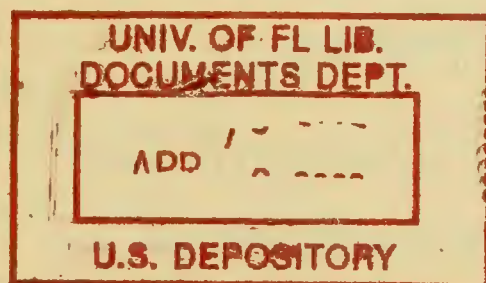
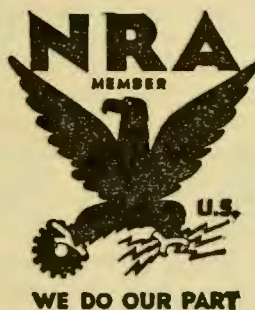


NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION
FOR THE
COAL DOCK INDUSTRY

AS APPROVED ON MARCH 16, 1934

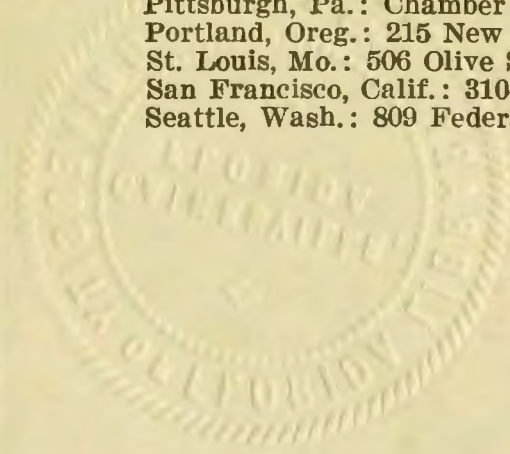


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Approved Code No. 337

CODE OF FAIR COMPETITION

FOR THE

COAL DOCK INDUSTRY

As Approved on March 16, 1934

ORDER

CODE OF FAIR COMPETITION FOR THE COAL DOCK INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Coal Dock Industry, and hearings having been duly held thereon and the annexed report on said 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 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 Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

K. M. SIMPSON,
Division Administrator.

By R. W. LEA,
Assistant Administrator for Industry.

WASHINGTON, D.C.
March 16, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Coal Dock Industry as revised after a public hearing conducted in Washington, D.C., on November 15, 1933, in accordance with the provisions of the National Industrial Recovery Act.

THE INDUSTRY

The operations of the Coal Dock Industry consist of the unloading of coal from vessels by the use of dock machinery and equipment and dock labor, storing, processing the coal where necessary, and reloading it into railroad cars or trucks and, in some instances, into vessels or tugs for bunker coal. In the New England Division where navigation is open all year around, the docks are comparatively small since only a small amount of coal needs to be stored upon them sufficient to insure continuous operation between the arrival of vessels. In the Northwest Division where navigation on the upper lakes is closed from approximately December 1st to May 1st of each year on account of frozen harbors, the docks are comparatively large as they must provide sufficient storage capacity to supply the communities of the Northwest with coal through their bitter winters.

Our Planning and Research Division reports that the Coal Dock Industry sold approximately 27,517,000 tons of coal in 1929 valued at \$128,342,000 as compared with 20,075,000 tons in 1933 valued at \$89,127,000. The reduction in tonnage and value since 1929 is due to severe competition with oil and gas as well as the general business depression.

WAGE AND HOUR PROVISIONS

Estimated Effect.—During 1929 approximately 5,750 wage earners were employed in the Coal Dock Industry. It is estimated that the hour provisions of this Code will add 750 employees to this Industry's payroll, increasing employment approximately 15% over the 1933 employment total. It is estimated that the payrolls will increase almost proportionately, or between 15% and 20% over the 1933 payroll total.

NORTHWEST DIVISION

Normal Hours.—Watchmen forty-eight (48) hours per week with one day off each week; other employees eight (8) hours per day, forty (40) hours per week. Exceptions include executives, officers and supervisory employees receiving \$35 or more per week and outside salesmen.

