

NATIONAL RECOVERY ADMINISTRATION

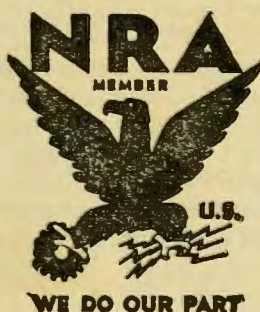
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CODE OF FAIR COMPETITION  
FOR THE  
**LIQUEFIED GAS INDUSTRY**

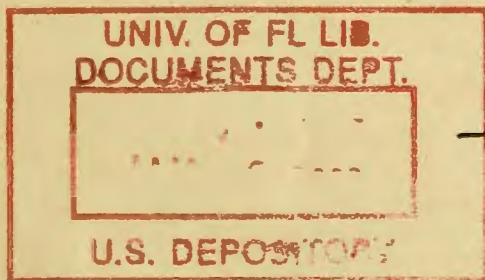
AS APPROVED ON NOVEMBER 8, 1933

BY

**PRESIDENT ROOSEVELT**



1. Executive Order
2. Letter of Transmittal
3. Code



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## EXECUTIVE ORDER

### CODE OF FAIR COMPETITION FOR THE LIQUEFIED GAS 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 my approval of a Code of Fair Competition for the Liquefied Gas Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition, together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations and adopt the findings of the Administrator and do order that the said code of fair competition be, and it is hereby, approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE.

*November 8, 1933.*

Approval recommended:

HUGH S. JOHNSON,  
*Administrator.*

(III)

NOVEMBER 3, 1933.

The PRESIDENT,  
*The White House.*

SIR: A proposed Code of Fair Competition for the Liquefied Gas Industry was submitted to the Administrator on August 24, 1933, by the National Bottled Gas Association, representing 75% of the known members of the Industry. The hearing was conducted in Washington on October 5, 1933, and the Code was revised during the recess of this hearing and is submitted in its present form for approval. Every person who requested an appearance was properly heard in accordance with statutory and regulatory requirements.

Because of the unsettled conditions incident to the rapid growth of this Industry there are no reliable criteria for determining directly the minimum wage rates. The larger companies have estimated that compliance with the President's Reemployment Agreement has raised hourly rates approximately 17%. However, the main contribution of this Code to the Industry lies in Article IV, the Rules for Marketing. These Marketing regulations, by providing protection for the consumer, will ameliorate their good will, thereby enlarging the potential market for this Industry.

#### RÉSUMÉ OF CODE

Article I states the purpose of the Code.

Article II accurately defines specific references made in the Code.

Article III sets forth the mandatory labor provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for all employees except outside salesmen and the executive staff who receive more than \$35.00 per week. Because of seasonal variations, employees are permitted to work in any two months' period 346 hours, but in no event more than 48 hours in any one week.

The minimum wage rate for all employees, excepting those working on a commission or drawing account basis, is 40¢ per hour.

Article IV states the marketing rules for the Industry.

Article V establishes an Emergency National Committee as the Code Authority for the Industry. This body is composed of eleven Committeemen elected by the Industry with additional representatives (not exceeding three) to be appointed by the President.

#### FINDINGS

The Administrator finds: A. This Code complies in all respects with the pertinent phrases of Title I of the Act, including without limitation, subsection A of Section 7, and subsection B of Section 10 thereof; B. The National Bottled Gas Association is truly repre-

