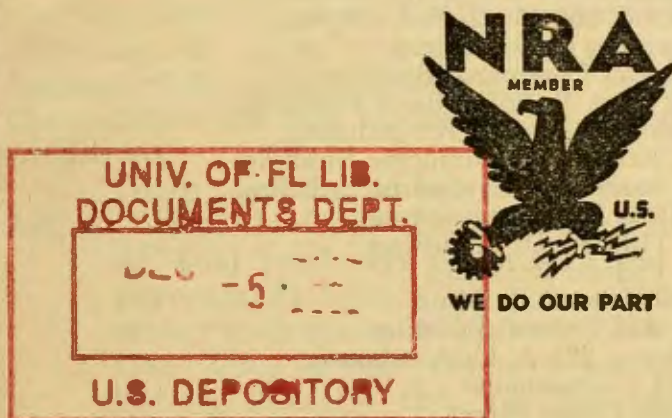


NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION
FOR THE
BITUMINOUS COAL INDUSTRY

**AS APPROVED BY PRESIDENT ROOSEVELT
IN EXECUTIVE ORDERS OF SEPTEMBER 18, 1933, AND
SEPTEMBER 29, 1933, INCORPORATING SO FAR AS
POSSIBLE THE CONDITIONS OF THE EXECUTIVE
ORDERS IN THE TEXT OF THE CODE**



1. Executive Order—September 18, 1933
2. Executive Order—September 29, 1933
3. Executive Order—September 29, 1933
4. Letter of Transmittal
5. Report of Deputy Administrator Simpson
6. Text of Code
7. Schedule A

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1801 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 2213 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse.
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 933 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Building.

(II)



EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE BITUMINOUS COAL 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 Bituminous Coal 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 adopt and approve the report, recommendations and findings of the Administrator and do order that the said Code of Fair Competition be and is hereby approved, subject to the following conditions:

(1) There shall be added to the first paragraph of Section 3 of Article VII of the Code the following sentence:

All coal producers subject to the Code shall furnish to any government agency or agencies designated by the Administrator such statistical information as the Administrator may, from time to time, deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act and any reports and other information collected and compiled by a Code Authority, as heretofore provided, shall be transmitted to such government agencies, as the Administrator may direct.

(2) There shall be added after the first sentence of Section 4 of Article VII the following sentence:

The President may appoint not more than three members of the Industrial Board in addition to, or in substitution for one or more of, the aforesaid six members of the Divisional Code Authorities.

(3) Schedule A as attached to the Code recommended by the Administrator is approved with the understanding that any basic minimum rates not fixed therein may be approved or prescribed by the President at any time prior to the effective date of this Code by a supplementary Executive Order.

(4) Because it is evident that attempts by those submitting Codes to interpret Section 7 (a) of the National Industrial Recovery Act have led to confusion and misunderstanding, such interpretations should not be incorporated in Codes of Fair Competition. Therefore, paragraph (b) of Article V must be eliminated without, by this

exclusion, indicating disapproval in any way of the joint statement of the Administrator and General Counsel of the National Recovery Administration, which has been attached to the Code as Schedule B and was incorporated by reference in said paragraph (b) of Article V.

(5) The exception to the definition of "employee" in Article II belongs in Article III. Accordingly, the words "except members of the executive, supervisory, technical and confidential personnel" are stricken from the third paragraph of Article II. These same words are inserted in the first paragraph of Article III after the words "no employee."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
September 18, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

EXECUTIVE ORDER

REVISED CODE OF FAIR COMPETITION FOR THE BITUMINOUS COAL INDUSTRY

A Code of Fair Competition for the Bituminous Coal Industry was approved by an Executive Order dated September 18, 1933, subject to certain conditions, including a condition that basic minimum rates not fixed in Schedule A, as attached to the Code, might be approved or prescribed by the President at any time prior to the effective date of the Code, which provision was also incorporated in the Code in said Schedule A. Following said Executive Order of September 18th further consideration has been given to said basic minimum rates and said Schedule A has been revised so as to include additional rates, either agreed upon and submitted for approval, or recommended as those which should be prescribed by the President.

The associations and groups of coal producers and individual coal producers submitting said Code for the approval of the President, also authorized the Administrator to make such minor changes as might be desirable to improve its language without substantially altering the substance thereof.

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Recovery Act, approved June 16, 1933, and otherwise, and upon the recommendation of the Administrator do order that—

(1) Schedule A, as revised and attached to this order, is hereby approved as the schedule of basic minimum rates approved or prescribed by the President and incorporated in the Code of Fair Competition for the Bituminous Coal Industry, as provided in Article IV of said Code.

(2) In order to correct a typographical error in the Code and in the Executive Order of September 18th, in the two places where the phrase "six members of the Divisional Code Authorities" occurs in Article VII, Section 4, this shall be corrected to read "five members of the Divisional Code Authorities."

(3) In order to provide for the impartial decision of any controversy submitted to the National Bituminous Coal Labor Board there is hereby imposed, as a condition upon the functioning of said Board, that only the impartial and disinterested representatives of the President appointed to the Divisional Labor Boards shall participate in the decisions of the National Bituminous Coal Labor Board, the other members thereof acting only in an advisory capacity.

(4) Subject to the conditions of the Executive Order of September 18, 1933, and the modification thereof and other provisions of this order, the Code of Fair Competition for the Bituminous Coal Industry is hereby approved.

FRANKLIN D. ROOSEVELT.

SEPTEMBER 29, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

EXECUTIVE ORDER

In accordance with the provisions of the Code of Fair Competition for the Bituminous Coal Industry heretofore approved, I hereby appoint the Administrator, Hugh S. Johnson, to serve temporarily as a member (without vote) of each Code Authority created as provided in Article VI, Section 2, of said Code, with the power in said Administrator to designate an agent with full authority to act in his behalf as a member (without vote) of any Divisional or Sub-Divisional Code Authority thus created, reserving to myself the power to appoint directly, in substitution for the temporary appointment of the Administrator, a member of any such Divisional or Sub-Divisional Code Authority.

FRANKLIN D. ROOSEVELT.

SEPTEMBER 29, 1933.

(VI)

SEPTEMBER 17, 1933.

General HUGH S. JOHNSON,
Administrator, National Recovery Administration,
Washington, D.C.

DEAR SIR: I present herewith for your consideration and recommendation to the President the Code of Fair Competition for the Bituminous Coal Industry.

Efforts were under way to secure the cooperation of the Bituminous Coal operators prior to and in anticipation of the passage of the National Industrial Recovery Act.

The state of utter disorganization in the industry involving the prevalence of unfair competitive practices, particularly in the payment of low wages in order to permit of unreasonably low coal prices, furnished a good example of the effects of unrestrained competition in an industry capable of great overproduction in relation to existing consumer demands. In numerous ways the Bituminous Coal Industry has furnished more convincing evidence of the need for the integrating force of the National Industrial Recovery Act than any other industry in the nation.