Minimum Wages.—\$15 per week for clerical employees; forty (40) cents per hour for watchmen; forty-five (45) cents per hour for other employees. Further provision is made that all employers shall maintain the same hourly rate differential (expressed in percentage of the hourly rate) between the different classes of employees as existed as of June 1, 1933, but this provision shall not apply to executives, officers and employees acting in a supervisory capacity receiving \$35 or more per week.

Overtime Penalty.—In cases of accident or when longer hours are necessary to discharge cargo from waiting vessels or to provide for the necessities of dependent communities in extreme weather, longer hours may be worked, but in no event more than 350 hours in any two calendar months, provided that overtime be paid for at the rate of time and one-half, except for watchmen who shall be paid straight time.

Age Limit.—The employment of any person under eighteen (18) years is prohibited.

NEW ENGLAND DIVISION

Normal Hours.—For clerical employees eight (8) hours per day; forty-two (42) hours per week for eight (8) months and thirty-six (36) hours per week for the remaining four (4) months of the year. For employees engaged directly in connection with unloading, storage and delivery service, eight (8) hours per day, forty-eight (48) hours per week during eight (8) months and forty (40) hours per week for the remaining four (4) months of the year. Exceptions include executives and supervisory employees receiving not less than certain specified salaries, branch coal dock managers in ports of less than 15,000 population, watchmen and outside salesmen.

Minimum Wages.—Fifty (50) cents per hour in the port of Boston, forty (40) cents per hour in other New England ports. The weekly wage of any clerical or office employee shall not be less than forty (40) times the hourly rate provided for in any locality.

Overtime Penalty.—Provision is made for payment at the rate of time and one-half for any hours worked in excess of any normal day or week.

Age Limit.—The employment of any person under eighteen (18) years is prohibited.

VESSEL FUELING DIVISION

Normal Hours.—Forty (40) hours per week from December 16 to March 31, inclusive; fifty-six (56) hours per week during the season of navigation on the Great Lakes (April 1 to December 15, inclusive). Exceptions include executives, officers and employees acting in supervisory capacity receiving \$35 or more per week.

Minimum Wages.—\$15 per week for clerical employees; forty (40) cents per hour for all other employees including watchmen. Further provision is made that all employers shall maintain the same hourly rate differential (expressed in percentage of the hourly rate) between the different classes of employees as existed as of June 1, 1933, but this provision shall not apply to executives, officers and

employees acting in a supervisory capacity receiving \$35 or more per week.

Overtime Penalty.—Provision is made for payment at the rate of time and one-half for any hours worked in excess of the normal week.

Age Limit.—The employment of any person under eighteen (18) years of age is prohibited.

Further provision is made for the establishment of a committee of five members consisting of two members of the Industry to be selected by the Vessel Fueling Divisional Code Authority and two members representing labor appointed by the Labor Advisory Board of the National Recovery Administration and the Administration member of the Vessel Fueling Divisional Code Authority who shall conduct an investigation regarding the wage rates and maximum hours provided herein and make its report and recommendation to the Administrator through the Divisional Code Authority within ninety days from the effective date of this Code.

MARKETING PROVISIONS

No provision is made for any price regulation except that every member of the Industry shall so conduct his business as to avoid discrimination against any class or group of customers. Each member of the Industry shall within ten days after the effective date of this Code file with the Divisional Code Authority a list showing prices, terms and conditions of sale, other than solely at retail, for each grade, quantity and size of coal for each class of purchasers which such member of the Industry expects to sell, and the listed charges for handling services classified as to grade, size and quantity of coal which such member of the Industry expects to handle and the terms and conditions applicable thereto. Such lists of prices and charges shall become effective immediately upon receipt by the member of the Industry filing them of notice from the Divisional Code Authority of their receipt and filing, which notice shall be mailed by the Divisional Code Authority within twenty-four hours after receipt of the proposed charges and prices. Listed prices and charges may be revised from time to time by the member of the Industry filing revised lists of prices and charges with the Divisional Code Authority which shall become effective in the same manner as provided in the case of the original filing. A report of all sales showing quantities and prices shall be filed by each member of the Industry with the Divisional Code Authority immediately.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceeding in this matter, I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of in-

dustry 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 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 groups and association are industrial groups and association truly representative of the aforesaid Industry; and that said groups and association impose no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons the Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

MARCH 16, 1934.

