ments at its principal or general office in the United States and shall make them available upon request by an authorized representative of the Board:

(1) All receipts and statements of travel agents and all other documents which evidence or reflect deposits made by each tour participant;

(2) All receipts and statements of travel agents and all other documents which evidence or reflect commissions received, paid to, or deducted by travel agents in connection with the tour or series of tours; and

(3) All statements, invoices, bills, and receipts from suppliers for furnishing of goods or services in connection with the tour or series of tours.

* * * * *

(Secs. 204(a), 402 and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757, 766; (49 U.S.C. 1324, 1372, 1377))

NOTE: The records maintenance requirements contained in § 249.9(a) have been approved by the U.S. General Accounting Office under number B-180226 (RO295).

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.75-28699 Filed 10-23-75;8:45]

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-91, Amdt. 12]

PART 372a—TRAVEL GROUP CHARTERS

Monthly Filings of Depository Account Reports With the Board; Deletion

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 21, 1975.

For the reasons stated in ER-936, issued contemporaneously herewith the Civil Aeronautics Board hereby amends Part 372a of its Special Regulations, (14 CFR Part 372a) effective October 21, 1975, as follows:

§ 372a.50 [Amended]

Amend § 372a.50 by deleting paragraph (c).

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.75-28701 Filed 10-23-75;8:45 am]

[Reg. SPR-92; Amdt. 7]

PART 373—STUDY GROUP CHARTERS BY DIRECT AIR CARRIERS AND STUDY GROUP CHARTERERS

Monthly Filings of Depository Account Reports With the Board; Deletion

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 21, 1975.

For the reasons stated in ER-936, issued contemporaneously herewith, the Civil Aeronautics Board hereby amends Part 373 of its Special Regulations (14 CFR Part 373) effective October 21, 1975, as follows:

1. Amend the table of contents of Part 373 by revising the reference to § 373.17 to read as follows:

Sec.
373.17 [Reserved]

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324))

§ 373.17 [Reserved]

2. Delete and reserve § 373.17, as follows:

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.75-28706 Filed 10-23-75;8:45 am]

[Reg. SPR-93; Amdt. 11]

PART 378—INCLUSIVE TOUR CHARTERS

Monthly Filings of Depository Account Reports With the Board; Deletion

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 21, 1975.

For the reasons stated in ER-936, issued contemporaneously herewith, the Civil Aeronautics Board hereby amends Part 378 of its Special Regulations (14 CFR Part 378) effective October 21, 1975, as follows:

1. Amend the table of contents by deleting the reference to § 378.16a, the amended table of contents to read as follows:

* * * * *

Subpart B—Conditions and Limitations

* * * * *

Sec.
378.16 Surety bond.
378.17 Contract between tour operators or foreign tour operators and tour participants.

* * * * *

§ 378.16a [Deleted]

2. Delete § 378.16a

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary*.

[FR Doc.75-28700 Filed 10-23-75;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release 34-11742]

ORGANIZATION, INFORMATION AND REQUESTS, GENERAL RULES AND REGULATIONS, AND FORMS

Registration of Municipal Securities Brokers and Dealers

The Securities and Exchange Commission has adopted rule 15Ba2-1,[1] related Form MSD,[2] rule 15Ba2-2,[3] and temporary rules 15a-1(T)[4] and 15Ba2-3(T),[5] effective immediately, in accordance with the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), and pursuant to the

See footnotes at end of document.

Commission's authority under the Securities Exchange Act of 1934 (the "Act"),[6] particularly sections 2, 3, 15, 17, and 23 thereof[7] and section 13 (new section 15B of the Act) of the Securities Acts Amendments of 1975 (the "1975 Amendments").

Rule 15Ba2-1 provides that municipal securities dealers which are banks or separately identifiable departments or divisions of banks must apply for registration with the Commission under section 15B(a) of the Act on Form MSD. Rule 15Ba2-2 requires nonbank municipal securities dealers whose business is exclusively intrastate ("intrastate dealers") to apply for registration with the Commission under section 15B(a) of the Act on Form BD, and prescribes certain additional procedures relating to the registration of such dealers. Temporary rules 15a-1(T) and 15Ba2-3(T) temporarily exempt municipal securities brokers and dealers from the registration requirements of sections 15 and 15B(a) of the Act, respectively, provided that such persons file their applications for registration with the Commission not later than November 30, 1975, and otherwise comply with all applicable rules and regulations of the Commission and the Municipal Securities Rulemaking Board to the same extent as if they were registered on December 1, 1975.

In connection with the adoption of rules 15Ba2-1 and 15Ba2-2, the Commission has provided, effective immediately, in accordance with the Administrative Procedure Act, delegated authority, pursuant to Pub. L. 87-592, 76 Stat. 394,[8] to the Directors of the Office of Reports and Information Services and the Division of Market Regulation to grant applications for registration of municipal securities dealers under section 15B(a) of the Act.

