

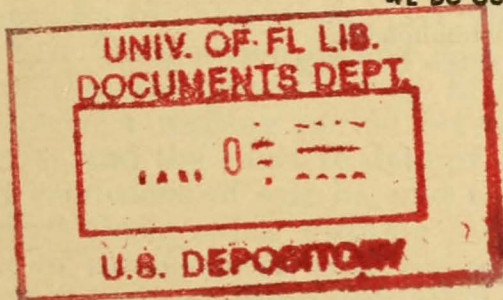
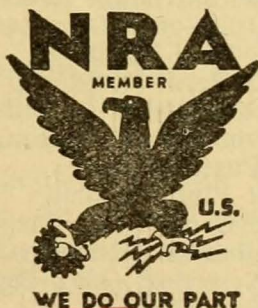
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

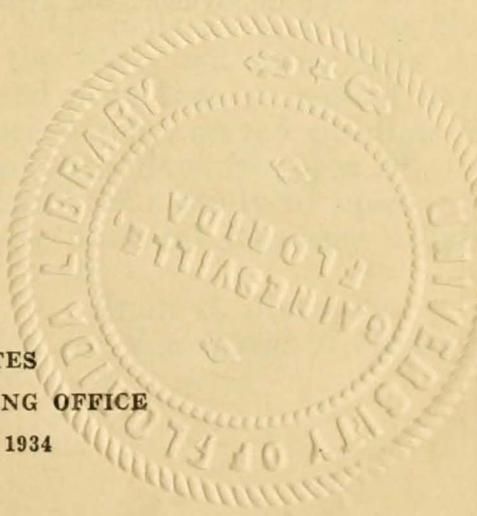
FOR THE

UNIT HEATER
AND/OR UNIT VENTILATOR
MANUFACTURING INDUSTRY

AS APPROVED ON FEBRUARY 10, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934



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Approved Code No. 272

CODE OF FAIR COMPETITION
FOR THE
UNIT HEATER AND/OR UNIT VENTILATOR
MANUFACTURING INDUSTRY

As Approved on February 10, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE UNIT HEATER AND/OR
UNIT VENTILATOR 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 Unit Heater and/or Unit Ventilator Manufacturing Industry, and hearings 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 VII, Rule 4, 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 either within a period of sixty days from the effective date of this Code or after the completion of a study of open price associations now being conducted by the National Recovery Administration.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

W. A. HARRIMAN,
Division Administrator.

WASHINGTON, D.C.,
February 10, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Unit Heater and/or Unit Ventilator Manufacturing Industry as revised after a public hearing, conducted in Washington, D.C., on December 28, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO WAGES AND HOURS

All, except office employees, shall be paid a minimum rate of forty cents per hour. Apprentices shall not exceed in number five per cent of the total number of an employer's wage earners. Office employees shall be paid a minimum wage of fifteen dollars per week. Office boys and girls shall be paid not less than eighty percent of this rate and shall not exceed in number five percent of an employer's total number of office employees.

Handicapped workers may be employed at wages below the minimum. Female employees performing substantially the same work as male employees shall receive equal pay. Adjustment of wage rates above the minimum will be made within thirty days after the approval of this Code.

Forty hours shall be the maximum number of working hours for any week and eight hours for any day except during any six weeks in a six months' period forty-eight hours in one week shall be permissible. Executives, their staffs and supervisors, who regularly receive thirty-five dollars or more per week, and outside salesmen are excepted from this provision. Employees engaged solely at maintenance and repair work, truckmen, firemen and engineers may work nine hours a day or forty-four hours a week except during any six weeks in a six months' period forty-eight hours in one week is permissible. Watchmen shall not be employed in excess of fifty-six hours in any one week. Office employees, except those receiving thirty-five dollars per week or more, shall not be employed in excess of an average of forty hours per week over each period of five weeks, nor more than forty-eight hours in any one week.

All employees, except office employees, shall be paid at the rate of time and one half for time worked in excess of forty hours per week.

ECONOMIC EFFECTS OF THE CODE

The economic welfare of this industry depends upon building activity. Unit heaters are used mainly for factory or industrial use, whereas unit ventilators are intended largely for school and office ventilation and/or heating. Annual sales have decreased seventy-two percent from 1929 to 1932.

