

**NATIONAL RECOVERY ADMINISTRATION**

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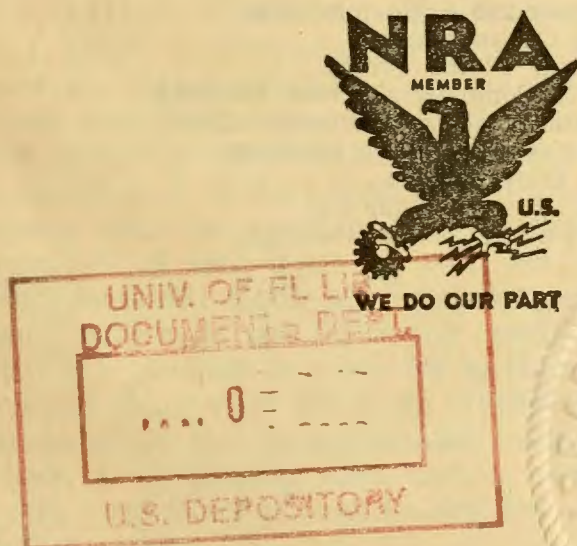
**SUPPLEMENTARY  
CODE OF FAIR COMPETITION**

**FOR THE**

**GAS-POWERED INDUSTRIAL  
TRUCK MANUFACTURING  
INDUSTRY**

**(A Division of the Machinery and Allied Products Industry)**

**AS APPROVED ON JULY 21, 1934**



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**SUPPLEMENTARY CODE OF FAIR COMPETITION**

**FOR THE**

**GAS-POWERED INDUSTRIAL TRUCK  
MANUFACTURING INDUSTRY**

**As Approved on July 21, 1934**

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**ORDER**

**APPROVING SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE  
GAS-POWERED INDUSTRIAL TRUCK MANUFACTURING INDUSTRY**

**A DIVISION OF THE MACHINERY AND ALLIED PRODUCTS 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 Gas-Powered Industrial Truck Manufacturing Subdivision of Machinery and Allied Products 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, subject to the following condition: that the provisions of Article VIII, Section (a), insofar as they prescribe a waiting period between the filing with the Code Authority (or such agency as may be designated in the Supplemental Code) and the effective date of price lists, as originally filed and/or revised price lists or revised terms and conditions of sale, be and they hereby are stayed pending my further order.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended.

BARTON W. MURRAY,  
*Division Administrator.*

WASHINGTON, D.C.,  
*July 21, 1934.*



## REPORT TO THE PRESIDENT

The PRESIDENT,  
*The White House.*

SIR: This is a report on the Supplemental Code of Fair Competition for the Gas-Powered Industrial Truck Manufacturing Subdivision of Machinery and Allied Products Industry, a Public Hearing on which was held in Washington, D.C., on May 10, 1934. The Hearing was conducted in full accordance with the provisions of Title I of the National Industrial Recovery Act.

### GENERAL STATEMENT

The Gas-Powered Industrial Truck Manufacturing Subdivision, being representative of the manufacturers of the products defined in Article II of the Supplemental Code, has elected to formulate and submit a Supplemental Code of Fair Competition as provided in Article I of the Code of Fair Competition for the Machinery and Allied Products Industry, approved by you on the seventeenth day of March 1934.

The Gas-Powered Industrial Truck Manufacturing Subdivision means the manufacture for sale of direct-gas-powered burden-bearing industrial trucks used in and around factories; mills; railroad, marine, and air terminals; warehouses; and similar establishments; and direct-gas-powered industrial tractors for use in the foregoing places for towing, pushing, sweeping, cleaning, and for other similar operations. Vehicles designed primarily for commercial or highway work are not included in this definition.

### ECONOMIC EFFECT

This Subdivision has been very severely affected by the recent depression. This is evidenced by the steady decline in annual sales, the total volume having declined from \$2,500,000 in 1929 to \$575,000 in 1932, or 77 per cent and increasing thereafter to \$1,000,000 in 1933 or 73.9 per cent over 1932.

In 1929 this Subdivision employed 367 persons. After 1929 employment declined to 132 in 1932, or 64.0 per cent and increased thereafter to 160 in 1933, or 21.2 per cent over 1932.

No data are available on average hours of labor or average wage rates for the Subdivision. The effect of the wage and hour provisions of the Supplemental Code cannot therefore be determined.

