

FEDERAL REGISTER



VOLUME 20

NUMBER 153

Washington, Saturday, August 6, 1955

TITLE 3—THE PRESIDENT

PROCLAMATION 3106

FIRE PREVENTION WEEK, 1955

BY THE PRESIDENT OF THE UNITED STATES
OF AMERICA

A PROCLAMATION

WHEREAS thousands of lives and hundreds of millions of dollars in property are lost each year through fires; and

WHEREAS, as a result of these destructive fires, immeasurable losses are caused in employment, production, and other economic activities; and

WHEREAS fire prevention programs have proved effective in communities throughout the Nation:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby designate the week beginning October 9, 1955, as Fire Prevention Week.

I call upon the citizens of all communities in the land to organize effective programs for reducing the needless waste caused by preventable fires, and I urge State and local governments, the American National Red Cross, the National Fire Waste Council, the Chamber of Commerce of the United States, and business, labor, and farm organizations, as well as schools, civic groups, and public information agencies, actively to observe Fire Prevention Week. I also direct the appropriate agencies of the Federal Government to assist in this national effort to reduce the loss of life and property resulting from fires.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this second day of August in the year of our Lord nineteen hundred and [SEAL] fifty-five, and of the Independence of the United States of America the one hundred and eightieth.

DWIGHT D. EISENHOWER

By the President:

JOHN FOSTER DULLES,
Secretary of State.

[F. R. Doc. 55-6446; Filed, Aug. 4, 1955;
1:00 p. m.]

EXECUTIVE ORDER 10626

ESTABLISHMENT OF THE INTERDEPARTMENTAL COMMITTEE FOR VOLUNTARY PAYROLL SAVINGS PLAN FOR THE PURCHASE OF UNITED STATES SAVINGS BONDS

WHEREAS our national economic welfare requires the widest possible distribution of the national debt through the sale of United States Savings Bonds to the people; and

WHEREAS every purchaser of United States Savings Bonds invests not only in the nation's economic welfare, but also in his own personal security and independence, and it is, therefore, to the manifest advantage of Government, Management, and Labor and of every citizen that the sale of such bonds to the people be vigorously promoted; and

WHEREAS the Federal Government is earnestly requesting business and industrial enterprises to provide for and vigorously promote, by personal solicitation, the purchase of United States Savings Bonds through regular, voluntary pay allotments on the Payroll Savings Plan; and

WHEREAS it is desirable and proper that all civilian and uniformed personnel in the Federal Government should set an example of leadership in this activity:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

1. There is hereby established the Interdepartmental Committee for the Voluntary Payroll Savings Plan for the Purchase of United States Savings Bonds (hereinafter referred to as the Committee). The Committee shall consist of a Chairman, to be appointed by the President, and the heads of each of the several departments, establishments, and agencies in the executive branch of the Government. Each member of the Committee, other than the Chairman, may designate an alternate from among the officials of his department, establishment, or agency, and such alternate may act for such member in all matters relating to the Committee.

2. The Committee shall perform the following-described functions and duties:

(a) Formulating and presenting to the several departments, establishments,

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CFR SUPPLEMENTS

(For use during 1955)

The following Supplements are now available:

Title 26 (1954) (\$2.50)

Title 32: Parts 1-399 (\$4.50)

Parts 700-799 (\$3.75)

Previously announced: Title 3, 1954 Supp. (\$1.75); Titles 4-5 (\$0.70); Title 6 (\$2.00); Title 7: Parts 1-209 (\$0.60); Parts 210-899 (\$2.50); Part 900 to end (\$2.25); Title 8 (\$0.45); Title 9 (\$0.65); Titles 10-13 (\$0.50); Title 14: Parts 1-399 (\$2.25); Part 400 to end (\$0.65); Title 15 (\$1.25); Title 16 (\$1.25); Title 17 (\$0.55); Title 18 (\$0.50); Title 19 (\$0.40); Title 20 (\$0.75); Title 21 (\$1.75); Titles 22-23 (\$0.75); Title 24 (\$0.75); Title 25 (\$0.50); Title 26: Parts 1-79 (\$0.35); Parts 80-169 (\$0.50); Parts 170-182 (\$0.50); Parts 183-299 (\$0.30); Part 300 to end and Title 27 (\$1.25); Titles 28-29 (\$1.25); Titles 30-31 (\$1.25); Title 32A, Revised December 31, 1954 (\$1.50); Title 33 (\$1.50); Titles 35-37 (\$0.75); Title 38 (\$2.00); Title 39 (\$0.75); Titles 40-42 (\$0.50); Titles 44-45 (\$0.75); Title 46: Parts 1-145 (\$0.40); Part 146 to end (\$1.25); Titles 47-48 (\$1.25); Title 49: Parts 1-70 (\$0.60); Parts 71-90 (\$0.75); Parts 91-164 (\$0.50); Part 165 to end (\$0.60); Title 50 (\$0.55)

Order from Superintendent of Documents, Government Printing Office, Washington 25, D. C.

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and agencies in the executive branch of the Government a plan of organization and sales promotion whereby the voluntary Payroll Savings Plan will be made available to all officers and employees for the purchase of Savings Bonds, and whereby all such officers and employees will be urged to participate.

(b) Assisting the several departments, establishments, and agencies in the installation of the said Payroll Savings Plan and in the solution of any special problems that may develop in connection therewith.

(c) Acting as a clearing house for the several departments, establishments, and agencies in the dissemination of such statistics and information relative to the execution and sales promotion of the Plan as may be deemed advantageous.

(d) Recommending to the several departments, establishments, and agencies any methods for improvements in the program adopted pursuant to the said Plan.

3. Each of the departments, establishments, and agencies in the executive branch of the Government shall institute and put into operation, as soon as practicable, the plan of organization and sales promotion recommended by the Committee, with such modifications as particular circumstances may render advisable. Each Committee member shall act as liaison officer between the Committee and his department, establishment, or agency with regard to the said Plan.

4. This order supersedes Executive Order No. 9953 of April 23, 1948, entitled "Establishing the Interdepartmental Committee for the Peacetime Voluntary Payroll Savings Plan for the Purchase of United States Savings Bonds".

DWIGHT D. EISENHOWER

THE WHITE HOUSE,
August 4, 1955.

[F. R. Doc. 55-6450; Filed, Aug. 4, 1955; 3:59 p. m.]

RULES AND REGULATIONS

TITLE 7—AGRICULTURE

Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

PART 728—WHEAT

SUBPART—1955-56 MARKETING YEAR

ADDITIONAL COUNTY FOR INCREASED DURUM WHEAT (CLASS II) ALLOTMENTS

The amendment herein is issued pursuant to and in accordance with Public Law 8, 84th Congress, for the purpose of adding to the list of counties previously designated for increased farm wheat acreage allotments for the production of Durum Wheat (Class II) the county of Wheatland in the State of Montana. It is found and determined that compliance with the notice, procedure, and 30-day effective date provisions of Section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest, and this amendment shall become effective upon filing of this document with the Director, Division of the Federal Register.

Section 728.529 is amended by adding in paragraph (b) in the list of counties

in Montana the language "Wheatland," following the language "Valley."

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interprets or applies Sec. 334, 52 Stat. 53, as amended, Pub. Law 8, 84th Cong., 7 U. S. C. 1334)

Done at Washington, D. C., this 2d day of August 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL]

TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-6380; Filed, Aug. 5, 1955; 8:46 a. m.]

[1023 (Peanuts-55)-1, Amdt. 3]

[1026 (Peanuts-55)-1, Amdt. 1]

PART 729—PEANUTS

USE OF CERTIFIED IN LIEU OF REGISTERED MAIL

Basis and purpose. The amendments herein are issued under the peanut marketing quota provisions of the Agricultural Adjustment Act of 1938, as amended, for the purpose of authorizing

the use of certified mail in lieu of registered mail. The amendments do not in any way change the substantive rights of individuals effected by the regulations, but merely authorize the use of a new and less expensive mail service. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and effective date requirements of the Administrative Procedure Act (5 U. S. C. 1003) is impractical, unnecessary and contrary to the public interest, and the amendments contained herein shall be effective upon filing of this document with the Director, Division of the Federal Register.

1. Section 729.628 of the Marketing Quota Regulations for the 1955 Crop of Peanuts (19 F. R. 6134) is amended by striking out the word "registered" therein and inserting in lieu thereof the word "certified".

2. Section 729.661 (b) (1) of the Marketing Quota Regulations for the 1955 Crop of Peanuts (20 F. R. 3819) is amended by striking out the word "registered" therein and inserting in lieu thereof the word "certified".

(Sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 358, 359,

361-368, 372, 373, 374, 376, 388, 52 Stat. 38, 62, 63, 64, 65, 66, 68, as amended; 55 Stat. 88, as amended; 7 U. S. C. 1301, 1358, 1359, 1361-1368, 1372, 1373, 1374, 1376, 1388)

Done at Washington, D. C., this 2d day of August 1955. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-6379; Filed, Aug. 5, 1955;
8:46 a. m.]

Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

[Sugar Reg. 814.13, Amdt. 2]

PART 814—ALLOTMENT OF SUGAR QUOTAS

PUERTO RICO, 1955

Basis and purpose. This amendment is issued under section 205 (a) of the Sugar Act of 1948, as amended (hereinafter called the "act"), for the purpose of revising Sugar Regulation 814.13 (19 F. R. 9319; 20 F. R. 2686) which allots the 1955 sugar quota for Puerto Rico for consumption in the continental United States (including raw sugar transferred for further processing and shipment within the direct-consumption portion of such quota) and the 1955 sugar quota for local consumption in Puerto Rico among persons who process Puerto Rican sugarcane into sugar (1) to be brought into the continental United States and (2) to be marketed for local consumption in Puerto Rico.

The sugar quota for Puerto Rico for consumption in the continental United States is referred to herein as "mainland quota" and allotments thereof are referred to as "mainland allotments". The sugar quota for consumption in Puerto Rico and allotments thereof are referred to as "local quota" and "local allotments", respectively.

Revision of Sugar Regulation 814.13 is necessary to substitute in the determination of allotments the final data on processings of sugar from 1954-55-crop cane, 1954 marketings and January 1, 1955, inventories of sugar.

The allotments established by the initial order and amendment 1 were based upon 1953-54-crop processings as estimates of 1954-55-crop processings; 1954 allotments as estimates of 1954 marketings; and January 1, 1954, inventories plus 1953-54-crop processings less 1954 allotments as estimates of January 1, 1955, inventories. To prevent any allottee from marketing sugar in excess of the allotment established therefor on the basis of the final data, marketings were limited to 80 percent of the allotments. Final data on 1954-55-crop processings, 1954 marketings and January 1, 1955, inventories of sugar are now available and are set forth in the following table together with the measures of the three factors, "processings", "past marketings," and "ability to market":

Allottee	Production of sugar from 1954-55 crop sugarcane		Average annual marketings, 1950-54		Jan. 1, 1955, inventory plus production from 1954-55 crop sugarcane		Local marketings average 1953-54	
	Short tons raw value	Percent of total	Short tons raw value	Percent of total	Short tons raw value	Percent of total	Short tons raw value	Percent of total marketings
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Antonio Roig, Sucesores, S. en C. Arturo Lluberas (Estate of) y Sobrinos	47,395	4.065	45,021	4.024	52,627	3.986	21,890	44.522
Asociacion Azucarera Cooperativa	9,203	.789	6,543	.585	10,634	.806	1,483	20.560
Central Aguirre Sugar Co., a trust	33,768	2.896	32,329	2.890	34,954	2.648	69	.199
Central Coloso, Inc.	109,133	9.359	112,700	10.073	119,620	9.061	1,565	1.402
Central Eureka, Inc.	61,938	5.312	55,392	4.951	71,232	5.396	550	.919
Central Guaman, Inc.	40,816	3.500	34,939	3.123	46,990	3.559	610	1.548
Central Igualdad, Inc.	12,250	1.051	10,832	.968	13,275	1.006	1,326	10.661
Central Juanita, Inc.	44,147	3.786	42,159	3.768	51,475	3.899	17,622	38.830
Central Mercedita, Inc.	41,631	3.570	35,988	3.217	55,306	4.189	2,108	5.044
Central Monserrate, Inc.	86,240	7.396	75,088	6.711	90,769	6.876	20,613	26.334
Central San Vicente, Inc.	25,979	2.228	25,367	2.267	28,867	2.187	103	.380
Compania Azucarera del Camuy, Inc.	67,170	5.761	57,242	5.116	81,283	6.157	11	.017
Compania Azucarera del Toa	14,622	1.254	14,517	1.298	15,670	1.187	00	.000
Cooperativa Azucarera Los Canos	32,562	2.793	30,986	2.770	42,292	3.204	00	.000
Eastern Sugar Associates, a trust	37,567	3.222	35,945	3.213	42,496	3.219	00	.000
Fajardo Sugar Co.	122,449	10.501	123,532	11.041	138,770	10.512	14,958	11.858
Land Authority of Puerto Rico	112,894	9.682	113,110	10.021	135,420	10.258	00	.000
Mario Mercado e Hijos	71,084	6.096	69,291	6.193	73,731	5.585	00	.000
Mayaguez Sugar Co., Inc.	32,864	2.818	31,492	2.815	35,909	2.720	552	1.588
Plata Sugar Co.	9,124	.783	10,160	.908	9,492	.719	144	1.405
Soller Sugar Co.	50,653	4.344	47,496	4.245	58,234	4.411	280	.635
South Porto Rico Sugar Co. of Puerto Rico	12,686	1.088	12,666	1.132	13,165	.997	00	.000
Total	89,853	7.706	97,015	8.671	97,922	7.418	15,749	16.153
	1,166,028	100.000	1,118,810	100.000	1,320,133	100.000	99,633	-----

Each allottee under § 814.13 has agreed to waive its right to a public hearing prior to the revision of the order to give effect to final 1954-55-crop production, 1954 marketings and January 1, 1955, carryover data. This agreement was conditioned upon the use of the same allotment formula as was used in the initial order. The revised allotments are based on the same formula used in the initial order. This amendment allots the full amount of both quotas.

The initial allotment order provided for allotting 1,699 short tons, raw value, to the Corporacion Azucarera Sauri and Subira. All of the sugar held in inventory on January 1, 1955, by this allottee is reported to have been shipped in one cargo of which final outturn was 1,313 short tons, raw value. Accordingly, it is hereby found and concluded that the quantity allotted to Corporacion Azucarera Sauri and Subira shall be 1,313 short tons, raw value, and that the 1955 quotas for Puerto Rico, less that quantity shall be allotted to all other allottees.

Since a number of allottees have already brought in or marketed a large portion of their initial allotments, it is imperative that this amendment become effective at the earliest possible date in order to permit continued orderly marketing of sugar. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and consequently this order shall be effective when published in the FEDERAL REGISTER.

Pursuant to the authority vested in the Secretary of Agriculture by section 205 (a) of the act, paragraphs (a) as amended, and (c) of § 814.13 are hereby amended to read as follows:

§ 814.11 Allotment of 1955 sugar quotas for Puerto Rico—(a) Allotments.

The 1955 sugar quota for Puerto Rico for consumption in the continental United States (including raw sugar to be further processed and marketed within the direct-consumption portion of such quota) and the 1955 sugar quota for local consumption in Puerto Rico are hereby allotted to the following processors in quantities which appear in columns (1) and (2) opposite their respective names:

Processor	[Short tons, raw value]	
	Mainland allotment (1)	Local allotment (2)
Antonio Roig, Sucesores, S. en C. Arturo Lluberas (Estate of) y Sobrinos (San Francisco)	26,404	21,274
Asociacion Azucarera Cooperativa (Lafayette)	7,224	1,875
Central Aguirre Sugar Co., a trust	33,478	67
Central Coloso, Inc.	108,904	1,551
Central Eureka, Inc.	61,814	574
Central Guaman, Inc.	40,313	635
Central Igualdad, Inc.	10,886	1,302
Central Juanita, Inc.	27,409	17,464
Central Mercedita, Inc.	40,936	2,180
Central Monserrate, Inc.	62,666	22,470
Central San Vicente, Inc.	26,114	100
Compania Azucarera del Camuy, Inc. (Rio Llanos)	68,069	12
Compania Azucarera del Toa	14,675	-----
Cooperativa Azucarera Los Canos	33,864	-----
Corporacion Azucarera Sauri & Subira (Constancia Ponce)	37,954	-----
Eastern Sugar Associates, a trust	1,313	-----
Fajardo Sugar Co.	109,646	14,788
Land Authority of Puerto Rico	115,877	-----
Mario Mercado e Hijos (Rufina)	70,756	-----
Mayaguez Sugar Co., Inc. (Roche-laise)	32,455	525
Plata Sugar Co.	9,099	130
Soller Sugar Co.	50,974	275
South Porto Rico Sugar Co. of Puerto Rico	12,659	-----
All other persons	76,511	14,778
	00	00
Total	1,080,000	100,000

(c) Restrictions on marketing. (1) During the calendar year 1955 each processor named in paragraph (a) of this section, together with the producers with whom it shares its allotments under

paragraph (b) of this section, is hereby prohibited from bringing into the continental United States for consumption therein, or marketing to a local refiner or any other person for that purpose, and from marketing for local consumption in Puerto Rico, any sugar in excess of the applicable quantities established in columns (1) and (2) of the table in paragraph (a) of this section.

(2) During the calendar year 1955 all persons who acquire raw sugar for further processing and resale as direct-consumption sugar are hereby prohibited from marketing sugar for local consumption in Puerto Rico in excess of the sum of (i) the quantity of sugar acquired for such purpose under the limitations specified in this section, as amended (19 F. R. 2006, 5627, 9212) and held in inventory on December 31, 1954, and (ii) the quantity of sugar acquired for such purposes within the limits specified in this section.

(Sec. 403, 61 Stat. 932; 7 U. S. C. 1153. Interprets or applies sec. 205, 61 Stat. 926; 7 U. S. C. 1115)

Done at Washington, D. C., this 3d day of August 1955. Witness my hand and seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
Acting Secretary of Agriculture.

[F. R. Doc. 55-6416; Filed, Aug. 5, 1955;
8:52 a. m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 48]

PART 922—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

LIMITATION OF HANDLING

§ 922.348 *Valencia Orange Regulation 48—(a) Findings.* (1) Pursuant to Order No. 22 (19 F. R. 1741), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective March 31, 1954, under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective

in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Valencia Orange Administrative Committee held an open meeting on August 4, 1955, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof.

(b) *Order.* (1) The quantity of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a. m., P. s. t., August 7, 1955, and ending at 12:01 a. m., P. s. t., August 14, 1955, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 392,700 boxes;
- (iii) District 3: Unlimited movement.

(2) Valencia oranges handled pursuant to the provisions of this section shall be subject to any size restrictions applicable thereto which have heretofore been issued on the handling of such oranges and which are effective during the period specified herein.

(3) As used in this section, "handled," "handler," "boxes," "District 1," "District 2," and "District 3," shall have the same meaning as when used in said order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 5, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 55-6462; Filed, Aug. 5, 1955;
11:39 a. m.]

[Lemon Reg. 601]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATIONS OF SHIPMENTS

§ 953.708 *Lemon Regulation 601—(a) Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 19 F. R. 7175; 20 F. R. 2913), regulating

the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of lemons, grown in the State of California or in the State of Arizona, are currently subject to regulation pursuant to said amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Lemon Administrative Committee on August 3, 1955, such meeting was held, after giving due notice thereof to consider recommendations for regulation, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period hereinafter specified; and compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

(b) *Order.* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., August 7, 1955, and ending at 12:01 a. m., P. s. t., August 14, 1955, is hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 450 carloads;
- (iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "carloads," "District 1," "District 2," and "District 3" shall have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: August 4, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 55-6452; Filed, Aug. 5, 1955;
8:55 a. m.]

PART 958—IRISH POTATOES GROWN IN COLORADO

LIMITATION OF SHIPMENTS

§ 958.320 *Limitation of shipments—*
(a) *Findings.* (1) Pursuant to Market-
ing Agreement No. 97 and Order No. 58
(7 CFR Part 958; 19 F. R. 9368), regu-
lating the handling of Irish potatoes
grown in the State of Colorado, effective
under the applicable provisions of the
Agricultural Marketing Agreement Act
of 1937, as amended (48 Stat. 31, as
amended; 7 U. S. C. 601 et seq.), and
upon the basis of the recommendation
and information submitted by the area
committee for Area No. 2, established
pursuant to said marketing agreement
and order, and upon other available in-
formation, it is hereby found that the
limitation of shipments, as hereinafter
provided, will tend to effectuate the de-
clared policy of the act.

(2) It is hereby found that it is im-
practicable and contrary to the public
interest to give preliminary notice, en-
gage in public rule making procedure,
and postpone the effective date of this
section until 30 days after publication in
the FEDERAL REGISTER (5 U. S. C. 1001
et seq.) in that (i) the time intervening
between the date when information upon
which this section is based became avail-
able and the time when this section must
become effective in order to effectuate
the declared policy of the act is insuffi-
cient, (ii) more orderly marketing in
the public interest, than would other-
wise prevail, will be promoted by regu-
lating the shipment of potatoes, in the
manner set forth below, on and after
the effective date of this section, (iii)
compliance with this section will not
require any special preparation on the
part of handlers which cannot be com-
pleted by the effective date, (iv) reason-
able time is permitted, under the cir-
cumstances, for such preparation, and
(v) information regarding the commit-
tee's recommendations has been made
available to producers and handlers in
the production area.

(b) *Order.* (1) During the period
from August 15, 1955, to June 30, 1956,
both dates inclusive, no handler shall
ship any potatoes of any variety grown
in Area No. 2 unless such potatoes meet
the requirements of the U. S. No. 2 or
better grade, Size A, and (i) if they are
of the round varieties such potatoes are
of a size not less than $2\frac{1}{8}$ inches mini-
mum diameter, and (ii) if they are of the
long varieties such potatoes are of size
not less than $2\frac{1}{8}$ inches minimum diam-
eter, or 5 ounces minimum weight, as
such terms, grades, and sizes are set forth
in the United States Standards for

Potatoes (§§ 51.1540 to 51.1559 of this
title), including the tolerances set forth
therein.

(2) During the period from August 15,
1955, to October 8, 1955, both dates in-
clusive, and subject to the requirements
set forth in subparagraph (1) of this
paragraph, no handler shall ship any lot
of potatoes (i) of the Russet Burbank and
Red McClure varieties grown in Area No.
2 if such potatoes are more than
"slightly skinned" as such term is defined
in the said United States Standards,
which means that not more than ten
percent of such potatoes have more than
one-fourth of the skin missing or
"feathered," and (ii) of any other
varieties grown in Area No. 2 if such
potatoes are more than "moderately
skinned" as such term is defined in the
said United States Standards which
means that not more than ten percent of
such potatoes have more than one-half
of the skin missing or "feathered."

(3) Terms used in Marketing Agree-
ment No. 97 and Order No. 58 (7 CFR
Part 958; 19 F. R. 9368) shall, when used
in this section, have the same meaning
as when used in said agreement and
order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C.
608c)

Done at Washington, D. C., this 3d day
of August 1955 to become effective
August 15, 1955.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F. R. Doc. 55-6415; Filed, Aug. 5, 1955;
8:52 a. m.]

TITLE 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 6—EXCEPTIONS FROM THE COMPETITIVE SERVICE

CIVIL AERONAUTICS BOARD

Effective upon publication in the FED-
ERAL REGISTER, paragraph (i) is added
to § 6.337 as set out below.

§ 6.337 *Civil Aeronautics Board.* * * *

(i) One Congressional Liaison Officer.

(R. S. 1753, sec. 2, 22 Stat. 403; 5 U. S. C.
631, 633; E. O. 10440, 18 F. R. 1823, 3 CFR,
1953 Supp.)

UNITED STATES CIVIL SERV-
ICE COMMISSION,

[SEAL] WM. C. HULL,
Executive Assistant.

[F. R. Doc. 55-6403; Filed, Aug. 5, 1955;
8:50 a. m.]

TITLE 14—CIVIL AVIATION

Chapter I—Civil Aeronautics Board

[Supp. 20]

PART 60—AIR TRAFFIC RULES

MISCELLANEOUS AMENDMENTS

The purpose of this supplement is to
make the following changes and edi-
torial corrections to Civil Aeronautics

Manual 60 as published in 20 F. R. 2512-
2525, on April 16, 1955:

(1) Section 60.13-1 is revised to delete
the reference to "prohibited or restricted
area charts" since these charts are no
longer published separately. The in-
formation previously contained in these
charts is now incorporated in the radio
facility charts and sectional and world
aeronautical charts published by the
U. S. Coast and Geodetic Survey.

(2) Section 60.18-6 (a) (4) (i) is
amended to correct a typographical error
in the traffic pattern for Fairbanks In-
ternational Airport by changing the final
approach distance from "at least 100
feet" to "at least 1,000 feet."

(3) Section 60.18-7 (n) is amended
to clarify subparagraph (1) and to in-
clude subparagraph (2) which was in-
advertently omitted when this section
was published.

Amendments to CAA rules § 60.18-6
and § 60.18-7 are editorial in nature;
therefore, compliance with the notice,
procedures, and effective date provisions
of § 4 of the Administrative Procedure
Act is unnecessary and not required.
The following revisions and amendments
are hereby adopted:

1. Section 60.13-1 is revised to read as
follows:

§ 60.13-1 *Appropriate authority (CAA
interpretations which apply to § 60.13).*

(a) Appropriate authority to issue per-
mission for aircraft operation within a
prohibited or restricted area will mean
the "Using Agency" (Controlling Agency)
as shown on radio facility charts and
sectional and world aeronautical charts
published by the U. S. Coast and Geo-
detic Survey.

(b) Application for permission to op-
erate aircraft within a prohibited or
restricted area will be made to the "Using
Agency" (Controlling Agency).

(c) Application for permission to op-
erate within the Washington, D. C., pro-
hibited area will be made to the Civil
Aeronautics Administration, General
Safety Division, Washington 25, D. C.

2. Section 60.18-6 (a) (4) (i) is
amended to read as follows:

§ 60.18-6 *Traffic patterns for Fair-
banks Airport and Chena River Landing
(CAA rules which apply to § 60.18 (d))—*
(a) *Fairbanks International Airport.*
* * *

(4) *Landing.* (i) Light aircraft shall
be operated so as to enter the final ap-
proach at a distance of at least 1,000 feet
from the approach end of the runway.

3. Section 60.18-7 (n) is amended to
read as follows:

§ 60.18-7 *Traffic patterns for Wash-
ington National Airport (CAA rules
which apply to § 60.18 (d)).* * * *

(n) The traffic pattern for runway 33
shall be:

(1) An aircraft landing shall main-
tain at least 1,200 feet until it is over the
Potomac River.

(2) An aircraft taking off shall climb
to at least 1,200 feet over the Potomac
River. It shall avoid flight over the
Pentagon if practicable.

(Sec. 205, 52 Stat. 984, as amended; 49 U. S. C. 425. Interpret or apply sec. 601, 52 Stat. 1007, as amended; 49 U. S. C. 551)

This supplement shall become effective September 1, 1955.

[SEAL] F. B. LEE,
Administrator of Civil Aeronautics.

[F. R. Doc. 55-6386; Filed, Aug. 5, 1955;
8:47 a. m.]

TITLE 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 5966]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

TRADE UNION COURIER PUBLISHING CORP.
ET AL.

Subpart—*Claiming or using indorsements or testimonials falsely or misleadingly*: § 13.330 *Claiming or using indorsements or testimonials falsely or misleadingly*. Subpart—*Enforcing dealings or payments wrongfully*: § 13.1045 *Enforcing dealings or payments wrongfully*. Subpart—*Misrepresenting oneself and goods*—Goods: § 13.1650 *History of product*; § 13.1665 *Indorsements*; § 13.1745 *Source or origin*: Maker or Seller, Etc. In connection with the offering for sale and sale of advertising space in the newspaper now designated as the "Trade Union Courier", whether published under that name, or any other name, and in connection with the offering for sale, sale, and distribution of said newspaper, in commerce: (1) Representing, directly or by implication, that said newspaper is endorsed by, affiliated with, sponsored by, or otherwise connected with the American Federation of Labor; (2) placing, printing, or publishing any advertisement on behalf of any person or firm in said paper without a prior order or agreement to purchase said advertisements; and (3) sending bills, letters, or notices to any person or firm with regard to an advertisement which has been or is to be, printed, inserted, or published on behalf of said person or firm, or in any other manner seeking to exact payment for any such advertisement, without a bona fide order or agreement to purchase said advertisement; prohibited.

