AGREEMENT

BETWEEN

WHEELERSBURG TERMINAL LLC

(SUBSIDIARY OF NORFOLK SOUTHERN RAILWAY COMPANY)

AND

ITS WHEELERSBURG TERMINAL EMPLOYEES

REPRESENTED BY

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

EFFECTIVE FEBRUARY 9, 2002

Superseding Issue Effective August 17, 1996
RULE 1 - SCOPE

Positions with titles of Equipment Operator and Equipment Repairman established at WT are positions within the craft and class of maintenance of way workers. Management shall continue to have the right to have the work performed in the most efficient, cost saving and expeditious manner using any means, except as restricted elsewhere in this agreement.

RULE 2 - SENIORITY AT WHEELERSBURG TERMINAL (WT)

Employment shall be at the sole discretion of management. However, a single Wheelersburg Terminal Seniority Roster for Equipment Operator positions, applicable in the event of force reductions and/or recalls to new or re-established positions, will be maintained and posted.

(a) Employees occupying Equipment Operator positions will be laid off by order of inverse seniority and employees with Equipment Operator seniority who are laid off must be recalled in seniority order in filling new Equipment Operator positions.

(b) Employees who fail, without just cause, to return to service within ten days after being notified in writing will forfeit their Equipment Operator seniority.

(c) Persons entering the service at WT on Equipment Operator positions will be designated as Equipment Operator-Trainees and will be compensated at the 90% rate during their first twelve months of service on an Equipment Operator position.

(d) An Equipment Operator-Trainee who, upon successful completion of the six months’ probationary service after date of employment at WT, demonstrates sufficient proficiency on the various duties that may be required of an Equipment Operator position will establish seniority on the WT Equipment Operator roster, retroactive to the date he first performed service as an Equipment Operator-Trainee. An Equipment Operator-Trainee whose application for employment is rejected at any time within his first six months of probationary service at WT will have his employment relationship at WT terminated.

(e) Two or more Equipment Operator-Trainees establishing seniority in this manner on the same date will be placed on the roster in order of their respective birth dates with the older employee ranking first.
(f) Equipment Repairmen will be governed in the same manner as provided for Equipment Operators in this Rule 2.

RULE 3 - SENIORITY ROSTER

(a) Seniority rosters will be separately compiled for the equipment operator and equipment repairman classifications. Copies of the rosters will be furnished to the General Chairman and Local Chairman, and be posted at a convenient location within WT for inspection by employees interested.

Rosters will show the names of the employees and their seniority date established under the rules of this agreement, except that the names of new employees will not be included and their seniority rights will not apply until they have been in the service of the Company in excess of six months. In computing service, the preponderating portion of each pay period will be recognized.

Rosters will be revised in January of each year and will be open to correction for a period of sixty days from the date roster is posted.

(b) Any dating which remains unchanged on two successive rosters shall not be open to any question thereafter.

If a name is omitted from the seniority list this rule does not bar consideration of such cases upon the merits, providing request is made within two years from the date of the alleged service performed upon which the employee desires to establish seniority, but the burden of showing that the omission was erroneous rests upon the person claiming seniority despite the omission.

RULE 4 - SENIORITY UNDER OTHER AGREEMENTS

Employees occupying Equipment Operator and Equipment Repairman positions at WT shall retain and continue to accumulate railroad seniority previously established under the July 1, 1986 Agreement between Norfolk and Western Railway and BMWE. Such seniority may only be exercised when the WT employee cannot hold a position on WT.
RULE 5 - OVERTIME

Employees performing work of more than forty (40) straight time hours, including vacation and holiday pay, in a week will be paid time and one half for all work in excess of forty (40) straight time hours in the week. Offers of opportunity for overtime work will be made to members of a crew in seniority order on a rotating basis. Subsequent opportunities are offered to next senior employee in the crew, below the employee last offered the opportunity for overtime work, regardless of whether the prior opportunity for overtime was accepted or rejected by the more senior employee. Mandatory overtime work will be performed by employees in order of inverse seniority on the involved crew.

Employees required to work more than 12 hours per day on their assigned shift will be paid at overtime rate for the time after 12 hours except for any such hours applied to time missed for personal reasons from any of their assigned shifts during that work week.

RULE 6 - SHIFT CHANGE, REST DAY WORK

Employees will receive a minimum of four (4) hours’ notice when the shift to be worked is changed or canceled. When the shift to be worked is changed by requiring work be performed on a rest day, in lieu of working on a regular assigned work day occurring later that same work week, the affected employee will be compensated at the straight time rate plus an additional $3.00 per hour except when more than thirty-six hours advance notice of this shift change to a rest day is given.

RULE 7 - FORCE REDUCTION

Employees will receive a minimum of forty-eight (48) hours’ notice when forces are reduced.

RULE 8 - CALLS

Employees called to report to perform work not continuous with their regular shift and who report as instructed will be paid a minimum of four (4) hours.
RULE 9 - OFFICIAL POSITIONS

Employees who have been or may be promoted from the ranks to fill official, subordinate official, or excepted positions with the Company or official positions with the Brotherhood of Maintenance of Way Employees, will retain their seniority rights in the applicable classes of service at WT in accordance with the following:

(a) Any employee who is promoted to a fully excepted position subsequent to the effective date of this Agreement may elect to continue to accumulate seniority within the craft represented by the organization signatory to this agreement so long as the employee pays the current applicable membership dues to the organization. In the event an employee elects not to pay dues to continue to accumulate seniority, the duly authorized representative of the organization shall notify the Carrier's highest officer designated to handle claims and grievances, with a copy to the employee involved. If within thirty (30) days after receipt of such notification, the employee has not become current in dues to the organization, the employee shall cease to accumulate seniority in the craft represented by the organization and the General Chairman shall so notify the Carrier and the employee involved.

(b) An employee who was promoted to a supervisory, official or fully excepted position prior to the effective date of this agreement will continue to retain and accumulate seniority without payment of membership dues to the organization.

(c) In the event an employee covered by the provisions of Paragraph (a) above, who elected to continue to accumulate seniority, is subsequently relieved from such position by the Carrier (other than through dismissal for cause), the employee shall be entitled to displace a junior employee in accordance with current agreement. In the event such an employee voluntarily relinquishes a promoted position, the employee shall be entitled to displace the junior active employee on the roster or bid on a bulletined vacancy.

RULE 10 - DISCIPLINE

(a) An employee who has been in service more than sixty (60) calendar days shall not be disciplined or dismissed, nor will an unfavorable mark be placed upon their record without a fair and impartial investigation. This provision recognizes the Carrier’s right to issue letters of counseling and instruction and that such
letters do not constitute discipline. At such investigation the employee may be assisted by duly authorized representatives. The employee may be held out of service, except for minor offenses, pending such investigation and in such cases shall be given written confirmation thereof as soon as practicable.

An employee who is required, after being cited to a discipline investigation, to make a written statement in connection with any matter that may eventuate in the application of discipline, shall be accompanied by their union representative should they so desire, provided that such representative is readily available. A copy of the employee’s statement, if reduced to writing and signed by the employee, shall be furnished to the employee and union representative.