CODE OF FAIR COMPETITION FOR THE COAL DOCK INDUSTRY

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Coal Dock Industry, and shall be binding on all the members thereof.

ARTICLE I—DEFINITIONS

SECTION 1. "Coal" shall mean any anthracite, semi-anthracite, bituminous, semi-bituminous, or lignite coal, briquettes, boulets, coke, gas-house coke, petroleum coke, petroleum carbon, or any manufactured or patented fuel not sold by liquid or metered measure, fuel wood or wood-fuel products.

SECTION 2. "Wholesaling" shall mean the selling or selling and delivering of coal in railroad cars or cargo vessels, subject, however, to the provisions of Article VI, Section 11, of this Code.

SECTION 3. "Retailing" shall mean the selling or selling and delivering of coal in other than railroad cars or cargo vessels subject, however, to the provisions of Article VI, Section 11, of this Code.

SECTION 4. "The Coal Dock Industry" or "Industry" shall mean the discharging from vessels at any private dock of coal for sale, other than solely at retail or the selling, other than solely at retail, of coal so discharged (or both so discharging and so selling) and bunkering vessel with coal from docks equipped to receive coal by water and to store it (whether or not coal also is or can be received by rail).

SECTION 5. "Member of the Industry" means all those engaged in the Coal Dock Industry. The retail operations of members of the Industry are not embraced within this Code but are covered by the Retail Solid Fuel Industry Code.

SECTION 6. "President", "Act", "Administrator", shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator under Title I of such Act.

SECTION 7. "Employee" shall mean any one engaged in the Coal Dock Industry in any capacity receiving compensation for his services, irrespective of the nature or method of such compensation, except a member of the Industry.

SECTION 8. "Employer" shall mean any one by whom any employee is compensated or employed.

SECTION 9. Population for the purposes of this Code shall be determined by reference to the latest Federal census, and as applied to any particular city the population for the metropolitan area as given in such census shall be used.

ARTICLE II—DIVISIONS

For the purposes of this Code, the Industry shall be divided into separate divisions, as follows:

1. *Northwest Division*, which shall include ports on Lake Superior, St. Mary's River, and on the west bank of Lake Michigan north of the State of Illinois, excluding vessel fueling operations under the jurisdiction of the Vessel Fueling Division.

2. *New England Division*, which shall include ports in the States of Main, New Hampshire, Massachusetts, Connecticut, Rhode Island, and Vermont.

3. *Vessel Fueling Division*, which shall include vessel fueling operations on the Great Lakes and tributary waters.

Other separate divisions may be created and extensions to the above divisions may be made where circumstances indicate such action is appropriate; but the provisions of this Code shall not apply in any territory outside of the New England Division, the Northwest Division, and the Vessel Fueling Division, unless and until such other Divisions are created by appropriate amendments to this Code.

ARTICLE III—EMPLOYEES RELATIONS

SECTION 1. 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. 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. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

SECTION 2. This article establishes minimum rates of pay which shall apply irrespective of whether an employee is actually compensated on a time rate, piece work, or other basis.

SECTION 3. An employer shall make payment of all wages, when due, in lawful currency or by negotiable check therefor, payable on demand. These wages shall be exempt from any payments for pensions, insurance, or sick benefits other than those voluntarily paid by the wage earners, or required by State laws. Employers shall establish regular semi-monthly pay days, splitting the month so as to provide reasonable time (not to exceed 10 days) for the preparation of pay rolls.

SECTION 4. An employee shall be paid at least his normal rate of pay for all hours required to be spent at the place of employment or in connection with the discharge of duties of such employment.