(Sec. 6, 33 Stat. 721; 15 U. S. C. 46. Interpret or apply sec. 5, 33 Stat. 719, as amended; 15 U. S. C. 45) [Cease and desist order, Trade Union Courier Publishing Corporation et al., New York, N. Y., Docket 5966, June 30, 1955]

In the Matter of Trade Union Courier Publishing Corporation, a Corporation, and Maxwell C. Raddock, Charles Raddock, and Bert Raddock, Individually and as Officers of Said Corporation

This proceeding was heard by John Lewis, hearing examiner, upon the complaint of the Commission which charged respondents with misrepresenting that their "Trade Union Courier" biweekly publication was indorsed by the American Federation of Labor; was officially indorsed by 2,000 AFL unions; was affiliated with the American Labor Press Association and was serviced by the International Labor News Service and by the

American Labor News Service (American Federation of Labor News Service); and with having engaged in the further practice of placing advertisements of various business concerns in the paper, without authorization, and seeking to exact payment therefor; respondents' answer in which they denied having engaged in any of the illegal practices charged; hearings in 1952, at which testimony and other evidence, duly recorded and filed in the office of the Commission, were offered in support of and in opposition to the allegations of the complaint, followed by the filing of proposed findings of fact and conclusions of law by counsel supporting the complaint and counsel for respondents, no request for oral argument having been made; and further hearings, extending from October 1953 to June 1954, which (1) followed the appeal by counsel supporting the complaint from the initial decision of the hearing examiner on August 26, 1952, dismissing the complaint (as respects two of the charges included in such dismissal), on the ground that the record was lacking in substantial evidence to sustain allegations thereof and because the public interest did not appear to require any corrective action in the proceeding, and (2) order of the Commission issued June 12, 1953, which granted a motion filed by counsel supporting the complaint for leave to withdraw said appeal and to remand the proceeding to the hearing examiner for the reception of further evidence with respect to said two charges.

Thereafter, following said remand and further hearings, above noted, at which testimony and other evidence duly recorded and filed in the office of the Commission, were offered in support of and in opposition to said remanded charges of the complaint, namely, (1) that respondents falsely represented that their publication was indorsed by the American Federation of Labor, and (2) that respondents placed advertisements of various business concerns in their publication, without authorization, and then sought to exact payment therefor; denial by said hearing examiner, at the opening of said hearings, of (1) motion to dismiss the complaint for the reason that the Commission had acted beyond its authority in remanding the proceeding, and (2) motion made at the earlier hearings and renewed to dismiss the allegation of the complaint based on alleged unauthorized dealings, as legally insufficient; and submittal of briefs, at the close of the evidence to remand, by counsel in support of their respective positions, no request for oral argument having been made; said hearing examiner, based upon the entire record in the case and from his observation of the witnesses, made his initial decision on the remand, in which he made his findings of fact; set forth his conclusion that the acts and practices of respondents, as found, were all to the prejudice and injury of the public and respondents' competitors and constituted unfair and deceptive acts and practices and unfair methods of competition in commerce, within the intent and meaning of Section 5 of the Federal Trade Commission Act; and that the proceeding accordingly

was in the public interest and that an order to cease and desist should issue enjoining respondents from engaging in such conduct; and issued his order to cease and desist.

Thereafter, following appeal by respondents from said hearing examiner's initial decision on the remand, on various grounds, including alleged insufficiency of certain allegations of the complaint as a matter of law, alleged variance of the hearing examiner's findings, conclusions, and order from the charges of the complaint, lack of evidence to support the charges, scope of his order and specific exceptions to his findings and conclusion and to certain rulings, including the contention that his 1952 decision dismissing the complaint was res adjudicata; and the Commission's per curiam opinion and decision in said appeal, which concluded that the hearing examiner's decision on remand and his rulings on respondents' various motions were correct; and accordingly denied respondents' appeal from the initial decision including their exceptions thereto; and affirmed said initial decision; the matter was disposed of by the Commission's "Final Order", dated June 30, 1955, as follows:

This matter having come before the Commission upon respondents' appeal from the hearing examiner's initial decision and the matter having been heard on the whole record, including briefs (request for oral argument having been withdrawn by respondents); and the Commission having rendered its decision denying respondents' appeal and affirming the initial decision:

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order contained in said initial decision.

Said order is as follows:

It is ordered, That respondents Trade Union Courier Publishing Corporation, a corporation, its officers, and Maxwell C. Raddock, Charles Raddock and Bert Raddock, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale and sale of advertising space in the newspaper now designated as the "Trade Union Courier," whether published under that name, or any other name, and in connection with the offering for sale, sale and distribution of said newspaper, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that said newspaper is endorsed by, affiliated with, sponsored by, or otherwise connected with the American Federation of Labor.
2. Placing, printing or publishing any advertisement on behalf of any person or firm in said paper without a prior order or agreement to purchase said advertisement.
3. Sending bills, letters or notices to any person or firm with regard to an

advertisement which has been or is to be, printed, inserted or published on behalf of said person or firm, or in any other manner seeking to exact payment for any such advertisement, without a bona fide order or agreement to purchase said advertisement.

Issued: June 30, 1955.

By the Commission.

[SEAL] ROBERT M. PARRISH,
Secretary.

[F. R. Doc. 55-6390; Filed, Aug. 5, 1955;
8:48 a. m.]

TITLE 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T. D. 53861]

PART 1—CUSTOMS DISTRICTS AND PORTS

EXTENSION OF LIMITS OF CUSTOMS PORT OF ANACORTES, WASH.

By virtue of the authority vested in the President by section 1 of the act of August 1, 1914, 38 Stat. 623 (19 U. S. C. 2), and delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR, 1951 Supp., Ch. II), the limits of the customs port of entry of Anacortes, Washington, in Customs Collection District No. 30 (Washington), comprising the territory within the corporate limits of that city, are hereby extended to include Sections 21, 28, 29, 32, and 33, Township 35 North, Range 2 East of the Willamette Meridian, Skagit County, State of Washington, effective August 10, 1955.

Section 1.1 (c), Customs Regulations, is amended by inserting "(including the territory described in T. D. 53861)" opposite "Anacortes" in the column headed "Ports of entry" in District No. 30 (Washington).

(R. S. 161, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended; 5 U. S. C. 22, 19 U. S. C. 1, 2)

[SEAL] H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

AUGUST 2, 1955.

[F. R. Doc. 55-6402; Filed, Aug. 5, 1955;
8:50 a. m.]

[T. D. 53860]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

CHECKS RECEIVABLE FOR DUTIES

Section 24.1 (b) of the Customs Regulations, relating to the acceptance by collectors of customs of uncertified checks in payment of duties and other charges, amended.

Section 24.1 (b) of the Customs Regulations now provides that uncertified checks drawn on a national or state bank or trust company of the United States which can be cashed without cost to the Government shall be accepted in payment of duties or charges from business firms and individuals who have been approved by the collector of customs

to make payments in such manner. It has been the practice of collectors of customs to accept uncertified checks in payment of duties and other charges from businesses or other organizations, or individuals, who have on file with the collectors certain bonds, or who have been approved by the collectors, after reference to credit data, to make payments in such manner. In order to provide for this procedure in the Customs Regulations, and also to make it clear that the collector still retains discretion to refuse to accept any particular uncertified check if he deems such acceptance inadvisable, § 24.1 (b) is hereby amended to read as follows:

(b) An uncertified check drawn on a national or state bank or trust company of the United States which can be cashed without expense to the Government shall be accepted by the collector of customs in payment of duties or other charges if drawn and tendered by a business or other organization, or by an individual, who has on file with the collector of customs a customs entry bond or other bond to secure the payment of such duties or other charges or, if a bond has not been filed, who has been approved by the collector to make payment in such manner. In determining whether an uncertified check shall be accepted in the absence of a bond, the collector shall use all available credit data which can be obtained without cost to the Government, such as that furnished by banks, local business firms, better business bureaus, or local credit exchanges. The collector may refuse to accept an uncertified check in any case if in his discretion he deems such acceptance inadvisable.¹

(R. S. 251, sec. 624, 46 Stat. 759; 19 U. S. C. 66, 1624. Interprets or applies sec. 1, 36 Stat. 965, as amended, sec. 648, 46 Stat. 762; 19 U. S. C. 198, 1643.)

[SEAL] D. B. STRUBINGER,
Acting Commissioner of Customs.

Approved: August 1, 1955.

H. CHAPMAN ROSE,
Acting Secretary of the Treasury.

[F. R. Doc. 55-6401; Filed, Aug. 5, 1955;
8:50 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

PART 3—STATEMENTS OF GENERAL POLICY OR INTERPRETATION

PESTICIDE CHEMICALS; EXTENDED DATES ON WHICH STATUTE SHALL BECOME FULLY EFFECTIVE

In compliance with the procedure set out in § 3.40 *Pesticide chemicals; date on which statute becomes fully effective*, published in the FEDERAL REGISTER of June 10, 1955 (20 F. R. 4085), a request for an additional extension of the date when the statute (68 Stat. 511 et seq.; 21 U. S. C. 342, 346a) shall become fully effective has been received for the pesticide chemical Aramite. Now, therefore, in exercise of the authority vested in the

Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (secs. 402 (a) (2), 408; 68 Stat. 511, 517 (ch. 559, secs. 2, 5); 21 U. S. C. 342 (a) (2) and note 1 under section 342, 346a) and delegated to the Commissioner of Food and Drugs by the Secretary (20 F. R. 1996); I find that an additional extension is necessary to allow the Food and Drug Administration Advisory Committee to Consider Aramite sufficient time to submit a report on Aramite and to permit an order to issue after the report is available; and the following amendment is hereby made to § 3.41 (a) (1) which was published in the FEDERAL REGISTER of July 20, 1955:

Delete paragraph (a) (1) and substitute therefor:

(1) The effective date for Aramite [2-(*p*-tert-butylphenoxy) isopropyl-2-chloroethyl sulfite, formerly *B*-*p*-tertiary butylphenoxy *a*-methyl *B'*-chlorodiethyl sulfite] shall be September 13, 1955, unless a tolerance is established for Aramite before that date, in which case the effective date shall be the date on which the regulation establishing such tolerance is published in the FEDERAL REGISTER.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371)

Dated: August 2, 1955.

[SEAL] JOHN L. HARVEY,
Acting Commissioner
of Food and Drugs.

[F. R. Doc. 55-6372; Filed, Aug. 5, 1955;
8:45 a. m.]

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 548—AUTHORIZATION OF ESTABLISHED BASIC RATES FOR COMPUTING OVERTIME PAY

SUBPART A—GENERAL REGULATIONS

On December 7, 1954, a notice of proposed rule making was published in the FEDERAL REGISTER (19 F. R. 8040) under which it was proposed to issue regulations pertaining to the authorization of established basic rates for computing overtime pay under section 7 (f) (3) of the Fair Labor Standards Act. Interested persons were given 30 days in which to submit their views and arguments relative to the proposed regulations. On January 14, 1955, notice was published, upon good cause shown, that the time for the submission of such data had been extended to February 7, 1955 (20 F. R. 345). Comments were received and considered. Certain changes and clarifications were made in the light thereof.

Pursuant to authority under the Fair Labor Standards Act of 1938, as amended, (52 Stat. 1060, as amended, 29 U. S. C. 201 et seq.), Reorganization Plan No. 6 of 1950 (5 U. S. C. 611), General Order No. 45-A (15 F. R. 3290), and the position of the Administrator being presently vacant, General Order No. 85 (20 F. R. 2066), the proposed regulations are hereby approved and made final as follows:

Subpart A—General Regulations

- Sec.
548.1 Scope and effect of regulations.
548.2 General conditions.
548.3 Authorized basic rates.
548.4 Application for authorization of a "basic rate".
548.5 Petition for amendment.

AUTHORITY: §§ 548.1 to 548.5 issued under sec. 7, 52 Stat. 1063, as amended; 29 U. S. C. 207.

SUBPART A—GENERAL REGULATIONS

§ 548.1 *Scope and effect of regulations.* The regulations in this part set forth the requirements for authorization of established basic rates to be used in the computation of overtime pay in accordance with section 7 (f) (3) of the Fair Labor Standards Act of 1938, as amended. Payment of overtime compensation in accordance with other subsections of section 7 of the act is explained in Part 778 of this title (Interpretative Bulletin on Overtime Compensation).

§ 548.2 *General conditions.* The requirements of section 7 of the act with respect to the payment of overtime compensation to an employee for a workweek longer than forty hours, will be met under the provisions of section 7 (f) (3) of the act by payments which satisfy all the following standards:

(a) Overtime compensation computed in accordance with this part and section 7 (f) (3) of the act is paid pursuant to an agreement or understanding arrived at between the employer and the employee or as a result of collective bargaining before performance of the work;

(b) A rate is established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder;

(c) The established basic rate is a specified rate or a rate which can be derived from the application of a specified method of calculation;

(d) The established basic rate is a bona fide rate and is not less than the minimum hourly rate required by applicable law;

(e) The basic rate so established is authorized by § 548.3 or is authorized by the Administrator under § 548.4 as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time;

(f) Overtime hours are compensated at a rate of not less than one and one-half times such established basic rate;

(g) The hours for which the employee is paid not less than one and one-half times such established basic rate qualify as overtime hours under section 7 (d) (5), (6), or (7) of the act;

(h) The number of hours for which the employee is paid not less than one and one-half times such established basic rate equals or exceeds the number of hours worked in excess of 40 in the workweek;

(i) The employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of section 7 (d) of the act are not less than the minimum hourly

rate required by this act or other applicable law;

(j) Extra overtime compensation is properly computed and paid on other forms of additional pay which have not been considered in arriving at the basic rate but which are required to be included in computing the regular rate.

§ 548.3 *Authorized basic rates.* A rate which meets all of the conditions of § 548.2 and which in addition satisfies all the conditions set forth in one of the following paragraphs will be regarded as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time and may be used in computing overtime compensation for purposes of section 7 (f) (3) of the act, and § 548.2:

(a) A rate per hour which is obtained by dividing a monthly or semi-monthly salary by the number of regular working days in each monthly or semi-monthly period and then by the number of hours in the normal or regular workday. Such a rate may be used to compute overtime compensation for all the overtime hours worked by the employee during the monthly or semi-monthly period for which the salary is paid.

(b) A rate per hour which is obtained by averaging the earnings, exclusive of payments described in paragraphs (1) through (7) of section 7 (d) of the act, of the employee for all work performed during the workday or any other longer period not exceeding sixteen calendar days for which such average is regularly computed under the agreement or understanding. Such a rate may be used to compute overtime compensation for all the overtime hours worked by the employee during the particular period for which the earnings average is computed.

(c) A rate per hour which is obtained by averaging the earnings, exclusive of payments described in paragraphs (1) through (7) of section 7 (d) of the act, of the employee for each type of work performed during each workweek, or any other longer period not exceeding sixteen calendar days, for which such average is regularly computed under the agreement or understanding. Such a rate may be used to compute overtime compensation, during the particular period for which such average is computed, for all the overtime hours worked by the employee at the type of work for which the rate is obtained.

(d) The rate or rates which may be used under the act to compute overtime compensation of the employee but excluding the cost of meals where the employer customarily furnishes not more than a single meal per day.

(e) The rate or rates (not less than 75 cents an hour) which may be used under the act to compute overtime compensation of the employee but excluding additional payments in cash or in kind which, if included in the computation of overtime under the act, would not increase the total compensation of the employee by more than 30 cents a week on the average for all overtime weeks (in excess of 40 hours) in the period for

which such additional payments are made.

§ 548.4 *Application for authorization of a "basic rate."* (a) Application may be made by any employer or group of employers, for authorization of a basic rate or rates, other than those approved under § 548.3. Application must be made jointly with any collective bargaining representative of employees covered by the application. Application must be made to the Administrator of the Wage and Hour Division, U. S. Department of Labor, Washington, D. C.

(b) Each application shall contain the following:

(1) A statement of the agreement or understanding arrived at between the employer and employee, including the proposed effective date, the term of the agreement or understanding, and a statement of the applicable overtime provisions, and

(2) A description of the basic rate or the method or formula to be used in computing the basic rate for the type of work or position to which it will be applicable, and

(3) A statement of the kinds of jobs or employees covered by the agreement, and

(4) The facts and reasons relied upon to show that the basic rate so established is substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time. For such showing, a basic rate shall be deemed "substantially equivalent" to the average hourly earnings of the employee if, during a representative period, the employee's total overtime earnings calculated at the basic rate in accordance with the applicable overtime provisions are substantially equivalent to the amount of such earnings when computed in accordance with section 7 (a) of the act on the basis of the employee's average hourly earnings for each workweek, and

(5) Such additional information as the Administrator may require.

(c) The Administrator shall require that notice of the application be given to affected employees in such manner as he deems appropriate. The Administrator shall notify the applicants in writing of his decision as to each application.

(d) In authorizing a basic rate pursuant to this part, the Administrator shall include such conditions as are necessary to insure that the basic rate will be used only so long as it is substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time, and such other conditions as are necessary or appropriate to insure compliance with the provisions of the act.

(e) The Administrator may at any time, upon his own motion or upon written request of any interested party setting forth reasonable grounds, therefor, and after a hearing or other opportunity to interested persons to present their views, amend or revoke any authorization granted under this part.

§ 548.5 *Petition for amendment.* Any person wishing a revision of any of the

terms of this part may submit in writing to the Administrator a petition setting forth the changes desired and the reasons for proposing them. If, after consideration of the petition, the Administrator believes that reasonable cause for amendment of this part is set forth, he shall either schedule a hearing, with due notice to interested parties, or shall make other provisions for affording interested parties an opportunity to present their views either in support of or in opposition to the proposed changes.

These regulations shall become effective on the 5th day of September 1955.

Signed at Washington, D. C., this 29th day of July 1955.

STUART ROTHMAN,
Solicitor of Labor.

[F. R. Doc. 55-6414; Filed, Aug. 5, 1955; 8:51 a. m.]

PART 548—AUTHORIZATION OF ESTABLISHED BASIC RATES FOR COMPUTING OVERTIME PAY

SUBPART B—INTERPRETATIONS

Section 7 (f) (3) of the Fair Labor Standards Act, as amended, provides that no employer shall be deemed to have violated section 7 (a) of the act if he paid overtime on the basis of a basic rate established by an agreement or understanding between the employer and the employee, provided, among other conditions enumerated in section 7 (f) (3), that the rate so established shall be authorized by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time.

Pursuant to this provision of the act the Administrator has issued regulations specifying certain authorized basic rates and providing for application to the Administrator for authorization of other basic rates.

After due notice and public procedure as required by the Administrative Procedure Act, Regulations, Part 548 were published in the FEDERAL REGISTER on August 6, 1955. For the purpose of outlining and explaining the application of these regulations, an explanatory bulletin has been prepared which interprets these regulations in the light of their application to specific factual situations. This explanatory bulletin contains statements of general policy and interpretations directly related to the regulations contained in this part, and is therefore published in connection with the regulations in this part. The text of such explanatory bulletin is as follows:

Subpart B—Interpretations

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548.302 Average earnings for period other than a workweek.
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548.400 Procedures.
548.401 Agreement or understanding.
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COMPUTATION OF OVERTIME PAY

548.500 Methods of computation.
548.501 Overtime hours—offset hour for hour.
548.502 Other payments.

AUTHORITY: §§ 548.100 to 548.502 issued under sec. 7, 52 Stat. 1063, as amended; 29 U. S. C. 207.

SUBPART B—INTERPRETATIONS

INTRODUCTION

§ 548.100 *Introductory statement.*
(a) This subpart contains material explaining and illustrating the terms used in Subpart A of this part which were issued under section 7 (f) (3) of the Fair Labor Standards Act. The purpose of section 7 (f) (3) of the act, and subpart A of this part, is to provide an exception from the requirements of computing overtime pay at the regular rate,¹ and to allow, under specific conditions, the use of an established "basic" rate² instead. Basic rates are alternatives to the regular rate of pay under section 7 (a), and their use is optional. The use of basic rates is principally intended to simplify bookkeeping and computation of overtime pay.

(b) Section 7 (f) of the Fair Labor Standards Act provides that an employer will comply with the overtime requirements of the act with respect to an employee employed for a workweek in excess of 40 hours if—

* * * pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for

¹ The regular rate is the average hourly earnings of an employee for a workweek. See § 778.3 of Interpretative Bulletin, Part 778 of this chapter, on overtime compensation. Sections 7 (f) (1) and 7 (f) (2) of the act permit overtime compensation to be computed, under specified conditions, at time and one-half the bona fide hourly or piece rate applicable to the work performed during the overtime hours. See § 778.19 of Interpretative Bulletin, Part 778 of this chapter.

² The term "basic" rate is used in Subpart A of this part, and in this bulletin means the rate authorized under section 7 (f) (3) of the Fair Labor Standards Act. Such a rate may be used to compute overtime compensation under the Walsh-Healey Public Contracts Act. (See Rulings and Interpretations No. 3, section 42 (f) (1)). However, the term "basic" rate in this bulletin should not be confused with the more general use of the term in the Public Contracts Act to describe all rates which may be used to compute overtime compensation or the use of the term in any other statute.

the number of hours worked by him in such workweek in excess of forty hours—

(3) is computed at a rate not less than one and one-half times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided*, That the rate so established shall be authorized by regulation by the Secretary of Labor as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time; and if (i) the employee's average hourly earnings for the workweek exclusive of payments described in paragraphs (1) through (7) of subsection (d) are not less than the minimum hourly rate required by applicable law, and (ii) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

REQUIREMENTS FOR A BASIC RATE

§ 548.200 *Requirements.* The following conditions must be satisfied if a "basic" rate is to be considered proper under section 7 (f) (3) and Subpart A of this part.

(a) *Agreement or understanding.* There must be an agreement or understanding establishing a basic rate or rates. This agreement must be arrived at before performance of the work to which it is intended to apply. It may be arrived at directly with the employee or through his representative. The "basic" rate method of computing overtime may be used for as many of the employees in an establishment as the employer chooses, provided he has reached an agreement or understanding with these employees prior to the performance of the work.³

(b) *The rate.* The established basic rate may be a specified rate or a rate which can be derived from the application of a specified method of calculation. For instance, under certain conditions the Regulations permit the use of the daily average hourly earnings of the employee as a basis for computing daily overtime.⁴ Thus, a method rather than a specific rate is authorized. Also, under certain conditions, the cost of a single meal a day furnished to employees may be excluded from the computation of overtime pay.⁵ It is the exclusion of the cost of the meals that is authorized and each employee's rate of pay, whatever it may be—an hourly rate, a piece rate or a salary—is his basic rate.

(c) *Minimum wage.* The employee's average hourly earnings for the workweek (exclusive of overtime pay and other pay which may be excluded from the regular rate)⁶ and the established basic rate used to compute overtime pay may not be less than the legal minimum.⁷

³ The records which an employer is required to maintain and preserve for an employee compensated for overtime hours on the basis of a basic rate are described in § 516.18 of this subchapter.

⁴ See § 548.302.

⁵ See § 548.304.

⁶ See §§ 778.4 through 778.8 of Interpretative Bulletin, Part 778 of this chapter for further discussion of what payments may be excluded.

⁷ The legal minimum is the highest rate required by the Fair Labor Standards Act or other Federal, State or local law.

AUTHORIZED BASIC RATES

§ 548.300 Introductory statement. Section 548.3 contains a description of a number of basic rates any one of which, when established by agreement or understanding, is authorized for use without prior specific approval of the Administrator. These basic rates have been found in use in industry and the Administrator has determined that they are substantially equivalent to the straight-time average hourly earnings of the employee over a representative period of time. The authorized basic rates are described below.

§ 548.301 Salaried employees. (a) Section 548.3 (a) authorizes as an established basic rate: "A rate per hour which is obtained by dividing a monthly or semi-monthly salary by the number of regular working days in each monthly or semi-monthly period and then by the number of hours in the normal or regular workday. Such a rate may be used to compute overtime compensation for all the overtime hours worked by the employee during the monthly or semi-monthly period for which the salary is paid."

(b) Section 548.3 (a) may be applied to salaried employees paid on a monthly or semi-monthly basis. Under section 7 (a) of the act the method of computing the regular rate of pay for an employee who is paid on a monthly or semi-monthly salary basis is to reduce the salary to its weekly equivalent by multiplying the monthly salary by 12 (the number of months) or the semi-monthly salary by 24, and dividing by 52 (the number of weeks). The weekly equivalent is then divided by the number of hours in the week which the salary is intended to compensate.⁶ Section 548.3 (a) is designed to provide an alternative method of computing the rate for overtime purposes in the case of an employee who is compensated on a monthly or semi-monthly salary basis, where this method is found more desirable. This method is applicable only where the salary is paid for a specified number of days per week and a specified number of hours per day normally or regularly worked by the employee. It permits the employer to take into account the variations in the number of regular working days in each pay period. The basic rate authorized by § 548.3 (a) is obtained by dividing the monthly or semi-monthly salary by the number of regular working days in the month or half-month, and then by the number of hours of the normal or regular work day.

Example. An employee is compensated at a semi-monthly salary of \$132 for a workweek of five days of 8 hours each, Monday through Friday. If a particular half-month begins on Tuesday and ends on the second Tuesday following there are 11 working days in that half-month. The employee's basic rate would then be computed by dividing the \$132 salary by 11 working days of 8 hours each, or 88 hours. The basic rate in this situation would therefore be \$1.50 an hour. The basic rate would remain the same regardless of the fact that the employee did not actually work 11 days of 8 hours each

because of the occurrence of a holiday, or because the employee took a day off, or because he worked longer than 8 hours on some days during the period, or because he worked fewer than 8 hours on some days, or because he worked more than 11 days. In any of these circumstances the employee's basic rate would still be \$1.50 an hour. If in the next semi-monthly period there are ten working days the rate would be computed by dividing the salary of \$132 by 80 working hours, or ten days of 8 hours each. The basic rate would therefore be \$1.65 an hour. The rate would remain \$1.65 an hour even though the employee did not in fact work ten 8-hour days during the period for the reasons indicated above, or for any other reason.

(c) The overtime compensation for each workweek should be computed at not less than time and one-half the established basic rate applicable in the period during which the overtime is worked. Thus, in the example given above all overtime worked in the first half-month would be computed at not less than time and one-half the basic rate of \$1.50 an hour; in the second half-month overtime would be paid for at not less than time and one-half the rate of \$1.65 an hour. Where a workweek overlaps two semi-monthly periods part of the overtime may be performed in one semi-monthly period and part in another semi-monthly period with a different basic rate. If it is desired to avoid computing overtime compensation in the same workweek at two different rates, the employment arrangement may provide that overtime compensation for each workweek should be computed at the established basic rate applicable in the half-monthly or monthly period during which the workweek ends.

§ 548.302 Averaging earnings for period other than a workweek. (a) Section 548.3 (b) authorizes as an established basic rate: "A rate per hour which is obtained by averaging the earnings, exclusive of payments described in paragraphs (1) through (7) of section 7 (d) of the Act, of the employee for all work performed during the workday or any other longer period not exceeding sixteen calendar days for which such average is regularly computed under the agreement or understanding. Such a rate may be used to compute overtime compensation for all the overtime hours worked by the employee during the particular period for which the earnings average is computed."

(b) (1) The ordinary method of computing overtime under the act is at the employee's regular rate of pay, obtained by averaging his hourly earnings for each workweek. Section 548.3 (b) authorizes overtime to be computed on the basis of the employee's average hourly earnings for a period longer or shorter than a workweek. It permits the payment of overtime compensation on the basis of average hourly earnings for a day, a week, two weeks or any period up to 16 calendar days, if the period is established and agreed to with the employee prior to the performance of the work.⁷ The agreement or under-

standing may contemplate that the basic rate will be the average hourly earnings for a day or a specified number of days within the sixteen day limit, or it may provide that the basic rate will be the average hourly earnings for the period required to complete a specified job or jobs.

Example 1. An employee is employed on a piece-work basis with overtime after 8 hours a day and on Saturday. Ordinarily his overtime compensation would be computed by averaging his earnings for the entire workweek to arrive at the regular rate of pay and then computing the overtime compensation due. Under this subsection of the regulations the employer and the employee may agree to compute overtime on the basis of the average hourly earnings for each day. Similarly, in a situation involving a bi-weekly or a semi-monthly pay period the employer may find it convenient to compute overtime on the basis of the average hourly earnings for the bi-weekly or semi-monthly period.⁸

Example 2. An employee is paid a fixed amount of money for the completion of each job. Each job takes 2 or 3 days to complete. Under the employment agreement, the employee is entitled to time and one-half an authorized basic rate of all hours worked in excess of 40 in the workweek. The authorized basic rate is the employee's average hourly earnings for each job. Suppose he completes two jobs in a particular workweek and all his overtime hours are on job #2. The employee's average hourly earnings on job #2 may be used to compute his overtime pay.

(2) In this connection it should be noted that although the basic rate is obtained by averaging earnings over a period other than a workweek the number of overtime hours under the Act must be determined on a workweek basis.

(c) In computing the basic rate under § 548.3 (b), the employer may exclude from the computation the payments which he could exclude in computing the "regular" rate of pay.⁹

§ 548.303 Average earnings for each type of work. (a) Section 548.3 (c) authorizes as an established basic rate: "A rate per hour which is obtained by averaging the earnings, exclusive of payments described in paragraphs (1) through (7) of Section 7 (d) of the Act, of the employee for each type of work performed during each workweek, or any other longer period not exceeding sixteen calendar days, for which such average is regularly computed under the agreement or understanding. Such a rate may be used to compute overtime compensation, during the particular period for which such average is computed, for all the overtime hours worked by the employee at the type of work for which the rate is obtained."

(b) Section 548.3 (c) differs from § 548.3 (b) in this way: Section 548.3 (b) provides for the computation of the basic rate on the average of all earnings during the specified period; § 548.3 (c) permits the basic rate to be computed on the basis of the earnings for each particular type of work. Thus, if the employee performs different types of

⁶ See § 548.301 (c) for a discussion of the method of computing overtime for an employee paid on a semi-monthly basis.

⁷ See §§ 778.4 through 778.8 of Interpretative Bulletin, Part 778 of this chapter for an explanation of what payments may be excluded.