An employee required to attend a discipline investigation will be given not less than ten (10) days' advance notice, in writing, of the date of the investigation which shall set forth the precise charge against the employee with a copy to the duly authorized representative. The investigation shall be held within 30 days of first knowledge of the offense. The location of the investigation will be the Carrier's office closest to the location at which the incident occurred. However, an alternative site for the investigation may be selected based on mutual agreement between the Carrier and the employee's duly authorized representative.

At the request of either party the investigation will be postponed; however, such investigation will not be postponed in excess of ten (10) calendar days beyond the date first set except by mutual agreement. If the charged employee fails to attend the duly scheduled investigation, without having provided evidence of good cause for such failure to attend, the Carrier may proceed with the investigation in absentia and such proceeding in absentia shall not constitute the basis for any claim with respect to such employee’s right to contractual due process.

A written transcript of statements taken at the investigation will be made, and a copy furnished to the duly authorized representative at the time the decision is rendered. Decision will be rendered in writing to the employee and representative within twenty (20) days after completion of the investigation unless an extension of time is agreed upon.

It is recognized that the Carrier is responsible for ensuring that an accurate transcript of the investigative proceedings is made. However, this will not preclude the use of comparable equipment by the employee or the duly authorized representative to make a record of the proceedings for their own use.
(b) At the investigation or on appeal an employee may be represented by one or more "duly authorized (accredited) representatives" as designated by the General Chairman. The General Chairman shall determine the duly authorized (accredited) representatives and so inform the Carrier in writing in advance.

(c) An employee who has been notified to appear for an investigation shall have the option, prior to the investigation, to discuss with the appropriate Carrier official and General Chairman or representative designated by the General Chairman, the act or occurrence and the employee's responsibility, if any.

If disposition of the charges is made on the basis of the employee's acknowledgment of responsibility, the disposition shall be reduced to writing and signed by the employee and the official involved and shall incorporate a waiver of investigation and shall specify the maximum discipline which may be imposed for employee's acceptance of responsibility.

Disposition of cases under this paragraph (c) shall not establish precedence in the handling of other cases. Discipline imposed in accordance with this paragraph (c) of this Section is final with no right to appeal.

No minutes or other record will be made of the discussions and, if the parties are unable to reach an agreed upon disposition on this basis, no reference shall be made to these discussions by either of the parties in any subsequent handling of the charges under the discipline procedure.

(d) If the charge against the employee is not sustained, it shall be stricken from the employee's record and employee reinstated. If the employee lost time due to such discipline, such employee shall be paid the difference between the amount that would have been earned had the employee not been disciplined and the amount actually earned during the discipline period. The intent of this provision is to make the employee whole for any actual wage or benefit (consistent with the benefit plans) loss suffered as a result of discipline served that is subsequently reduced or not sustained.

(e) Employees who were dismissed and subsequently reinstated to service or any employee displaced by return to service of an employee dismissed under this rule shall exercise seniority in accordance with applicable rules covering exercise of displacement rights.
(f) Pertinent witnesses called by the Carrier to testify in disciplinary investigations will be compensated for the assigned working hours actually lost and will be allowed expenses, in accordance with the Attending Court Rule; with pay at the straight time rate for any time spent in testifying outside the hours that their assignment actually was worked. Employees who are not called by the Carrier but, at the request of the charged employee, attend and testify in a discipline investigation will be compensated in this same manner if the testimony they provide is material and relevant to the matter under investigation.

(g) The right of appeal in the usual manner is accorded under the applicable rule governing the time limits for presenting and progressing claims or grievances. However, the initial appeals concerning dismissal, suspension or reprimand are to be made directly to the highest officer of the Carrier designated to handle appeals of such disputes within 30 days of date discipline decision was rendered and any disallowance of such appeal must be issued within 30 days from the date such appeal is filed.

A special board of adjustment shall be established with jurisdiction over such disputes involving disciplinary matters resulting in dismissal, suspension or reprimand to provide expedited resolution of such disputes. However, either party may notify the other of its intention to progress a particular disciplinary matter to the National Railroad Adjustment Board or other Public Law Board or Special Board of Adjustment.

(h) The time limits of this Rule may be extended by written agreement between the authorized Carrier Officer and the employee's duly authorized representative. When U.S. mail is used, the postmark will determine when the correspondence was placed in the mail.

RULE 11 - TIME LIMIT ON CLAIMS

(a) All claims or grievances must be presented in writing by or on behalf of the employee involved to the officer of the Carrier authorized to receive same, within sixty days from the date of the occurrence on which the claim or grievance is based. Should any such claim or grievance be disallowed, the carrier shall, within sixty days from the date same is filed, notify whoever filed the claim or grievance (the employee or his representative) in writing of the reasons for such disallowance. If not so notified, the claim or grievance shall be allowed as presented, but this shall not be considered as a precedent or waiver of the contentions of the Carrier as to other similar claims or grievances.
(b) If a disallowed claim or grievance is to be appealed, such appeal must be in writing and must be taken within sixty days from receipt of notice of disallowance, and the representative of the Carrier shall be notified in writing within that time of the rejection of his decision. Failing to comply with this provision, the matter shall be considered closed, but this shall not be considered as a precedent or waiver of the contentions of the employees as to other similar claims or grievances. It is understood, however, that the parties may, by agreement, at any stage of the handling of a claim or grievance on the property, extend the sixty-day period for either a decision or appeal, up to and including the highest officer of the Carrier designated for that purpose.

(c) The requirements outlined in Paragraphs (a) and (b), pertaining to appeal by the employee and decision by the Carrier, shall govern in appeals taken to each succeeding officer, except in cases of appeal from the decision of the highest officer designated by the Carrier to handle such disputes. All claims or grievances involved in a decision by the highest designated officer shall be barred unless within nine months from the date of said officer's decision proceedings are instituted by the employee or his duly authorized representative before the appropriate division of the National Railroad Adjustment Board or a system, group or regional board of adjustment that has been agreed to by the parties hereto as provided in Section 3 Second of the Railway Labor Act. It is understood, however, that the parties may by agreement in any particular case extend this nine months' period herein referred to.

(d) A claim may be filed at any time for an alleged continuing violation of any agreement and all rights of the claimant or claimants involved thereby shall, under this rule, be fully protected by the filing of one claim or grievance based thereon as long as such alleged violation, if found to be such, continues. However, no monetary claim shall be allowed retroactively for more than sixty days prior to the filing thereof. With respect to claims and grievances involving an employee held out of service in discipline cases, the original notice of request for reinstatement with pay for time lost shall be sufficient.

(e) This rule recognizes the right of representatives of the Organization party hereto to file and prosecute claims and grievances for and on behalf of the employees it represents.

(f) This rule is not intended to deny the right of the employees to use any other lawful action for the settlement of claims or grievances provided such action is instituted within nine
months of the date of the decision of the highest officer of the Carrier.

(g) This rule shall not apply to requests for leniency.

RULE 12 - FILE AND APPEAL PROCEDURES

This provision applies to an employee at WT upon establishment of seniority on the Equipment Operator seniority roster or on the Equipment Repairman seniority roster.

With respect to Rule 10 - Discipline and Rule 11 - Time Limit on Claims, and the file and appeal procedures, the Terminal Manager is the authorized Officer designated to receive initial claim or grievance and the Director of Labor Relations is the authorized Officer designated to receive the appeal.