SECTION 5. No member of the Industry shall employ any person under the age of eighteen (18) years.

SECTION 6. No employer shall as a subterfuge so as to defeat the purposes or provisions of the Act or this Code reclassify employees

or duties of occupations performed or engage in any other such subterfuge.

SECTION 7. Every employer shall make reasonable provision for the safety of his employees at the place and during the hours of their employment.

SECTION 8. No employee shall be dismissed by reason of making a complaint or giving evidence with respect to a violation of this Code.

SECTION 9. Each employer shall post and keep posted in ten point type or larger the full Labor Provisions of this Code applicable to his Division and the name and address of the nearest official place where Code violations may be reported, in conspicuous places readily accessible to the employees.

SECTION 10. *Northwest Division.*—A. The maximum hours for all employees (except executives, officers and employees acting in a supervisory capacity receiving \$35.00 or more per week, outside salesmen and watchmen) shall be eight hours per day and forty (40) hours per week; provided, however, that in cases of accident, or when longer hours are necessary to discharge cargo from waiting vessels or to provide for the necessities of dependent communities in extreme weather, longer hours may be worked, but in no event more than 350 hours in any two calendar months; provided, further, that time and one-half shall be paid for hours worked in excess of eight (8) hours per day or in excess of forty (40) hours per week, and time and one-half shall be paid for hours worked on Sundays and holidays, except for watchmen, who shall be paid straight time. Truck drivers and helpers shall not be considered outside salesmen. The maximum hours for watchmen shall be forty-eight hours per week and they shall have one day off each week.

B. The minimum rates of pay for clerical employees shall be not less than \$15.00 per week.

C. The minimum hourly rate which shall be paid to employees, other than clerical employees and watchmen, shall be forty-five cents (45¢). The minimum hourly rate for watchmen shall be forty cents (40¢).

D. No employer shall pay any employee an hourly wage rate which will yield a lesser weekly wage for the full time week of 40 hours established in this Code than such employee could have earned for the same class of work for a full time week of 48 hours at the hourly rates prevailing as of June 1, 1933, but this shall not increase the minimum hourly rate in this Division on docks on Lake Michigan. (This means 48 times the hourly rate as of June 1, 1933, divided by 40, or a 20% increase in the hourly rates which prevailed as of June 1, 1933, except that it shall not increase the minimum hourly rate in this Division on docks on Lake Michigan.)

E. All employers shall maintain the same hourly rate differential (expressed in percentage of the hourly rate) between the different classes of employees as existed as of June 1, 1933, but this provision shall not apply to executives, officers and employees acting in a supervisory capacity receiving \$35.00 or more per week.

SECTION 11. *New England Division.*—A. Except as hereinafter expressly stipulated otherwise—

(1) No employee engaged directly in connection with unloading, storage and delivery service shall be permitted to work more than 8 hours per day or 40 hours per week, from May 1 to August 31, inclusive, or for such alternate four months per year as may be substituted therefor by the Divisional Code Authority unless, during this period, all hours worked in excess of 8 hours per day or in excess of 40 hours per week are paid for at the rate of time and one-half. For the remaining 8 months of each year no employee shall be permitted to work more than 8 hours per day nor more than 48 hours per week unless time and one-half is paid for each hour in excess of 8 hours per day or in excess of 48 hours per week.

(2) No clerical employees shall be permitted to work more than 8 hours per day or 36 hours per week for the period from May 1 to August 31, inclusive, or for such alternate four-months' period per year as may be substituted therefor by the Divisional Code Authority unless, during this period, all hours worked in excess of 8 hours per day or in excess of 36 hours per week are paid for at the rate of time and one-half. For the remaining 8 months of each year no clerical employee shall be permitted to work more than 8 hours per day or 42 hours per week, unless time and one-half is paid for each hour in excess of 8 hours per day or in excess of 42 hours per week.

