

MINUTE ITEM

3/31/75  
CRK

24. AMENDMENT OF REGULATIONS IN 2 CALIFORNIA ADMINISTRATIVE CODE, ARTICLES 1 AND 5; REPEAL OF ARTICLE 2 IN ITS ENTIRELY; AND ADOPTION OF NEW ARTICLE 2 THEREFOR - W 5125.

After consideration of Calendar Item 22 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES SUCH STEPS AS MAY BE NECESSARY AND APPROPRIATE, INCLUDING PUBLICATION AND PUBLIC HEARING, AS REQUIRED BY THE ADMINISTRATIVE PROCEDURES ACT FOR CHANGES IN TITLE 2, DIVISION 3, CALIFORNIA ADMINISTRATIVE CODE, ARTICLES 1 AND 5; AND FOR REPEAL AND ADOPTION OF A NEW ARTICLE 2 GENERALLY IN THE FORMS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.

Attachment:

Calendar Item 22 (2 pages)

CALENDAR ITEM

22.

3/75  
CRK  
W 5125

AMENDMENT OF REGULATIONS IN 2 CALIFORNIA ADMINISTRATIVE CODE,  
ARTICLES 1 AND 5; REPEAL OF ARTICLE 2 IN ITS ENTIRETY;  
AND ADOPTION OF NEW ARTICLE 2 THEREFOR

On December 19, 1974, the Commission adopted a resolution authorizing the staff to promulgate proposed amended regulations having to do with rental rates and processing fees. Subsequently, the Division was instructed to explore the entire subject matter in great depth with emphasis on interest rates and on "throughput" rentals for petroleum products being transported through pipelines. The Division has now completed its study and recommends that the Commission adopt the changes in Articles 1 and 5 of its regulations, and further recommends that Article 2 be repealed in its entirety and a new Article 2 be substituted therefor.

The changes as indicated for Articles 1 and 5 are nonsubstantive and self-explanatory. The changes recommended for Article 2 are substantial and highlighted as follows:

1. A fee schedule has been added to provide for the Commission to recover its costs in processing any lease or other agreement which does not result in a monetary rental. The fee schedule applies to public agencies and persons alike. The minimum fees range from \$300 to \$2,500, with provision for additional sums as necessary to meet unusual transactions.
2. The annual yield to the State in the form of rent which is based upon the value of the land is increased from 6 percent to 8 percent. This figure has been arrived at after consultation with Urban Property Research Co., a professional land appraisal firm, and with the research division of Security Pacific National Bank. The rate recommended is based upon the premise that the Commission leases unimproved land on a net basis.
3. Provision has been added to specify percentage rents applying to commercial leases. The percentage rates recommended have been determined after a study of similar rates charged by lessors located throughout the State, and they are considered conservative. These percentage rents, therefore, would apply on all the income that is derived from, and specifically inputable to, the State land covered by a commercial-type lease. It is intended that the details of

CALENDAR ITEM NO. 22. (CONTD)

record-keeping, auditing, etc., shall be covered in a standard lease document, the form of which has been tentatively approved by the Attorney General and will be presented to the Commission for its consideration in the near future, along with other similar-type standard lease forms.

4. Provision has been added to require a "throughput" charge for crude oil, petroleum products, natural gas and liquified natural gas, and related products passing through pipelines that are located on State land. Differentiation has been made in the case of pipelines serving a refinery terminal or wharfage facility and those pipelines comprising a segment of a transmission facility. This distinction has been made because of the difference in land use; i.e. the segment of a pipeline crossing a river constitute a different type land use than one traversing the ocean bottom out to the 3-mile limit.
5. A special schedule has been developed for charging a rental rate on the basis of the volume or quantity of material moving across or stored upon State land covered by an industrial lease. This type rental rate is similar to "wharfage" rates charged by the various ports located in California. The rates chosen have been selected as a result of a study of tariffs and charges made by such ports.
6. Under the new version of Article 2, public agencies may be required to pay a monetary rental for any lease of State land.

EXHIBITS: A. Article 1, Title 2, Div. 3, Cal. Adm. Code.  
B. Article 2, Title 2, Div. 3, Cal. Adm. Code.  
C. Article 5, Title 2, Div. 3, Cal. Adm. Code.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE SUCH STEPS AS MAY BE NECESSARY AND APPROPRIATE, INCLUDING PUBLICATION AND PUBLIC HEARING, AS REQUIRED BY THE ADMINISTRATIVE PROCEDURES ACT FOR CHANGES IN TITLE 2, DIVISION 3, CALIFORNIA ADMINISTRATIVE CODE, ARTICLES 1 AND 5; AND FOR REPEAL AND ADOPTION OF A NEW ARTICLE 2 GENERALLY IN THE FORMS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.