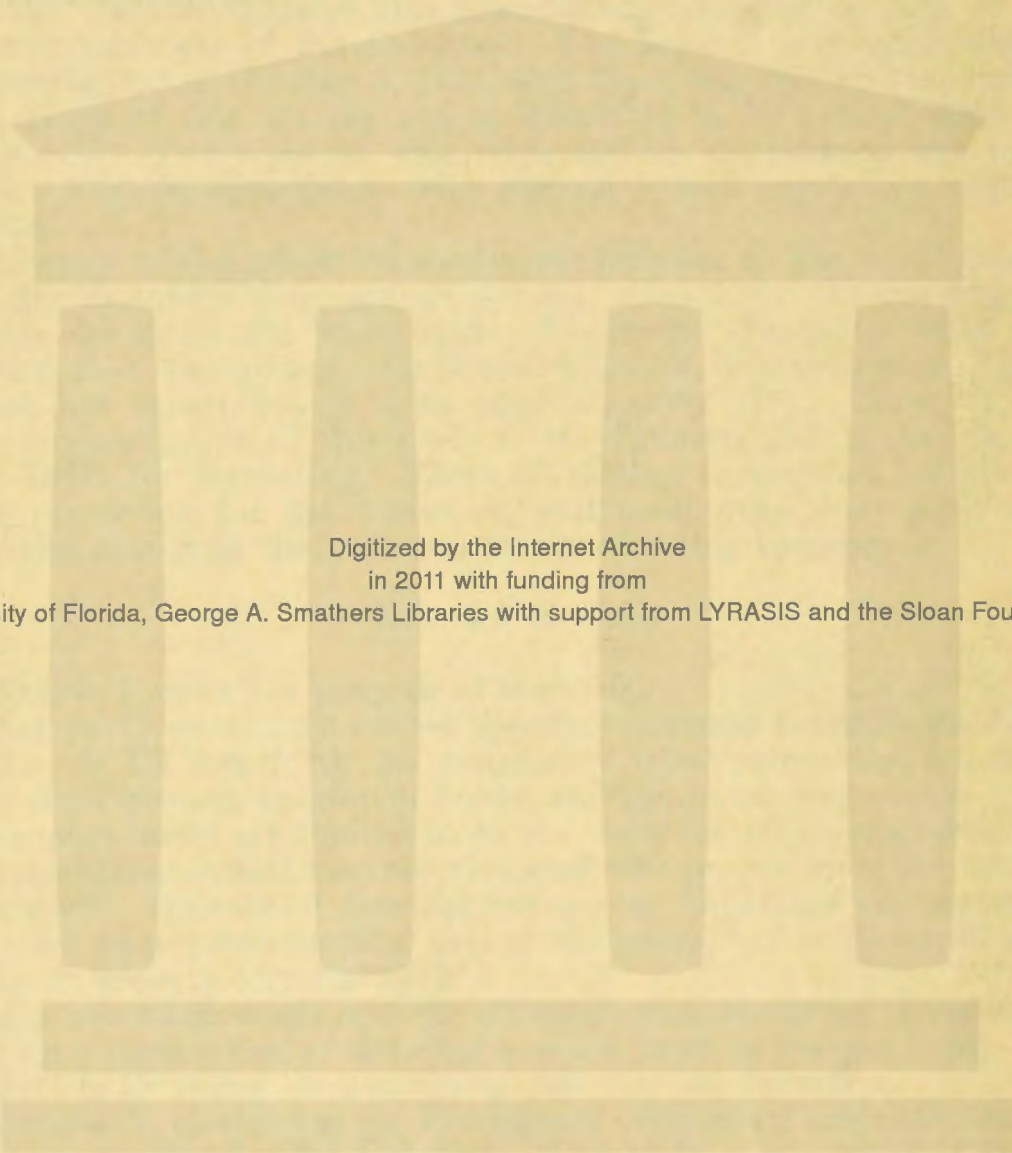


sentative of the Liquefied Gas Industry, and the by-laws of this Association, when amended as per written agreement, will provide no inequitable restrictions on membership; C. The Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,  
*Administrator.*



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# CODE FOR THE LIQUEFIED GAS INDUSTRY

## ARTICLE I—PURPOSES

In order to insure the conservation of the liquefied gas resources of the country, to eliminate unfair trade practices, to increase employment, to establish fair and adequate wages, to enlarge the purchasing power of persons related to this industry, to improve the standards of labor, to so restore the liquefied gas industry that it may promote the general welfare and common prosperity of the American people, to give maximum safety protection to all consumers regardless of type, to eliminate unfair competition in the liquefied gas industry, and to accomplish and effectuate the policies set forth in Title I of the National Industrial Recovery Act, this Code of fair trade practices governing the liquefied gas industry is adopted as the standard of fair competition for such industry and shall be binding on every member thereof.

This code covers only the *marketing* of liquefied gas for any use whatsoever in any quantities and in any size or type of container whatsoever.

## ARTICLE II—DEFINITIONS

Liquefied gas for the purpose of this code is (a) an inflammable liquefied hydrocarbon material having a vapor pressure exceeding twenty-five pounds per square inch gauge at 70 degrees F. and/or (b) any inflammable liquefied hydrocarbon material with a lesser vapor pressure, but not less than nine (9) pounds absolute vapor pressure at 70 degrees F., when same is used as or in a similar manner to "bottled gas" for purposes such as cooking, water heating, and the like by the gas feed, liquid feed, or other utilization system, or as raw material in "pentane-air" machines and the like.