B. The maximum hours fixed in the foregoing section shall not apply to—

(1) Executive and supervisory employees receiving not less than \$35.00 per week in any port of 100,000 population or more and its trade area; not less than \$30.00 per week in any port of less than 100,000 and its trade area.

(2) Branch coal dock managers in ports of less than 15,000 population, which ports are not part of a larger trade area, each branch coal dock to be restricted to one branch coal dock manager.

(3) Watchmen.

(4) Outside salesmen, provided that employees engaged in unloading, loading, storage or delivery service shall not be classified as outside salesmen.

C. Subject to the exceptions noted in sub-sections F and G of this section, no employee shall be paid less than the following hourly rates of wages, whether such wages are calculated upon a time, piece-work, commission, or other basis:

| | |
|-----------------------------|----------|
| Port of Boston | 50 cents |
| All other New England ports | 40 cents |

D. (1) Except as hereinafter provided, no hourly, daily, or weekly rates of pay shall be reduced below those in effect on July 1, 1933.

(2) Except as to clerical or office employees—no employee whose full time weekly hours as of July 1, 1933, are reduced by 20% or less, shall have his full time weekly earnings as of July 1, 1933, reduced. No employee whose full time weekly hours as of July 1, 1933, are reduced by more than 20% shall have his full time weekly earnings as of July 1, 1933, reduced by more than one-half of the percentage reduction in hours in excess of 20%.

E. The weekly wage of any clerical or office employee shall not be less than that provided by 40 times the hourly rate in subsection C

for the port specified, regardless of whether the week worked is on a basis of 36 hours or 42 hours as provided in subsection A (2), but in no case less than \$14.00 per week. Part time clerical or office employees shall be paid not less than the hourly rate in subsection C for the port specified, but in no case less than 35¢ per hour for each hour worked.

F. Employees engaged solely to store solid fuel in or about the premises of the consumer may be paid on a tonnage basis in those trade areas where an established schedule of tonnage rates for such work has been in effect since 1929, and shall be paid not less than the 1929 tonnage rates, which shall be subject to the approval of the Divisional Code Authority and the Administrator, and it shall be the duty of the Divisional Code Authority to fix and report such 1929 tonnage rates within 30 days after the effective date of this Code.

G. Superannuated employees or those who are physically incapable of performing manual labor, and office workers with less than six months' previous office experience shall be paid not less than 75% of the minimum wages prescribed in subsection C, provided that the number of such employees at any one time shall not exceed 10% of the total number of dock, office, and service employees, provided, however, that any dock with less than ten such employees may employ one such sub-minimum employee.

H. The weekly wages of any salesman, regardless of whether he be compensated upon a commission or salary basis or both, shall not, unless specifically approved in writing by the Divisional Code Authority, be less than 40 times the hourly rate provided in subsection C of this section for the port specified.

I. The use of contractors, sub-contractors, haulers, truckers, or others, to perform any of the functions of this industry is prohibited unless the employees of such contractors, sub-contractors, haulers, truckers or other employers shall receive wages as high and shall be required to work hours not in excess of those provided for in this Section for employees in the same classification of this industry.

SECTION 12. *Vessel Fueling Division*.—A. Because the docks provide twenty-four (24) hour continuous service by reason of the seasonal nature of the operations and because of the international competition, the maximum hours for all employees (except executives, officers and employees acting in a supervisory capacity receiving \$35.00 or more per week) shall be fifty-six hours per week, during the season of navigation on the Great Lakes, viz., from April 1 to December 15, inclusive, and forty (40) hours per week during the period from December 16 to March 31, inclusive, except in cases of accidents or emergencies, provided, however, that all time worked in excess of fifty-six (56) hours per week from April 1 to December 15, inclusive, and all time worked in excess of forty (40) hours per week from December 16 to March 31, inclusive, shall be compensated for at the rate of time and one-half.

