

property¹ between points in the territory bounded generally by Burbank

¹ No rates were prescribed for the transportation of:

- (1) Automobiles.
- (2) Fruit, fresh; vegetables, fresh or green.
- (3) Milk, cream, buttermilk, cottage cheese, pot cheese, or unflavored ice-cream mix when transported in milk shipping cans, in bottles in cases or crates, or in bulk in tanks.
- (4) Motion picture films and motion picture accessories.
- (5) Oil, water or gas well outfits and supplies as described in Item No. 10 of Appendix "A" to Decision No. 29313 of November 30, 1936, in Cases 4088 "C", 4106 and 4107, between points for which rates are provided in said decision.
- (6) Petroleum products (liquid, refined), including compounded oils having a petroleum base, as described in Supplement 17 to Western Classification No. 65 (Supplement No. 17 to C.R.C. No. 580 of M.A. Cummings, Agent), under the heading "Petroleum or Petroleum Products * * *" (except petroleum crude oil, petroleum fuel oil and petroleum gas oil) when transported in tank cars, tank trucks, tank trailers or tank semi-trailers, or a combination of such highway vehicles.
- (7) Property transported by Railway Express Agency, Inc., United Parcel Service, Inc., or Louis M. Goodman doing business as Goodman Delivery Service and 20th Century Delivery Service.
- (8) Sand, rock, gravel, road building material, excavated material, building materials, asphaltic concrete decomposed granite, and stabilizing materials, when transported by dump truck.
- (9) Shipments weighing more than 18,000 pounds.
- (10) Livestock.
- (11) Used household goods and personal effects, second-hand furniture, musical instruments, radios, office and store fixtures and equipment.
- (12) Property between steamship wharves at Los Angeles and Long Beach Harbors on the one hand and certain territory in and intermediate to Los Angeles on the other hand, nor within a certain industrial area in and near Los Angeles. The excepted territories were defined in Rule No. 30 of Appendix "A" of Decision No. 29480.

and San Fernando on the north, Redlands, Yucaipa, Hemet Valley and Escondido on the east, the Mexican border on the south, and the Pacific Ocean on the west. The rates prescribed are set forth in an appendix attached to the order. They are constructed on a mileage basis and are graded according to the size of the shipment. In general, property is divided into four classes; where the record shows that special treatment is necessary classification exceptions are provided.

The rates prescribed are generally lower than those suggested during the hearings. On the whole they are somewhat higher than those now in effect but in specific instances, they will result in substantial reductions. Insofar as reductions are concerned this is particularly true with respect to the rates for the long distances. The rates for short haul transportation of small shipments, while not lower than those now in effect, are materially lower than those suggested by several of the witnesses.

As stated in the original decision the proceedings were had for the purpose of considering the representations made by a number of carriers to the effect that the existing rates were not properly constructed and did not reflect the cost of performing the service. The rates prescribed were intended to bring about a rate structure which was logical, consistent and free from undue discrimination and at the same time return to the carriers involved sufficient revenue to enable them to render a sound and enduring transportation service.

Almost immediately following the issuance of the order, however, a number of carriers, particularly highway carriers both contract and common, represented to the Commission that they had made a careful survey and had found the amount of the increase so

small that it fell far short of affording the needed relief. They also objected to certain other less important features of the decision and requested that the order be modified forthwith. Petitions for the exclusion of grain and grain products were filed by a highway contract carrier and by a milling company, and requests for modification were made by a distributor of telephone directories, by a transporter of baggage and by the California Farm Bureau Federation. Because of the representations that the prescribed rates were entirely inadequate, the matters were set for oral argument before the Commission en banc which was had at Los Angeles, February 16, 1937. The parties participating in the argument are listed in the footnote.²

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They are:

