

helping recipients develop this support for their programs.

(d) *Need for support.* (13 points) (1) With respect to an application to initiate or strengthen a law-related education program—

(i) The need and rationale for the applicant's program at the site and grade levels at which it is directed; and

(ii) The financial need of the applicant's program and the extent to which the project is likely—both directly and indirectly—to strengthen the program's financial capacity to sustain law-related education activities.

(2) With respect to an application from an established program that requests funding only to provide technical assistance to other agencies or organizations, the need and interest of communities to receive technical assistance from the project, as documented in the application.

(3) Applications designed both to strengthen an existing program and also to provide technical assistance to other agencies or organizations are evaluated under (d)(1) and (2) of this section.

(e) *Breadth of the proposed programs.* (5 points) The breadth of the law-related education programs likely to be developed as a result of the project. In applying this criterion, the Secretary considers—

(1) The numbers of students, teachers, and schools proposed to be served by the applicant's program and by programs given technical assistance; and

(2) The extent to which the project will increase the capacity of State or local organizations to offer law-related education at a variety of grade levels and educational settings.

(20 U.S.C. 3001, 3002)

(f) *Quality of key personnel.* (12 points) (1) The Secretary reviews each application for information that shows the quality of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (f)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(g) *Budget and cost effectiveness.* (5 points) (1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(h) *Evaluation plan.* (5 points) (1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR § 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(i) *Adequacy of resources.* (3 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(20 U.S.C. 3001, 3002)

§ 757.32 What criteria are used to evaluate applications for exemplary projects?

In evaluating applications for exemplary grants, the Secretary considers—

(a) *Importance of need.* (18 points)

The importance of the need addressed by the project, as documented by objective evidence in the application. In applying this criterion, the Secretary considers the extent to which the project—if successful—contributes to the Act's purposes to expand opportunities for law-related education throughout the United States and to improve the quality of law-related education programs.

(b) *Innovativeness.* (13 points) The extent to which the proposed project addresses needs that have not been adequately addressed by any law-

related education program or the extent to which the proposed project uses a particularly new and exemplary approach to law-related education.

(c) *Quality of activities.* (16 points) The quality of the law-related education activities in the project. In applying this criterion, the Secretary considers how the project addresses the need for sound scholarship, quality control, and a balanced curriculum that does not advocate particular legal or political viewpoints.

(d) *Plan of operation.* (10 points) The Secretary evaluates an application on the basis of the criterion in § 757.31(b).

(e) *Evaluation plan.* (12 points) The Secretary evaluates an application on the basis of the criterion in § 757.31(h).

(f) *Quality of key personnel.* (13 points) The Secretary evaluates an application on the basis of the criterion in § 757.31(f).

(g) *Applicant's experience.* (10 points) The applicant's knowledge of and experience in law-related education, or specific provision for obtaining assistance from individuals or groups expert in the field.

(h) *Budget and cost effectiveness.* (5 points) The Secretary evaluates an application on the basis of the criterion in § 757.31(g).

(i) *Adequacy of resources.* (3 points) The Secretary evaluates an application on the basis of the criterion in § 757.31(i).

(20 U.S.C. 3001, 3002)

§ 757.33 What is the duration of support?

The Secretary approves a project for a period of up to two years. A multi-year application must comply with § 75.117 of EDGAR. Approval of a project for more than a year and the award of continuation grants within the project period are subject to the provisions in §§ 75.250 through 75.254 of EDGAR.

(20 U.S.C. 1221e-3)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 757.40 What are the limitations on allowable costs?

Allowable costs under a grant are direct and indirect costs incurred by the grantee in carrying out the approved project, subject to the applicable cost principles provided or referenced in §§ 75.530 through 75.534 of EDGAR, except that construction and other capital costs are not allowable.

(20 U.S.C. 1221e-3)

(FR Doc. 81-1586 Filed 1-15-81; 8:45 am)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[A-9-FRL 1722-1]

California Plan Revision:
Redesignation of Air Quality Control Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA takes final action to approve the redesignation of seven Air Quality Control Regions (AQCR's) and the designation of two additional AQCR's in California, as requested by the California Air Resources Board (ARB). The intended effect of these designations and redesignations is to promote more efficient and effective air quality management.

EFFECTIVE DATE: February 17, 1981.

ADDRESS: A copy of the redesignation request is located at: The Office of the Federal Register, 1100 "L" Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT:

Louise P. Giersch, Director, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, California 94105, Attn: Douglas Grano, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

Under Section 107 of the Clean Air Act, as amended, 11 AQCR's in California were designated by the Administrator. Boundaries of these AQCR's are described in the following sections of 40 CFR Part 81:

- Sec.
81.17 Metropolitan Los Angeles AQCR.
81.21 The San Francisco Bay Area Intrastate AQCR.
81.159 Great Basin Valley intrastate AQCR.
81.160 North Central Coast Intrastate AQCR.
81.161 North Coast Intrastate AQCR.
81.162 Northeast Plateau Intrastate AQCR.
81.163 Sacramento Valley intrastate AQCR.
81.164 San Diego Intrastate AQCR.
81.165 San Joaquin Valley Intrastate AQCR.
81.166 South Central Coast Intrastate AQCR.
81.167 Southeast Desert Intrastate AQCR.

Altogether, the AQCR's listed above include the entire state. At the time they became effective their boundaries coincided with those of the California Air Basins as defined in the California Administrative Code. Since then the boundaries of several air basins have

been changed, and additional air basins have been created.

Changes that have been made by the ARB to the original air basins are as follows:

1. On May 18, 1971, northeastern Solano County was transferred from the San Francisco Bay Area Air Basin to the Sacramento Valley Air Basin.
2. On May 18, 1971, northern Sonoma County was transferred from the San Francisco Bay Area Air Basin to the North Coast Air Basin.
3. On July 21, 1971, western Siskiyou County was transferred from the North Coast Air Basin to the Northeast Plateau Air Basin.
4. On September 15, 1971, a portion of Kern County in the vicinity of Tehachapi was transferred from the San Joaquin Valley Air Basin to the Southeast Desert Air Basin.
5. On June 21, 1974, the Mountain Counties Air Basin was created from five counties (Plumas, Sierra, Nevada, Placer, and El Dorado) of the Sacramento Valley Air Basin and four counties (Amador, Calaveras, Tuolumne, and Mariposa) of the San Joaquin Valley Air Basin.
6. On July 19, 1974, the Lake County Air Basin, consisting of all of Lake County (previously in the North Coast Air Basin), was created.
7. On December 30, 1975, the Lake Tahoe Air Basin, comprising the Lake Tahoe watershed in Placer and El Dorado Counties, was created from part of the Mountain Counties Air Basin.
8. On August 31, 1976, Ventura County and southern Santa Barbara County were transferred from the South Coast Air Basin (Metropolitan Los Angeles AQCR) to the South Central Coast Air Basin.
9. On July 1, 1977, eastern San Diego County was transferred from the Southeast Desert Air Basin to the San Diego Air Basin.

As a result of these changes, there are now 14 State-designated air basins in California, of which two (North Central Coast and Great Basin Valleys) remain as originally established. Of the remaining 12, three (Mountain Counties, Lake County, and Lake Tahoe) are new and nine have been changed since their original establishment.

The Redesignation

On September 11, 1978, the Executive Officer of the ARB requested the EPA's approval of seven redesignated and two additionally designated (new) AQCR's in California.

The seven redesignated AQCR's in the State's proposal are as follows:

1. Northeast Plateau
2. North Coast

3. Sacramento Valley
4. San Francisco Bay Area
5. San Joaquin Valley
6. Southeast Desert
7. San Diego

The two new AQCR's proposed by the State are as follows:

1. Lake County
2. Mountain Counties

Two AQCR's in the State's proposal are unchanged from their original designation and thus remain as now designated, as follows:

1. Great Basin Valley
2. North Central Coast

Two AQCR's continue to differ from the corresponding air basins. Although the boundary between the South Central Coast and the South Coast Air Basins was changed in 1976 (see change #8 under Background, above), redesignation of the South Central Coast and the Metropolitan Los Angeles (South Coast) AQCR's is not being proposed at this time.

Another discrepancy between the air basins designated by the ARB and their proposed redesignation of AQCR's is the exclusion of the Lake Tahoe basin from the proposed Mountain Counties AQCR without a separate proposal of Lake Tahoe as an AQCR, although the basin was designated as an air basin by the ARB in 1975 (see change #7 under Background, above).

As indicated in the ARB's Staff Report No. 78-14-3, the Lake Tahoe basin presents unique regulatory and administrative problems because the airshed is shared by California and Nevada. In view of the possibility of designation of the Lake Tahoe basin as an Interstate AQCR, intrastate designation was not proposed by the ARB.

Under section 107(b)(2) of the Clean Air Act, as amended, the Lake Tahoe situation is being remedied by the EPA's designation of the basin as an intrastate AQCR. This action, which the EPA now takes, does not preclude any future designation of the Lake Tahoe area by California or by California and Nevada.

Effects of Redesignation

The redesignation AQCR's in California should begin to eliminate much of the confusion and misunderstanding which have occurred because of the differences between the State air basins and the Federal AQCR's. With this approval by the EPA of the redesignation (including designation of the Lake Tahoe AQCR), the geographic applicability of local, State, and Federal regulations will be more uniform and thus more easily understood.

As a result of these designations and redesignations of AQCR's, many changes are being made to the *Code of Federal Regulations* (CFR). In Part 81, most of the California AQCR descriptions are being revised, and newly designated AQCR's are being added. As a consequence of those Part 81 changes, numerous revisions are being made in Part 52, Subpart F (§§ 52.220-52.280).

Many of the changes in Part 52 are of a classificatory nature, where either (1) certain APCD's are being reclassified as to the AQCR in which they are located, or (2) references to AQCR's are being removed from the CFR; §§ 52.231, 52.233, 52.234, 52.236, 52.240, 52.269, 52.271, 52.272, 52.273, 52.275, and 52.280 are so revised.

In other sections (§§ 52.246, 52.252, 52.253, 52.254, and 52.255), which contain Federal requirements, the AQCR's to which the regulations apply are being defined "as of July 1, 1979" ("old" AQCR's), so that the Federal requirements in affected areas are not changed.