The initial and immediate activity of the Administrator and the present writer after your appointment was an effort to bring about a greater coordination and cooperation between the operators in the different sections of the country in this industry and largely in response to this effort there came into being the Northern Coal Control Association and the Smokeless Appalachian Coal Association, representing almost all producers in the Appalachian coal area which produces approximately 70% of the national Bituminous coal tonnage. These associations join in presenting a Code of Fair Competition, this being a remarkable exhibition of cooperation among coal producers who have been engaged for a generation in bitter competitive operations. Other associations in various regions presented separate Codes as did certain groups of individual producers thus offered to the Administration the problem of harmonizing in some manner the divergent views represented in some twenty-eight different Codes.

This industry also presented the unique problem of one in which there was far-reaching organization of labor on an industrial basis, The United Mine Workers of America having contracts with many operators in many fields and claiming organization of workers in many other fields where no contractual relations existed.

The difficulty of reconciling all the conflicting elements in this situation can hardly be overemphasized. During the progress of discussion following the public hearings representatives of the Appalachian Associations requested the aid of the Administration in facilitating the negotiation of a contract between these associations and the United Mine Workers of America, and it was evident to the Administration that this step having been taken a successful conclusion to these negotiations was of the utmost importance in bringing about the submission of a code for the industry as a whole.

In the detailed report which will be prepared for your consideration all the steps taken and the problems involved will be given more

adequate consideration. At the present time in view of the urgent need for the recommendation and approval of the code which was finally adopted and submitted for approval on September 16 by representatives of approximately 95 percent of the national tonnage, it is desirable to make recommendations only as to the following minor details:

1. There is a provision in Article VII, section 3, requiring each code authority to collect and combine any report and other information required under the National Industrial Recovery Act. This should be supplemented by a definite obligation imposed upon the industry to furnish 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 in the form of an Executive Order to be recommended to the President. An appropriate provision will be drafted to cover these requirements.

2. In Article VII, Section 4, provision is made for establishing an Industrial board to consist of nine members designated by the several divisional code authorities and the six members of the divisional authorities who have been appointed by the President. It appears that the provision as written may unduly restrict the President in placing on the Industrial Board only his appointees to the divisional code authorities.

Accordingly, it is recommended that as a condition of approval the President reserve the right to name not more than three members either in substitution for, or in addition to the six presidential appointees made members of the Industrial Board by the present provision of Section 4, of Article VII.

3. Schedule A fixes basic minimum rates for various districts and parts thereof leaving the rates for certain producing areas to be either approved or prescribed by the President prior to the effective date of the code. In view of progress made since the submission of the code in determining those rates not fixed in schedule A as submitted, I am able to recommend the revised Schedule A attached to this report, and desire to make it plain that no rates as fixed in Schedule A as submitted have been changed.

The code as recommended complies in all respects with the pertinent provisions of Title I of the Act. The groups submitting the code impose no inequitable restrictions on admission to membership therein and were truly representative of the Bituminous Industry.

The code as recommended 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.

From evidence adduced during the hearing and all available information, it is believed that this code as now proposed and revised represents an effective, practical, equitable solution for this industry, and its approval as herewith submitted is recommended.

Respectfully submitted.

K. M. SIMPSON,
Deputy Administrator.

Approved:

HUGH S. JOHNSON,
Administrator.

SEPTEMBER 18, 1933.

General HUGH S. JOHNSON,
*Administrator, National Recovery Administration,
Washington, D.C.*

DEAR SIR:

I submit herewith my report on those aspects of the Bituminous Coal Industry which affected the formulation of the Code of Fair Competition for that Industry.

This report supplements my letter of transmittal of September 17, 1933.

Respectfully submitted.

K. M. SIMPSON,
Deputy Administrator.

SALIENT FACTS OF THE INDUSTRY

The Industry as defined in the Code includes all enterprises engaged in the "production and original sale of all kinds of coal (except anthracite), lignite, and the production and original sale of coke other than byproduct coke." Purposely omitted from the scope of the Code are anthracite and byproduct coke operations and the activities of wholesaling and retailing which do not fall within the meaning of "original sale", i.e., first sale after the stage of production.

The following statistics indicate the position of the industry in recent years:

Statistical position of the bituminous coal industry

Year	1919	1926	1929	1930	1931	1932
Production (net tons) ¹ -----	465,860,058	573,366,985	534,988,593	467,526,299	382,089,396	308,370,000
Total value f.o.b. mines ¹ -----	\$1,160,616,013	\$1,183,412,000	\$952,781,000	\$795,483,000	\$588,895,000	\$391,630,000
Value per ton ¹ -----	\$2.49	\$2.06	\$1.78	\$1.70	\$1.54	1.27
Number wage earners ¹ -----	621,998	593,647	502,993	493,202	450,213	398,715
Number wage earners ² -----	545,798	-----	458,732	-----	-----	-----
Average number of days mines operated ¹ -----	195	215	219	187	160	145
Total wages paid ² -----	\$682,601,068	-----	\$574,800,072	-----	-----	-----
Total wages per worker ³ -----	\$1,250.65	-----	\$1,253.02	-----	-----	-----
Ratio wages to value of products-----	58.81	-----	60.32	-----	-----	-----

¹ As reported by Bureau of Mines.

² As reported by Bureau of the Census.

³ Based on number of wage earners reported by Bureau of the Census.

NOTE.—The number of men reported by the Bureau of Mines represents the total of the number employed at individual mines whether operated for 20, 50, 100, 300, or other number of days during the year. Thus, for a mine which operated for only a part of one month and was idle the remainder of the year, the number of men employed for such time is included in the total for the year on the same basis as if the men had been employed throughout the year. The number reported by the Bureau of Mines does not represent, therefore, the average employment throughout the year, but rather the number employed in the year, whether for the whole year or for only a short period.

The average number of wage earners reported by the Bureau of the Census was obtained by totalling the number employed on the 15th day of each month (or the nearest representative day) and dividing the result by 12.

Unlike most industries, that of bituminous coal began to feel the effects of economic maladjustment in 1924. Since that time the condition of the industry has become progressively worse, notwithstanding the increasing tempo of most industries up to the summer of 1929. For the 30-year period ending in 1918, the average annual increase in the production of bituminous coal was approximately 18,000,000 tons. During the period 1918–29 this trend of annual increase disappeared. In only three years—1920, 1923, and 1926—did production approach that for 1918. The average for the 5 years, 1916–1920, was 533,644,561 tons, for 1921–1925, was 481,298,798 tons, and for 1926–1930, was 518,878,039 tons. Output in 1931 was 382,089,396 tons, and in 1932, 308,970,000 tons.