A "marketer" is any distributor, jobber, wholesaler, or retailer selling, reselling, or delivering to consumers liquefied gas in either barges, tank cars, tank trucks, or portable containers.

The term "liquefied gas industry" includes the marketing of liquefied gas in barges, tank cars, tank trucks, drums, or portable containers where such is used as a fuel in industrial plants, residences, restaurants, and the like.

The term "Bottled Gas" includes that part of liquefied gas served directly or indirectly to the retail consumers in portable containers or tank trucks.

The term "standard utilization equipment" is that equipment installed at the bottled gas consumer's residence or place of business for utilization of liquefied gas and usually comprises a cabinet, a regulator with safety device, manifold valves, a flexible connection or connections, a base, a lock, and piping.



The terms "President", "Act", and "Administrator" as used herein shall mean, respectively, the President of the United States, the National Industrial Recovery Act, and the Administrator of Title I of said Act.

### ARTICLE III—LABOR

Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from 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. 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 a labor organization of his own choosing. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

The employees of the liquefied-gas industry, except executives, supervisors, their secretaries, and their immediate staff who receive a minimum of \$35 per week, and outside salesmen, will work on an average of not more than 40 hours per week. Because of the exigencies and seasonal peaks of the liquefied-gas industry it may be necessary to work the employees more than 40 hours per week on occasion, but the work for each individual for any two months' period shall not exceed 346 hours nor exceed a total of 48 hours in any one week. The minimum wage to be paid by employers in the industry shall be forty cents (\$0.40) per hour, excepting those employees working on a commission or drawing account basis in the direct sales activities of the industry.

Within each State, members of the industry shall comply with any laws of such State imposing more stringent requirements, regulating the age of employees, wages, hours of work or health, fire or general working conditions, than under this Code.

The minimum rate of pay provided for herein is guaranteed to all workers whether compensation is based on time or piecework basis.

The rate of other labor shall bear a fair relation to the foregoing giving due consideration to the experience and knowledge of the employees affected and to the prevailing scale for similar work in the locality of the employment, but no attempt shall be made to introduce any classification according to the nature of the work involved which might tend to set a maximum as well as a minimum wage.

No employee shall be permitted to work for two or more employers for a longer period in any week than is specified herein for a single employer.

On or after the effective date of this Code no "employer" shall employ any person under the age of eighteen years, except that in office and sales work this minimum may be sixteen years.

### ARTICLE IV—MARKETING

*Rule 1.*—No "marketer" engaged in the sale of liquefied gas products shall wilfully induce, attempt to induce, or assist a party to



break a then existing written contract for the sale of liquefied gas products or a then existing lease of the equipment used for the sale or utilization of liquefied gas products between that party and another.

No "marketer" engaged in the sale of liquefied gas products shall knowingly enter into any agreement to sell or deliver any liquefied gas to anyone where sale or delivery will violate or prevent the performance of a then existing written contract between the person to whom the sale or delivery is made and another.

Nothing herein shall be construed to restrict another marketer from explaining the convenience and general features and operation of such marketer's utilization equipment to the customer of another marketer.

No contracts in violation of this Code are protected under this rule.

*Rule 2.*—When any equipment, tank, cylinder, or other device for the storage, consumption, handling, or sale of liquefied gas leased prior or after the adoption of this Code bears the name, mark, trade mark, or trade name of any "marketer" engaged in the manufacture or sale of any such commodity, no other "marketer", unless that "marketer" has been regularly serving such equipment immediately prior to the adoption of this Code, or unless such equipment is owned by Federal, State, or municipal governments or subdivisions thereof and no liquefied gas contract is in effect, shall deliver into or deliver for sale to such equipment, tank, cylinder, or other device or any tank or container connected therewith, any liquefied gas, other than that manufactured, sold, and distributed by the "marketer" whose name, mark, trade mark, or trade name is so affixed, and no "marketer" shall in any way knowingly be a party to the substitution of the one brand or type of liquefied gas for another, or the removal or transportation of any equipment, tanks, cylinders, devices, of the like belonging to another "marketer."

No "marketer" shall make any changes in, additions to, or substitutions from, any equipment installed on lease by any other "marketer", except where such "marketer" has been regularly supplying liquefied gas for use in such equipment immediately prior to the adoption of this Code, or upon written permission of the owner thereof or the original "marketer" installing same. Marks, trade marks, or trade names of any "marketer" engaged in the manufacturing sale of any such commodity shall not be removed by any other "marketer" except on written authorization by such "marketer" and/or owner.

