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Codification Guide

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

Rules and Regulations

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 70—SPECIAL NUCLEAR MATERIAL

Miscellaneous Amendments

On August 6, 1959, the Atomic Energy Commission issued for public comment a proposed amendment to Part 70 requiring that persons holding special nuclear material licenses furnish the Commission semi-annual reports as of June 30 and December 31 concerning special nuclear material distributed by the Commission pursuant to section 53 of the Atomic Energy Act of 1954, as amended. These reports, to be submitted on Form AEC-578, would provide the Commission with information concerning special nuclear material received, transferred or possessed by the licensee or for which the licensee is financially responsible to the Commission. In addition to providing information semi-annually as to the location of material, the report would include information needed in computing use, loss of material and related charges for special nuclear material.

Based on comments received from interested persons, certain revisions have been made in the proposed reporting form and in the accompanying instructions. On the form itself Item 1d has been added to identify the ending date of the period for which the report is prepared. In the accompanying instructions:

(1) Licensees are instructed to send the original and one copy to the Commission's Oak Ridge Operations Office and one to the Commission's Washington Headquarters.

(2) Concerning Items 6 and 10, the language is modified to make it clear that the report should list each receipt or shipment, rather than provide only the total quantities received from or shipped to others during the period. The instructions also now require that an asterisk be used to identify material for which the licensee was charged or relieved, during the reporting period, with respect to financial responsibility to the Commission.

(3) Concerning Items 12, 13 and 17, the instructions are modified to require identification of the licensee having financial responsibility with respect to losses and burn-up.

Copies of Form AEC-578 may be obtained from the Director, Division of Licensing and Regulation, U.S. Atomic Energy Commission, Washington 25, D.C.

The proposed amendment as published on August 6, 1959, would have required that all special nuclear material licensees furnish a report semi-annually to the Commission. The amendment has been changed so that the June 30 report will not be required from licensees who during the six months preceding June 30 had losses or burn-up of less than ten grams of special nuclear material, and who did not receive or transfer any special nuclear material, or financial responsibility therefor.

Effective upon publication in the FEDERAL REGISTER, 10 CFR Part 70, "Special Nuclear Material", is amended in the following respects:

(1) Redesignate §§ 70.53 and 70.54 as 70.54 and 70.55, respectively.

(2) Add the following new § 70.53:

§ 70.53 Material Status Reports.

Each licensee shall submit to the Commission on Form AEC-578 reports concerning special nuclear material distributed by the Commission pursuant to section 53 of the Act and received, transferred or possessed by the licensee or for which the licensee is financially responsible. Such reports shall be made as of December 31 and June 30 of each year and shall be filed with the Commission within 30 days after the end of the period covered by the report, except that any licensee who during the six months preceding June 30 had losses or burn-up of less than ten grams of special nuclear material and did not receive or transfer any special nuclear material, or financial responsibility therefor, is required to file only an annual report as of December 31. The Commission may permit a licensee to submit Material Status Reports at other times when good cause is shown.

Dated at Germantown, Md., this 12th day of February 1960.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 60-1668; Filed, Feb. 24, 1960; 8:45 a.m.]

Title 7—AGRICULTURE

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

[Navel Orange Reg. 184, Amdt. 1]

PART 914—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 14, as amended (7 CFR Part 914), regulating the handling of navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such navel oranges as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of navel oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b) (1) (i) and (ii) of § 914.-484 (Navel Orange Regulation 184, 25 F.R. 1307) are hereby amended to read as follows:

(i) District 1: 650,000 cartons;
(ii) District 2: 500,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: February 19, 1960.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-1711; Filed, Feb. 24, 1960; 8:50 a.m.]

[Lemon Reg. 833, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this

amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b)(1)(ii) of § 953.940 (Lemon Regulation 833, 25 F.R. 1307) are hereby amended to read as follows:

(ii) District 2: 199,950 cartons.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: February 18, 1960.

S. R. SMITH,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60–1684; Filed, Feb. 24, 1960; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 59–NY–46]

[Amdt. 233]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

[Amdt. 73]

PART 608—RESTRICTED AREAS

Revocation of a Restricted Area and Modification of a Control Area Extension

The purpose of these amendments to §§ 608.38 and 601.1066 is to revoke the Brigantine, N.J., Restricted Area (R–28) (Washington Chart), and to delete reference to Restricted Area R–28 in the description of the New York, N.Y., control area extension.

The Department of the Navy has indicated that it no longer has a requirement for the airspace contained in Restricted Area R–28. Therefore, this restricted area is unjustified as an assignment of airspace and the revocation thereof is in the public interest. Additionally, it is necessary to delete any reference to this restricted area in the description of the New York control area extension.

Since this amendment reduces a burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, the following action is taken:

1. In § 608.38, the Brigantine, N.J., Restricted Area (R–28) (Washington Chart) (23 F.R. 8584) is revoked.

2. In the text of § 601.1066 *Control area extension (New York, N.Y.)* (24 F.R. 10550), delete "R–28,".

These amendments shall become effective upon the date of publication in the FEDERAL REGISTER.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on February 17, 1960.

JAMES T. PYLE,
Acting Administrator.

[F.R. Doc. 60–1671; Filed, Feb. 24, 1960; 8:45 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II — Federal Housing Administration, Housing and Home Finance Agency

SUBCHAPTER D—MULTIFAMILY AND GROUP HOUSING INSURANCE

MORTGAGE INSURANCE FOR NURSING HOMES

Subchapter D is amended by adding new Parts 237 and 238 as follows:

PART 237—MORTGAGE INSURANCE FOR NURSING HOMES; ELIGIBILITY REQUIREMENTS OF MORTGAGE

AUTHORITY: §§ 237.1 to 237.100 issued under sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 232, 73 Stat. 663; 12 U.S.C. 1715w.