Since 1920 the trend of mine realization for coal has been downward. The average for the four years 1919–1922 was 3.08. For the succeeding years the average realization was as follows:

1923-----	2.68	1927-----	1.99	1931-----	1.54
1924-----	2.20	1928-----	1.86	1932-----	1.27
1925-----	2.04	1929-----	1.78		
1926-----	2.06	1930-----	1.70		

With the wage bill constituting 60-65 percent of the total cost of production and wages practically the only flexible item in costs, the result has been that the burden of declining prices has fallen in greatest force on the wage earners. Thus, the coal industry was an economic "sore-spot" for at least five years before the collapse in 1929.

Not only did labor suffer during all this period but many mining operations were forced into receivership and reorganization and earnings were far from adequate on the investment in the industry. In 1929, a year of high production, corporations in the industry (as classified by the Bureau of Internal Revenue) reported a net loss of \$11,300,000. The reported net loss for 1930 was \$42,071,000. Similar data for other years are not available.

The condition of the industry was particularly acute in 1931, 1932, and the first five months in 1933. Beginning in June considerable improvement in production has taken place and since the first of July the output has exceeded that for the corresponding period in 1931, although still remaining considerably below normal and about 26.5 percent below the production during the corresponding period in 1929.

EMPLOYMENT—HOURS AND WAGES

A full study of the hours and wages problems of the industry is contained in the Report of the Division of Economic Research and Planning, summary of which is given below:

The industry employed 503,000 wage earners in 1929, 399,000 in 1932, and approximately 294,000 in July 1933. The number employed in the industry has decreased greatly in recent years, falling from a peak of 704,793 wage earners in 1924. However, the average number of days worked per year by wage earners has been far from adequate. In only three years since 1920 has the average working time exceeded 200 days, and for the 12-year period the average has been 180 days per year. The average working time per week for mines in 1929 was 34 hours, with a minimum of 28.7 hours per week in June and a maximum of 39.2 hours per week in February. In 1932, the average working time was 22.8 hours per week, ranging from 15.7 hours in June to 28.9 hours in October. Therefore, the 40-hour week provided in the Code should easily allow of a total production equal to that for 1929, on the basis of mine capacity and workers available in that year. However, 1929 output at particular mines could not be equalled and for certain kinds of coal might not be possible of achievement under the 40-hour week. Estimated employment for the six-month period—September 1933 to February 1934—based on the assumption that 200,000,000 tons will be produced during that period, would provide employment at a 36-hour per week average for 331,000 wage earners. On a 32-hour average, the number employed would be approximately 372,000. The index of employment for the industry indicates 295,000 employed in June 1933, averaging roughly 30 hours per week and 294,000 in July, averaging approximately 36 hours per week.

Reemployment in the coal industry is entirely dependent upon a substantially increased demand for coal. With output at 308,000,000 tons in 1932, the average weekly working time was but 22.8 hours and the average number of days worked was only 145. Therefore, increase in working time for those employed may be expected to

take place before reemployment of greater numbers on any appreciable scale. At the present time some mines are operating six days per week; the reduction in working time of employees in these cases will result in a shifting to other mines whose operating time is less and to some extent, the employment of some additional men. However, the increase in numbers employed to be reasonably expected cannot be appreciable in view of the limited number of days which the mines have operated.

Wages constitute from 60 to 65 percent of the cost of producing bituminous coal. Total wage-bill data for the bituminous-coal industry are available only for the years covered by the decennial Census of Mines and Quarries. The wage bill (including contract work) in 1919 was \$685,457,034 and \$576,689,699 in 1929. The pay roll of 1929 was 16 percent less than 1919, and the value of coal, f.o.b. mine (out of which wages must be paid) showed a like decline. Thus, in 1929, when the value added by manufactures as a whole exceeded the 1919 level by 28.5 percent, the value of products on the bituminous-coal industry dropped 16 percent in spite of an increase of about 17 percent in production.

In addition to the decrease in working time afforded employees during the depression, average hourly earnings have been declining since 1924. The trend of hourly earnings for outside laborers, for inside laborers, and for trackmen are shown in the following table for the area east of the Mississippi River:

Average hourly earnings of skilled and unskilled occupational groups in important coal fields ¹ for specified periods, 1919 to 1933

Year	Period	Northern fields ²		Southern fields ³		Northern and southern fields combined	
		Trackmen	Outside laborers	Trackmen	Outside laborers	Trackmen	Outside laborers
1919	Jan.-May	\$0. 628	\$0. 529	\$0. 510	\$0. 419	\$0. 585	\$0. 479
1921-22	Oct. 1-Feb. 15	. 829	. 669	⁴ . 698	⁴ . 512	⁴ . 781	⁴ . 601
1924	Oct.-Dec.	. 864	. 718	. 577	. 430	. 747	. 576
1926-27	Nov. 26-Mar. 22	. 819	. 669	. 566	. 433	. 698	. 539
1929	First quarter	. 699	. 559	. 550	. 419	. 624	. 483
1931	First quarter	. 651	. 542	. 522	. 408	. 589	. 473
1933	First quarter	. 479	. 389	. 365	. 288	. 422	. 336

¹ Weighted by number of men employed in each field and average number of days mines were operated.

² Illinois, Indiana, Ohio, and Pennsylvania.

³ Kentucky, Tennessee, Virginia, Alabama, and West Virginia.

⁴ Does not include Tennessee and Virginia.

For the purpose of determining minimum rates of wages, it has been necessary to consider the competitive relationships of the many producing districts in different coal-consuming markets. Such treatment is in accord with the historic development of the industry, which has been determined by the necessities of competition based on quality of coal, freight rates, the labor market and other factors. The relative importance of each of these factors varies from field to field. Moreover, the importance of each factor is difficult to measure. As far as practicable, however, the number of districts has been kept to a minimum and the spread in rates has been reduced to the narrowest limits possible and still promote competitive equilibrium. Rates submitted in the numerous codes proposed by operators showed

wide variations, both as to the minimum wages and the differentials between different competing areas. It would be utterly impossible to reconcile all the conflicting rates proposed by the different interests involved. The effort has been to arrive at a set of rates which would result in the least economic dislocation and at the same time carry out the purposes of the N.I.R.A.—employment and increased purchasing power.

No data are available from which may be determined with accuracy the magnitude of differentials which should exist between competing districts. However, such data as are available have been carefully analyzed before approval of any rate (except where rates were fixed by contract). For the most part, the differentials in rates of pay represent agreements arrived at by representatives of different geographical divisions within the industry as being fair and equitable, and approved by the N.R.A. The reasonableness of the rates and differentials can only be determined after the Code has been in operation and the results reviewed. Such review is provided for in the Code, which requires that a study be made under the direction of the Administrator before December 31, 1933; and that the provisions of the Code be reviewed in the light of developments during the first three months of operation at meetings to be held beginning January 5, 1934.