On April 20, 1979 [44 FR 23544] the EPA published a Notice of Proposed Rulemaking, proposing to approve the redesignation and to designate on its own the Lake Tahoe AQCR, and inviting public comments.

One comment, a letter from the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, was received. That letter objected to the EPA's proposed designation of the California portion of the Lake Tahoe Basin as an intrastate AQCR and advocated designation of an interstate AQCR to include the entire Basin, in California and Nevada.

As noted in the Notice of Proposed Rulemaking, the ARB excluded the Lake Tahoe Basin from the Mountain Counties AQCR but did not propose the designation of a Lake Tahoe Intrastate AQCR, nor have the two states proposed an interstate AQCR for Lake Tahoe. As provided in section 107(b)(2) of the Clean Air Act, as amended, "the portion of such State which is not part of any such designated region shall be an air quality control region . . ."

This action by the EPA does not preclude the future designation of the Lake Tahoe Basin as an interstate AQCR. The EPA would publish a proposal to that effect as soon as the States of California and Nevada jointly request such a redesignation.

The EPA is approving this redesignation because it meets the requirements of section 107(e) of the Clean Air Act, as amended, which requires that the redesignation be for

purposes of improved air quality management.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Secs. 107, 110, 310(a), Clean Air Act, as amended (42 U.S.C. 7407, 7410, and 7601(a))

Dated: January 12, 1981.

Douglas M. Costle,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1980.

Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart F—California

1. Section 52.220, paragraph (c)(61) is added as follows:

§ 52.220 Identification of plan.

(c) * * *

(61) Redesignation of AQCR's in California, submitted on September 11, 1978, by the Governor's designee.

2. In section 52.221, three new AQCR's are added to the classification table, as follows:

§ 52.221 Classification of regions.

The California plan is evaluated on the basis of the following classifications:

Air quality control region	Pollutant				
	P.M.	SO ₂	NO _x	CO	O ₃
San Diego Intrastate	II	III	III	I	I
Lake County Intrastate	II	III	III	III	III
Lake Tahoe Intrastate	II	III	III	I	I
Mountain Counties Intrastate	II	III	III	I	I

3. To correct a misprint in 40 CFR Part 52 of July 1, 1979, section 52.224(a)(1) is amended by revising paragraphs (iv) through (viii) and removing paragraph (ix) as follows:

§ 52.224 General requirements.

(a) * * *

(1) * * *

(i) * * *

(ii) * * *

(iii) * * *

(iv) Del Norte County APCD.

(v) Humboldt County APCD.

(vi) Mendocino County APCD.

(vii) Northern Sonoma County APCD.

(viii) Trinity County APCD.

(2) * * *

4. The title of section 52.226 is revised to read as follows:

§ 52.226 Control strategy and regulations: Particulate matter, San Joaquin Valley and Mountain Counties Intrastate Regions.

5. The title of section 52.230 is revised to read as follows:

§ 52.230 Control strategy and regulations: Nitrogen dioxide.

6. In section 52.231, paragraphs (a)(3) and (b)(1) are revised to read as follows:

§ 52.231 Regulations: Sulfur oxides.

(a) * * *

(3) Mountain Counties Intrastate Region.

(b) * * *

(1) Lake County Intrastate Region.

7. In section 52.233, paragraphs (c), (d), (f)(1)(i), and (g)(1) are revised as follows:

§ 52.233 Review of new sources and modifications.

(c) The requirements of § 51.18 (a) and (c) of this chapter are not met in the following Air Pollution Control Districts since the regulations of the APCD's do not provide the means to prevent construction of sources which would violate applicable portions of the control strategy or would interfere with the attainment or maintenance of a national standard.

(1) Mariposa County APCD.

(2) Santa Barbara County APCD.

(d) The requirements of § 51.18(c) of this chapter are not met in the following Air Pollution Control Districts since the regulations of the APCD's do not include a means to prevent construction or modification if such construction or modification would interfere with the attainment or maintenance of a national standard.

(1) Amador County APCD.

(2) Calaveras County APCD.

(3) El Dorado County APCD.

(4) Fresno County APCD.

(5) Glenn County APCD.

(6) Humboldt County APCD.

(7) Kern County APCD.

(8) Kings County APCD.

(9) Lake County APCD.

(10) Lassen County APCD.

(11) Madera County APCD.

(12) Mendocino County APCD.

(13) Merced County APCD.

- (14) Modoc County APCD.
- (15) Monterey Bay Unified APCD.
- (16) Nevada County APCD.
- (17) Northern Sonoma County APCD.
- (18) Placer County APCD.
- (19) Plumas County APCD.
- (20) San Joaquin County APCD.
- (21) Shasta County APCD.
- (22) Sierra County APCD.
- (23) Siskiyou County APCD.
- (24) Stanislaus County APCD.
- (25) Sutter County APCD.
- (26) Tulare County APCD.
- (27) Tuolumne County APCD.
- (28) Yolo-Solano APCD.

(f) * * *

(1) * * *

(i) Any stationary source in the APCD's listed below, the construction or modification of which is commenced after the effective date of this regulation.

- (a) Mariposa County APCD.
- (b) Sacramento County APCD.
- (c) Santa Barbara County APCD.
- (d) Ventura County APCD.

(g) * * *

(i) The requirements of this paragraph are applicable to any stationary source in the APCD's listed below, the construction or modification of which is commenced after the effective date of this regulation.

- (i) Amador County APCD.
- (ii) Calaveras County APCD.
- (iii) El Dorado County APCD.
- (iv) Fresno County APCD.
- (v) Glenn County APCD.
- (vi) Humboldt County APCD.
- (vii) Kern County APCD.
- (viii) Kings County APCD.
- (ix) Lassen County APCD.
- (x) Madera County APCD.
- (xi) Mendocino County APCD.
- (xii) Merced County APCD.
- (xiii) Modoc County APCD.
- (xiv) Monterey Bay Unified APCD.
- (xv) Nevada County APCD.
- (xvi) Placer County APCD.
- (xvii) Plumas County APCD.
- (xviii) San Joaquin County APCD.
- (xix) Shasta County APCD.
- (xx) Sierra County APCD.
- (xxi) Siskiyou County APCD.
- (xxii) Stanislaus County APCD.
- (xxiii) Sutter County APCD.
- (xxiv) Tulare County APCD.
- (xxv) Tuolumne County APCD.
- (xxvi) Yolo-Solano APCD.

8. In section 52.234, paragraphs (a) and (e) are amended as follows:

§ 52.234 Source surveillance.

(a) * * *

- (1) Amador County APCD.
- (2) Bay Area AQMD.

- (3) Calaveras County APCD.
- (4) Del Norte County APCD.
- (5) El Dorado County APCD.
- (6) Humboldt County APCD.
- (7) Imperial County APCD.
- (8) Lake County APCD.
- (9) Mariposa County APCD.
- (10) Mendocino County APCD.
- (11) Nevada County APCD.
- (12) Northern Sonoma County APCD.
- (13) Placer County APCD.
- (14) Plumas County APCD.
- (15) Sierra County APCD.
- (16) Trinity County APCD.
- (17) Ventura County APCD.

(e) * * *

- (1) Amador County APCD.
- (2) Bay Area AQMD.
- (3) Calaveras County APCD.
- (4) El Dorado County APCD.
- (5) Imperial County APCD.
- (6) Kern County APCD.
- (7) Kings County APCD.
- (8) Los Angeles County APCD.
- (9) Mariposa County APCD.
- (10) Monterey Bay Unified APCD.
- (11) Nevada County APCD.
- (12) Placer County APCD.
- (13) Plumas County APCD.
- (14) San Bernardino County Desert APCD.

- (15) San Diego County APCD.
- (16) San Joaquin County APCD.
- (17) San Luis Obispo County APCD.
- (18) Santa Barbara County APCD.
- (19) Sierra County APCD.
- (20) South Coast AQMD.
- (21) Stanislaus County APCD.
- (22) Tulare County APCD.
- (23) Ventura County APCD.

9. In § 52.236, paragraphs (a), (b), (c), (e), and (f) are amended as follows:

§ 52.236 Rules and regulations.

(a) * * *

- (1) Imperial County APCD.
- (i) Rule 114.5, submitted on November 10, 1976.
- (ii) Rule 148.D(3), submitted on November 10, 1976.

(b) * * *

- (1) San Luis Obispo County APCD.
- (i) Rules 401(B)(4) and 401(B)(6), submitted on November 10, 1976.
- (2) Sacramento County APCD.
- (i) Rule 7(b)(5), submitted on November 4, 1977.
- (3) Glenn County APCD.

(i) Section 77(e), submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

- (4) Mariposa County APCD.

(i) Rule 203(G), submitted on June 6, 1977.

- (5) Kern County APCD.

(i) Rules 402(c) and 402(e), submitted on November 10, 1976.

- (6) Fresno County APCD.

(i) Rules 402(c) and 402(e), submitted on October 23, 1974.

(ii) Rules 402(c) and 402(e), submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

- (7) Tulare County APCD.

(i) Section 402(c), submitted on November 10, 1976, and previously approved under 40 CFR 52.223 (42 FR 47556).

- (8) Madera County APCD.

(i) Rules 402(c) and 402(e), submitted on January 10, 1975, and previously approved under 40 CFR 52.223 (42 FR 42219).

(c) * * *

- (1) Merced County APCD.

(i) Rule 102(hh), submitted on June 30, 1972, previously approved under 40 CFR 52.223, and deleted by the August 2, 1976 submittal, is retained.

(e) * * *

- (1) Mendocino County APCD.

(i) Rule 130(p4), submitted on November 10, 1976. (Part III-49, previously submitted on February 21, 1972, and approved in 40 CFR 52.223, is retained).

(ii) Rule 130(s3), submitted on November 10, 1976. (Part III-55, previously submitted on February 21, 1972, and approved in 40 CFR 52.233, is retained).

- (2) Shasta County APCD.

(i) The definition of "modification" in Rule 1.2, *Definitions*, submitted on October 13, 1977, is disapproved.

