

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

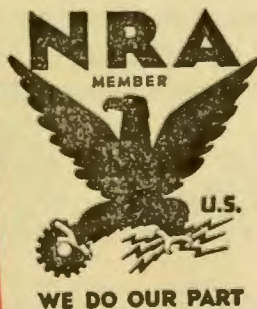
FOR THE

WHOLESALE COAL
AND COKE INDUSTRY

AS SUBMITTED ON AUGUST 30, 1933

REGISTRY No. 701—32

The Code for the Wholesale Coal and Coke Industry
in its present form merely reflects the proposal of the above-mentioned
industry, and none of the provisions contained therein are
to be regarded as having received the approval of
the National Recovery Administration
as applying to this industry



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CODE OF FAIR COMPETITION AND TRADE PRACTICE FOR THE WHOLESALE COAL AND COKE INDUSTRY IN THE UNITED STATES

APPROVED BY THE EXECUTIVE COMMITTEE AUGUST 15, 1933

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Wholesale Coal and Coke Industry.

1. DEFINITION OF TERMS

The term "Wholesaler" when used in this Code, includes a person, partnership or corporation engaged in the business of buying and selling coal, coke, and/or solid fuel in carloads, or boatloads, including those engaged in maintaining Wholesale depots.

2. GENERAL REGULATIONS

The Wholesalers will comply with the following specific provisions of the National Industrial Recovery Act.

(a) That employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) That 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

(c) That employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

3. REGULATIONS OF HOURS OF WORK

No employees (except executives, officers, and outside salesmen) may work in excess of an average of forty (40) hours during the week, based upon a six months' period.

4. MINIMUM WAGE RATE

(a) The minimum pay for labor shall be at the rate of 40¢ per hour, and for accounting, clerical, office services, or sales employees shall be at the rate of \$15 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than

\$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; nor less than \$14 per week in any city of between 2,500 and 250,000 population, or in the immediate area of such city.

(b) In towns of less than 2,500 population wholesalers who have not signed the President's Reemployment Agreement shall increase all wages by not less than 20 percent, provided that this shall not require wages in excess of \$12 per week.

5. PROHIBITION OF CHILD LABOR

On and after the effective date of this Code, Wholesalers shall not employ any minor under the age of sixteen (16) years.

6. FAIR AND UNFAIR METHODS OF COMPETITION

(a) To insure fair competition and to enable the Wholesaler to properly function under this Code, it is necessary to preserve the sound principle under which the Wholesaler is allowed to meet the producers' competition in all consuming districts in coals, cokes, and/or other solid fuels of equal grades and sizes. In meeting such competition a fair and equitable compensation shall be required for the transaction of the business, which shall be measured by the nature of the distribution as well as the conditions in each district. Any question between Wholesalers arising from the application of this Section shall be settled by the Committees provided for under Clause 7 (a) of this Code. Any such question between Wholesalers and Producers will be referred to this Committee to be handled in conference with the Agency or authority provided for by the proper Producers' Code.

(b) The Wholesaler in buying and selling coal, coke, and/or other solid fuel shall specify the grade and size ordered, and shall require, as a condition of sale and purchase, that this information be shown on the invoice, manifest, and billing.

(c) The consignment of unordered coal, or the forwarding of coal which has not actually been sold, consigned to the Wholesaler 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 Wholesaler or his agent, to Tidewater ports and/or to lake ports and/or to docks beyond such ports, but such shipments shall be limited to coter bunker coal or to coal that is applicable against existing contracts, or for storage by the wholesaler on docks, wharves, or yards for resale by the wholesaler or his agent.

(d) 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.

(e) The prepayment of freight charges with intent or with the effect of granting discriminatory credit allowance is a violation of this code.

(f) The giving in any form of adjustment, 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 a manner as to create price discrimination, is a violation of this code.

(g) 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.

(h) 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.

(i) Attempts to purchase business, or obtain information concerning a competitor's business by gifts or bribes, are violations of this code.

(j) The intentional misrepresentation of analyses 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 advertisement, invoice, or otherwise, concerning the size, quality, character, nature, preparation, or origin of any coal, bought or sold, is a violation of this code.

(k) The making of, causing or permitting to be made, any false or deceptive statement, either written or oral, of or concerning the business policy of a competitor, or his product, selling price, or financial, business, or personal standing, is a violation of this code.

(l) The unauthorized use, either in written or oral form, of trademarks, trade-names, slogans, or advertising matter already adopted by a competitor, or deceptive approximations thereof, is a violation of this code.

(m) 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.

(n) The selling of goods below cost with the intent and with the effect of injuring a competitor and where the effect may be to substantially lessen competition or tend to create a monopoly or to unreasonably restrain trade, is a violation of this code.

(o) Where the costs of executing contracts entered into in the wholesale coal trade prior to the enactment of the National Industrial Recovery Act are increased by the application of the provisions of that Act to the industry, it is equitable and promotive of the purposes of the Act that appropriate adjustments of such contracts to reflect such increased costs be arrived at by arbitral proceedings or otherwise, and the American Wholesale Coal Association, the applicant for this Code, is constituted an agency to assist in effecting such adjustments.