DEFINITIONS

§ 237.1 Definitions.

As used in this part, the following terms shall have the meaning indicated.

(a) "Commissioner" means the Federal Housing Commissioner or his authorized representatives.

(b) "Act" means the National Housing Act, as amended.

(c) "Mortgagee" means the original lender under a mortgage, and its successors and assigns, and includes the holders of credit instruments issued under a trust indenture, mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named. The mortgagee shall meet the eligibility qualifications and requirements of §§ 221.1 to 221.8 of Subchapter C of this Chapter.

(d) "Mortgagor" means the original borrower under a mortgage and its successors and assigns.

(e) "Mortgage" means such a first lien upon real estate and other property as is commonly given to secure advances on, or the unpaid purchase price of, real estate under the laws of the State, district or territory in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby.

(f) "Insured mortgage" means a mortgage insured by the endorsement of the credit instrument by the Commissioner.

(g) "Maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(h) "State" includes the several States, Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(i) "Nursing home" means a proprietary facility, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located.

(j) "Project" means a nursing home which has been approved by the Commissioner under the provisions of this Part.

APPLICATION AND CERTIFICATION

§ 237.5 Application.

An application for insurance of a mortgage on a project shall be submitted by a mortgagee and by the sponsors of such project through the local FHA office on an approved FHA application form. No application shall be considered unless accompanied by the exhibits called for by the form.

§ 237.6 Required certificates.

(a) *Certification by State agency.* Every application for insurance shall be accompanied by a certificate executed by a State agency for the State in which the project is or will be located, designated in accordance with section 612(a)(1) of the Public Health Service Act. Such certificate shall evidence that:

(1) There is a need for the nursing home;

(2) There are in force in the State or other political subdivision of the State in which the proposed project will be located reasonable minimum standards of licensure and methods of operation for nursing homes.

(b) *Enforcement of State standards.* No mortgage shall be insured under this part unless the Commissioner has been furnished with acceptable assurance from the appropriate State agency that the prescribed standards of licensure and operation will be applied and enforced with respect to any project for which mortgage insurance is provided.

FEES AND CHARGES

§ 237.10 Application fee.

An application fee of $1.50 per thousand dollars of the amount of the loan applied for shall accompany the application.

§ 237.11 Commitment fee.

A commitment fee which, when added to the application fee, will aggregate $3.00 per thousand dollars of the face amount of the loan set forth in the commitment shall be paid within 30 days after the date of the commitment or within such additional period as the Commissioner may allow.

§ 237.12 Inspection fee.

The commitment may provide for the payment of an inspection fee in an amount not to exceed $5.00 per thousand dollars of the amount of the loan set forth in the commitment.

§ 237.13 Fees on increased mortgage.

Upon application for an increase in the amount of an existing commitment, an additional application fee of $1.50 per thousand dollars shall be paid based upon the amount of such increase. Such increase shall be subject to the payment of an additional commitment fee which, when added to the additional application fee, will aggregate $3.00 per thousand dollars of the amount of the increase. If the amount of the insured mortgage is increased after insurance and prior to final endorsement either by amendment or by the substitution of a new insured mortgage, the fees herein provided for, including the inspection fee, shall be based upon the amount of the increase.

§ 237.14 Refund of fees.

If an application is rejected before it is assigned for processing by the Commissioner, or in such other instances as the Commissioner may determine, the entire fee or any portion thereof may be waived, if not paid, or, if paid, may be returned to the applicant.

§ 237.15 Charges by mortgagee.

The mortgagee may collect from the mortgagor the amount of the fees provided for in this part and may charge the mortgagor an initial service charge to reimburse itself for the cost of closing the transaction, in an amount not to exceed 1½ percent of the original principal amount of the mortgage. Any additional charges shall be subject to prior approval of the Commissioner.

ELIGIBLE MORTGAGORS

§ 237.20 Eligible mortgagors.

All mortgagors shall be approved by the Commissioner and shall possess the legal powers necessary and incidental to operating a nursing home.

ELIGIBLE MORTGAGES

§ 237.25 Mortgage forms.

(a) *Approval of forms.* The mortgage shall be executed upon a form approved by the Commissioner for use in the jurisdiction where the project is located.

(b) *Changes in form.* No changes in the approved form shall be made without the prior written approval of the Commissioner.

§ 237.26 Mortgage lien.

A mortgagor shall certify at final endorsement of the loan for insurance that:

(a) The mortgage is a first lien upon and covers the entire project;

(b) The property covered by the mortgage is free and clear of all liens other than the insured mortgage and such other liens as may be approved by the Commissioner; and

(c) There will not be outstanding any other unpaid obligation contracted in connection with the mortgage transaction, the purchase of the mortgaged property, or the construction of the project, except obligations approved by the Commissioner.

§ 237.27 Maximum mortgage maturity.

The mortgage shall have a maturity not to exceed 20 years from the beginning of amortization and shall contain amortization or sinking-fund provisions satisfactory to the Commissioner.

§ 237.28 Payment requirements.

(a) *Method of payment.* The mortgage shall provide for payments on the first day of each month on account of interest and principal in accordance with an amortization plan as agreed upon by the mortgagor, the mortgagee and the Commissioner.

(b) *Date of first payment to principal.* The Commissioner shall estimate the time necessary to complete the project and shall establish the date of the first payment to principal so that the lapse of time between completion of the project and commencement of amortization will not be longer than necessary to obtain sustaining occupancy.