Introduction. On June 4, 1975, the 1975 Amendments were signed into law, substantially amending the Act and establishing a comprehensive framework for the regulation of the activities of municipal securities brokers and dealers. Under new section 15B(a) of the Act, as added by the 1975 Amendments, municipal securities dealers which are banks, or separately identifiable departments or divisions of banks, and intrastate dealers are required to be registered with the Commission in accordance with such rules as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. Section 15B(a)(1) provides:

> It shall be unlawful for any municipal securities dealer (other than one registered as a broker or dealer under section 15 of this title) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security unless such municipal securities dealer is registered in accordance with this subsection.

Non-bank municipal securities dealers other than intrastate dealers and municipal securities brokers are required to be registered under section 15 of the Act and to apply for registration on Form BD, the standard registration form for brokers and dealers.[9] The provisions of

See footnotes at end of document.

sections 15 and 15B(a) become applicable to municipal securities brokers and dealers on December 1, 1975.[10]

On August 11, 1975, the Commission issued Securities Exchange Act Release No. 11585 ("Release No. 11585"),[11] announcing procedures for the registration of municipal securities brokers and dealers under section 15 of the Act, giving notice of proposed rule 15Ba2-1, related proposed Form MSD, and proposed rule 15Ba2-2, and soliciting comments on the proposed rules and Form and on other matters relating to the registration of municipal securities brokers and dealers.[12]

In Release No. 11585 the Commission indicated that municipal securities brokers and non-bank municipal securities dealers other than intrastate dealers would be required to apply for registration on Form BD. The Commission urged that such municipal securities brokers and dealers file their applications for registration with the Commission as promptly as possible to facilitate processing in an orderly and timely manner. Proposed rule 15Ba2-1 provided that banks would be required to apply for registration with the Commission on a new application form, Form MSD, and to file a statement of financial condition in connection with such application. Proposed rule 15Ba2-2 provided that intrastate dealers would be required to apply for registration with the Commission on Form BD and to file the statements required by rule 15b1-2.

The Commission stated in Release No. 11585 that banks which meet the definition of "municipal securities dealer" in section 3(a)(30) of the Act would be required to be registered with the Commission under section 15B(a) of the Act unless the Municipal Securities Rulemaking Board (the "Board"), in accordance with its authority under section 15B(b)(2)(H) of the Act, had defined by rule the term "separately identifiable department or division" with respect to banks, and the prospective bank applicant had a department or division meeting the requirements of the Board's rule.[13] On October 10, 1975 the Board filed rule proposals with the Commission relating to, among other matters, the definition of a "separately identifiable department or division" of a bank. These rules have become effective and are presently rules of the Board for purposes of the Act.[14] The text of the Board's rule defining a "separately identifiable department or division" of a bank and a general definitional rule of the Board are set forth elsewhere in this release.

Banks Subject to Registration as Municipal Securities Dealers. Section 3(a)(30) of the Act defines a "municipal securities dealer" as follows:

* * * any person (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise, but does not include—

* * * * *

a bank, unless the bank is engaged in the business of buying and selling municipal securities for its own account other than in a fiduciary capacity, through a broker or otherwise: *Provided, however*, That if the bank is engaged in such business through a separately identifiable department or division (as defined by the Municipal Securities Rulemaking Board in accordance with Section 15B(b)(2)(H) of this title), the department or division and not the bank itself shall be deemed to be the municipal securities dealer.

See footnotes at end of document.

Whether a bank[15] is "engaged in the business" of buying and selling municipal securities for its own account as a dealer is a factual question to be resolved in light of all relevant circumstances. However, the Commission believes that it is appropriate to set forth certain guidelines to assist individual banks in determining whether to apply for registration with the Commission.

The definition of a "municipal securities dealer" in section 3(a)(30) of the Act, as it applies to banks, incorporates language found in the definition of a "dealer" in section 3(a)(5) of the Act and thus traditional concepts of what constitute dealer activities. A bank which buys and sells municipal securities solely for investment for its own account or for accounts for which it acts as a fiduciary will not generally be classified as a dealer, even though such purchases and sales are made with some frequency. Virtually every bank has municipal securities in its investment portfolio, and purchases and sales may occur to accommodate changes in the bank's financial position or to reflect investment decisions. The Commission believes that it was not the intent of Congress that every bank engaged in such investment-type activity register as a dealer.

In the view of the Commission, activities which may subject a bank to the registration requirements of the Act applicable to municipal securities dealers, if the jurisdictional means are used,[16] are as follows:

(1) underwriting, which includes participation in a syndicate or joint account for the purchase of municipal securities;

(2) maintaining a trading account in municipal securities or otherwise carrying a dealer inventory in municipal securities;[17]

(3) advertising or listing as a dealer in professional publications such as Standard & Poor's "Blue List of Current Municipal Offerings", the Bond Buyer's "Directory of Municipal Bond Dealers of the United States", or Polk's "World Bank Directory", or advertising in publications of general circulation as a dealer in municipal securities; or

(4) otherwise holding itself out to other dealers or to investors as a dealer in municipal securities.