RULE 13 - OPERATION OF COMPANY EQUIPMENT

The operation of Carrier owned equipment currently performed by Company employees at WT will continue to be performed by Company employees and will not be delegated to outside contractors to perform in place of Equipment Operators or Equipment Repairmen (in connection with maintenance and repair) represented by BMWE.

RULE 14 - RELIEF SUPERVISORS

When the Company uses an employee assigned as an Equipment Operator at Wheelersburg Terminal to temporarily perform as a Relief Analyst Supervisor such employee will be paid at the higher Relief Analyst rate in lieu of their Equipment Operator rate. Likewise, when used to temporarily perform as a Relief Field Supervisor such employee will be paid at the higher Relief Field Supervisor rate in lieu of their Equipment Operator rate.

When using Equipment Operators in the above, effort will be made consistent with operational necessity to give preference for this temporary performance based on their earliest applicable date of qualification for the relief position, first on the involved shift and then to qualified employees on other shifts, with the understanding that management retains the discretion to determine the employees to be qualified for such relief work and to rotate this opportunity to junior qualified employees to avoid them
incuring substantial periods of non-performance of this relief work.

RULE 15 - HOLIDAY WORK

Except as otherwise provided in these rules, employees assigned, notified or called to work on the following holidays, namely, New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, day after Thanksgiving Day, Christmas Eve, Christmas Day and New Year's Eve (provided when any of the above holidays fall on Sunday, the day observed by the State, Nation or by proclamation shall be considered the holiday), shall be paid on the actual minute basis for work performed at the rate of time and one-half with a minimum allowance of 2 hours and 40 minutes or less. The provisions of this rule shall not apply to employees who work on holidays at their own request in which event they shall be paid at the pro rata rate.

RULE 16 - HOLIDAY PAY

The provisions of Article II of the National Agreement of August 21, 1954 as revised, are applicable to the employees covered by this agreement. A synthesis of such provisions is attached hereto as Appendix "A."

RULE 17 - VACATIONS

Employees shall be granted vacations, or payment in lieu thereof, in accordance with the provisions of the National Vacation Agreement of December 17, 1941, and interpretations thereof, and amendments thereto provided in the National Agreements as follows:

1. (a) An annual vacation of five consecutive work days with pay will be granted to each employee covered by this agreement who renders compensated service on not less than 120 days during the preceding calendar year.

(b) An annual vacation of ten consecutive work days with pay will be granted to each employee covered by this agreement who renders compensated service on not less than 110 days during the preceding calendar year and who has two or more years of continuous service and who, during such period of continuous service, renders compensated service on not less than 110 days (133 days in the years 1950-1959 inclusive, 151 days in 1949 and 160 days in each of
such years prior to 1949) in each of two of such years, not necessarily consecutive.

(c) Effective with the calendar year 1982, an annual vacation of fifteen (15) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has eight (8) or more years of continuous service and who, during such period of continuous service renders compensated service on not less than one hundred (100) days (133 days in the years 1950-1959, inclusive, 151 days in 1949 and 160 days in each of such years prior to 1949) in each of eight (8) of such years, not necessarily consecutive.

(d) Effective with the calendar year 1982, an annual vacation of twenty (20) consecutive work days with pay will be granted to each employee covered by this Agreement who renders compensated service on not less than one hundred (100) days during the preceding calendar year and who has seventeen (17) or more years of continuous service and who, during such period of continuous service renders compensated service on not less than one hundred (100) days (133 days in the years 1950-1959, inclusive, 151 days in 1949 and 160 days in each of such years prior to 1949) in each of seventeen (17) of such years, not necessarily consecutive.

(e) An annual vacation of twenty-five consecutive work days with pay will be granted to each employee covered by this agreement who renders compensated service on not less than 100 days during the preceding calendar year and who has twenty-five or more years of continuous service and who, during such period of continuous service renders compensated service on not less than 100 days (133 days in the years 1950-1959, inclusive, 151 days in 1949, and 160 days in each of such years prior to 1949) in each of twenty-five of such years, not necessarily consecutive.

(f) Paragraphs (a), (b), (c), (d) and (e) hereof shall be construed to grant to weekly and monthly rated employees, whose rates contemplate more than five days of service each week, vacations of one, two, three, four or five workweeks.

(g) Service rendered under agreements between a carrier and one or more of the non-operating organizations parties to the General Agreement of August 21, 1954, or to the General Agreement of August 19, 1960, shall be counted in computing days of compensated service and years of continuous service for vacation qualifying purposes under this agreement.
(h) Calendar days in each current qualifying year on which an employee renders no service because of his own sickness or because of his own injury shall be included in computing days of compensated service and years of continuous service for vacation qualifying purposes on the basis of a maximum of ten such days for an employee with less than 3 years of service; a maximum of 20 such days for an employee with 3 but less than 15 years of service; maximum of 30 such days for an employee with 15 or more years of service with the employing carrier.

(i) In instances where employees who have become members of the Armed Forces of the United States return to the service of the employing carrier in accordance with the Military Selective Service Act of 1967, as amended, the time spent by such employees in the Armed Forces subsequent to their employment by the employing carrier will be credited as qualifying service in determining the length of vacations for which they may qualify upon their return to the service of the employing carrier.

(j) In instances where an employee who has become a member of the Armed Forces of the United States and returns to the service of the employing carrier in accordance with the Military Selective Service Act of 1967, as amended, and in the calendar year preceding his return to railroad service had rendered no compensated service or had rendered compensated service on fewer days than are required to qualify for a vacation in the calendar year of his return to railroad service, but could qualify for a vacation in the year of his return to railroad service if he had combined for qualifying purposes days on which he was in railroad service in such preceding calendar year with days in such year on which he was in the Armed Forces, he will be granted, in the calendar year of his return to railroad service, a vacation of such length as he could so quality for under Paragraphs (a), (b), (c), (d) or (e) and (i) hereof.

(k) In instances where an employee who has become a member of the Armed Forces of the United States returns to the service of the employing carrier in accordance with the Military Selective Service Act of 1967, as amended, and in the calendar year of his return to railroad service renders compensated service on fewer days than are required to qualify for a vacation in the following calendar year, but could qualify for a vacation in such following calendar year if he had combined for qualifying purposes days on which he was in railroad service in the year of his return with days in such year on which he was in the Armed Forces, he will be granted, in such following calendar year, a vacation of such length as he could so qualify for under Paragraphs (a), (b), (c), (d) or (e) and (I) hereof.
(1) An employee who is laid off and has no seniority date and no rights to accumulate seniority, who renders compensated service on not less than 120 days in a calendar year and who returns to service in the following year for the same carrier will be granted the vacation in the year of his return. In the event such an employee does not return to service in the following year for the same carrier he will be compensated in lieu of the vacation he has qualified for provided he files written request therefor to his employing officer, a copy of such request to be furnished to his local or general chairman.

2. An employee's vacation period will not be extended by reason of any of the 11 recognized holidays (New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, day after Thanksgiving, Christmas Eve, Christmas and New Year's Eve) or any day which by agreement has been substituted or is observed in place of any of the 11 holidays enumerated above, or any holiday which by local agreement has been substituted therefor, falling within his vacation period.