The wage provisions for the Subdivision, which is operating under the Code of the Machinery and Allied Products Industry, provide that employees engaged in plant operations shall be paid as follows: (1) in cities of more than 50,000 population and their immediate vicinity, 40 cents per hour; (2) in cities of more than 10,000 but not more than 50,000 population and their immediate vicinity, which



cities are not in the immediate vicinity of a city of more than 50,000 population, 38 cents per hour; (3) in cities of 10,000 population or less and their immediate vicinity, which cities are not in the immediate vicinity of a city of more than 10,000 population, 36 cents per hour, except that employees engaged in plant operations in all localities in the states of Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Texas, and Oklahoma, shall be paid not less than 32 cents per hour.

When females do substantially the same work as males or replace males, they shall receive the same pay. However, no female employee shall be paid less than 87½% of the proper rate for the locality in which employed.

Office boys and girls and apprentices shall be paid not less than 80% of the minimum wage.

Employees other than those engaged in plant operations shall receive not less than \$15.00 per week.

This Supplemental Code provides that no person under sixteen years of age shall be employed in this Subdivision.

#### RESUME OF SUPPLEMENTAL CODE

Article I states the purpose of the Supplemental Code.

Article II accurately defines specific terms applicable to the Subdivision as used in this Supplemental Code.

Article III provides for the adoption of the employment provisions of the Code of Fair Competition for the Machinery and Allied Products Industry as approved by you on the seventeenth day of March, 1934 and as from time to time amended.

Article IV provides for the adoption of Articles II, VI, VIII, and IX of the Code of Fair Competition for the Machinery and Allied Products Industry in accordance with the conditions of this Article governing their adoption.

Article V provides for the establishment of the Code Authority and defines its powers and duties.

Article VI provides for an accounting system and methods of cost finding and/or estimating.

Article VII provides that no products shall be sold or exchanged below a reasonable cost when the Code Authority determines that an emergency exists.

Article VIII provides for methods of setting up, revising, and filing price lists and discount sheets and terms of sale and payment.

Article IX sets forth trade practices for the Subdivision.

Article X establishes that no provision of this Supplemental Code relating to pricing and marketing shall apply to export trade.

Article XI. This Supplemental Code and all the provisions thereof are expressly made subject to the right of the President in accordance with 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. Provision is also made that modifications may be submitted by the Code Authority.

Article XII provides means for withdrawal of this Subdivision from the Basic Code and its continuance as an autonomous Code.



Article XIII establishes that no provision of this Supplemental Code shall be so applied as to permit monopolies and monopolistic practices or to eliminate, oppress, or discriminate against small enterprises.

Article XIV states the effective date of this Supplemental Code.

#### FINDINGS

The Assistant 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 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 Subdivision 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 representative of the aforesaid Subdivision; 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 Supplemental Code.

For these reasons, therefore, I have approved this Supplemental Code, provided that certain provisions relating to price publications are stayed, as stated in the Order.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*

JULY 21, 1934.



# SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE GAS-POWERED INDUSTRIAL TRUCK MANUFACTURING INDUSTRY

## A DIVISION OF THE MACHINERY AND ALLIED PRODUCTS INDUSTRY

### ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a Supplemental Code for the Gas-Powered Industrial Truck Manufacturing Subdivision of the Machinery and Allied Products Industry, and together with the Code of Fair Competition for Machinery and Allied Products Industry, as amended, shall be the standard of fair competition for this Subdivision, and shall be binding on every employer therein.

### ARTICLE II—DEFINITIONS

“Applicant” means the Gas-Powered Industrial Truck Association, a trade organization, all members of which are engaged in the manufacture for sale of the products of the Gas-Powered Industrial Truck Manufacturing Subdivision of the Machinery and Allied Products Industry.

“Industry” means the Machinery and Allied Products Industry, as defined in its Code of Fair Competition as approved by the President, and as such definition may from time to time be amended.

“Subdivision” means the Gas-Powered Industrial Truck Manufacturing Subdivision of the Machinery and Allied Products Industry as defined and set forth in an amendment to Article II of the Code of Fair Competition for the Machinery and Allied Products Industry as follows:

“Gas-Powered Industrial Truck Manufacturing Subdivision means the manufacture for sale of direct-gas-powered burden-bearing industrial trucks used in and around factories; mills; railroad, marine, and air terminals; warehouses; and similar establishments; and direct-gas-powered industrial tractors for use in the foregoing places for towing, pushing, sweeping, cleaning, and for other similar operations. Vehicles designed primarily for commercial or highway work are not included in this definition.”