While the determination of when a bank is a municipal securities dealer might be premised on, among other matters, the number of transactions engaged in by the bank in a non-fiduciary capacity or the rate of turnover of the bank's inventory of municipal securities, the Commission does not now have sufficient data or experience with bank municipal securities dealers to ascertain whether such tests are appropriate. In any event, it would appear that the nature of a bank's activities, rather than the volume of transactions or similar criteria, are of greater relevance in determining when a bank is a municipal securities dealer. The Commission invites written comments from interested persons on whether the standards set forth above are appropriate for determining whether a bank is a municipal securities dealer within the meaning of section 3(a)(30) of the Act, or whether other factors should be considered in making such determination. Such comments should be submitted in triplicate to George A. Fitzsimmons, Secretary of the Commission, and should refer to Commission File No. S7-577. All such comments will be available for public inspection.

The Commission also notes that a bank which engages in bona fide brokerage transactions on behalf of customers will not, solely for that reason, be considered a dealer for purposes of section 3(a)(30) of the Act. Banks are excluded from the definition of "broker" in section 3(a)(4) of the Act, and thus are not subject to the provisions of the Act requiring brokers to register.[18]

Separately Identifiable Department or Division of a Bank. Although a bank may meet the definition of a "municipal securities dealer" for purposes of section 3(a)(30) of the Act, that section provides that a bank will not be considered to be a municipal securities dealer if the bank engages in such business through a "separately identifiable department or division" as defined by the Board in accordance with the Board's authority under section 15B(b)(2)(H) of the Act.[19] If a bank has such a department or division, the department or division will be deemed to be the municipal securities dealer and only that department or division need register.

The following definitional rules of the Board have become effective pursuant to section 19(b) of the Act:[20]

RULE 1: *Definitions.*

(a) For purposes of the rules of the Municipal Securities Rulemaking Board, the terms used in such rules shall have the respective meanings set forth in the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the rules and regulations of the Securities and Exchange Commission thereunder.

(b) The term "Act" shall mean the Securities Exchange Act of 1934, as from time to time amended.

(c) The term "Board" shall mean the Municipal Securities Rulemaking Board.

(d) The term "Commission" shall mean the Securities and Exchange Commission.

RULE 4. *Separately Identifiable Department or Division of a Bank.*

(a) A separately identifiable department or division of a bank, as such term is used in section 3(a)(30) of the Act, is that unit of the bank which conducts all of the activities of the bank relating to the conduct of business as a municipal securities dealer ("municipal securities dealer activities"), as such activities are hereinafter defined: *Provided That:*

(1) Such unit is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, including the supervision of all bank employees engaged in the performance of such activities; and

(2) There are separately maintained in or separately extractable from such unit's own facilities or the facilities of the bank, all of the records relating to the bank's municipal securities dealer activities, *And further provided* That such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of applicable provisions of the Act, the rules and regulations thereunder and the rules of the Board.

(b) For purposes of this rule, the activities of the bank which shall constitute municipal securities dealer activities are as follows:

(1) underwriting, trading and sales of municipal securities;

(2) processing and clearance activities with respect to municipal securities;

(3) research, analysis and the preparation of literature for use in connection with the activities described in paragraph (1) above; and

(4) maintenance of records pertaining to the activities described in paragraphs (1) through (3) above.

(c) The fact that directors and senior officers of the bank may from time to time set broad policy guidelines affecting the bank as a whole and which are not directly related to the day-to-day conduct of the bank's municipal securities dealer activities, shall not disqualify the unit hereinbefore described as a separately identifiable department or division of the bank or require that such directors or officers be considered as part of such unit.

(d) The fact that the bank's municipal securities dealer activities are conducted in more than one geographic, organizational or operational unit of the bank shall not preclude a finding that the bank has a separately identifiable department or division for purposes of this rule, *provided, however,* That all such units are identifiable and that the requirements of subparagraphs (1) and (2) of paragraph (a) of this rule are met with respect to each such unit. All such geographic, organizational or operational units of the bank shall be considered in the aggregate as the separately identifiable department or division of the bank for purposes of this rule.

Adoption of Rule 15Ba2-1 and Form MSD. The Commission has adopted rule 15Ba2-1 and related Form MSD with modifications from the form in which they were proposed in Release No. 11585. These include the following:

1. Rule 15Ba2-1, as adopted, makes Form MSD applicable to separately identifiable departments or divisions of banks as well as to banks.

2. The requirement in proposed rule 15Ba2-1, that an applicant file with the Commission a statement of financial condition in connection with its application for registration has been omitted in rule 15Ba2-1, as adopted.