*Rule 3.*—As the bottled gas branch of the liquefied gas industry is a growing industry, and as it is still in its development period of creating new markets, marketing of appliances to consumers directly by the "marketer" is essential, and all "marketers" may sell appliances direct. Incentives such as load building appliances, utensils, advertising novelties, etc., shall be construed as assisting in building the industry and shall be allowed, but only to consumers already using liquefied gas as compensation for services rendered, and the value of such incentives shall not be disproportionate to business gained thereby.

However, "marketers" engaged in the sale of liquefied gas shall not give away any liquefied gas nor make any installation or lease free of charge or at less than posted prices.



This rule shall not prevent (a) the giving of other reasonable prizes at fairs, public demonstrations, and cooking schools; (b) the giving of other reasonable incentive, to induce attendance at such public demonstrations or to obtain names of prospective consumers.

*Rule 4.*—All “marketers” shall post at each point from which they make deliveries, and at places readily accessible to the public, all prices for which liquefied gases are sold at retail. All “marketers” engaged in the retail sale or leasing of bottled gas equipment shall post at each point from which they make deliveries and at places readily accessible to the public, all retail prices for which bottled gas equipment are sold and/or leased. Upon adoption of this Code all “marketers” shall submit posted price schedules and any price changes made thereafter in written form to the National Bottled Gas Association, or other association designated by the Emergency National Committee, within twenty-four hours after such change. Any person shall have access to this information from the “Association” upon written request. All prices shall remain in effect for at least twenty-four (24) hours after they are posted. Posting shall include the following: (a) The retail prices for all classes, types, methods, and quantities of deliveries of liquefied gas, (b) The prices and/or lease or installation charges for all types and specifications of liquefied-gas equipment for retail use; (c) a schedule of all discounts offered and the terms thereof and (d) a statement of all terms as to freight rates, deliveries and points of price basis. All retail sale or leased installations shall be made at the posted price or lease charges and no “marketer” shall make any deviation from his posted price by means of rebates, allowances, concessions, benefits, script books, quantity discounts, discounts to buyers of a class or by any plan, device, or scheme, whereby any buyer obtains any liquefied gas or equipment, or lease, or installation at a net cost lower than the posted price.

*Rule 5.*—No “marketer” engaged directly or indirectly in the liquefied gas industry shall sell any liquefied gas below his prime cost; nor shall sell at retail any bottled gas equipment or appliances for less than his prime cost. Prime cost as used herein is understood to mean invoice figure plus transportation charges from source to storage.

*Rule 6.*—All utilization equipment requiring portable and/or movable containers shall be approved by and listed with the Underwriters Laboratories, Inc., of National Board of Fire Underwriters and/or affiliates and shall be installed, maintained, and operated in accordance with the rules and recommendations of Underwriters Laboratories, National Board of Fire Underwriters and/or affiliates, as a means of promoting the greatest degree of safety.

All cylinders or drums purchased after the effective date of this Code shall be built and maintained in accordance with the specifications and regulations of the Interstate Commerce Commission. All cylinders or drums purchased and/or in use prior to the effective date of this Code, and used for storage and/or transportation of liquefied gas, in interstate and intrastate service, by rail, truck, or otherwise, shall, if built in accordance with specifications of other recognized authorities, but not constructed, marked, and maintained in accordance with specifications and regulations of the Interstate



Commerce Commission, be either retired from any storage or transportation service or be tested, and maintained in accordance with specifications of the Interstate Commerce Commission within five years from the effective date of this Code. All cylinders or drums not built in accordance with Interstate Commerce Commission specification or specifications of other recognized authorities shall be withdrawn from service within a reasonable length of time after the effective date of this Code through the exercise of diligent, conscientious, and prompt effort on the part of the owners thereof, such reasonable time not to exceed one year from the effective date of this Code.

No deliveries of liquefied gas in or by cylinders or otherwise shall be made to any installation either temporary or permanent for domestic or commercial bottled-gas uses such as cooking, hot-water heating, lighting and space heating, which installations are located inside buildings, basements, or other dangerous or hazardous locations, excepting only buildings designed and erected specifically and exclusively for housing of such installations, after a reasonable time following the effective date of this code. A "reasonable time" is here defined as that period within which the necessary changes to comply with the requirements of this rule can be made by diligent, conscientious, and prompt effort on the part of the "marketer" affected or his agents, but in no event shall such reasonable time exceed 1 year from the effective date of this Code.