“Code” means the Code of Fair Competition for the Machinery and Allied Products Industry as approved by the President March 17, 1934, and as from time to time amended.

“Person” means a natural person, a partnership, a corporation, an association, a trust, a trustee, a trustee in bankruptcy, a receiver, or other entity.

“Employer” means any person engaged in this Subdivision either on his own behalf or as an employer of labor.



"The Act" means Title I of the National Industrial Recovery Act.

"The President" means the President of the United States.

"The Administrator" means the Administrator for Industrial Recovery.

"Basic Code Authority" means the Code Authority for the Machinery and Allied Products Industry as constituted by the Code.

"Code Authority" means the Code Authority constituted for this Subdivision as provided by the Code and by this Supplemental Code.

"Group Code Authority" means the Code Authority for any group or product classification within this Subdivision.

"Publish" means to make available to the public.

### ARTICLE III—EMPLOYMENT PROVISIONS

The following Articles of the Code, viz: Article III, "Working Hours"; Article IV, "Wages"; and Article V, "General Labor Provisions", are hereby made a part of this Supplemental Code, with the same effect as if they were written into this Supplemental Code.

### ARTICLE IV—ADOPTION OF OTHER PROVISIONS OF CODE

The following Articles of the Code, viz: Article II, "Definitions"; Article VI, "Administration"; to the extent that they shall be applicable to this Supplemental Code as such or as it may hereafter be administered as an autonomous code; Article VIII, "Modifications and Termination", are hereby adopted and made a part of this Supplemental Code, with the same effect as if they were written into this Supplemental Code.

### ARTICLE V—ADMINISTRATION

(a) A Code Authority for this Subdivision is hereby constituted to administer, supervise, and facilitate the enforcement of the Code and of this Supplemental Code in the manner and to the extent provided in the Code and in this Supplemental Code.

(b) During a period not to exceed sixty (60) days following the effective date and pending the election of the permanent Code Authority, the executive committee of the Applicant shall constitute a temporary Code Authority.

(c) The Applicant shall, by written notice mailed (registered) to all employers, whose names the Applicant has obtained after a reasonably diligent search, call a meeting of employers to be held within sixty (60) days after the effective date for the purpose of adopting procedural rules and regulations for the election, organization, and operation of the permanent Code Authority and electing a permanent Code Authority which shall consist of five (5) members. The Administrator may, in his discretion, appoint one additional member (without vote and without expense to the Subdivision). The permanent Code Authority so elected and appointed shall succeed the temporary Code Authority.

(d) Any employer shall be entitled to vote at the election of the permanent Code Authority and at other meetings of employers and



share in the benefits of the activities of Code Authority and participate in any endeavors of Code Authority in the preparation of any amendments or revisions of, or additions or supplements to this Supplemental Code, by paying or agreeing to pay, as and when assessed, his proper pro rata share of the reasonable cost of administering this Supplemental Code as determined by Code Authority. The assessments shall be pro rata on the basis of employer's total sales averaged over the two preceding years, and the total sales of the Subdivision averaged over those same two years, or on any other equitable basis.

(e) Action by employers in any Subdivision meeting for the election of Code Authority shall be by vote of the employers entitled to vote as provided in Section (d) of this Article V, each such employer to have one vote only. Action by employers in any Subdivision meeting for the adoption of procedural rules, revisions, or additions to this Supplemental Code, or the transaction of other business of the Subdivision under this Supplemental Code, shall be by vote of the employers in the Subdivision who are entitled to vote thereat as provided in Section (d), Article V of the Supplemental Code, and are present in person or by proxy duly executed and filed with Code Authority; cast and computed in the manner provided in Section (d), Article VI of the Code, except that the unit of voting shall be \$50,000 of sales. All questions as to the number of votes which each employer shall be entitled to cast at any meeting of employers other than the meeting held to vote for the election of the permanent Code Authority shall be determined by Code Authority, in accordance with Section (d) Article VI of the Code.

(f) In order that the Code Authority shall at all times be truly representative of the Subdivision 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 in the method of selection of the Code Authority.

(g) Employers in this Subdivision having a common interest and common problems may be grouped by Code Authority for administrative purposes. There shall be a Group Code Authority approved or appointed by Code Authority for each such group.