⁸ See § 778.3 (b) (4) of the Interpretative Bulletin, Part 778 of this chapter.

⁹ Averaging over periods in excess of 16 calendar days may in appropriate cases be authorized by the Administrator under § 548.4.

work, each involving a different rate of pay such as different piece-rate, job rates, or a combination of these with hourly rates, a separate basic rate may be computed for each type of work and overtime computed on the basis of the rate or rates applicable to the type of work performed during the overtime hours.

Example. An employee who is paid on a weekly basis with overtime after 40 hours works six 8-hour days in a workweek under an agreement or understanding reached pursuant to this subsection. He performs three different types of piece-work each at a different rate of pay. The basic rates to be used for computing overtime in this situation would be arrived at by dividing the earnings for each type of work by the number of hours during which that type of work was performed. There would thus be three different basic rates, one for each type of work. Since the overtime hours used in this illustration occur on the sixth day, the types of work performed on the sixth day would determine the basic rate or rates on which overtime would be computed that week. Thus, if the average hourly earnings for the three types of work are respectively \$1 an hour in type A, \$1.20 an hour in type B, and \$1.40 an hour in type C, and on the sixth day the employee works on type B, his overtime premium for the sixth day would be one-half the basic rate of \$1.20 an hour, multiplied by the eight hours worked on that day.

§ 548.304 Excluding value of lunches furnished. (a) This section authorizes as established basic rates: "The rate or rates which may be used under the Act to compute overtime compensation of the employee but excluding the cost of meals where the employer customarily furnishes not more than a single meal per day."

(b) It is the purpose of § 548.3 (d) to permit the employer upon agreement with his employees to omit from the computation of overtime the cost of a free daily lunch or other single daily meal furnished to the employees. The policy behind § 548.3 (d) is derived from the Administrator's experience that the amount of additional overtime compensation involved in such cases is trivial and does not justify the bookkeeping required in computing it. Section 548.3 (d) is applicable only in cases where the employer customarily furnishes no more than a single meal a day. If more than one meal a day is customarily furnished by the employer all such meals must be taken into account in computing the regular rate of pay and the overtime compensation due.¹³ In a situation where the employer furnishes three meals a day to his employees he may not, under § 548.3 (d), omit one of the three meals in computing overtime compensation. However, if an employer furnishes a free lunch every day and, in addition, occasionally pays "supper money"¹⁴ when the employees work overtime, the cost of the lunches and the supper money may both be excluded from the overtime rates.

§ 548.305 Excluding certain additions to wages. (a) Section 548.3 (e) author-

izes as established basic rates: "The rate or rates (not less than 75 cents an hour) which may be used under the act to compute overtime compensation of the employee but excluding additional payments in cash or in kind which, if included in the computation of overtime under the act, would not increase the total compensation of the employee by more than 30 cents a week on the average for all overtime weeks (in excess of 40 hours) in the period for which such additional payments are made."

(b) Section 548.3 (e) permits the employer, upon agreement or understanding with the employee, to omit from the computation of overtime certain incidental payments which have a trivial effect on the overtime compensation due. Examples of payments which may be excluded are: modest housing, bonuses or prizes of various sorts, tuition paid by the employer for the employee's attendance at a school, and cash payments or merchandise awards for soliciting or obtaining new business. It may also include such things as payment by the employer of the employee's social security tax.

(c) The exclusion of one or more additional payments under § 548.3 (e) must not affect the overtime compensation of the employee by more than 30 cents a week on the average for the overtime weeks.

Example. An employee is paid a cost-of-living bonus of \$260 each calendar quarter, or \$20 per week. The employee works overtime in only two weeks in the thirteen-week period, and in each of these overtime weeks he works 50 hours. He is therefore entitled to \$2 as overtime compensation on the bonus for each week in which overtime was worked (i. e., \$20 bonus divided by 50 hours equals 40 cents an hour; ten overtime hours, times one-half, times 40 cents an hour, equals \$2). While this is less than 20 cents a week on the average over the thirteen-week period covered by the bonus, it is more than 30 cents on the average for the two overtime weeks. This cost-of-living bonus would therefore not be excluded from the overtime computation under § 548.3 (e).

(d) It is not always necessary to make elaborate computations to determine whether the effect of the exclusion of a bonus or other incidental payment on the employee's total compensation will exceed 30 cents a week on the average. Frequently the addition to regular wages is so small or the number of overtime hours is so limited that under any conceivable circumstances exclusion of the additional payments from the rate used to compute the employee's overtime compensation would not affect the employee's total earnings by more than 30 cents a week. The determination that this is so may be made by inspection of the payroll records or knowledge of the normal working hours.

Example. An employer has a policy of giving employees who have a perfect attendance record during a four-week period a bonus of \$10. The employee never works more than 50 hours a week. It is obvious that exclusion of this attendance bonus from the rate of pay used to compute overtime compensation could not affect the employee's

total earnings by more than 30 cents a week.¹⁴

(e) There are many situations in which the employer and employee cannot predict with any degree of certainty the amount of bonus to be paid at the end of the bonus period. They may not be able to anticipate with any degree of certainty the number of hours an employee might work each week during the bonus period. In such situations the employer and employee may agree prior to the performance of the work that a bonus will be disregarded in the computation of overtime pay if the employee's total earnings are not affected by more than 30 cents a week on the average for all overtime weeks during the bonus period. If it turns out at the end of the bonus period that the effect on the employee's total compensation would exceed 30 cents a week on the average, then additional overtime compensation must be paid on the bonus. (See § 778.6 (b) of the Interpretative Bulletin, Part 778 of this chapter, for an explanation of how to compute overtime on the bonus.)

(f) In order to determine whether the exclusion of a bonus or other incidental payment would affect the total compensation of the employee by not more than 30 cents a week on the average, a comparison is made between his total compensation computed under the employment agreement and his total compensation computed in accordance with the applicable overtime provisions of the act.

Example. An employee is paid at piece rates and at one and one-half times the applicable piece rates for work performed during hours in excess of 40 in the workweek. The employee is also paid a bonus, which when apportioned over the bonus period, amounts to \$2 a week. He never works more than 50 hours a week. The piece rates could be established as basic rates under the employment agreement and additional overtime compensation paid on the bonus. The employee's total compensation computed in accordance with the applicable overtime provision of the act, section 7 (f) (1),¹⁵ would be affected by not more than 20 cents in any week by not paying overtime compensation on the bonus.¹⁶

(g) Section 548.3 (e) is not applicable to employees employed at subminimum wage rates under learner certificates, or special certificates for handicapped workers, or in the case of employees in Puerto Rico or the Virgin Islands employed at less than 75 cents an hour.

RATES AUTHORIZED ON APPLICATION

§ 548.400 Procedures. (a) If an employer wants to use an established basic

¹⁴ For a 50 hour week, an employee's bonus would have to amount to \$3 a week to affect his overtime compensation by 30 cents.

¹⁵ Section 7 (f) (1) of the act provides that overtime compensation may be paid at one and one-half times the applicable piece rate but extra overtime compensation must be properly computed and paid on additional pay required to be included in computing the regular rate.

¹⁶ Bonus of \$2 divided by 50 hours equals 4 cents an hour. Half of this hourly rate multiplied by 10 overtime hours equals 20 cents.

¹³ See § 777.12 of regulations, Part 777 of this chapter.

¹⁴ See § 778.7 (b) (4) of Interpretative Bulletin, Part 778 of this chapter.

rate other than one of those authorized under § 548.3, he must obtain specific prior approval from the Administrator. For example, if an employer wishes to compute overtime compensation for piece workers for each workweek in a 4-week period at established basic rates which are the straight-time average hourly earnings for each employee for the immediately preceding 4-week period, he should apply to the Administrator for authorization. The application for approval of such a basic rate should be addressed to the Administrator of the Wage and Hour Division, U. S. Department of Labor, Washington 25, D. C. No particular form of application is required but the minimum necessary information outlined in § 548.4 should be included. The application may be made by an employer or a group of employers. If any of the employees covered by the application is represented by a collective bargaining agent a joint application of the employer and the bargaining agent should be filed. It is not necessary to file separate applications for each employee. One application will cover as many employees as will be paid at the proposed basic rate or rates.

(b) Prior approval of the Administrator is also required if the employer desires to use a basic rate or basic rates which come within the scope of a combination of two or more of the paragraphs in § 548.3 unless the basic rate or rates sought to be adopted meet the requirements of a single paragraph in § 548.3. For instance, an employee may receive free lunches, the cost of which, by agreement or understanding, is not to be included in the rate used to compute overtime compensation.²⁷ In addition, the employee may receive an attendance bonus which, by agreement or understanding, is to be excluded from the rate used to compute overtime compensation.²⁸ Since these exclusions involve two paragraphs of § 548.3, prior approval of the Administrator would be necessary unless the exclusion of the cost of the free lunches together with the attendance bonus do not affect the employee's overtime compensation by more than 30 cents a week on the average, in which case the employer and the employee may treat the situation as one falling within a single paragraph, § 548.3 (e).

§ 548.401 *Agreement or understanding.* If the agreement or understanding establishing the basic rate is in writing, whether incorporated in a collective bargaining agreement or not, a copy of the agreement or understanding should be attached to the application. If it is not in writing, however, the application to the Administrator for approval of a basic rate should contain a written statement describing the substance of the agreement or understanding, including the proposed effective date and term of the agreement or understanding. The term of the agreement or understanding may be of definite duration, or may run indefinitely until modified or changed. If an agreement or understanding is mod-

ified a new application for authorization should be made.²⁹

§ 548.402 *Applicable overtime provisions.* The application should also contain a description of the terms of employment relating to overtime so that the Administrator can determine how the established basic rate will be used if it is approved. For instance, if the employees are to be paid time and one-half the basic rate for all hours worked in excess of 35 each workweek, this should be stated in the application. If the employees are to be paid double time for work on Sundays the application should so state.

§ 548.403 *Description of method of calculation.* The established basic rate for which approval will be sought will normally be a formula or method of calculation of a rate rather than a specific dollars and cents rate.³⁰ The application should contain a complete description of the formula or method of calculation of the established basic rate, including any necessary examples which will enable the Administrator to understand how the rate will be computed and applied.

§ 548.404 *Kinds of jobs or employees.* The application should describe or otherwise identify the employees to whom the established basic rate will apply. The individual employees need not be identified by name but may be described in terms of job classification, department, location or other appropriate identifying characteristics.

§ 548.405 *Representative period.* (a) The application must set forth the facts relied upon to show that the established basic rate is substantially equivalent to the average hourly earnings of the employee exclusive of overtime premiums over a representative period of time.³¹ The basic rate will be considered "substantially equivalent" to the average hourly earnings of the employee if, during a representative period, the employee's total overtime earnings calculated at the basic rate in accordance with the applicable overtime provisions are approximately equal to the employee's total overtime earnings computed on his average hourly earnings for each workweek in accordance with section 7 (a) of the act.³²

(b) The length of time constituting a representative period will depend on the factors that cause the employee's average hourly earnings to vary appreciably from week to week. For instance, if the variation in earnings of an employee paid on an incentive basis is due to the difference in availability of work in the slow and

busy seasons the period used for comparison of overtime earnings would have to include both a slow and a busy season in order to be representative. Likewise, if a piece-worker's average hourly earnings vary appreciably from week to week because of differences in materials or styles worked on, the period used for purposes of comparison would have to include work on the different materials and styles in order to be representative.

COMPUTATION OF OVERTIME PAY

§ 548.500 *Methods of computation.* The methods of computing overtime pay on the basic rates for piece workers, hourly rated employees, and salaried employees are the same as the methods of computing overtime pay at the regular rate.

Example 1. Under an employment agreement the basic rate to be used in computing overtime compensation for a piece worker for hours of work in excess of 8 in each day is the employee's average hourly earnings for all work performed during that day.³³ The employee is entitled to one-half the basic rate for each daily overtime hour in addition to the total piece work earnings for the day.

Example 2. An employee's basic rate is his monthly salary divided by the number of regular hours of work in the month.³⁴ If the salary is intended to cover straight-time compensation for a 40 hour week he would be entitled to overtime for every hour after 40 computed on the basis of one and one-half times the established basic rate, in addition to his monthly salary. If the salary is intended to cover a workweek shorter than 40 hours, such as 35 hours, he would be entitled to additional straight-time at the basic rate for the hours between 35 and 40 and also to overtime at one and one-half times that rate for all hours worked in excess of 40 in a week.

§ 548.501 *Overtime hours other than those after 40 a week.* Many employees are paid daily overtime pay or Saturday overtime pay or overtime pay on a basis other than the statutory standard of overtime pay for hours worked in excess of 40 in the workweek. In these cases, the number of hours for which an employee is paid at least one and one-half times an established basic rate must equal or exceed the number of hours worked in excess of 40 in the workweek. However, only overtime hours under the employment agreement which also qualify as overtime hours under section 7 (d) (5), (6) or (7) of the act³⁵ may be offset against the hours of work in excess of 40 in the workweek.

§ 548.502 *Other payments.* Extra overtime compensation must be separately computed and paid on payments such as bonuses or shift differentials which are not included in the computation of the established basic rate and which would have been included in the regular rate of pay.³⁶

Example 1. An employee is paid on an hourly rate basis plus a production bonus, and also a shift differential of 10 cents for each hour worked on the second shift. The

²⁷ See § 548.200 for a further explanation of the requirements as to the agreement or understanding establishing the basic rate.

²⁸ See § 548.200.

²⁹ See §§ 778.4 and 778.5 of Interpretative Bulletin, Part 778 of this chapter, for further discussion of overtime premiums which may be excluded from the regular rate of pay.

³⁰ See §§ 778.6 and 778.8 of Interpretative Bulletin, Part 778 of this chapter, for further discussion of the exclusion of vacation pay, holiday pay, discretionary bonuses and other payments from the average hourly earnings which comprise the employee's regular rate of pay.

³¹ See § 548.302.

³² See § 548.301.

³³ See §§ 778.5 (a) through (f) of Interpretative Bulletin Part 778 of this chapter.

³⁴ Unless specifically excluded by agreement or understanding and prior authorization is obtained from the Administrator. See § 548.400 (b).

³⁵ See § 548.304.

³⁶ See § 548.305.

authorized basic rate under the agreement is the employee's daily average hourly earnings, and under the employment agreement he is paid one and one-half times the basic rate for all hours worked in excess of 8 each day. Suppose his production bonus is included in the computation of the basic rate, but the shift differential is not. In addition to overtime compensation computed at the basic rate the employee must be paid an extra 5 cents for each overtime hour worked on the second shift.

Example 2. A piece worker, under his employment agreement, is paid overtime compensation for daily overtime and for hours of work on Saturday based on an authorized basic rate obtained by averaging his piece work earnings for the half-month. In addition, he is paid a monthly cost-of-living bonus which is not included in the computation of the basic rate. It will be necessary for the employer to compute and pay overtime compensation separately on the bonus.²⁷

This bulletin shall become effective September 5, 1955.

Signed at Washington, D. C., this 29th day of July 1955.

STUART ROTHMAN,
Solicitor of Labor.

[F. R. Doc. 55-6413; Filed, Aug. 5, 1955;
8:51 a. m.]

TITLE 32—NATIONAL DEFENSE

Chapter V—Department of the Army

Subchapter A—Aid of Civil Authorities and Public Relations

PART 518—RECORDS AND REPORTS

UNOFFICIAL RESEARCH

Section 518.5 is revised to read as follows:

§ 518.5 *Unofficial research*—(a) *Research by authorized individuals.* Research in files and records centers by authorized individuals, under the conditions and procedures specified below, is encouraged. Space and facilities will be furnished at the records centers to authorized researchers. No withdrawals of records from records centers will be made for the purpose of unofficial research. When properly cleared as indicated in paragraph (b) of this section, certain civilians (such as social scientists, historians, journalists, and other writers, including writers of unofficial unit histories) will be permitted to examine unclassified records in records centers exclusive of personnel records. Certain classified records may be made available for background purposes of unofficial research to individuals who have been cleared in accordance with paragraph (b) of this section and who have been properly cleared to have access to classified records. The commanding officer of the records center will determine which classified records or documents will be made available to authorized researchers. Before access to classified records in records centers is granted, authorized researchers will be required to furnish signed statements agreeing to abide by special restrictions placed on use of information from classified records.

²⁷ See Interpretative Bulletin, Part 778 of this chapter, § 778.6 (b) for an explanation of how to compute overtime on the bonus.

(b) *Use of interview record.* All applications for permission to examine records will be submitted on DA Form 871 (Application for Permission to Use Official Files and/or Record of Interview of Applicant), to The Adjutant General, Department of the Army, Washington 25, D. C., ATTN: AGCT. The application will indicate:

(1) Purpose of investigation.
(2) Subject to be investigated and, when possible, individual documents to be consulted.

(3) Whether publication or dissemination is intended and, if so, the form or medium of publication or dissemination.

(4) If the applicant is a member or former member of the Armed Forces, his grade and service number.

(5) For an applicant designated to prepare an unofficial unit history, a signed statement from the commanding officer (former commanding officer in the case of nonactive units) of the unit authorizing the applicant to prepare such a history.

(c) *Clearance of applicants.* Clearance of applicants will be for a specified time and will be applicable to a clearly defined research project. Upon approval of an application for permission to examine records, the appropriate records center will be notified of such approval in writing, citing the following:

(1) Name of individual authorized to examine the records.

(2) Description of the subject to be investigated.

(3) The classification category of the records to which access is permitted ("Unclassified", "Confidential", "Secret").

(4) Length of time for which access to records is authorized.

(d) *Conditions on access to files.* Access to records for unofficial research purposes will be subject to the following conditions:

(1) Files will be charged specifically to individuals and will be used only in a reference area to be designated by the head of the records center.

(2) Records will be returned to file at the end of the day.

(3) Papers will not be defaced, damaged, or detached from a file by the researcher.

(4) Arrangement of files for photographic purposes will be the responsibility of appropriate personnel of the records center.

(5) Papers, brief cases, and packages of the researcher will be subject to inspection.

(e) *Reproduction of records.* Reproduction of unclassified records by photographic means may be undertaken at records centers for unofficial purposes. Cost of copy reproduction will be borne by the individual for whom the records are reproduced. Charges for copy reproduction will be made in accordance with prevailing fees.

[AR. 345-230, June 23, 1955] (R. S. 161; 5 U. S. C. 22)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-6382; Filed, Aug. 5, 1955;
8:46 a. m.]

Subchapter B—Claims and Accounts

PART 535—PAYMENT OF BILLS AND ACCOUNTS

PAYMENT UNDER CONTRACTS, FORMAL AND INFORMAL; MISCELLANEOUS AMENDMENTS

Sections 535.6 (g), 535.9 (b) (2), and 535.9a (g) are revised to read as follows:

§ 535.6 *Discounts.* * * *

(g) *Computation of discount where excise tax involved.* Federal excise taxes imposed upon items which are subject to cash discount will be included in the amount on which discount is computed, except in those cases where the contract or other instrument governing the taking of discount specifically provides otherwise and the tax is itemized separately on the invoice. Part 11 of this title contains a list of items on which Federal excise taxes are imposed by the Internal Revenue Code. In addition to such list, the regulation shows the taxes from which exemption is available with respect to sales made for the exclusive use of the United States. If an item is not listed in Part 11 of this title, payment of Federal excise tax should not be made thereon without prior submission of complete details of the transaction to the Chief of Finance, Department of the Army, Washington 25, D. C., Attn: Advisory Services Division, for instructions. Payment of Federal excise tax should not be made on items, where the tax is not shown on the vendor's invoice, even though the tax is listed in Part 11 of this title, as applicable to the United States.

§ 535.9 *Unsatisfactory performance.* * * *

(b) *Liquidated damages.* * * *

(2) *Contract provision.* Except with the permission of the head of the procuring activity concerned (which may be granted with respect to contracts individually or by class), or in accordance with general instructions given by him, no contract shall provide for liquidated damages in the event of default. Where a contract provides for liquidated damages and default takes place, action will be taken as provided in the Armed Services Procurement Regulations (Subchapter A, Chapter 1 of this title), promptly on behalf of the Government to enforce any remedies available under the contract. So far as possible, such action will be taken in such manner as will prevent the inequitable accumulation of liquidated damages. (See § 7.105-5 of this title and § 596.105-5 of this chapter.)

§ 535.9a *Miscellaneous special cases.* * * *

(g) *Subsistence claims.* Claims received from railroad companies and others concerned covering incidental expenses of subsistence incurred by troops while en route, where reimbursement by train commanders is impossible because the organizations have departed for overseas destinations, will be forwarded to the Chief of Finance, Washington 25, D. C., Attn: Advisory Services Division.

[C4, AR 35-3220, July 18, 1955] (R. S. 161; 5 U. S. C. 22)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-6283; Filed, Aug. 5, 1955; 8:46 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

OGEECHEE RIVER, GEORGIA

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), paragraph (h) of § 203.245 is hereby amended revising subparagraph (11) to govern the operation of the Atlantic Coast Line Railroad Company bridge across Ogeechee River near Richmond Hill, Georgia, and prescribing subparagraph (11-a) to govern the operation of the State Highway Department of Georgia bridge across Ogeechee River near Richmond Hill, Georgia, as follows:

§ 203.245 *Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required. * * **

(h) *Waterways discharging into the Atlantic Ocean south of Charleston. * * **

(11) Ogeechee River, Ga. The Atlantic Coast Line Railroad Company bridge near Richmond Hill (Ways Station). At least 24 hours' advance notice required.

(11-a) Ogeechee River, Ga. The State Highway Department of Georgia bridge near Richmond Hill. The draw need not be opened for the passage of vessels, and paragraphs (b) to (e), inclusive, of this section shall not apply to this bridge.

[Regs., 18 July 1955, 823.01 (Ogeechee River, Ga.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-6384; Filed, Aug. 5, 1955; 8:47 a. m.]

PART 203—BRIDGE REGULATIONS

LITTLE BAYOU BLACK, LA.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U. S. C. 499), § 203.245 governing the operation of drawbridges where constant attendance of draw tenders is not required is hereby amended by the addition under paragraph (j) of subparagraph (4-b) prescribing regulations for the Texas and New Orleans Railroad Company bridge

across Little Bayou Black at Southdown, Louisiana, as follows:

§ 203.245 *Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required. * * **

(j) *Waterways discharging into the Gulf of Mexico west of the Mississippi River. * * **

(4-b) Little Bayou Black, La.; Texas and New Orleans Railroad Company bridge at Southdown. The draw need not be opened for the passage of vessels, and the special regulations contained in paragraphs (b) to (e), inclusive of this section shall not apply to this bridge.

[Regs., 15 July 1955, 823.01 (Little Bayou Black, La.)—ENGWO] (Sec. 5, 28 Stat. 362; 33 U. S. C. 499)

[SEAL] JOHN A. KLEIN,
Major General, U. S. Army,
The Adjutant General.

[F. R. Doc. 55-6385; Filed, Aug. 5, 1955; 8:47 a. m.]

TITLE 41—PUBLIC CONTRACTS

Chapter II—Division of Public Contracts, Department of Labor

PART 210—STATEMENTS OF GENERAL POLICY AND INTERPRETATION NOT DIRECTLY RELATED TO REGULATIONS

WALSH-HEALEY PUBLIC CONTRACTS ACT RULINGS AND INTERPRETATIONS NO. 3; ALTERNATIVE METHODS OF COMPUTING OVERTIME

In order to permit an alternate method of computing overtime under the Walsh-Healey Public Contracts Act upon the same basis as that permitted under the Fair Labor Standards Act by virtue of Part 548 (29 CFR Part 548), issued herewith, section 42 (f) (1) of the Walsh-Healey Public Contracts Act, Rulings and Interpretations No. 3, is hereby amended to read as follows:

(f) *Alternative methods of computing overtime.* (1) For employees who are paid piece rates or different hourly rates for different jobs, overtime compensation required by the Public Contracts Act may be computed in accordance with section 7 (f) (1) and (2) of the Fair Labor Standards Act. Also for any employee, regardless of the method of compensation, overtime compensation required by the Public Contracts Act may be computed on the basis of a rate authorized in accordance with section 7 (f) (3) of the Fair Labor Standards Act. Thus the overtime requirements of the Public Contracts Act will be met if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in excess of 8 in any day or in excess of 40 in any workweek (whichever is greater)—

(i) In the case of an employee employed at piece rates is computed at piece rates not less than 1½ times the bona fide piece rates applicable to the same work when performed during non-overtime hours; or

(ii) In the case of an employee performing two or more kinds of work for which

different hourly or piece rates have been established, is computed at rates not less than 1½ times such bona fide rates applicable to the same work when performed during non-overtime hours; or

(iii) In the case of any employee, is computed at a rate not less than 1½ times the rate established by such agreement or understanding as the basic rate to be used in computing overtime compensation thereunder: *Provided:* That the rate so established shall be authorized by regulation by the Administrator as being substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular work over a representative period of time,

and if (1) the employee's average hourly earnings for the workweek exclusive of payments described in (i) through (vii) of subsection (e) (3) above, are not less than the minimum hourly rate required by applicable law and (2) extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the basic rate of pay. The Divisions' interpretation of sections 7 (f) (1) and (2) of the Fair Labor Standards Act is contained in § 778.19 of the Interpretative Bulletin, Part 778 (29 CFR Part 778) on Overtime Compensation issued under that Act. The regulations authorizing established basic rates under section 7 (f) (3) of the Fair Labor Standards Act are set forth in regulations, Part 548 (29 CFR Part 548). In § 548.3 (e) of the regulations (29 CFR Part 548) reference is made to "overtime weeks (in excess of 40 hours)" under the Fair Labor Standards Act. Under the Public Contracts Act "overtime weeks" are weeks in which more than 8 hours are worked in any one day or more than 40 hours are worked in any one week.

This amendment shall become effective 30 days from date of publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 29th day of July 1955.

STUART ROTHMAN,
Solicitor of Labor.

[F. R. Doc. 55-6412; Filed, Aug. 5, 1955; 8:51 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Appendix C—Public Land Orders

[Public Land Order 1198]

[481337]

ARIZONA

PARTIALLY REVOKING EXECUTIVE ORDER OF JANUARY 13, 1915, CREATING PUBLIC WATER RESERVE NO. 24, ARIZONA NO. 3

By virtue of the authority vested in the President by Section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U. S. C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

The Executive order of January 13, 1915, creating Public Water Reserve No. 24, Arizona No. 3, as construed by Department of the Interior Interpretation No. 49 of October 29, 1927, is hereby revoked so far as it affects the following-described lands:

GILA AND SALT RIVER MERIDIAN

T. 39 N., R. 6 E.,

Sec. 17, SE $\frac{1}{4}$;Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 21, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;Sec. 27, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;Sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$.

The areas described aggregate 880 acres.

The NE $\frac{1}{4}$ SE $\frac{1}{4}$, sec. 28, is patented land.

The remaining lands are situated along Soap Creek, approximately 10 miles southwest of Marble Canyon, Arizona. U. S. Highway No. 89 traverses the lands in Section 27. The lands are rolling to rough. The soil is sandy with rocky outcroppings. Vegetation is very sparse and consists of a few native grasses and weeds. The greater portion of lands have only a small grazing value due to the rough topography and soil type.

No application for the restored lands may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

This order shall not otherwise become effective to change the status of the restored lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall become subject to application, petition and selection, subject to valid existing rights, the provisions of existing withdrawals, the requirements of applicable laws, and the 91-day preference-right filing period for veterans and others entitled to preference under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284), as amended.

Veterans' preference-right applications under the said act of September 27, 1944, may be received on or before 10:00 a. m., on the 35th day after the date of this order, and those covering the same lands shall be treated as though simultaneously filed at that time. Applications filed under the act after that time and during the succeeding 91 days shall be considered in the order of filing. Applications by the general public under the public-land laws, including the mineral-leasing laws, received on or before 10:00 a. m. on the 126th day after the date of this order shall be treated as though simultaneously filed at that time, where the applications are for the same lands; otherwise, priority of filing shall govern.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Phoenix, Arizona.

ORME LEWIS,

Assistant Secretary of the Interior.

AUGUST 1, 1955.

[F. R. Doc. 55-6388; Filed, Aug. 5, 1955; 8:48 a. m.]

[Public Land Order 1201]

[Misc. 62869]

WYOMING

REVOKING PUBLIC LAND ORDER 811 OF MARCH 7, 1952, WHICH WITHDREW PUBLIC LANDS AND RESERVED MINERALS IN PATENTED LANDS FOR USE OF THE UNITED STATES ATOMIC ENERGY COMMISSION

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Public Land Order No. 811 of March 7, 1952, withdrawing public lands and the minerals reserved to the United States in patented lands in the following-described areas in Wyoming for use of the United States Atomic Energy Commission, is hereby revoked:

SIXTH PRINCIPAL MERIDIAN

T. 42 N., R. 75 W.,

Secs. 5 and 6.

T. 43 N., R. 75 W.,

Secs. 3 to 12, inclusive;
Secs. 15 to 22, inclusive;
Secs. 28 to 32, inclusive.

T. 44 N., R. 75 W.,

Secs. 31 to 34, inclusive.

T. 42 N., R. 76 W.,

Secs. 1 to 5, inclusive;
Secs. 7 to 11, inclusive;
Secs. 16 to 21, inclusive;
Secs. 29 and 30.

T. 43 N., R. 76 W.,

Secs. 1 to 5, inclusive;
Secs. 8 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 32 to 36, inclusive.