Wallace K. Downey,	for Pacific Freight Lines and Keystone Express Co.
Henry J. Bischoff,	for Southern California Freight Lines and Southern California Freight Forwarders.
Gerald E. Duffy,	for The Atchison, Topeka & Santa Fe Railway Co. and Santa Fe Transportation Co.
J.E. Lyons,	for Southern Pacific Company and Pacific Motor Trucking Company.
A.D. Poe,	for Motor Truck Ass'n of Southern California.
E.A. Maher,	for Automotive Council of Orange County.
E.J. Forman,	for Globe Grain & Milling Company, Southern California Flour Millers' Traffic Association, Los Angeles Grain Exchange, California Hay Grain and Feed Dealers' Ass'n.
C.C. Richards,	for Burbank Chamber of Commerce.
H. R. Brashear,	for Los Angeles Chamber of Commerce.
R.E. Crandall,	for Associated Jobbers and Manufacturers.
F.W. Turcotte,	for Chambers of Commerce and other civic organizations shown in Decision No. 29480 and for the clientele of Carmichael Traffic Corporation consisting of 67 manufacturing and jobbing concerns in the vicinity of Los Angeles.
W.F. Thompson,	for California-Hawaiian Sugar Refining Corp'n.
B.F. Bolling,	for Pioneer-Flintkote Company.
J.J. Duell,	for California Farm Bureau Federation.

The arguments made by Messrs. Downey and Bischoff are similar and to the following effect:

While rates have been decreasing the cost of materials and supplies has been advancing and a substantial increase in wages is now imperative.³ This increase cannot be made unless rates materially higher than those prescribed in Decision No. 29480 are established. Such higher rates are justified by cost studies of record which, with the exception of labor, are based on actual experience and have not been controverted. These cost studies show particularly that the rates prescribed for long-haul transportation and for shipments weighing less than 500 pounds are too low. The fact that charges based on actual weights may not exceed those computed at a lower rate and higher weight minimum and the naming of exceptions to the governing classification disadvantage the carriers. The classification exceptions should in any event apply only on shipments moving in substantial quantities. After giving effect to Rule 50 (c) which permits the lower rating where different ratings are provided for articles according to the form in which they are shipped, the rates prescribed will return approximately 10% additional revenue, but this is not sufficient to enable the carriers to pay the wages which they are required to pay for the transportation not only of the commodities covered by the decision but of those that have been excluded as well.

Based on the tonnage the companies Mr. Bischoff represents are now hauling, rates proposed during the argument (Exhibit A-2)

³ It is strongly urged that labor is not getting its just due. The average hourly wage paid drivers of all kinds by the companies represented by Mr. Bischoff, during the month of December, 1966, was 44½ cents; that paid by the companies represented by Mr. Downey ranged from 45 cents to 55 cents. Dock labor is generally paid less. Wages of 60 cents for freight handlers and short haul drivers, and from 70 cents to 75 cents for long haul drivers are proposed and said to be necessary. Somewhat in excess of 50% of the entire cost of highway transportation represents wages.

are said to produce approximately 17% more revenue than the rates now in effect but at least this much additional revenue is said to be necessary if the proposed wages are to be paid. What revenue they would return to the companies represented by Mr. Downey is not of record.

Mr. Duffy stressed the cost of performing pick-up and delivery service,⁴ and concurred in the views of Messrs. Downey and Bischoff that the rates prescribed by the Commission were too low. He is particularly disturbed about the rates for the higher weight brackets. The 18,000 pound bracket, he believes, should be eliminated, on the ground that it tends to break down the rates in the 10,000 to 18,000 pound bracket and is in any event not applicable to shipments weighing in excess of 18,000 pounds. He recommended that the term "lot" be defined so as to remove any doubt whether or not a shipment is entitled to lot rates if the articles shipped are of different classes. He suggested that the term be restricted to articles of the same class shipped by one consignor to one consignee. In this Messrs. Downey and Bischoff concurred.

In the main, Mr. Lyons agreed with the views expressed by Mr. Duffy. However, he made the following additional objections:

1. The rate scale prescribed by the Commission is too low and results in uncalled for, unnecessary and undemanded rate reductions.
2. It sets up at least two unnecessary weight groups.
3. The spread between the different weight groups is too great.⁵ It should reflect only the difference in terminal

⁴ The amount now paid to private carriers performing this service for the Santa Fe under contract is approximately 14 cents per 100 pounds. These carriers are, however, demanding an increase.

⁵ Using 100% to represent the any-quantity first class rate, Mr. Lyons states that the 2000, 4000, 10,000 and 18,000 pound first class rates would equal 82, 66, 37 and 24% respectively. This, however, is true only of shipments moving 10 miles or less. In terms of percentage the spread decreases as the distance increases. At 200 miles the percentages are 100, 90, 81, 66 and 59.

expense.