3. New paragraphs (b) and (c) of the rule 15Ba2-1 set forth requirements for filing amendments to the application and clarify the status of such amendments for purposes of sections 17 and 32(a) of the Act.[2]

4. With respect to Form MSD, item 5, and the requirement for filing a separate Schedule relating to business and educational background, have been revised to make clear that only those persons directly engaged in the management, supervision or direction of the applicant's municipal securities dealer activities (defined in the instructions to Form MSD) need to be listed in response to the item and to have a detailed statement of their educational and business background submitted.

5. Item 6 in Form MSD has been revised to make clear that only those persons directly or indirectly controlling applicant's municipal securities dealer activities and not named in answer to item 5 must be identified in response to item 6. A detailed statement of educational and business background is not required to be submitted for such persons.

6. Item 7 of Form MSD has been revised to include reference to the findings of appropriate bank regulatory agencies in certain paragraphs. Paragraph (ix) in proposed Form MSD has been omitted. Item 7 applies to all employees of the applicant engaged in its municipal securities dealer activities, as well as to all persons in direct or indirect control of the applicant.

7. Various questions have been added to Form MSD relating to separately identifiable departments or divisions of banks, to enable the Commission to determine whether an applicant which is a department or division meets the applicable criteria for registration established by the Board in its rule 4 definition.

8. The form of execution has been changed to clarify the responsibility of the executing officer with respect to the information set forth in Form MSD.

9. The instructions to the Form have been expanded to clarify specific items in the Form and to define certain additional terms used in the Form.

The Commission finds that the adoption of rule 15Ba2-1 and related Form MSD is necessary to provide an orderly procedure for the prompt registration of municipal securities dealers which are banks or separately identifiable departments or divisions of banks and that such adoption is therefore necessary and appropriate in the public interest and for the protection of investors, and that it is consistent with the purposes of the Act. The Commission also finds that rule 15Ba2-1 and related Form MSD will not impose any burden on competition. The Commission further finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), that notice and public procedure with respect to the changes in the rule and Form are impracticable and contrary to the public interest as a prerequisite to the adoption of the rule and Form, and that such rule and Form should be adopted, effective immediately, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), in order to provide an orderly and timely procedure for the registration of municipal securities dealers subject to the rule.

Subsidiaries of Banks and of Bank Holding Companies. The Commission notes that municipal securities dealers which are subsidiaries of banks or of bank holding companies meet the definition of a "dealer" set forth in section 3(a)(5) of the Act. As such these subsidiaries will be required to be registered under section 15 of the Act, rather than section 15B(a). Accordingly, without further action by the Commission, such subsidiaries are subject to registration on Form BD, rather than Form MSD.

The Commission also wishes to point out that municipal securities dealers which register under section 15 of the Act automatically become members of and subject to assessments by the Securities Investor Protection Corporation ("SIPC"). The Commission invites comments from interested persons on (1) whether such subsidiaries should be exempted from the registration requirements of section 15 of the Act and instead required to be registered under section 15B of the Act, (2) whether SIPC coverage is appropriate for the customers of such subsidiaries in view of the fact that as a matter of corporate organization such subsidiaries are not a part of their parent bank, and (3) the extent to which such subsidiaries are presently subject to the requirements of banking law applicable to banks and the extent to which the activities of such subsidiaries are scrutinized by the appropriate bank regulatory authorities to ensure compliance with such requirements. Comments on these matters should be submitted in accordance with the procedures set forth infra.

Adoption of Rule 15Ba2-2. The Commission has also adopted rule 15Ba2-2, relating to the registration of intrastate dealers, with certain modifications from the form in which it was proposed in Release No. 11585. The rule, as adopted, requires applicants to file a statement with the Commission to the effect that they are applying for registration as intrastate dealers in accordance with the rule. New paragraphs (c) and (d) of the rule set forth requirements for filing amendments and clarifying the status of amendments for purposes of sections 17 and 32(a) of the Act.

The Commission finds that the adoption of rule 15Ba2-2 is necessary to provide an orderly procedure for the prompt registration of intrastate dealers and that such adoption is therefore necessary and appropriate in the public interest and for the protection of investors, and that it is consistent with the purposes of the Act. The Commission also finds that rule 15Ba2-2 will not impose any burden on competition. The Commission further finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), that notice and public procedure with respect to the changes in the rule are impracticable, unnecessary and contrary to the public interest and that such rule should be adopted, effective immediately, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), in order to provide an orderly and timely procedure for the registration of municipal securities dealers subject to the rule.

Adoption of Temporary Rules 15a-1(T) and 15Ba2-3(T). Under the provisions of sections 15(b)(1) and 15B(a)(2) of the Act, the Commission must take action within 45 days of the date of filing of an application for registration, either to grant registration or to institute proceedings to determine whether registration should be denied. As indicated above, the provisions of the Act which have the effect of requiring municipal

See footnotes at the end of document.

securities brokers and dealers to be registered with the Commission become effective on December 1, 1975.[10] In Release No. 11585, the Commission urged municipal securities brokers and dealers (other than banks and intrastate dealers) to file their applications for registration on Form BD with the Commission not later than October 17, 1975. The Commission indicated that filing by such date would assure that the Commission would be able to act upon such applications by December 1, 1975.