The Code provides minimum rates for two classes of labor, namely, outside common labor and inside skilled labor (basic minimum). The Code further provides that "other classifications of employment will maintain their customary differentials above or below said basic minimum rates and that payments for work performed on a tonnage or other piecework basis will maintain their customary relationship to the payments on a time basis provided in said basic minimum rates." The rates established by the Code represent substantial increases over the rates prevailing earlier in the year for all fields except for those fields under union contract. The weighted average increase in hourly rates for skilled employees for the area east of the Mississippi River is 13 cents, or 30.8 percent over the average rate which prevailed in February 1933; that for outside common labor is 9.3 cents, or 27.7 percent higher. Increases for certain individual states or districts are considerably higher than the average, while those for Illinois, Indiana, and areas under contract west of the Mississippi remain unchanged.

On the other hand, practically all the rates are lower than those in effect in 1929. For the area east of the Mississippi River, the weighted average of inside skilled labor rates established by the Code is 7.2 cents, or 11.5 percent lower than those prevailing in 1929, while outside common labor rates average 5.4 cents, or 11.2 percent under 1929.

Although the hourly rates compare favorably with those established in other codes, the earning possibilities under the Code are adversely affected by the characteristically short working week afforded by the industry. For the full 40-hour week prescribed by the Code, the average earnings for inside skilled labor (basic wage) would be \$22.08 and for outside common labor would be \$17.16.

The rates established by the Code with corresponding rates prevailing in the first quarter of 1933 and 1929 are shown in the following tables.

Hourly wage rates established by approved code compared with those prevailing in February 1933 and first quarter, 1929. In States east of the Mississippi River

Field	Approved rate		Bureau of Labor, February 1933		Bureau of Labor, first quarter, 1929	
	Inside skilled laborers	Outside laborers	Trackmen	Outside laborers	Trackmen	Outside laborers
Pennsylvania.....	\$0. 575	\$0. 450	\$0. 441	\$0. 325	\$0. 686	\$0. 496
Central.....			.455	.342	.689	.520
Western.....			.433	.315	.684	.481
Ohio.....	.575	.450	.392	.343	.626	.532
Ohio and Pennsylvania.....	.575	.450	.434	.328	.677	.501
Michigan.....	.575	.450				
Panhandle, W. Va.....	.575	.450				
Northern West Virginia.....	.545	.420	¹ . 350	¹ . 283	¹ . 586	¹ . 482
Smokeless and Appalachian:						
Southern West Virginia.....	.525	.400	.381	.307	.573	.449
Eastern Kentucky.....	.525	.400	.390	.293	.577	.444
Virginia.....	.525	.400	.338	.260	.487	.354
Northern Tennessee.....	.525	.400	² . 335	² . 255	² . 440	² . 337
Upper Potomac, W. Va.....	.525	.400				
Maryland.....	.525	.400				
Indiana.....	.572	.525	.577	.528	.760	.694
Illinois.....	.625	.500	.623	.494	.762	.700
Western Kentucky.....	.500	.375	.343	.287	.525	.422
Alabama.....	.425	.300	.303	.196	.459	.272
Georgia.....	.425	.300				
Tennessee (Hamilton and Rhea).....	.425	.300				
Southern Tennessee.....	.480	.375				
Weighted average, ³ north of Ohio River.....	.585	.470	.479	.389	.699	.559
Weighted average, ³ south of Ohio River.....	.618	.393	.365	.287	.550	.419
Weighted average, ³ east of Mississippi River.....	.552	.429	.422	.336	.624	.483

¹ Includes Panhandle and upper Potomac districts.

² Entire State.

³ Weighted by number of men employed in each field and average number of days mines were operated.

Hourly wage rates established by the approved code compared with union contract rates in effect in 1933 and 1929 in States west of the Mississippi River

Field	Approved rate		Union contract rate, 1933		Union contract rate, 1929	
	Inside skilled labor	Outside laborers	Trackmen	Outside common labor	Trackmen	Outside common labor
Iowa (Wayne & Appanoose).....	\$0. 57	\$0. 48¼				
Iowa (except Wayne & Appanoose).....	.58¾	.50		\$0. 50	\$0. 725	\$0. 64¾
Missouri.....	.46¾	.41	¹ \$0. 469	¹ . 409		
Kansas.....	.46¾	.41	² . 469	² . 409	.625	.545
Arkansas.....	.46¾	.41	³ . 469	³ . 389	.63¾	.545
Oklahoma.....	.46¾	.41	³ . 469	³ . 389		
New Mexico.....	.56	.46¾				
Southern Colorado.....	.555	.46¾				
Northern Colorado.....	.625	.46¾	(⁴)	(⁴)	.875	.569
Utah.....	.68	.56				
Southern Wyoming.....	.67¾	.555	.677	.550	.84	.736
Northern Wyoming.....	.67¾	.56¾	.677	.56¾	.84	.74¾
Montana.....	.70¾	.60¾	.725	.603	.899	.80
Washington.....	.675	.50	.675	.500	.844	.625
North Dakota.....	.50	.40				
South Dakota.....	.50	.40				

¹ Exclusive of Randolph, Macon, and Adair Counties. Contract of Southwestern Interstate Coal Operators' Association, and Ray and Clay Counties Operators' Association.

² Cherokee and Crawford Counties.

³ Contract of Arkansas—Oklahoma Coal Operators' Association.

⁴ Rocky Mountain Fuel Co.'s rate is \$0.6563 for trackmen and \$0.50 for outside labor.

CHILD LABOR

No person under seventeen (17) years of age shall be employed inside any mine or in hazardous occupations outside any mine, provided, however, that where a state law provides a higher minimum age, the state law shall govern; no person under the age of sixteen (16) shall be employed in or about a mine.

MAXIMUM HOURS FOR ALL EMPLOYEES

Not over 40 hours per week during any part of the year.

Exceptions.—(a) Employees required because of accidents which temporarily necessitate longer hours for them; (b) supervisors, clerks, technicians, and that small number of employees at each mine whose daily work includes the handling of man trips and/or haulage animals and coal in transit and those who are required to remain on duty while men are entering and leaving the mine.

Provision is made in the Code for an investigation for the purpose of reporting on or before December 31, 1933, upon the practicability and cost (assuming the maintenance of existing rates of pay) of applying to bituminous coal mining a shorter work day and work week.

The Code makes provision for sharing of available employment upon the expressed desire of the employees, and adjusted by mutual agreement between employed workers and their employers.

PRICE PROVISIONS

Article VI of the Code requires that coal must be sold at a fair market price, i.e., a price necessary to carry out the purposes of the N.I.R.A., to pay the minimum rates of wages established, and to furnish employment for labor. Minimum prices are to be established by selling agencies, truly representative of two thirds of the commercial tonnage of any coal district or group of districts, all prices being subject to the approval of the Administrator.