Like Messrs. Downey and Bischoff, Mr. Poe stressed the increased and increasing cost of commodities and wages and argued that although the cost studies introduced were not criticized the rates prescribed were lower than the studies justified. He had no criticism to offer of the method used by the Commission in prescribing rates, but contended that the resulting revenue would be insufficient. He concurred in Mr. Duffy's suggestion that the 18,000 pound weight bracket be eliminated; otherwise he approved of the rates proposed in Exhibit A-2. He also called attention to the further reduction brought about by the use of lower rates based on higher minima where the use of higher rates at actual weight results in greater charges, and recommended that weight minima be observed in prescribing classification exceptions.

Stating that the carriers he represents maintain no termini or depots, and that the prescribed rates contemplate at least one terminal operation, Mr. Maher argued that the rates should not apply for hauling in small communities where no termini or depots are used. He suggested hourly rates for this service. In his opinion, the prescribed rates will, if permitted to become effective, result in undue increases and will encourage proprietary hauling.

In the belief that grain, grain products, poultry and animal feed, cereals and cereal products were specifically covered by Part "F" of Case No. 4088, Mr. Forman introduced no evidence at the original hearings and now urges that these commodities be excluded. He contends the rates prescribed are too high for the transportation of these commodities, particularly since on many of them two transportation charges are paid in the course of the movement from field to consumer. ⁶
Insofar as he seeks exclusion of grain and grain products, he is sup-
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By supplemental petition filed after the hearing, he also seeks, on behalf of the California Hay, Grain and Feed Dealers Ass'n, the exemption of fresh eggs and egg cases and live or dressed poultry. However, no testimony was introduced to show why these commodities should be exempted; nor was the request made during the oral argument.

ported by Sperry Flour Company and by Ira P. Lamb, a contract carrier, who filed written petitions urging similar action, and also by Mr. Duell to whose argument reference will be made hereinafter.

Mr. Richards pointed to a large increase in the any-quantity rates prescribed for application between Burbank and Los Angeles. He agrees that the carriers are entitled to fair and reasonable rates, but believes that the rates for transportation within a 25 to 30 mile radius of Los Angeles have been sufficiently increased and that the greater portion of the trucking business within the territory involved is carried on within this area. He believes that the decision "is very fair" and will produce revenue in excess of what labor will require when an anticipated increased volume of traffic is considered. A further increase at this time, he fears, will result in increased proprietary hauling.

Mr. Crandall estimated that the proposed rates resulted in increases of from 15 to 25% and in some instances from 40 to 50%. He gave examples of what he considers drastic increases, particularly on small quantities. While the shippers he represents are said to be sympathetic with the carriers' problems, he thinks the proposed rates are reasonable and should be given a fair trial. If higher rates are to be established, additional classification exceptions should be provided. He stressed competition with shippers using trans-continental rail service and water service and argued that the spread between the 4000 and 10,000 pound rates was too great.

Mr. Turcotte recognized the need for the payment of fair wages, but argued that this could be done under the rates prescribed in Decision No. 29480. In support of this argument, he pointed out

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The prescribed any-quantity first and fourth-class rates are 46 to 70% higher than the existing rates. Much of this increase is brought about by the fact that greater recognition is given to the increased cost of handling small shipments. In the higher weight brackets the prescribed rates are in many instances materially below those now in effect.

that substantial increases have been allowed on shipments weighing less than 1000 pounds and moving within a radius of 30 miles of Los Angeles, which shipments, he believes, constitute the greater portion of the traffic here involved. He further contended that in the San Francisco area, wages higher than those here proposed are being paid, although rates are in many instances lower. He pointed out that the rates prescribed are minimum rates and contended that they should be the lowest that the carriers could be required to maintain. He also suggested that Section 10 of the Highway Carriers' Act prohibited the prescribing of greater rates than those maintained by common carriers at the time the act became effective.⁸ He compared the rates now proposed by certain carriers with rates prescribed by the Commission in the so-called San Joaquin Valley case (1 C.R.C. 95) and with rates applying from the San Francisco area to certain of the points here involved. In the latter instance, the proposed rates are practically as high as, and sometimes higher than, the present rates from the San Francisco area to the same points. The establishing of additional weight brackets, as proposed by certain carriers, he contended, would work to the undue advantage of chain stores and to the detriment of small shippers. While not in accord with the Commission's decision in its entirety, he feels that, on the whole, it represents a marked improvement and that it should be given a fair trial.