- (3) San Bernardino County Desert APCD.

(i) Rule 103, *Definition of Terms*, submitted on November 4, 1977, is disapproved with respect to the deletion of the following terms: "Distilling type heater", "Noncomplying orchard heater", "Pipe line systems", and "Return stack heater". (Rule 2, *Definitions*, submitted on February 21, 1972 and approved in 40 CFR 52.223, is retained for the above terms.)

(f) * * *

- (1) El Dorado County APCD.

(i) Rule 201, submitted on November 4, 1977, is disapproved. (The previously approved Rule 49, submitted on June 30, 1972, is retained for Federal enforcement purposes.)

10. In section 52.240, paragraphs (a) and (d)(1) are revised to read as follows:

§ 52.240 Compliance schedules.

(a) The requirements of § 51.15(c) of this chapter are not met in the following Air Pollution Control Districts since the regulations cited do not provide

increments to progress toward compliance.

(1) Rules 50-A, 52-A, 53-A(a), 53-A(b), 53-A(c), 53.2, 53.3, 54.A, 58.A, 62.1, 68, 69, 70, and 71 of the San Bernardino County APCD.

(2) Rules 53, 72.1, and 72.2 of the Riverside County APCD.

(3) Rules 53, 66.c, and 68.a of the Orange County APCD.

(4) Rule 39.1 of the Santa Barbara County APCD.

(5) Rule 59 of the Ventura County APCD.

(6) Rule 66(c) of the Los Angeles County APCD.

(7) Rule 4.5 of the Siskiyou County APCD.

(8) Rule 64(c) of the Northern Sonoma County APCD.

(9) Rule 409 of the Tulare County APCD.

(d) *Regulation for increments of progress.* (1) The requirements of this paragraph are applicable to any stationary source in the following Air Pollution Control Districts subject to the indicated regulations.

(i) Rules 50-A, 52-A, 53-A(a), 53-A(b), 53-A(c), 53.2, 53.3, 54.A, 58.A, 62.1, 68, 69, 70, and 71 of the San Bernardino County APCD.

(ii) Rules 53, 72.1, and 72.2 of the Riverside County APCD.

(iii) Rules 53 and 66.c of the Orange County APCD.

(iv) Rule 39.1 of the Santa Barbara County APCD.

(v) Rule 59 of the Ventura County APCD.

(vi) Rules 66(c) and 68 of the Los Angeles County APCD.

(vii) Rule 4.5 of the Siskiyou County APCD.

(viii) Rule 64(c) of the Northern Sonoma County APCD.

(ix) Rule 409 of the Tulare County APCD.

11. In section 52.246, paragraph (b) is revised to read as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions"), as described in 40 CFR Part 81, dated July 1, 1979, except as follows:

12. In section 52.252, paragraph (b) is revised to read as follows:

§ 52.252 Control of degreasing operations.

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Air Quality Control Regions (the "Regions"), as described in 40 CFR Part 81, dated July 1, 1979, except as follows:

13. In section 52.253, paragraph (b) is revised to read as follows:

§ 52.253 Metal surface coating thinner and reducer.

(b) This section is applicable in the Metropolitan Los Angeles, San Diego, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (the "Regions"), as described in 40 CFR Part 81, dated July 1, 1979, except as follows:

14. In section 52.254, paragraph (a) is revised to read as follows:

§ 52.254 Organic solvent usage.

(a) This section is applicable in the Sacramento Valley, San Francisco Bay Area, and San Joaquin Valley Intrastate Air Quality Control Regions (the "Regions"), as described in 40 CFR Part 81, dated July 1, 1979, except as follows:

15. In section 52.255, the introductory text of paragraph (b) is revised to read as follows:

§ 52.255 Gasoline transfer vapor control.

(b) This section is applicable in the Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley Intrastate Air Quality Control Regions, as described in 40 CFR Part 81, dated July 1, 1979, with the following exceptions:

16. In section 52.267, an error in the description of the Sacramento Valley Air Quality Maintenance Area is corrected by revising subparagraph (a)(1) to read as follows:

§ 52.267 Maintenance of national standards.

(a) *

(1) Sacramento Valley Air Quality Maintenance Area.

(i) Pollutants for which the area is identified: Carbon monoxide and photochemical oxidants.

(ii) Geographical composition of area: Sacramento County
Yolo County

That portion of Solano County lying in the Sacramento Valley Air Basin, as defined in the plan.

That portion of Placer County lying west of the easterly line of Range 7 East, and that portion of Placer County lying south of the northerly line of Township 11 North, Mount Diablo Base and Meridian.

17. In Section 52.269, paragraph (b)(1) is revised to read "Mountain Counties Intrastate Region". Paragraph (b)(1-1), "San Joaquin Valley Intrastate Region", is inserted following paragraph (b)(1)(ii)(B). Paragraphs (b)(1)(iii) through (viii) are redesignated (b)(1-1)(i) through (vi), respectively.

18. In § 52.271(a), paragraphs (a)(1) through (8) are revised, and all paragraphs (a)(9) through (a)(35) are added to read as follows:

§ 52.271 Malfunction regulations.

(a) *

(1) Amador County APCD.

(i) Rule 404, submitted on April 21, 1976.

(ii) Rule 4f, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(2) Bay Area APCD.

(i) Regulation 2, Section 3212, and Regulation 3, Section 3203, submitted on April 21, 1976.

(ii) Regulation 2, Section 3212, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(3) Calaveras County APCD.

(i) Rules 110 and 402(f), submitted on July 25, 1973.

(ii) Rule 404, submitted on October 13, 1977.

(4) Colusa County APCD.

(i) Rule 4.4g, submitted on July 25, 1973, and Rule 4.4g, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(5) Del Norte County APCD.

(i) Rule 540, submitted on November 10, 1976.

(ii) Rule 45, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(6) Fresno County APCD.

(i) Rule 110, submitted on June 30, 1972, and previously approved under 40 CFR 52.223.

(ii) Rules 110 and 402(f), submitted on October 23, 1974.

(7) Glenn County APCD.

(i) Rules 95.2 and 95.3, submitted on January 10, 1975.

(8) Great Basin Unified APCD.

(i) Rule 403, submitted on June 6, 1977.

(ii) Rule 617, submitted on November 4, 1977.

(9) Humboldt County APCD.

(i) Rule 540, Submitted on November 10, 1976.

(ii) Rule 59, Submitted on February 21, 1972 and previously approved under 40 CFR 52.223 (37 FR 10842).

(10) Kern County APCD.

(i) Rule 111, submitted on July 19, 1974.

(11) Kings County APCD.

(i) Rule 111, submitted on July 25, 1973, and Rule 111, submitted on July 30, 1972, and previously approved under 40 CFR 52.223.

(ii) Rule 111, submitted on November 4, 1977.

(12) Lake County APCD.

(i) Chapter III, Article I, Section 500, and Article II, Sections 510 and 511, submitted on February 10, 1977.

(ii) Part VI, Sections 1 and 2, submitted on June 30, 1972, and previously approved under 40 CFR 52.223.

(13) Los Angeles County APCD.

(i) Rule 430, submitted on June 6, 1977.

(14) Madera County APCD.

(i) Rule 402(f), submitted on January 10, 1975, and Rule 110, submitted on June 30, 1972, and previously approved under 40 CFR 52.223.

(ii) Rule 110, submitted on January 10, 1975.

(15) Mariposa County APCD.

(i) Rule 203(j), submitted on January 10, 1975, and Rule 4.3(g), submitted on February 21, 1972, and previously approved under 40 CFR 52.223.

(ii) Rule 404, submitted on June 6, 1977.

(16) Mendocino County APCD.

(i) Rule 540, submitted on November 10, 1976.

(ii) Sections 1 and 2 of Part VI, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(17) Merced County APCD.

(i) Rule 109, submitted on August 2, 1976.

(ii) Rule 109, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(18) Nevada County APCD.

(i) Rule 55(f), submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(19) Northern Sonoma County APCD.

(i) Rule 540, submitted on November 10, 1976.

(20) Placer County APCD.

(i) Rule 55(f), submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(ii) Rule 404, submitted on October 13, 1977.

(21) Plumas County APCD.

(i) Rule 203(j), submitted on January 10, 1975.

(ii) Rule 404, submitted on June 6, 1977.

(22) Riverside County APCD.

(i) Rule 430, submitted on June 6, 1977.

(23) San Bernardino County APCD.

(i) Rule 430, submitted on June 6, 1977.

(ii) Rule 55, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(24) San Joaquin County APCD.

(i) Rule 110, submitted on October 23, 1974, and Rule 110, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(25) San Luis Obispo County APCD.

(i) Rule 107, submitted on November 10, 1976.

(ii) Rule 102, submitted on February 21, 1972, and previously approved under 40 CFR 52.223 (37 FR 10842).

(26) Shasta County APCD.

(i) Rule 3:10, submitted on July 19, 1974.

(ii) Rule 3:10, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(27) Sierra County APCD.

(i) Rule 51, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812), and Rule 203(j), submitted on January 10, 1975, and previously approved under 40 CFR 52.223 (42 FR 23805).

(ii) Rule 404, submitted on June 6, 1977.

(28) Southern California APCD.

(i) Rule 430, submitted on February 10, 1977.

(29) Stanislaus County APCD.

(i) Rule 110, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812), and Rule 110, submitted on July 19, 1974.

(30) Tehama County APCD.

(i) Rule 417, submitted on July 19, 1974.

(ii) Rule 4:1g, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(31) Trinity County APCD.

(i) Rule 540, submitted on November 10, 1976.

(ii) Rule 44, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(32) Tulare County APCD.

(i) Rules 111 and 402(f), submitted on November 10, 1976.

(33) Tuolumne County APCD.

(i) Rule 404, submitted on February 10, 1977, and Rule 402(f), submitted on June 30, 1972, and previously approved under 40 CFR 52.223.

(34) Ventura County APCD.

(i) Rule 32, submitted on July 19, 1974.

(ii) Rule 32, submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(35) Yuba County APCD.

(i) Rule 4.5, submitted on July 25, 1973.