Invested capital and production capacity have increased about thirty-five per cent since 1929. The number of wage earners em-

ployed by this industry decreased fifty-four percent over the same period. The Research and Planning Division states that the industry employed 1,770 wage earners in 1929.

The maximum hours as provided by this Code will not reabsorb all the former employees, but a substantial increase in the demand for the products of this industry followed by an increase in man-hour requirements will stimulate employment. The Code provides for the upward adjustment of wages above the minimum, therefore, the purchasing power of the Industry's employees should be increased. Trade practice provisions of the Code are expected to remedy the unfair competition that has existed in the past within the Industry.

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, 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 industry for the purpose of cooperative action among the 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, therefore, I have approved this Code.

Respectfully,

HUGH S. JOHNSON,
Administrator.

FEBRUARY 10, 1934.

CODE OF FAIR COMPETITION FOR THE UNIT HEATER AND/OR UNIT VENTILATOR MANUFACTURING IN- DUSTRY

ARTICLE I—PURPOSES

1. To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Unit Heater and/or Unit Ventilator Manufacturing Industry, and shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

1. The term "Unit Heater and/or Unit Ventilator Manufacturing Industry", as used herein, includes the manufacture, and the assembling and sale by the manufacturer of unit heaters and/or unit ventilators, as herein defined, and such related branches or subdivisions as may from time to time be included under the provisions of this Code with the approval of the President, after such notice and hearing as may be prescribed.

2. The term "Unit Heater", as used herein means a combination of a steam or hot-water air-heating unit and a fan or blower, having a common enclosure and intended to be placed within or adjacent to a space to be heated, and in which generally no ducts are attached to the outlets or inlets. A "Unit Ventilator" is similar in principle of operation to a unit heater but is designed to use all or part of outdoor air. Unit Heaters are mainly intended for factory or industrial use, whereas Unit Ventilators are intended largely for school and office ventilation and/or heating. Where a question arises as to whether a particular device is a Unit Heater or a Unit Ventilator, the decision shall rest with the Code Authority, hereinafter defined, subject to the approval of the Administrator.

3. The term "Member of the Industry", 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.

4. The term "Member of the Code", as herein used, means and includes any member of the industry who shall expressly signify assent to this Code.

5. The term "Code Authority", as herein used, means the body established in Article VI of this Code, to cooperate with the Administrator in the administration of this Code.

6. The term "Employee", as used herein, includes any and all persons engaged in the industry however compensated, except a "Member of the Industry."

7. The terms "President", "Act", and "Administrator", as used herein, mean, respectively, the President of the United States, Title

I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

8. The term "Association", as used herein, shall mean the Industrial Unit Heater Association.

ARTICLE III—HOURS

SECTION 1. No employee, excluding accounting, clerical, and office employees, shall be employed in excess of forty (40) hours in one week, or eight (8) hours in any twenty-four (24) hour period, except that during any six (6) weeks in any six (6) months' period employees may be employed not more than forty-eight (48) hours per week, providing one and one half times the normal rate of pay shall be paid for hours worked in excess of eight (8) hours per day and forty (40) hours per week. The foregoing limitations shall not apply to:

(a) Those employed in executive and managerial capacity, and service engineers when and as long as their expenses are paid by their employer, who regularly receive thirty-five (\$35.00) dollars or more per week.

(b) Outside salesmen.

(c) Employees engaged solely at maintenance and repair work, truckmen, firemen and engineers, who may be permitted to work not more than nine (9) hours in any one day, or forty-four (44) hours in any one week. These employees may also be permitted to work forty-eight (48) hours per week during any six (6) weeks during any six (6) months' period. One and one half times the normal rate of pay shall be paid for hours worked in excess of eight (8) hours per day and forty (40) hours per week.

(d) Watchmen, who may be employed not more than fifty-six (56) hours in any one (1) week, except watchmen in closed plants to whom this limitation shall not apply.

SEC. 2. No accounting, clerical, or office employee shall be employed in excess of an average of forty (40) hours a week over a calendar five (5) weeks period, nor more than forty-eight (48) hours in any one week.

SEC. 3. No employer shall knowingly permit any employee to work for any time which, when totaled with that already performed with another employer or employers exceeds the maximum permitted herein.

