

NATIONAL RECOVERY ADMINISTRATION

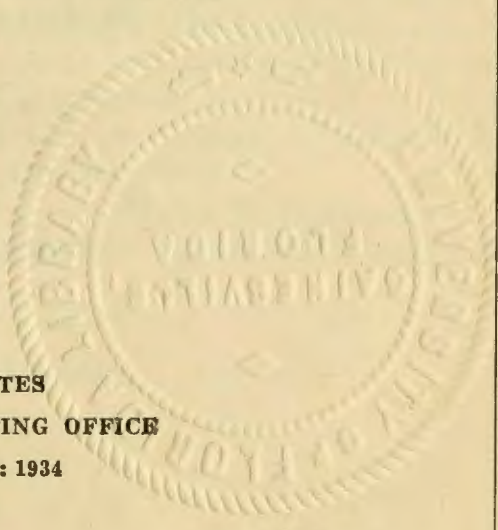
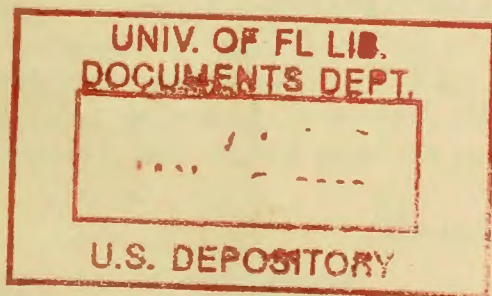
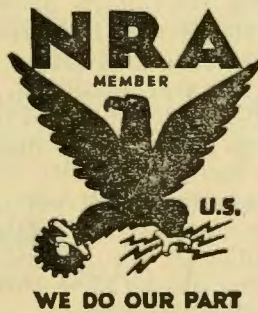
SUPPLEMENTARY
CODE OF FAIR COMPETITION

FOR THE

REFRIGERATION INDUSTRY

(A Division of the Electrical Manufacturing Industry)

AS APPROVED ON JUNE 9, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
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Approved Code No. 4—Supplement No. 1

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

REFRIGERATION INDUSTRY

As Approved on June 9, 1934

ORDER

**SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE REFRIGERATION
INDUSTRY**

A DIVISION OF THE ELECTRICAL 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 Supplemental Code of Fair Competition for the Refrigeration Subdivision to the Code of Fair Competition for the Electrical Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Supplemental 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 Supplemental 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 Supplemental Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article III, Section (f), are stayed pending my further order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

BARTON W. MURRAY,
Acting Division Administrator.

WASHINGTON, D.C.,
June 9, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Supplemental Code of Fair Competition for the Refrigeration Subdivision of the Electrical Manufacturing Industry, Public Hearing having been conducted thereon in Washington, D.C., January 29, 1934, in accordance with the provisions of Title I of the National Industrial Recovery Act. The Code which is attached, was presented by duly qualified and authorized representatives of the Industry, claiming to represent eighty (80) percent of the aggregate production of the Industry.

GENERAL STATEMENT

The National Electrical Manufacturers Association being truly representative of this Subdivision of the Electrical Industry, has submitted a Supplemental Code of Fair Competition to the Basic Code for the Electrical Manufacturing Industry, approved by you August 4, 1933. Every person who filed a request for an appearance at the Public Hearing was heard in accordance with regulations of the National Recovery Administration. The Refrigeration Subdivision of the Electrical Manufacturing Industry is defined to mean the manufacture for sale of Electrical Household Refrigerators and such Commercial Electrical Refrigeration as is not within the control of other duly approved codes.

INDUSTRY

The Refrigeration Division of the National Electrical Manufacturers Association was established in 1929, succeeding an earlier association which was established in 1926. According to statistics furnished by members of the Refrigeration Division, there are approximately seventy-four (74) concerns with an aggregate invested capital of \$150,000,000, and a reported aggregate production for the first ten months of 1933 of 1,010,245 units. At present the Industry employs approximately 40,000 persons.

PROVISIONS OF THE CODE

The Basic Code for the Electrical Manufacturing Industry, establishes a supervisory agency which is fairly and adequately representative of all the different elements in the Industry. Since this Code is supplemental to the Code of Fair Competition for the Electrical Manufacturing Industry, it adopts the labor provisions of the Basic Code.