Liquefied gas cylinders or drums shall be warehoused and/or stored only in a safe location and in a safe manner, in accordance with recognized safety practices and under the rules or recommendations of insurance companies or recognized authorities, and shall not be warehoused and/or stored in any location which would be hazardous to the public or if such locations are in violation of State or local laws or insurance company rules.

All deliveries of liquefied gas made to buyers or consumers for domestic use shall be limited to the capacity of the liquefied-gas equipment installed on the premises of said user or buyer.

All tanks, containers, piping, devices, and utilization equipment shall be built in accordance with the rules or specifications covering that class promulgated by the National Board of Fire Underwriters, National Fire Protection Association, Associated Factory Mutual Laboratories, and/or affiliates, and shall be installed, maintained, and operated in strict accordance with the rules and recommendations of the National Board of Fire Underwriters, National Fire Protection Association, Associated Factory Mutual Laboratories, and/or affiliates.

*Rule 7.*—"Marketers" engaged in the sale of liquefied gas or sale or lease of liquefied gas equipment being cognizant of the need for safety in equipment and installation, shall not sell, lease or install any reclaimed or second-hand equipment, except where such equipment has been reconditioned so as to be equivalent from a safety standpoint to new equipment of the same type and specification. Such equipment shall not be sold, leased, or installed below the posted price of unused equipment.

*Rule 8.*—The making or causing or knowingly permitting to be made or published any false, materially inaccurate or deceptive state-



ment by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry, or the credit terms, values, policies, or services of any member of the industry, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers, or the falsely laying claim to a policy or a continuing practice of generally underselling competitors, is prohibited.

*Rule 9.*—The provisions of this code shall not apply to transactions between subsidiary or affiliated companies. Companies shall be considered to be affiliated when one owns the majority of the outstanding capital stock of the other and when the majority of the outstanding capital stock of each is held by the same individual, corporation, or association. The Parent companies owning the majority of stock in other companies shall be responsible for the observance by such subsidiary or affiliated company of the rules of this code.

*Rule 10.*—The unauthorized use by any "marketer" of the trade mark, trade slogan, insignia, or emblem of any other "marketer" or of any trade association in the liquefied gas industry, or the assertion of claim, by advertisement or otherwise, by any "marketer" that he is a member of any such association when in fact not a member thereof, is prohibited.

*Rule 11.*—All consuming appliances not manufactured for liquefied gas shall be properly adapted or converted for the safe and efficient use of liquefied gas, and no "marketer" shall render such conversion service, on appliances being connected to a liquefied gas installation made by such "marketer", at prices below cost of labor and material.

*Rule 12.*—The marketing provisions of this code shall apply to all "marketers" of liquefied gas as hereinbefore defined regardless of any of their trade associations or other industrial affiliations.

*Rule 13.*—A violation of any of the rules of this code shall constitute an unfair trade practice.

## ARTICLE V

**SECTION 1. *Emergency National Committee.***—There shall be an Emergency National Committee of the Liquefied Gas Industry to consist of eleven (11) committeemen to be representative of the Liquefied Gas Industry, who shall be so selected by a majority vote in such a way that every element of the Industry shall be fairly and equitably represented. The voting shall be on a basis of total sales income from liquefied gas sales (income from equipment, appliance, or anything other than liquefied gas sales being specifically excluded), the said income being that income for the calendar year immediately preceding the year in which the voting occurs, as follows:

(a) For "marketers" making bona-fide sales, the basis shall be one vote for each \$100 of such income.

(b) For "marketers" not included in (a) the basis shall be one vote for each \$100 of that theoretical liquefied gas sales income which said marketer would have had, if said "marketer" had actually handled the sales transaction directly instead of as an intermediary for another "marketer."



(c) For "marketers" included in (a) but not included in (b) and operating under such a sales arrangement as to combine any truly wholesale marketing of liquefied gas with a direct marketing to the final retail consumer, the basis shall be the same as rule (a) plus the voting power based on those theoretically wholesale sales which would have been necessarily made had said "marketer" operated on a retail-sales basis only.

The additional voting provisions of (c) in excess of the voting provisions of (a) shall not apply to sales for other than "bottled gas" purposes.

The President may appoint ——— (from one to three) nonvoting members who will represent the Government on the Emergency National Committee. Such Governmental representatives are to be appointed for terms of from six months to one year. In case more than one such representative is appointed, the terms of appointment are to be so arranged that they do not expire at the same time.

