fraction above \$200,000.00. For this purpose the number of votes is to be determined from the sales figures of the products of this industry for the previous year as certified to an agent of the Code Authority. Only sales on which a member performs a substantial part of the fabrication are eligible for the calculation of voting power. This section is subject to the exception that no one member may cast more than twenty (20) per cent of the total number of votes cast. Fifty-one (51) per cent of the votes so cast shall be necessary for the election of each individual member. No member of the Industry shall have more than one (1) representative on the Code Authority.

(d) Two (2) additional members of the Code Authority shall be elected from and by the non-members of the Association if they so desire, at a meeting duly called for such purpose by a member vote to be cast either in person or by proxy, or by letter ballot. A plurality of the votes cast shall be necessary for election.

(e) A vacancy in the membership of the Code Authority shall be filled in the above manner either at a special meeting or by a mail ballot, at the discretion of the remaining members of the Code Authority.

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

the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification of the Code Authority.

SECTION 4. 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 malfeasance or non-feasance.

SECTION 5. If the Administrator shall at any time determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended 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 not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

POWERS AND DUTIES

SECTION 6. Subject to such rules and regulations as may be issued by the Administrator, the Code Authority shall have the following powers and duties, in addition to those authorized by other provisions of this Code.

(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.

(b) To adopt by-laws and rules and regulations for its procedure.

(c) To obtain from members of the Industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the Industry subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such Federal and State agencies as he 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 report shall be disclosed to any other member of the Industry or any other party except to such other Governmental 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 or effect members of the Industry.

(f) To recommend to the Administrator any action or measures deemed advisable, including further fair trade practice provisions to govern members of the Industry in their relations with each other or with other Industries; measures for industrial planning, and stabilization of employment; and modifications of this Code which shall become effective as part hereof upon approval by the Administrator after such notice and hearing as he may specify.

(g) To appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other codes as may be related to the Industry for the purpose of formulating fair trade practices to govern the relationships between employers under this Code and under such other codes to the end that such fair trade practices may be proposed to the Administrator as amendments to this Code and such other codes.

(h) To recommend to the Administrator fair and equitable definitions of customers. Upon approval by the Administrator such definitions shall be used by all members of the Industry.

ARTICLE VII—ASSESSMENTS

SECTION 1. It being found necessary in order to support the administration of this Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:

(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes, and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of the Code;

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary (1) an itemized budget of its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Industry;

(c) After such budget and basis of contribution have been approved by the Administrator, to determine and obtain equitable contribution as above set forth by all members of the Industry, and to that end, if necessary, to institute legal proceedings therefor in its own name.

SECTION 2. Each member of the Industry shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Administrator. Only members of the Industry complying with the Code and contributing to the expenses of its administration as hereinabove provided, unless duly exempted from making such contributions, shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

SECTION 3. The Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget; and shall in no event exceed the total amount

contained in the approved budget except upon approval of the Administrator; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

ARTICLE VIII—COST FINDING AND ACCOUNTING

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

ARTICLE IX—COSTS AND PRICE CUTTING

SECTION 1. Pricing Practices: The standards of fair competition for the industry with reference to pricing practices are declared to be as follows:

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

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

(c) When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of Section 2 hereof, is forbidden.

SECTION 2. Emergency Provisions:

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

Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may proceed to determine such stated minimum price.

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

ARTICLE X—PRICE LISTS ¹

SECTION 1. Within thirty (30) days after the effective date of this Code, each member of the Industry shall file with a confidential disinterested agent of the Code Authority a complete schedule individually prepared by him of all his price lists, discounts, rebates, allowances, and all other terms or conditions of sale, hereinafter in this Article referred to as "price terms" for his various classes of trade to become effective on date of receipt by such confidential agent. All new or revised price terms shall be filed with a confidential agent of the Code Authority and shall become effective on the tenth (10th) day after actual receipt by such confidential agent. Immediately upon receipt thereof, such agent shall notify said member of the time of such receipt.

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

No member of the Industry shall sell or offer to sell any products of the Industry, for which price terms have been filed pursuant to the provisions of this Article, except in accordance with such price terms.