T. 44 N., R. 76 W.,

Secs. 11 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 32 to 36, inclusive.

T. 42 N., R. 77 W.,

Secs. 22 to 27, inclusive.

The areas described, including both public and non-public lands, aggregate approximately 65,343.29 acres, of which approximately 7,520 acres are public lands, and 38,920 acres are patented lands with minerals reserved in the United States.

2. The following lands in the areas described in paragraph 1 of this order are public lands of the United States:

SIXTH PRINCIPAL MERIDIAN

T. 42 N., R. 75 W.,

Sec. 6, lot 7.

T. 43 N., R. 75 W.,

Sec. 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 5, E $\frac{1}{2}$, NW $\frac{1}{4}$;
Sec. 6, lots 1 and 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9, N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 44 N., R. 75 W.,

Sec. 31, SE $\frac{1}{4}$;
Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 42 N., R. 76 W.,

Sec. 10, E $\frac{1}{2}$ E $\frac{1}{2}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, W $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 19, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 43 N., R. 76 W.,

Sec. 5, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, N $\frac{1}{2}$, SE $\frac{1}{4}$;
Sec. 12, N $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 13, NW $\frac{1}{4}$ NW $\frac{1}{4}$;

T. 43 N., R. 76 W., cont.

Sec. 14, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;Sec. 15, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$;Sec. 22, N $\frac{1}{2}$ NE $\frac{1}{4}$;Sec. 24, SW $\frac{1}{4}$.

T. 44 N., R. 76 W.,

Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 14, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 15, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 22, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 23, NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 25, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 26, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 32, E $\frac{1}{2}$;
Sec. 33, W $\frac{1}{2}$;
Sec. 35, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 42 N., R. 77 W.,

Sec. 22, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 23, W $\frac{1}{2}$;
Sec. 24, NE $\frac{1}{4}$;
Sec. 27, S $\frac{1}{2}$.

3. The following lands in the areas described in paragraph 1 of this order have been patented, with a reservation of the minerals to the United States:

SIXTH PRINCIPAL MERIDIAN

T. 42 N., R. 75 W.,

Sec. 5;

Sec. 6, all, except lot 7.

T. 43 N., R. 75 W.,

Sec. 3, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 7, N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, E $\frac{1}{2}$;
Sec. 9, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, E $\frac{1}{2}$;
Sec. 11, E $\frac{1}{2}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Secs. 12 and 15;
Sec. 17, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 18, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 19, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;
Sec. 21, E $\frac{1}{2}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Secs. 22, 28 and 29;
Sec. 30, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 31;
Sec. 32, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 44 N., R. 75 W.,

Sec. 31, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 32, E $\frac{1}{2}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 34, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 42 N., R. 76 W.,

Sec. 1;
Sec. 2, E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 3, N $\frac{1}{2}$;
Sec. 4, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 5, E $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;
Sec. 7, N $\frac{1}{2}$;
Sec. 8;
Sec. 10, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 11, NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 17, W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 18, S $\frac{1}{2}$;
Sec. 19, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 20, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 30, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$.

T. 43 N., R. 76 W.,

Sec. 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 2, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Secs. 3 and 4;
Sec. 5, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, N $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 9, SW $\frac{1}{4}$;
Sec. 10, E $\frac{1}{2}$;
Sec. 11;
Sec. 12, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;

Sec. 13, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
 Sec. 14, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
 S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 15, E $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 17, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 21, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
 Sec. 22, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 23, N $\frac{1}{2}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 24, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;
 Sec. 25, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 26, NE $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 27;
 Sec. 28, N $\frac{1}{2}$;
 Sec. 29, E $\frac{1}{2}$;
 Sec. 32, S $\frac{1}{2}$;
 Sec. 33, N $\frac{1}{2}$;
 Sec. 34, N $\frac{1}{2}$;
 Sec. 35.

T. 44 N., R. 76 W.

Sec. 11, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$
 SE $\frac{1}{4}$;
 Sec. 12, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 13, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 14, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$
 SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 21, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 22, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$;
 Sec. 23, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, E $\frac{1}{2}$ E $\frac{1}{2}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 25, NW $\frac{1}{4}$;
 Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 27;
 Sec. 28, W $\frac{1}{2}$;
 Sec. 32, SW $\frac{1}{4}$;
 Sec. 33, SE $\frac{1}{4}$;
 Sec. 34, W $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$,
 S $\frac{1}{2}$ SE $\frac{1}{4}$;
 T. 42 N., R. 77 W.
 Sec. 22, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 24, E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 25, N $\frac{1}{2}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 26, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$
 SE $\frac{1}{4}$;
 Sec. 27, N $\frac{1}{2}$.

4. The remaining lands in the areas described in paragraph 1 of this order, other than those described in paragraphs 2 and 3, are State or other non-public lands, and are not subject to appropriation under the public-land laws or the mining laws.

5. The public lands released from withdrawal are located approximately 25 miles east of Kaycee, Wyoming. The topography varies from nearly level to rough. Soils vary from clay to sandy clay loam and are generally unsuited to crop production. These soils support a mixture of grass and sagebrush and for the most part the vegetation is in good condition.

6. No application for the lands described in paragraph 1 may be allowed under the homestead, desert-land, small tract, or any other nonmineral public-land law unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon the consideration of an application. Any application that is filed will be considered on its merits. The lands will not be subject to occupancy or disposition until they have been classified.

7. Subject to any existing valid rights, the provisions of any existing withdrawals, and to the requirements of applicable law, the lands released from withdrawal by this order are hereby opened to filing of applications, selections, and locations in accordance with the following:

(a) Applications and selections under the nonmineral public-land laws and applications and offers under the mineral-leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications under the Homestead, Desert Land, and Small Tract Laws by qualified veterans of World War II or the Korean conflict, and by others entitled to preference rights under the act of September 27, 1944 (58 Stat. 747; 43 U. S. C. 279-284) as amended, presented prior to 10:00 a. m. on August 18, 1955, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a. m. on November 17, 1955 will be governed by the time of filing.

(3) All valid applications and selections under the nonmineral public-land laws, other than those coming under sub-paragraphs (1) and (2) above, and applications and offers under the mineral-leasing laws, presented prior to 10:00 a. m. on November 17, 1955, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

(b) The vacant public lands described in paragraph 2, and the reserved minerals in the patented lands described in paragraph 3 will be open to location under the United States mining laws, beginning at 10:00 a. m. on November 17, 1955. Mining locations made prior to that time are invalid.

8. Persons claiming veterans' preference rights under paragraph 7 (a) (2) above must enclose with their applications proper evidence of military or naval service, preferably a complete photostatic copy of the certificate of honorable discharge. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries regarding the lands shall be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyoming.

ORME LEWIS,
 Assistant Secretary of the Interior.

AUGUST 4, 1955.

[F. R. Doc. 55-6419; Filed, Aug. 5, 1955;
 8:53 a. m.]

TITLE 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Rules Amdt. 2-3; FCC 55-832]

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

LAWS, TREATIES, AGREEMENTS AND ARRANGEMENTS RELATING TO RADIO

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of July 1955:

The Commission having under consideration § 2.601 of Part 2 of its Rules and Regulations; and

It appearing, that the proposed changes are not substantive and do not in any way affect the requirements of any of the Commission's Rules and Regulations; and

It further appearing, that because of the informational nature of the proposed changes, notice and public procedure thereon as prescribed by section 4 (a) of the Administrative Procedure Act is unnecessary, and that this order may be made effective immediately for the same reasons; and

It further appearing, that authority for this action is contained in sections 4 (i) and 303 (r) of the Communications Act of 1934, as amended.

It is ordered, That, effective immediately, Part 2 of the Commission's Rules and Regulations is amended as set forth below.

(Sec. 4, 48 Stat. 1066 as amended; 47 U. S. C. 154. Interprets or applies sec. 303, 48 Stat. 1082 as amended; 47 U. S. C. 303)

Released: July 29, 1955.

FEDERAL COMMUNICATIONS
 COMMISSION,

[SEAL] MARY JANE MORRIS,
 Secretary.

1. Part 2 is amended by replacing the existing text of § 2.601 with the text below:

§ 2.601 *Laws, Treaties, Agreements and Arrangements Relating to Radio.*

(Corrected to July 1, 1955. Unless otherwise indicated, copies of these documents listed below may be obtained from the Government Printing Office, Washington 25, D. C.)

(a) The applicable Federal Laws, International Treaties, Agreements, and Arrangements in force relating to radio and to which the United States of America is a party, are listed below:

Date	Series ¹	Subject	Date	Series ¹	Subject
1925	T. S. 724-A-----	Arrangements between the United States, Great Britain, Canada, and Newfoundland. Entered into force Sept. 1, 1925. (Not available at the Government Printing Office.)	1946	TIAS 1553-----	North American Regional Broadcasting (NARBA) Interim Agreement between the United States and Other Governments (Modus Vivendi). Signed at Washington, D. C., Feb. 25, 1946. Entered into force Mar. 29, 1946. (See T. S. 8, 962 and E. A. S. 227.) Amended by an Arrangement between the United States and Canada concerning Engineering Standards Applicable to the Allocation of Standard Broadcasting Stations (540-1600 kc) (TIAS 1802 which entered into force Apr. 1, 1948). (Not available at the Government Printing Office.)
1928 and 1929	T. S. 767-A-----	Arrangement between the United States and the Dominion of Canada governing radio communication between private experimental stations. Entered into force Jan. 1, 1929. (This Arrangement is continued by the Arrangement contained in E. A. S. 62. (Not available at the Government Printing Office.)	1947	TIAS 1652-----	Northern Ireland concerning Telecommunication Standardization of Distance Measuring Equipment. Signed at Washington, D. C., Oct. 13, 1947. Entered into force Oct. 13, 1947. (Not available at the Government Printing Office.)
1929	T. S. 777-A-----	Arrangement between the United States, Canada, Cuba, and Newfoundland relating to assignment of high frequencies on the North American Continent. Entered into force Mar. 1, 1929. (Cuba ceased to be a party by virtue of notice to the Canadian Government of Oct. 5, 1933.) Arrangement still in force with respect to the United States and Canada (including Newfoundland). (Not available at the Government Printing Office.)	1947	TIAS 1670-----	Interim Arrangement between the United States and Canada with respect to Mobile Radio Transmitting Stations. Entered into force Aug. 20, 1947. (Not available at the Government Printing Office.)
1934	E. A. S. 62-----	Communications Act of 1934, as amended.	1947	TIAS 1676-----	Agreement between the United States and the United Nations relative to headquarters of the U. N. Signed at Lake Success, June 26, 1947. Entered into force Nov. 21, 1947, by an exchange of notes between the United States Representative to the United Nations and the Secretary-General of the U. N. (The provisions of this Agreement were also made Public Law 357 of the 80th Congress, approved Aug. 4, 1947.) (Not available at the Government Printing Office.)
1934	E. A. S. 63-----	Arrangement between the United States and Peru concerning radio communications between amateur stations on behalf of third parties. Entered into force May 23, 1934. (Not available at the Government Printing Office.)	1947	TIAS 1726-----	Agreement between the United States and Canada providing for Frequency Modulation Broadcasting in channels in the r. f. band 88-108 Mc. Entered into force Oct. 15, 1947. (Not available at the Government Printing Office.)
1934	E. A. S. 72-----	Arrangement between the United States and Chile relative to radio communications between amateur stations on behalf of third parties. Entered into force Aug. 2, 1934. (Not available at the Government Printing Office.)	1947	TIAS 1901-----	International Radio Regulations. Signed at Atlantic City, Oct. 2, 1947. Entered into force Jan. 1, 1949, except for those Radio Regulations enumerated in Article 47. However, the effective date provisions of the Radio Regulations Article 47 have been superseded by the provisions of the Agreement signed at the Extraordinary Administrative Radio Conference, Geneva, 1931. (This printing contains also the International Telecommunication Convention, Atlantic City, 1947, which is entered into force by the International Telecommunication Convention, Atlantic City, 1947. The printing does not contain the Additional Radio Regulations since the United States has not yet ratified the Additional Radio Regulations.)
1937	E. A. S. 109-----	Arrangement between the United States and Canada relating to the exchange of information concerning issuance of radio licenses. Entered into force Mar. 2, 1937. Signed Mar. 2 and Aug. 17, 1937. Entered into force Sept. 8, 1937. This Agreement was largely superseded by the notification procedure established in the NARBA (T. S. 962, E. A. S. 227, and TIAS 1553) and under the Inter-American Radio Communications Convention (T. S. 938). (Not available at the Government Printing Office.)	1948	TIAS 1802-----	Arrangement between the United States and Canada concerning Radio Broadcasting Engineering Standards Applicable to the Allocation of Standard Broadcasting Stations (540-1600 kc). Entered into force Apr. 1, 1948. (Not available at the Government Printing Office.)
1937	T. S. 938-----	Inter-American Radio Communications Convention between the United States and Other Powers. Signed at Havana, Dec. 13, 1937 (First Inter-American Conference). Entered into force Apr. 17, 1939. (Not available at the Government Printing Office.)	1948	TIAS 2495-----	International Convention for the Safety of Life at Sea and Annexed Regulations. Signed at London June 10, 1948. Entered into force Nov. 19, 1952.
1937	T. S. 962-----	North American Regional Broadcasting Agreement (NARBA) between the United States, Cuba, Dominican Republic, Haiti, and Mexico. Signed at Habana, Dec. 13, 1937. Entered into force Mar. 29, 1941. E. A. S. 227 and TIAS 1553 supplement this Agreement. (Not available at the Government Printing Office.)	1949	TIAS 2175-----	Telegraph Regulations (Paris Revision, 1949), annexed to the International Telecommunication Convention and Final Protocol to the Telegraph Regulations. Signed at Paris Aug. 5, 1949. Entered into force with respect to the United States Sept. 26, 1950.
1938	T. S. 949-----	Regional Radio Convention between the United States (in behalf of the Canal Zone) and Other Powers. Signed at Guatemala City, Dec. 8, 1938. Entered into force Oct. 8, 1939. (Not available at the Government Printing Office.)	1949	TIAS 2435-----	Agreement between the United States and Certain British Commonwealth Governments regarding Telecommunications. Signed at London, Aug. 12, 1949. Entered into force Feb. 24, 1950. This Agreement was amended by TIAS 2705 which was signed Oct. 1, 1952.
1938	E. A. S. 136-----	Arrangement between the United States and Canada relative to Radio Broadcasting. Entered into force Mar. 29, 1940. (Not available at the Government Printing Office.)	1949	TIAS 2489-----	Inter-American Radio Agreement between the United States and Canada and Other American Republics. (Fourth Inter-American Radio Conference.) Signed at Washington, D. C., July 9, 1949. Entered into force Apr. 13, 1952, subject to the provisions of Article 13.
1938	E. A. S. 142-----	Agreement between the United States and Canada concerning Radio Communications. Entered into force Nov. 1, 1938. (Not available at the Government Printing Office.)	1950	TIAS 2433-----	Arrangement between the United States and Ecuador concerning Radio Communications between Amateur Stations on Behalf of Third Parties. Entered into force by exchange of notes signed at Quito, Mar. 16 and 17, 1950. Entered into force Mar. 17, 1950.
1939	E. A. S. 143-----	Arrangement between the United States and Canada concerning the Use of Radio for Civil Aeronautical Services. Entered into force by exchange of notes signed Feb. 20, 1939. Entered into force Feb. 20, 1939. (Not available at the Government Printing Office.)	1951	TIAS 2223-----	Agreement between the United States and Liberia regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Entered into force by exchange of notes signed at Monrovia Nov. 9, 1950, and Jan. 8, 9 and 10, 1951. Entered into force Jan. 11, 1951.
1940	E. A. S. 196-----	Agreement between the United States and Mexico with regard to Broadcasting. Entered into force by exchange of notes signed Aug. 24, 28, and 29, 1940. Entered into force Mar. 29, 1941. (Not available at the Government Printing Office.)	1951	TIAS 2508-----	Treaty with Canada relating to Mutual Recognition by the United States and Canada of Certain Radio Stations and Operator Licenses issued in either country. Signed at Ottawa Feb. 8, 1951. Entered into force May 15, 1952.
1941	E. A. S. 227-----	Supplementary North American Regional Broadcasting Agreement signed at Washington, D. C., Jan. 30, 1941. Entered into force Mar. 29, 1941. (See T. S. 962 and TIAS 1553.) (Not available at the Government Printing Office.)	1951	TIAS 2259-----	Agreement between the United States and Ceylon concerning the Use of Facilities of Radio Ceylon. Entered into force by exchange of notes signed at Colombo May 12 and 14, 1951. Entered into force May 14, 1951.
1944	E. A. S. 400-----	Agreement between the United States and Canada regarding Construction and Operation of Radio Broadcasting Stations in Northwestern Canada. Entered into force Jan. 17, 1944. (Not available at the Government Printing Office.)			
1946	TIAS 1827-----	Agreement between the United States and the Union of Soviet Socialist Republics on Organization of Commercial Radio Telephony Communication Channels. Signed at Moscow, May 24, 1946. Entered into force May 24, 1946. (Not available at the Government Printing Office.)			

² In addition, certain Resolutions and Recommendations were adopted by a number of countries, members of the International Telecommunication Union Region 2 at Washington, D. C., on July 9, 1949. (Not available at the Government Printing Office. Available from the International Telecommunication Union, Geneva, Switzerland.)

¹ T. S.—Treaty Series. E. A. S.—Executive Agreement Series. TIAS—Treaties and other International Acts Series.

Date	Series 1	Subject
1937	E. A. S. 200-----	Inter-American Arrangement concerning Radiocommunications and Annex. Signed at Habana Dec. 13, 1937. Entered into force July 1, 1938. This Arrangement was replaced by the Inter-American Agreement concerning Radiocommunications signed at Santiago Jan. 26, 1940 (E. A. S. 231). (Not available at the Government Printing Office.)
1938	T. S. 948-----	General Radio Regulations (Cairo Revision, 1938) and Final Radio Protocol (Cairo Revision, 1938) annexed to the International Telecommunication Convention of Madrid, 1932. Superseded by the Radio Regulations (Atlantic City, 1947) annexed to the International Telecommunication Convention. Entered into force Sept. 1, 1939. (Not available at the Government Printing Office.)
1940	E. A. S. 231-----	Inter-American Radio Communications Agreement between the United States, Canada, and Other American Republics. (Second Inter-American Radio Conference), Signed at Santiago Jan. 26, 1940. Entered into force with respect to the United States June 26, 1941. Replaced by the Inter-American Radio Agreement signed at Washington, D. C., July 9, 1949. (Not available at the Government Printing Office.)
1947	TIAS 1901-----	International Telecommunication Convention. Signed at Atlantic City, Oct. 2, 1947. Entered into force Jan. 1, 1949. Superseded by the International Telecommunication Convention signed at Buenos Aires, Dec. 22, 1952. (This printing contains also the Radio Regulations and other documents still in force.) (Not available at the Government Printing Office.)

¹ T. S.—Treaty Series. E. A. S.—Executive Agreement Series. TIAS—Treaties and other International Acts Series.

(c) The following agreement has been signed by the United States and is included because of its importance or of the imminence of its effective date:

Date	Series 1	Subject
1950	-----	North American Regional Broadcasting Agreement (NARBA) between the United States, Canada, Cuba, Dominican Republic, United Kingdom of Great Britain and Northern Ireland for the Territories in the North American Region (Bahama Islands and Jamaica). Signed at Washington, D. C., Nov. 18, 1950. Agreement will enter into force subsequent to ratification or adherence of at least three of the following four countries, in accordance with Part III, Paragraph 1, of the Agreement: Canada, Cuba, Mexico and the United States. Subject to ratification procedure in the United States. (Not available at the Government Printing Office. Available from the Department of State Telecommunications Division, Washington 25, D. C.)

¹ TIAS—Treaties and other International Acts Series.

(d) There are, in addition to the foregoing, certain treaties, agreements, or arrangements primarily concerned with matters other than the use of radio but which affect the work of the Federal Communications Commission, insofar as they involve communications. Among the most important of these are the following:

Date	Series 1	Subject
1944	TIAS 1591-----	International Civil Aviation Convention. ² Signed at Chicago, Dec. 7, 1944. Entered into force Apr. 4, 1947.
1946 to present	-----	ICAO Regional Air Navigation Meetings, Communications Committee Final Reports. ³
1946	-----	ICAO Communication Division, Second Session, Montreal. ⁴
1949	-----	ICAO Communication Division, Third Session, Montreal. ⁴
1951	-----	ICAO Communication Division, Fourth Session, Montreal. ⁴
1954	-----	ICAO Communication Division, Fifth Session, Montreal. ⁴

¹ TIAS—Treaties and other International Acts Series.

² Not available at the Government Printing Office. Available from the Secretary General of ICAO, International Aviation Building, 1050 University St., Montreal, Canada.

[F. R. Doc. 55-6274; Filed, Aug. 5, 1955; 8:48 a. m.]

Date	Series 1	Subject
1951	TIAS 2366-----	Agreement between the United States and Mexico which assigns Television Frequency Channels to Cities within 250 Miles of the United States-Mexico Border. Effected by exchange of notes signed at Mexico Aug. 10, and Sept. 26, 1951. Entered into force Sept. 26, 1951. (TIAS 2366 is amended by TIAS 2654 which was signed at Mexico City June 4 and 25, 1952.)
1951	TIAS 2459-----	Agreement between the United States and Cuba concerning the Control of Electromagnetic Radiation. Effected by exchange of notes signed at Habana Dec. 10 and 18, 1951. Entered into force Dec. 18, 1951.
1951	TIAS 2753-----	Agreement signed at the Extraordinary Administrative Radio Conference to bring into force the Table of Frequency Allocations and other provisions of the Radio Regulations (Atlantic City, 1947) not brought into force Jan. 1, 1949. Signed at Geneva, Dec. 3, 1951. Entered into force Mar. 1, 1952.
1952	TIAS 2620-----	Agreement between the United States and Cuba regarding Radio Communications between Amateur Stations on Behalf of Third Parties. Effected by exchange of notes signed at Habana, Sept. 17, 1951, and Feb. 27, 1952. Entered into force Feb. 27, 1952.
1952	TIAS 2548-----	Agreement between the United States and Denmark regarding the Registration of Frequencies Used in Greenland by United States Authorities. Effected by exchange of notes signed at Washington, D. C., Mar. 25 and Apr. 4, 1952. Entered into force Apr. 4, 1952.
1952	TIAS 2594-----	Agreement between the United States and Canada which assigns Television Frequency Channels to Cities within 250 Miles of the United States-Canadian Border. Effected by exchange of notes signed at Ottawa Apr. 23, 1952, and June 23, 1952. Entered into force June 23, 1952. (Not available at the Government Printing Office.)
1952	TIAS 2654-----	Amendment to TIAS 2366. Amends the Agreement between the United States and Mexico on the Allocation of Television Channels Along the United States-Mexican Border. Signed at Mexico June 4 and 25, 1952. Entered into force June 25, 1952.
1952	TIAS 2666-----	Agreement between the United States and Canada for the Purpose of Promoting Safety on the Great Lakes by Means of Radio. The Agreement applies to vessels of all countries as provided for in Article 3. Signed at Ottawa, Feb. 21, 1952. Ratifications exchanged at Washington, D. C., Nov. 13, 1952. Entered into force Nov. 13, 1954. (Not available at the Government Printing Office.)
1952	TIAS 2701-----	Agreement between the United States and Haiti regarding Short Range Aid to Navigation. Effected by exchange of notes signed at Port-au-Prince Aug. 22 and 29, 1952. Entered into force Aug. 29, 1952.
1952	TIAS 2705-----	London Revision (1952) of the London Telecommunication Agreement (1949) between the United States and Canada and Certain British Commonwealth Governments. Signed at London Oct. 1, 1952. Entered into force Oct. 1, 1952. This amends the agreement contained in TIAS 2435 signed at London Aug. 12, 1949.
1952	-----	International Telecommunication Convention. Signed at Buenos Aires, Dec. 22, 1952. Entered into force with respect to the United States June 27, 1955. (Not available at the Government Printing Office. Available from the International Telecommunication Union, Geneva, Switzerland.)

¹ T. S.—Treaty Series. E. A. S.—Executive Agreement Series. TIAS—Treaties and other International Acts Series.

(b) In addition, the United States of America is bound by certain treaties and agreements which are generally considered as superseded because some of the contracting countries other than the United States did not become a party to subsequent treaties and agreements. The United States is, in such instances, bound by the older agreement with respect to its relations with those particular countries. These include the following:

Date	Series 1	Subject
1912	T. S. 581-----	International Radiotelegraph Convention. Final Protocol and Service Regulations. Signed at London, July 3, 1912. Entered into force July 1, 1913. (Not available at the Government Printing Office.)
1927	T. S. 767-----	International Radiotelegraph Convention and General Regulations. Signed at Washington, D. C., Nov. 25, 1927. Entered into force Jan. 1, 1929. (Not available at the Government Printing Office.)
1932	T. S. 867-----	International Telecommunication Convention, General Radio Regulations annexed to the International Telecommunication Convention. Signed at Madrid Dec. 9, 1932. Entered into force Jan. 1, 1934. (Not available at the Government Printing Office.)

¹ T. S.—Treaty Series. International Acts Series.

E. A. S.—Executive Agreement Series. TIAS—Treaties and other International Acts Series.

PROPOSED RULE MAKING

DEPARTMENT OF LABOR

Public Contracts Division

[41 CFR Part 202]

BITUMINOUS COAL INDUSTRY

NOTICE OF PROPOSED DETERMINATION OF PREVAILING MINIMUM WAGES

This matter is before the Department pursuant to the act of June 30, 1936, as amended (49 Stat. 2036; 41 U. S. C. sec. 35 et seq.), entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States and for other purposes," and known as the Walsh-Healey Public Contracts Act. It arises upon the petition of the United Mine Workers of America (hereinafter referred to as UMWA), the Pittsburgh Consolidation Coal Company, and the Pocahontas Fuel Company (all three hereinafter referred to as petitioners), dated December 15, 1954, for the determination of prevailing minimum wages for persons employed in the Bituminous Coal Industry in the performance of contracts subject to the act.

Petitioners requested the determination of minimum wages varying from \$2.015 to \$2.346 per hour for ten separate geographical areas. They also urged that the Industry be defined as that industry which produces or furnishes all coal except Pennsylvania anthracite.

General. Notice of a hearing in this matter to be held February 1, 1955 was published in the FEDERAL REGISTER on January 1, 1955.¹ A copy of the notice was contained in a press release issued on December 30, 1954.

This notice and release advised interested persons of the time and place at which they could appear and offer testimony: (1) as to what are the prevailing minimum wages in the Bituminous Coal Industry; (2) as to the propriety of the proposed definition of this Industry; and (3) as to whether a single determination applicable for all of the areas in which the Industry operates, or a separate determination for each of several different smaller geographical areas (including the appropriate limits of such areas), should be determined for this Industry. The notice particularly invited information with respect to the subject matter of the testimony as to (1) the number of workers covered in the presentation; (2) the numbers and location of establishments and annual tonnage of coal produced; (3) minimum wages paid and the number of workers receiving such wages and the occupations in which these workers are found; and (4) the extent to which there is competition in this industry between different plants in different geographical areas. The notice also stated that "To the extent possible, data should be submitted in such a manner as to permit evaluation thereof on a plant by plant basis."

Pursuant to the notice, a hearing was held beginning February 1, 1955, at

Washington, D. C. The hearing was concluded on February 26, 1955. The record remained open until April 29, 1955, to permit the filing of additional material and briefs. Representatives of employees and employers appeared at the hearing to present evidence and testimony. In addition to the petitioners, coal companies and associations from Virginia, Pennsylvania, Kentucky, Tennessee, Alabama, Indiana, Colorado and Illinois were represented at the hearing. The Honorable Carl Elliot appeared and offered testimony on behalf of the Seventh Congressional District of Alabama. The Department of Labor presented evidence with respect to Government coal procurement practices.

At the hearing and in briefs filed subsequent to the hearing, various legal objections were raised with respect to this proceeding.

"Open Market" Exemption. It has been asserted that I have no jurisdiction to fix a minimum wage applicable to the Bituminous Coal Industry because contracts for the purchase of bituminous coal are exempt from the act's requirements. This assertion is grounded on a challenge of the Department's interpretation that the "open market" purchase exemption contained in section 9 of the act applies only: "Where the contracting officer is authorized by the express language of a statute to purchase 'in the open market,' or where a purchase of articles, supplies, materials, or equipment either in being or virtually so, is made without advertising for bids under circumstances bringing such purchases within the exemption to the General Purchase Statute, R. S. 3709, that is, where immediate delivery is required by public exigency." (Section 201.2 (a), General Regulations under the Walsh-Healey Public Contracts Act, 41 CFR 201.2 (a).)

I do not consider this matter properly raised in this proceeding. The purpose of the hearing was to determine the terms of the wage stipulation in those Government procurement contracts for bituminous coal subject to the act. The notice of hearing did not undertake to place in issue the question of whether particular contracts might be exempt from the requirements of the act by force of the "open market" or any other exemption. This issue can only be decided on a case by case basis, depending on the terms and circumstances of particular contracts.

Procedural objections. Irregularities in the administrative proceedings have been alleged which are asserted as grounds for preventing a valid determination on the present record. They consist of alleged insufficient advance notice of hearing and insufficiency of the notice itself.