Under sections 15(a)(2) and 15B(a)(4) of the Act the Commission has broad authority to exempt brokers, dealers and municipal securities dealers from the registration requirements of the Act if the Commission finds that such exemption is consistent with the public interest and the protection of investors, and with respect to the registration of municipal securities dealers under section 15B(a) of the Act, consistent with the purposes of such section. The Commission finds that it would not be practicable for municipal securities dealers subject to section 15B(a) of the Act to be required to be registered with the Commission effective December 1, 1975 since such dealers will not have sufficient time to obtain the appropriate forms for registration, complete and file them with the Commission and still be assured of Commission action on their applications prior to December 1, 1975, nor would the Commission have sufficient time to give such applications a careful and complete review consistent with the public interest and the protection of investors.

The Commission finds that it is consistent with the public interest, the protection of investors and the purposes of section 15B(a) to grant, by rule, a temporary exemption from the registration requirements of section 15B(a) of the Act to municipal securities dealers who file their applications for registration with the Commission not later than November 30, 1975 and who are in compliance with all other applicable provisions of the Act, the rules and regulations of the Commission thereunder and the rules of the Board which by their terms would apply to such dealers if they were registered with the Commission on December 1, 1975.

The Commission has therefore adopted, effective immediately, temporary rule 15Ba2-3(T), granting a temporary exemption from the requirements of section 15B(a) of the Act to municipal securities dealers which meet the conditions of such rule. The temporary exemption would terminate as to an individual dealer on the earlier of the granting or denial of the dealer's registration under section 15B(a) or the dealer's failure to comply with the conditions of the rule. The temporary rule would expire on June 1, 1976.

With respect to municipal securities dealers subject to section 15(a)(1) of the Act, i.e., non-bank municipal securities dealers other than intrastate dealers, the Commission stated in Release No. 11585 that Form BD was the appropriate form for registration of such dealers, as well as municipal securities brokers. While such brokers and dealers therefore have been notified of the applicable requirements for registration considerably in advance of the date of this release, it has come to the attention of the Commission that there may still be uncertainty on the part of many such brokers and dealers as to the applicability of the registration requirements to them. The Commission wishes to stress that all such brokers and dealers are required to be registered with the Commission, pursuant to section 15(a)(1) of the Act, irrespective of membership in the National Association of Securities Dealers, Inc. The Commission also recognizes that since Form BD has only recently been revised,[11] municipal securities brokers and dealers may not have had sufficient time to obtain the revised form and file it with the Commission in order to be assured that action could be taken on their applications for registration by December 1, 1975.

The Commission has, therefore, determined that it is appropriate and consistent with the public interest and the protection of investors to grant, by rule, a temporary exemption from the registration requirements of section 15(a)(1) of the Act to municipal securities brokers and dealers otherwise subject to such requirements on terms and conditions similar to those set forth in temporary rule 15Ba2-3(T) for municipal securities dealers subject to the requirements of section 15B(a) of the Act. Accordingly, the Commission has adopted temporary rule 15a-1(T), effective immediately. The rule will expire on June 1, 1976.

The Commission finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), that temporary rules 15a-1(T) and 15Ba2-3(T) relieve municipal securities brokers and dealers from requirements that would otherwise be applicable to them, that notice and public procedure are therefore unnecessary as a prerequisite to the adoption of such rules, and that the rules should be adopted, effective immediately, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), in order to permit municipal securities brokers and dealers to file their applications with the Commission in an orderly and timely manner and to afford the Commission adequate time to review such applications carefully and completely, consistent with the public interest and the protection of investors. The Commission further finds that temporary rules 15a-1(T) and 15Ba2-3(T) will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission emphasizes that municipal securities brokers and dealers should attempt to file their applications for registration at as early a date as possible in order to permit all applications to be processed in an orderly manner. Such applications must be filed in any event with the Commission prior to December 1, 1975.

Delegation of authority. The regulations of the Commission relating to general organization are concurrently being amended to delegate authority to the Directors of the Office of Reports and Information Services and the Division of Market Regulation to issue orders granting registration of municipal securities dealers under section 15B(a) of the Act. The Commission staff has similar authority with respect to the registration of brokers and dealers under section 15 of the Act (including municipal securities brokers and dealers).[14]

The Commission finds, in accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), that the foregoing action relates solely to agency organization, procedure or practice and that notice and public procedure are therefore not necessary. The Commission further finds that such amendment should be adopted, effective immediately, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), in order to permit municipal securities dealers to be registered under section 15B(a) of the Act in a prompt and orderly manner.