§ 237.29 Maximum interest rate.

The mortgage shall bear interest at such rate as may be agreed upon by the mortgagee and mortgagor, but in no case shall such interest rate exceed 5¼ percent per year. Interest shall be payable in monthly installments on the principal then outstanding.

§ 237.30 Maximum mortgage amounts.

The mortgage shall involve a principal amount not to exceed the lesser of the following:

(a) *Dollar amount limitation.* $12,500,000; or

(b) *Loan-to-value limitation.* 75 percent of the Commissioner's estimate of the value of the project when the proposed construction or rehabilitation are completed.

§ 237.31 Increased mortgage amounts—high cost areas.

If the Commissioner finds that because of high costs in Alaska, Guam, or Hawaii it is not feasible to construct a project without the sacrifice of sound standards of construction, design, and livability within the limitations of maximum mortgage amounts provided in this part, the principal obligation of mortgages may be increased in such amounts as may be necessary to compensate for such costs, but not to exceed, in any event, the maximum, including high cost area increases, if any, otherwise applicable by more than one-half thereof.

§ 237.32 Adjusted mortgage amount—rehabilitation projects.

In addition to the limitations of § 237.30, a mortgage having a principal amount computed in compliance with the applicable provisions of this part, and which involves a project to be repaired or rehabilitated, shall be subject to the following additional limitations:

(a) *Property held in fee.* If the mortgagor is the fee simple owner of the project, the maximum mortgage amount shall not exceed 100 percent of the Commissioner's estimate of the cost of the proposed repairs or rehabilitation; or

(b) *Property subject to existing mortgage.* If the mortgagor owns the project subject to an outstanding indebtedness, which is to be refinanced with part of the insured mortgage, the maximum mortgage amount shall not exceed: (1) The Commissioner's estimate of the cost of the repair or rehabilitation; plus (2) such portion of the outstanding indebtedness as does not exceed 75 percent of the Commissioner's estimate of the fair market value of such land and improvements prior to the repair or rehabilitation; or

(c) *Property to be acquired.* If the project is to be acquired by the mortgagor and the purchase price is to be financed with a part of the insured mortgage, the maximum mortgage amount shall not exceed 75 percent of: (1) The Commissioner's estimate of the cost of the repair or rehabilitation, and (2) the actual purchase price of the land and improvements, but not in excess of the Commissioner's estimate of the fair market value of such land and improvements prior to the repair or rehabilitation.

§ 237.33 Reduced mortgage amount—leaseholds.

The maximum mortgage amount based upon the limitations of this part is subject to reduction by an amount equal to the capitalized value of the ground rent in the event the mortgage is on a leasehold estate rather than on a fee simple holding.

§ 237.34 Mortgage covenant regarding racial restrictions.

The mortgage shall contain a covenant by the mortgagor that until the mortgage has been paid in full, or the contract of insurance otherwise terminated, the mortgagor will not execute or file for record any instrument which imposes a restriction upon the sale or occupancy of the mortgaged property on the basis of race, color, or creed. The covenant shall be binding upon the mortgagor and its assigns and shall provide that upon violation thereof, the mortgagee may, at its option, declare the unpaid balance of the mortgage immediately due and payable.

§ 237.35 Prepayment privilege and prepayment charges.

(a) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgage to be prepaid in whole or in part upon any interest payment date after giving to the mortgagee 30 days advance written notice.

(b) *Prepayment charge.* The mortgage may contain a provision for a charge in the event of prepayment of principal as may be agreed upon between the mortgagor and mortgagee. The mortgagor shall be permitted to prepay up to 15 percent of the orignial principal amount of the mortgage in any one calendar year without any additional charge.

(c) *Prepayment under cost certification.* Any reduction in the original principal amount of the mortgage resulting from the certification of cost requirements of this part shall not be construed as a prepayment of the mortgage permitting the imposition of any penalty or charge.

§ 237.36 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed 2 cents for each dollar of each payment to interest or principal more than 15 days in arrears, to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

§ 237.37 Construction standards—minimum number of beds.

The project shall conform to standards satisfactory to the Commissioner and consist of not less than 20 beds after completion of the construction or rehabilitation.

§ 237.38 Zoning, deed or building restrictions.

The project when constructed or rehabilitated shall not violate any material zoning or deed restrictions applicable to the project site, and shall comply with all applicable building and other governmental regulations.

SUPERVISION OF MORTGAGORS

§ 237.45 Supervision by Commissioner.

The Commissioner may regulate and restrict the mortgagor as long as the Commissioner is the insurer, holder or re-insurer of the mortgage. Such regulation or restriction may be in the form of a regulatory agreement, corporate charter or such other means as the Commissioner approves.

COMMITMENT

§ 237.50 Commitment to insure.

(a) *Conditions of commitment.* Upon approval of an application for insurance, a commitment shall be issued by the Commissioner setting forth the terms and conditions upon which the mortgage will be insured.

(b) *Insurance of advances or upon completion.* The commitment may provide for the insurance of advances of mortgage money made during construction or may provide for insurance of the mortgage after completion of the improvements.

(c) *Renewal of commitment.* A commitment may be renewed or extended in such manner as the Commissioner may specify.

INSURANCE OF ADVANCES

§ 237.55 Building loan agreement.

Prior to the initial endorsement of the mortgage for insurance, the mortgagor and mortgagee shall execute a building loan agreement approved by the Commissioner setting forth the terms and conditions on which progress payments may be advanced during construction.

§ 237.56 Assurance of completion.