3. (a) Vacations may be taken from January 1st to December 31st and due regard consistent with requirements of service shall be given to the desires and preferences of the employees in seniority order when fixing the dates of their vacations.

The local committee of each organization signatory hereto and the representatives of the carrier will cooperate in assigning vacation dates.

(b) The Management may upon reasonable notice (of 30 days or more, if possible, but in no event less than 15 days) require all or any number of employees in any plant, operation, or facility, who are entitled to vacations to take vacations at the same time.

The local committee of each organization affected signatory hereto and the proper representative of the carrier will cooperate in the assignment of remaining forces.

4. Each employee who is entitled to vacation shall take same at the time assigned, and, while it is intended that the vacation date designated will be adhered to so far as practicable, the management shall have the right to defer same provided the employee so affected is given as much advance notice as possible; not less than 10 days' notice shall be given except when emergency conditions prevent. If it becomes necessary to advance the designated date, at least 30 days' notice will be given affected employee.
If a carrier finds that it cannot release an employee for a vacation during the calendar year because of the requirements of the service, then such employee shall be paid in lieu of the vacation the allowance hereinafter provided.

Such employee shall be paid the time and one-half rate for work performed during his vacation period in addition to his regular vacation pay.

5. The Carrier will provide vacation relief workers but the vacation system shall not be used as a device to make unnecessary jobs for other workers. Where a vacation relief worker is not needed in a given instance and if failure to provide a vacation relief worker does not burden those employees remaining on the job, or burden the employee after his return from vacation, the carrier shall not be required to provide such relief worker.

6. Allowances for each day for which an employee is entitled to a vacation with pay will be calculated on the following basis:

(a) An employee having a regular assignment will be paid while on vacation the daily compensation paid by the carrier for such assignment.

(b) An employee paid a daily rate to cover all services rendered, including overtime, shall have no deduction made from his established daily rate on account of vacation allowances made pursuant to this agreement.

(c) An employee paid a weekly or monthly rate shall have no deduction made from his compensation on account of vacation allowances made pursuant to this agreement.

(d) An employee working on a piece-work or tonnage basis will be paid on the basis of the average earnings per day for the last two semi-monthly periods preceding the vacation, during which two periods such employee worked on as many as 16 different days.

(e) An employee not covered by Paragraphs (a), (b), (c), or (d) of this section will be paid on the basis of the average daily straight time compensation earned in the last pay period preceding the vacation during which he performed service.

7. The vacation provided for in this agreement shall be considered to have been earned when the employee has qualified under Article 1 hereof. If an employee's employment status is terminated for any reason whatsoever, including but not limited to retirement, resignation, discharge, non-compliance with a
union-shop agreement, or failure to return after furlough he shall at the time of such termination be granted full vacation pay earned up to the time he leaves the service including pay for vacation earned in the preceding year or years and not yet granted, and the vacation for the succeeding year if the employee has qualified therefor under Article I. If an employee thus entitled to vacation or vacation pay shall die the vacation pay earned and not received shall be paid to such beneficiary as may have been designated, or in the absence of such designation, the surviving spouse or children or his estate, in that order of preference.

8. Vacations shall not be accumulated or carried over from one vacation year to another.

9. (a) An employee designated to fill an assignment of another employee on vacation will be paid the rate of such assignment or the rate of his own assignment, whichever is the greater; provided that if the assignment is filled by a regularly assigned vacation relief employee, such employee shall receive the rate of the relief position. If an employee receiving graded rates, based upon length of service and experience, is designated to fill an assignment of another employee in the same occupational classification receiving such graded rates who is on vacation, the rate of the relieving employee will be paid.

(b) Where work of vacationing employees is distributed among two or more employees, such employees will be paid their own respective rates. However, not more than the equivalent of 25% of the work load of a given vacationing employee can be distributed among fellow employees without the hiring of a relief worker unless a larger distribution of the work load is agreed to by the proper local union committee or official.

(c) No employee shall be paid less than his own normal compensation for the hours of his own assignment because of vacations to other employees.

10. While the intention of this agreement is that the vacation period will be continuous, the vacation may, at the request of an employee, be given in installments if the management consents thereto.

11. (a) Except as otherwise provided in this agreement a carrier shall not be required to assume greater expense because of granting a vacation than would be incurred if an employee were not granted a vacation and was paid in lieu therefor under the provisions hereof. However, if a relief worker necessarily is put to substantial extra expense over and above that which the regular
employee on vacation would incur if he had remained on the job, the relief worker shall be compensated in accordance with existing regular relief rules.

(b) As employees exercising their vacation privileges will be compensated under this agreement during their absence on vacation, retaining their other rights as if they had remained at work, such absences from duty will not constitute "vacancies" in their positions under any agreement. When the position of a vacationing employee is to be filled and regular relief employee is not utilized, effort will be made to observe the principle of seniority.

(c) A person other than a regularly assigned relief employee temporarily hired solely for vacation relief purposes will not establish seniority rights unless so used more than 60 days in a calendar year. If a person so hired under the terms hereof acquires seniority rights, such rights will date from the day of original entry into service unless otherwise provided in existing agreements.

RULE 18 - ACCREDITED REPRESENTATIVE

(a) Where the term "duly accredited representative" appears in this agreement it shall be understood to mean the regularly constituted committee and/or officers of the Brotherhood of Maintenance of Way Employes, of which such committee or officers is a part.

(b) Disputes growing out of personal grievances and/or out of the interpretation or application of agreements concerning wages, rules, or working conditions between the parties hereto, may only be handled by the employee affected or one or more duly accredited representatives, first with the carrier designated officer and, if not satisfactorily settled, may be appealed by the employee affected or a duly accredited representative in the order of succession up to and including the highest official designated by the Carrier to whom appeals may be made.

RULE 19 - UNION SHOP

Section 1. In accordance with and subject to the terms and conditions hereinafter set forth, all employees of the Carrier now or hereafter subject to the rules and working conditions agreements between the parties hereto, except as hereinafter provided, shall, as a condition of their continued employment subject to such agreements, become members of the organization party to this
agreement representing their craft or class within sixty calendar days of the date they first perform compensated service as such employees after the effective date of this agreement, and thereafter shall maintain membership in such organization; except that such membership shall not be required of any individual until he has performed compensated service on thirty days within a period of twelve consecutive calendar months. Nothing in this agreement shall alter, enlarge or otherwise change the coverage of the present or future rules and working conditions agreements.

**Section 2.** This agreement shall not apply to employees while occupying positions which are excepted from the bulletining and displacement rules of the individual agreements, but this provision shall not include employees who are subordinate to and report to other employees who are covered by this agreement. However, such excepted employees are free to be members of the organization at their option.

**Section 3.** (a) Employees who retain seniority under the rules and working conditions agreements governing their class or craft and who are regularly assigned or transferred to full time employment not covered by such agreements, or who, for a period of thirty days or more, are (1) furloughed on account of force reduction, or (2) on leave of absence, or (3) absent on account of sickness of disability, will not be required to maintain membership as provided in Section 1 of this agreement so long as they remain in such other employment, or furloughed or absent as herein provided, but they may do so at their option. Should such employees return to any service covered by the said rules and working conditions agreements and continue therein thirty calendar days or more, irrespective of the number of days actually worked during that period, they shall, as a condition of their continued employment subject to such agreements, be required to become and remain members of the organization representing their class or craft within thirty-five calendar days from date of their return to such service.