The first public announcement that proceedings to make a determination would be instituted were contained in a press release issued on December 17, 1954.² On December 30, 1954, a second

release was issued announcing a hearing to be held in Washington, D. C., on February 1, 1955.³ The notice of hearing was published in the FEDERAL REGISTER on January 1, 1955. When the hearing convened on February 1, various parties for the first time requested that the hearing be postponed.⁴ Notwithstanding that this request was not timely made, the Hearing Officer suspended the hearings on February 4, 1955, for 10 days in order to grant further time for various parties to prepare their cases.⁵ The hearing was not concluded until February 26, ten weeks after the notice was issued.

That ample time and full opportunity were given all interested parties to gather and present relevant data is clearly demonstrated by the extensive presentations of the very parties who object to the adequacy of advance notice. Of the nearly 2,000-page transcript of testimony, an extensive portion is devoted to the presentation of direct evidence and cross-examination by these parties. They asked for and were granted additional time to gather statistical data and did in fact submit such data for consideration. Under these circumstances, their contention of insufficient advance notice is without merit.

With respect to the sufficiency of the notice itself, it is asserted that interested parties were not fairly apprised of the issues involved so that they might present relevant data or argument.

Although objection to the sufficiency of notice is allegedly based upon the requirements of section 4 (a) of the Administrative Procedure Act (5 U. S. C. 1003 (a)) with respect to rule-making, many of the supporting arguments are more appropriate to an adjudicatory proceeding. It is argued that parties opposing a determination were hampered in preparing their cases because they were not given advance notice as to the exact position parties favoring a wage determination would take at the hearing and the nature and amount of evidence these parties would present.

Under section 4 (a) of the Administrative Procedure Act, the notice of hearing is required to set forth " * * * either the terms or substance of the proposed rule or a discussion of the subject and such issues involved."

The subject matter of the proposed rule-making is plainly described in the notice as "the determination of the prevailing minimum wage for the Bituminous Coal Industry." The basic issues are clearly set forth as what the prevailing wages in the Industry are, the propriety of the proposed definition of the Industry, and whether separate determinations should be made for different geographic areas and the appropriate limits of such areas. Certainly the notice "sufficiently alerted" interested parties that any "data, views, and argument" pertinent to the determination

¹ Government Exhibit 3.

² T. 11.

³ T. 448.

⁴ See 20 F. R. 5.

⁵ T. 1794.

would be considered. See *City of Dallas v. Civil Aeronautics Board*, 221 F. 2d 501.

Nothing in the Administrative Procedure Act contemplates that the notice mention the details of the evidence which will be introduced. Particularly in rule-making, as distinguished from adjudication, some generality in the notice is necessary. Since the Walsh-Healey Act directs the Secretary of Labor to determine the prevailing minimum wages "on the record after an opportunity for a hearing" it would, indeed, be inconsistent with the statutory direction to attempt to give a detailed specification in the advance notice, of every consideration that might have a bearing on the determination.

Under section 4 of the Administrative Procedure Act, all interested parties were entitled to notice of "a description of the subjects and issues involved" in the proceeding, and such notice was given. The fact that the notice went beyond this requirement and also set forth the general position that certain parties would take at the hearing can hardly be considered as having prejudiced those opposing the determination in preparation of their own cases.

Prejudgment. It is also asserted that I have prejudged this proceeding, thereby precluding an impartial determination upon the record. The ground alleged for this assertion is that on February 26, 1955, the Advisory Committee on Energy Supplies and Resources Policy, of which I am a member, made, among others, the following recommendations with respect to the coal industry: "The Secretary of Labor under the Walsh-Healey Act should pursue his present policy of making determinations of wage standards at the earliest practicable date."

It is argued that my membership on this Committee and this recommendation make it clear that I had determined even before the hearings were concluded that a wage determination would be made for the Bituminous Coal Industry, irrespective of the nature of the record.

I do not consider this assertion justified on the basis of anything in the report of the Advisory Committee. The initiation of any wage determination proceeding is invariably preceded by a policy decision that a wage determination may be in order. The actual determination must be and is made, however, on the basis of the record adduced at the hearing. There is nothing in the Advisory Committee's report to justify the inference that I should or would proceed other than in accordance with law. The suggestion that I have prejudged the issues involved in this case is accordingly rejected.

Conflict with existing employment contracts. The Stearns Coal and Lumber Company, Somerset, Kentucky, argues that any determination providing rates in excess of those contained in its collective bargaining agreement "would be contrary to the spirit of the Labor-Management Relations Act, would have

a tendency to impair the present contract, unlawfully confiscate its property, and deprive the Stearns Coal and Lumber Company of its equal rights as guaranteed by the Constitution."

Wage determinations have no retroactive effect. They do not apply to contracts in being and, in fact, first begin to apply to contracts some weeks after the final determination is issued. Neither the Stearns Coal and Lumber Company nor any other company has a vested right to do business with the Federal Government (see *Perkins v. Lukens Steel Co.*, 310 U. S. 113). The assertion that a wage determination would violate its constitutional rights is accordingly without merit. The terms of the Company's employment agreement, whether arrived at through collective bargaining or otherwise, cannot nullify the valid wage requirements of the Walsh-Healey Act.

Definition of the industry. The notice of hearing directs attention to a proposal that the Bituminous Coal Industry be defined as "that industry which produces or furnishes all coal except Pennsylvania anthracite."

The petitioners testified in support of the proposed definition, and indicated that it is intended to include lignite.⁹ There was no testimony in opposition to the proposed definition. However, the term "bituminous coal" is sometimes used as not including lignite (e. g., in the Federal Safety Code for Bituminous Coal and Lignite; and U. S. Bureau of Mines' survey "Bituminous Coal and Lignite in 1953," Government Exhibit 7).

It appears that the words "including lignite," inserted after the words "all coal" would make it clear that lignite is intended to be included within the definition.

Wage and other data in the record apply to mines and to related operations in tipples, preparation plants, and loading ramps, whether these facilities are operated by the mine or by an independent company.¹⁰ There are no wage or other data, however, for the Great Lakes and tidewater docks, and the record contains no information leading to the conclusion that such Great Lakes or tidewater docks have ever been considered to be part of the Bituminous Coal Industry.

After full consideration of the record I find that the following definition is appropriate for the purpose of this proposal: The Bituminous Coal Industry is defined as that industry which produces or furnishes all coal (including lignite) except Pennsylvania anthracite. "Produces or furnishes" includes mining or other extraction, and the loading, screening, sizing, washing, oiling and other preparation for market of bituminous coal, and activities incidental to these operations. The term "preparation for market" does not include any activities performed at Great Lakes or tidewater docks.

Need for a determination. Government coal purchases have steadily increased over the past decade. At the present time the Federal Government is

the largest single purchaser of bituminous coal in the United States. In 1954 sales to the Government exceeded 13 million tons. This compares with an estimated total output in the continental United States of about 391 million tons. It is predicted, furthermore, that Government purchases will be substantially increased in coming years, with the result that Government purchases will have an increasingly important influence on the economic conditions of the industry.¹¹

Under the system of competitive bidding adhered to by the Government, the various contracting agencies must accept the lowest responsible bid. Coal is a highly competitive industry in which wage costs represent a sizeable part of operating costs.¹² In consequence, wage rates, where they are substandard, may result in unfair competitive advantage, contrary to the purpose of the act. The increase in Government coal purchases has brought about a situation where a determination is necessary and desirable in order to carry out the act's purpose " * * * to obviate the possibility that any part of our tremendous national expenditures would go to forces tending to depress wages and purchasing power and offending fair social standards of employment."¹³

Basis of determination. Section 1 (b) of the Walsh-Healey Act authorizes the Secretary of Labor to determine the prevailing minimum wages on either one or more of three bases: For persons employed (1) "on similar work," or (2) "in the particular or similar industries" or (3) in "groups of industries currently operating in the locality in which the materials, supplies, articles or equipment are to be manufactured or furnished under said contract." The notice of hearing in this case called for data as to the prevailing minimum wages in the "particular" industry that produces or furnishes bituminous coal.

In the context of the Act it seems proper to conclude that the phrase "currently operating in the locality" was intended to qualify only groups of industries and does not limit "similar work" or "particular or similar industries." Thus, where a determination, as in the instant case, is made on the basis of the particular industry, there is no requirement in the Act itself that the determination be made on other than an industry-wide basis. Where, however, competitive and other economic factors are such that an industry-wide determination is not required or appropriate to carry out the purposes of the act, wage determinations have been made which recognize area breakdowns of particular industries.

Appropriate geographic areas for a determination. Approximately 456 million tons of bituminous coal were mined in the continental United States in 1953 and about 391 million tons in 1954.¹⁴ The

⁹ T. 289-91, 1501; Government Exhibits 9 and 11; Virginia Operators Exhibit 11.

¹⁰ T. 291.

¹¹ Perkins v. Lukens Steel Company, 310 U. S. 113, 132.

¹² Government Exhibit 7; Virginia Operators Exhibit 11.

¹³ T. 25-6.

¹⁴ T. 288-9, 492, 871, 1089, 1139-40, 1142-3.

*The Chairman of the Committee is the director of the Office of Defense Mobilization. The other members are the Secretaries of State, Treasury, Defense, Justice, Interior, Commerce, and Labor.

Industry is widely distributed, following commercial coal deposits. Producing States in 1953 and 1954 ranged from the Gulf of Mexico to the Great Lakes and the Canadian border and from the Atlantic to the Pacific. However, the bulk of production is concentrated in the Appalachian area, with very substantial production also in Illinois, Indiana, Ohio, western Kentucky and Colorado, and with smaller amounts of production reported in each year for 14 other States.

Bituminous coal deposits vary widely in character as to volatility, ash, sulphur and moisture content, and other properties that affect the desirability of coal for particular uses. Bituminous coal is notably bulky, with transportation costs in consequence strongly affecting the marketing patterns of the Industry.

In order to obtain information to assist in the evaluation of these marketing patterns with relation to Government procurement of coal, the Department obtained for the record detailed information on contractors and on unsuccessful bidders from each of the most important coal-purchasing agencies.¹³ These data cover 156 installations scattered throughout the entire country and account for about 90 percent of total Government coal purchases during the period covered. These data clearly indicate that mines do not have nationwide distribution, but instead have limited coal distribution areas.

It is clear, for example, that lignite produced in North Dakota does not compete with the higher quality coals of Illinois and that transportation costs prevent competition between coals mined in the Rocky Mountain and in the Appalachian areas. Even in the case of more nearly adjacent areas, competition is often sharply limited in extent. The data with respect to Government purchases indicates, for example, that competition of Iowa producers for Government business is limited to installations within that State.¹⁴

All of the natural factors affecting the ability of coals to compete, as well as freight rates and transportation costs, vary widely between adjacent coal producing regions. The record clearly indicates, for example, that the higher quality of coal produced in East Kentucky is a decisive factor in its ability to compete with lower quality West Kentucky coal.¹⁵ Lower productivity of Alabama mines because of rock partings and impurities in the seams limits the effectiveness with which mines in this area can compete with nearby producing areas. The record shows, on the other hand, that in the case of one TVA installation, the lower quality of West Kentucky coal precludes it from competing with Alabama coal in spite of West Kentucky's better mining conditions.¹⁶ The record also clearly demonstrates that in the case of TVA installations, variations in freight rates limit the number of nearby producing areas which can effectively compete for such purchases.¹⁷ On the other hand, coals

produced in Virginia move to Ohio and in spite of the cost of shipment are able to compete with coals mined in Ohio, the freight disadvantage being offset by the higher quality of Virginia coal.¹⁸

It is thus evident that the production and marketing practices in this extractive industry are not characterized by industry-wide patterns or uniformities. There are definitely regional differences in the predominant characteristics of the coal industry.

It is also significant that no one appearing at the hearing suggested that a determination of prevailing minimum wages on an industry-wide basis would be appropriate for this Industry. In fact, the largest area proposed by any of the interested parties at the hearing was limited to an area which includes six producing states and portions of two others.¹⁹

I find, therefore, that in view of the unique natural, economic, and historic characteristics of the Bituminous Coal Industry, it would be inappropriate and unnecessary to the accomplishment of the purpose of the act, to determine prevailing minimum wages on an industry-wide basis in this case. I turn then to the question of what geographic areas are most appropriate for separate determinations. Several proposals were made at the hearing and I have considered each of these as well as other obvious geographic breakdowns of the Industry.

Five proposals were made at the hearing as to the appropriate areas for a minimum wage determination for the Industry. Four of these proposals were confined to the geographic areas of the parties making the proposals, and these areas are Virginia, part of Pennsylvania, and portions of Kentucky. A more general proposal was made by the UMWA, the Pittsburgh Consolidation Coal Company and the Pocahontas Fuel Company, petitioners in these proceedings, who proposed the 10 areas set forth below. These areas cover all but three or four producing states with very minor quantities of commercial coal production.²⁰ These proposals are discussed in more detail below.

In addition to these proposals, the record contains information as to other geographic classifications. Thus the comprehensive production statistics reported by the U. S. Bureau of Mines in Government Exhibit 7 show separate data for counties, for States, and for 23 numbered production districts (hereinafter referred to by number). The first two of these classifications are, of course, primarily political in character while the third is a grouping based upon economic factors. This grouping of production districts is widely known and used in the industry and in a variety of Federal laws and administrative regulations. There is also information in the record as to a further grouping of the country into 10 minimum price areas under the Bituminous Coal Act of 1937.²¹

Petitioners' proposal. The petitioners for a minimum wage determination proposed the establishment of the following ten minimum wage areas:²²

A. Pennsylvania, Michigan, Ohio, Maryland, West Virginia, Virginia, Tennessee except the counties listed in D, Illinois, and Kentucky except counties listed in C.

B. Indiana.

C. Following counties in Western Kentucky: Butler, Christian, Crittenden, Daviess, Hancock, Henderson, Hopkins, Logan, McLean, Muhlenberg, Ohio, Simpson, Todd, Union, Warren, and Webster.

D. Alabama, and following counties in Southern Tennessee: Bledsoe, Grundy, Hamilton, Marion, McMinn, Rhea, Sequatchie, Van Buren, Warren, and White.

E. Arkansas, Iowa, Kansas, Missouri, and Oklahoma.

F. Colorado and New Mexico.

G. North Dakota.

H. Montana.

I. Utah and Wyoming.

J. Washington.

It was contended that these areas represented natural competitive groupings of mines and that the recognition of this fact had led to the establishment of different wage patterns in the various areas through negotiations between the UMWA and the bituminous coal operators. The areas were said to represent the carefully considered judgment of both labor and management with respect to the necessity for wage differentials in an industry characterized by a delicate balance of competition.²³

However, the description of these areas as competitive entities is open to considerable doubt in some cases. Thus, the testimony of both the petitioners and their opposition indicated that there was little or no competition between certain parts of Area A, which is by far the most important area proposed by the petitioners, accounting for about four-fifths of the bituminous coal produced in the U. S.²⁴ The lack of substantial competition between various parts of Area A is also indicated by the data on Government purchases previously referred to.²⁵ Mines in Illinois, for example, competed with mines in only three of the other seven states included in Area A, and that competition was negligible. Similarly, the competition experienced by Iowa from other producing states in Area E was sharply limited in extent.

The record contains no evidence that some of the proposed areas, e. g., Areas A and E, have ever been used before, nor does the record show that there are any economic factors other than similar minimum wages which link Illinois, for example, to the remainder of the proposed Area A.²⁶

Virginia. An organization representing a number of Virginia coal mine operators, hereinafter referred to as the Vir-

¹³ Government Exhibits 9 and 10.

¹⁴ T. 1197, Government Exhibit 11 (d).

¹⁵ T. 652, 668, 691, 692.

¹⁶ T. 672, 1082, Government Exhibit 11 (d).

¹⁷ T. 1154.

¹⁸ Government Exhibit 2.

¹⁹ Virginia Operators Exhibit 11; Government Exhibit 7.

²⁰ T. 383.

²¹ Government Exhibit 1.

²² T. 22, 36-7, 80-1, 83, 84.

²³ T. 388, 710-1; Virginia Operators Exhibit 11.

²⁴ Government Exhibit 10.

²⁵ T. 36-7, 80-1, 386-9, 401, 435-7.

ginia Operators, argued that this state constituted an appropriate area for purposes of a minimum wage determination.

It was contended that the Industry in Virginia consisted predominantly of small, non-mechanized mines generally relying on trucks for transporting coal either to the nearest railroad or to the consumer.²⁰ The growth of these small "truck" mines was reported to be a relatively recent development in response to the difficulties encountered by the unionized section of the Industry in meeting the competition of fuels such as gas and oil.²¹ The difficulties of the union mines were said to be due in considerable part to the exhaustion of many of the thicker seams in the state most adaptable to mechanization.²² With the exhaustion of these seams, competitive pressures had reportedly resulted in curtailed operations of union mines and in increased mechanization, with the result that discharged workers had been compelled to find employment in non-union mines.²³

It was pointed out that the seams exploited by these truck mines were generally thin and not adaptable to exploitation by mechanical methods; consequently labor productivity was allegedly low, and if union wage rates were paid, production costs would be substantially higher than those of union mines.²⁴ In addition, the quality of the coal was alleged to be frequently inferior with the result that prices were substantially lower than for coal produced by the large, mechanized mines.²⁵ It was contended that these disadvantages could only be overcome by the payment of wages substantially below the union scale and as a result the minimum wage paid by the non-union section of the industry was only \$1.25 per hour compared with the \$2.245 negotiated by the UMW for this area.²⁶

In addition, the proponents of a Virginia minimum wage area contended that mines in Virginia were principally in competition with one another rather than with mines outside the State.²⁷

It would appear from the evidence in the record that the Virginia Operators are correct in their contention that the greater number of mines in Virginia are small, non-mechanized, non-union truck mines with wage rates substantially below union levels.²⁸ However, it is also apparent that union mines accounted for a substantial majority of the State's total production in both 1953 and 1954.²⁹ While it is also evident that union em-

ployment exceeded non-union employment in 1953, there is conflicting evidence on this point for 1954.³⁰

Although contending that Virginia mines competed primarily with one another, it was admitted by the Virginia Operators that there was substantial competition with other areas, such as West Virginia, east Kentucky, and northern Tennessee, and this was confirmed by other testimony.³¹ The extensive nature of the competition encountered by Virginia mines in competing for Government contracts is indicated by the tabulation of Government purchases introduced by the Government, showing the areas from which bids were submitted to the various purchasing installations. In all, Virginia mines submitted bids to 36 installations in 1954, but for 33 of these 36 installations more than half of the bids were received from mines outside of Virginia, and for 23 of these installations, over 75 percent of the total number of bids received came from mines in states other than Virginia.³² In the case of the Veterans Administration's installation at Chamblee, Georgia, for example, which received a total of 25 bids, only five were submitted by Virginia mines, the remainder coming from west Kentucky, Tennessee, and Alabama. These figures clearly indicate the interstate nature of the competition encountered by Virginia and that mines in Virginia do not compete primarily with one another for Government business.

In general, Virginia, whose coal producing areas are included partly in District 7 and partly in District 8, encounters its most serious competition for Government contracts from other parts of these districts located outside Virginia, particularly from District 8.³³ District 7 is a predominantly low-volatile coal area which extends into southwestern West Virginia, while District 8, extending into southwestern West Virginia, eastern Kentucky and northeastern Tennessee, is a predominantly high-volatile coal area.³⁴ The low-volatile areas of Virginia are classified in District 7, while the high-volatile areas, accounting for the major part of Virginia's coal production, are included within District 8.³⁵ Both the low and high-volatile coals mined in Virginia compete with their counterparts in the remainder of districts 7 and 8.³⁶ It should also be noted that many coal seams in Virginia extend into West Virginia and Kentucky, and individual mines are engaged in the extraction of coal from seams underlying one other

state in addition to Virginia, with the mine portal being located in one state and actual mining operations being conducted in the other.³⁷ The record also indicates that the truck-mining operations described as characteristic of Virginia are also conducted in neighboring areas of West Virginia and Kentucky.³⁸ In view of these circumstances a minimum wage area delineated on the basis of the differentiating characteristics of Virginia would be required to encompass these areas as well.

It has also been requested that only that part of Virginia located in production District 8 be considered a separate area for wage determination purposes. Most of the comments with respect to the entire State of Virginia are equally appropriate to this requested area.

Central Pennsylvania. The Central Pennsylvania Open Pit Mining Association, representing a number of mines in that area, contended that the following contiguous counties in Central Pennsylvania constituted an appropriate area for purposes of a minimum wage determination: Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Fulton, Huntingdon, Jefferson, Lawrence, Lycoming, McKean, Mercer, Tioga, and Venango.³⁹ In addition to part of District 2, which lies entirely within Pennsylvania, the Central Pennsylvania area includes part of District 1, which extends into Maryland and West Virginia.⁴⁰

The Central Pennsylvania area was reported to be characterized by the prevalence of small, strip mines in contrast to the dominance of large-scale, deep mining in the other eight counties in the southwestern section of Pennsylvania reporting production in 1953.⁴¹ Strip mines in the Central Pennsylvania area were reported to constitute more than three-fifths of the total number of mines and to account for over 70 percent of the tonnage in this area in 1953; on the other hand, over 90 percent of the tonnage in the eight southwestern counties was mined underground.⁴² Coal seams in the Central Pennsylvania area were said to be relatively thin, in contrast to the thick seams characteristic of the southwest area; coal from the latter area was also said to be of a higher quality, and its production involved the use of far more mechanical equipment than was employed in the Central Pennsylvania area.⁴³ Although competition existed between Central Pennsylvania mines and mines located outside this area, it was alleged to be of a limited nature.⁴⁴

The Association also pointed out certain labor conditions differentiating the Central Pennsylvania area. Thus, the strip mining performed in that area was

²⁰ T. 704-6, 714, 870, 891, 896-7, 936, 948, 997, 1031, 1071-3, 1079; Virginia Operators Exhibit 3.

²¹ T. 702-4, 889, 944, 1032-3, 1056-7.

²² T. 704, 886-9, 1031-2, 1084-5, 1128.

²³ T. 704-7, 891.

²⁴ T. 705, 886-91, 948, 1031-2, 1123, 1127-30, 1151, 1154, 1157-8.

²⁵ T. 898-9, 891.

²⁶ T. 715, 871, 1123, 1157-8; Government Exhibit 2.

²⁷ T. 1033-4.

²⁸ Virginia Operators Exhibit 3; UMW Exhibit 8.

²⁹ T. 184-5, 538, 731-2, 757, 913-8, 925-8, 1845-51; Virginia Operators Exhibits 3, 5, 11; UMW Exhibit 8; Government Exhibit 7.

³⁰ T. 538-9, 553, 563, 718-9, 756, 761, 764, 809-10, 814, 835-8, 860, 879-80, 895-6, 903, 981-2, 986-9, 1071-3, 1079, 1821, 1845-51, 1907-13, 1970-2; Virginia Operators Exhibits 2 and 3; UMW Exhibit 8; Government Exhibit 7.

³¹ T. 297, 312-3, 387, 537, 552-3, 710-1, 761, 935, 946, 976, 983, 1028-9, 1033-4, 1085-6, 1121, 1131, 1154.

³² Government Exhibits 10 and 11.

³³ Government Exhibit 10.

³⁴ T. 710, 984, 1029, 1131; Government Exhibit 8.

³⁵ T. 642, 760, 935, 946; Government Exhibit 8.

³⁶ T. 710-1, 761, 946.

³⁷ T. 454, 838-9, 913, 934-6, 947, 1005, 1052-4, 1066-7, 1121.

³⁸ T. 917, 934-5.

³⁹ T. 1300-3, 1405, 1448; Central Pennsylvania Operators Exhibit 7.

⁴⁰ T. 1408, Government Exhibit 8.

⁴¹ T. 1306, 1316-7, 1321; Government Exhibit 7.

⁴² T. 1306, 1329-31, 1333, 1480; Central Pennsylvania Operators Exhibit 7.

⁴³ T. 1304, 1306, 1316-17, 1321, 1344, 1377, 1406, 1446.

⁴⁴ T. 1325, 1393, 1407, 1430.

said to require a lesser degree of labor skill than underground mining. Also, the area was reported to be predominantly non-union, with producers in this category constituting 78 percent of the total and accounting for 71 percent of the tonnage and 61 percent of the employment in the area in 1953.⁶¹ Wage rates in non-union mines were reported to be substantially below union levels.⁶²

The contention of the Central Pennsylvania Open Pit Mining Association with respect to the dominance in the Central Pennsylvania area of small-scale strip mining of thin coal seams, in contrast to the situation in southwestern Pennsylvania, appears to be sustained by the evidence in the record. Similarly, there is little doubt of the prevalence in the area of non-union conditions of operation, including wage rates substantially below union levels. While the UMWA claimed some of the mines listed by the Association as non-union, these deductions do not seriously affect the picture of non-union predominance in the area.⁶³ Union preeminence in southwestern Pennsylvania, on the other hand, is also clear from the record. The record also contains no testimony contradicting the statement of the Association that Central Pennsylvania coal was inferior in quality to coal produced in southwest Pennsylvania.

I am unable to assess the validity of the Association's claim with respect to the degree of mechanization in the Central Pennsylvania area compared with the deep mining area of the state. Different types of mechanical equipment are involved in the two operations, but it is apparent that strip mining involves the extensive use of mechanical equipment in Central Pennsylvania as elsewhere, and that productivity in Central Pennsylvania and other strip mines is substantially higher than in underground mines, including those in southwest Pennsylvania.⁶⁴

The Association's contention with respect to the limited nature of the competition existing between mines in Central Pennsylvania and those located elsewhere is not borne out by the record. The tabulation of Government coal purchases reveals that Central Pennsylvania mines accounted for 50 percent or more of the bids in the case of only 3 of the 29 installations receiving bids from that area in 1954.⁶⁵

The record also does not support a finding that less skill is required of employees in strip mining than in deep mining. It is clear that a number of stripping occupations require a high degree of skill.⁶⁶ Furthermore, there are a number of occupations common to both types of mining, including several in the lowest paid categories.⁶⁷

It should also be noted that the Central Pennsylvania area has been delineated

strictly on county lines with the result of excluding areas characterized by the same method of operations.⁶⁸ Moreover, in one of the counties in this area (Tioga) deep mining was substantially more important than strip operations.⁶⁹

McCreary, Pulaski, Whitley Counties, Kentucky. The Stearns Coal and Lumber Company advanced the proposal that a separate determination be made for the counties of McCreary and Pulaski, and a portion of Whitley County, all in eastern Kentucky.⁷⁰

This area, referred to as the "Pine Knot Group," was said to be served by a different railroad than the rest of eastern Kentucky and to be effectively separated from the latter area by Jellico Mountain.⁷¹ The area was also stated to be economically isolated from coal producing areas to the south by virtue of the fact that the Tennessee border is used by the railroad serving the area for a break in freight rates for the producing areas to the north and south of the line. The company further stated that the Interstate Commerce Commission considers the Pine Knot Group as constituting an area separate and apart from the adjoining counties in northern Tennessee and therefore has consistently refused to alter the higher freight rates which mines in this area must pay.⁷²

It was asserted that geologically McCreary and Pulaski Counties form a natural area, the coal being produced therein coming predominantly from Stearns seams. Although Stearns seams are not mined in that portion of Whitley County included within the proposed area, it was explained that western Whitley County was included in the proposed area because it has the same freight rate structure as McCreary and Pulaski Counties.⁷³ Coal found in this area was also said to be geologically unique because it is found in small pockets and it is generally not susceptible to highly mechanized methods of recovery.⁷⁴

The company introduced wage data indicating that miners' wages are in general materially lower in the area than in other parts of Kentucky, although its own wages, pursuant to an agreement with an independent union, are somewhat higher than wages paid by non-union mines in the area.⁷⁵

The contention that the Pine Knot Group is geographically isolated from the rest of eastern Kentucky is supported not only by the testimony of Mr. Robert L. Stearns, Jr., but also by maps introduced by him.⁷⁶ However, while Mr. Stearns' testimony with respect to the geological characteristics of the area is not disputed, it has not been established that the same characteristics do not exist in other parts of Kentucky and northern Tennessee. The quality of the coal produced in this area was said to be about the same as that produced in ad-

joining counties.⁷⁷ Furthermore, the Stearns seams are not limited to the Pine Knot Group but are also mined in Wayne, Clinton, Menifee and Rockcastle Counties. The seams also extend into Tennessee.⁷⁸ It appears that the primary reason for excluding these areas from the proposal is that they do not carry the same freight rate on commercial coal shipment as the Pine Knot Group.

Although the Pine Knot Group has generally been recognized as a separate area for freight rate purposes, it has been blanketed in with other areas in eastern Kentucky and northern Tennessee, under a single freight rate for shipment to the TVA.⁷⁹ It is clear that its geographic isolation and freight rate structure have not prevented vigorous competition for Government business between the Pine Knot Group and other areas. The Stearns Coal and Lumber Company has been awarded contracts for delivery of coal to the Government in Georgia, North Carolina and Tennessee.⁸⁰ A substantial majority of tonnage purchased by the Government from this area is accounted for by TVA plants at Kingston and Watts Barr in Tennessee. However, both of these plants rely on this area to only a limited extent in their coal purchasing programs, their principal sources of supply being Tennessee and other parts of Kentucky.⁸¹

Clay and Leslie Counties, Kentucky. A group of operators from Clay and Leslie Counties, Kentucky, requested that these two counties, located in Production District 8, be considered a separate area for wage determination purposes.