Mr. Thompson contended that the rates to nearby points on sugar in 5 ton lots were prohibitive and excessive "in comparison with rates presently enjoyed" and urged that they should not include terminal costs.

⁸ Section 10 of the Highway Carriers' Act (Chapter 223, Statutes of 1935) provides in part:

"In event the Commission establishes minimum rates for transportation services by highway carriers, such rates shall not exceed the current rates of common carriers for the transportation of the same kind of property between the same points."

Mr. Bolling argued that the proposed rates would prevent Los Angeles manufacturers from competing with those in the San Francisco Bay area.

Mr. Duell, while also recognizing the position in which the carriers find themselves today, requested the exclusion of:

1. Grain and grain products (in grain products he includes only poultry and animal feed, and not articles for human consumption).
2. Hay and straw.
3. Cotton, cotton seed, cotton meal and cotton cake.
4. Fresh fruits and vegetables.
5. Livestock.
6. Milk and cream moving from the country to a plant or to the city in cans.
7. Fertilizer.
8. Insecticides and fungicides moving in drums to the fields.

He wants these commodities excluded, not only from these phases of these proceedings, but from all others not specifically set aside for the consideration of rates for the transportation of farm commodities.

Mr. Brashear had no argument to make at the time, but was permitted, with the consent of the parties, to file a written statement with the Commission at a later date. The statement which is dated February 19, 1937 follows:

"The Los Angeles Chamber of Commerce is in sympathy with the payment of wages of 60 cents and 70 cents per hour to men employed on the platforms and to truck drivers respectively and it believes such wages to be reasonably necessary. Therefore it favors a finding by the Commission prescribing such rates in this proceeding as it may deem necessary to enable the truck operators to pay such wages.

"The Los Angeles Chamber of Commerce is of the opinion that the necessary rates should be established regardless of any temporary discrimination which may be created against any of the communities within the Southern California area involved.

"To the end that there be a minimum disturbance to business generally, we respectfully but most urgently request that promptly as possible the Commission proceed with such investigations in other parts of the state as will remove any unjust discrimination or undue prejudice to the communities in Southern California which may be created by any order the Commission sees fit to issue in the instant case. Particularly do we request that the Commission institute proceedings and prescribe rates not lower than those which may be prescribed in the instant case for corresponding hauls in the San Francisco Bay area where higher scales of wages obtain today than the carriers propose to pay in Southern California, and further that the rates between the San Francisco Bay district and Southern California be so readjusted as to remove any unjust discrimination or undue prejudice.

"At a meeting held in the Los Angeles Chamber of Commerce today, Mr. L.E. Myers, Secretary of the Glendale Chamber of Commerce, Mr. C.C. Richards, Secretary of the Burbank Chamber of Commerce, Mr. Nye Wilson, Secretary of the Alhambra Chamber of Commerce, and Mr. F.W. Turcotte, representing various civic organizations in Southern California, were in attendance and I have been authorized by them to say that they agree with the statement above made as reflecting their views and are relying upon the confidence we repose in the Commission for an early readjustment of rates throughout the State to remove any unjust discrimination or undue prejudice."

The first and undoubtedly the most important issue to be determined is the extent to which, if at all, the prescribed rates should be increased. As has already been observed, certain parties contend that they are entirely too low; others that they are reasonable and should at least be given a fair trial. It is not disputed that, on the whole, rates higher than those prescribed are necessary to return the costs developed in the various studies.

While many of the increases which we will hereafter prescribe may appear drastic on the surface, they must be viewed in the light of the depressed nature of the rate structure now in effect. Moreover, the prescribing of the uniform scale will, in many cases, result in substantial reductions. In our opinion the over-all increase will not be greater than necessary to compensate the carriers for the increased cost of labor and materials.

The practice of computing charges at lower rates subject

to higher weight minima, when this results in lower costs to the shipper than by use of actual weights, is of long standing and there is nothing in this record to indicate that it is not proper. Such a well established principle should not be abandoned without real justification. If experience shows that it results in reducing carriers' revenues unduly, the entire rate level should be increased.