(Secs. 2, 3, 15, 17, 23, 48 Stat. 881, 882, 895, 897, 901, as amended by secs. 2, 3, 11, 14, 18, 89 Stat. 97, 97-104, 121-127, 137-141, 155-156; sec. 13, 89 Stat. 131-137 (15 U.S.C. 78b, 78c, 78o, 78q, and 78w, as amended by Pub. L. No. 94-29; 15 U.S.C. 78o-4, as added by Pub. L. No. 24-29))

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 15, 1975.

FOOTNOTES

[1] 17 CFR 240.15Ba2-1.

[2] 17 CFR 249.950.

[3] 17 CFR 240.15Ba2-2.

[4] 17 CFR 240.15a-1(T).

[5] 17 CFR 240.15Ba2-3(T).

[6] 15 U.S.C. 78a *et seq.*, as amended by Pub. L. 94-29 (June 4, 1975).

[7] 15 U.S.C. 78b, 78c, 78o, 78q and 78w.

[8] 15 U.S.C. 78d-1, 78d-2.

[9] Such persons are "brokers" or "dealers" within the meaning of sections 3(a)(4) and 3(a)(5) of the Act. Intrastate dealers are not, however, subject to the registration requirements of section 15 of the Act since section 15(a)(1) contains an exception for brokers and dealers whose business is exclusively intrastate. In section 15B(a)(1), however, there is no such exclusion and the jurisdictional basis appears to be sufficiently broad to be applicable to all such dealers. Thus, any municipal securities dealer which makes use of the mails or any means or instrumentality of interstate commerce to effect transactions in municipal securities (other than dealers registered under section 15) must register under section 15B(a). In section 3(a)(17) of the Act, as amended by the 1975 Amendments, the definition of "interstate commerce" includes the "intrastate use of * * * a telephone or other intrastate means of communication * * *."

[10] Section 31(a) of the 1975 Amendments.

[11] 40 FR 37228 (1975).

[12] The comment period expired on September 12, 1975. Comments are contained in Commission File No. S7-577, which is available for public inspection.

[13] The Board was constituted on September 5, 1975. *See* Securities Exchange Act Release No. 11635 (Sept. 5, 1975).

[14] The Board's rule proposals also concerned matters relating to the operation and administration of the Board. Notice of all rule proposals filed by the Board is expected to be

published in the FEDERAL REGISTER during the week of October 20, 1975. *See* Securities Exchange Act Release No. 11741 (October 15, 1975).

[15] A "bank" is defined in section 3(a)(6) of the Act as follows:

* * * (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising a fiduciary power similar to those permitted to national banks under section 11(k) of the Federal Reserve Act, as amended, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

[16] *See* note 9 *supra*.

[17] The bank regulatory agencies have generally defined "trading account securities" as a portfolio of securities separate from the bank's investment account which are held for resale to other banks and the public generally.

[18] Section 3(a)(4) provides:

The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank.

[19] Section 15B(b)(2)(H) of the Act requires the Board to:

* * * define the term 'separately identifiable department or division', as that term is used in section 3(a)(30) of this title, in accordance with specified and appropriate standards to assure that a bank is not deemed to be engaged in the business of buying and selling municipal securities through a separately identifiable department or division unless such department or division is organized and administered so as to permit independent examination and enforcement of applicable provisions of this title, the rules and regulations thereunder and the rules of the Board. A separately identifiable department or division of a bank may be engaged in activities other than those relating to municipal securities.

[20] 15 U.S.C. 78s. In addition to the Board rules set forth in this release, rules 2 and 3 of the Board, which establish certain procedures for the administration of the Board, such as those relating to notice of meetings, quorum and voting requirements and the submission of rule proposals to the Commission, have become effective. *See* Securities Exchange Act Release No. 11741 (October 15, 1975).

[21] 15 U.S.C. 78q and 78ff(a).

[22] *See* note 10, *supra*.

[23] Revised Form BD became effective on October 1, 1975. *See* Securities Exchange Act Release No. 11530 (June 10, 1975), 40 FR 30636 (1975).

[24] *See* Securities Exchange Act Release No. 11487 (June 20, 1975), 40 FR 27441 (1975).

PART 200—ORGANIZATION, CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Section 200.30-3(a) is amended by adding a new paragraph (14) thereto, and 17 CFR 200.30-11(a) is amended by adding a new paragraph (2) thereto, each to read as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(14) Pursuant to section 15B(a) of the Act [15 U.S.C. 78o-4(a)], to authorize the issuance of orders granting registration of municipal securities dealers within forty-five days of the filing of an application for registration as a municipal securities dealer (or within such longer period as to which the applicant consents).

* * * * *

§ 200.30-11 Delegation of authority to Director, Office of Registration and Reports.

* * * * *

(a) * * *

(2) Pursuant to section 15B(a) of the Act [15 U.S.C. 78o-4(a)], to authorize the issuance of orders granting registration of municipal securities dealers within forty-five days of the filing of an application for registration as a municipal securities dealer (or within such longer period as to which the applicant consents).