(b) The seniority status and rights of employees furloughed to serve in the Armed Forces or granted leaves of absence to engage in studies under an educational aid program sponsored by the federal government or a state government for the benefit of ex-service men shall not be terminated by reason of any of the provisions of this agreement but such employees shall, upon resumption of employment, be considered as new employees for the purposes of applying this agreement.

(c) Employees who retain seniority under the rules and working conditions agreements governing their class or craft and
who, for reasons other than those specified in subsections (a) and (b) of this Section, are not in service covered by such agreements, or leave such service, will not be required to maintain membership as provided in Section 1 of this agreement so long as they are not in service covered by such agreements, but they may do so at their option. Should such employees return to any service covered by the said rules and working conditions agreements they shall, as a condition of their continued employment, be required, from the date of return to such service, to become and remain members in the organization representing their class or craft.

(d) Employees who retain seniority under the rules and working conditions agreements of their class or craft, who are members of an organization signatory hereto representing that class or craft and who in accordance with the rules and working conditions agreement of that class or craft temporarily perform work in another class of service shall not be required to be members of another organization party hereto whose agreement covers the other class of service until the date the employees hold regularly assigned positions within the scope of the agreement covering such other class of service.

Section 4. Nothing in this agreement shall require an employee to become or to remain a member of the organization if such membership is not available to such employee upon the same terms and conditions as are generally applicable to any other member, or if the membership of such employee is denied or terminated for any reason other than the failure of the employee to tender the periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership. For purposes of this agreement, dues, fees, and assessments, shall be deemed to be "uniformly required" if they are required of all employees in the same status at the same time in the same organizational unit.

Section 5. (a) Each employee covered by the provisions of this agreement shall be considered by the Carrier to have met the requirements of the agreement unless and until the Carrier is advised to the contrary in writing by the organization. The organization will notify the Carrier in writing by Certified or Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, of any employee who it is alleged has failed to comply with the terms of this agreement and who the organization therefore claims is not entitled to continue in employment subject to the rules and working conditions agreement. The form of notice to be used shall be agreed upon by the Carrier and the organizations involved and the form shall make provision for specifying the reasons for the allegation of noncompliance. Upon
receipt of such notice, the Carrier will, within ten calendar days of such receipt, so notify the employee concerned in writing by Certified or Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt. Copy of such notice to the employee shall be given the organization. An employee so notified who disputes the fact that he has failed to comply with the terms of this agreement, shall within a period of ten calendar days from the date of receipt of such notice, request the Carrier in writing by Certified or Registered Mail, Return Receipt Requested, or by personal delivery evidenced by receipt, to accord him a hearing. Upon receipt of such request the Carrier shall set a date for hearing which shall be held within ten calendar days of the date of receipt of request therefor. Notice of the date set for hearing shall be promptly given the employee in writing with copy to the organization, by Certified or Registered Mail, Return Receipt Requested, or by personal delivery, evidenced by receipt. A representative of the organization shall attend and participate in the hearing. The receipt by the Carrier of a request for a hearing shall operate to stay action on the termination of employment until the hearing is held and the decision of the Carrier is rendered.

In the event the employee concerned does not request a hearing as provided herein, the Carrier shall proceed to terminate his seniority and employment under the rules and working conditions agreement not later than thirty calendar days from receipt of the above described notice from the organization, unless the Carrier and the organization agree otherwise in writing.

(b) The Carrier shall determine on the basis of the evidence produced at the hearing whether or not the employee has complied with the terms of this agreement and shall render a decision within twenty calendar days from the date that the hearing is closed, and the employee and the organization shall be promptly advised thereof in writing by Certified or Registered Mail, Return Receipt Requested.

If the decision is that the employee has not complied with the terms of this agreement, his seniority and employment under the rules and working conditions agreement shall be terminated within twenty calendar days of the date of said decision except as hereinafter provided or unless the Carrier and the organization agree otherwise in writing.

If the decision is not satisfactory to the employee or to the organization it may be appealed in writing, by Certified or Registered Mail, Return Receipt Requested, directly to the highest officer of the Carrier designated to handle appeals under this agreement. Such appeals must be received by such officer within
ten calendar days of the date of the decision appealed from and shall operate to stay action on the termination of seniority and employment until the decision on appeal is rendered. The Carrier shall promptly notify the other party in writing of any such appeal, by Certified or Registered Mail, Return Receipt Requested. The decision on such appeal shall be rendered within twenty calendar days of the date the notice of appeal is received, and the employee and the organization shall be promptly advised thereof in writing by Certified or Registered Mail, Return Receipt Requested. If the decision on such appeal is that the employee has not complied with the terms of this agreement, his seniority and employment under the Rules and Working Conditions Agreement shall be terminated within twenty calendar days of the date of said decision unless selection of a neutral is requested as provided below, or unless the Carrier and the organization agree otherwise in writing. The decision on appeal shall be final and binding unless within ten calendar days from the date of the decision the organization or the employee involved requests the selection of a neutral person to decide the dispute as provided in Section 5(c) below. Any request for selection of a neutral person as provided in Section 5(c) below shall operate to stay action on the termination of seniority and employment until not more than ten calendar days from the date decision is rendered by the neutral person.

(c) If within ten calendar days after the date of a decision on appeal by the highest officer of the Carrier designated to handle appeals under this agreement the organization or the employee involved requests such highest officer in writing by Certified or Registered Mail, Return Receipt Requested, that a neutral be appointed to decide the dispute, a neutral person to act as sole arbitrator to decide the dispute shall be selected by the highest officer of the Carrier designated to handle appeals under this agreement or his designated representative, the Chief Executive of the organization or his designated representative, and the employee involved or his representative. If they are unable to agree upon the selection of a neutral person any one of them may request the Chairman of the National Mediation Board in writing to appoint such neutral. The Carrier, the organization and the employee involved shall have the right to appear and present evidence at a hearing before such neutral arbitrator. Any decision by such neutral arbitrator shall be made within thirty calendar days from the date of receipt of the request for his appointment and shall be final and binding upon the parties. The Carrier, the employee, and the organization shall be promptly advised thereof in writing by Certified or Registered Mail, Return Receipt Requested. If the position of the employee is sustained, the fees, salary and expenses of the neutral arbitrator shall be borne in equal shares.
by the Carrier and the organization; if the employee's position is not sustained, such fees, salary and expenses shall be borne in equal shares by the Carrier, the organization and the employee.

(d) The time periods specified in this Section may be extended in individual cases by written agreement between the Carrier and the organization.

(e) Provisions of investigation and discipline rules contained in the rules and working condition's agreement between the Carrier and the organization will not apply to cases arising under this agreement.

(f) The General Chairman of the organization shall notify the Carrier in writing of the title(s) and addresses of its representatives who are authorized to serve, and receive the notices described in this agreement. The Carrier shall notify the General Chairman of the organization in writing of the title(s) and addresses of its representatives who are authorized to receive and serve the notices described in this agreement.

(g) In computing the time periods specified in this agreement, the date on which a notice is received or decision rendered shall not be counted.