SEC. 4. No employee shall be permitted to work more than six (6) days in any seven (7) day period.

ARTICLE IV—WAGES

SECTION 1. No employee shall be paid at less than the rate of forty (40) cents per hour, except that:

(a) Accounting, clerical, and office employees may be paid at not less than fifteen (\$15.00) dollars per week.

(b) Office boys and office girls may be paid at not less than eighty (80) percent of the above-provided minimum wage for accounting, clerical, and office employees, provided that the total number of such office boys and girls receiving less than such minimum wage shall not exceed, in any calendar month, more than five (5) percent of the

total number of office employees of the employer, except that any employer may employ at least two (2) such persons as above provided.

(c) Nothing in this Article IV shall apply to or affect a bona fide apprentice employed under a system or course of training which, when completed, will make the apprentice a skilled mechanic. At no time shall new apprentices be admitted to apprenticeship by any employer when such action will bring their total number to more than five (5) percent of the total number of factory employees of such employer.

SEC. 2. This Article establishes a minimum rate of pay which shall apply, irrespective of whether an employee is actually compensated on a time rate, piece-work, or other basis.

SEC. 3. The Code Authority may present for approval of the Administrator, after notice and hearing, recommendations as to upward adjustments in minimum wages for specific localities.

SEC. 4. Equitable adjustment of compensation of employees receiving more than the minimum rates of pay herein prescribed shall be made by all employers who have not heretofore made such adjustments, and all employers shall within sixty (60) days after approval of this Code, report in full to the Code Authority concerning such adjustments whether made prior to or subsequent to such approval, provided, however, that in no event shall hourly rates of pay be reduced.

SEC. 5. Female employees performing substantially the same work as male employees shall receive the same rate of pay as male employees.

SEC. 6. A person whose earning capacity is limited because of age or physical or other handicaps 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. Each employer shall maintain on file with the Code Authority a list of all such persons employed by him.

SEC. 7. 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 weeks' period, and salaries at least at the end of every month.

SEC. 8. The employer or his agent 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.

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 dangerous to health. The Code Authority shall submit to the Administrator before March 1, 1934, 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 certificate or permit duly signed by the authority in any State

empowered to issue employment or age certificates or permits showing that the employee is of the required age.

SEC. 2. In compliance with Section 7 (a) of the Act it is provided that:

(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.

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

(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.

SEC. 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.

SEC. 4. Every employer shall make reasonable provisions for the safety and health of his employees at the place and during the hours of their employment.

SEC. 5. No provisions in this Code shall supersede any State or Federal law which imposes more stringent requirements on employers as to age of employees, wages, hours of work, or as to safety, sanitary or general working conditions, or insurance, or fire protection, than are imposed by this Code.

SEC. 6. All employers shall post complete copies of the labor provisions of this Code in conspicuous places accessible to employees.

ARTICLE VI—ORGANIZATION

SECTION 1. To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

SEC. 2. The Code Authority shall consist of the members from time to time of the Executive Committee of the Association, provided for in the bylaws of the Association, together with a member selected at large from the Industry. In addition to membership as above provided, there may be not more than three (3) members, without vote, and without expense to the Industry, to be appointed by the Administrator, to serve for such term or terms as he may specify. No two (2) members of the Code Authority shall be affiliated with any single member of the Industry.

SEC. 3. The Association is hereby designated as the agency to conduct an election of the Member at large of the Code Authority by members of the Industry who are not members of the Association, within fifteen (15) days after the effective date of this Code, and any subsequent elections for the successors of such Member at large. Such member shall be elected to serve for a term of one (1) year. In the event that the position of Member at large on the Code

Authority becomes vacant, a special meeting shall be called for an election to fill the vacancy. Notice of the time and place of all elections shall be sent by registered mail, at least ten (10) days in advance of any election, to all members of the Industry who are not members of the Association and who are registered with the Secretary of the Association and voting at such election may be by person, by proxy, or by letter ballot. Each member of the Industry who is not a member of the Association shall have one (1) vote. A plurality of the number of votes cast shall be necessary for election.

SEC. 4. The Code Authority shall have the following further powers and duties to the extent permitted by the Act, the exercise of which shall be reported to the Administrator.