The provision that prices shall be published and made subject to review and approval of the Administrator should reduce materially uneconomic and destructive competition among the various fields. Through this control the Administrator may do much to establish proper equilibrium among the producing fields and promote the development of markets which are related geographically and economically to the producing centers. Much of the long and wasteful "cross-hauling" of coal should be eliminated by the establishment of proper price differentials.

The pricing and marketing provisions of the Code are expected to relieve the industry of much of the cutthroat competition that has existed and obviate the dumping of coal at ruinous prices, which has demoralized markets, and resulted in mine realizations for coal inadequate to provide decent levels of wages. It affords a means by which wage earners in the industry need not bear the burden of inadequate prices and makes possible a degree of stabilization never heretofore achieved in the industry.

The Code provides public representation on the National Bituminous Coal Industrial Board to assist and advise the Administrator in

all matters relating to the operation of the Code and its effect upon the consumers' interests.

ADMINISTRATION

The Code provides for maximum degree of autonomy within the five Divisions established. Each Division shall be administered by a Code Authority, composed of members truly representative of the producers within the area, and one member, without vote, appointed by the President.

The Presidential members of the Divisional Code Authorities shall constitute the National Bituminous Coal Industrial Board. (The President may appoint not more than three members of the Industrial Board in addition to, or in substitution for one or more of, the aforesaid members of the Divisional Code Authorities.) The National Board shall advise and assist the Administrator in the administration of the Code.

For the settlement of labor disputes, there is provided in the Code for the establishment of a Bituminous Coal Labor Board in each Division. (Except there shall be two Boards for Division No. 1.) The members of the six Bituminous Coal Labor Boards shall constitute the National Bituminous Coal Labor Board. The duties of the Board shall be to administer labor matters and disputes for the industry which fall outside the province of the District Boards or which, the District Boards have been unable to handle or compose; however in order to provide for the impartial decision of any controversy submitted to the National Bituminous Coal Labor Board there is imposed, as a condition upon the functioning of said Board, that only the impartial and disinterested representatives of the President appointed to the Divisional Labor Boards shall participate in the decisions of the National Bituminous Coal Labor Board, the other members thereof acting only in an advisory capacity.

All activities, decisions, and promulgations of authority of the several administrative agencies provided for in the Code are subject to the review and approval, or veto, of the Administrator for the Industry.

In addition, the Administrator is empowered to (1) prescribe rules and regulations to prevent unfair deductions in wages, (2) investigate, through a designated agency, wages, hours, and other elements of the Code, (3) direct Presidential members of Code Authorities, (4) review and approve or veto market prices proposed by sales agencies established under the Code, (5) prescribe the furnishing of statistics to government agencies, (6) convene National Bituminous Coal Labor Board when necessary, (7) recommend for approval of President proposed amendments to the Code by any Code Authority, and such other duties expressed in the Code.

FINDINGS

I have found that—

(a) The Code complies with the pertinent provisions of Title I, National Industrial Recovery Act, including, without limitation, subsection (a) of Sec. 7, and subsection (b) of Sec. 10 thereof.

(b) The several Code Authorities established under the Code are truly representative of their respective districts and impose no inequitable restrictions upon admissions to membership.

(c) The Code, as submitted and amended, imposes necessary conditions for the protection of consumers, producers, and employees, will not permit monopolies or monopolistic practices, or eliminate or oppress small enterprises, and will not operate to discriminate against them.

(d) The Code has been approved by the Labor Advisory Board, the Industrial Advisory Board, and the Consumers' Advisory Board.

I have, therefore, recommended approval of the Code, as submitted, to be effective until April 1, 1934, as provided in Article XI thereof.

Respectfully submitted.

K. M. SIMPSON,
Deputy Administrator.

CODE OF FAIR COMPETITION FOR THE BITUMINOUS COAL INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the bituminous-coal industry and upon approval by the President shall be the standards of fair competition for this Industry.

ARTICLE II—DEFINITIONS

As used in this Code the term "Industry" as applied to the Bituminous Coal Industry means the production and original sale of all kinds of coal (except anthracite), lignite, and the production and original sale of coke other than byproduct coke.

The term "employer" includes any person employing labor in any phase of the industry.

The term "employee" includes all persons employed in the industry.

The term "Administrator" means the official designated by the President to administer the National Industrial Recovery Act.

ARTICLE III—MAXIMUM HOURS OF LABOR

No employee, except members of the executive, supervisory, technical, and confidential personnel, shall be employed in excess of 40 hours in any calendar week after the effective date of this Code. No employee shall be required or permitted to work more than eight hours in any one day at the usual working places or otherwise in or about the mine (exclusive of lunch period), whether paid by the hour or on a tonnage or other piecework basis.

There shall be excepted from the foregoing limitations (a) employees required because of accidents which temporarily necessitate longer hours for them; (b) supervisors, clerks, technicians and that small number of employees at each mine whose daily work includes the handling of man-trips and/or haulage animals and coal in transit and those who are required to remain on duty while men are entering and leaving the mine.

The foregoing maximum hours of work shall not be construed as a minimum; and if at any mine a majority of the employed workers express their desire, by written request to the employer, to share available work with bona fide unemployed workers of the same mine, the number of hours' work may be adjusted accordingly by mutual agreement between such employed workers and their employers.

ARTICLE IV—MINIMUM RATES OF PAY

The basic minimum rate for inside skilled labor and the basic minimum rate for outside common labor shall be the rate hereinafter

set forth in Schedule "A" for each district therein described for each such classification of labor, with the understanding that other classifications of employment will maintain their customary differentials above or below said basic minimum rates and that payments for work performed on a tonnage or other piecework basis will maintain their customary relationship to the payments on a time basis provided in said basic minimum rates.

ARTICLE V—CONDITIONS OF EMPLOYMENT

(a) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) 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, organizing, or assisting a labor organization of his own choosing; and (3) employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

(b) Except as otherwise hereinafter provided, all coal mined on a tonnage basis shall be weighed and the miner paid on the basis of 2,000 or 2,240 pound ton. The miners shall have the right to a check-weighman, of their own choosing, to inspect the weighing of coal: *Provided*, that where mines are not now equipped to weigh coal a reasonable time may be allowed to so equip such mines; and provided, that in any case where rates of pay are based on any other method than on actual weights, the miners shall have the right to check the accuracy and fairness of the application of such methods, by representatives of their own choosing.

(c) The net amount of wages due shall be paid semimonthly in lawful money or par check at the option of operators. Any deductions from employees' pay, if not a matter of agreement, shall be in conformity with such general rules and regulations as the Administrator may prescribe for the purpose of preventing unfair deductions, or those which may in effect lower the rates of pay herein provided.

(d) Employees other than maintenance or supervisory men or those necessary to protect the property shall not be required as a condition of employment to live in homes rented from the employer.

(e) No employee shall be required as a condition of employment to trade at the store of the employer.