Proponents of this area stated that it is set apart industrially, economically, and geographically from other coal producing fields. No railroad serves Leslie County, and it was asserted that coal produced therein is generally trucked to Manchester in Clay County for rail shipment.⁸² Most of the coal produced in the bi-county area was reported to be mined in Leslie County.⁸³ Because of the integration of production in Leslie and rail shipment in Clay County, it was requested that the two counties be grouped into a single wage determination area.⁸⁴ It was also asserted that a minimum wage of \$1.25 prevailed in the area.⁸⁵

The contention that truck mining predominates in the Clay-Leslie area appears to be sustained by the evidence of record. It cannot be concluded, however, that this situation is unique to Clay-Leslie Counties as opposed to coal producing areas in other sections of Kentucky and elsewhere. Furthermore, there is evidence of record indicating that coal mined in Leslie County is trucked to Perry County as well as Clay County for rail shipment.⁸⁶ Nor is there any basis for concluding that the type of coal produced in Clay-Leslie Counties

⁶¹ T. 1317-8, 1321, 1334-5, 1337; Central Pennsylvania Operators Exhibit 8.

⁶² T. 1339-40, 1447-8.

⁶³ T. 1865-9.

⁶⁴ T. 1316-7, 1417-8, 1435, 1612, 1616; Government Exhibit 7.

⁶⁵ Government Exhibits 10 and 11.

⁶⁶ T. 1317, 1612.

⁶⁷ UMW Exhibit 13; T. 1612.

⁶⁸ T. 1316, 1402, 1404, 1444-5, 1614.

⁶⁹ Central Pennsylvania Operators Exhibit 7.

⁷⁰ T. 1166.

⁷¹ T. 1167-8.

⁷² T. 1168-9.

⁷³ T. 1170.

⁷⁴ T. 1170.

⁷⁵ T. 1172-3.

⁷⁶ R. L. Stearns, Jr. Exhibits 1 and 2.

⁷⁷ T. 1194.

⁷⁸ T. 1285-6.

⁷⁹ T. 1251, 1260.

⁸⁰ T. 1179.

⁸¹ T. 1169-70, 1177-9; Government Exhibits 10 and 11.

⁸² T. 577.

⁸³ T. 577, 584.

⁸⁴ T. 579.

⁸⁵ T. 599, 601-2.

varies markedly from coals produced in other sections of east Kentucky. Hazard No. 4 Seam, from which most of the coal produced in Leslie County is mined, is also mined extensively in the adjoining Counties of Perry, Letcher, and Knott.⁷⁶

Regardless of the extent to which the area may be geographically isolated, it is in active competition with other areas for both commercial and Government business. Information on Government purchases reveals that with minor exceptions the mines in Clay and Leslie Counties do not compete primarily on an intra-area basis for Government business, their competition on such business coming primarily from mines located in other parts of Production District 8.⁷⁷

Counties. Data are available in the record as to production statistics for the 350 counties producing coal in 1953.⁷⁸ There is no evidence in the record that there has been any use of a county-by-county approach in any of the various laws and regulations which have dealt with the Bituminous Coal Industry, nor is there any evidence that small areas have any significance in the Industry except for statistical purposes. The data on bids and contracts of Government installations reveal that operators in particular counties generally account for a relatively small proportion of bids submitted to particular installations.⁷⁹

States. I have also given consideration to use of a State-by-State approach in deciding on appropriate wage determination areas. The proposal for one State—Virginia—has been discussed above. Federal laws and regulations dealing with bituminous coal have relied on State boundaries to delimit coal producing areas only for certain States.

The States have been used by the U. S. Bureau of Mines and by the various State departments for statistical purposes and the States also have local laws and regulations dealing with mine safety. It is evident from the record that certain whole States or groupings of States are more appropriate for recognition as prevailing minimum wage areas than others. For example, the record indicates that competition of Iowa coal producers for Government business is substantially limited to installations within the State and that the only record of successful bidding from producers in other States for Iowa installations is for an installation on the border of the State on the Mississippi River.⁸⁰ Further, the record indicates that North Dakota mines encounter only limited competition from other mines for Government business.⁸¹ However, in the case of a number of States such as Pennsylvania, West Virginia, Virginia, and Kentucky different types of coal are produced in different portions of the State.⁸² Moreover, in a number of other cases, coal areas with substantially

the same economic characteristics cross State lines. Reference has been made above to this situation in the case of Virginia, West Virginia, and Kentucky, and to Pennsylvania, Maryland and West Virginia.

Production districts. There has been for many years a recognized division of the Bituminous Coal Industry into well-defined, precisely bounded, separate geographic areas known as production districts. The district boundaries have been developed in general along natural lines conforming to the characteristics of the Industry and the factors by which its operations are affected, rather than according to arbitrary or artificial geographic or political divisions.⁸³ These districts have had a long history as evidenced by the early formation of local associations representing mining fields within a given area with common production and marketing problems.⁸⁴ They have been recognized at least since the period of World War I and have been used in connection with Government regulations relating to coal mining. Wage rate structures have been related to these areas and Governmental recognition has been accorded to them in such matters as the setting of freight rates.⁸⁵ For purposes of establishing minimum prices for coal, the Bituminous Coal Act of 1937 recognized 23 production districts and 10 price areas, the latter being a combination of coal production districts.⁸⁶ This Act provided for a District Board for each of the 23 districts to recommend minimum prices for the coal produced in its district and to coordinate these prices in common consuming markets. With minor changes the same districts were also used in the earlier Bituminous Coal Act of 1935⁸⁷ which, in addition to authorizing the establishment of minimum prices, authorized the establishment of minimum wages on a district basis.

During World War II the Office of Price Administration found the production districts to be appropriate geographic units for establishment of maximum prices for coal, and the districts were also used by the Solid Fuels Administration as a basis for allocating bituminous coal to consumers. Currently, the Bureau of Mines and the Bureau of Census collect and present a variety of economic statistics on this basis.⁸⁸

The long-continued and widespread use of the district concept bears impressive witness to the significance of the districts as separately identifiable coal producing areas which are, in essence, distinguishable economic entities. The record clearly indicates the close relationship between the mines located in each of the various districts by virtue of such factors as the predominance of particular types of coal in the districts, similar mining conditions, uniform railroad freight rates to common destinations, and the sharing of common mar-

kets.⁸⁹ While there is also some overlapping competition between coals mined in different districts, the significance of the district as a competitive area is indicated by Government Exhibit 10 which shows that in the case of almost 90 percent of 156 Government installations purchasing coal in a recent period, at least half of the bids were submitted from mines located in the same district; and in 92 of these installations 65 percent or more of the bids came from mines located in the same district.

It is my conclusion that by virtue of their distinguishing common features and long history as accepted separate economic areas, the production districts constitute a more appropriate basis for approaching the problem of setting up minimum wage areas than any other proposed geographic area or combination of areas. There remains for consideration the application of this approach in the light of the objectives of the act.

The Public Contracts Act contemplates the elimination of competitive advantage accruing to firms bidding on Government contracts if the advantage is derived from the payment of wages which are below the prevailing minimum. As has been seen, the record clearly indicates the intensity of competition between mines within the same production district. There are also areas in which mines from more than one district are in competition. This overlapping competition between production districts is for the most part limited either to adjoining districts or districts adjoining common market areas. However, it raises the question whether, in order to carry out properly the purposes of the act, various districts should be grouped together.

The economic characteristics of most industries for which wage determinations are issued are such that the minimum wage standard can be a controlling factor in determining competitive advantage among the bidders for a Government contract, irrespective of the location of their respective plants. In such situations, the end product is more or less standardized as to quality and other physical characteristics. Transportation costs comprise a relatively minor part of the cost of the end product and such other major costs of manufacture as raw materials and plant equipment are fixed at substantially the same level for all competitors. The cost of manufacture is thus more or less equalized with respect to major factors except wages. In the industries having these characteristics a comparatively slight variation in wage costs can operate to confer decisive competitive advantage, contrary to the purposes of the act, unless a uniform wage floor is provided for all contractors from whom competing bids are received.

Variations in wage costs within the same production district in the coal industry might have the same decisive competitive effect. But the analogy is limited to the production districts, for

⁷⁶ R. L. Stearns, Jr., Exhibit 3.

⁷⁷ T. 609-10; Government Exhibits 10 and 11.

⁷⁸ Government Exhibit 7.

⁷⁹ Government Exhibits 10 and 11.

⁸⁰ Government Exhibits 10 and 11.

⁸¹ T. 710-1, 1029, 1131, 1406-7, 1550, 1613, 1615.

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⁸² T. 378, 380; Government Exhibit 8.

⁸³ T. 375-80, 382.

⁸⁴ T. 376, 377.

⁸⁵ T. 377; Ch. 127, 50 Stat. 72.

⁸⁶ Ch. 824, 49 Stat. 991.

⁸⁷ T. 375-76, 378, 380; Government Exhibits 7 and 8.

⁸⁸ T. 376, 378-82, 537, 540, 1407, 1550, 1613, 1615.

the above-described equalization of other economic factors, which is a compelling reason in other industries for a uniform minimum wage standard among competing bidders, does not exist generally in the coal industry. Apart from the equalization that has been achieved historically by the production district, the coal industry is uniquely characterized by wide variations in natural and other economic factors. Transportation costs and freight rates vary widely. In some areas these costs comprise as much as 50 percent of delivered price.⁸⁸ They obviously become a significant factor in a bidder's ability to compete for Government contracts. Natural physical factors are also responsible for wide variation in costs.⁸⁹ Coal is purchased by the Government and its cost evaluated according to its heat producing qualities measured in BTU's.⁹⁰ There is wide variation in the number of BTU's recoverable from coals produced in various production districts with the result that the value per ton of the end product differs.⁹¹ The ability of coal from a particular production district to compete with coals from other districts is governed by its relative position with respect to all of these varying factors in addition to wage costs.⁹²

To the extent that there is overlapping competition between production districts for Government coal contracts, it seems clear that the ability to compete must rest on a balance of all these significant factors together with the wage rate structure in the competing districts. The record in this case shows a well-defined pattern of differentials existing between the minimum wages prevailing according to the production districts. As is discussed more fully elsewhere in this decision, the record establishes that in all districts in which coal is currently being produced except in District 12, the prevailing minimum wage corresponds to the minimum hourly rate under the terms of the UMWA agreements. According to the uncontroverted testimony of petitioners, the differentials in UMWA wage rates between different competing districts have historically taken into consideration all of the varying factors which affect the ability of mines in different districts to compete, so that the wage differentials would not be a controlling factor in competitive advantage.⁹³ In such a situation, a determination of prevailing minimum wages on a basis which would require readjustment of the prevailing district rates to a uniform wage floor for Government contracts would make no contribution to the elimination of depressant effects on wage levels which is a basic

purpose of the minimum wage provisions of the act.

After giving consideration to all relevant factors, including the conditions affecting operations in this industry which have been discussed above, I find that it is not necessary or appropriate under the Act to determine prevailing minimum wages for any area larger or smaller than a production district, and that a separate wage determination for each production district will most effectively maintain a fair and reasonably balanced competitive situation and will carry out the purposes of the act.⁹⁴

Nature and adequacy of prevailing wage data. The most detailed and complete information in the record pertaining to wage rates paid to employees in the industry was introduced by the UMWA. UMW Exhibits 8-A through 8-H are listings of bituminous coal mines stated by the union to be operating under contract with the UMWA during the year 1953. The listings identify each mine by name and address, and for most mines give the tonnage produced and the number of workers employed during the year 1953. Those mines which are stated to have produced 1,000 tons or more of coal represented more than four-fifths of the industry, accounting for an aggregate production of approximately 378 million tons, and employed a total of approximately 240,000 employees.⁹⁵ A representative of the UMWA testified that the information was obtained principally from three sources: (1) annual reports published by state mine bureaus; (2) Keystone Coal Buyers Manual and the annual supplement thereto; and (3) local UMWA offices.⁹⁶ In these instances where data on tonnage or employment were unobtainable from any of those sources, no entries were made in Exhibits 8-A through 8-H beside the name and location of the mine.

UMW Exhibit 8-I contains the names of mines located in Arkansas, Iowa, Kansas, Missouri, and Oklahoma which are not under contract with the union, and therefore not listed in UMW Exhibits 8-A through 8-H, but which were stated to compensate their employees at rates not less than those provided in the UMWA contract covering each of their respective areas.

Wage data were also offered in evidence by other proponents of the petitioners' request for the establishment of a prevailing minimum wage in the Bituminous Coal Industry. George A. Lamb Exhibit 5 contains wage information ob-

tained from mines located in Iowa and accounting for a majority of that State's soft coal production during 1954. Mr. Lamb also named certain mines in New Mexico within the boundaries of District 18 which he stated pay rates not less than those called for in the union contract.⁹⁷ These mines surveyed by Mr. Lamb represented the majority of tonnage and employment reported by all mines located in District 18.⁹⁸ Mr. Lamb also submitted a list of mines located in Arkansas and Oklahoma, which he stated were paying wage rates not less than those called for in the UMWA contracts covering those states.⁹⁹

The UMWA introduced into the record a copy of the Appalachian Joint Wage Agreement, effective April 1, 1941, and all supplements thereto which have since been negotiated, including the currently effective agreement, The National Bituminous Coal Wage Agreement of 1950, as amended September 29, 1952.¹⁰⁰ In addition, UMW Exhibits 13-A through 13-S are copies of various UMWA district agreements entered into in 1941. Representatives of the union explained that no district agreements have been negotiated by the UMWA since 1941, and that all such agreements have been carried forward and amended by the national agreements which have been entered into since that date.¹⁰¹ Furthermore, any provisions of the 1941 district agreements which are inconsistent with the provisions of the national agreements since negotiated are superseded thereby.¹⁰² Consequently, a complete picture of the minimum wage rates currently called for in each of the district agreements in the record is obtainable by applying the wage adjustments provided for in the national agreements, and the supplements thereto, to each of the district agreements.¹⁰³ It was also testified that the Progressive Mine Workers of America represented some workers in Illinois and that this organization claimed wage rates as high or higher than those negotiated by the UMWA.¹⁰⁴

Wage data were also introduced by parties appearing in opposition to the petitioners' request. Such data were of a restricted nature, and pertained to workers employed in mines not under contract with the UMWA in only four areas: (1) various coal producing counties in southwestern Virginia; (2) 21 counties in Central Pennsylvania; (3) Clay and Leslie Counties in eastern Kentucky; and (4) McCreary and Pulaski Counties and a portion of Whitley County, also in eastern Kentucky. The information submitted for each of these areas is as follows:

(1) Virginia Operators Exhibit 10 is a partial list of coal mines operating in Virginia during the year 1954. The listing discloses for each coal company named therein the total number of employees, the number of employees receiv-

⁸⁸ T. 378; Government Exhibit 11 (d).

⁸⁹ Government Exhibit 7, page 6.

⁹⁰ T. 1793, 1791, 1197.

⁹¹ T. 1197, 1154-55; Government Exhibits 11 (c) and (d).

⁹² T. 1153-55.

⁹³ T. 22-23, 37, 80, 83, 291, 437. Production District 12, in which the prevailing minimum does not correspond to the UMWA hourly minimum, consists of all coal producing counties in the State of Iowa. As noted earlier, Iowa mines encounter only limited competition from other mines for Government business.

⁹⁴ The definitions of all but two production districts shall be the same as those contained in the Bituminous Coal Act of 1937. However, I am proposing to add to District 8, as defined in the Act, the following six counties in which bituminous coal was mined in 1953: Clinton, Menifee, Pulaski, and Wolfe Counties in Kentucky, and Pickett and Putnam Counties in Tennessee. For the same reason, McIntosh County in Oklahoma shall be added to the counties included in District 15 under the Act. This allocation follows the procedure of the U. S. Bureau of Mines in allocating these counties for statistical purposes to production districts on the basis of such factors as geographic propinquity and similar types of coal.

⁹⁵ Government Exhibit 7.

⁹⁶ T. 45, 58, 62-3, 66, 148, 1879-80.

⁹⁷ T. 1718-20.

⁹⁸ T. 1718-9.

⁹⁹ T. 1724-7, 1795.

¹⁰⁰ UMW Exhibits 1 through 7, and 12.

¹⁰¹ T. 229, 242-3, 1844.

¹⁰² T. 231, 243-5, 266-70, 1880.

¹⁰³ T. 229, 242-5, 1097, 1844, 1877.

¹⁰⁴ T. 239.

ing the lowest hourly wage, the number receiving the next lowest hourly wage, and the number of employees receiving over \$1.35 an hour. This wage survey covered more than 400 mines employing approximately 6,100 men.¹⁰⁶ The witness appearing on behalf of the Virginia Operators concluded that the survey indicated a prevailing minimum hourly wage of \$1.25 for soft coal mines in the State of Virginia.¹⁰⁷ The Virginia Operators also introduced a listing of mines operating in Virginia in 1954 and not under contract with the UMWA; these non-union mines reported a total employment of approximately 7,600.¹⁰⁸ Total production of non-union mines in Virginia during 1954 was estimated to be about 7½ million tons.¹⁰⁹

(2) Wage data were submitted covering 702 workers employed by non-union operators located within the 21 county area designated as the "Central Pennsylvania" area. The witness who introduced this data concluded that the survey disclosed an "average minimum" wage of \$1.466 an hour. However, the producers covered by the wage survey employed only 11 percent of those employees not covered by the UMWA agreement.¹¹⁰ The Central Pennsylvania Operators also introduced a listing of coal operators located within the 21 county area during the year 1953 which were not under contract with the UMWA.¹¹¹ This listing discloses the number of employees and the tonnage produced by each of the operators named therein as reported by the Pennsylvania Bureau of Mines. The data disclose that producers not under contract with the UMWA employed 61 percent of the workers and produced 71 percent of the tonnage of all coal producers operating in the 21 county area in 1953.

(3) Wage data were introduced for three companies located in Clay and Leslie Counties, Kentucky.¹¹² Each of these companies paid their production workers a minimum hourly wage of \$1.25. A witness testified that these operators represented about half of the coal industry in Leslie County, by far the more important of the two counties, and that other operators in those counties also paid their workers a minimum rate of \$1.25.¹¹³

(4) A representative of the Stearns Coal and Lumber Company located in McCreary County in Kentucky submitted wage data pertaining to soft coal operations in McCreary, Pulaski, and a portion of Whitley Counties in Kentucky.¹¹⁴ These data purported to indicate the distribution by average hourly rates of approximately 90 percent of the workers in the soft coal industry in that area. No indication was given, however, as to the number of coal companies which paid

the various rates. The distribution disclosed that 15 percent of the workers surveyed earned less than \$1.00 an hour and more than 25 percent of the workers earned exactly \$1.00 an hour. The Stearns Coal and Lumber Company, largest coal producer within this area, paid its workers a minimum hourly wage of \$1.531.

The evidence introduced by the UMWA pertaining to minimum wage rates and the number of employees who are covered by their collective bargaining agreements was challenged on the grounds that the evidence was for the year 1953, and, consequently, was obsolete for the purpose of determining the prevailing minimum wage in the industry.¹¹⁵

The most recent agreement made with the coal operators by the UMWA is the National Bituminous Coal Agreement of 1950 as amended September 29, 1952. This agreement was stated by the union to be in effect during the year 1953 for those mines listed in UMW Exhibits 8-A through 8-H; furthermore, this agreement is in effect today, and has remained unchanged with respect to wage rates or any other provisions therein since September 29, 1952.¹¹⁶

Another question relating to the currency of the UMWA data involves the usefulness of 1953 statistics regarding employment and tonnage for coal companies listed in Exhibits 8-A through 8-H. A union representative explained that the primary source of those statistics was the state mine bureau reports. In this connection, he testified that such reports were available for all states included in UMW Exhibits 8-A through 8-H except Virginia, Montana, and Utah; also, with respect to Indiana the state report includes information only for deep mines, not for strip mining operations. The witness explained that the most recent state reports available to him in compiling UMW Exhibits 8-A through 8-H were for the year 1953, and that the 1954 reports had not yet been published.¹¹⁷ Keystone Coal Buyers Manual was also used in compiling the employment and tonnage statistics for certain mines operating under agreement with the UMWA. Again, however, the most recent edition of this publication available was the 1954 edition, which gives employment and tonnage data for 1953.

The collection and tabulation of statistics as comprehensive in scope as those detailing the employment and production of individual mines in the soft coal industry is a sizeable task requiring considerable time. It is unavoidable, therefore, that many months should elapse before the publication and dissemination of such data can be completed. In this regard, a witness explained that all of the various state mine bureau reports covering employment and production for the year 1954 would not be available until the close of 1955.¹¹⁸ This is also true for the U. S. Bureau of Mines' annual survey of bituminous coal and lignite mines for the

year 1954. It is clear, therefore, that the most recent data available on the soft coal industry, which are of enough detail to be sufficient for purposes of these proceedings, are for the year 1953.

There is information in the record which indicates that the final statistics for 1954 will disclose a sizeable decrease in soft coal production from that reported for 1953. The U. S. Bureau of Mines' final statistics for soft coal production in 1953 (exclusive of mines producing less than 1,000 tons) show a total of approximately 456,000,000 tons for the continental United States.¹¹⁹ Virginia Operators Exhibit 11, the U. S. Bureau of Mines' weekly coal report for March 4, 1955, shows an estimated total production for the continental United States in 1954 of approximately 391 million tons, or a decrease of more than 14 percent from the previous year. It is not possible to ascertain from the U. S. Bureau of Mines' weekly report the extent to which this decrease in production was felt in mines under contract with UMWA, and there is no evidence to indicate that mines paying the union wage scale accounted for a significantly smaller proportion of the total soft coal production in 1954 than in the previous year.

It was also pointed out by some of those appearing in opposition to the petitioners' request that a number of the mines listed in UMW Exhibits 8-A through 8-H, were no longer operating under the union contract.¹²⁰ In illustration, the Stearns Coal and Lumber Company offered into evidence a copy of its collective bargaining agreement entered into on March 14, 1954, with the McCreary County Mine Union, which has no affiliation with the UMWA.¹²¹ On the other hand, a representative of the UMWA testified that many mines not listed in their Exhibit 8 had become signatories to the union contract since 1953.¹²² Thus, in the absence of detailed information pertaining to employment and tonnage of individual mines such as is available in the state mine bureau reports, the exact number of employees presently working under a UMWA contract and the tonnage produced by such employees cannot be known. In any event, even if the total loss in coal production between 1953 and 1954 were attributable to mines paying wages not less than those called for in the UMWA agreements, and there is no evidence to this effect, the proportion of all soft coal production by mines producing a thousand tons or more in the continental United States, and under contract with the UMWA, would still be approximately 80 percent for the more recent year.

Outside of the four restricted geographical areas mentioned above, and one mine in Oklahoma which currently operates non-union but observes the UMWA scale, there is no information in the record indicating that any mines listed in UMW Exhibits 8-A through 8-H are not now operating under the

¹⁰⁶ Virginia Operators Exhibits 3 and 5; T. 731-2.

¹⁰⁷ T. 715, 719.

¹⁰⁸ Virginia Operators Exhibit 3.

¹⁰⁹ Virginia Operators Exhibit 3.

¹¹⁰ T. 1339-40; Central Pennsylvania Operators Exhibit 8.

¹¹¹ Central Pennsylvania Operators Exhibit 8.

¹¹² T. 579-80.

¹¹³ T. 579, 581-2.

¹¹⁴ T. 1166-7, 1172-3, 1832.

¹¹⁵ T. 71-4, 82-83, 172-3, 278-80.

¹¹⁶ T. 45, 243-4.

¹¹⁷ T. 69, 71-2, 117-9.

¹¹⁸ T. 531-4.

¹¹⁹ Government Exhibit 7.

¹²⁰ T. 759, 779, 835-6, 903, 985-6, 1371-2, 1972.

¹²¹ T. 1239.

¹²² T. 280, 1851.

union contract, nor is there any information indicating that the employees and tonnage produced under UMWA contracts in other areas are proportionately changed from those indicated by the Exhibits. Nor was there any challenge to any of the supplementary data offered by the proponents pertaining to mines in certain states not under contract with the UMWA, but paying their employees minimum wages not less than those called for in such contracts.

It was also asserted by the Virginia Operators and others that the wages provided in the UMWA contract are not paid to employees of all signatory companies.¹²² Although it was alleged that violations of the union agreement were widespread, especially in Virginia and eastern Kentucky, no evidence of a reliable, probative, and substantial nature was introduced in support of this allegation. Most witnesses who testified on the point had no personal knowledge as to specific companies who were violating their contracts, but testified on the basis of rumor and hearsay.¹²⁴ One witness testified that he had personal knowledge that two signatory companies in eastern Kentucky were paying less than the rates called for by their contracts. Even this witness, however, refused to divulge the names of the companies concerning which he had such personal knowledge.¹²⁵

It has been suggested that the deficiency in the evidence supporting the charge of widespread contract violations might be overcome if I take official notice of the records of the Wage and Hour and Public Contracts Divisions with respect to inspections of mines pursuant to the Fair Labor Standards Act. This Act requires, generally speaking, that employees engaged in commerce or in the production of goods for commerce be paid not less than 75 cents an hour and time and one-half for hours in excess of 40 in any one week.

Violations of the wage and hour requirements of the Fair Labor Standards Act in the coal industry have not been extensive in the past. Routine investigations in this industry are therefore held to a minimum, most investigatory activity being directed toward those industries in which experience has demonstrated violations are most likely to be found. Furthermore, even in those isolated cases where coal mines have been investigated, the record would usually contain data on wages actually paid only in those cases where violations of the wage and hour requirements are found. The evidence of record with respect to wages and hours worked by coal miners demonstrates the unlikelihood of such violations in this industry. Wages in both union and non-union mines are substantially in excess of 75 cents an hour with overtime work being the exception rather than the rule.

The Divisions' inspection records would neither prove nor disprove the charge of widespread contract violations. Accordingly, no useful purpose would be

served by taking notice of the contents of these records.

I am not convinced that violations of the UMWA agreement occur to the extent alleged. A representative of the union denied the truth of the rumors concerning widespread violations and testified that the union actively polices the agreement and corrects as rapidly as possible any violation which might occur.¹²⁶ One of the Virginia Operators' own witnesses testified that "all you hear is some rumors that the men are not making big wages"; that he did not know what grounds there were for the rumors; and that, in his opinion, union mines in his area of Virginia were compensating their employees according to the union agreement.¹²⁷

On the basis of the record before me it is accordingly my conclusion that except in isolated and sporadic instances the wage rates called for by the UMWA agreement are being observed by the signatories thereto and that those violations that do occur are subject to corrective action by the union.

Such violations as may occur are not sufficient to invalidate the conclusion that a majority of the tonnage and employment in each district is associated with actual payment of wage rates not less than those called for by the UMWA agreement. In any event there would still appear to be a legal obligation to pay the contract rates and it would be no more appropriate to consider rates paid in violation of this contractual obligation than it would be to consider rates paid in violation of the statutory minimum under the Fair Labor Standards Act.

It was also charged that the wage scales as reflected in the UMWA agreements were inappropriate for purposes of establishing a prevailing minimum wage under the Public Contracts Act, because those agreements call for the payment of portal-to-portal time.¹²⁸ The minimum daily wages for inside employees as set forth in the current National Bituminous Coal Wage Agreement are based on an eight-hour working day. It is true that the eight hours includes portal-to-portal time; however, the minimum hourly wage as requested by the petitioners is that wage which is paid for one hour's work. It is mandatory upon union operators to pay for portal-to-portal time as hours worked, but this practice in no way affects the minimum hourly wage as requested in the petition. Testimony was offered to the effect that it is not customary among non-union operators to pay for portal-to-portal time, or to include such time as hours worked. However, I do not consider the payment of portal-to-portal time as a matter within these proceedings. Whether a particular mine operator is required to pay his employees for portal-to-portal time is dependent entirely on those circumstances under which such time is compensable under the Portal-to-Portal Act of 1947.

Prevailing minimum wages. The information contained in the record makes

it possible to evaluate for each district the proportionate representation of employees and tonnage in those mines paying minimum wages not less than those called for in the UMWA contracts. As indicated above, the only comprehensive wage data were presented by the proponents of the petition. Data for portions of Districts 1, 2, 7, and 8 were presented by witnesses appearing in opposition to the petitioners' request.

With the exception of the wage data introduced by the opponents to the petitioners' request covering portions of Districts 1, 2, 7, and 8, no other such data were offered covering any district in addition to those offered by the proponents. The information contained in UMW Exhibits 8-A through 8-H leaves no doubt that the majority of employees working in Districts 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 19, 20, 21, 22, and 23 (excluding Alaska), were covered by UMWA contracts and the provisions for minimum rates prescribed therein. This conclusion is not affected even if all of the opponents' data with respect to Districts 1, 2, 7, and 8 are accepted at their full face value. In each of the districts except 15 and 22, the mines covered by UMWA agreements also accounted for the majority of tonnage produced by all mines within their respective districts reporting production of one thousand tons or more in 1953.¹²⁹ When the information contained in UMW Exhibit 8-I and that submitted for the record by Mr. George A. Lamb pertaining to other mines paying minimum rates not less than those called for in the UMWA agreements are added to the employment and tonnage figures for the mines listed in UMW Exhibits 8-A through 8-H, it is evident that the majority of employees in Districts 14 and 18 are also receiving minimum wages not less than those called for in the UMWA agreements, and that companies employing such workers also account for the majority of all tonnage reported in Districts 14, 15, 18, and 22. No production has been reported from District 5 during 1953 or 1954,¹³⁰ and in view of the complete absence in the record of any data pertaining to that District, I am compelled to omit District 5 from my proposed minimum wage determination for the Industry.