19. In section 52.272, a sentence is added to the introduction text of paragraph (a), paragraphs (a)(1) through (a)(5) are revised, and all other paragraphs (a)(6) through (a)(9) are added to read as follows:

§ 52.272 Research operations exemptions.

(a) * * * Therefore, the following regulations are disapproved:

(1) Bay Area APCD.

(i) Regulation 2, Division 1, sections 1214 to 1214.3, submitted on July 25, 1973.

(ii) Regulation 3, Division 1, sections 1205 to 1205.3, submitted on July 25, 1973.

(2) El Dorado County APCD.

(i) Rule 203(D), submitted on November 4, 1977.

(3) Great Basin Unified APCD.

(i) Rule 423, submitted on November 4, 1977.

(4) Los Angeles County APCD.

(i) Rule 441, submitted on June 6, 1977.

(5) Placer County APCD.

(i) Rule 203(D), submitted on October 13, 1977.

(6) Riverside County APCD.

(i) Rule 441, submitted on June 6, 1977.

(7) Sacramento County APCD.

(i) Rule 30, submitted on January 22, 1974.

(8) San Bernardino County APCD.

(i) Rule 441, submitted on June 6, 1977.

(9) Southern California APCD.

(i) Rule 441, submitted on August 2, 1976.

20. In section 52.273, paragraphs (a)(1) through (a)(9) and (b)(1) through (b)(9) are revised, and all other paragraphs (a)(10) through (a)(25) and (b)(10) through (b)(18) are renumbered and revised to read as follows:

§ 52.273 Open burning.

(a) * * *

(1) Amador County APCD.

(i) Rules 308 and 312, submitted on April 21, 1976.

(ii) Rule 304, submitted on October 13, 1977.

(2) Calaveras County APCD.

(i) Rules 304 and 322, submitted on October 13, 1977.

(3) Del Norte County APCD.

(i) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

(4) El Dorado County APCD.

(i) Rules 302(C), 304, 307, 319, and 322, submitted on November 4, 1977.

(5) Fresno County APCD.

(i) Rules 416.1(e)(1), (e)(3), and (e)(4), submitted on October 23, 1974.

(ii) Rule 416.1(c)(1), submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(6) Humboldt County APCD.

(i) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

(7) Kern County APCD.

(i) Rule 417(I)(A), submitted on November 10, 1976.

(8) Madera County APCD.

(i) Rules 416.1(e)(1), (e)(3), and (e)(4), submitted on January 10, 1975.

(ii) Rule 416.1(c)(1), submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(9) Mariposa County APCD.

(i) Rules 302(C), 304, 319, and 322, submitted on June 6, 1977.

(10) Mendocino County APCD.

(i) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

(11) Merced County APCD.

(i) Rule 416(h), submitted on August 2, 1976.

(ii) Rules 416.1(III)(A), (V)(A), (V)(B), (V)(C), and (V)(D), submitted on August 2, 1976. (Rule 416.1(c)(2), submitted on June 30, 1972, and previously approved, is retained. Rule 416.1(a)(1), submitted on June 30, 1972, and previously approved, is retained for the purpose of enforcing Rule 416.1(c)(2).)

(12) Monterey Bay Unified APCD.

(i) Rules 409(a), 409(a)(5), and 410(b)(1), submitted on January 10, 1975.

(13) Nevada County APCD.

(i) Rules 302(C), 307, 314, and 322, submitted on April 10, 1975.

(ii) Rules 304 and 319, submitted on June 6, 1977.

(14) Northern Sonoma County APCD.

(i) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

(15) Placer County APCD.

(i) Rules 302(C), 302(G), 304, 307, 314, 319, and 322, submitted on October 13, 1977.

(16) Plumas County APCD.

(i) Rule 314, submitted on January 10, 1975.

(ii) Rules 302(C), 304, 307, 319, and 322, submitted on June 6, 1977.

(17) Sacramento County APCD.

(i) Rule 96(a), submitted on November 10, 1976.

(ii) Rule 96(a), submitted on November 4, 1977.

(18) San Joaquin County APCD.

(i) Rule 402(e), submitted on November 10, 1976.

(ii) Rule 416.1(c)(1), submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(iii) Rules 416.1(D)(1) and (D)(2), submitted on October 23, 1974.

(19) Santa Barbara County APCD.

(i) Rules 40(4)(a) and 40(4)(1), submitted on July 25, 1973. (The analogous Rules 40(4)(a) and 40(4)(g), previously approved in the February 21, 1972 submittal, are retained.) Rule 40(4)(c), submitted on July 25, 1973, is also disapproved.

(ii) Rule 22, submitted on January 22, 1974. (The analogous Rule 22, previously approved in the February 21, 1972 submittal, is retained.) Rules 24.1 and 24.2, submitted on January 22, 1974, are also disapproved.

(20) Shasta County APCD.

(i) Rule 2-6, sections 1(b)(iii) (a, b, and d), 1(c)(viii), 2(c), 3(f), 4(e), 5(c), and 5(d). (Previously approved Rule 2-6, sections 2(c), 3(f), and 4(e), submitted on July 19, 1974, are retained.)

(21) Sierra County APCD.

(i) Rules 302(C), 319, and 322, submitted on June 6, 1977.

(22) Trinity County APCD.

(i) Rule 410(c)(2) and the following portions of Regulation 2: General prohibitions (all of page 1), paragraph (f) of Article I, paragraphs (f) and (g) of Article V, and paragraph (f) of Article VI, submitted on November 10, 1976.

(23) Tulare County APCD.

(i) Rule 402(e), submitted on November 10, 1976.

(ii) Section 417(III)(A), submitted on June 30, 1972, and previously approved under 40 CFR 52.223 (37 FR 19812).

(iii) Section 417.1(e)(1), (e)(3), and (e)(4), submitted on January 10, 1975.

(24) Tuolumne County APCD.

(i) Rule 322, submitted on February 10, 1977.

(25) Yolo-Solano APCD.

(i) Rules 2.8(c) (4) and (5), 6.3, and 6.5(a), submitted on July 25, 1973.

(ii) Rules 6.1(a), (e)(6), and (g), submitted on January 10, 1975. (Rules 4.1 (a) and (g), submitted on February 21, 1972, and previously approved under 40 CFR 52.223, are retained.)

(b) * * *

(1) Del Norte County APCD.

(i) Regulation 2, Article I, paragraph (e), submitted on November 10, 1976.

(ii) Rule 410(c)(2), submitted on May 7, 1979.

(2) Fresno County APCD.

(i) Rule 416.1(c)(1), submitted on October 23, 1974.

(ii) Rule 416.1(g), submitted on November 4, 1977.

(3) Humboldt County APCD.

(i) Regulation 2, Article I, paragraph (e), submitted on November 10, 1976.

(ii) Rule 410(c)(2), submitted on May 7, 1979.

(4) Imperial County APCD.

(i) Rule 422, submitted on November 4, 1977. (The requirements of Rule 115, submitted on February 21, 1972, and previously approved under 40 CFR 52.223, are retained as applicable to the burning of wood waste.)

(ii) Regulation VII (Rules 701 to 706), submitted on November 4, 1977.

(Regulation VII (Rules 200 to 206), submitted on July 25, 1973 and previously approved under 40 CFR 52.223, is retained.)

(5) Kings County APCD.

(i) Rules 416.1 and 417.1, submitted on November 4, 1977.

(6) Lake County APCD.

(i) Sections 435, 436, 1003, and 1200(A), submitted on February 10, 1977.

(ii) Section 435, submitted on January 2, 1979.

(7) Los Angeles County APCD.

(i) Rule 444, submitted on June 6, 1977. (Rules 57.1, 57.2, 57.3, and 57.4, submitted on June 30, 1972, and previously approved under 40 CFR 52.223, are retained.)

(8) Madera County APCD.

(i) Rule 416.1(c)(1), submitted on January 10, 1975.

(9) Mendocino County APCD.

(i) Regulation 2, Article I, paragraph (e), submitted on November 10, 1976.

(ii) Rule 410(c)(2), submitted on May 7, 1979.

(10) Merced County APCD.

(i) Rule 416.1(I)(A)(2), submitted on August 2, 1976.

(11) Northern Sonoma County APCD.

(i) Regulation 2, Article I, paragraph (e), submitted on November 10, 1976.

(ii) Rule 410(c)(2), submitted on May 7, 1979.

(12) San Bernardino County Desert APCD.

(i) Rule 444 and the definition of "Agricultural Burning" in Rule 102, submitted on November 4, 1977. (Rule 57, submitted on February 21, 1972, and previously approved under 40 CFR 52.223, is retained.)

(13) San Diego County APCD.

(i) Rules 102(e) and 103(g), submitted on October 13, 1977.

(14) San Luis Obispo County APCD.

(i) Rule 501(B), submitted on November 10, 1976, and Rule 501(A)(7), submitted on November 4, 1977.

(Previously approved Rule 115(2), submitted on February 21, 1972, is retained.)

(15) Santa Barbara County APCD.

(i) Rules 2(b), 40(3), and 40(4)(e), submitted on July 25, 1973. (Analogous Rules 2(b), 40(3), and 40(4)(c), submitted

on February 21, 1972, and previously approved, are retained.)

(16) Shasta County APCD.

(i) Rule 2-8, submitted on October 13, 1977. (Rule 2-8, submitted on July 19, 1974, and July 22, 1975, and previously approved, is retained.)

(17) Siskiyou County APCD.

(i) Rule 4.3(2), submitted on January 2, 1979.

(18) Trinity County APCD.

(i) Regulation 2, Article I, paragraph (e), submitted on November 10, 1976.

(ii) Rule 410(c)(2), submitted on May 7, 1979.

21. In section 52.275, paragraphs (a)(1) and (2) and (b)(1) through (b)(5) are revised, and paragraphs (b)(6) through (b)(14) are added to read as follows:

§ 52.275 Particulate matter control.

(a) * * *

(1) Lake County APCD.

(i) Part III-50 and Part V-1B, submitted on October 23, 1974, and previously approved under 40 CFR 52.223.

(2) San Luis Obispo County APCD.

(i) Rule 113, submitted on February 21, 1972, and previously approved under 40 CFR 52.223.