Section 6. Other provisions of this agreement to the contrary notwithstanding, the Carrier shall not be required to terminate the employment of an employee until such time as a qualified replacement is available. The Carrier may not, however, retain such employee in service under the provisions of this Section for a period in excess of sixty calendar days from the date of the last decision rendered under the provisions of Section 5, or ninety calendar days from date of receipt of notice from the organization in cases where the employee does not request a hearing. The employee whose employment is extended under the provisions of this Section shall not, during such extension, retain or acquire any seniority rights. The position will be advertised as vacant under the bulletining rules of the respective agreements but the employee may remain on the position he held at the time of the last decision or at the date of receipt of notice where no hearing is requested pending the assignment of the successful applicant, unless displaced or unless the position is abolished. The above periods may be extended by agreement between the Carrier and the organization involved.
Section 7. An employee whose seniority and employment under the rules and working conditions agreement is terminated pursuant to the provisions of this agreement or whose employment is extended under Section 6 shall have no time or money claims by reason thereof.

If the final determination under Section 5 of this agreement is that an employee's seniority and employment in a craft or class shall be terminated, no liability against the Carrier in favor of the organization or other employees based upon an alleged violation, misapplication or noncompliance with any part of this agreement shall arise or accrue during the period up to the expiration of the 60 or 90 day periods specified in Section 6, or while such determination may be stayed by a court, or while a discharged employee may be restored to service pursuant to judicial determination. During such periods, no provision of any other agreement between the parties hereto shall be used as the basis for a grievance or time or money claim by or on behalf of any employee against the Carrier predicated upon any action taken by the Carrier in applying or complying with this agreement or upon an alleged violation, misapplication or noncompliance with any provision of this agreement. If the final determination under Section 5 of this agreement is that an employee's employment and seniority shall not be terminated, his continuance in service shall give rise to no liability against the Carrier in favor of the organization or other employees based upon an alleged violation, misapplication or noncompliance with any part of this agreement.

Section 8. In the event that seniority and employment under the rules and working conditions agreement is terminated by the Carrier under the provisions of this agreement, and such termination of seniority and employment is subsequently determined to be improper, unlawful, or unenforceable, the organization shall indemnify and save harmless the Carrier against any and all liability arising as the result of such improper, unlawful, or unenforceable termination of seniority and employment; provided, however, that this Section shall not apply to any case in which the Carrier involved is the plaintiff or the moving party in the action in which the aforesaid determination is made or in which case such Carrier acts in collusion with any employee; provided further, that the aforementioned liability shall not extend to the expense to the Carrier in defending suits by employees whose seniority and employment are terminated by the Carrier under the provisions of this agreement.

Section 9. An employee whose employment is terminated as a result of noncompliance with the provisions of this agreement
shall be regarded as having terminated his employee relationship for vacation purposes.

Section 10. (a) The Carrier party to this agreement shall periodically deduct from the wages of employees subject to this agreement periodic dues, initiation fees, and assessments (not including fines and penalties) uniformly required as a condition of acquiring or retaining membership in such organization, and shall pay the amount so deducted to such officer of the organization as the organization shall designate: Provided, however, that the requirements of this subsection (a) shall not be effective with respect to any individual employee until he shall have furnished the Carrier with a written assignment to the organization of such membership dues, initiation fees and assessments, which assignment shall be revocable in writing after the expiration of one year or upon the termination of this agreement whichever occurs sooner.

(b) The provisions of subsection (a) of this Section shall not become effective unless and until the Carrier and the organization shall, as a result of further negotiations pursuant to the recommendations of Emergency Board No. 98, agree upon the terms and conditions under which such provisions shall be applied; such agreement to include but not be restricted to the means of making said deductions, the amounts to be deducted, the form, procurement and filing of authorization certificates, the frequency of deductions, the priority of said deductions with other deductions now or hereafter authorized, the payment and distributions of amounts withheld and any other matters pertinent thereto.

NOTE: It is agreed that in the application of Sections 1 through 10, any employee of the Wheelersburg Terminal who, on the date on which compliance with the Union Shop Agreement is required, is not a member of the union representing his craft or class, or any new employee entering the service of the Wheelersburg Terminal after the effective date of this agreement, if he would otherwise be required to be a member of a union under the Union Shop Agreement, will be deemed to have met the requirements of the Union Shop Agreement executed this date provided he pays to the union representing his craft or class the periodic dues, initiation fees and assessments (not including fines and penalties) uniformly required of all members of such union within the time limits provided for in the Union Shop Agreement.

RULE 20 - DUES CHECK OFF

Section 1. (a) Subject to the terms and conditions of this Agreement, Carrier shall, without cost, deduct from wages due
employees represented by the Brotherhood, sums for initiation fees, periodic dues, and assessments (not including fines and penalties), which are uniformly required as a condition of acquiring or retaining membership in the Brotherhood. Such deductions shall be made only upon the written and unrevoked authorization of the employee in the form agreed upon by the parties hereto, copy of which is attached and made a part hereof, designated as Form "A." The signed authorization may be revoked in writing at any time after the expiration of one year from the date of its execution, or upon the termination of this Agreement, or upon the termination of the rules and working conditions agreement between the parties hereto, whichever occurs sooner. Revocation of the authorization shall be in the form agreed upon by the parties hereto, copy of which is attached and made a part hereof, designated as Form "B."

(b) The Wage Deduction Authorization, Form "A," and the Wage Deduction Revocation, Form "B," shall be reproduced and furnished as necessary by the Brotherhood without cost to the Carrier. The Brotherhood shall assume full responsibility for the procurement and execution of said forms by employees and for the delivery of said forms to the Carrier.

Section 2. Deductions as provided for herein will be made monthly from the wages earned in the first payroll period of each month beginning December, 1979.

(a) Additions and changes for subsequent months will be made in the following manner:

(i) A list containing additions to the initial list shall be furnished to the Carrier by the Brotherhood at least ten (10) days prior to the closing date of the first payroll period of the month in which the payroll deduction will be made. This list will be accompanied by Form "A" for each employee and will conform to Form "D" attached hereto.

(ii) A list containing changes in amount of money to be thereafter deducted, or changes in lodge number, shall be furnished to the Carrier by the Brotherhood at least ten (10) days prior to the closing date of the first payroll period of the month in which the payroll deduction will be made. This list will conform to Form "E" attached hereto.

(iii) A list containing the names of employees who have revoked their deduction authorization, together with a copy of their Form "B," shall be furnished to the Carrier
by the Brotherhood at least ten (10) days prior to the
closing date of the first payroll period of the month in
which the next payroll deduction is to be made. This
list will conform to Form "F" attached hereto.

Section 3. A list containing the names and Social Security
numbers of employees from whose wages extra deductions (in addition
to the regular deductions) shall be made, shall be furnished to the
Carrier by the Brotherhood at least ten (10) days prior to the
closing date of the first payroll period of the month in which the
payroll deduction will be made. Such list will show the extra
amount to be deducted on the payroll period. The list will conform
to Form "G" attached hereto.

Section 4. No deductions will be made from the wages of any
employee who does not have due to him for the payroll period
specified an amount equal to the sum to be deducted in accordance
with this Agreement after all deductions for the following purposes
have been made:

(a) Federal, State and County and Municipal taxes.