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

The text of temporary rule 15a-1(T), rules 15Ba2-1 and 15Ba2-2 and temporary rule 15Ba -3(T), as hereby adopted is as follows:

§ 240.15a-1(T) Temporary exemption of municipal securities brokers and municipal securities dealers from the requirements of section 15(a)(1) of the act.

A municipal securities broker or municipal securities dealer otherwise subject to the requirements of section 15(a)(1) of the Act by reason of being a municipal securities broker or municipal securities dealer, shall be exempt from the requirements of such section, provided such broker or dealer shall be in compliance with each of the following terms and conditions:

(a) Such broker or dealer shall have filed with the Commission not later than November 30, 1975 an application for registration pursuant to rule 15b1-1 (§ 240.15b1-1) and all other statements and reports required to be filed with the Commission in connection with such application pursuant to rule 15b1-2 (§ 240.-15b1-2) or otherwise;

(b) Such broker or dealer shall at all times be in compliance with all other applicable provisions of the Act, the rules and regulations of the Commission thereunder and the rules of the Municipal Securities Rulemaking Board, including all such provisions, rules and regulations which by their terms would apply to such dealer if such dealer were registered with the Commission on December 1, 1975; and

(c) Such exemption shall terminate on the earlier of (1) the date of an order of the Commission granting such broker's or dealer's registration under section 15(b)(1) of the Act, or (2) the date of an order of the Commission denying such broker's or dealer's registration under such section 15(b)(1) of the Act, or (3) of the date of such broker's or dealer's failure to comply with the conditions of this rule.

This temporary rule shall expire on June 1, 1976.

§ 240.15Ba2-1 Application for registration of municipal securities dealers which are banks or separately identifiable departments or divisions of banks.

(a) An application for registration, pursuant to Section 15B(a) of the Act, of a municipal securities dealer which is a bank (as defined in section 3(a)(6) of the Act) or a separately identifiable department or division of a bank (as defined by the Municipal Securities Rulemaking Board), shall be filed with the Commission on Form MSD (§ 249.950 of this chapter), in accordance with the instructions contained therein.

(b) If the information contained in any application for registration pursuant to paragraph (a) of this section, or in any amendment to such application, is or becomes inaccurate for any reason, applicant shall promptly file an amendment on Form MSD (§ 249.950 of this chapter) correcting such information.

(c) Every amendment filed pursuant to this rule shall constitute a "report" within the meaning of sections 17 and 32(a) of the Act (15 U.S.C. 78q and 78ff (a)).

§ 240.15Ba2-2 Application for registration of non-bank municipal securities dealers whose business is exclusively intrastate.

(a) An application for registration, pursuant to section 15B(a) of the Act, of a municipal securities dealer not subject to the requirements of rule 15Ba2-1 (§ 240.15Ba2-1), shall be filed with the Commission on Form BD (§ 249.501 of this chapter) in accordance with the instructions contained therein.

(b) Each applicant for registration who is subject to the requirements of paragraph (a) of this section shall file with the application for registration prescribed in such paragraph the statements described in paragraphs (a) through (d) of rule 15b1-2 (§ 240.15b1-2). The statement of financial condition described in such paragraph (a) shall be deemed a part of the application for registration. Each applicant shall also file with its application for registration a statement to the effect that such applicant is filing for registration as an intrastate dealer in accordance with the requirements of this rule. Such statement shall be deemed a part of the application for registration.

(c) If the information contained in any application for registration pursuant to paragraph (a) of this section, or in any amendment to such application, is or becomes inaccurate for any reason, applicant shall promptly file an amendment on Form BD (§ 249.501 of this chapter) correcting such information.

(d) Every amendment filed pursuant to this rule shall constitute a "report" within the meaning of sections 17 and 32(a) of the Act.

§ 240.15Ba2–3(T) Temporary exemption of municipal securities dealers from the requirements of section 15B(a) of the act.

A municipal securities dealer otherwise subject to the requirements of section 15B(a) of the Act shall be exempt from the requirements of such section, provided such dealer shall be in compliance with each of the following terms and conditions:

(a) such municipal securities dealer shall have filed with the Commission not later than November 30, 1975 an application for registration pursuant to rule 15Ba2–1 (§ 240.15Ba2–1) or rule 15Ba2–2 (§ 240.15Ba2–2), as appropriate, and all other statements and reports required to be filed with the Commission in connection with such application;

(b) such municipal securities dealer shall at all times be in compliance with all other applicable provisions of the Act, the rules and regulations of the Commission thereunder and the rules of the Municipal Securities Rulemaking Board, including all such provisions, rules and regulations which by their terms would apply to such municipal securities dealer if such dealer were registered with the Commission on December 1, 1975; and

(c) such exemption shall terminate on the earlier of (1) the date of an order of the Commission granting such municipal securities dealer's registration under section 15B(a) of the Act, of (2) the date of an order of the Commission denying such municipal securities dealer's registration under such section 15B (a) of the Act, or (3) the date of such municipal securities dealer's failure to comply with the conditions of this rule.