(b) * * *

(1) Amador County APCD.

(i) Rules 211 and 212, submitted on April 21, 1976. (Regulation V, Rules 13 and 14, submitted on June 30, 1972, and previously approved, are retained.)

(ii) Rules 207 and 212, submitted on October 13, 1977. (The analogous Rules 10 and 14 of Regulation V, submitted on June 30, 1972, and previously approved, are retained and shall remain in effect for Federal enforcement purposes.)

(2) Calaveras County APCD.

(i) Rule 211, submitted on October 13, 1977. (Rule 211, submitted on July 22, 1975, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(3) Del Norte County APCD.

(i) Rules 410(c)(7) and 420(e), submitted on November 10, 1976.

(ii) Rules 420(e) and (f), submitted on November 4, 1977.

(4) El Dorado County APCD.

(i) Rule 212, submitted on April 10, 1975, and Rule 211, submitted on August 2, 1976. (The analogous Rule 55, submitted on February 21, 1972, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(5) Humboldt County APCD.

(i) Rules 410(c)(7) and 420(e), submitted on November 10, 1976.

(ii) Rules 420(e) and (f), submitted on November 4, 1977.

(6) Mariposa County APCD.

(i) Rule 211, submitted on June 6, 1977. (Rule 211, submitted on January 10, 1975, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(7) Mendocino County APCD.

(i) Rule 410(c)(7), submitted on November 10, 1976.

(ii) Rules 420(e) and (f), submitted on November 4, 1977.

(8) Nevada County APCD.

(i) Rule 212, submitted on April 10, 1975, and Rule 211, submitted on April 21, 1976. (Rule 52.1, submitted on June 30, 1972, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(9) Northern Sonoma County APCD.

(i) Rule 420(e), submitted on November 10, 1976.

(ii) Rules 420(e) and (f), submitted on October 13, 1977.

(10) Placer County APCD.

(i) Rule 211, submitted on October 13, 1977. (The analogous Rule 61, submitted on June 30, 1972, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(11) Plumas County APCD.

(i) Rule 211, submitted on June 6, 1977. (The analogous Rule 211, submitted on January 10, 1975, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(12) San Luis Obispo County APCD.

(i) Rule 403, submitted on November 10, 1976.

(13) Sierra County APCD.

(i) Rule 211, submitted on June 6, 1977. (The analogous Rule 211, submitted on January 10, 1975, and previously approved, is retained and shall remain in effect for Federal enforcement purposes.)

(14) Trinity County APCD.

(i) Rules 410(c)(7) and 420(e), submitted on November 10, 1976.

(ii) Rules 420(e) and (f), submitted on November 4, 1977.

22. In section 52.280, paragraph (a)(1) is revised to read as follows:

§ 52.280 Fuel burning equipment.

(a) * * *

(1) Mountain Counties Intrastate AQCR:

* * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Subpart B—Designation of Air Quality Control Regions

23. In section 81.21, the title and description are revised to read as follows:

§ 81.21 San Francisco Bay area intrastate air quality control region.

In the State of California: Alameda County, Contra Costa County, Marin County, Napa County; San Francisco County, San Mateo County, Santa Clara County.

Solano County—that portion of Solano County which lies south and west of a line described as follows:

Beginning at the intersection of the westerly boundary of Solano County and the ¼ section line running east and west through the center of Section 34, T. 6 N., R. 2 W., M.D.B.&M., thence east along said ¼ section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south ½ mile and east 2.0 miles, more or less, along the west and south boundary of Los Puntos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W., thence east along a line common to T. 5 N. and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10, T. 3 N., R. 1 E., thence east along section lines to the south ¼ corner of Section 8, T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties.

Sonoma County—that portion of Sonoma County which lies south and east of a line described as follows:

Beginning at the southeasterly corner of the Rancho Estero Americano, being on the boundary line between Marin and Sonoma Counties, California; thence running northerly along the easterly boundary line of said Rancho Estero Americano to the northeasterly corner thereof, being an angle corner in the westerly boundary line of Rancho Canada de Jonive; thence running along said boundary of Rancho Canada de Jonive westerly, northerly and easterly to its intersection with the easterly line of Graton Road; thence running along the easterly and southerly line of Graton Road, northerly and easterly to its intersection with the easterly line of Sullivan Road; thence running northerly along said easterly line of Sullivan Road to the southerly line of Green Valley Road; thence running easterly along the said southerly line of Green Valley Road and easterly along the southerly line of State Highway 116, to the westerly line of Vine Hill Road; thence running along the westerly and northerly line of Vine Hill Road, northerly and easterly to its intersection with the westerly line of Laguna Road; thence running northerly along the westerly line of Laguna Road and the northerly projection thereof to the northerly line of Trenton Road; thence running westerly along the northerly line of said Trenton Road to the easterly line of Trenton-Healdsburg Road; thence running northerly along said easterly line of Trenton-Healdsburg Road to the easterly line of Eastside Road; thence running northerly along said easterly line of Eastside Road to its intersection with the southerly line of Rancho Sotoyome; thence running easterly along said southerly line of Rancho Sotoyome to its intersection with the township line common to Townships 8 and 9 North, Mt.

Diablo Base and Meridian; thence running easterly along said township line to its intersection with the boundary line between Sonoma and Napa Counties, State of California.

24. In section 81.161, the description is revised to read as follows:

§ 81.161 North coast intrastate air quality control region.

In the State of California: Del Norte County, Humboldt County, Mendocino County, Trinity County.

Sonoma County—that portion of Sonoma County which lies north and west of a line described as follows:

Beginning at the southeasterly corner of the Rancho Estero Americano, being on the boundary line between Marin and Sonoma counties, California; thence running northerly along the easterly boundary line of said Rancho Estero Americano to the northeasterly corner thereof, being an angle corner in the westerly boundary line of Rancho Canada de Jonive; thence running along said boundary of Rancho Canada de Jonive westerly, northerly and easterly to its intersection with the easterly line of Graton Road; thence running along the easterly and southerly line of Graton Road, northerly and easterly to its intersection with the easterly line of Sullivan Road; thence running northerly along said easterly line of Sullivan Road to the southerly line of Green Valley Road; thence running easterly along the said southerly line of Green Valley Road and easterly along the southerly line of State highway 116, to the westerly line of Vine Hill Road; thence running along the westerly and northerly line of Vine Hill Road, northerly and easterly to its intersection with the westerly line of Laguna Road; thence running northerly along the westerly line of Laguna Road and the northerly projection thereof to the northerly line of Trenton Road; thence running westerly along the northerly line of said Trenton Road to the easterly line of Trenton-Healdsburg Road; thence running northerly along said easterly line of Trenton-Healdsburg Road to the easterly line of Eastside Road; thence running northerly along said easterly line of Eastside Road to its intersection with the southerly line of Rancho Sotoyome; thence running easterly along said southerly line of Rancho Sotoyome to its intersection with the township line common to Townships 8 and 9 North, Mt. Diablo Base and Meridian; thence running easterly along said township line to its intersection with the boundary line between Sonoma and Napa Counties, State of California.

25. In section 81.162, the description is revised to read as follows:

§ 81.162 Northeast Plateau intrastate air quality control region.

In the State of California: Lassen County, Modoc County, Siskiyou County.

Shasta County—that portion of Shasta County which lies east and north of a line described as follows:

Beginning at the Shasta-Siskiyou County boundary and running south along the range line common to R. 2 E. and R. 1 E., Mt. Diablo Base and Meridian, to the southwest corner of T. 35 N., R. 2 E.; then east along the township line common to T. 35 N. and T. 34 N. to the northwest corner of T. 34 N., R. 3 E.; then south along the range line common to R. 3 E. and R. 2 E. to the southwest corner of T. 33 N., R. 3 E.; then east along the township line common to T. 33 N. and T. 32 N. to the northwest corner of T. 32 N., R. 4 E.; then south along the range line common to R. 4 E. and R. 3 E. to the point of intersection with the northwest corner of the Lassen Volcanic National Park boundary; then east along the north boundary of Lassen Volcanic National Park to the point of intersection with the Lassen-Shasta County boundary.

26. In section 81.163, the description is revised to read as follows:

§ 81.163 Sacramento Valley intrastate air quality control region.

In the State of California: Butte County, Colusa County, Glenn County, Sacramento County, Sutter County, Tehama County, Yolo County, Yuba County.

Shasta County—that portion of Shasta County which lies west and south of a line described as follows:

Beginning at the Shasta-Siskiyou County boundary and running south along the range line common to R. 2 E. and R. 1 E., Mt. Diablo Base and Meridian, to the southwest corner of T. 35 N., R. 2 E.; then east along the township line common to T. 35 N. and T. 34 N. to the northwest corner of T. 34 N., R. 3 E.; then south along the range line common to R. 3 E. and R. 2 E. to the southwest corner of T. 33 N., R. 3 E.; then east along the township line common to T. 33 N. and T. 32 N. to the northwest corner of T. 32 N., R. 4 E.; then south along the range line common to R. 4 E. and R. 3 E. to the point of intersection with the northwest corner of the Lassen Volcanic National Park boundary; then east along the north boundary of Lassen Volcanic National Park to the Point of intersection with the Lassen-Shasta County boundary.

Solano County—that portion of Solano County which lies north and east of a line described as follows:

Beginning at the intersection of the westerly boundary of Solano County and the ¼ section line running east and west through the center of Section 34, T. 6 N., R. 2 W., M.D.B.&M., thence east along said ¼ section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south ½ mile and east 2.0 miles, more or less, along the west and south boundary of Los Puntos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W., thence east along a line common to T. 5 N. and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of

Section 8, T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties.

27. In section 81.164, the description is revised to read as follows:

§ 81.164 San Diego intrastate air quality control region.

In the State of California: San Diego County.

28. In section 81.165, the description is revised to read as follows:

§ 81.165 San Joaquin Valley intrastate Air Quality Control Region.

In the State of California: Fresno County, Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, Tulare County.