FINDINGS

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

I find that

(a) Said Supplemental Code is designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including 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 trade for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible use 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 it is not classified by me as a major industry.

(c) The Supplemental 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 group is an Association truly representative of the aforesaid Subdivision of the Industry; and that said Association imposes no inequitable restrictions on admission to membership therein.

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

(e) The Supplemental 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 the approval of this Supplemental Code.

(g) In accordance with the provisions of Article XIV of the Code of Fair Competition for the Electrical Manufacturing Industry, this Subdivision is entitled to and permitted Supplemental Code thereto.

For these reasons, therefore, I have approved this Supplemental Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

JUNE 9, 1934.

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE REFRIGERATION INDUSTRY

A DIVISION OF THE ELECTRICAL MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established, pursuant to the provisions of Article XIV of the Basic Code of Fair Competition for the Electrical Manufacturing Industry, approved by the President August 4, 1933, as a Supplemental Code of Fair Competition for the Refrigeration Subdivision of the Electrical Manufacturing Industry, and upon the eleventh day after approval by the President shall, together with the provisions of said Basic Code and any modifications thereof, or additions or supplements thereto, hereafter made, be made a part of and be the standard of fair competition for the Refrigeration Subdivision of the Electrical Manufacturing Industry.

ARTICLE II—DEFINITIONS

(a) The term "Refrigeration Subdivision of the Electrical Manufacturing Industry" as used herein is defined to mean the manufacture for sale of electrical household refrigerators and such commercial electric refrigeration as is not within the control of other duly approved codes.

(b) The term "President" means the President of the United States of America.

(c) The term "Act" means Title I of the National Industrial Recovery Act.

(d) The term "Administrator" means the Administrator for Industrial Recovery.

(e) The term "Employer" as used herein shall include, every person engaged in the manufacture for sale of the products of the Refrigeration Subdivision of the Electrical Manufacturing Industry as herein defined.

(f) The term "Person" as used herein shall include natural persons, partnerships, associations, trusts, trustees, trustees in bankruptcy, receivers and corporations.

(g) The term "employee" as used herein includes anyone engaged in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

ARTICLE III—GENERAL PROVISIONS

(a) No employer shall mark or brand any product of the Industry in any manner which has the tendency to mislead or deceive cus-

tomers or prospective customers as to the substance, grade, quality, size, quantity, origin, or preparation of any product of the Industry sold or offered for sale.

(b) Employers shall refrain from inducing breach of consumers' contracts, and shall refrain from enticing away employees of competitors for the purpose of unduly hampering, injuring, or embarrassing competitors in their business.

(c) Employers shall refrain from wilful or malicious defamation of competitors and from disparagement of competitors' products.

(d) Employers shall not give secret rebates or discounts, free special services or exorbitant advertising allowances.

(e) Employers shall not 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 person employing such employee, the principal of such agent or the represented party. This 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. Commercial bribery provisions shall not be construed to prohibit prize contests openly conducted among salesmen.

(f) Employers shall not give, permit to be given, or directly offer to give rewards or premiums to actual or to prospective purchasers of their products. This clause shall not be construed to prohibit prize contests openly conducted among actual or prospective purchasers of such products.¹

(g) The making or circularization of threats of suit for infringement of patents or trade marks to or among customers of a competitor, not made in good faith and for the purpose of harassing and intimidating customers is prohibited.

ARTICLE IV—ADVERTISING AND SALES PROMOTION

Advertising and sales promotion as dealt with in this Code shall have the broadest possible interpretation. The term shall apply without limitation to magazine and newspaper advertising, billboards, radio broadcasting, house organs, catalogues, direct mail material, and to all forms of advertising and sales promotional activities in verbal or printed presentation.

(a) No employer shall make or cause or permit to be made or published any false, untrue, or deceptive statement by way of advertisement or otherwise concerning the materials of construction used in, the operating characteristics of, the quality, size, origin, or preparation of any product of the Industry sold or offered for sale.

(b) No representation of a character calculated to mislead the uninformed or casual reader shall be used. All statements made in advertising or sales promotion shall be complete and so phrased as to convey to the casual and uninformed reader the full and complete facts.