(h) If formal complaint is made to Code Authority that provisions of this Supplemental Code have been violated by any employer, Code Authority or the proper Group Code Authority may to the extent permitted by the Act, cause such investigation or audit to be made, as may be deemed necessary. If such investigation is made by Group Code Authority it shall report the result of such investigation or audit to Code Authority for action.

(i) The Code Authority may appoint a Trade Practice Committee which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Subdivision for the purpose of formulating fair trade practices to govern the relationships between production and distribution employers under this Supplemental Code and under such others to the end that such fair trade practices may be proposed to the Administrator as amendments to this Supplemental Code and such other codes.



## ARTICLE VI—ACCOUNTING AND COSTING

The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all employers of the Subdivision. After such system and methods have been formulated, full details concerning them shall be made available to all employers. Thereafter all employers shall determine and/or estimate costs in accordance with the principles of such methods.

## ARTICLE VII—SELLING BELOW REASONABLE COST

SECTION 1. When the Code Authority determines that an emergency exists in this Subdivision and that the cause thereof is destructive price-cutting such as to render ineffective or seriously endanger the maintenance of the provisions of this Supplemental Code, the Code Authority may cause to be determined the lowest reasonable cost of the products of this Subdivision, such determination to be subject to such notice and hearing as the Administrator may require. The Administrator may approve, disapprove, or modify the determination. Thereafter, during the period of the emergency, it shall be an unfair trade practice for any employer of the Subdivision to sell or offer to sell any products of the Subdivision for which the lowest reasonable cost has been determined at such prices or upon such terms or conditions of sale that the buyer will pay less therefor than the lowest reasonable cost of such products.

When it appears that conditions have changed, the Code Authority, upon its own initiative or upon the request of any interested party, shall cause the determination to be reviewed.

SECTION 2. The foregoing Section 1 shall not apply to (a) dropped lines, or (b) seconds, or (c) inventories which must be converted into cash to meet emergency needs, all of which may be disposed of by any employer at any price and on any terms or conditions, but only if such employer, not less than two weeks before such proposed disposal, has filed with Code Authority a statement in writing setting forth the facts of, and reasons for, such proposed disposal and the price and terms and conditions of sale, and Code Authority has not (with the approval of the Administrator), before the termination of such two week period, in writing, disapproved the proposed disposal. Notice of such disposal, if not disapproved, shall be sent immediately to all employers manufacturing products of equivalent design, character, quality or specifications, who may sell such products at prices and on terms and conditions as favorable as those stipulated in the proposed disposal, when meeting the competition of such proposed disposal.

SECTION 3. The foregoing Section 1 shall not apply to a sale made in order to meet competition on products manufactured outside the United States. For such disposal, any employer may sell, at prices and on terms and conditions as favorable as those of the competing foreign product, but only if he has first reported to the Code Authority his intention so to sell, and the facts as to the competition which justifies such action.



## ARTICLE VIII—PRICE LISTS

(a) If and when Code Authority determines that in any group of the Subdivision it has been the generally recognized practice to sell a specified product on the basis of net price lists, or price lists with discount sheets, and fixed terms of sale and payment, each employer engaged in the manufacture of such product shall, within ten (10) days after notice of such determination, file with Code Authority a net price list, or a price list with discount sheet, as the case may be, individually prepared by him, showing his current prices, or prices and discounts, and terms of sale and payment for such specified product, and Code Authority shall immediately publish and send copies thereof to all known employers who are cooperating under this Supplemental Code as described in Article V (d) and engaged in the manufacture of such specified products.

Revised price lists and/or discount sheets and/or terms of sale and payment may be filed from time to time thereafter with the Code Authority by any such employer, to become operative upon the date specified therein, but such revised price lists and/or discount sheets and/or terms of sale and payment shall be filed with the Code Authority ten (10) days in advance of the operative date. The Code Authority or the Group Code Authority may establish a shorter period at any time provided no revisions waiting operative date shall be affected thereby. Copies thereof, with notice of the operative date specified, shall be immediately published and sent to all employers cooperating under this Supplemental Code as described in Article V (d), any of whom may file, if he so desires, revisions of his price lists and/or discount sheets and/or terms of sale and payment, which shall become effective upon the date when the revised price list and/or discount sheet and/or terms of sale and payment first filed shall go into effect.<sup>1</sup>