Kern County—that portion of Kern County which lies west and north of a line described as follows:

Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to R. 15 W. and R. 16 W., San Bernardino Base and Meridian; then north along the range line to the northwest corner of Section 2, T. 32 S., R. 32 E., Mount Diablo Base and Meridian; then east along the township line common to T. 32 S. and T. 31 S.; then north along the range line common to R. 35 E. and R. 34 E.; then east along the township line common to T. 29 S. and T. 28 S.; then north along the range line common to R. 36 E. and R. 35 E.; then east along the township line common to T. 28 S. and T. 27 S.; then north along the range line common to R. 37 E. and R. 36 E. to the Kern-Tulare County boundary.

29. In section 81.167, the description is revised to read as follows:

§ 81.167 Southeast Desert Intrastate Air Quality Control Region.

In the State of California: Imperial County.

Kern County—that portion of Kern County which lies east and south of a line described as follows:

Beginning at the Kern-Los Angeles County boundary and running north and east along the northwest boundary of the Rancho La Liebre Land Grant to the point of intersection with the range line common to R. 15 W. and R. 16 W., San Bernardino Base and Meridian; then north along the range line to the northwest corner of Section 2, T. 32 S., R. 32 E., Mount Diablo Base and Meridian; then east along the township line common to T. 32 S. and T. 31 S.; then north along the range line common to R. 35 E. and R. 34 E.; then east along the township line common to T. 29 S. and T. 28 S.; then north along the range line common to R. 36 E. and R. 35 E.; then east along the township line common to T. 28 S. and T. 27 S.; then north along the range line common to R. 37 E. and R. 36 E. to the Kern-Tulare County boundary.

Los Angeles County—that portion of Los Angeles County which lies north and east of a line described as follows:

Beginning at the Los Angeles-San Bernardino County boundary and running west along the township line common to T. 3 N. and T. 2 N., San Bernardino Base and Meridian; then north along the range line common to R. 8 W. and R. 9 W.; then west along the township line common to T. 4 N. and T. 3 N.; then north along the range line common to R. 12 W. and R. 13 W. to the southeast corner of Section 12, T. 5 N., R. 13 W.; then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, T. 5 N., R. 13 W. to the boundary of the Angeles National Forest which is collinear with the range line common to R. 13 W. and R. 14 W.; then north and west along the Angeles National Forest boundary to the point of intersection with the township line common to T. 7 N. and T. 6 N. (point is at the northwest corner of Section 4 in T. 6 N., R. 14 W.); then west along the township line common to T. 7 N. and T. 6 N.; then north along the range line common to R. 15 W. and R. 16 W. to the southeast corner of Section 13, T. 7 N., R. 16 W.; then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, T. 7 N., R. 16 W.; then north along the range line common to R. 16 W. and R. 17 W. to the north boundary of the Angeles National Forest (collinear with the township line common to T. 8 N. and T. 7 N.); then west and north along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; then west and north along this land grant boundary to the Los Angeles-Kern County boundary.

Riverside County—that portion of Riverside County which lies east of a line described as follows:

Beginning at the Riverside-San Diego County boundary and running north along the range line common to R. 4 E. and R. 3 E., San Bernardino Base and Meridian; then east along the township line common to T. 8 S. and T. 7 S.; then north along the range line common to R. 5 E. and R. 4 E.; then west along the township line common to T. 6 S. and T. 7 S. to the southwest corner of Section 34, T. 6 S., R. 4 E.; then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, T. 6 S., R. 4 E.; then west along the township line common to T. 5 S. and T. 6 S.; then north along the range line common to R. 4 E. and R. 3 E.; then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, T. 5 S., R. 3 E.; then north along the range line common to R. 2 E. and R. 3 E.; then west along the township line common to T. 4 S. and T. 3 S. to the intersection with the southwest boundary of partial Section 31, T. 3 S., R. 1 W.; then northwest along that line to the intersection with the range line common to R. 2 W. and R. 1 W.; then north to the Riverside-San Bernardino County line.

San Bernardino County—that portion of San Bernardino County which lies east and north of a line described as follows:

Beginning at the San Bernardino-Riverside County boundary and running north along the range line common to R. 3 E. and R. 2 E., San

Bernardino Base and Meridian; then west along the township line common to T. 3 N. and T. 2 N. to the San Bernardino-Los Angeles County boundary.

30. Section 81.273 is added as follows:

§ 81.273 Lake County Intrastate Air Quality Control Region.

The Lake County Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California: Lake County.

31. Section 81.274 is added as follows:

§ 81.274 Mountain Counties Intrastate Air Quality Control Region.

The Mountain Counties Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California: Amador County, Calaveras County, Mariposa County, Nevada County, Plumas County, Sierra County, Tuolumne County.

El Dorado County—all of El Dorado County except that portion within the drainage area naturally tributary to Lake Tahoe including said Lake.

Placer County—all of Placer County except the following described area:

That portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.

32. Section 81.275 is added as follows:

§ 81.275 Lake Tahoe Intrastate Air Quality Control Region.

The Lake Tahoe Intrastate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in Section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of California:

El Dorado County—that portion of El Dorado County within the drainage area naturally tributary to Lake Tahoe including said Lake.

Placer County—that portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and Meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.

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DEPARTMENT OF LABOR

41 CFR Part 29-70

Public Contracts and Property Management; Federal Standards for Federally Funded Grants and Agreements

Correction

In FR Doc. 80-39059 appearing in the issue for Tuesday, December 16, 1980, make the following corrections:

(1) On page 82828, in the first column, in the "SUMMARY", 2nd paragraph, in the 17th line, "Circular A-122" should have read "OMB Circular A-122".

(2) On page 82828, in the third column, in the fourth line, "70.216-1(a)" should have read "70.216a-1(a)".

(3) On page 82828, in the third column, in paragraph i, in the first line, the word "required" should have been "requires".

(4) On page 82834 in the middle column, in paragraph (7), (contract clause contained in § 29-70.216-13(b)(6)), in the 18th line, the word "which" should have read "with".

(5) On page 82838, in the first column, in § 29-70.216b-1, paragraph (c)(2), in the last line "sec. 122(k)" should have read "sec. 121(k)".

BILLING CODE 1505-01-M

Office of Federal Contract Compliance Programs

41 CFR Part 60-1

Payment of Membership Fees and Other Expenses to Private Organizations

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: This rule amends 41 CFR Part 60-1 by adding a new § 60-1.11 to prohibit Federal contractors under Executive Order 11246, as amended, from paying membership fees and other expenses for employee participation in discriminatory private clubs or organizations except where the contractor can provide evidence that such restrictions or limitations do not abridge the promotional opportunities, status, compensation or other terms and conditions of employment of those of its employees barred from membership because of their race, color, religion, sex, or national origin. The rule requires OFCCP to provide contractors with the opportunity to present evidence in defense of their actions, and requires that contractors' fee payment policies be administered without regard to employees' race, color, religion, sex, or national origin. The rule is designed to address the problems facing employees excluded from contractor sponsored membership in discriminatory private clubs or organizations because of their race, color, religion, sex, or national origin, and to ensure that the contractor conducts business related activities and provides employee benefits in an environment free of discrimination.

EFFECTIVE DATE: February 17, 1981.

FOR FURTHER INFORMATION CONTACT: James W. Cisco, Acting Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: The Office of Federal Contract Compliance Programs (OFCCP) administers three programs which prohibit employment discrimination by Federal contractors and subcontractors. Executive Order 11246, as amended, prohibits employment discrimination based on race, color, religion, sex, and national origin; Section 503 of the Rehabilitation

Act of 1973 prohibits handicap-based discrimination; and Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 prohibits discrimination based on veteran status.

The rule published today covers practices under Executive Order 11246, but not under either Sections 402 or 503. The matter of payment of membership fees first arose under the Executive Order, and most concerns have revolved around the employment impact of exclusion from discriminatory clubs upon minorities and women. Only one commentator expressed the opinion that coverage of the rule should be extended to qualified handicapped persons under Section 503. However, if OFCCP becomes aware of problems in this area, consideration will be given to further rulemaking.

OFCCP has no jurisdiction over the membership practices of private organizations, and does not seek any through this rule. The regulation does not prohibit contractors from making direct contributions unrelated to employment to charitable, service, or other private organizations. Neither does the regulation prohibit employees from maintaining membership in any organization for which they elect to pay membership or other fees not reimbursed by the contractor.

I. Background—Summary of the Proposed Rule.

The proposal published January 22, 1980 (45 FR 4953) would have made it a violation of Executive Order 11246 for contractors to pay membership fees or other expenses to organizations which bar, restrict, or limit membership on the basis of race, color, religion, sex, or national origin where such restrictions or limitations impacted upon employees' promotional opportunities, status, compensation, or other terms and conditions of employment. The proposal would have established a procedure through which the contractor would conduct an analysis of its membership fee payment policy to determine whether any employees were maintaining contractor sponsored membership in a discriminatory organization which conferred a business or professional advantage affecting excluded employees. Nothing in the proposal would have prohibited contractors from paying membership fees to organizations which confer no business or professional advantage.

The proposed regulation contained an analysis composed of five steps designed to enable the contractor to determine whether its fee payment policy was nondiscriminatory, which organizations to which it paid fees had

discriminatory membership practices, which employees maintained employer paid memberships in such discriminatory organizations, whether these employees received any business or professional advantage by virtue of their membership in such discriminatory organizations, and whether such advantage impacted upon the employment opportunities or status of those similarly situated. The sixth step of the process would have required the cessation of payments to any discriminatory organization which the contractor's analysis determined to be conferring a business or professional advantage having an employment impact.

II. Analysis of Comments Received

During the comment period ending March 24, 1980, OFCCP received an unduplicated count of 203 comments broken down into the following categories of commentators: members of Congress or the Senate, 4; women's groups, 6; minority groups, 2; public interest groups, 4; religious groups, 3; service clubs, 21; other clubs, 31; club "industry" associations, 7; banks and savings and loan associations, 20; other contractors and companies, 15; contractor associations, 7; state agencies, 1; individuals, 82. Comments OFCCP considered as substantive numbered 35 of the unduplicated total. Of the 202 commentators expressing an opinion on the proposal, 41 supported the proposal, while 161 opposed it. OFCCP reviewed and considered comments received after the close of the comment period, but these are not reflected in the figures given above. The major concerns raised in the comments are considered below.