(c) No false, untrue, or misleading statements shall be made, either directly or by inference, in any advertising or sales promotion concerning the product advertised or any competitive product, nor

¹ See paragraph 2 of order approving this Code.

shall any statement be made the effect of which will be to mislead the public with respect to other products.

(d) Advertising and sales promotional activities offering products which are not intended to be openly and freely sold, with the object of attracting customers for the purpose of selling other products, are expressly prohibited.

(e) Neither direct nor indirect use shall be made of competitive apparatus for comparative purposes in connection with sales promotion or advertising.

ARTICLE V—WARRANTY AND SERVICE POLICY

(a) Except as special provisions shall from time to time be approved by the Supervisory Agency for this Subdivision and by the Administrator, no employer shall give any express warranty which extends his responsibility for refrigeration equipment manufactured and/or sold by him beyond one year from the date upon which such refrigeration equipment is installed on the premises of the original purchaser, or which extends his responsibility for such refrigeration equipment beyond the replacement or repair of such equipment which shall be defective in material and/or workmanship.

(b) Employers may develop individual plans for providing replacement units in case of failure after the expiration of the warranty, provided:

(1) Advertising and sales promotion shall contain no representation which, by reference to any term of years or by the use of trade terms or phrases not readily understood by the public, or otherwise, would cause any person to assume that an extension of the uniform warranty is intended, nor shall any representation be made in advertising or sales promotion which will in any way tend to confuse such unit replacement plans with the warranty;

(2) In any case in which an employer's policy with respect to unit replacement is referred to in advertising or sales promotion, such advertising and sales promotion shall state clearly the amount which has been added to the complete unit price to cover the average cost of unit replacement.

(c) The term "original purchaser" as used in this Article shall be deemed to mean that person, firm, association or corporation for whom the refrigerating equipment referred to therein is originally installed; or the bona fide assignee of that person, firm, association or corporation.

(d) The provisions of this Article shall not be subverted or evaded, directly or indirectly, by any manufacturer resorting to any form of advertising not in harmony with the letter and spirit of this Article or subterfuges of any kind. On the other hand, no provision of this Article shall be construed to limit or relieve from liability arising out of any warranty implied by law.

ARTICLE VI—TERMS OF SALE

(a) The following provisions shall be observed except as special provisions may, from time to time, be approved by the Supervisory Agency.

(b) Sales made by employers to their outlets shall, whenever feasible, be subject to collection by sight drafts attached to the bills of lading. Open account shall in no case be extended by employers to their outlets beyond the 20th prox., unless such accounts, extended beyond the 20th prox., shall be evidenced by a negotiable note, trade acceptance, or similar negotiable instrument bearing interest at an annual rate of 6 percent (6%), or the maximum legal rate, whichever is lower. Employers shall charge interest at an annual rate of six percent (6%) or the maximum legal rate, whichever is lower, on all overdue accounts.

ARTICLE VII—INVESTIGATION OF COMPLAINTS

(a) Upon receipt of written complaint filed by an employer, the Supervisory Agency of the Refrigeration Subdivision of the Electrical Manufacturing Industry shall cause an investigation to be made for the purpose of establishing the facts. If such investigation establishes facts from which there is a presumption that this Code has been violated, the offending employer shall be requested by registered letter from such Supervisory Agency to refrain from such offending practice, and if that employer repeats or continues the offense, the matter may be referred through the proper channels to the Administrator for such action as seems to him proper in the circumstances.

When any investigation is made or authorized by the Supervisory Agency of the Refrigeration Subdivision, such investigation shall be made by a person or persons not employed by any member of the industry whenever such investigation requires facts to be obtained which should not be made known to competitive organizations.

(b) If the Administrator shall determine that any action of a 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 days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE VIII—MODIFICATIONS

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

(b) This Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modification or amendments to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the Administrator, unless otherwise provided, and when so approved shall have the same force and effect as any other provision of this Code.

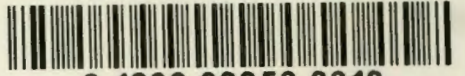
ARTICLE IX—EFFECTIVE DATE

This Code shall become effective on the eleventh day after its approval by the Administrator unless otherwise provided.

Approved Code No. 4—Supplement No. 1.
Registry No. 1328-16.

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