The classification exceptions were resorted to in order to take care of instances in which, under the particular circumstances, the class rates prescribed appeared to be improper. Since the rates in connection with which they apply are graded according to the tonnage transported, there appears to be no good reason why additional weight restrictions should be provided. To do so, moreover, would result in rate complications which on this record do not appear to be necessary.

The rates prescribed decrease as the weight increases from less than 2000, 4000, 10,000 and 18,000 pounds to the next higher weight brackets and shippers have the option of using a higher rate at actual weight or a lower rate at a higher weight minimum whichever produces the lower charge. This again is in accord with an established principle of rate making. To eliminate the 18,000 pound bracket then would result in according shippers of less than 2000, 4000 and 10,000 pound lots the benefit of using the rate applicable to the next higher weight minima, but would deny like consideration to those shipping in lots of less than 18,000 pounds. For this reason, if the 18,000 pound bracket is to be eliminated, the next lower bracket should be confined to shipments weighing from 10,000 to 15,000 pounds, thus generally excluding shipments that would be disadvantaged by the elimination of the 18,000 pound bracket.

To remove any uncertainty the term "lot" should be defined. Since rates are based on the volume of the tonnage offered for transportation at one time, however, no good reason appears for penalizing a shipper merely because different parts of his shipment fall under

different classifications. By the same reasoning different commodities, even though subject to the same rating, should be considered separately in applying the prescribed rates.

That the spread between weight groups is too great and should reflect only the difference in terminal expense needs no answer excepting to state that in the various cost studies, none of which have been shown to be erroneous in this regard, over-all spreads at least as great as used have been developed. There is, therefore, no basis on this record for narrowing these spreads.

The record likewise does not support the contention that rates for hauling in small communities where carriers maintain no terminals or depots should be lower than those properly applicable elsewhere. Entirely aside from the fact that rates constructed in accordance with this suggestion would probably be extremely confusing and wholly impracticable, it appears from this record that if all costs are considered, such transportation is not materially less burdensome, if at all, than transportation in larger cities or for longer hauls.

In view of the fact that grain and grain products are now being considered in Part "F" of Case No. 4088 and in Case No. 4118 the request for the exclusion of these commodities appears reasonable. This should not, however, include cereals and cereal products within which classification are such light and bulky commodities as shredded wheat and cornflakes. Fresh fruits and fresh or green vegetables, livestock and milk and cream in milk shipping cans are not now covered by Decision No. 29480. The request for exclusion of fertilizer, insecticides and fungicides, hay and straw, cotton, cotton seed, cotton meal and cotton cake likewise appears to be well made. These commodities

are closely related to others that have been or are being excluded and a large portion of the movement is into or out of fields where, because of surface conditions, shipments must be made in small lots.

As the record now stands there is no justification for modifying the order with respect to the transportation of sugar in five ton lots. The mere contention that rates are prohibitive and excessive "in comparison with rates presently enjoyed" is of little probative value. The elimination of the 18,000 pound weight bracket and the limitation of the next lower bracket to shipments weighing from 10,000 to 15,000 pounds will probably exclude many of the shipments that would otherwise move under these rates.

The argument that the proposed rates would unduly restrict Los Angeles shippers of roofing, building material and box board in their competition with those in the San Francisco Bay area is not supported in the record. As previously pointed out, unless all commodities moving between all points in the State are considered at one time, temporary inequalities are bound to arise and such inequalities under the circumstances and conditions do not constitute undue discrimination.

Upon further consideration of the record in the above entitled proceeding and in the light of the oral argument, we are of the opinion and find that Appendix A of Decision No. 29480 of January 25, 1937 in the above entitled proceedings should be modified as follows:

(1) Add to the definition of Technical Terms shown in Rule 10 the following:

(f) LOT means a specified quantity of property tendered to a carrier as a single unit regardless of the classification of the property tendered.

(2) Add to Paragraph (c) of Rule 20, Section No. 1 the following:

(12) Telephone directories.

(13) Baggage

(14) Grain, Grain Products and Feed, Animal or Poultry as described under those headings in the current classification; also crushed or ground clam, mussel or oyster shells.

(15) Fertilizer.

(16) Insecticides and fungicides, agricultural.