A. Justification for the rule. One of the most frequently expressed comments by opponents to the proposal was the belief that the proposal is unwarranted. While some of these commentators agreed that OFCCP had a role in prohibiting employment discrimination, they argued that the purpose of a contractor's payment of membership fees was not to discriminate in employment, but to further the contractor's business interests.

But membership fees are generally paid, to quote one corporate commentator, "as a perquisite and adjunct to the company's compensation program or for business purposes to contact officers [of other businesses] with the understanding that the membership will be used for business cultivation and direct business purposes." It is then reasonable to conclude that in furthering the business through membership, company

sponsored members further their own careers as well. It is also reasonable to conclude that those excluded from membership in clubs or organizations used to further the business are correspondingly impeded in advancing their careers in the same manner as their company sponsored member colleagues. Evidence gathered in various compliance reviews by the Department of the Treasury as a contract compliance agency, testimony provided before the Senate Committee on Banking, Housing and Urban Affairs, and information received by the Department of Labor both before and after the proposal's publication provide sufficient cause for OFCCP to conclude that exclusion from contractor sponsored membership in a discriminatory private organization may affect employment.

B. Determining effects on employment. The basis of the proposal was that employees provided with contractor sponsored membership in a discriminatory private organization receive an employment advantage not available to employees excluded from membership in the discriminatory organization. The analysis in proposed paragraph (b), through a progression of steps, was intended to identify those situations in which membership conferred an employment advantage leading to disparities in employment opportunities, status, compensation, or other terms and conditions of employment.

Paragraph (b)(4) would have required contractors to "determine any direct or indirect benefits received by employees from their membership in . . . exclusionary clubs or organizations which serve to enhance their employment opportunities or which give to them an employment or professional advantage over employees who are excluded from such membership."

To determine whether the employment advantage was accompanied by actual disparities in employment opportunities, the proposal contained a paragraph (b)(5), which required the contractor to "compare the promotion rate, compensation, and other job benefits of employees who maintain contractor sponsored membership in . . . exclusionary clubs or organizations with those of employees who are excluded from such clubs or organizations. . . ." In paragraph (b)(6) the contractor, "upon determining that there exists any employment or professional advantage," was to "immediately cease the reimbursement or payment of membership fees for

participation in the exclusionary club or organization."

In speaking of proposed paragraph (b)(4), some commentators went to great lengths to produce hypothetical situations for which contractors would have difficulty determining whether the club conferred an employment advantage. Few other commentators on this paragraph spoke as much on the specifics of paragraph (b)(4) as on the reasons employers pay membership fees. Some opponents of the rule who answered questions relating to why contractors pay membership fees stated that they do not pay fees to confer any employment advantage or to discriminate, but instead to further business, make contacts, and establish relationships with potential customers—all activities which would be likely to have some effect upon the contractor sponsored employee's opportunities for career advancement.

Supporters of the rule found fault with proposed paragraph (b)(5). They believed that the comparison of promotion rates, compensation, etc., required by this paragraph would be meaningless because it could not consider the fact that two employees of unequal ability and perseverance could achieve the same level of success—one through contacts made at a discriminatory private club, the other through harder work and greater talent.

The fact that one employee would have had to work harder than the other to achieve the same level of success would indicate discrimination, but such discrimination would be hidden from the analysis in paragraph (b)(5). Other commentators simply believed that the procedure of (b)(5) was too complex to be feasible.

The analytical process of paragraph (b), particularly the payment cessation requirement of (b)(6), received criticism from many commentators because of their belief that it presumed the employer "guilty" of employment discrimination without any evidence of "guilt." Opponents believed that the existence of the opportunity to continue paying fees to discriminatory organizations upon establishing that no employment impact would result was insufficient assurance that the analysis raised no issue of "guilt" or "innocence."

As stated above, the purpose of the analysis was to provide a means of identifying those instances of fee payment which conferred a business or professional advantage having an effect on the employment opportunities or status of similarly situated employees. OFCCP, following the guidance provided by the Department of Justice, had

concluded that such identification was necessary to restrict the impact of the regulation to those situations where employment was affected by the contractor's fee payment policy.

Partly because of the realization that it is the furtherance of business which is at the heart of fee payments, and partly because of the complexities associated with the analysis of the proposal, OFCCP has removed the analysis process of proposed paragraph (b), and has simply stated the conditions under which a violation of the Executive Order exists. The rule published today also ensures that "OFCCP shall provide the contractor with the opportunity to present evidence in defense of its actions" in implementing its membership fee policy.

C. Determining discriminatory membership. Paragraph (b) of the proposal contained a provision that required the contractor to determine which, if any, of the organizations to which payments are made maintain membership policies which bar, restrict, or limit membership on the basis of race, color, religion, sex, or national origin. Most of the 27 commentators expressing opinions on this portion of the proposed regulation were opposed to the requirement. They believed either that OFCCP intended contractors to "investigate" private organizations or that the provision provided insufficient guidance for contractors to know what was intended.

It was never the intention of OFCCP that either contractors or the Government would conduct "investigations" of private organizations. Although the determination procedure would have been left to contractors, OFCCP envisioned a simple process in which the contractor would generally determine an organization's membership practices by requesting a policy statement from an officer of the organization or by checking the organization's by-laws.

D. Per se violation. At the end of the preamble to the proposal appeared a note stipulating that EEOC disagreed with OFCCP's position regarding the regulation, and inviting "comment on the alternative position which, under § 703(a)(1) of Title VII of the Civil Rights Act of 1964, as amended, would absolutely prohibit payment by employers of fees to such discriminating clubs."

Seventeen commentators expressed opinions on the question EEOC raised. Although opposition to any rule in this area was generally widespread, 15 of the 17 commentators who specifically discussed the *per se* violation question

supported EEOC's position that contractors' payments of membership fees to a discriminatory organization should be prohibited absolutely. These commentators viewed any contractor payment to any discriminatory organization as abetting discrimination. They believed that any employee excluded from contractor sponsored membership in a discriminatory organization would suffer diminished employment opportunities and status.

In its two opinions, however, the Department of Justice advised the Department of Labor that employment discrimination under Executive Order 11246 does not exist simply because a contractor pays membership fees for employee participation in a discriminatory organization. The 1976 opinion stated that the Department of Labor could not assume that all membership fee payments were made to clubs to transact business and make business contacts, and that therefore Labor could also not assume that membership in all clubs automatically affects promotion and advancement potential of employees. The 1977 opinion clarified Justice's earlier position by stating that the Department of Labor could assert that a contractor's payment of dues to a discriminatory organization violates Executive Order 11246 so long as the contractor is provided the opportunity to show that its policy and the effects of its policy on employment are nondiscriminatory. In electing to follow the advice of the Department of Justice on this issue of authority under the Executive Order, OFCCP in no way asserts that EEOC is similarly limited in interpreting Title VII.

E. Exemption of types or organizations. The proposal provided for no exemptions from the rule for either specific organizations or organizations of particular "types." Among the questions OFCCP asked in the preamble was whether any "types" of organizations should be exempted and how one would characterize an organization as being of a particular "type" (for example, a religious society, service club or social club).

Most of the comments advocating exemptions came from organizations or their industry associations. Although most of these commentators opposed promulgation of any rule, they sometimes qualified their opposition by stating that should OFCCP finalize a rule on membership fees, their type of organization should be exempt from the rule. Service clubs and their members were generally of the opinion that no connection between employment opportunity and membership in a

service club could be shown, and that the rule would discourage employers from sponsoring their employees for membership. They expressed the opinion that the effect of the rule would be to diminish their memberships substantially, with resulting reduction in the services the community would receive. None of the two minority groups and only one of the six women's groups filing comments advocated an exemption for organizations established to increase the employment opportunities of women or minorities.

Some determination as to "type" would be necessary to categorize what kinds of organization should be exempt from the rule. Few commentators provided any guidance on how one determines whether an organization is of a particular "type" other than to say that the "type" of organization is dependent upon its purpose. Considering organizations as being of a particular "type" according to their purpose rather than their function, however, leaves unanswered the question of what consideration should be given to the effect that contractor sponsored membership in that organization might have upon employment.

In adopting a rule without exemptions, OFCCP recognizes that participation in various organizations will have varying impacts upon employment. Some organizations are established primarily to provide an environment in which to further business, and function to do so. Others are established for nonbusiness purposes, but have memberships and activities which function to further the business interests of their members. Others have neither business purposes nor functions. Therefore, the rule adopted today will not affect payments made to organizations when the contractor can demonstrate that no effect upon employment results.

III. The Rule Explained.

The rule adopted today is divided into two paragraphs. Paragraph (a) requires that the contractor's fee payment policy be applied without discrimination, and establishes the general principle that payment of membership fees and other expenses for participation in a discriminatory private club or organization is a "violation of Executive Order 11246 except where the contractor can provide evidence that such restrictions or limitations do not abridge the promotional opportunities, status, compensation or other terms and conditions of employment of those of its employees barred from membership because of their race, color, religion, sex, or national origin." The paragraph

also ensures that "OFCCP shall provide the contractor with the opportunity to present evidence in defense of its actions." Paragraph (b) requires the contractor to determine whether an organization to which it pays fees maintains a discriminatory membership policy or practice.

A. Principle of the Rule. Paragraph (a)(1) requires that the contractor administer its policy or practice of paying membership fees or other expenses for employee participation in private clubs or organizations without regard to the race, color, religion, sex, or national origin of employees. This paragraph merely applies the existing nondiscrimination requirements of Section 202(1) of the Executive Order to the specific policy or practice of paying membership fees.

Paragraph (a)(2) establishes that "payment or reimbursement by contractors of membership fees and other expenses for participation by their employees in a private club or organization which bars, restricts or limits its membership on the basis of race, color, religion, sex, or national origin constitutes a violation of Executive Order 11246 except where the contractor can provide evidence that such restrictions or limitations do not abridge the promotional opportunities, status, compensation or other terms and conditions of employment of those of its employees barred from membership because of their race, color, religion, sex, or national origin." The paragraph also ensures that "OFCCP shall provide the contractor with the opportunity to present evidence in defense of its actions."