(f) No person under seventeen (17) years of age shall be employed inside any mine or in hazardous occupations outside any mine, provided, however, that where a state law provides a higher minimum age, the state law shall govern; no person under the age of sixteen (16) shall be employed in or about a mine.

(g) As soon as possible after the adoption of this Code, the National Recovery Administration shall undertake, through a designated committee or agency, an investigation for the purpose of reporting on or before December 31, 1933; upon (a) the practicability and cost (assuming the maintenance of existing rates of pay) of applying to bituminous coal mining a shorter work day and work week; (b) the

effect of an advisability of revising wage differentials in the various divisions and districts of the industry and in the event of recommended change specification of the amount thereof; (c) the sales obtained for coal, or reasonably to be anticipated, up to the time of the report, for the purpose of determining whether wages and employment can be further increased or maintained without imposing undue burdens upon the industry.

On January 5, 1934, there shall be held a conference between representatives of employers and employees operating under this Code, together with representatives of the National Recovery Administration, for the purpose of determining what, if any, revisions may be desirable at that time of the wages, hours, and differentials, or any other requirements of this Code, on the basis of conditions then existing and the report of representatives of the National Recovery Administration made as hereinbefore provided.

Unless revised by mutual agreement, as the result of said conference beginning January 5, 1934, the hours of work, minimum rates of pay, and wage differentials as set forth in this Code shall continue in effect until April 1, 1934.

ARTICLE VI—UNFAIR PRACTICES

SECTION 1. The selling of coal under a fair market price (necessary to carry out the purposes of the National Industrial Recovery Act, to pay the minimum rates herein established, and to furnish employment for labor) is hereby declared to be an unfair competitive practice and in violation of this Code. In order to determine the fair market price, agencies shall be established, as hereinafter provided, and sales of coal at any time at a price less than a fair market price determined and published, as hereinafter provided, shall create against any person selling at a lower price a prima facie presumption that such a person is engaged in destructive price cutting and unfair competition. It shall be proper in determining such fair market price to take into consideration, in addition to the matters above set forth, also competition with other coals, fuels, and forms of energy or heat production.

SEC. 2. The fair market prices of coal of any grade and character referred to in the next preceding section, subject to the power of review hereinafter stated shall be—

(a) The minimum prices for the various grades and sizes in the various consuming markets which may be established for future application by a marketing agency or by marketing agencies, of whatever form or howsoever constituted, now existing or hereafter created or organized, acting for coal producers truly representative of at least two thirds of the commercial tonnage of any coal district or group of districts, such minimum prices to be effective when and as announced as provided in Section 4 hereof.

(b) The minimum prices for the various grades and sizes in the various consuming markets, where no such marketing agency exists, which may be established for future application by the respective Code Authorities hereinafter set up, for their respective areas, after having given consideration to the various conditions and circumstances entering into the sale of each grade and class of commercial coal produced in the district or group of districts it represents, such

minimum prices to be effective when announced as provided in Section 4 hereof.

(c) As a basis for determining the fair market price to be announced and published, as provided in the two preceding clauses, the Code Authorities shall utilize the Classifications of coals made by such agencies as are referred to in clause (a) of this section, and shall classify the coals in said districts not sold by such agencies and also the coals in the districts referred to in clause (b) of this section, to which the various prices apply. Said Code Authorities shall, at all times, provide and keep open an office during business hours to which any coal producer in said districts and any representative of the Administrator may apply for information with respect to said classifications and prices.

(d) The term "marketing agency" or "agency" as used in this Article shall include any trade association of coal producers complying with the requirements of a marketing agency and exercising the functions thereof.

SEC. 3. The fair market prices established for future application under the provisions of Section 2 (a) shall be reported to said Code Authorities by any such marketing agencies in such manner as may be required by such Authorities.

SEC. 4. The fair market price of bituminous coal, established as aforesaid by such agencies and Code Authorities shall be published within fifteen days after the effective date of this Code, after approval by the Presidential Member of the Code Authority (acting under the direction of the Administrator), who in his approval may permit a reduction or increase in said prices by action of said agencies or Authorities within the limits which he may prescribe, and thereafter shall be published whenever any change is made therein, and not less frequently than one each month, and on the first of the month. Simultaneously with such publication, said fair market prices of bituminous coal shall be transmitted by the Code Authorities to the National Recovery Administrator for his further review and subsequent action.

SEC. 5. Both the records and the data of such marketing agencies and of said Code Authorities shall be open to inspection and investigation by any agent of the Administrator whom he shall appoint for that purpose. Should such an agent of the Administrator disapprove of any changes proposed in any fair market prices from those previously approved by the Administrator as being in excess of any reductions or increases allowed in such approval, such changes shall not be made effective unless and until the Administrator shall approve them.

SEC. 6. The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the producer or his agent, is a violation of this code; provided, however, that coal which has not actually been sold may be forwarded, consigned to the producer or his agent at rail or truck yards, tidewater ports, river ports, or lake ports, and/or docks beyond such ports, but such consignments shall be limited to cover:

- (a) Bunker coal;
- (b) Coal applicable against existing contracts;
- (c) Coal for storage (other than in railroad cars) by the producer or his agent in rail or truck yards or on docks, wharves, or other yards for resale by the producer or his agent.

SEC. 7. The adjustment of claims with purchasers of coal in such manner as to grant secret allowances, secret rebates, or secret concessions creates price discrimination and is a violation of this Code.

SEC. 8. The prepayment of freight charges with intent or with the effect of granting a discriminatory credit allowance is a violation of this Code.

SEC. 9. The giving in any form of adjustments, allowances, discounts, credits, or refunds to purchasers or sellers of coal, for the purpose or with the effect of altering retroactively a price previously agreed upon in such manner as to create price discrimination is a violation of this Code.

SEC. 10. The predating or the postdating of any invoice or contract for the purchase or sale of coal, except to conform to a bona fide agreement for the purchase or sale entered into on the predate is a violation of this Code.

SEC. 11. Terms of sale shall be strictly adhered to; and the payment or allowance of rebates, refunds, credits, or unearned discounts, whether in the form of money or otherwise, or extending to certain purchasers services or privileges not extended to all purchasers under like terms and conditions, is a violation of this Code.

SEC. 12. An attempt to purchase business, or obtain information concerning a competitor's business by gifts or bribes, is a violation of this Code.

SEC. 13. The intentional misrepresentation of analysis and/or sizes or the intentional making, causing or permitting to be made, or publishing, of any false, untrue, misleading, or deceptive, statement, by way of advertising, invoice, or otherwise, concerning the size, quality, character, nature, preparation or origin of any coal, bought or sold, is a violation of this Code.

SEC. 14. The unauthorized use, either in written or oral form, of trade marks, trade names, slogans, or advertising matter already adopted by a competitor, or deceptive approximation thereof, is a violation of this Code.