B. The minimum rates of pay for clerical employees shall be not less than \$15.00 per week.

C. The minimum hourly rate for employees (including watchmen) other than clerical, shall be forty cents (40¢).

D. All employers shall maintain the same hourly rate differential (expressed in percentage of the hourly rate) between the different classes of employees as existed as of June 1, 1933, but this provision shall not apply to executives, officers, and employees acting in a supervisory capacity receiving \$35.00 or more per week.

E. There shall be established a committee of five (5) members—consisting of two (2) members of the Industry to be selected by the Vessel Fueling Divisional Code Authority; two (2) members representing labor appointed by the Labor Advisory Board of the National Recovery Administration; and the Administration member of the Vessel Fueling Divisional Code Authority—who shall conduct an investigation regarding the wage rates and maximum hours provided herein, and make its report and recommendation to the Administrator through the Divisional Code Authority within ninety (90) days from the effective date of this Code.

ARTICLE IV—MARKETING

SECTION 1. Each member of the Industry shall so conduct his business as to avoid discrimination against any class or group of customers by unfair or disproportionate allocation of his total cost and no member of the Industry shall sell or handle any coal at a price or charge less than his listed price for that grade, quantity and size established as provided in the following section.

SECTION 2. Each member of the Industry shall, within ten (10) days after the effective date of this Code, file with the Divisional Code Authority a list showing the prices and terms and conditions of sale other than solely at retail for each grade, quantity, and size of coal for each class of purchasers which such member of the Industry expects to sell, and a list of charges for handling services classified as to grade, size, and quantity of coal which such member of the Industry expects to handle, and the terms and conditions applicable thereto. Such lists of prices and charges shall become effective immediately upon receipt by the Member of the Industry filing them of notice from the Divisional Code Authority of their receipt and filing, which notice shall be mailed by the Divisional Code Authority within twenty-four hours after receipt of the proposed charges and prices.

SECTION 3. Listed prices and charges may be revised from time to time by the Member of the Industry filing them, by filing revised lists of prices and charges with the Divisional Code Authority, which shall become effective in the same manner as provided for the original filing thereof.

SECTION 4. A report of all sales, showing quantity and prices, shall be filed by each member of the Industry with the Divisional Code Authority immediately.

ARTICLE V—UNFAIR TRADE PRACTICES

SECTION 1.—The following practices shall constitute unfair methods of competition. Any member of the Industry who shall be found to have engaged in such practices, or any of them, shall be deemed

to have violated the Act and this Code, and shall be subject to the penalties imposed by the Act and this Code.

(1) The handling, or selling, or offering for sale of coal at less than the price or charge established under this Code.

(2) The secret offering or making of any payment or allowance of a rebate, refund, commission, credit, unearned discount, or excess allowance, whether in the form of money or otherwise, and the offering or extending to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

(3) The predating or postdating of any invoices or contracts 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.

(4) The intentional misrepresentation of analyses or sizes, or 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, quantity, character, nature, preparation, or origin of any coal bought or sold.

(5) The giving or permitting to be given, or directly offering to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party; provided that this shall not prohibit free and general distribution of articles commonly used for advertising except insofar as such articles are actually used for commercial bribery as hereinabove defined.

(6) The making of, or causing or permitting to be made, any statement which refers inaccurately in any material particular to any competitors or their products, prices, values, credit terms, policies or services.

(7) Inducing or attempting to induce the breach of an existing contract between a competitor and his customer or source of supply, or interfering with or obstructing the performance of such contractual duties or services.

(8) The prepayment of freight charges with the intent or with the effect of granting discriminatory credit allowances.

(9) The sale or offering for sale of coal of a certain kind or size at a price appropriate for such coal with the secret understanding that coal of other quality, size, or preparation, listed at or generally commanding a higher price, will be delivered; or delivery of coal inferior to that agreed to be delivered upon a sale.

(10) The splitting or dividing of commissions, or discounts or the use of commissions or sales agency in any manner through sham or indirection for making discounts, allowances or rebates or prices other than those determined as provided in this Code.

(11) Delivery by trucks from docks at less than the filed price on trucks at the docks plus the filed charges for the delivery as listed with the Divisional Code Authority.