As has been discussed above, OFCCP's assertion of violation arises from the conclusion that contractors pay membership fees and other expenses either to further the interests of the business or to provide benefits to employees, and that both types of actions have employment effects. The interests of the business may be furthered by the use of a club or organization in activities such as the following: Use of a club to confer with, transact business with, or entertain clients; use of a club to hold business meetings and company functions; use of the social activities of an organization to establish and maintain contacts on behalf of the contractor; or participation in activities of the organization to enhance the goodwill of the employer within the community.

Although not all employment benefits automatically affect one's employment opportunities, compensation, status, or other terms and conditions of employment, some benefits are career

enhancing. A career enhancing benefit is one which may advance the career or business interests of the employee, including meeting with members of the employee's profession or business, participating in activities which provide information on business related or professional fields (such as lectures on the employee's profession or on local business or the economy), or participating in activities designed to improve the employment or career opportunities of the employee (such as use of job banks, directories, libraries, etc. and participation in job seminars).

OFCCP does not expect, however, that membership in every club or organization will automatically abridge the terms and conditions of employment of employees or applicants excluded from membership. Therefore, the contractor is afforded the opportunity to provide evidence that no effect has resulted. In determining the adequacy of the contractor's demonstration of no effect, OFCCP will review any evidence the contractor may present, and compare this evidence against its own analyses for adverse impact, disparate treatment, or other evidence of employment effect.

B. *Consideration of terms.* Much of the controversy arising over the proposed regulation surrounded the interpretation of terms, particularly those relating to membership and requirements placed upon contractors. Therefore, several of the key terms are described here to provide guidance.

1. *Membership fees and other expenses.* Although the rule is often discussed as affecting *membership fees*, expenses other than the fees themselves are covered. *Membership fees* are those expenses levied by a club or organization for the privilege of association through membership. *Other expenses* are expenses incurred incidental to membership and which are paid or reimbursed by the employer. Generally such expenses include entertainment expenses, facility usage fees, tuition for organization sponsored courses or training, admission and event participation fees, and convention registration and associated convention or meeting expenses. Expenses the employee pays on his or her own behalf are not *other expenses* covered by this regulation.

2. *Discriminatory private club or organization.* A discriminatory private club or organization is one which "bars,

restricts or limits its membership on the basis of race, color, religion, sex, or national origin." Such restrictions may arise either from the organization's *policy* or *practice*.

Policy means a written statement (in the by-laws, for example) or verbal agreement among the membership by which members and officers of the organization determine who is eligible for membership. *Practice* means a method of operating the club, including verbal agreements among the members or tradition recognized by the members, which has the effect of determining who is eligible for membership.

Universal eligibility for membership is not a criterion for considering a club or organization as nondiscriminatory. Clubs or organizations which select members according to any criterion other than race, color, religion, sex, or national origin are not considered discriminatory for the purposes of this regulation. For example, an organization which requires candidates for membership to receive a certain minimum level of income or to have attained a certain standard of professional achievement is not considered discriminatory solely on the basis of these membership criteria.

A nondiscriminatory club or organization need not necessarily make all of its facilities available to all of its members. For example, athletic clubs would not be discriminatory if they maintained separate locker rooms, lodgings, and exercise facilities for men and women.

B. *Determining nondiscrimination of membership policies.* As paragraph (b) of the rule states, "the contractor has the responsibility of determining whether the club or organization restricts membership on the basis of race, color, religion, sex, or national origin. The contractor may make separate determinations for different chapters of an organization, and where it does so, may limit any necessary corrective action to the particular chapters which observe discriminatory membership policies and practices."

Although OFCCP prescribes no procedure for complying with the rule, the contractor may find it most efficient to place the responsibility for determining the membership policies of an organization to which the payment of fees and expenses is contemplated with the management official who authorizes the expenditure. The determination may

be based upon certification from an officer of the club, from an examination of the organization's by-laws, or from any other evidence that enables the contractor to determine the organization's membership policies and practices in accordance with the rule.

Unless the contractor receives indications of a change in the membership policies or practices of a given club or organization, the determination of an organization's or club's membership policies need be made only once to cover payments of fees for all eligible employees to participate in that club or organization. (Of course, the contractor may elect to make determinations more than once, such as annually or in advance of paying each employee's fees for participation in that club or organization.) OFCCP may verify that the determination for each club or organization is both correct and current by contacting the club on its own.

IV. Expected Impact of the Rule

In the preamble to the proposed regulation, OFCCP asked several questions relating to how widespread the practice of paying membership fees is and what the likely impact of a rule on membership fees would be. No commentator answered these questions with sufficient useful information to allow OFCCP to make more than rough estimates of the extent of the practice of paying membership fees or the costs to contractors of complying with the rule. Only one commentator expressed an opinion which attempted to judge the actual costs of the rule as proposed. Some commentators argued that a regulatory analysis should be conducted.

With deletion of the analysis procedure contained in the proposal, the rule published today imposes only incidental new requirements upon contractors. The actions required to comply with the rule can be conducted coincidental to the contractor's established procedure for authorizing expenditures for membership fees and other expenses. The Department has therefore determined that no regulatory analysis is necessary.

This document was prepared by OFCCP's Division of Program Policy under the direction and control of Weldon J. Rougeau, Director, Office of

Federal Contract Compliance Programs. Staff from the Office of the Solicitor provided assistance.

Accordingly, a new § 60-1.11 is added to Part 60-1, Title 41, Code of Federal Regulations, as set forth below to take effect February 17, 1981.

Dated: January 13, 1981 at Washington, D.C.

Ray Marshall,
Secretary of Labor.

Donald Elisburg,
Assistant Secretary, Employment Standards
Administration.

Weldon J. Rougeau,
Director, OFCCP.

§ 60-1.11 Payment or reimbursement of membership fees and other expenses to private clubs.

(a)(1) A contractor which maintains a policy or practice of paying membership fees or other expenses for employee participation in private clubs or organizations shall ensure that the policy or practice is administered without regard to the race, color, religion, sex, or national origin of employees.

(2) Payment or reimbursement by contractors of membership fees and other expenses for participation by their employees in a private club or organization which bars, restricts or limits its membership on the basis of race, color, sex, religion, or national origin constitutes a violation of Executive Order 11246 except where the contractor can provide evidence that such restrictions or limitations do not abridge the promotional opportunities, status, compensation or other terms and conditions of employment of those of its employees barred from membership because of their race, color, religion, sex, or national origin. OFCCP shall provide the contractor with the opportunity to present evidence in defense of its actions.

(b) The contractor has the responsibility of determining whether the club or organization restricts membership on the basis of race, color, religion, sex, or national origin. The contractor may make separate determinations for different chapters of an organization, and where it does so, may limit any necessary corrective action to the particular chapters which observe discriminatory membership policies and practices.

[FR Doc. 81-1597 Filed 1-15-81; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, and 90

[PR Docket No. 79-338; RM-3470; FCC 80-753]

Temporary Licensing for Multiple Licensed Mobile Relay Systems Operating in the Business Radio Service in the 450-470 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule (order).

SUMMARY: The Commission adopts an order denying the Petition for limited reconsideration filed by the General Electric Company to delay the implementation date of a temporary licensing procedure available to some users in the Business Radio Service. The Commission further provides for an interim form to be used for this procedure due to the temporary unavailability of Form 572, the temporary licensing form.

EFFECTIVE DATE: December 29, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gay Ludington, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 1, 2, and 90 of the Commission's rules and regulations to implement a system of temporary licensing for multiple licensed mobile relay systems operating in the Business Radio Service in the 450-470 MHz band, PR Docket No. 79-338, RM-3470.

Order

Adopted: December 18, 1980.

Released: December 29, 1980.

By the Commission: Commissioners Quello and Jones absent.

1. We have before us a petition filed by the General Electric Co. (GE) to reconsider the decision we took in our Report and Order in this proceeding to create a temporary licensing system for some users in the Business Radio Service.¹

2. The gist of the GE petition is that the effective date of the rules adopted in the Report and Order should be delayed from January 1, 1981, to March 4, 1981.

3. In support GE has expressed concern that the proposed change will have adverse repercussions on the highly competitive equipment marketplace, because it will necessitate

major changes in the way GE and some other radio equipment manufacturers market their products. GE contends that most dealers presently do not maintain an inventory to enable them to sell radio equipment off the shelf. Instead, the dealer orders the necessary radio equipment from the manufacturer who then assembles and delivers it to the dealer. The lag time has historically coincided with the time between application submission and license grant and arrangements have usually been made to have the equipment delivered to the dealer about the same time that a license is issued to the user. The new licensing procedure, however, will eliminate this delay. Dealers will be faced with a demand from customers to purchase and install equipment immediately. GE contends that such a change in customer demand characteristics will require dealers to stock inventory in order to remain competitive and thus may require local dealers to procure financing to purchase equipment, insurance, rent storage space, etc. GE therefore requests we delay implementation of our new rules to provide a longer period of time for manufacturers and dealers to alter or adjust their marketing procedures to assimilate this change.

4. We have considered GE's arguments. The issues it raises are merely reiterations of its earlier arguments in this proceeding and were considered and disposed of in our Report and Order.² GE has presented no new evidence or arguments in its Petition for Reconsideration to support its request, and has essentially restated the position it took in its comments in the earlier phase of this proceeding. GE does not contend there has been any change of conditions or circumstances which requires our reconsideration of these matters. Accordingly, there is no apparent basis for reconsideration action.³

5. In view of the foregoing, it is ordered that General Electric Co.'s petition for reconsideration is denied.

6. The form originally designated for use in this temporary licensing program will not be available on January 1, 1981, the effective date of the rules. We have, however, developed an interim procedure utilizing an existing form, a copy of the submitted FCC Form 400, that does not require the submission of any additional information. This interim procedure was described in a Public Notice issued on December 8, 1980, attached as an Appendix to this order.

¹ See Report and Order, Docket No. 79-338, FCC 80-487, adopted August 1, 1980, released September 4, 1980.

² *Id.* at paragraphs 12-13.

³ See 47 CFR 1.429.