Assurance of completion satisfactory to the Commissioner shall be furnished in an amount of at least 10 percent of the cost of construction of the project as estimated by the Commissioner and shall be in one of the following forms:

(a) A bond of a surety company satisfactory to the Commissioner on the standard form prescribed by the Commissioner with the mortgagor and mortgagee as joint obligees.

(b) An escrow deposit with the mortgagee or with a depository satisfactory to the mortgagee and the Commissioner of cash or securities of, or fully guaranteed as to principal and interest by the United States of America, under a completion assurance agreement prescribed by the Commissioner.

SPECIAL REQUIREMENTS

§ 237.60 Escrow for off-site utilities and streets.

The Commissioner may require the deposit with the mortgagee or with an acceptable trustee or escrow agent designated by the mortgagee, under an appropriate agreement, of such cash as may be required for the completion of off-site public utilities and streets.

§ 237.61 Equity requirements.

(a) *Funds and finances—in general.* The mortgagor shall establish to the Commissioner's satisfaction that, in addition to the proceeds of the insured mortgage, the mortgagor has adequate funds or acceptable financing arrangements to:

(1) Meet the cost of equipping and operating the project subsequent to its completion;

(2) Meet the expenses of the project for such period as the Commissioner estimates necessary to establish a profitable operation.

(b) *Funds and finances—insured advances.* If the commitment provides for insurance of advances during construction, in addition to meeting the requirements of paragraph (a) of this section, the mortgagor shall establish that it has adequate funds or acceptable financing arrangements to:

(1) Meet the cost of completion of construction of the project including all carrying charges, financing and organization expenses incidental to the construction of the project;

(2) Meet the cost of accruals for taxes, mortgage insurance premiums, hazard insurance premiums and assessments required by the terms of the mortgage during the course of construction.

(c) *Deposit and use of funds.* Equity funds shall be deposited with and held by the mortgagee in a special account or by an acceptable depository designated by the mortgagee under an agreement approved by the Commissioner.

§ 237.62 Advance amortization requirements.

If prior to the beginning of amortization income determined by the Commissioner to be net income is received as a result of operation of the project, such income shall be applied either to advance amortization or to offset the cost of project capital improvements which are approved by the Commissioner in such proportion as the Commissioner may prescribe.

PREVAILING WAGE REQUIREMENTS

§ 237.70 Labor standards.

Any contract or subcontract executed for the performance of construction of the project shall comply with all applicable Regulations of the Secretary of Labor (29 CFR 5.1–5.12).

§ 237.71 Ineligible contractors.

No construction contract shall be entered into with a general contractor or any subcontractor if such contractor or any subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest is included on the ineligible list of contractors or subcontractors established by the Commissioner or by the Comptroller General pursuant to the Regulations of the Secretary of Labor (29 CFR 5.6(b)).

§ 237.72 Ineligible advances.

Unless approved by the Commissioner, no advance under the mortgage shall be eligible for insurance after notification from the Commissioner that the general contractor or any subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest was, on the date the contract or subcontract was executed on the ineligible list, established by the Commissioner or by the Comptroller General pursuant to the provisions of the Regulations of the Secretary of Labor (29 CFR 5.6(b)).

§ 237.73 Wage certificate.

No advance under the mortgage shall be eligible for insurance unless there is filed with the application for such advance a certificate as required by the Commissioner, certifying that the laborers and mechanics employed in the construction of the project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor prior to the beginning of construction and after the date of filing of the application for insurance.

§ 237.74 Discrimination prohibited.

Any contract or subcontract executed for the performance of construction of the project shall provide that there shall be no discrimination against any employee or applicant for employment because of race, color, creed or national origin.

COST CERTIFICATION REQUIREMENTS

§ 237.80 Certification of cost requirements.

Prior to initial endorsement of the mortgage for insurance, the mortgagor, the mortgagee and the Commissioner shall enter into an agreement approved by the Commissioner for the purpose of precluding any excess of mortgage proceeds over 75 percent of the actual cost of the project. Under this agreement the mortgagor shall agree to:

(a) Disclose its relationship with the builder, including any collateral agreement, and with subcontractors and suppliers;

(b) Enter into a construction contract the terms of which shall depend on whether or not there exists an identity of interest between the mortgagor and the builder;

(c) Execute a certificate of actual costs upon completion of the improvements; and

(d) Apply any excess of mortgage proceeds over 75 percent of the actual cost of reduction of the outstanding balance of the principal of the mortgage.

§ 237.81 Form of contract.

The form of contract between the mortgagor and builder shall be in accordance with the following:

(a) *Lump sum contract.* If the Commissioner determines that neither the mortgagor nor any of the officers, directors or stockholders of the mortgagor have any interest in the builder or contractor, there may be used a lump sum form of contract providing for payment of a specified amount.

(b) *Fixed fee contract.* If the Commissioner determines that the mortgagor, its officers, directors or stockholders have any interest, financial or otherwise, in the builder or contractor, the form of contract shall provide for payment of the actual cost of construction, not to exceed an upset price and may provide for payment of a builder's fixed fee shall not exceed a reasonable allowance as established by the Commissioner, in accordance with customary practices in the area.

§ 237.82 Certificate as to subcontracts.

If the Commissioner determines that the mortgagor, its officers, directors or stockholders have any interest, financial or otherwise, in any subcontractor or material supplier, the mortgagor shall certify in form prescribed by the Commissioner prior to final endorsement of the mortgage for insurance that the amounts paid to such subcontractor or material supplier were not more than the rate prevailing in the locality for similar type labor and materials.

§ 237.83 Certificate of actual cost.