7. ADMINISTRATION

(a) To effectuate further the policies of the Act, a Wholesale Coal Industry Committee is hereby designated to cooperate with the Administrator as a planning and fair practice agency for the industry. This Committee shall consist of seven representatives of the industry elected by the Board of Directors of the American Wholesale Coal Association to be approved by the Administrator, and three members without vote appointed by the President of the United States. The Commissioner of the Association shall act as Chairman, ex officio. This Committee shall from time to time present to the Administrator recommendations based on conditions in

their industry as they may develop from time to time which will tend to effectuate the operation of the provisions of this Code and the policy of the National Industrial Recovery Act, and it shall with the consent of the Administration arrange for the election of District Committees and define their powers.

(b) Any Wholesaler may participate in any endeavors of the American Wholesale Coal Association in the preparation of any revisions of, or additions or supplements to, this code by accepting the proper pro-rata share of the cost and responsibility of creating and administering it, either by becoming a member of the American Wholesale Coal Association or by paying to it an amount equal to the dues from time to time provided to be paid by a member in like situation of American Wholesale Coal Association.

(c) This Committee is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provision of this code on complaint by any person effected, and to report the same to the Administrator.

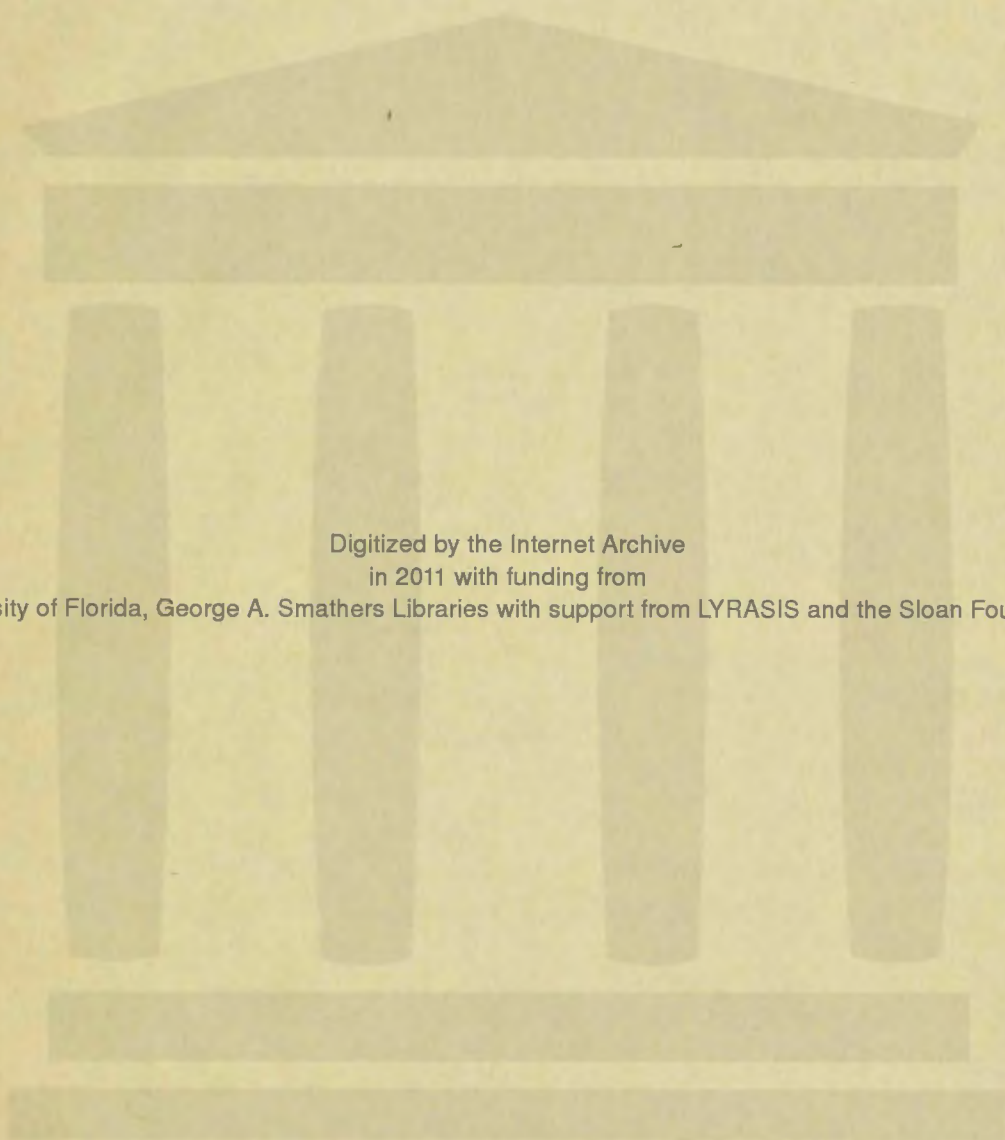
(d) This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Clause 10 (b) of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule or regulation, issued under Title I of said Act, and specifically 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.

(e) Such of the provisions of this Code as are not required to be included therein by the National Industrial Recovery Act may, with the approval of the President, be modified or eliminated as changes in the circumstances or experiences may be indicated. It is contemplated that from time to time supplementary provisions to this Code or additional codes will be submitted for the approval of the President to prevent unfair competition in price and other unfair and destructive competitive practices and to effectuate the other purposes and policies of Title I of the National Industrial Recovery Act consistent with the provisions thereof.

(f) While this code is in effect the Constitution and Bylaws of the American Wholesale Coal Association shall not be amended to restrict the qualifications for membership.

(g) This Code shall become effective not later than ten days after its approval by the President.

AMERICAN WHOLESALE COAL ASSOCIATION,
C. S. B. WARD, *President*.



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