(12) No member of the Industry shall join or participate with other members of the Industry who with such member constitute a substantial number of members of the Industry or who together control a substantial percentage of the business in any specific prod-

uct or products of the Industry, in any transaction known in law as a black list, including any practice or device (such as a white list), which accomplishes the purpose of a black list.

SECTION 2. Members of the Industry shall supply to all customers a statement of the unfair trade practices as listed in Section 1 of this Article.

ARTICLE VI—ADMINISTRATION

SECTION 1. A Divisional Code Authority to supervise the administration and enforcement of the Code for each Division is hereby created, the members respectively to be selected in the following manner:

A general meeting of the members of the Industry within each Division shall be held within five days after the effective date of this Code to select the voting members of the Divisional Code Authority for each Division, provided that each such Divisional Code Authority shall have a Divisional Member designated by the Administrator, without vote but with power of veto. At such meetings the members of the Industry shall vote both by tonnage (which shall be the total tonnage of coal sold by each such member during the calendar year 1933) and as individual operators, and it shall require a majority vote both in tonnage and numbers to elect. In the event a majority in both tonnage and numbers is impossible, then by such other equitable method of voting as may be agreed upon by the respective meetings and approved by the Administrator.

(a) In the Northwest Division the Divisional Code Authority shall consist of six voting members, three of whom shall represent Lake Superior docks and three of whom shall represent Lake Michigan docks.

(b) In the New England Division the Divisional Code Authority shall consist of nine voting members; provided, however, that tonnage sold to any corporation controlled by, or which controls, or which is controlled by the same person as a member of the Industry shall not be included in the tonnage to which such member of the Industry is entitled to vote. "Control" means ownership of over fifty per cent of the voting capital stock.

(c) In the vessel Fueling Division the Divisional Code Authority shall consist of three voting members.

SECTION 2. There shall be established within 10 days after the effective date of this Code in each Division a Board which shall consist of three members appointed by the Divisional Code Authority, who may or may not be members of the Industry, as the Divisional Code Authority may determine, whose duties shall be to review the listed prices and charges and to conduct a continuing study of the facts underlying such listed prices and charges, and to observe the effect of such prices and charges on the Industry and the public. The Divisional Code Authority member, without vote, appointed by the Administrator shall be free to attend meetings of this Board and shall have free access to all its records. In the event that the Board shall find that prices and charges filed with the Divisional Code Authority in accordance with the provisions of Article IV are unfair to the public or destructive to the Industry, or both, the Board shall report such findings to the Divisional Code Authority. All com-

plaints with respect to the listed prices and charges that may come to the Divisional Code Authority shall be referred to such Board for consideration.

SECTION 3. Each trade or industrial association participating in the selection or activities of the Divisional Code Authority shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its Articles of Association, By-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

SECTION 4. In order that the Divisional 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 Divisional Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Divisional Code Authority.

SECTION 5. Any action, rule or regulation of any Divisional Code Authority shall be promptly reported to the Administrator, and after such notice and hearing as he may prescribe shall be subject to review and disapproval by him. Whenever any action of a Divisional Code Authority is vetoed by the Administration member thereof, the veto shall be subject to review by the Administrator and may be reversed by him. If the Administrator at any time shall determine that any action of a Divisional Code Authority or any agency thereof may be 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 and further consideration by such Divisional Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 6. Members of the industry shall be entitled to participate in and share the benefits of the activities of the Divisional Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration shall be determined by the Divisional Code Authority, subject to review by the Administrator, on the basis of volume of business and such other factors as may be deemed equitable.

SECTION 7. Nothing contained in this Code shall constitute the members of the Divisional Code Authority partners for any purpose. Nor shall any member of the Divisional Code Authority be liable in any manner to anyone for any act of any other member, officer, agent or employee of the Divisional Code Authority. Nor shall any member of the Divisional 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 Code, except for his own willful misfeasance or nonfeasance.