The mortgagor's certificate of actual cost, in form prescribed by the Commissioner, shall be submitted upon completion of physical improvements to the satisfaction of the Commissioner and prior to final endorsement and shall show the actual cost to the mortgagor of:

(a) The construction contract, including all costs of construction under a lump sum contract, after deduction of any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor corporation, or to any of its officers, directors or stockholders;

(b) Architect's fees;

(c) Off-site public utilities and streets not included in the general contract;

(d) Organizational and legal work; and

(e) Other items of expense approved by the Commissioner.

§ 237.84 Fixed fee contract—additional certification.

When the work has been completed under a fixed fee contract, the mortgagor's certification shall also show:

(a) Such allocations of general overhead items as are acceptable to the Commissioner;

(b) A reasonable allowance for the builder's profit as established by the Commissioner.

§ 237.85 Contractor's certification—fixed fee contract.

A contractor receiving a fixed fee shall certify in form prescribed by the Commissioner as to all actual costs paid for labor, materials, and subcontract work under the general contract exclusive of the builder's fee and less any kickbacks, rebates, trade discounts, or other similar payments to the builder or mortgagor corporation or any of its officers, directors or stockholders.

§ 237.86 Records.

The mortgagor shall keep and maintain adequate records of all costs of any construction or other cost items not representing work under the general contract and shall require the builder to keep similar records and, upon request by the Commissioner, shall make available for examination such records including any collateral agreements.

§ 237.87 Certificate of public accountant.

The certificates of actual cost shall be supported by a certificate as to accuracy by an independent Certified Public Accountant or independent public accountant, which shall include a statement that the accounts, records and supporting documents have been examined in accordance with generally accepted auditing standards to the extent deemed necessary to verify the actual costs.

§ 237.88 Value of land.

Upon receipt of the mortgagor's certification of actual cost, there shall be added to the total amount thereof the Commissioner's estimate of the fair market value of any land included in the mortgage security and owned by the mortgagor in fee such value being prior to the construction of the improvements. In the event the land is held under a leasehold or other interest less than a fee, the cost, of acquiring the leasehold or other interest shall be considered an allowable expense which may be added to actual cost. In no event shall such cost be in excess of the fair market value of such leasehold or other interest exclusive of proposed improvements.

§ 237.89 Reduction in mortgage amount.

If the principal obligation of the mortgage exceeds 75 percent of the total amount as shown by the certificate of actual cost plus the value of the land (the cost shown by the certificate of actual cost in rehabilitation cases), the mortgage shall be reduced by the amount of such excess prior to final endorsement for insurance.

§ 237.90 Rehabilitation projects.

In the event the mortgage is to finance repair or rehabilitation, the mortgagor's actual cost of such repair or rehabilitation may include the items of expense permitted by new construction in accordance with this part and the applicable cost certification procedure described therein will be required; provided such mortgage shall be subject to the following limitations:

(a) *Property held in fee.* If no part of the proceeds is to be used to finance the purchase of the land or structures involved, the mortgage shall be reduced to an amount not to exceed 100 percent of the approved cost of the completed repair or rehabilitation.

(b) *Property subject to existing mortgage.* If the insured mortgage is to include the cost of refinancing an existing mortgage acceptable to the Commissioner, the amount of the existing mortgage or 75 percent of the Commissioner's estimate of the fair market value of the land and existing improvements prior to repair or rehabilitation, whichever is the lesser, shall be added to the actual cost of the repair or rehabilitation. If the principal obligation of the insured mortgage exceeds the total amount thus obtained, the mortgage shall be reduced by the amount of such excess, prior to final endorsement for insurance.

(c) *Property to be acquired.* If the mortgage is to include the cost of land and improvements, and the purchase price thereof is to be financed with part of the mortgage proceeds, the purchase price or the Commissioner's estimate of the fair market value of land and existing improvements prior to repair or rehabilitation, whichever is the lesser, shall be added to the actual cost of the repair or rehabilitation. If the principal obligation of the insured mortgage exceeds the applicable 75 percent of the total amount thus obtained, the mortgage shall be reduced by the amount of such excess prior to final endorsement for insurance.

§ 237.91 Effects of agreement.

Any agreement, undertaking, statement or certification required in connection with cost certification shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon as a true statement of the facts contained therein.

§ 237.92 Cost certification incontestable.

Upon the Commissioner's approval of the mortgagor's certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

AMENDMENTS AND EFFECTIVE DATE

§ 237.95 Amendment of regulations.

The regulations in this part may be amended by the Commissioner, but such amendments shall not affect any insured mortgage or any outstanding commitment.

§ 237.100 Effective date.

Unless otherwise specified, the regulations in this part shall be effective as to all mortgages with respect to which a commitment is issued on or after the date hereof.

PART 238—MORTGAGE INSURANCE FOR NURSING HOMES; RIGHTS AND OBLIGATIONS OF THE MORTGAGEE UNDER THE INSURANCE CONTRACT

AUTHORITY: §§ 238.1 to 238.100 issued under sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply sec. 232, 73 Stat. 663; 12 U.S.C. 1715w.

§ 238.1 Incorporation by reference.

(a) All of the provisions of Part 233 of this chapter covering mortgages insured under section 207 of the National Housing Act apply to mortgages on nursing homes insured under section 232 of the National Housing Act except the following provision:

§ 233.14 Effective date.

(b) For the purposes of this part all references in Part 233 of this chapter to section 207 of the Act shall be construed to refer to section 232 of the Act.

§ 238.2 Definitions.

All of the definitions contained in § 237.1 of Part 237 of this subchapter shall apply to this part. In addition, as used in this part, the following term shall have the meaning indicated:

(a) "Contract of insurance" means the agreement evidenced by the Commissioner's insurance endorsement and includes the provisions of this part and of the Act.