SEC. 15. Inducing or attempting to induce, by any means or device whatsoever, a breach of contract between a competitor and his customer during the term of such contract, is a violation of this Code.

SEC. 16. Nothing in the foregoing sections of this Article shall prevent any American producer from creating special prices for overseas exports.

SEC. 17. The splitting or dividing of commissions, brokers fees, or brokerage discounts, or otherwise in any manner through sham or indirection the use of brokerage commission or jobbers arrangements or sales agency for making discounts, allowances, or rebates, or prices other than those determined as provided in this Code, to any industrial consumer or to any retailer, or to others, shall be a violation of this Code.

SEC. 18. To sell to, or through, any broker, jobber, commission account, or sales agency, which is in fact an agent for an organization of retailers or industrial consumers, whereby they secure indirectly a discount, dividend, allowance or rebates, or a price other than that determined as provided in this Code shall be a violation of this Code.

ARTICLE VII—ADMINISTRATION

SECTION 1. For the purposes of Administration of this Code, the Bituminous Coal Industry is hereby divided into five divisions as follows:

Division No. I.—Pennsylvania, Ohio, Lower Peninsula of Michigan, Maryland, West Virginia, Kentucky, Northern Tennessee, (including all counties not included within Division No. III), Virginia and North Carolina.

Division No. II.—Iowa, Indiana, and Illinois.

Division No. III.—Alabama, Southern Tennessee, (including Marion, Grundy, Sequatchie, White, Hamilton, Bledsoe and Rhea Counties), and Georgia.

Division No. IV.—Missouri, Kansas, Arkansas, Oklahoma, and Texas.

Division No. V.—New Mexico, Colorado, Utah, Wyoming, North Dakota, South Dakota, Montana, Idaho, Washington, Oregon, California, Nevada and Arizona.

In each of the foregoing five divisions, subdivisions may be established, as hereinafter provided.

SEC. 2. *Divisional Code Authorities.*—For each of the foregoing divisions there shall be established within ten days after the effective date hereof, or within such further time as may be permitted by the Administrator, a Divisional Code Authority, or Subdivisional Code Authorities for the administration of this Code within such division, either for the division as a unit, or for subdivisions thereof, respectively, as may be determined. All the members of a Code Authority, except one (without vote and to be appointed by the President) shall be selected by an association or associations, or a committee of coal producers within the division or subdivision which shall be truly representative of the industry therein and impose no inequitable restrictions on admission to membership. A full report of any such action taken to establish a Code Authority shall be made to the Administrator and shall become effective upon approval by him. A subdivision shall consist of a geographical area within which all coal producers shall be entitled to membership in the association or committee establishing the Code Authority. The Administrator shall have power to limit the number of subdivisions within a division and to determine any controversy arising in the establishment of such a Code Authority, and his decision shall be conclusive as to compliance with the requirements of this Section and of the National Industrial Recovery Act in the initial establishment of such a Code Authority.

In the event that Subdivisional Code Authorities are established within a division, such Subdivisional Code Authorities shall establish a Divisional Code Authority to exercise the functions hereinafter provided for a Divisional Code Authority and any other functions which may be conferred upon the Divisional Code Authority by the Subdivisional Code Authorities, all in conformity with any rules and regulations prescribed by the Administrator. One member of a Divisional Code Authority, without vote, shall be appointed by the President.

A Code Authority shall administer this Code in its Division or Subdivision and shall have the duties and exercise the powers which are conferred upon it in this article and in Article VI of this Code, and

shall have authority to adopt appropriate by-laws, rules and regulations for the exercise of its functions.

Marketing agencies or trade associations may be established or maintained within any division or subdivision by a voluntary association of producers within any producing district therein, as such district may be defined by the Code Authority and function under such general rules and regulations as may be prescribed by the Code Authority, with the approval of the Administrator, for the purpose of preventing any unfair practices, as defined in Article VI of this Code.

SEC. 3. Each Code Authority shall collect and compile any reports and other information required under the National Industrial Recovery Act; and in investigations of any complaint of unfair practices the Presidential member of a Code Authority shall have power to require reports from, and shall be given access to inspect the books and records of producers within the jurisdiction of such Code Authority to the extent he may deem necessary for the determination of the validity of the complaint. All coal producers subject to the Code shall furnish to any government agency or agencies designated by the Administrator such statistical information as the Administrator may, from time to time, deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act; and any reports and other information collected and compiled by a Code Authority, as heretofore provided, shall be transmitted to such government agencies, as the Administrator may direct.

The expense of administering this Code by a Divisional (or Subdivisional) Code Authority shall be borne by those subject to such Code Authority, each paying his proportionate share, as assessed, computed on a tonnage basis, in accordance with regulations prescribed by the Code Authority with the approval of the Administrator.

SEC. 4. *Industrial Board*.—There shall be established within ten days after the creation of the Divisional Code Authorities a National Bituminous Coal Industrial Board, consisting of four members designated by the Divisional Code Authority of Division No. I, two members designated by the Divisional Code Authority of Division No. II, one member each designated by the Divisional Code Authorities of Divisions No. III, IV, and V and the five members of the Divisional Code Authorities who have been appointed by the President. The President may appoint not more than three members of the Industrial Board in addition to, or in substitution for one or more of, the aforesaid five members of the Divisional Code Authorities. This Board shall have the duties and exercise the powers conferred upon it in this Code, or any revisions thereof and particularly shall meet from time to time at the call of the Administrator, who shall be ex officio Chairman thereof, to consider and to make recommendations to the Divisional Code Authorities and to the President as to any amendments of this Code, or other measures which may stabilize and improve the conditions of the industry and promote the public interest therein.

SEC. 5. *Labor Relations*.—(a) Any controversy concerning hours, wages, and conditions of employment, or compliance with the provisions of Article V of this Code, between employers and employees who are organized or associated for collective action shall, if possible, be adjusted by conference and negotiation between duly designated representatives of employers and such employees, meeting either in a

mine conference or district conference or divisional conference, as the machinery for such conference may be established by agreement of the parties thereto; and it shall be the duty of employers and employees to exert every reasonable effort to establish such a machinery of adjustment and to utilize it to negotiate to a conclusion such controversies wherever possible.

(b) Any such controversy which cannot be settled in the manner so provided and which threatens to interrupt, or has interrupted, or is impairing the efficient operation of any mine or mines to such an extent as to restrain interstate commerce in the products thereof, shall be referred to the appropriate Bituminous Coal Labor Board, established as hereinafter provided, and the decision of said Board shall be accepted by the parties to the controversy as effective for a provisional period of not longer than six months, to be fixed by the Board.

(c) During the consideration of any such controversy either by the agreed machinery of adjustment, or by the Bituminous Coal Labor Board, neither party to the controversy shall change the conditions out of which the controversy arose, or utilize any coercive or retaliatory measures to compel the other party to accede to its demands.