(b) Any amount due to the Wheelersburg Terminal.

(c) Other deductions required by law, such as court
orders, bankruptcy orders, garnishments, assessments, etc.

(d) Premiums on any life insurance, hospital-surgical
insurance, group accident or health insurance or
group annuities.

(e) Other valid assignments and deductions, such as
Railroad Y.M.C.A., credit unions, United Fund and
U. S. Savings Bonds.

Section 5. The Carrier shall remit to the officer designated
by the Brotherhood the amounts deducted from the wages of employees
who have authorized such deductions once each month, but not later
than the fifteenth day of the month following the month in which
deductions are made. The remittance will be accompanied by
information for each local lodge which will include the employee's
name, Social Security number and the amount of union dues deducted
from the pay of each employee.

Section 6. Any question arising as to the correctness of the
amount deducted shall be handled between the employee involved and
the Brotherhood, and any complaints in connection therewith shall be handled by the Brotherhood on behalf of the employee concerned.

Section 7. This Agreement shall not be used in any manner, either directly or indirectly, as a basis for a grievance or time claim by or in behalf of, an employee predicated upon an alleged violation or misapplication of, or noncompliance with, any part of this Agreement.

Section 8. Except for remitting to the Brotherhood the monies deducted from the wages of employees, the Brotherhood shall indemnify, defend and save harmless the Carrier from any and all claims, demands, liability, losses or damages resulting from the entering into and the complying with the provisions of this Agreement.

Section 9. This Agreement shall become effective as of December 1, 1979, and shall remain in effect until modified or changed in accordance with the provisions of the Railway Labor Act, as amended.

RULE 21 - BEREAVEMENT LEAVE

Bereavement leave, not in excess of three calendar days, following the date of death will be allowed in case of death of an employee's brother, sister, parent, child, spouse or spouse's parent. In such cases a minimum basic day's pay at the rate of the last service rendered will be allowed for the number of working days lost during bereavement leave. Employees involved will make provision for taking leave with their supervising officials in the usual manner. Any restrictions against blanking jobs or realigning forces will not be applicable when an employee is absent under this provision.

(From National Agreement signed October 30, 1978)

RULE 22 - EMPLOYEE INFORMATION

The carriers will provide each General Chairman with a list of employees who are hired or terminated, their home addresses, and Social Security numbers if available, otherwise the employees' identification numbers. This information will be limited to the employees covered by the collective bargaining agreement of the respective General Chairmen. The data will be supplied within 30 days after the month in which the employee is hired or terminated.
Where railroads can not meet the 30-day requirement, the matter will be worked out with the General Chairman.

(From National Agreement signed January 29, 1975)

RULE 23 - PERSONAL LEAVE

Section 1. A maximum of two days of personal leave will be provided on the following basis:

Employees who have met the qualifying vacation requirements during eight calendar years under vacation rules in effect on January 1, 1982 shall be entitled to one day of personal leave in subsequent calendar years.

Employees who have met the qualifying vacation requirements during seventeen calendar years under vacation rules in effect on January 1, 1982 shall be entitled to two days of personal leave in subsequent calendar years.

Section 2. (a) Personal leave days provided in Section 1 may be taken upon 48 hours' advance notice from the employee to the proper carrier officer provided, however, such days may be taken only when consistent with the requirements of the carrier's service. It is not intended that this condition prevent an eligible employee from receiving personal leave days except where the request for leave is so late in a calendar year that service requirements prevent the employee's utilization of any personal leave days before the end of that year.

(b) Personal leave days will be paid for at the regular rate of the employee's position or the protected rate, whichever is higher.

(c) The personal leave days provided in Section 1 shall be forfeited if not taken during each calendar year. The carrier shall have the option to fill or not fill the position of an employee who is absent on a personal leave day. If the vacant position is filled, the rules of the agreement applicable thereto will apply. The carrier will have the right to distribute work on a position vacated among other employees covered by the agreement with the organization signatory hereto.

(From National Agreement signed December 11, 1981)
RULE 24 - JURY DUTY

When a regularly assigned employee is summoned for jury duty and is required to lose time from his assignment as a result thereof, he shall be paid for actual time lost with a maximum of a basic day's pay at the straight time rate of his position for each day lost less the amount allowed him for jury service for each such day, excepting allowances paid by the court for meals, lodging or transportation, subject to the following qualification requirements and limitations:

(1) An employee must furnish the Carrier with a statement from the court of jury allowances paid and the days on which jury duty was performed.

(2) The number of days for which jury duty pay shall be paid is limited to a maximum of 60 days in any calendar year.

(3) No jury duty pay will be allowed for any day as to which the employee is entitled to vacation or holiday pay.

(4) When an employee is excused from railroad service account of jury duty the Carrier shall have the option of determining whether or not the employee's regular position shall be blanked, notwithstanding the provisions of any other rules.

(5) Except as provided in paragraph (6), an employee will not be required to work on his assignment on days on which jury duty:

(a) ends within four hours of the start of his assignment; or

(b) is scheduled to begin during the hours of his assignment or within four hours of the beginning or ending of his assignment.

(6) On any day that an employee is released from jury duty and four or more hours of his work assignment remain, he will immediately inform his supervisor and report for work if advised to do so.

(From National Agreement signed October 30, 1978)
RULE 25 - HEALTH AND WELFARE PLAN

Employees holding positions at WT are subject to the National Plan covering all other employees of Norfolk Southern Railway Company represented by BMWE, including any Dental Plan, Hearing Benefit, and/or Vision Care Plan.

RULE 26 - EARLY RETIREMENT MAJOR MEDICAL BENEFIT PLAN

Employees holding positions at WT are subject to the National Plan covering all other employees of Norfolk Southern Railway Company represented by BMWE.

RULE 27 - SUPPLEMENTAL SICKNESS BENEFIT PLAN

Employees holding positions at WT are subject to the National Plan covering all other employees of Norfolk Southern Railway Company represented by BMWE.

RULE 28 - RATES OF PAY

Section 1 - First General Wage Increase

On January 1, 2001 the Equipment Operator rate of pay is adjusted from $15.00 per hour to $15.53 per hour and the Equipment Repairman rate of pay is adjusted from $15.25 per hour to $15.78 per hour.

Section 2 - Second General Wage Increase

On July 1, 2001 the rate of pay for Equipment Operator is adjusted to $16.16 per hour and the rate of pay for Equipment Repairman is adjusted to $16.48 per hour.

Section 3 - Third General Wage Increase

On July 1, 2002 the rates of pay for Equipment Operator and Equipment Repairmen shall be adjusted by the same flat rate amount as set forth by the cost-of-living and health and welfare cost sharing arrangement prescribed in Article I, Section 3, of the May 31, 2001 Agreement between the Railroads represented by the National Carrier’s Conference Committee and the Brotherhood of Maintenance of Way Employees.
Section 4 - Forth General Wage Increase

On July 1, 2003 the rates of pay for Equipment Operator and Equipment Repairmen shall be adjusted by the same flat rate amount as set forth by the cost-of-living and health and welfare cost sharing arrangement prescribed in Article I, Section 4, of the May 31, 2001 Agreement between the Railroads represented by the National Carrier’s Conference Committee and the Brotherhood of Maintenance of Way Employes.

