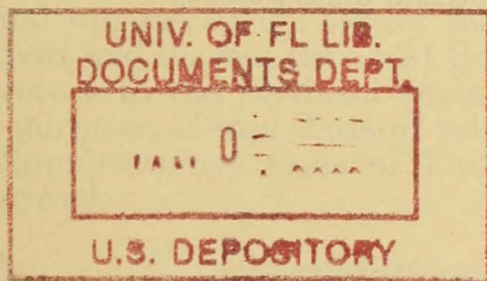
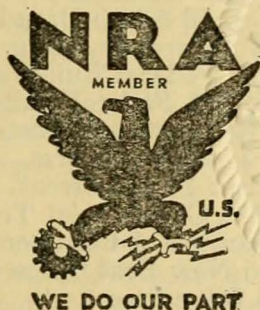


NATIONAL RECOVERY ADMINISTRATION

SUPPLEMENTARY
CODE OF FAIR COMPETITION
FOR THE
PRISON EQUIPMENT
MANUFACTURING INDUSTRY

(A Division of the Fabricated Metal Products
Manufacturing and Metal Finishing
and Metal Coating Industry)

AS APPROVED ON JULY 5, 1934



UNITED STATES
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SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

PRISON EQUIPMENT MANUFACTURING
INDUSTRY

As Approved on July 5, 1934

ORDER

APPROVING SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE
PRISON EQUIPMENT MANUFACTURING INDUSTRY

A DIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND
METAL FINISHING AND METAL COATING 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, and in accordance with the provisions of Section 1 of Article VI of the Basic Code for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved November 2, 1933, for approval of a Supplementary Code of Fair Competition for the Prison Equipment Manufacturing Industry, and hearing having been duly held thereon; and the annexed report on said Supplementary 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 Supplementary 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 Supplementary Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

BARTON W. MURRAY,

Division Administrator.

WASHINGTON, D.C.,
July 5, 1934.

REPORT TO THE PRESIDENT

THE PRESIDENT,
The White House.

SIR: This is a report on the Supplementary Code of Fair Competition for the Prison Equipment Manufacturing Industry, a division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, the hearing having been conducted thereon in Washington, D. C., June 5, 1934, in accordance with the provisions of Title I of the National Industrial Recovery Act.

GENERAL STATEMENT

The Prison Equipment Manufacturing Industry being truly representative of this division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, has elected to avail itself of the option of submitting a Supplementary Code of Fair Competition, as provided for in Section 1 of Article VI of the Basic Code, for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry approved by you on the second day of November, 1933.

RÉSUMÉ OF THE CODE

Article I states the purpose of the Supplementary Code.

Article II accurately defines specific terms employed in the Supplementary Code.

Article III. This Industry is a division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry and the labor provisions of its Basic Code, as approved November 2, 1933, are the labor provisions of this Supplementary Code.

Article IV establishes a Supplementary Code Authority consisting of five (5) members to be elected by the members of the Industry at a meeting called by the Temporary Supplementary Code Authority, and gives the Administrator the authority to appoint one additional member without vote and provides machinery for obtaining statistics and the administration of the Supplementary Code.

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

Article VI covers the selling below cost provisions but does not prohibit sales below cost to meet competition.

Article VII sets forth the unfair trade practices of this Supplementary Code which has been especially designed to offset unfair competition in this division of the Industry.

Article VIII provides for bidding practices.

Article IX provides against monopolies and monopolistic practices.

Article X contains the mandatory provisions contained in Section 10 (b) and also provides for the submission of proposed amendments to the Supplementary Code.

Article XI, recognizes that price increases be limited to actual additional increases in the seller's cost.

Article XII states the effective date and duration of this Supplementary Code.

FINDINGS

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

I find that:

(a) Said Supplementary 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 Supplementary 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 Supplementary Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Supplementary 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 Supplementary Code.

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

Respectfully,

HUGH S. JOHNSON,
Administrator.

JULY 5, 1934.

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE PRISON EQUIPMENT MANUFACTURING INDUSTRY

A DIVISION OF THE FABRICATED METAL PRODUCTS MANUFACTURING AND
METAL FINISHING AND METAL COATING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Supplementary Code of Fair Competition for the Prison Equipment Manufacturing Industry, pursuant to Article VI of the Basic Code of Fair Competition for the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry, approved by the President of the United States on the second day of November, 1933, and the provisions of this Supplementary Code shall be the standards of fair competition for the Industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. (a) The term "Prison Equipment Manufacturing Industry" or the "Industry", as used herein, is defined to mean the manufacturing and/or offering to sell, and/or selling and/or installation by the member of the Industry in whole or in part, of industry products and/or parts for use in connection therewith or incident thereto.