(a) To insure the execution of the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act, subject to such rules and regulations as may be promulgated from time to time by the Administrator.

(b) To adopt bylaws 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 (sworn or unsworn as the Code Authority may specify) as are required for the administration of the Code. No individual information, statistics, or reports shall be disclosed to any other member of the Industry, or any other party except to such 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 the Industry.

(f) To secure from members of the Industry an equitable and proportionate payment of the reasonable expenses of maintaining the Code Authority and its activities.

(g) 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.

(h) To recommend to the Administrator further unfair trade practice provisions to govern members of the Industry in their relations with each other or with other industries and to recommend to the Administrator measures for industrial planning, including stabilization of employment.

SEC. 5. 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 provide such hearings as he may deem proper; and thereafter, if he shall find 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 in the method of selection of the Code Authority, or any sub-Code Authority.

SEC. 6. Each 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, bylaws, 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.

SEC. 7. In addition to the information required to be submitted to the Code Authority and the Administrator, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act.

SEC. 8. 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. The 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 to be taken into consideration.

SEC. 9. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall this Code be construed to render any member of the Code Authority liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall this Code be construed to render any member of the Code Authority, exercising reasonable diligence in the conduct of his duties hereunder liable to anyone for any action or omission to act under this Code, except for his own wilful misfeasance or nonfeasance.

ARTICLE VII—SPECIFIC TRADE PRACTICES

RULE 1. Each member of the Industry shall publish and make available, at all times, to each class of purchasers (except distributors) with whom he does business, a printed price sheet showing the list price of all types, varieties, and sizes of unit heaters, unit ventilators, accessories, and appurtenances regularly on sale by him; together with any and all discounts, including cash and/or quantity discounts, transportation terms, guarantees, and any other terms or conditions which may affect the net cost of any listed article to the purchaser of the class to which the sheet is issued.

RULE 2. All published price sheets shall be plainly dated and shall be considered published when filed in printed form with the Code Authority in sufficient numbers for distribution to all members of the Industry.

RULE 3. Any member of the Industry, upon publishing a price sheet, shall immediately distribute the same to his regular customers.

RULE 4. A member of the Industry may publish revised price sheets from time to time, as market conditions may warrant, upon filing ten (10) days' notice with the Code Authority.*

* See paragraph 2 of order approving this Code.

RULE 5. All published price sheets shall be plainly marked, "Subject to change without notice."

RULE 6. Different classes of purchasers and their trade privileges are recognized, but it is deemed essential to the prevention of unfair trade practices to adopt a uniform method of classification as it affects transactions in this Industry. For this purpose the following classes only are recognized.

(a) Consumer is the ultimate purchaser or user of unit heaters or unit ventilators.

(b) Contractor is one who is regularly engaged in the business of installing heating systems and equipment, including unit heaters or unit ventilators, for the purpose of resale at a profit. A consumer who employs an erecting crew for installing heating materials or equipment on his own properties or for his own use shall not be classed as a contractor. Federal, State, County, and Municipal purchasers, including subdivisions thereof such as School Boards, Park Commissions, and the like, may be classified as Contractors.

(c) Jobber is one who is regularly engaged in the business of buying and reselling steam and hot water heating materials and equipment, including unit heaters or unit ventilators, in and out of stock, but who does no installing of the materials and/or equipment sold. Manufacturers purchasing unit heaters for resale as part of their equipment may be classified as jobbers.

(d) Distributor is one who is regularly engaged in the business of buying and reselling unit heaters or unit ventilators as a jobber, but who is under contract with a particular manufacturer to sell said manufacturer's line of unit heaters and/or unit ventilators to the exclusion of other unit heaters and unit ventilators, and who agrees to conform to all lawful limitations and restriction upon methods of sale contained in said contract.

RULE 7. Nothing herein contained shall be construed to prevent a member of the Industry from selecting his own customers and the classes of customers through whom he wishes to market his goods, but it is deemed conducive to unfair methods of competition to discriminate between purchasers of the same class, or to discriminate between the several recognized classes of purchasers on other than a uniform basis except in the case of distributors or agents. To effectuate this Policy:

(a) The heating contractor, as the commonly recognized dealer in this class of materials, may be extended a trade discount, provided the member extending the discount issues a published price sheet to contractors showing said discount and extends the same discount to all contractors with whom he does business.