§ 238.95 Amendment of regulations.

The regulations in this part may be amended by the Commissioner, but such amendments shall not affect any insured mortgage or any outstanding commitment.

§ 238.100 Effective date.

Unless otherwise specified, the regulations in this part shall be effective as to all mortgages with respect to which a commitment is issued on or after the date hereof.

Issued at Washington, D.C., February 19, 1960.

JULIAN H. ZIMMERMAN,
Federal Housing Commissioner.

[F.R. Doc 60-1713; Filed, Feb. 24, 1960; 8:50 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 12—DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS

Miscellaneous Amendments

1. Under Part 12 delete that portion of the center title that reads as follows: "Under Public No. 734, 75th Congress (38 U.S.C. 16j)."

2. Immediately above § 12.0 delete that portion of the center title that reads as follows: "Under Public No. 734, 75th Congress (38 U.S.C. 16j)."

3. In § 12.0, paragraph (b) is amended to read as follows:

§ 12.0 Definitions.

* * * * *

(b) "Field stations" as used in §§ 12.1 to 12.13 includes hospitals, centers, domiciliary activities, supply depots, and other offices over which the Veterans Administration has direct and exclusive administrative jurisdiction, and excludes State, county, city, private, and contract hospitals and hospitals or other institutions operated by the United States through agencies other than the Veterans Administration. At institutions other than filed stations as herein defined funds or effects as defined in paragraph (a) of this section, except for funds derived from gratuitous benefits under laws administered by the Veterans Administration and deposited by the Veterans Administration in the account Personal Funds of Patients for incompetent veterans, will be disposed of under the laws governing such institutions. In any case where the veteran died intestate without heirs or next of kin his personal property vests in the United States. Disposition of the property will be made in accordance with the provisions of §§ 12.19 to 12.23.

4. In § 12.1, the headnote and paragraph (a) are amended to read as follows:

§ 12.1 Designee cases; competent veterans.

(a) Each competent veteran now being cared for or who is hereafter admitted to receive care as such at a Veterans Administration field station, unless it be detrimental to his health, will be requested and encouraged to designate on the prescribed VA Form 10-P-10, Application for Hospital Treatment or Domiciliary Care, the person to whom he desires the Veterans Administration to deliver his funds and effects in event of death. He may also designate an alternate to whom delivery will be made if the first designee fails or refuses to accept delivery. It should be clearly understood that the delivery of such funds or effects will constitute only a delivery of possession thereof, and such delivery is not intended to affect in any manner the title to such funds or effects or determine the person ultimately entitled to receive same from the person to whom delivery is made (hereinafter in the regulations in this part termed the "designee"). The person designated may not be an employee of the Veterans Administration unless such employee be the wife (or husband), child, grandchild, mother, father, grandmother, grandfather, brother, or sister of the veteran. The veteran may in writing change or revoke such designation at any time. If a veteran becomes incompetent, any designation previously made will become inoperative with respect to those funds deposited by the Veterans Administration in Personal Funds of Patients which were derived from gratuitous benefits under laws administered by the Veterans Administration. The guardian may change or revoke the existing designation with respect to personal effects and funds derived from other sources.

5. In § 12.2, the headnote and paragraph (a) are amended to read as follows:

§ 12.2 **Designee cases; incompetent veterans.**

(a) An incompetent veteran will not be informed concerning the designation of a person to receive funds or effects; but if he has a guardian the guardian will be requested to make such designation of himself or another person to receive possession of the funds and effects (other than funds deposited by the Veterans Administration in Personal Funds of Patients which were derived from gratuitous benefits under laws administered by the Veterans Administration) upon the incompetent's death. The guardian will sign the letter designating himself or another person with the veteran's name "By ----------, guardian of his estate".

6. In § 12.3, paragraph (a) is amended to read as follows:

§ 12.3 **Deceased veteran's cases.**

(a) Immediately upon the death or the absence without leave of any beneficiary at a field station, as defined in § 12.0(b), a survey and inventory of the funds and effects of such beneficiary will be taken in the following manner:

(1) If the death or absence without leave occurred during hospitalization, a complete inventory (VA Form 10-2637, Inventory of Personally Owned Effects) will be made of all personal effects (including those in the custody of the hospital, jewelry being worn by the deceased person, or jewelry and other effects in pockets of clothing he may have been wearing) and all funds found and moneys on deposit in Personal Funds of Patients. In the case of death of incompetent veterans after November 30, 1959, the inventory will be completed to show separately those funds deposited by the Veterans Administration in Personal Funds of Patients which were derived from gratuitous benefits under laws administered by the Veterans Administration. For purpose of determining the source of funds, expenditures from the account will be considered as having been made from gratuitous benefits, not to exceed the extent of deposits of such benefits. In the event death occurred during other than official working hours, the officer of the day and/or a representative of Nursing Service will collect and inventory all funds and personal effects on the person of the deceased beneficiary and on the ward, will carefully safeguard such property and, upon completion of the tour of duty, will turn the funds and effects over to the properly designated employees.

(2) If the death or absence without leave occurred while the beneficiary was assigned to a domiciliary section, or while receiving hospitalization and at time of death or absence without leave any effects are in the section, a like inventory will be made by representatives of the Director, Domiciliary Services or Domiciliary officer and/or Registrar Division.

(3) The inventory report will be executed in triplicate, original and two copies. All will be signed by the employee making the inventory, and disposed of as provided for in pertinent procedural instructions.