(b) The term "industry products", as used herein, is defined to mean and include cells, cell fronts, locking and operating devices, locks, cell furnishings, windows, window guards, grilles, grating and plate partitions and doors, and related specialties and parts of corrective institution equipment for jails, prisons, reformatories, asylums and other penal and/or corrective institutions, in which public peace and safety require inmates to be confined and prevented from escape by all possible mechanical safeguards.

SECTION 2. The terms "President", "Act", and "Administrator" as used herein shall mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery.

SECTION 3. The term "member of this Industry" as used herein includes but without limitation any individual, partnership, association, corporation or other form of enterprise engaged in this Industry either as an employer or on his or its own behalf in manufacturing, and/or offering to sell, and/or selling and/or installation in whole or in part of industry products.

SECTION 4. The term "Basic Code" as used herein is defined to mean the Basic Code of Fair Competition for the Fabricated Metal

Products Manufacturing and Metal Finishing and Metal Coating Industry as approved by the President of the United States on the second day of November, 1933.

SECTION 5. The term "employee" as used herein includes any and all persons engaged in the Industry, however compensated, except a member of the Industry.

SECTION 6. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

SECTION 7. The term "Supplementary Code Authority" as used herein means the agency which is to administer this Supplementary Code as hereinafter provided.

SECTION 8. The term "Supplementary Code Committee" as used herein is defined to mean the committee authorized to present this Supplementary Code.

SECTION 9. The term "Confidential Agent" as used herein is defined to mean the impartial agency designated by the Supplementary Code Authority.

SECTION 10. The term "Association" is defined to mean the Corrective Institution Equipment Association or its successor.

SECTION 11. The term "Federation" as used herein is defined to mean the Fabricated Metal Products Federation or its successor.

ARTICLE III—EMPLOYMENT PROVISIONS

This Industry is a division of the Fabricated Metal Products Manufacturing and Metal Finishing and Metal Coating Industry and without limitation the wage, hour and labor provisions in Article III of its Basic Code as approved by the President, November 2, 1933, including Section 1 of said Article III, by which the provisions of sub-sections (1), (2) and (3) of Section 7 (a) of Title I of the Act are made conditions of this Code, are specifically incorporated herein and made a part hereof as the wage, hour and labor provisions of this Supplementary Code.

ARTICLE IV—ORGANIZATION AND ADMINISTRATION

SECTION 1. During the period not to exceed sixty (60) days following the effective date of this Supplementary Code, the Supplementary Code Committee of the Industry shall constitute a temporary Supplementary Code Authority until the Supplementary Code Authority is elected. There shall be constituted within the sixty-day period a Supplementary Code Authority consisting of five (5) members to be elected by the members of the Industry, at a meeting called by the Temporary Supplementary Code Authority. The members of the Supplementary Code Authority first elected shall serve until the following annual meeting of the Association, and thereafter members of the Supplementary Code Authority shall be elected at each annual meeting of the Industry to be held at the time and place of each annual meeting of the Association to serve for one year and until their successors are elected and qualified; ten days' advance notice of all meetings to be held hereunder shall be sent by registered mail to all members of the Industry, whose names may be ascertained after diligent search, who may vote either in person

or by proxy. The members of the Supplementary Code Authority shall be elected in the following manner:

(a) One member who shall be a member of the Industry by a majority vote of all members of the Industry present in person or by proxy, each member to have one vote.

(b) Four members who shall be members of the Industry and also members of the Association, by a fifty-one percent vote of the members of the Industry, present in person or by proxy, weighted on the basis of one vote for each member and one additional vote for each \$100,000 of annual sales of industry products averaged over the preceding five calendar years reported to the Supplementary Code Authority. Provided, however, that no one member may cast more than 20 percent of the total number of votes cast.

A vacancy in the membership of the Supplementary Code Authority shall be filled by a majority vote of the remaining members of the Supplementary Code Authority, provided, however, that the member of the Supplementary Code Authority who is chosen to fill such vacancy shall be selected from the class of membership in which the vacancy occurred.

In addition thereto the Administrator may appoint a member of the Supplementary Code Authority who shall be without vote and shall serve without expense to the Industry, unless the Supplementary Code Authority agrees to pay such expense. The representative who may be appointed by the Administrator shall be given reasonable notice of, and may sit at, all meetings of the Supplementary Code Authority.

SECTION 2. Any trade association directly or indirectly participating in the selection or activities of the Supplementary Code Authority shall (1) impose no inequitable restrictions on membership, and (2) shall use due diligence in submitting to the Administrator true copies of its Articles of Association, By-Laws, regulations and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 3. In order that the Supplementary Code Authority shall, at all times, be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may prescribe such Hearings as he may deem proper; and, thereafter, if he shall find that the Supplementary Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may make an appropriate modification of the Supplementary Code Authority.