(b) The jobber, who in turn serves the heating contractor, may be extended the contractor's trade discount plus an additional trade discount of not to exceed ten (10) percent, provided the member extending said discount issues a published price sheet to jobbers showing said discounts and extends the same discounts to all jobbers with whom he does business.

(c) The distributor or agent, (as provided in Rule 6-d) under contract to abide by the prices and terms of sale of the published price sheet and these Rules of Fair Competition (Article 7 of this

Code), may be extended any discount which a member elects to extend.

RULE 8. The conventional trade practice of allowing quantity discounts is considered rational and fair provided it is based on a quantity bought on one (1) order, thus resulting in a saving in cost to the manufacturer and his distributor, and provided a uniform schedule is adopted and is extended alike to all purchasers of all classes.

A member of the Industry may, or may not, at his option extend quantity discounts, but if he does, it shall be in strict accordance with the schedule printed on his price sheet together with the statement that it applies to all purchasers where the units are bought on one (1) order and are shipped and invoiced at one (1) time, provided, however, that quantity discounts may be allowed on invoices covering partial shipments of an order when

(a) The manufacturer is unable, for reasons beyond his control, to make shipment of complete order at one time.

(b) The order is for units to be installed in one (1) building or group of buildings for which the contract was let prior to the time the order was placed and when the equipment must be shipped as the building construction progresses.

(c) When the order specifies definite partial deliveries over a period of not to exceed six (6) months, and provided that if purchaser fails to accept the entire order within the time specified, adjustment of volume discount shall be made on the basis of the volume actually shipped.

RULE 9. All sales of unit heaters, unit ventilators, accessories, and/or appurtenances shall be made on the basis of a written quotation or bill of sale. Said quotation or bill of sale shall be properly dated and shall be in accordance with the current published price sheet and shall be so itemized as to enable the checking of the same from the current published price sheet. Outstanding quotations may be protected for a period of thirty (30) days beyond date of price change (or in the case of quotations made for direct purchases by the Federal Government, protection may be given for sixty (60) days beyond bid opening) provided a list of such outstanding quotations be filed with the Code Authority within ten (10) days after price change.

RULE 10. All quotations shall be subject to change without notice and void after sixty (60) days, and all written quotations shall so state, subject however to Rule 9.

RULE 11. It shall be deemed an unfair method of competition to sell or dispose of a unit heater, unit ventilator, accessory or appurtenance on any lower basis than that of the current published price sheet, less such discounts as apply under these Rules.

RULE 12. It shall be deemed an unfair method of competition to make a particular sale of unit heaters, unit ventilators, accessories, or appurtenances contingent upon the sale of any other goods or materials.

RULE 13. It shall be deemed an unfair method of competition to mark or brand any product of the Industry in any manner which has the tendency to mislead or deceive customers 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.

RULE 14. It shall be deemed an unfair method of competition to 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, or the quality, size, origin, or preparation of any product of the Industry sold or offered for sale.

RULE 15. All ratings of performance of unit heaters, and unit ventilators shall be in accordance with the respective Codes for Testing and Rating Unit Heaters and Unit Ventilators as established by the American Society of Heating & Ventilating Engineers except that this rule shall not apply in the case of Unit Ventilators until on and after July 1st, 1934.

RULE 16. The right of any manufacturer of unit heaters or unit ventilators to build special sizes or types on special order is recognized; but as such units are more costly to build and should sell for higher prices than his regular line, it shall be deemed an unfair method of competition to sell any special or custom-built unit heater or unit ventilator at the same price or less per unit of rating than the next nearest size and type of the manufacturers' regular line.

RULE 17. It shall be deemed an unfair trade practice to sell unit heaters or unit ventilators less certain parts on a basis other than that by which the deduction for parts is proportional to the net cost to the manufacturer of the parts, or to sell separate parts, except for replacement, on a mark-up less than that employed in determining the price of the complete unit heater or unit ventilator.

RULE 18. It shall be deemed an unfair trade practice to accept blanket orders; therefore, all quotations and orders must specify an itemized bill of goods. If, after a quotation has been made, the specified requirements are changed, a new quotation shall be issued based upon published prices prevailing at that time. If, after an order has been accepted the requirements are changed, deductions shall be credited on the basis of published prices prevailing at the time order was placed and additions shall be charged at the prices prevailing at the time additions are made.