(b) If and when Code Authority shall determine that in any group of the Subdivision not now selling its product on the basis of price lists, with or without discount sheets, with fixed terms of sale and payment, the distribution or marketing conditions in the group are the same as, or similar to, the distribution or marketing conditions in a group where the use of price lists, with or without discount sheets and fixed terms of sale and payment is well recognized, and that a system of selling on net price lists or price lists and discount sheets with fixed terms of sale and payment for such specified product should be put into effect in such group, then each employer in such group shall within twenty (20) days after notice of such determination, file with Code Authority net price lists or price lists and discount sheets, with fixed terms of sale and payment, showing his prices and discounts and terms of sale and payment, and such price lists and/or discount sheets and/or terms of sale and payment may be thereafter revised in the manner hereinbefore provided; and such methods of pricing and revisions thereof shall be "published and sent" as described in Article VIII (a). Provided that Code Authority shall make no determination, to place any product of the Subdivision (not now on a price list basis) on a price list basis, as provided in this Section unless affirmative consent to such

<sup>1</sup> See paragraph 2 of order approving this Code.



determination is given by a 66 $\frac{2}{3}$ % vote of employers who are at that time cooperating under this Supplemental Code as described in Article V (d), and are engaged in manufacturing such product. The eligibility requirements, methods, and effect of such voting shall be the same as is provided by Article V.

(c) No employer shall sell directly or indirectly by any means whatsoever, any product of the Subdivision covered by provisions of this Article VIII at a price or at discounts or on terms of sale and payment, different from those provided in his own current net price lists, or price lists and discount sheets, and terms of sale and payment.

#### ARTICLE IX—TRADE PRACTICES

1. No employer shall indulge in destructive price cutting.

2. No employer shall secretly, directly or indirectly, offer to make any payment or allowance of a rebate, refund, commission, credit, unearned discount, or excess allowance, whether in the form of money or otherwise, nor shall an employer secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

3. No employer shall publish advertising (whether printed, radio, display or of any other nature), which is misleading or inaccurate, in any material particular, nor shall any employer in any way misrepresent any goods (including, but without limitation, its use, trade mark, grade, quality, quantity, origin, size, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted.

4. No employer shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

5. No employer shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. This 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.

#### ARTICLE X—EXPORT TRADE

No provision of this Code relating to prices or terms of selling, shipping or marketing, shall apply to export trade or sales or shipments for export trade. "Export Trade" shall be as defined in the Export Trade Act adopted April 10, 1918.

#### ARTICLE XI—MODIFICATIONS

(a) As provided by Section 10 (b) of the Act, the President may from time to time cancel or modify any order, approval, license, rule or regulation issued under Title I of the Act.



(b) Any amendments, additions, revisions, or supplements of this Supplemental Code, proposed by Code Authority, and authorized by the affirmative vote of 66 $\frac{2}{3}$ % of the employers shall be in full force and effect upon approval by the President. The eligibility requirements, method and effect of such voting shall be the same as provided by Article V hereof.

(c) This Supplemental Code shall terminate June 16, 1935, or on such date prior thereto when the Act shall be repealed or the President shall, by proclamation, or the Congress shall, by joint resolution, direct that the emergency recognized by Section I of the Act has ended.

#### ARTICLE XII—WITHDRAWAL

Upon thirty days notice to the Basic Code Authority and to the Administrator, this Subdivision may, upon the concurring affirmative vote of employers, within the said Subdivision entitled to cast two-thirds or more of all the votes that might be cast by all employers within the Subdivision entitled to vote thereon, withdraw from the jurisdiction of the Basic Code Authority. The eligibility of voters and the method and effect of such voting shall be in accordance with the provisions of Article V hereof. After and in the event such withdrawal is accomplished this Supplemental Code, together with the provisions of the Code shall become and be the sole code governing this Subdivision, and the Code Authority shall for this Subdivision, become and be the sole Code Authority and shall perform all the functions with respect thereto.

#### ARTICLE XIII—MONOPOLIES

Applicant imposes and shall impose no inequitable restrictions on membership therein. The Supplemental Code presented by it is not designed to promote monopoly, and shall not be so construed or applied as to oppress or eliminate small enterprise or discriminate against them, and is designed to effectuate the policy of the Act.

#### ARTICLE XIV—EFFECTIVE DATE

This Supplemental Code shall become effective and binding on all persons engaged in the Subdivision on the eleventh day after its approval.

Approved Code No. 347—Supplement No. 33.  
Registry No. 1421-03.











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