Section 5 - Fifth General Wage Increase

On July 1, 2004 the rates of pay for Equipment Operator and Equipment Repairmen shall be adjusted by the same flat rate amount as set forth by the cost-of-living and health and welfare cost sharing arrangement prescribed in Article I, Section 5, of the May 31, 2001 Agreement between the Railroads represented by the National Carrier’s Conference Committee and the Brotherhood of Maintenance of Way Employes.

The Equipment Operator and Equipment Repairman rates calculated above will be further adjusted on July 1, 2004 by rolling in twenty-four (24) cents per hour to the Equipment Operator rate and thirty (30) cents per hour to the Equipment Repairman rate.

Section 6 - Cost-of-Living Payments

After January 1, 2005 the same cost-of-living allowance as set forth in Article II of the May 31, 2001 Agreement between the Railroads represented by the National Carrier’s Conference Committee and the Brotherhood of Maintenance of Way Employes shall be payable to Equipment Operator and Equipment Repairmen positions.

RULE 29 - Work Force Stabilization

Section 1

WT shall provide at least a 60-day notice of intent to sell or lease its operating property to a purchaser. During the 60-day period, the parties shall meet upon the request of the Organization to discuss the planned transfer. The transaction agreement between WT and the purchaser should obligate the purchaser to give priority
hiring consideration to employees of WT. Further, the agreement between WT and purchaser should obligate the purchaser to assume a neutral stance in any union organizing effort undertaken by the Organization. Should any recommendation in this paragraph be deemed contrary to the Railway Labor Act, the remaining recommendations shall continue in full force and effect.

Section 2

WT employees affected by sale or lease of WT operating property shall be provided priority employment rights for other positions on WT or for positions on NSR, both within craft and in other crafts where qualified. In addition, employees securing positions on NSR that require a change in residence shall be eligible for up to $5000 in relocation allowance.

Section 3

Employees possessing seniority as Equipment Operators, who do not already possess a seniority date on the NW-Wabash Eastern Region Trackman or Machine Operator Roster, and the corresponding Designated Program Gang rosters will be placed in seniority order at the bottom of those rosters with the effective date of this agreement as their seniority date.

Employees possessing seniority as Equipment Repairmen, who do not already possess a seniority date on the NW-Wabash Eastern Region Trackman or Scioto Division Roadway Machine Repairman Roster, and the corresponding Designated Program Gang roster will be placed in seniority order at the bottom of those rosters with the effective date of this agreement as their seniority date.

RULE 30 - EFFECT AND DURATION OF THIS AGREEMENT

It is not the intent of the parties to infringe upon the representation rights of any other craft or to infringe upon any employee's rights to grieve under the Railway Labor Act.

No party to this agreement shall serve, prior to November 1, 2004 (not to become effective before January 1, 2005), any notice or proposal for the purpose of changing the subject matter of the provisions of this agreement or which proposes matters covered by the proposals of the parties, and any proposals are hereby withdrawn.
This Agreement supersedes the Agreement dated August 17, 1996, is effective **February 9th**, 2002, and constitutes the sole agreement between Wheeulersburg Terminal LLC. (Subsidiary of Norfolk and Southern Railway Company) and BMWE covering operations and employees at WT and shall remain in effect until modified in accordance with the Railway Labor Act.

Signed this **12th** day of **February**, 2002

[Signature]
President - Brotherhood of Maintenance of Way Employes

[Signature]
General Chairman - Brotherhood of Maintenance of Way Employes

[Signature]
VP - Wheelersburg Terminal
APPENDIX A - Holidays

The following is a synthesis of the current Holiday provisions of the National Agreement of August 21, 1954, as last amended in the National Agreement of December 11, 1981.

SECTION 1: Subject to the qualifying requirements contained in Section 3, hereof, and to the conditions hereinafter provided, each hourly and daily rated employee shall receive eight hours' pay at the pro rata hourly rate for each of the following enumerated holidays:

- New Year's Day
- Washington's Birthday
- Good Friday
- Memorial Day
- Fourth of July
- Labor Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Eve
- Christmas Day
- New Year's Eve

(a) Holiday pay for regularly assigned employees shall be at the pro rata rate of the position to which assigned.

(b) For other than regularly assigned employees, if the holiday falls on a day on which he would otherwise be assigned to work, he shall, if consistent with the requirements of the service, be given the day off and receive eight hours' pay at the pro rata rate of the position which he otherwise would have worked. If the holiday falls on a day other than a day on which he otherwise would have worked, he shall receive eight hours' pay at the pro rata hourly rate of the position on which compensation last accrued to him prior to the holiday.

(c) Subject to the applicable qualifying requirements in Section 2 hereof, other than regularly assigned employees shall be eligible for the paid holidays or pay in lieu thereof provided for in Paragraph (b) above, provided (1) compensation for service paid him by the carrier is credited to 11 or more of the 30 calendar days immediately preceding the holiday and (2) he has held a seniority date for at least 60 calendar days or has 60 calendar days of continuous active service preceding the holiday beginning with the first day of compensated service, provided employment was not terminated prior to the holiday by resignation, for cause, retirement, death, non-compliance with a union shop agreement, or disapproval of application for employment.
SECTION 2: A regularly assigned employee shall qualify for the holiday pay provided in Section 1 hereof if compensation paid him by the carrier is credited to the workdays immediately preceding and following such holiday or if the employee is not assigned to work but is available for service on such days. If the holiday falls on the last day of a regularly assigned employee's workweek, the first workday following his rest day shall be considered the workday immediately following. If the holiday falls on the first workday of his workweek, the last workday of the Preceding workweek shall be considered the workday immediately preceding the holiday.

Except as provided in the following paragraph, all others for whom holiday pay is provided in Section 1 hereof shall qualify for such holiday pay if on the day preceding and the day following the holiday they satisfy one or the other of the following conditions:

(I) Compensation for service paid by the carrier is credited;

or

(ii) Such employee is available for service.

NOTE: "Available" as used in subsection (ii) above is interpreted by the parties to mean that an employee is available unless he lays off of his own accord or does not respond to a call, pursuant to the rules of the applicable agreement, for service.

For purposes of Section 1, other than regularly assigned employees who are relieving regularly assigned employees on the same assignment on both the work day preceding and the work day following the holiday will have the workweek of the incumbent of the assigned position and will be subject to the same qualifying requirements respecting service and availability on the work days preceding and following the holiday as apply to the employee whom he is relieving.

Compensation paid under sick leave rules or practices will not be considered as compensation for purposes of this rule.

SECTION 3: Under no circumstances will an employee be allowed, in addition to his holiday pay, more than one time and one-half payment for service performed by him on a holiday which is also a work day, a rest day, and/or a vacation day.
SECTION 4: When any of the eleven recognized holidays enumerated in Section I of this Article 11, or any day which by agreement, or by law or proclamation of the State or Nation, has been substituted or is observed in place of any such holidays, falls during an hourly or daily rated employee's vacation period, he shall, in addition to his vacation compensation, receive the holiday pay provided for therein provided he meets the qualification requirements specified. The "workdays" and "days" immediately preceding and following the vacation period shall be considered the "workdays" and "days" preceding and following the holiday for such qualification purposes.