RULE 19. With respect to that portion of his product which is within the Industry, every employer shall use an accounting system for the purpose of determining allowable cost which conforms to the principles of, and is at least as detailed and complete as, the uniform method of accounting, and the uniform method of costing, to be formulated or approved by the Code Authority and the Administrator with such variations therefrom as may be required by the individual conditions affecting any employer or group of employers, and as may be approved by the Code authority and the Administrator.

RULE 20. No employer shall sell or exchange any product of the Industry, manufactured by him, at a price, or upon terms and conditions, which will result in the purchaser paying for the goods received, less than the allowable cost thereof to the seller, determined in accordance with a uniform method of costing above described; provided, however, that dropped lines, or seconds, or inventories which must be converted into cash to meet emergency needs may be disposed of by any employer, at any price and on any terms and

conditions, but only if such employer, not less than ten (10) days before such disposal, has filed with the Code Authority, a statement in writing, setting forth the fact of, and reasons for, such proposed disposal, and the Code Authority has not, before the termination of such ten (10) days' period, in writing disapproved the proposed disposal; and provided further, that a member of the Industry selling, or wishing to sell, below his own allowable cost to meet the competition of a competitor whose allowable costs on products of equivalent design, size, capacity, character, or quality are lower, may do so provided that he has first so reported to the Code Authority and in such report has cited the competition which caused him to take such action, and provided he publishes a revised price sheet. Nothing herein shall be construed to relieve a member of the Industry from strict adherence to Rule 9.

RULE 21. Consignment of goods or delayed billing shall be deemed an unfair trade practice, except under conditions prescribed by the Code Authority.

RULE 22. It shall be deemed a violation of these Rules to enter into or be a party to a written or verbal agreement or understanding which serves directly or indirectly to affect the price or terms of sale established by a current published price sheet, or which serves in any way to defeat the spirit and purposes of these Rules. However, nothing herein contained shall be construed to prevent a member of the Industry from cooperating with or instructing prospective purchasers as to the proper application or installation of said member's products.

RULE 23. All unit heaters and/or unit ventilators, accessories, and appurtenances shall be sold f.o.b. factory. Freight may be allowed to freight station nearest to destination, or may be prepaid.

RULE 24. Varying discounts may be allowed for cash and for varying periods not to exceed (30) days from date of invoice if published and with the understanding that such discounts are viewed as added collection costs.

RULE 25. Published guarantees of unit heaters and unit ventilators shall be subject to the following limitations:

(a) No guarantee on defective material or workmanship shall extend beyond one year from date of shipment.

(b) Replacements: F.O.B. manufacturer's factory subject to manufacturer's inspection.

(c) No liability shall be assumed for consequential damages or reinstallation labor.

(d) Foreign equipment guarantee shall be limited to the warranty of its manufacturer.

RULE 26. A violation of any of the rules in this Article shall be deemed an unfair method of competition.

RULE 27. 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. Commercial bribery provisions 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.

ARTICLE VIII—GENERAL PROVISIONS

SECTION 1. No provision of this Code shall be construed or applied in such a manner as to—

- (a) Promote or permit monopolies or monopolistic practices.
- (b) Permit or encourage unfair competition.
- (c) Eliminate, oppress, or discriminate against small enterprises.

SEC. 2. This Code is hereby expressly made subject to the right of the President, pursuant to Section 10 (b) of Title I of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act, and specifically but without limitation to his right to cancel or modify his order approving this Code, or any conditions imposed by him upon such approval.

SEC. 3. This Code, except as to provisions required by the Act, may be modified on the basis of experience or change in circumstances, such modifications to be based upon application to the Administrator and such notice and hearing as he may specify, and to become effective on approval of the President. Any such application may be made by the Code Authority.

SEC. 4. If the Administrator shall determine that any action of the 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 the Code Authority or agency pending final action, which shall be taken only upon approval by the Administrator.

ARTICLE IX

This Code shall become effective on the second Monday after its approval by the President of the United States.

Approved Code No. 272.
Registry No. 1304-04.