SECTION 4. It being found necessary in order to support the administration of this Supplementary Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Supplementary Code Authority is authorized:

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

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary: (1) an itemized budget of its estimated expenses for the foregoing

purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Industry.

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

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

The Supplementary Code Authority shall neither incur nor pay any obligations in excess of the amount thereof as estimated in its approved budget, except upon approval of the Administrator, first obtained, and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

SECTION 5. Nothing contained in this Supplementary Code shall constitute the members of the Supplementary Code Authority partners for any purpose. Nor shall any member of the Supplementary Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Supplementary Code Authority. Nor shall any member of the Supplementary Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Supplementary Code, except for his own willful malfeasance or non-feasance.

SECTION 6. The Supplementary Code Authority shall also from time to time furnish to the Basic Code Authority, designated in said Basic Code, such information as may be required to be furnished under the terms of said Basic Code.

SECTION 7. The Supplementary Code Authority shall have all the powers and duties which shall be necessary and proper to enable it to fully administer this Supplementary Code and to effectuate its purposes.

Without limitation to the foregoing or any other powers or duties provided for in this Supplementary Code, this Supplementary Code Authority shall have the following further powers and duties:

(a) To adopt by-laws and rules and regulations for, and keep records of its procedure and the administration of this Supplementary Code.

(b) To obtain from members of the Industry, through its Confidential Agent, such information and reports as required for the administration of this Supplementary Code. In addition to information required to be submitted to the Supplementary Code Au-

thority, the members of the Industry, subject to this Supplementary Code, shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, to such Federal and State Agencies as he may designate; provided that nothing in this Supplementary Code shall relieve any member of the Industry of any existing obligation to furnish reports to any Governmental Agency. No individual report shall be disclosed to any other member of the Industry or any other party except to such other Governmental Agencies as may be directed by the Administrator.

(c) 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 Supplementary Code Authority of its duties or responsibilities under this Supplementary Code and that trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

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

(e) To make recommendations to the Administrator for the coordination of the administration of this Supplementary Code with such other codes, if any, as may be related to or affect the members of the Industry.

(f) To recommend to the Administrator further fair 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.

SECTION 8. To the extent permitted by the Act and subject to such rules and regulations as the Administrator may prescribe, any or all information furnished to the Supplementary Code Authority by any member of this Industry pursuant to the provisions of this Supplementary Code shall be subject to verification by an impartial agency agreed upon by the Supplementary Code Authority, and the member of the Industry in question, and, failing such agreement such impartial agency shall be selected by the Administrator, which impartial agency may check so much of the pertinent books, accounts and records of such members of the Industry as may be required to verify the accuracy of the information so furnished.

SECTION 9. To the extent permitted by the Act, and subject to such rules and regulations as the Administrator may prescribe, the Supplementary Code Authority shall have the power to investigate all complaints filed with it by one member of the Industry against another member of the Industry. In the event of complaint being registered against any corporate member of the Industry, alleging a violation of this Supplementary Code, the Supplementary Code Authority may cause an investigation to be made by a person mutually agreed upon by the Supplementary Code Authority and the member of the Industry against whom the complaint is filed, or,

if they are unable to agree within a reasonable time, by a disinterested person appointed by the Administrator upon request by the Supplementary Code Authority. The Supplementary Code Authority may require the member complained against to file with such investigator, within such reasonable time after receipt of a copy of the complaint, if the Supplementary Code Authority shall determine, an answer to such complaint accompanied by supporting data. Both answer and data shall be verified by affidavit. The investigator shall examine so much of the pertinent books and records of such member as may be required to verify the statements contained in said answer and/or the accuracy of the data supporting such statements. If the matter cannot thereafter be satisfactorily adjusted within the Industry, the facts may be placed before the Basic Code Authority to be presented to the Administrator for such procedure as he may deem advisable under the Act.

SECTION 10. If the Administrator believes that any action of the Supplementary 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 to afford an opportunity for investigation of the merits of such action. Further action by such Supplementary Code Authority or agency regarding the matter complained of may be taken if approved by the Administrator but shall not be taken if disapproved by the Administrator within thirty days of notice to him of intention to proceed with such action.

SECTION 11. Every employer shall provide for the safety and health of employees during the hours and at the places of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator within six months after the effective date of the Supplementary Code.

ARTICLE V—ACCOUNTING, COSTING AND ESTIMATING

SECTION 1. The Supplementary Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the Industry. After such system and methods have been formulated and approved by the Administrator full details concerning them shall be made available to all members of the Industry. Thereafter all members of the Industry shall determine and/or estimate costs in accordance with the principles of such methods.