UMW Exhibit 8-H as it pertains to the State of Iowa does not contain sufficient evidence to find that that minimum wage rate called for in the union contract covering District 12 is prevailing. More complete information for this District is contained in George A. Lamb Exhibit 5, which sets forth the minimum rates for mines accounting for the majority of the estimated 1954 production for District 12. An analysis of these two exhibits discloses that of those mines surveyed, the majority of the employees and the tonnage were attributable to mines paying a minimum hourly wage of \$1.40 or more. These two conditions are not satisfied at any higher wage.

For each of the other coal producing districts the record supports the peti-

¹²² T. 709-10, 747-9, 822-34, 858-9, 879-80, 1017-24, 1036-42, 1050-1, 1065-6, 1350-71, 1393-1400.

¹²⁴ T. 662-5, 1038, 1119.

¹²⁵ T. 825-8.

¹²⁶ T. 1831.

¹²⁷ T. 1118-19.

¹²⁸ T. 281, 642-5, 713-4.

¹²⁹ Government Exhibit 7; UMW Exhibit 8.

¹³⁰ Government Exhibit 7; Virginia Operators Exhibit 11.

tioners' request as to the prevailing minimum rates in the industry. The total tonnage and employment figures for mines paying minimum rates not less than those called for in the UMWA contracts were measured by comparable figures for the industry as reported by the U. S. Bureau of Mines for each district in 1953. For this purpose those mines listed in UMW Exhibits 8-A through 8-H for which no tonnage or employment figure was included, or which produced less than one thousand tons in 1953, were excluded.

The production of mines reporting less than one thousand tons of soft coal per year is insignificant. The most recent information on this matter is for the year 1944, a year of peak production, and a year in which roughly two thousand such mines were in operation. However, their total production during that year amounted to only $\frac{1}{10}$ of 1 percent of the soft coal produced in the continental United States.¹³¹ It appears clear, therefore, that an accurate evaluation of the proportionate tonnage and employment represented by mines under contract with the UMWA, or paying their employees minimum rates no less than those called for by the union contract, is obtainable by comparison with the statistics for the industry as published by the United States Bureau of Mines. In all districts except 5 and 12 it is evident that mines accounting for the majority of tonnage and employment are paying their employees minimum wages no less than those called for in the UMWA contracts. The minimum hourly rates provided for in the UMWA contracts for day workers are as follows:

District:		District:	
1-----	\$2.245	14-----	\$2.09
2-----	2.245	15-----	2.09
3-----	2.245	16-----	2.296
4-----	2.245	17-----	2.296
6-----	2.245	18-----	2.296
7-----	2.245	19-----	2.32
8-----	2.245	20-----	2.32
9-----	2.09	21-----	2.226
10-----	2.245	22-----	2.346
11-----	2.28	23-----	2.235
13-----	2.015		

Tonnage workers. The petitioners urged that tonnage workers be exempted from the minimum hourly wage determination requested for day workers.¹³² No one opposed the proposal. The petitioners also urged that adherence to the compensation provisions of UMWA contracts be regarded as compliance with the minimum wage provisions of the Walsh-Healey Public Contracts Act.¹³³

The record indicates that piece rates have generally been designed to yield the majority of incentive workers in a given mine at least the minimum hourly rate guaranteed day workers and to yield the incentive workers as a group average hourly earnings in excess of the minimum; and that they do, in fact, accomplish these objectives.¹³⁴ Accordingly, it appears desirable to recognize the com-

pensation practices prevailing in the industry with respect to incentive workers by providing that in the case of employees compensated in whole or in part on a piece-rate system, the minimum wage obligations under the Walsh-Healey Public Contracts Act will be fulfilled if a majority of the incentive workers engaged in work for the Government in a contracting establishment receives the prevailing minimum hourly rate applicable in the area during the period of time in which they perform such work, and if the average hourly earnings of these incentive workers as a group exceed this minimum.

However, it is also apparent from the record that while the compensation of a majority of the incentive workers generally equals or exceeds the applicable minimum hourly rates, there are periods of time during which difficult operating conditions such as thin seams or high proportions of slate render this untrue for a particular mine.¹³⁵ Consequently, it appears desirable to regard a mine as in compliance with the minimum wage provisions of the Act, despite failure to meet the standards during the particular period in which Government contract work is performed, if it can demonstrate that a majority of its incentive workers have or would have earned at least the minimum and that the average hourly earnings of its incentive workers as a group have or would have exceeded that minimum under normal mining conditions with the compensation arrangements prevailing during the period in which the mine was producing for the Government.

Auxiliary employees. The exemption from the minimum wage determination of a group of employees designated as "auxiliary employees" was urged by the petitioners.¹³⁶ These employees are generally compensated on a salary basis but in some cases at a rate of pay below the prevailing minimum hourly rates for other workers. Sometimes referred to as "company men," they are generally engaged in certain types of supervisory activities, or in clerical, shipping, engineering, laboratory, and other technical occupations exempt from the provisions of UMWA contracts.¹³⁷ One group of workers covered by the UMWA contracts was included in the request for an exemption. This group of workers, sometimes referred to as "eight-hour" men, has hourly rates of pay lower than the union minima by virtue of receipt of the union outside minimum daily rate for eight hours of work instead of the usual $7\frac{1}{4}$ hours characteristic of outside occupations.¹³⁸

Specifically, UMWA contracts provide for the exemption of coal inspectors, weigh bosses, watchmen, clerks, engineering and technical forces, and "mine foremen and assistant mine foremen who, in the usual performance of their duties, may make examinations for gas as prescribed by law, and such other su-

pervisors as are in charge of any class of labor inside or outside of the mines and who perform no production work." In addition an eight-hour day is established for all "continuous employees who are engaged at power houses, sub-stations and pumps operating continuously for twenty-four (24) hours daily, and hoisting engineers * * *".¹³⁹

The entire group of auxiliary employees, including the "eight-hour" men, has little numerical significance in the industry, constituting only one or two percent of total employment, and generally being employed only by larger mines.¹⁴⁰ Moreover, many of them are not covered by the Walsh-Healey Public Contracts Act by virtue of an absence of a close relationship to the production process; and because of the special skills required in most of the occupations, they are frequently compensated at higher rates of pay than those workers engaged in the actual mining of coal.¹⁴¹ Accordingly, since coverage of this group of workers by a minimum wage determination would appear to make no substantial contribution to fulfillment of the objectives of the Walsh-Healey Public Contracts Act, I am proposing their exemption from the provisions of this determination. Among the occupations included in this exemption (some of which may not otherwise be subject to the provisions of the Act) are the following:¹⁴²

Engineering:

1. Rodman.
2. Chainman.
3. Assistant transitman.
4. Transitman or transit worker.
5. Corpman.
6. Surveyor.
7. Junior draftsman.
8. Draftsman.
9. Engineer, mining and civil.
10. Surveyor helper.

Laboratory:

1. Laboratory assistant.
2. Laboratory technician.
3. Sampler.
4. Chemist helper or assistant chemist.
5. Chemist.
6. Laboratory sample grinder.

Shipping:

1. Billing clerk.
2. Shipping clerk.
3. Shipper.
4. Weighmaster or retail weighmaster.
5. Weighman, scaleman, or weighboss.
6. Mine clerk.
7. Payroll clerk.

Supply:

1. Supply clerk, warehouse clerk, or store clerk.
2. Supplyman, warehouseman, storeman, or storekeeper.
3. Supply purchasing agent.

Other:

1. Prospecting driller and assistant driller.
2. Other prospecting crew members.
3. Coal inspector.
4. Coal preparation technician.
5. Dispatcher.
6. Electrician or electrical engineer.
7. Shift maintenance foreman.
8. Machinist foreman.
9. Lampman.
10. Utility truck driver.
11. Machinist.
12. Timekeeper and assistant timekeeper.
13. Powerhouse, sub-station, and pump attendant.
14. Hoisting engineer.

¹³⁸ UMW Exhibit 5.

¹³⁹ T. 294, 297, 1657, 1660.

¹⁴⁰ George A. Lamb Exhibit 9.

¹³¹ Government Exhibit 7.

¹³² T. 236-7, 401-2.

¹³³ T. 90-1, 235-6, 261-2, 413-6, 500-2, 613, 687, 763, 766, 1103-8, 1113-5, 1129, 1132-3, 1191-1201, 1554-7, 1597, 1626-7, 1728, 1733-43.

¹³⁴ T. 85, 1103-8, 1112-5, 1129, 1132-3, 1198-1200, 1557.

¹³⁵ T. 288-9, 292, 399, 488-9.

¹³⁶ UMW Exhibit 5; George A. Lamb Exhibit 9.

¹³⁷ T. 295-7; UMW Exhibit 5.

Learners, apprentices, and handicapped workers. There is no current provisions for lower wages to employees undergoing training as learners or beginners in any of the various union agreements for which information is available in the record. Nor does the record indicate that there is any common practice of paying lower wages to such employees in non-union mines in any of the areas for which non-union data are available. Neither the petitioners nor the proponents of Virginia or portions of Pennsylvania and Kentucky as separate minimum wage areas proposed that the determination make provision for lower wages to such employees. On the record, therefore, I have concluded that no provision should be made in the prevailing minimum wage determination for lower rates for learners or beginners. I have also concluded that there is no basis in the record for rates below the prevailing minimum wages for apprentices.

Section 201.1102 of the Regulations issued under the Walsh-Healey Public Contracts Act permits the employment of handicapped workers at subminimum wages on contract work under the Act. This authority was not at issue in the proceedings, although there were a number of references during the hearings to disabled or overage workers. For informational purposes, however, it appears advisable to include in the determination the applicable provisions of the Regulations which provide specific authorization for the employment of handicapped workers.

Proposed decision. Notice is hereby given that, in accordance with all of the considerations expressed herein, I propose to issue a decision in this matter as set forth below. Any interested party may submit, within 30 days from publication of this proposed decision in the FEDERAL REGISTER, a statement in writing (original and four copies) setting forth any exceptions he may have to this decision, together with supporting reasons for such exceptions.

Title 41, Code of Federal Regulations, Part 202 is amended by the addition of the following new section:

§ 202.51 *Bituminous Coal Industry—*
(a) *Definition.* The Bituminous Coal Industry is defined as that industry which produces or furnishes all coal (including lignite) except Pennsylvania anthracite. "Produces or furnishes" includes mining or other extraction, and the loading, screening, sizing, washing, oiling and other preparation for market of bituminous coal, and activities incidental to these operations. The term "preparation for market" does not include any activities performed at Great Lakes or tidewater docks.

(b) *Minimum wage.* The minimum wage for employees (other than auxiliary workers) engaged in the performance of contracts with agencies of the United States subject to the provisions of the Act for production or furnishing of bituminous coal (including lignite) shall be the amount indicated for each area as follows:

District 1. Eastern Pennsylvania: \$2.245

The following counties in Pennsylvania: Bedford, Blair, Bradford, Cambria, Cameron, Centre, Clarion, Clearfield, Clinton, Elk, Forest, Fulton, Huntingdon, Jefferson, Lycoming, McKean, Mifflin, Potter, Somerset, Tioga.

Armstrong County, including mines served by the Pittsburgh and Shawmut Railroad on the west bank of the Allegheny River, and north of the Conemaugh division of the Pennsylvania Railroad.

Fayette County, all mines on and east of the line of Indian Creek Valley branch of the Baltimore and Ohio Railroad.

Indiana County, north of but excluding the Saltsburg branch of the Pennsylvania Railroad between Edri and Blairsville, both exclusive.

Westmoreland County, including all mines served by the Pennsylvania Railroad, Torrance, and east.

All coal-producing counties in the State of Maryland.

The following counties in West Virginia: Grant, Mineral, and Tucker.

District 2. Western Pennsylvania: \$2.245

The following counties in Pennsylvania: Allegheny, Beaver, Butler, Greene, Lawrence, Mercer, Venango, Washington.

Armstrong County, west of the Allegheny River and exclusive of mines served by the Pittsburgh and Shawmut Railroad.

Indiana County, including all mines served on the Saltsburg branch of the Pennsylvania Railroad north of Conemaugh River.

Fayette County, except all mines on and east of the line of Indian Creek Valley branch of the Baltimore and Ohio Railroad.

Westmoreland County, including all mines except those served by the Pennsylvania Railroad from Torrance, east.

District 3. Northern West Virginia: \$2.245

The following counties in West Virginia: Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pleasants, Preston, Randolph, Ritchie, Roane, Taylor, Tyler, Upshur, Webster, Wetzel, Wirt, Wood.

That part of Nicholas County including mines served by the Baltimore and Ohio Railroad and north.

District 4. Ohio: \$2.245

All coal-producing counties in Ohio.

District 5. Michigan: (no determination)

District 6. Panhandle: \$2.245

The following counties in West Virginia: Brooke, Hancock, Marshall, and Ohio.

District 7. Southern Numbered 1: \$2.245

The following counties in West Virginia: Greenbrier, Mercer, Monroe, Pocahontas, Summers.

Fayette County, east of Gauley River and including the Gauley River branch of the Chesapeake and Ohio Railroad and mines served by the Virginian Railway.

McDowell County, that portion served by the Dry Fork branch of the Norfolk and Western Railroad and east thereof.

Raleigh County, excluding all mines on the Coal River branch of the Chesapeake and Ohio Railroad.

Wyoming County, that portion served by the Gilbert branch of the Virginian Railway lying east of the mouth of Skin Fork of Guyandot River and that portion served by the main line and the Glen Rogers branch of the Virginian Railway.

The following counties in Virginia: Montgomery, Pulaski, Wythe, Giles, Craig.

Tazewell County, that portion served by the Dry Fork branch to Cedar Bluff and from Bluestone Junction to Boissevain branch of the Norfolk and Western Railroad and Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

Buchanan County, that portion served by the Richlands-Jewell Ridge branch of the Norfolk and Western Railroad and that portion of said county on the headwaters of Dismal Creek, east of Lynn Camp Creek (a tributary of Dismal Creek).

District 8. Southern Numbered 2: \$2.245

The following counties in West Virginia: Boone, Clay, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam, Wayne, Cabell.

Fayette County, west of, but not including mines of the Gauley River branch of the Chesapeake and Ohio Railroad.

McDowell County, that portion not served by and lying west of the Dry Fork branch of the Norfolk and Western Railroad.

Raleigh County, all mines on the Coal River branch of the Chesapeake and Ohio Railroad and north thereof.

Nicholas County, that part south of and not served by the Baltimore and Ohio Railroad.

Wyoming County, that portion served by Gilbert branch of the Virginian Railway lying west of the mouth of Skin Fork of Guyandot River.

The following counties in Virginia: Dickinson, Lee, Russell, Scott, Wise.

All of Buchanan County, except that portion on the headwaters of Dismal Creek, east of Lynn Camp Creek (tributary of Dismal Creek) and that portion served by the Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

Tazewell County, except portions served by the Dry Fork branch of Norfolk and Western Railroad and branch from Bluestone Junction to Boissevain of Norfolk and Western Railroad and Richlands-Jewell Ridge branch of the Norfolk and Western Railroad.

The following counties in Kentucky: Bell, Boyd, Breathitt, Carter, Clay, Clinton, Elliott, Floyd, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, McCreary, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Pulaski, Rockcastle, Wayne, Whitley, Wolfe.

The following counties in Tennessee: Anderson, Campbell, Claiborne, Cumberland, Fentress, Morgan, Ovation, Pickett, Putnam, Roane, Scott.

The following counties in North Carolina: Lee, Chatham, Moore.

District 9. West Kentucky: \$2.09

The following counties in Kentucky: Butler, Christian, Crittenden, Daviess, Hancock, Henderson, Hopkins, Logan, McLean, Muhlenberg, Ohio, Simpson, Todd, Union, Warren, Webster.

District 10. Illinois: \$2.245

All coal-producing counties in Illinois.

District 11. Indiana: \$2.28

All coal-producing counties in Indiana.

District 12. Iowa: \$1.40

All coal-producing counties in Iowa.

District 13. Southeastern: \$2.015

All coal-producing counties in Alabama.

The following counties in Georgia: Dade, Walker.

The following counties in Tennessee: Marion, Grundy, Hamilton, Bledsoe, Sequatchie, White, Van Buren, Warren, McMinn, Rhea.

District 14. Arkansas-Oklahoma: \$2.09

The following counties in Arkansas: All counties in the State.

The following counties in Oklahoma: Haskell, Le Flore, Sequoyah.

District 15. Southwestern: \$2.09

All coal-producing counties in Kansas. All coal-producing counties in Texas. All coal-producing counties in Missouri.

The following counties in Oklahoma: Coal, Craig, Latimer, McIntosh, Muskogee, Okmulgee, Pittsburg, Rogers, Tulsa, Wagoner.

District 16. Northern Colorado: \$2.296

The following counties in Colorado: Adams, Arapahoe, Boulder, Douglas, Elbert, El Paso, Jackson, Jefferson, Larimer, Weld.

District 17. Southern Colorado: \$2.296

The following counties in Colorado: All counties not included in northern Colorado district.

The following counties in New Mexico: All coal-producing counties in the State of New Mexico, except those included in the New Mexico district.

District 18. New Mexico: \$2.296

The following counties in New Mexico: Grant, Lincoln, McKinley, Rio Arriba, Sandoval, San Juan, San Miguel, Santa Fe, Socorro.

The following counties in Arizona: Pinal, Navajo, Graham, Apache, Coconino.

All coal-producing counties in California.

District 19. Wyoming: \$2.32

All coal-producing counties in Wyoming. The following counties in Idaho: Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Bannock, Power, Caribou, Oneida, Franklin, Bear Lake.

District 20. Utah: \$2.32

All coal-producing counties in Utah.

District 21. North Dakota-South Dakota: \$2.226

All coal-producing counties in North Dakota. All coal-producing counties in South Dakota.

District 22. Montana: \$2.346

All coal-producing counties in Montana.

District 23. Washington: \$2.235

All coal-producing counties in Washington. All coal-producing counties in Oregon.

(c) *Tonnage workers.* In the case of employees compensated in whole or in part under a piece rate system, the minimum wage obligations under the Walsh-Healey Public Contracts Act will be fulfilled if a majority of the incentive workers engaged in work for the Government in a contracting establishment receive the applicable prevailing minimum hourly rate as set forth in paragraph (b) of this section during the period of time in which they perform such work, and if the average hourly earnings of the group of incentive workers engaged in work for the Government exceed this minimum during this period. Notwithstanding a mine's failure to meet the foregoing requirement during the particular period in which Government contract work is performed, it will nevertheless be regarded as in compliance with the minimum wage provisions of the act if it can demonstrate that a majority of its incentive workers have or would have earned at least the minimum wage and that the average hourly earnings of such workers as a group have or would have exceeded that minimum under normal mining conditions under the compensation arrangements prevailing during the period in which the mine was producing for the Government.

(d) *Auxiliary workers.* The term "auxiliary workers" as applied to employees in the Bituminous Coal Indus-

try shall include employees who are employed in the following occupations or combinations of occupations:

Engineering:

1. Rodman.
2. Chainman.
3. Assistant transitman.
4. Transitman or transit worker.
5. Corpsman.
6. Surveyor.
7. Junior draftsman.
8. Draftsman.
9. Engineer, mining and civil.
10. Surveyor helper.

Laboratory:

1. Laboratory assistant.
2. Laboratory technician.
3. Sampler.
4. Chemist helper or assistant chemist.
5. Chemist.
6. Laboratory sample grinder.

Shipping:

1. Billing clerk.
2. Shipping clerk.
3. Shipper.
4. Weighmaster or retail weighmaster.
5. Weighman, scaleman, or weighboss.
6. Mine clerk.
7. Payroll clerk.

Supply:

1. Supply clerk, warehouse clerk, or store clerk.
2. Supplyman, warehouseman, storeman, or storekeeper.
3. Supply purchasing agent.

Other:

1. Prospecting driller and assistant driller.
2. Other prospecting crew members.
3. Coal inspector.
4. Coal preparation technician.
5. Dispatcher.
6. Electrician or electrical engineer.
7. Shift maintenance foreman.
8. Machinist foreman.
9. Lampman.
10. Utility truck driver.
11. Machinist.
12. Timekeeper and assistant timekeeper.
13. Powerhouse, sub-station, and pump attendant.
14. Hoisting engineer.

(e) *Subminimum wages authorized.* Handicapped workers may be employed at wages below the applicable minimum wages specified herein upon the same terms and conditions as are prescribed for the employment of handicapped workers by the regulations of the Administrator of the Wage and Hour Division of the Department of Labor (Parts 524 and 525 of this title), under section 14 of the Fair Labor Standards Act, as amended.

The Administrator of the Public Contracts Division is authorized to issue certificates under the Public Contracts Act for the employment of handicapped workers not subject to the Fair Labor Standards Act or subject to different minimum rates of pay under the two Acts, at appropriate rates of compensation and in accordance with the standards and procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act.

Signed at Washington, D. C., this 3d day of August 1955.

JAMES P. MITCHELL,
Secretary of Labor.

[F. R. Doc. 55-6411; Filed, Aug. 5, 1955; 8:45 a. m.]

Wage and Hour Division

[29 CFR Part 516]

RECORDS TO BE KEPT BY EMPLOYERS

NOTICE OF PROPOSED AMENDMENT

In order to effectuate the purposes of section 7 (f) (3) of the Fair Labor Standards Act of 1938, as amended, 52 Stat. 1060, as amended; 29 U. S. C. 201 et seq., and regulations Part 548 of this title issued herewith,¹ it is necessary to amend the Record-Keeping Regulations, Part 516 (29 CFR Part 516).

Accordingly, notice is hereby given that, pursuant to authority vested in me by section 11 (c) of the Fair Labor Standards Act of 1938, as amended (29 U. S. C. 201 et seq.), Reorganization Plan No. 6 of 1950 (5 U. S. C. 611), General Order No. 45-A (15 F. R. 3290), and, the position of the Administrator being presently vacant, General Order No. 85 (20 F. R. 2066), I propose to amend § 516.5 (a) (2) (iv) and § 516.18 (a) (2) of this part.

1. As amended § 516.5 (a) (2) (iv) will read as follows:

(iv) Agreements or memoranda summarizing the terms of agreements or understandings under section 7 (f) of the act, and

2. As amended § 516.18 (a) (2) will read as follows:

(2) A copy of the agreement or, if there is no written agreement, a memorandum summarizing the terms of the agreement or understanding to use this method of compensation. If the employee is part of a group, all of whom have agreed to use this method of computation, a single memorandum will suffice.

Interested persons may, within 30 days from the date of publication of this notice in the FEDERAL REGISTER, submit in writing to the Office of the Administrator, Wage and Hour and Public Contracts Divisions, U. S. Department of Labor, Washington 25, D. C., their views and arguments relative to the proposed amendments.

Signed at Washington, D. C., this 29th day of July 1955.

STUART ROTHMAN,
Solicitor of Labor.

[F. R. Doc. 55-6410; Filed, Aug. 5, 1955; 8:51 a. m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 18]

[Docket No. 11442; FCC 55-851]

INDUSTRIAL HEATING EQUIPMENT

EXTENSION OF TIME FOR FILING COMMENTS

In the Matter of Amendment of Part 18 to establish a type acceptance procedure for industrial heating equipment

¹ See F. R. Docs. 55-6413 and 55-6414, Title 29, Part 548, in Rules and Regulations Section, *supra*.

PROPOSED RULE MAKING

and in general to reorganize the regulations applicable to industrial heating equipment.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 27th day of July 1955;

The Commission having under consideration a petition filed by Westinghouse Electric Corporation requesting that the time for filing comments in the above-entitled proceeding be extended from

August 15, 1955, to November 15, 1955; and

It appearing that, there has recently been a reorganization of petitioner's operations in this field and therefore additional time is needed to gather certain technical data pertinent to this proceeding; and

It further appearing that, the public interest would be served by granting the petition for extending the time for filing comments in this proceeding;

It is ordered, That, the date for filing comments in this proceeding is hereby extended until November 15, 1955.

Released: August 1, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6374; Filed, Aug. 5, 1955;
8:45 a. m.]

NOTICES

FEDERAL COMMUNICATIONS
COMMISSION

[Docket No. 11434]

PACIFIC TELEPHONE AND TELEGRAPH CO.
ORDER ASSIGNING MATTER FOR PUBLIC
HEARING

In the matter of the application of the Pacific Telephone and Telegraph Company, Docket No. 11434, (File No. P-C-3602); for a certificate under Section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and properties of California Water & Telephone Company, Mount Wilson, California.

The Commission having under consideration an application filed by The Pacific Telephone and Telegraph Company for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by The Pacific Telephone and Telegraph Company of certain telephone plant and properties of California Water & Power Company furnishing telephone service in and around Mount Wilson, California, will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 28th day of July 1955, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That the hearing upon said application be held at the offices of the Commission in Washington, D. C., beginning at 10:00 a. m. on the 23d day of September 1955, and that a copy of this order shall be served upon The Pacific Telephone and Telegraph Company, California Water & Telephone Company, Public Utilities Commission of the State of California, the Governor of the State of California, and the Postmaster of Mount Wilson, California;

It is further ordered, That within ten days after the receipt from the Commission of a copy of this order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in and around Mount Wilson, California and

shall furnish proof of such publication at the hearing herein.

Released: July 29, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6375; Filed, Aug. 5, 1955;
8:45 a. m.]

[Docket No. 11469, etc.; FCC 55M-699]

ROLLINS BROADCASTING, INC., ET AL.

ORDER SCHEDULING HEARING

In re applications of Rollins Broadcasting, Inc., Indianapolis, Indiana, Docket No. 11469, File No. BP-9414; Jules J. Paglin and Stanley W. Ray, Jr., d/b as OK Broadcasting Company, Indianapolis, Indiana, Docket No. 11470, File No. BP-9473; Charles N. Cutler and Earl T. Herzog, d/b as Wireless Broadcasters, Franklin, Indiana, Docket No. 11471, File No. BP-9494; Wabash-Peru Broadcasting Company, Inc. (WARU), Peru, Indiana, Docket No. 11472, File No. BP-9731; Twin Valley Broadcasters, Inc. (WTVB), Coldwater, Michigan, Docket No. 11473, File No. BP-9732; for construction permits.

It is ordered, This 28th day of July 1955, that Hugh B. Hutchison is assigned to preside at the hearing in the above-entitled proceeding, which is hereby scheduled to commence on October 10, 1955, in Washington, D. C.

Released: August 1, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6376; Filed, Aug. 5, 1955;
8:45 a. m.]

[Docket Nos. 11474 and 11475; FCC 55M-692]

NORTHERN INDIANA BROADCASTERS, INC.,
AND ST. JOSEPH VALLEY BROADCASTING
CORP. (WJVA)

ORDER SCHEDULING HEARING

In re applications of Northern Indiana Broadcasters, Incorporated, South Bend, Indiana, Docket No. 11474, File No. BP-

9602; St. Joseph Valley Broadcasting Corporation (WJVA), Mishawaka, Indiana, Docket No. 11475, File No. BP-9778; for construction permits.

It is ordered, This 28th day of July 1955, that Basil P. Cooper will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on October 12, 1955, in Washington, D. C.

Released: August 1, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6377; Filed, Aug. 5, 1955;
8:45 a. m.]

[Docket Nos. 10931 and 10933; FCC 55M-702]

MERCER BROADCASTING CO. AND DREW J. T. O'KEEFE, JACK J. DASH AND WILLIAM F. WATERBURY

ORDER SCHEDULING HEARING

In re applications of Mercer Broadcasting Co., Trenton, New Jersey, Docket No. 10931, File No. BP-8714; Drew J. T. O'Keefe, Jack J. Dash & William F. Waterbury, Levittown-Fairless Hills, Pennsylvania, Docket No. 10933, File No. BP-8964; for construction permits.

The Hearing Examiner having under consideration the scheduling of further hearing herein;

It is ordered, This 1st day of August 1955, that further hearing herein is scheduled for September 6, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6404; Filed, Aug. 5, 1955;
8:50 a. m.]

[Docket No. 11202, etc.; FCC 55M-703]

MINERS BROADCASTING SERVICE, INC., ET AL.

ORDER CONTINUING HEARING

In re applications of Miners Broadcasting Service, Inc., Ambridge, Pennsylvania, Docket No. 11202, File No. BP-9102; Louis Rosenberg, Tarentum, Pennsylvania, Docket No. 11203, File No.

BP-9192; Theodore H. Oppgaard and Carl R. Lee, d/b as Somerset Broadcasting Company, Painesville, Ohio, Docket No. 11204, File No. BP-9358; for construction permits.

The Hearing Examiner having under consideration the above-entitled proceeding;

It appearing that a short continuance of the hearing herein is necessary to accommodate the Hearing Examiner's calendar;

It is ordered, This 1st day of August 1955, on the Hearing Examiner's own motion, that the hearing now scheduled for September 13, 1955, is continued until September 15, 1955, at 10:00 a. m.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6405; Filed, Aug. 5, 1955;
8:50 a. m.]

[Docket No. 11464]

ILLINOIS BELL TELEPHONE CO.