(4) Personally owned clothing or other effects (such as tooth brushes, false teeth not containing gold, etc.) which are unserviceable by reason of wear or tear or insanitary condition, and clothing that had been supplied by the Government, will not be included in this inventory; instead, the unserviceable personally owned articles will be listed on a separate list, with their condition briefly described, and their disposition recommended in a separate report to the Manager. The Manager, if approving this recommendation, will order destruction or utilization in occupational therapy, or as wipe rags, etc., of such unserviceable articles and, when they are so destroyed or utilized, will have entered on the papers the date and nature of the disposition. The completed papers will then be placed in the correspondence file of the beneficiary. Clothing that had been supplied by the Government will be reconditioned if possible and returned to stock for issue to other eligible beneficiaries. When Government-owned clothing cannot be reconditioned it will be disposed of.

(5) When the nearest relative requests that the deceased beneficiary be clad for burial in clothing he personally owned, instead of burial clothing to be supplied under the contract for mortuary services, such request will be honored. A receipt in such cases will be obtained from the undertaker, specifying the articles of clothing so used. Adjustment of the undertaker's bill in the case will correspondingly be made.

(6) In accomplishing such inventories, detailed description will be given of items of material value or importance, for example:

Watch—Yellow metal (make, movement, and case number, if available without damage to watch).
Ring—Yellow metal (probably gold-plated or stamped 14-K., setting if any).
Discharge certificate.
Adjusted service certificate (number).
Bonds or stocks (name of company, registered or nonregistered, identifying number, recited par value, if any).
Bank books or other asset evidence (name of bank or other obligor, apparent value, identifying numbers, etc.).
Clothing (brief description and statement of condition). Etc.

7. Section 12.4 is revised to read as follows:

§ 12.4 **Disposition of effects and funds to designee; exceptions.**

(a) Upon authorization by the Manager or his designated representative, all funds, as defined in § 12.0 (except funds on deposit in Personal Funds of Patients derived from gratuitous benefits under laws administered by the Veterans Administration and deposited by the Veterans Administration where the veteran was incompetent at time of death), and effects will be delivered or sent to the designee of the deceased veteran if request therefor be made after death and within 90 days following the mailing of notice to such designee (§ 12.9(a)), unless:

(1) The executor or administrator of the estate of the deceased veteran shall have notified the Manager or his designated representative of his desire and readiness to receive such funds or effects, in which event the Manager or his designated representative will authorize delivery of all funds and effects to such executor or administrator upon receipt of appropriate documentary evidence of his qualifications and in exchange for appropriate receipts, or

(2) An heir capable of inheriting the personal property of the veteran makes claim for the funds and effects prior to delivery to the designee.

(3) Subsequent to the naming of a designee the veteran became incompetent and his guardian revoked such designation, in which event the Manager or his designated representative will deliver all funds and effects to his guardian in exchange for appropriate receipts subject to the limitation contained in paragraph (d) of this section, or

(4) Designee was the wife (or husband) of the veteran at the time of designation, and information at the disposal of the field station indicates that she (or he) was thereafter divorced and the veteran was incompetent at or subsequent to the time of divorce, or

(5) Notwithstanding there is a designee, it is probable that title would pass to the United States under the provisions of §§ 12.19 to 12.23 issued pursuant to 38 U.S.C. 3202(e) and 38 U.S.C. 5220(a), or

(6)(i) The Manager or his designated representative determines that there is reasonable ground to believe that the transfer of such possession to the designee probably would be contrary to the interests of the person legally entitled to the personal property, or there are any other special circumstances raising a serious doubt as to the propriety of such delivery to the designee.

(ii) In any case in which the Manager does not deliver the funds and effects, because of the provisions of subdivisions (3), (4), and (5) of this paragraph, he will develop all facts and refer the matter to the Chief Attorney of the regional office having jurisdiction over the area where the hospital is located, for advice as to the disposition which legally should be made of such funds and effects.

(b) When authorized by the Manager or his designated representative, the effects will be delivered or shipped to the designee. If shipped at Government expense, the shipment shall be made in the most economical manner but in no case at a cost in excess of $25. If such expenses will exceed $25, the excess amount shall be paid by the consignee, either to the Manager in advance or to the carrier if it accepts the shipment without full prepayment of charges. There will be no obligation on the Government, initially or otherwise, to pay such expenses in excess of $25.

(c) When possession of funds or effects is transferred to a designee, the attention of the designee will again be directed to the fact that possession only has been transferred to him and that such transfer does not of itself affect title thereto and that such designee will be accountable to the owner of said funds and effects under applicable laws.

(d) Upon receipt from the proper Chief Attorney of an appropriate certification that the guardianship was in full force and effect at the time of the veteran's death and that the guardian's bond is adequate, funds (other than funds deposited by the Veterans Administration in Personal Funds of Patients derived from gratuitous benefits under laws administered by the Veterans Administration) and effects of an incompetent veteran may be immediately delivered or sent to such guardian, inasmuch as the guardian had a right to possession, and he will be accountable therefor to the party entitled to receive the decedent's estate. If, however, it appears probable that decedent died without a valid will and left no person surviving entitled to inherit, the funds will not be paid to the former guardian but will be disposed of as provided in § 12.19(a). The effects will be sold, used, or destroyed, at the discretion of the Manager or his designated representative.

8. In § 12.5 paragraph (b) is amended and paragraphs (c), (d) and (e) are added to read as follows:

§ 12.5 Nondesignee cases.