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

Copies of all filed price terms or revisions or parts thereof with notice of effective date thereof shall be sent simultaneously and immediately to all customers who have applied therefor and offered to pay the cost of preparation and distribution, and to all members of the Industry who have prices filed; provided, however, that such mailings to members shall cover only the same class of trade and include only prices on the items on which the mail-receiving member has filed. Said lists or revisions or any part thereof shall not be made available to any person until released to all members

¹ See paragraph 2 of order approving this Code.

of the Industry and their customers, as aforesaid; provided, that prices filed in the first instance shall not be released until the expiration of the aforesaid thirty (30) day period after the approval of this code. The Code Authority shall maintain a permanent file of all price terms filed as herein provided, and shall not destroy any part of such records except upon written consent of the Administrator. Upon request the Code Authority shall furnish to the Administrator or any duly designated agent of the Administrator copies of any such lists or revisions or price terms.

Any member of the Industry may file, if he so desires, revisions of his price terms to meet a lower filed price, which shall become effective on the date when the revised list first filed becomes effective.

All prices filed with the confidential agent of the Code Authority shall be available to all interested parties as each may be concerned.

SECTION 2. In the case of inquiries for bids on a quantity of catalogued goods of one or more items large enough materially to reduce the cost of manufacture and distribution, a manufacturer may file a special price for the specific quantity or quantities which the confidential agent of the Code Authority shall immediately forward to all manufacturers of the Article on record, stating size, quantity and price, but withholding the name of the party asking for the bid.

The special price so filed is not to be quoted the customer until ten days after filing except that in case of emergency when ten days' delay in completing the transaction would be serious, the manufacturer by agreeing to accept billing for the telegrams resulting, may file by wire and request the confidential agent of the Code Authority to notify by wire in which case the price will be quotable on receipt of a telegram from said confidential agent that all manufacturers of the item or items have been notified by telegram.

SECTION 3. If a manufacturer receives an inquiry or inquiries for goods to be made to buyers' special design, no filing of price shall be necessary but such goods shall not be sold below the filed price for a similar standard article or design if such price exists. If the article is not similar to a standard article or design, no price need be filed and no report made to said confidential agent.

SECTION 4. Prices may be f.o.b. factory with full freight prepaid or allowed on shipments of 100 lbs. or more or on net amount of invoice of \$25.00 or more. When the buyer specifies other than the cheapest freight route the increase in freight caused by his routing shall be added to the invoice for the material. Shipments by parcel post, express, or shipments by freight weighing less than 100 lbs. shall be f.o.b. shipping point with no freight allowed; except that in New York City any shipment, regardless of weights thereof, may be delivered to store door without charge.

SECTION 5. Members, selling from warehouses at other than their point of manufacture, shall include in their prices a sum sufficient to cover all costs incident to such branch warehouse service. The provisions of this Section shall not apply to boat oars and paddles or to life preservers, fenders or marine cushions.²

SECTION 6. Returned goods shall be credited to the purchaser thereof in full whenever the goods are returned because of error

² See paragraph 2 of order approving this Code.

or negligence on the part of the manufacturer, or defects in quality or workmanship or impaired credit.

SECTION 7. Special goods made and shipped in compliance with order specifications shall not be returnable, except for defects in quality or workmanship or impaired credit.

SECTION 8. Standard goods or special adaptations of standard goods shipped in accordance with customer's order are returnable but in no case except with freight prepaid and subject to a charge by the factory to retire any outgoing freight prepaid and/or cost of reconditioning, if any, or handling.

ARTICLE XI—UNFAIR TRADE PRACTICES

The following described acts shall constitute unfair practices. Any member of the Industry who shall directly or indirectly, through any officer, employee, agent or representative, use or employ any of such unfair practices shall be guilty of a violation of this Code:

SECTION 1. To 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.

SECTION 2. To continue to employ an employee or agent who splits with the buyer his commission or other compensation from the seller for the purpose of or with the effect of influencing a sale.

SECTION 3. Knowingly withholding from or inserting in any quotation or invoice any statement that makes it inaccurate in any material particular.

SECTION 4. Secretly offering or making any payment or allowance of a rebate, refund, commission, credit, unearned discount or excess allowance, whether in the form of money or otherwise, or secretly offering or extending to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

SECTION 5. Issuance of credit by a manufacturer for the return of unused products not produced or sold by said manufacturer.

SECTION 6. Payment by a manufacturer of any part of the cost of periodical advertisements to be published in the name of a customer, or customers, or payment for any part of any catalog or House Organ published by a customer, either direct or by advertising therein, which has the effect of secretly giving the customer a rebate, refund, or discount on goods sold to him, except that it shall be fair practice to loan cuts of manufacturers' products to customers or to permit them to use without charge any pages of type left standing by a manufacturer with a printer.