SEC. 2. *Emergency Executive Committee.*—The Emergency National Committee shall select from its membership an Emergency Executive Committee composed of the Chairman of the Emergency National Committee, who shall be also the Chairman of the Emergency Executive Committee, and three others, one of whom (without vote) shall be a representative of the National Recovery Administration. The Emergency Executive Committee thus constituted shall have all the authority and power of the Emergency National Committee when the Emergency National Committee is not in session.

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 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.

SEC. 3. *Powers and Duties of Committees.*—Subject to review and disapproval or modification by the Administrator:

(a) The Emergency National Committee shall be the general planning and coordinating agency for the Industry. It shall make rules and regulations as it may deem necessary and upon complaint of interested parties or upon its own initiative may make inquiry and investigation into the operation of this code, and shall aid the President and his delegates in the administration of this code and the National Industrial Recovery Act.

(b) The Committee shall make and publish, from time to time, such forecasts on these subjects as it may deem advisable in order that the President of the United States may be informed as to the observance or non-observance of this code and in order to provide necessary data upon which to base its studies for the purposes of this code and to have available data, the Emergency National Committee is empowered to call upon the Industry for all statistical and other reports pertinent to this Code which it may deem advisable and any refusal to supply such reports is a violation of this code. All such statistical and other data shall be available to the Administrator and his agents. Except as otherwise provided in the National Industrial Recovery Act, all statistics, data, and information filed in ac-



cordance with the provisions of Article V shall be confidential, and the statistics, data, and information of one employer shall not be revealed to any other employer except that for the purpose of facilitating the administration and enforcement of the provisions of this Code the Emergency National Committee or the Emergency Executive Committee by their duly authorized representatives (who shall not be in the employ of any employer affected by this Code) shall have access to any and all statistics, data, and information that may be furnished in accordance with the provisions of the National Industrial Recovery Act. In addition to information required to be submitted to the Code Authority, there shall be furnished to Government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

(c) The Committee shall utilize to the fullest extent possible the facilities of any and all existing trade associations, national, regional, or local, in the liquefied gas industry in such manner as may seem most useful to the work of the Committee. It may form or cause to be formed advisory committees and committees to cooperate in the administration of this Code, the National Industrial Recovery Act, and the rules and regulations thereunder.

(d) 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.

SEC. 4. *Vacancies*.—All vacancies occurring during term of office in the Emergency National Committee and the Emergency Executive Committee shall be filled by the Emergency National Committee. Members, except government representatives, of all Committees shall serve until August 15, 1934, when their term shall expire. Prior to August 15, 1934, a new Emergency National Committee shall be elected in accordance with provisions of Article V, Section 1.

SEC. 5. *Fees and Assessments*.—To cover the actual expense of administration, assessments shall be made by the Emergency National Committee of the Liquefied Gas Industry, hereinbefore provided for, which assessments shall be on a fair and equitable basis, considering the nature and extent of operations carried on by those subject to assessments, and assessments shall be paid promptly when due by those assessed.

SEC. 6. *Amendments*.—The President may from time to time cancel or modify any order, approval, license, rules or regulations issued under Title I of the National Industrial Recovery Act, and specifically, without limitation, may cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

Such of the provisions of this Code as are not required to be included herein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in circumstances or experience may indicate. It is contemplated that from time to time supplementary provisions to this Code or

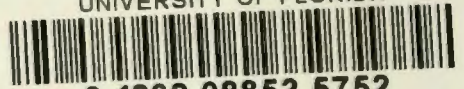


additional conditions will be submitted for the approval of the President to prevent unfair competition in prices and other unfair destructive and competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act, provided, however, that no modifications or amendments of this Code shall be made by the members of the industry without the consent being voted, in writing, by members representing at least two-thirds of the total number of votes to which all members of the Code are entitled collectively, when based upon the voting provisions of Article V, Section 1.

Notice of any proposed modification or amendment to this Code shall be given to all members of the Industry and time be allowed for consideration of such amendment or modification prior to acting upon the same.

SEC. 7. *Price Increase*.—Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases shall be delayed and that, when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

SEC. 8. *Effective Date*.—The provisions of this code shall become effective upon approval thereof by the President, and shall remain in force until June 16, 1935, or any date prior thereto that the President shall by proclamation or the Congress shall by joint resolution declare that the emergency recognized by Section I of Title I of the National Industrial Recovery Act has ended.



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