SECTION 8. Each Divisional Code Authority shall have the following further powers and duties, subject to such rules and regulations as may be issued by the Administrator:

(a) To insure the execution of the provisions of this Code and provide for the compliance of the Industry with the provisions of the Act.

(b) To adopt by-laws and rules and regulations for its procedure and for the administration and enforcement of the Code.

(c) To obtain from Members of the Industry in its Division such information and reports as are required for the administration of its Code and to provide for submission by members of such information and reports as the Administrator may deem necessary for the purposes recited in Section 3(a) of the Act, which information and reports shall be submitted by members to such administrative or government agencies as the Administrator may designate; provided that nothing in this Code shall relieve any member of the Industry of any existing obligations to furnish reports to any government agency. No individual reports shall be disclosed to any party except to such governmental agencies as may be directed by the Administrator.

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

(e) To secure from members of the Industry in its Division an equitable and proportionate payment of the reasonable expenses of maintaining the Divisional Code Authority and its activities.

(f) To cooperate with the Administrator in regulating the use of any N.R.A. insignia solely by those members of the Industry in the Division who have assented to, and are complying with, this Code.

(g) 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 9. Each Divisional Code Authority may establish for its Division standard size of screens and of grades and of terminology or any of them.

SECTION 10. Each Divisional Code Authority shall appoint a committee to meet with a committee of the Code Authority of any related industry and when so meeting to act as a Coordination Board in the determination of disputes over the jurisdiction of this Code. Such committee of the Divisional Code Authority shall be equal in number to the respective committee of the related industry appointed to the same Coordination Board. In addition to the members appointed by the respective Divisional Code Authorities, each Coordination Board shall have one member appointed by the Administrator with authority to vote in the event of a tie.

SECTION 11. Any business included in the definition of wholesaling in Article I, Section 2, of this Code, which has been by custom served by the Retail Solid Fuel Industry in any trade area, shall be included within the definition of "retailing"; and any business included in the definition of "retailing" in Article I, Section 3, of this Code,

which has been by custom served by the Coal Dock Industry in any trade area, shall be included within the definition of wholesaling as it applies to the Coal Dock Industry. Any dispute arising out of these provisions and involving any related industry or industries for which a Code of Fair Competition shall exist, shall be forthwith reviewed and determined by the procedure established in the last preceding section, provided that no such determination shall prevent any Coal Dock operator doing retail business, or the converse.

SECTION 12. In case there should be a dispute between a Divisional Code Authority of this Industry and the Code Authority of any related Industry, the determination of which is not provided for by Sections 10 and 11 of this Article, the Divisional Code Authority may have the power to present it for adjustment to the proper Code Authority of such related Industry, and if the two Code Authorities are unable to come to an agreement, the Divisional Code Authority of this Industry may present it to the Administrator for his decision.

SECTION 13. No provision of this Code shall be so interpreted or so applied as to promote or permit monopolies or monopolistic practices, or to eliminate or oppress small enterprises or discriminate against them.

ARTICLE VII—AMENDMENTS

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President or Administrator, in accordance with the provisions of Subsection (b) of Section 10 of the Act, from time to time to cancel or modify any order, approval, license, rule or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President or Administrator to cancel or modify his approval of this Code, or any conditions imposed by him upon his approval thereof.

SECTION 2. Such of the provisions of this Code as are not required to be included therein by the Act may, with the approval of the Administrator after such notice and hearing as he shall prescribe, be modified or eliminated in such manner as may be indicated by the needs of the public, by changes in circumstances, or by experience; all the provisions of this Code, unless so modified or eliminated, shall remain in effect for such time as provided in Article IX hereof.

ARTICLE VIII—STATE LAWS

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

ARTICLE IX

This Code shall become effective ten days after its approval by the President and shall continue in effect until June 16, 1935, or until such prior date upon which the President by proclamation or the Congress by joint resolutions shall declare that the emergency recognized by Title I of the Act is ended.

Approved Code No. 337.
Registry No. 701-35.

UNIVERSITY OF FLORIDA



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