(17) Hay and Straw.

(18) Cotton, cotton seed, cotton meal and cotton cake.

(3) Change Items (5), (7), and (9) of Paragraph (c) of Rule 20, Section No. 1 to read:

(5) Oil, Water or Gas Well Outfits and Supplies as described in Item No. 10 of Appendix "A" of Decision No. 29313 of November 30, 1936, or tank steel as described in Decision No. 29560 of February 19, 1937, in Cases Nos. 4088 "C", 4106 and 4107, where lower charges for the same transportation of the same shipment are provided in said decisions.

(7) Property transported by Western Parcel Service, Railway Express Agency, Inc., United Parcel Service, Inc., or Louis M. Goodman doing business as Goodman Delivery Service, and 20th Century Delivery Service.

(9) Shipments weighing more than 15,000 pounds.

(4) Eliminate from Section 2 (Exceptions to Current Classification and Current exception Sheet) Items Nos. 40, 50, 60, 80 and 90.

(5) Substitute for Section 3 the rate table shown in Appendix "A" attached hereto and by this reference made a part hereof.

ORDER

These proceedings having been duly considered in the light of the oral argument and good cause appearing therefor,

IT IS HEREBY ORDERED that Decision No. 29480 of January 25, 1937 in the above entitled proceedings be and it is hereby modified to the extent indicated in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that respondents be and they are hereby required to comply with the order in said Decision No. 29480, as amended, on or before April 12, 1937 and that the notice common carriers, as defined in the Public Utilities Act, are required to give to the Commission and the public be and it is hereby changed

from ten (10) to three (3) days.

IT IS HEREBY FURTHER ORDERED that in all other respects
Decision No. 29480 shall remain in full force and effect.

The effective date of this order shall be March 20, 1937.

Dated at San Francisco, California, this 8th day of
March, 1937.

William W. Ware
Leon A. Hill
Frank R. Hill
Raymond J. Hill
Raymond J. Hill
Commissioners

APPENDIX "A"
CLASS RATES IN CENTS PER 100 POUNDS

MILES	Any Quantity				Minimum Weight 500 Pounds				Minimum Weight 2,000 Pounds				Minimum Weight 4,000 Pounds				Minimum Weight 10,000 Pounds			
	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
Not over 10 -----	40	36	32	28	30	27	24	21	27	24	22	19	22	20	18	15	12	11	10	9
Over 10 but not over 20 -----	44	40	36	31	34	31	27	24	31	28	25	22	25	23	20	18	14	13	11	10
Over 20 but not over 30 -----	49	44	39	34	38	34	31	27	35	32	28	25	28	25	23	20	17	15	13	12
Over 30 but not over 40 -----	53	48	43	37	42	38	34	30	39	35	31	27	31	28	25	22	19	17	15	13
Over 40 but not over 50 -----	58	52	46	40	46	42	37	32	43	38	34	30	34	30	27	24	21	19	17	15
Over 50 but not over 60 -----	59	53	47	41	48	43	38	34	44	40	35	31	35	32	28	25	23	21	18	16
Over 60 but not over 70 -----	61	55	49	43	50	45	40	35	46	41	37	32	37	33	30	26	25	22	20	17
Over 70 but not over 80 -----	62	56	50	44	51	46	41	36	47	43	38	33	39	35	31	27	26	24	21	18
Over 80 but not over 90 -----	64	58	51	45	53	48	42	37	49	44	39	34	40	36	32	28	28	25	22	20
Over 90 but not over 100 -----	66	59	53	46	55	49	44	38	51	46	41	36	42	38	34	29	30	27	24	21
Over 100 but not over 120 -----	69	62	55	48	58	52	46	41	54	49	43	38	45	41	36	32	33	30	26	23
Over 120 but not over 140 -----	72	65	58	51	61	55	49	43	57	52	46	40	49	44	39	34	36	33	29	25
Over 140 but not over 160 -----	76	68	61	53	65	58	52	45	61	55	49	43	52	47	42	36	40	36	32	28
Over 160 but not over 180 -----	79	71	63	55	68	61	54	48	64	58	51	45	55	50	44	39	43	39	34	30
Over 180 but not over 200 -----	82	74	66	57	71	64	57	50	67	60	54	47	59	53	47	41	46	41	37	32