SECTION 7. Shipping products of the Industry on consignment except under circumstances to be defined by the Code Authority where peculiar circumstances of the Industry require such practices subject to the approval of the Administrator.

SECTION 8. Selling or offering to sell any products of the Industry, except boat oars and paddles, under any form of guarantee against decline in price.

SECTION 9. Wilfully inducing or attempting to induce the breach of existing contracts between competitors and their customers by any false or deceptive means, or interfering with or obstructing the performance of any such contractual duties or services by any such means, with the purpose and effect of hampering, injuring or embarrassing competitors in their business.

SECTION 10. Branding or marking or packing any goods in any manner which is intended to or does deceive or mislead purchasers with respect to the brand, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content or preparation of such goods.

SECTION 11. Defaming a competitor by falsely imputing to him dishonorable conduct, inability to perform contracts, questionable credit standing, or by other false representation, or by falsely disparaging the grade or quality of his goods.

SECTION 12. Publishing or circulating unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

SECTION 13. Accepting an order or contract at a definite price, for an indefinite quantity or without a definite time limit at the expiration of which any unshipped portion of the order shall be offered for shipment and invoiced as if shipped.

SECTION 14. Cancelling or permitting the cancellation of orders or unshipped portions of orders for special goods or for specially large quantities of regular goods, made in compliance with terms or order, before securing from purchaser full payment for all costs incurred by the manufacturer in relation to the unshipped portion and a further payment on the shipped portion of an advance in price proportional to the increased cost of production of the smaller quantity.

SECTION 15. To imitate or simulate the trade mark, trade name, package, wrapper, or label of a competitor's product to such a degree as to deceive or have a tendency to deceive customers.

SECTION 16. Discrimination between purchasers of the same definition by the sale of any article having a published price, at any price below the seller's published price by means of direct or indirect price concessions, or by means of any privilege not extended to purchasers generally, except as provided in Article IX.

SECTION 17. To give more favorable discounts and/or terms than the following, except boat oars and paddles:

(a) No more favorable terms than two (2) percent discount shall be granted a customer on invoices dated from the 1st to the 15th of any month, if payment is mailed or otherwise made by the 25th of the same month; or on invoices dated from the 16th to the end of the month, if payment is mailed or otherwise made by the 10th of the next succeeding month.

(b) Terms shall be net cash 30 days from discount date when cash discount is not taken.

(c) Except that ten days' additional time on all terms and discounts under this Section may be allowed on shipments to or from the Pacific Coast or Alaska.

(d) The rate of interest on all past-due invoices, or on any unpaid portions thereof, shall be not less than the legal rate of interest of the respective state in which the sale is made, from the due date of invoice until paid and shall be charged whenever a debtor has failed to pay for goods purchased within terms as set forth in the foregoing paragraphs of this Subsection, when said interest amounts to five (\$5.00) dollars or more.

SECTION 18. Granting more favorable discounts and/or terms in the sale of boat oars and paddles than the following:

(a) Two (2) percent discount for payment within ten (10) days, or payment in full within thirty (30) days of invoice, except that frequent buyers during any month may be allowed two (2) percent discount for payment on or before the tenth (10th) of the following month.

(b) In the Middle Western States only, orders placed in the fall by large jobbers for shipment in January or February may be invoiced not later than April 1 and shall be payable not later than May 10 of the delivery year.

(c) In the Pacific Coast States only, such shipments may be invoiced not later than February 15 and shall be payable not later than March 1 of the delivery year.

(d) The rate of discount allowed on prepayment of invoices shall not exceed six (6) per cent per annum.

ARTICLE XII—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 XIII—MODIFICATIONS

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with provisions of Subsection (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. Such of the provisions of this Code as are not required to be included herein 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. Such modifications or eliminations may be based on applications by the Code Authority or any member of the Industry. All the provisions of this Code, unless so modified or eliminated, shall remain in effect until June 16, 1935.

ARTICLE XIV—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made more difficult of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increase except such as may be required to meet individual costs should be delayed, but when made, such increases should, so far as

possible, be limited to actual additional increases in the seller's costs.

ARTICLE XV—EFFECTIVE DATE

This Cost shall be effective at 12:01 A.M. on the tenth (10th) calendar day after its approval by the Administrator and shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall by proclamation, or the Congress shall by Joint Resolution, declare that the emergency recognized in Section 1 of the National Industrial Recovery Act has ended.

Approved Code No. 509.
Registry No. 1114-31.



UNIVERSITY OF FLORIDA



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