(d) If any such controversy shall involve or depend upon the determination of who are the representatives of the employees chosen as provided in Section 7(a) of the National Industrial Recovery Act, the appropriate Bituminous Coal Labor Board, through any agent or agency it may select, shall have the power to determine the questions by an investigation and, if necessary, by a secret ballot taken under its direction.

(e) A Bituminous Coal Labor Board shall be appointed by the President for each Division, except there shall be two Boards for Division No. I, to exercise the powers herein conferred upon it, which shall consist of three members, one to be selected from nominations submitted by organizations of employees within such Division, one to be selected from nominations by the Divisional Code Authority and one who shall be wholly impartial and disinterested representative of the President. The expenses of such board shall be met by equal contributions from the employers and employees nominating members, the amount and method of collecting which shall be determined by regulations prescribed by the President.

(f) There shall be a National Bituminous Coal Labor Board composed of the members of the six divisional labor boards which may be convened upon call of the Administrator in the event that—

1. A controversy involves employers and employees of more than one division, or

2. The decision of a divisional labor board affects operating conditions of more than one division either directly or because of its effect upon competitive marketing, or

3. In the opinion of the Administrator the decision of a divisional labor board involves the application of a policy affecting the general public, or the welfare of the industry as a whole.

The National Bituminous Coal Labor Board may exercise all the powers conferred upon a divisional labor board, either in giving original consideration to a controversy, or in reviewing the decision of a divisional labor board, which may be either affirmed, set aside and/or modified.

ARTICLE VII—SAFETY

Employers and employees shall cooperate in maintaining safe conditions of operation in compliance with the applicable requirements of State laws or regulations in conformity therewith.

ARTICLE IX—AMENDMENTS

Any Code Authority may propose amendments to this Code from time to time effective generally or as to the area within its jurisdiction which, after submission to any other Code Authority affected thereby (which shall include the divisional Code Authority in case of an amendment proposed by a subdivisinal Code Authority), may be recommended by the Administrator for the approval of the President.

ARTICLE X

This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitations, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XI—EFFECTIVE DATE AND TERMINATION

This Code shall become effective on the second Monday following its approval by the President, and shall continue in effect until April 1, 1934, and thereafter in the absence of the exercise of the power reserved to the President in Article X, subject to the exercise of the option, after 30 days' notice to the Administrator, by any coal producer to withdraw his consent after April 1, 1934, to the further enforcement of the Code as a Code to which he has voluntarily given his consent.

SCHEDULE A

BASIC MINIMUM RATES

District	Minimum inside skilled labor		Minimum outside common labor	
	Dollars per day	Cents per hour	Dollars per day	Cents per hour
DISTRICT A				
Pennsylvania.....	4. 60	57½	3. 60	45
Ohio.....	4. 60	57½	3. 60	45
Lower Peninsula of Michigan.....	4. 60	57½	3. 60	45
Panhandle District of West Virginia ¹	4. 60	57½	3. 60	45
DISTRICT B				
Northern West Virginia ²	4. 36	54½	3. 36	42
DISTRICT C				
Southern West Virginia ³	4. 20	52½	3. 20	40
Eastern Kentucky ⁴	4. 20	52½	3. 20	40
Upper Potomac District of West Virginia ⁵	4. 20	52½	3. 20	40
Maryland.....	4. 20	52½	3. 20	40
Virginia.....	4. 20	52½	3. 20	40
Northern Tennessee ⁶	4. 20	52½	3. 20	40
DISTRICT D				
Indiana.....	4. 57½	57½	4. 20	52½
DISTRICT E				
Illinois.....	5. 00	62½	4. 00	50
DISTRICT F				
Iowa ⁷	4. 70	58¾	4. 00	50
Wayne and Appanoose Counties of Iowa.....	4. 56	57	3. 86	48¾
DISTRICT G				
Missouri, Kansas, Arkansas, and Oklahoma.....	3. 75	46¾	3. 28	41
DISTRICT H				
Western Kentucky ⁸	4. 00	50	3. 00	37½
DISTRICT J				
Alabama.....	3. 40	42½	2. 40	30
Georgia.....	3. 40	42½	2. 40	30
Hamilton and Rhea Counties of Tennessee.....	3. 40	42½	2. 40	30
DISTRICT G-1				
Marion, Grundy, Sequatchie, White, Van Buren, Warren, and Bledsoe Counties of Tennessee.....	3. 84	48	2. 84	35½
DISTRICT K				
New Mexico.....	4. 48	56	3. 75	46¾
Southern Colorado ⁹	4. 44	55½	3. 75	46¾
DISTRICT L				
Northern Colorado ¹⁰	5. 00	62½	3. 75	46¾

¹ Includes Hancock, Brooke, Ohio, and Marshall Counties.

² Includes Monongalia, Preston, Marion, Harrison, Taylor, Lewis, Barbour, Gilmer, Upshur, Randolph, Braxton, and Webster Counties and those mines in Nicholas County served by the B. & O. R.R.

³ Includes all mines in counties of West Virginia not named under districts A and B and under the Upper Potomac District.

⁴ Includes all mines in Kentucky located east of a north and south line drawn along the Western boundary of the City of Louisville.

⁵ Includes Grant, Mineral, and Tucker Counties.

⁶ Includes all counties in Tennessee not named Districts J and J-1.

⁷ Excludes Wayne and Appanoose Counties.

⁸ Includes all mines in Kentucky west of a north and south line drawn along the western boundary of the City of Louisville.

⁹ Includes all counties in Colorado not named under District L.

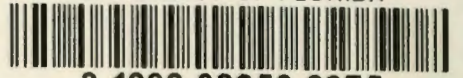
¹⁰ Includes Jackson, Larimer, Weld, Boulder, Adams, Arapahoe, El Paso, Douglas, Elbert, and Jefferson Counties.

NOTE.—Differences between districts in the foregoing minimum rates are not to be considered as fixing permanent wage differentials or establishing precedents for future wage scales.

BASIC MINIMUM RATES—Continued

District	Minimum inside skilled labor		Minimum outside common labor	
	Dollars per day	Cents per hour	Dollars per day	Cents per hour
Utah.....DISTRICT M	5.44	68	4.48	56
Southern Wyoming.....DISTRICT N	5.42	67 $\frac{3}{4}$	4.44	55 $\frac{1}{2}$
Northern Wyoming.....	5.42	67 $\frac{3}{4}$	4.54	56 $\frac{3}{4}$
Montana.....DISTRICT O	5.63	70 $\frac{3}{8}$	4.82	60 $\frac{1}{4}$
Washington.....DISTRICT P	5.40	67 $\frac{1}{2}$	4.00	50
North Dakota.....DISTRICT Q	4.00	50	3.20	40
South Dakota.....	4.00	50	3.20	40

UNIVERSITY OF FLORIDA



3 1262 08850 2975