SECTION 2. When the Administrator determines that an emergency exists in this Industry and that the cause thereof is destructive price cutting, such as to render ineffective or seriously endanger the maintenance of the provisions of this Supplementary Code, the Supplementary Code Authority may cause to be determined the lowest reasonable cost of the products of this Industry, 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 member of the Industry to sell or offer to sell any product of the Industry 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 Supplementary Code Authority or the Administrator, upon its or his own initiative, or upon the request of any interested party, may cause the determination to be reviewed.

ARTICLE VI—SELLING BELOW COST

No member of this Industry shall sell or exchange or offer to sell or exchange any products of this Industry at a price or upon terms and conditions, which will result in the purchaser paying for the goods received, less than the cost thereof to the seller, determined in accordance with a uniform method of costing and/or estimating above described in Article V; provided, further, however, that a member of the Industry may sell below his own cost to meet competition from products of equivalent design, quality, or specifications, provided the competitor is not violating this Supplementary Code, and provided that when a member of the Industry sells, or wishes to sell, below his own cost to meet such competition, he shall so report to the Supplementary Code Authority and shall cite the competition which caused him to take this action.

ARTICLE VII—UNFAIR TRADE PRACTICES

In addition to the Unfair Trade Practices covered by Article V of the Basic Code except Section A, B, F and G thereof as though herein repeated and set forth at length, and for all purposes of this Supplementary Code, the following described acts shall constitute unfair practices. Any member of the Industry who shall directly or indirectly through any officer, employee, agent or representative use or employ any of such unfair practices shall be guilty of a violation of this Supplementary Code.

RULE 1. *False Advertising.*—No member of the Industry shall publish advertising (whether printed, radio, display or of any other nature), which is misleading or false in any material particular, nor shall any member orally or in any other way misrepresent any goods (including but without limitation its use, 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.

RULE 2. *Secret Rebates.*—No member of the Industry shall secretly offer or make to any customer and/or customer's agent 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 a member of the Industry secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purposes of influencing a sale.

RULE 3. *Alternate Proposals.*—No member of the Industry shall submit an alternate and/or revised proposal unless the privilege of alternate and/or revised proposals is extended to all bidders who have qualified and who have fully complied with all plan, specification and bidding requirements at the time of opening the bids.

RULE 4. *Substitution of Materials.*—No member of the Industry shall depart from the plans and/or specifications, for the purpose

and/or with the effect of misleading the buyer as to the grade, quality, or quantity of products offered or sold, or by the quotation of any substitute material without clearly identifying the nature of such substitute material.

RULE 5. *Credit Terms.*—No member of the Industry shall fail to charge the legal rate of interest on all delinquent accounts and balances.

ARTICLE VIII—BIDDING PRACTICES

SECTION 1. It shall be the policy of members of the Industry to bid directly to Federal and State Governments and Governmental Sub-divisions thereof on all purchases and/or installations of Industry products.

SECTION 2. The following acts shall constitute unfair trade practices and shall be violations of this Supplementary Code:

(a) Failure to comply fully and rigidly with all plan, specification and/or bidding requirements:

(b) Failure to protest to the awarding authorities the opening of any irregular bid and/or proposal not in full compliance with the plan, specification and/or bidding requirements:

(c) Failure by a member to file with the Confidential Agent within twenty-four (24) hours after the time set for opening, a true copy of each bid submitted by him.

ARTICLE IX—MONOPOLIES

No provision of this Supplementary Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress or discriminate against small enterprises.

ARTICLE X—MODIFICATIONS

SECTION 1. As provided in Sub-section (b) of Section 10 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 said Act.

SECTION 2. This Supplementary Code, except as to provisions required by the Act, may be modified or amended on the basis of experience or changes in circumstances, such modifications or amendments to be based upon application by the Supplementary Code Authority or other representative group within the Industry to the Administrator and such Notice and Hearing as he shall specify and to become effective and be a part of this Supplementary Code on approval by the President, and/or the Administrator.

ARTICLE XI—PRICE INCREASES

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

ARTICLE XII—EFFECTIVE DATE AND DURATION

This Supplementary Code shall become effective at 12:01 o'clock A.M., Eastern Standard Time, on the tenth day after it is approved by the President and shall continue in effect until June 16, 1935, or the earliest date prior thereto on which the President shall, by proclamation, or the Congress shall, by joint resolution declare that the emergency recognized by Section I of Title I of the National Industrial Recovery Act, has ended.

Approved Code No. 84—Supplement No. 39.
Registry No. 1118-27.

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