* * * * *

(b) Except where delivery is made to a designee, executor, or administrator, funds of veterans who were competent at time of death (if not in excess of $1,000) will be released to the person or persons who would ultimately be entitled to distribution under the laws of the State of the decedent's domicile. If the amount payable is in excess of $1,000, payment will be made only to a legal representative of the estate. The person or persons entitled may waive in writing his or her right to the funds in favor of another heir or next of kin.

(c) Funds of veterans who were incompetent at time of death occurring after November 30, 1959, if derived from sources other than gratuitous benefits deposited by the Veterans Administration in Personal Funds of Patients under laws administered by the Veterans Administration, will be disposed of in the same manner as for competent veterans.

(d) Funds deposited by the Veterans Administration in Personal Funds of Patients, at any office, for veterans who were incompetent at time of death occurring after November 30, 1959 and which were derived from gratuitous benefits under laws administered by the Veterans Administration, will be paid upon receipt of proper application to the following persons living at the time of settlement, and in the order named: the surviving spouse, the children (without regard to age or marital status) in equal parts, and the dependent parents of such veteran, in equal parts. Any funds derived from gratuitous benefits not disposed of in accordance with this paragraph shall be deposited to the credit of the applicable current appropriation; except that there may be paid only so much of such funds as may be necessary to reimburse a person (other than a political subdivision of the United States) who bore the expenses of last sickness or burial of the veteran for such expenses.

(e) No payment shall be made under paragraph (d) of this section unless claim therefor is filed with the Veterans Administration within 5 years after the death of the veteran, except that, if any person so entitled under such regulation is under legal disability at the time of death of the veteran, such 5-year period of limitation shall run from the termination or removal of the legal disability.

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective February 25, 1960.

[SEAL] BRADFORD MORSE, *Deputy Administrator.*

[F.R. Doc. 60-1693; Filed, Feb. 24, 1960; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 11959; FCC 60-162]

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

Sixth Memorandum Report and Order

In the matter of reallocation of certain fixed, land mobile, and maritime mobile bands; Sixth Memorandum Report and Order

1. On April 3, 1957, the Commission adopted a notice of proposed rule making in the above-entitled matter which was released on April 9, 1957, and published in the FEDERAL REGISTER of April 16, 1957 (22 F.R. 2583). A correction to the notice adding footnote designators to certain specified frequency bands was released on April 11, 1957, and published in the FEDERAL REGISTER of April 26, 1957 (22 F.R. 2956). The First Memorandum Report and Order in this Docket, which applied only to the Land Transportation and Maritime Mobile Services in the 152-162 Mc band, was adopted by the Commission on April 9, 1958, and published in the FEDERAL REGISTER on April 15, 1958 (23 F.R. 2424). A corrected copy of the Order was published in the FEDERAL REGISTER on April 19, 1958 (23 F.R. 2601). The Second Memorandum Report and Order in this Docket, which implemented "split channel" proposals for the Public Safety Radio Service in the 150.8-162 Mc and 450-460 Mc bands and for the remaining services in the 150.8-162 Mc band, was adopted by the Commission on May 8, 1958, and published in the FEDERAL REGISTER on May 17, 1958 (23 F.R. 3351). The Third Memorandum Report and Order in this Docket, which reallocated certain portions of the 460-470 Mc Citizens Radio band to the Industrial Radio Services and implemented Commission proposals relating to the unavailability of 161.85 Mc to the Maritime Mobile Service in Puerto Rico and the Virgin Islands, a slight shifting of the 160 Mc band available for assignment to remote pickup stations in Puerto Rico and the Virgin Islands on a shared basis with the Railroad Radio Service, and the availability of certain taxicab "splits" to the Industrial Radio Services outside standard metropolitan areas of 50,000 or more population, was adopted by the Commission on June 18, 1958 and published in the FEDERAL REGISTER on June 28, 1958 (23 F.R. 4782). The Fourth Memorandum Report and Order in this Docket, which reallocated the 11 meter amateur band, 26.96-27.23 Mc, to the Citizens Radio Service, was adopted by the Commission on July 31, 1958, and published in the FEDERAL REGISTER on August 9, 1958 (23 F.R. 6111). The Fifth Memorandum Report and Order, which withdrew the Commission's proposal to reallocate the 455-456 Mc and 460-461 Mc bands to the Domestic Public Land Mobile Service, was adopted by the Commission on December 2, 1959 and published in the FEDERAL REGISTER on December 9, 1959 (24 F.R. 9939).

2. A second notice of proposed rule making in this Docket, which proposed to establish an air-ground public radiotelephone service in the Domestic Public land mobile bands 454.40-455 Mc and 459.40-460 Mc, and to reallocate 460-461 Mc to the Industrial Radio Services, was adopted by the Commission on December 2, 1959 and published in the FEDERAL REGISTER on December 9, 1959 (24 F.R. 9937). The time allowed for filing comments with respect to this second notice expired January 11, 1960 and the time for filing reply comments expired January 21, 1960. No reply comments were received.

3. Comments were received from Aeronautical Radio, Inc. (ARINC), American Telephone and Telegraph Company (AT&T), Central Station Electrical Protection Association and the Controlled Companies, American District Telegraph Company, Electronic Industries Association (EIA), General Electric Company (GE), General Telephone Service Corporation (General), Motorola, Inc., National Committee for Utilities Radio (NCUR), National Mobile Radio System, National Ready Mixed Concrete Association and the National Sand and Gravel Association, Special Industrial Radio Service Association (SIRSA), and United States Independent Telephone Association (USITA). Each of the comments supported either the establishment of an air-ground service as proposed or the proposal to reallocate the 460-461 Mc band to the Industrial Radio Services. The GE comments supported both proposals without exception and endorsed the EIA comments. None of the comments objected to either proposal, al-