ORDER ASSIGNING MATTER FOR PUBLIC
HEARING

In the matter of the application of Illinois Bell Telephone Company, Docket No. 11464 (File No. P-C-3626), for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and properties of McHenry County Telephone Company, Marengo, Illinois.

The Commission having under consideration an application filed by Illinois Bell Telephone Company for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by Illinois Bell Telephone Company of certain telephone plant and properties of McHenry County Telephone Company furnishing telephone service in and around Marengo, Illinois, will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 1st day of August 1955, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That the hearing upon said application be held at the offices of the Commission in Washington, D. C., beginning at 2:00 p. m. on the 6th day of September 1955, and that a copy of this Order shall be served upon Illinois Bell Telephone Company, McHenry County Telephone Company, Illinois Commerce Commission, the Governor of Illinois, and the Postmaster of Marengo, Illinois;

It is further ordered, That within ten days after the receipt from the Commission of a copy of this order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in Marengo, Illinois, and McHenry County,

Illinois, and shall furnish proof of such publication at the hearing herein.

Released: August 2, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6406; Filed, Aug. 5, 1955;
8:51 a. m.]

[Docket No. 11465]

SOUTHERN BELL TELEPHONE AND
TELEGRAPH CO.

ORDER ASSIGNING MATTER FOR PUBLIC
HEARING

In the matter of the application of Southern Bell Telephone and Telegraph Company, Docket No. 11465 (File No. P-C-3627); for a certificate under section 221 (a) of the Communications Act of 1934, as amended, to acquire certain telephone plant and properties of Howard H. Callaway, d/b as Chipley Telephone Company, Chipley, Georgia.

The Commission having under consideration an application filed by Southern Bell Telephone and Telegraph Company for a certificate under section 221 (a) of the Communications Act of 1934, as amended, that the proposed acquisition by Southern Bell Telephone and Telegraph Company of certain telephone plant and properties of Howard H. Callaway, d/b as Chipley Telephone Company furnishing telephone service in and around Chipley, Georgia, will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is ordered, This 1st day of August 1955, that pursuant to the provisions of section 221 (a) of the Communications Act of 1934, as amended, the above application is assigned for public hearing for the purpose of determining whether the proposed acquisition will be of advantage to the persons to whom service is to be rendered and in the public interest;

It is further ordered, That the hearing upon said application be held at the offices of the Commission in Washington, D. C., beginning at 10:00 a. m. on the 29th day of September 1955, and that a copy of this Order shall be served upon Southern Bell Telephone and Telegraph Company, Howard H. Callaway, d/b as Chipley Telephone Company, the Governor of the State of Georgia, Georgia Public Service Commission, and the Postmaster of Chipley, Georgia.

It is further ordered, That within ten days after the receipt from the Commission of a copy of this Order, the applicant herein shall cause a copy hereof to be published in a newspaper or newspapers having general circulation in Chipley, Georgia, and Harris, Troup, and Meriwether Counties, Georgia, and shall furnish proof of such publication at the hearing herein.

Released: August 2, 1955.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS,
Secretary.

[F. R. Doc. 55-6407; Filed, Aug. 5, 1955;
8:51 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Bureau Order 566, Amdt. 2]

AREA DIRECTOR

AUTHORITY TO REDELEGATE AUTHORITY WITH RESPECT TO CONSTRUCTION, SUPPLY AND SERVICE CONTRACTS AND NEGOTIATING CONTRACTS FOR SERVICES OF ENGINEERING AND ARCHITECTURAL FIRMS

SEC. 4. Authority of Area Director to Redelegate of Order No. 566, as amended (19 F. R. 3971; 20 F. R. 2092), is revised to read as follows:

SEC. 4. Authority of Area Director to Redelegate. An Area Director may redelegate the authority delegated to him by Section 1 of this Order. Each re-delegation shall be published in the FEDERAL REGISTER.

W. BARTON GREENWOOD,
Acting Commissioner.

AUGUST 2, 1955.

[F. R. Doc. 55-6387; Filed, Aug. 5, 1955;
8:47 a. m.]

CIVIL AERONAUTICS BOARD

[Docket No. SA-255]

ACCIDENT OCCURRING AT SANDSPIT,
BRITISH COLUMBIA

NOTICE OF RECONVENING OF HEARING

In the matter of investigation of accident involving aircraft of United States Registry N 45342, which occurred at Sandspit, British Columbia, on January 19, 1952.

Notice is hereby given, pursuant to the Civil Aeronautics Act of 1938, as amended, particularly Section 702 of said Act, in the above-entitled proceeding that hearing is hereby assigned to be held for the taking of additional witness testimony and technical information on Wednesday, August 10, 1955, at 9:30 a. m. (local time) in the Northwest Airlines Conference Room, 1885 University Avenue, St. Paul, Minnesota.

Dated at Washington, D. C., August 1, 1955.

[SEAL] EVERETT S. BOSWORTH,
Presiding Officer.

[F. R. Doc. 55-6409; Filed, Aug. 5, 1955;
8:51 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

CALIFORNIA ASSOCIATION OF PORT AUTHORITIES AND RED SEA AND GULF OF ADEN/U. S. ATLANTIC AND GULF FREIGHT CONFERENCE

NOTICE OF AGREEMENTS FILED FOR APPROVAL

Notice is hereby given that the following described agreements have been filed with the Board for approval pursuant to § 15 of the Shipping Act, 1916, as amended; 39 Stat 733, 46 U. S. C. 814.

(1) Agreement No. 7345-4 between the Members of the California Association of Port Authorities modifies the approved agreement of that Association (No. 7345) to provide that annual meet-

ings, now required to be held between April 1st and June 30th of each year, may be held at any other time of the year upon unanimous consent of members. Agreement No. 7345 provides for the establishment and maintenance of just and reasonable, and as far as practicable, of uniform terminal rates, charges, classifications, rules, regulations and practices at the members' terminals in the State of California.

(2) Agreement No. 8230-1, between the member lines of the Red Sea and Gulf of Aden/U. S. Atlantic and Gulf Freight Conference, modifies the basic conference agreement (No. 8230) to increase the maximum remuneration of the lines' agents at Addis Ababa, Asmara and Khartoum, from 1¼ percent to 2½ percent.

Interested parties may inspect these agreements and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D. C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of the agreements and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: August 2, 1955.

By order of the Federal Maritime Board,

[SEAL]

A. J. WILLIAMS,
Secretary.

[F. R. Doc. 55-6408; Filed, Aug. 5, 1955;
8:51 a. m.]

GENERAL SERVICES ADMINISTRATION

[Project No. 3-DC-01]

FEDERAL OFFICE BUILDING

PROSPECTUS FOR PROPOSED BUILDING IN SOUTHWESTERN PORTION OF THE DISTRICT OF COLUMBIA

EDITORIAL NOTE: This prospectus of proposed Project Number 3-DC-01 is published pursuant to section 412 (f) of the Public Buildings Purchase Contract Act of 1954, as amended by Public Law 150, 84th Congress, which requires publication in the FEDERAL REGISTER for a period of ten consecutive days from date of submission to the Committees on Public Works of the Senate and House of Representatives.

Project Number 3-DC-01

PROSPECTUS FOR PROPOSED BUILDING UNDER TITLE I, PUBLIC LAW 519, 83d CONGRESS, 2D SESSION

FEDERAL OFFICE BUILDING, WASHINGTON, D. C.

A. Brief description of proposed building:

The project contemplates the erection of a Federal Office Building on a site to be acquired in the Southwest redevelopment area.

The proposed building will be a six-story and penthouse structure, stone exterior, with cafeteria included, and air conditioned throughout. It will have a gross floor area of 815,000 square feet, that will provide 558,000 square feet of net space, of which 500,000 square feet will be office area, 10,000 square feet for shops, 34,000 square feet for cafeteria, and 14,000 square feet for custodial, health unit, etc.

B. Maximum cost and financing:

1. Total over-all value of project.....	\$20,200,000
a. Items not included in purchase contract:	
(1) Architectural	\$995,000
(2) Land	2,500,000
	\$3,495,000
b. Purchase contract costs:	
(1) Improvements	\$16,705,000
2. Contract Term.....	10 to 25 years
3. Maximum rate of interest on purchase contract.....	4%

C. Estimated annual costs:

1. 25 Year Contract Term:	
a. Purchase contract payments:	
(1) Amortization and interest.....	\$1,069,320
(2) Taxes	251,213
Rate per net sq. ft. \$2.37.....	\$1,320,533
b. Costs not included in purchase contract payments:	
(1) Custodial and utilities.....	\$538,000
(2) Repair and maintenance.....	82,000
Rate per net sq. ft. \$1.11.....	\$620,000
c. Total Estimated Annual Cost.....	\$1,940,533
Rate per net sq. ft. \$3.48.....	
2. Second 25 Year Term:	
a. Custodial and utilities.....	\$538,000
b. Repairs and maintenance.....	160,000
c. Total Estimated Annual Cost.....	\$698,000
Rate per net sq. ft. \$1.25.....	
3. 50 Year Average:	
a. Total Estimated Annual Cost.....	\$1,319,267
Rate per net sq. ft. \$2.36.....	
4. Annual Rental Costs for Comparable Space (Net Agency).....	\$1,970,000
Rate per net sq. ft. \$3.94.....	
5. Maximum Annual Payment Permitted.....	\$3,030,000
(15% of fair market value.).....	

NOTE: All estimates based on 1955 price levels.

D. Present annual rental and other housing costs:

	Net sq. ft.	Unit cost	Total cost
1. Existing Tempo's 4, 5 and T (or comparable space), to be supplanted by proposed building.....	500,522	\$0.99	\$495,760

E. Justification of project:

1. Lack of Suitable Space:
a. The needs for space for the permanent activities of the Federal Government cannot be satisfied by utilization of existing Government-owned space.

b. Suitable rental space of comparable sort and characteristics is not available at a price commensurate with that to be afforded through the contract proposed.

c. The space requested and proposed is needed for permanent activities of the Federal Government.

d. The best interest of the Government will be served by taking the action proposed.

2. Existing Conditions:
During the past several years there has been an active and widespread movement on the part of the public and Governmental agencies, notably the Commission of Fine Arts, concerning the removal of World War I and II Tempos and the restoration of the park lands.

Data compiled as of December 31, 1954, indicates that the Federal Government is currently utilizing four (4) World War I Tempo's, providing 2,083,903 square feet of net agency space, with 16,506 personnel; and 35 World War II Tempo's, providing 3,585,063 square feet, with 22,823 personnel. In summary, 39 Tempo's, providing a total of 5,668,966 square feet of net agency space, with aggregate personnel of 39,329. The aforementioned figures do not include space or personnel of the Central Intelligence Agency.

The Congress, long sympathetic to the insistent demand for the razing of the Tempo's has considered several proposed bills to ac-

complish this purpose. Among these was S 1290, passed in the Senate on June 8, 1955, and enacted as Public Law 150, 84th Congress, approved July 12, 1955. That law expressly manifests the intent of Congress that (1) provision of accommodations for executive agencies by GSA as a part of the program for redevelopment of the southwest portion of the District of Columbia be accomplished on a lease-purchase basis and (2) temporary space of equivalent occupancy be demolished.

The proposed building will provide approximately 500,000 square feet of net office space, to accommodate equivalent personnel displaced from temporary buildings contemplated for initial demolition under current long-range planning programs.

3. Direct and Indirect Benefits Expected to Accrue.

a. Agencies whose related operations are scattered among two or more locations will be able to concentrate all of them in a single location and thereby realize appreciable economies deriving from such factors as contiguity of operating elements, immediate accessibility of employees and records, and elimination of transportation and communication delays.

b. The accommodation of Federal agencies in a single building will provide flexibility in making internal reassignments of agency space where increases or decreases in requirements occur.

c. The proposed building will be functional in concept and devoid of excessive embellishment and extravagant appointments. The design of the building and facilities will provide for the utmost economy in construction; maintenance and operation costs considered. It will be provided with modern fittings, appointments and conveniences comparable to those provided in buildings of private enterprise. Maintenance and improvement of employee morale and the consequent increasing of employee efficiency over a period of years may thus be confidently expected to result in intangible though nonetheless real economies.

F. Analysis of project space:

1. Since this project is intended to provide for relocation of numerous Federal activities now housed in temporary buildings, no specific allocation of space among agencies can be made. Therefore requirement for Certificate of Need otherwise required by Section 411 (e) of the Public Buildings Purchase Contract Act of 1954 was waived in Public Law 150, 84th Congress.

2. Space:

a. Distribution:

Agency	Tempo's 4, 5, and T proposed			
	Net sq. ft.	Personnel	Net sq. ft.	Personnel
The specific allocation of agencies to be quartered in the proposed building has not been presently determined.				
Subtotal, Agency Space.....	500,520	3,072	500,000	3,700
General Services:				
Custodial and Shops.....			22,000	132
Health Unit and Vending Stand.....			2,000	3
Cafeteria.....			34,000	50
Total.....	500,520	3,072	558,000	3,885

b. Utilization:

Agency Space—sq. ft. per person.....	163	135
Total Space—sq. ft. per person.....	163	144

c. Efficiency: Ratio, net to gross (net assignable)..... 68.5%

G. Analysis of project cost:

1. Costs of Improvements—Normal:

a. Construction	\$12,250,000
b. Elevator	430,000
c. Air Conditioning.....	1,750,000
d. Interest, taxes, etc., during construction.....	730,000
Cost per gross sq. ft. \$18.60.....	\$15,160,000

2. Costs of Improvements—Additional:

a. Approaches & utilities.....	\$150,000
b. Steam connection.....	120,000
c. Stone face.....	525,000
d. Contingencies	750,000
	\$1,545,000

3. Total Cost of Improvement..... \$16,705,000

4. Costs Not Included in Purchase Contract:

a. Architectural	\$995,000
b. Land to be acquired (Est. Cost).....	2,500,000
	\$3,495,000

5. Total over-all value of project..... \$20,200,000

H. Other selected data:

1. The proposed contract provisions will not exceed the amount necessary to:

- a. Amortize principal.
- b. Provide interest not to 4% of the outstanding principal.

- c. Reimburse contractor for the cost of taxes and interest during construction.

- d. Reimburse contractor for proportional charge for redevelopment general area, streets and utilities.

2. It is proposed to make awards on financing and construction by competition.

3. Estimated completion date for the project is 40 months from date of final approval.

4. Taxes computed on basis of 75% ratio and \$22.00 per \$1,000.

5. Insurance included during construction only as part of total cost borne by construction contractor. During post-construction period Government will act as self-insurer.

Project Number 3-DC-01

Submission

Submitted at Washington, D. C.

Recommended:

[S] PETER A. STROBEL,
Commissioner of Public Buildings Service,
General Services Administration.

Approved:

[S] A. E. SNYDER,
Acting Administrator,
General Services Administration.

Statement of Director, Bureau of the Budget

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

WASHINGTON, D. C.

Project 3-DC-01

Federal Office Building,
Southwest Redevelopment Area,
Washington, D. C.

JULY 22, 1955.

MY DEAR MR. MANSURE:

Pursuant to section 411 (e) (8) of the Public Buildings Purchase Contract Act of 1954 (Public Law 519), the proposal for a Federal Office Building, transmitted with your letter of June 28, 1955, has been examined and in my opinion "is necessary and in conformity with the policy of the President." This approval is given with the following understandings:

1. That the project cost of \$20,200,000 (including \$2,500,000 for land to be acquired) is a maximum figure.

2. That the reported annual operating cost of existing Tempos 4, 5 and T, i. e., 99¢ per sq. ft., represents minimum maintenance in anticipation of demolition, and that temporary Government buildings actually cost more to maintain than the proposed new building.

3. That the proposed building will house some 10 percent of Federal employees presently housed in temporary buildings, and that the specific allocation of agencies in the proposed building is to be determined later by GSA.

4. That every effort will be made to design and construct space conducive to maximum efficient utilization and to take advantage of any revision of cost downward which may be found possible as the plans develop and negotiations are advanced.

You appreciate, of course, that this project will receive a more detailed review as to cost and space utilization prior to approval of the lease-purchase agreement.

Sincerely yours,

[Signed] ROWLAND HUGHES,
Director.

HON. EDMUND F. MANSURE,
Administrator,
General Services Administration,
Washington 25, D. C.

[F. R. Doc. 55-6130; Filed, July 26, 1955;
10:09 a. m.]

Public Buildings Service

[Wildlife Order 31]

TRANSFER OF PROPERTY KNOWN AS TARPON
SPRINGS LIGHT ATTENDANT STATION,
TARPON SPRINGS, FLA.

Pursuant to the provisions of Section 2 of Public Law 537, Eightieth Congress (16 U. S. C. 667c), notice is hereby given that:

1. By letter of transfer dated May 12, 1955, from General Services Administration to the Fish and Wildlife Service, Department of the Interior, that property known as Tarpon Springs Light Attendant Station, Tarpon Springs, Florida, more particularly described in subject letter, has been transferred to the Department of the Interior.

2. The above described property is transferred to the Department of the Interior for migratory bird conservation purposes in accordance with the provisions of said Public Law 537.

FRED S. POORMAN,
Acting Commissioner of
Public Buildings Service.

JULY 29, 1955.

[F. R. Doc. 55-6418; Filed, Aug. 5, 1955;
8:52 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

HERBERT HUSTON BETHEL

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Herbert Huston Bethel, 17, The Strand, Topsham, Devon, England, Claim No. 59046, Vesting Order Nos. 9693, 9904; \$269.11 in the Treasury of the United States.

Executed at Washington, D. C., on July 29, 1955.

For the Attorney General.

[SEAL] PAUL V. MYRON,
Deputy Director,
Office of Alien Property.

[F. R. Doc. 55-6381; Filed, Aug. 5, 1955;
8:46 a. m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

KENTUCKY

DISASTER ASSISTANCE; DESIGNATION OF AREAS FOR PRODUCTION EMERGENCY LOANS

For the purpose of making production emergency loans pursuant to section 2 (a) of Public Law 38, 81st Congress, as amended, it is determined that in the following named additional counties in the State of Kentucky a production disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

KENTUCKY

Estill.	Madison.
Fleming.	Nicholas.
Garrard.	Powell.

Pursuant to the authority as set forth above, such loans will not be made in the State of Kentucky after December 31, 1956, except to borrowers who previously received such assistance.

Done at Washington, D. C., this 3d day of August 1955.

[SEAL] TRUE D. MORSE,
Acting Secretary.

[F. R. Doc. 55-6417; Filed, Aug. 5, 1955;
8:52 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-5259]

TENNESSEE GAS TRANSMISSION CO.

NOTICE OF ORDER AFFIRMING RULING AND DENYING APPEAL

AUGUST 2, 1955.

Notice is hereby given that on July 14, 1955, the Federal Power Commission issued its order adopted July 13, 1955, affirming ruling of Presiding Examiner and denying appeal in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6391; Filed, Aug. 5, 1955;
8:48 a. m.]

[Docket No. G-5788]

CITIES SERVICE GAS PRODUCING CO.

NOTICE OF ORDER MODIFYING DECISION

AUGUST 2, 1955.

Notice is hereby given that on July 15, 1955, the Federal Power Commission issued its order adopted July 13, 1955, modifying decision of the Presiding Ex-

aminer and affirming decision as so modified in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6392; Filed, Aug. 5, 1955;
8:48 a. m.]

[Docket Nos. G-6697; G-6698]

N. L. ADAMS, SR., ET AL.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 2, 1955.

In the matters of N. L. Adams, Sr., and N. L. Adams, Jr., Docket No. G-6697; Courtney Stewart, Docket No. G-6698.

Notice is hereby given that on July 13, 1955, the Federal Power Commission issued its findings and order adopted July 13, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6393; Filed, Aug. 5, 1955;
8:48 a. m.]

[Docket No. ID-1240]

ROBERT O. WHITMAN

NOTICE OF ORDER AUTHORIZING APPLICANT TO HOLD CERTAIN POSITIONS

AUGUST 2, 1955.

Notice is hereby given that on July 15, 1955, the Federal Power Commission issued its order adopted July 13, 1955, authorizing applicant to hold certain positions pursuant to section 305 (b) of the Federal Power Act in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6394; Filed, Aug. 5, 1955;
8:49 a. m.]

[Docket Nos. G-3892, etc.]

UNITED CARBON CO., INC. (MARYLAND)
ET AL.

NOTICE OF FINDINGS AND ORDERS ISSUING CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

AUGUST 2, 1955.

In the matters of United Carbon Company, Inc. (Maryland), Docket No. G-3892; Welsh Oil and Gas Company, Docket No. G-4959; Goose Run Oil and Gas Company, Docket No. G-4960; Todd Oil and Gas Company, Docket No. G-4961; P. C. McKenzie Company, Docket No. G-5945; Henrietta Yerger Jones dba Edwin Jones Oil Company, Docket No. G-6305; Zeller Gas Company, Docket No. G-6474; Raychel Gas Company, Docket No. G-6475; Floyd Gas Company, Docket No. G-6476; Albert E. Rice, et al. Lease, Docket No. G-6487; John G. Cochran and Company, Docket No. G-6522; Idah Woods Johnson, Docket No. G-6691; Freshour Gas

Company, Docket No. G-3160; Hol-
landsworth Oil Company, et al., Docket
No. G-8667; The Manufacturers Light
and Heat Company, Docket No. G-8735;
E. B. McMurtry, Docket No. G-8814.

Notice is hereby given that on July 13, 1955, the Federal Power Commission issued its findings and orders adopted July 8, 1955, issuing certificates of public convenience and necessity in the above-entitled matters.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6395; Filed, Aug. 5, 1955;
8:49 a. m.]

[Docket No. E-6636]

MONTANA-DAKOTA UTILITIES CO.

NOTICE OF APPLICATION SEEKING ORDER AUTHORIZING ISSUANCE OF UNSECURED NOTES

AUGUST 1, 1955.

Take notice that on July 28, 1955, Montana-Dakota Utilities Co., incorporated in Maine with its principal business office in Minneapolis, Minnesota, filed an application with the Federal Power Commission pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured promissory notes dated as of the dates of their respective issue, which will not be later than December 31, 1955, and due not more than one year after the dates of their respective issue, each bearing interest at the prime commercial bank rate in effect at the date it is issued. The notes will be payable to The First National City Bank of New York with a 25 percent participation in each note by the Northwestern National Bank of Minneapolis and a 20 percent participation in each note by the First National Bank of Minneapolis. Applicant states that the purpose of the notes is to provide temporary financing for necessary additions to the applicant's gas and electric properties made necessary to supply increasing demands for service; all as more fully appear in the application on file with the Commission.

Any person desiring to be heard, or to make any protest with reference to said application should, on or before the 22d day of August 1955, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's Rules of Practice and Procedure. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 55-6396; Filed, Aug. 5, 1955;
8:49 a. m.]

[Docket No. G-6211]

CONTINENTAL OIL CO.

NOTICE OF APPLICATION AND DATE OF HEARING

AUGUST 2, 1955.

Take notice that Continental Oil Company, Applicant, a Delaware corporation

whose address is 608 Fannin Street, Houston, Texas, filed on November 29, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant sells in interstate commerce natural gas produced in South La Gloria Unit, La Gloria Area of Brooks and Jim Wells Counties, Texas, to Texas-Illinois Natural Gas Company for resale. The stated price is 7.48 cents per Mcf.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 6, 1955, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 25, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.[F. R. Doc. 55-6397; Filed, Aug. 5, 1955;
8:49 a. m.]

[Docket No. G-7004]

SOUTH PENN NATURAL GAS CO.

NOTICE OF APPLICATION AND DATE OF
HEARING

AUGUST 1, 1955.

Take notice that South Penn Natural Gas Company, Applicant, a corporation whose address is Union Trust Building, Parkersburg, West Virginia, filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant produces natural gas in various districts of twenty counties in West Virginia and sells the same in interstate commerce to Hope Natural Gas Company for resale and Applicant also produces natural gas from the Glenville District, Gilmer County, and from the Birch District, Braxton County, West Virginia, and sells it in interstate commerce to Equitable Gas Company for resale. The price of gas sold to Hope Natural Gas Company is 22 cents per Mcf and that sold to Equitable Gas Company is 16 cents per Mcf.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 6, 1955 at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's rules of practice and procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 16, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.[F. R. Doc. 55-6398; Filed, Aug. 5, 1955;
8:49 a. m.]

[Docket No. G-7022]

EARL GOODWIN ET AL.

NOTICE OF APPLICATION AND DATE OF
HEARING

AUGUST 1, 1955.

Take notice that Earl Goodwin et al., Applicant, an individual whose address is Jane Lew, West Virginia, filed on November 30, 1954, an application for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, authorizing Applicant to render service as hereinafter described, subject to the jurisdiction of the Commission, all as more fully represented in the application which is on file with the Commission and open for public inspection.

Applicant proposes to sell natural gas in interstate commerce to Carnegie Natural Gas Company for resale which is produced in Freemans Creek District,

Lewis County, West Virginia. The price of gas to be 20 cents per Mcf.

This matter is one that should be disposed of as promptly as possible under applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's Rules of Practice and Procedure, a hearing will be held on September 6, 1955, at 9:45 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of section 1.30 (c) (1) or (c) (2) of the Commission's Rules of Practice and Procedure.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before August 16, 1955. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL]

LEON M. FUQUAY,
Secretary.[F. R. Doc. 55-6399; Filed, Aug. 5, 1955;
8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 3, 1955.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 30908: Molasses—Montana and Washington to Illinois, Missouri, and Wisconsin. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on molasses, beet sugar final, tank-car loads from Billings, Missoula, and Sidney, Mont., and Scalley and Toppenish, Wash., to Chicago, Crescent, Crystal Lake, Decatur, Pekin, and Peoria, Ill., Milwaukee, Wis., and St. Louis, Mo.

Grounds for relief: Market competition and circuitry.

Tariffs: Supplement 55 to Agent Prueter's I. C. C. 1560; Supplement 21 to Agent Prueter's I. C. C. 1567.

FSA No. 30909: Phosphate—Anaconda, Mont., to western points. Filed by W. J. Prueter, Agent, for interested rail carriers. Rates on phosphate, acidulated, and acidulated and ammoniated, carloads, from Anaconda, Montana to specified points in Nebraska, North Dakota, South Dakota, and Wyoming.

Grounds for relief: Short-line distance formula, market competition, and circuitry.

Tariff: Supplement 55 to Agent Prue-ter's I. C. C. 1560.

FSA No. 30910: Clay—South Dakota and Wyoming to Montana. Filed by W. J. Prue-ter, Agent, for interested rail carriers. Rates on clay, crude or ground, carloads from Belle Fourche, S. D., Grey-bull, Wyo., and other specified points in Wyoming to specified points in northern, southern, and western Montana.

Grounds for relief: Circuitous routes.

Tariff: Supplement 55 to Agent Prue-ter's I. C. C. 1560.

FSA No. 30911: Sulphate liquor skim-mings to Goodyear, Miss. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on sulphate black liquor skimmings, carloads, from specified points in Arkansas, Louisiana (west of the Mississippi River), and Texas to Goodyear, Miss.

Grounds for relief: Circuitous routes.

Tariff: Supplement 74 to Agent Kratz-meir's I. C. C. 4139 and two other tariffs.

FSA No. 30912: Scrap paper—Evadale, Tex., to the east. Filed by F. C. Kratz-

meir, Agent, for interested rail carriers. Rates on scrap or waste paper, carloads from Evadale, Tex., to specified points in Illinois, central, trunk-line, and New England territories.

Grounds for relief: Short-line dis-tance formula and circuitry.

Tariff: Supplement 18 to Agent Kratz-meir's I. C. C. 3992.

FSA No. 30913: Muriatic acid—Loving, N. Mex., to New Mexico and Texas. Filed by F. C. Kratzmeir, Agent, for in-terested rail carriers. Rates on muriatic (hydrochloric) acid, tank-car loads from Loving, New Mexico to specified points in New Mexico and Texas.

Grounds for relief: Motor truck com-petition and circuitry.

Tariff: Supplement 102 to Agent Kratzmeir's I. C. C. 4046.

FSA No. 30914: Peanuts—Southwest to Hershey and Altoona, Pa. Filed by F. C. Kratzmeir, Agent, for interested rail carriers. Rates on peanuts, shelled, not salted, carloads from specified points in Arkansas, Oklahoma, and Texas to Altoona and Hershey, Pa.

Grounds for relief: Market competi-tion, grouping and circuitry.

Tariff: Supplement 25 to Agent Kratz-meir's I. C. C. No. 4043.

FSA No. 30915: Magazines or periodi-cals—Kokomo, Ind., to New Orleans, La. Filed by H. R. Hinsch, Agent, for inter-ested rail carriers. Rates on magazines or periodicals, magazine parts or sec-tions, or newspaper supplements, car-loads, from Kokomo, Ind., to New Or-leans, La.

Grounds for relief: Circuitous routes.

FSA No. 30916: Caustic soda—Evans City, Ala., to Foley, Fla. Filed by South-ern Railway Company, Agent, for inter-ested rail carriers. Rates on caustic soda, tank-car loads from Evans City, Ala., to Foley, Fla.

Grounds for relief: Market competi-tion and circuitry.

Tariff: Supplement 110 to Agent Span-inger's I. C. C. 1295.

By the Commission.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F. R. Doc. 55-6400; Filed, Aug. 5, 1955;
8:50 a. m.]