This temporary rule shall expire on June 1, 1976.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Part 249—Forms, Securities Exchange Act of 1934, is hereby amended by adding Subpart K and § 249.950 to that subpart as follows:

Subpart K—Forms for registration of municipal securities dealers

§ 249.950 Form MSD, Application for registration as a municipal securities dealer pursuant to rule 15Ba2–1 under the Securities Exchange Act of 1934 or amendment to such application.

(a) This Form is to be used by a bank or a separately identifiable department or division of a bank (as defined by the Municipal Securities Rulemaking Board) to apply for registration as a municipal securities dealer with the Securities and Exchange Commission pursuant to section 15B(a) of the Securities Exchange Act of 1934 (the "Act"), or to amend such application.

NOTE. Copies of Form MSD have been filed with the Office of the Federal Register as part of this document.

(b) Copies of Forms BD and MSD may be obtained from the Office of Reports and Information Services, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Only printed copies of Form MSD should be used to apply for registration with the Commission.

[FR Doc.75–28682 Filed 10–21–75;3:08 pm]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 750—HIGHWAY BEAUTIFICATION

Outdoor Advertising Control

Correction

In FR Doc. 75–24523 appearing at page 42842 as the Part III of the issue of Tuesday, September 16, 1975, in the third column on page 42845, in the second line of § 750.705(c), "§ 1750.704(a) (1)" should read "§ 750.704(a)(1)".

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION], DEPARTMENT OF HOUSING AND URBAN AFFAIRS

[Docket No. R–75–357]

DEBENTURE INTEREST RATES

Insurance Rates

The following amendments have been made to this chapter to change the debenture interest rate. The Secretary has determined that advance publication and notice and public procedure are unnecessary since the debenture interest rate is set by the Secretary of the Treasury in accordance with a procedure established by statute and that good cause exists for making this amendment effective July 1, 1975.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

1. Section 203.405 is revised to read as follows:

§ 203.405 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semi-annually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
6 1/8	Jan. 1, 1971	July 1, 1971
5 1/2	July 1, 1971	Jan. 1, 1972
5 3/8	Jan. 1, 1972	July 1, 1972
5 1/2	July 1, 1972	Jan. 1, 1973
5 1/4	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6 1/4	Jan. 1, 1974	July 1, 1974
6 5/8	July 1, 1974	July 1, 1975
7	July 1, 1975	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 203, 52 Stat. 10, as amended; (12 U.S.C. 1709))

2. Section 203.479 is revised to read as follows:

§ 203.479 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
6 1/8	Jan. 1, 1971	July 1, 1971
5 1/2	July 1, 1971	Jan. 1, 1972
5 3/8	Jan. 1, 1972	July 1, 1972
5 1/2	July 1, 1972	Jan. 1, 1973
5 1/4	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6 1/4	Jan. 1, 1974	July 1, 1974
6 5/8	July 1, 1974	July 1, 1975
7	July 1, 1975	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 203, 52 Stat. 10, as amended; (12 U.S.C. 1709))

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

In § 207.259 paragraph (e)(6) is amended to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(e) Issuance of debentures. * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
6 1/8	Jan. 1, 1971	July 1, 1971
5 1/2	July 1, 1971	Jan. 1, 1972
5 3/8	Jan. 1, 1972	July 1, 1972
5 1/2	July 1, 1972	Jan. 1, 1973
5 1/4	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6 1/4	Jan. 1, 1974	July 1, 1974
6 5/8	July 1, 1974	July 1, 1975
7	July 1, 1975	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b) Interprets or applies sec. 207, 52 Stat. 16, as amended; (12 U.S.C. 1713))

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Section 220.830 is revised to read as follows:

§ 220.830 Debenture interest rate.

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
6½	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	Jan. 1, 1972
5⅝	Jan. 1, 1972	July 1, 1972
5½	July 1, 1972	Jan. 1, 1973
5¼	Jan. 1, 1973	July 1, 1973
6	July 1, 1973	Jan. 1, 1974
6¼	Jan. 1, 1974	July 1, 1974
6⅝	July 1, 1974	July 1, 1975
7	July 1, 1975	

(Sec. 211, 52 Stat. 23; (12 U.S.C. 1715b). Interprets or applies sec. 220, 68 Stat. 596, as amended; (12 U.S.C. 1715k))

Effective date. These amendments are effective as of July 1, 1975.

(It is hereby certified that the economic and inflationary impact of this regulation has been carefully evaluated in accordance with OMB A-107).

SANFORD A. WITKOWSKI,
Acting Assistant Secretary-Commissioner for Housing Production and Mortgage Credit.

[FR Doc.75-28723 Filed 10-23-75;8:45 am]

Title 41—Public Contract and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Temp. Reg. G-23]

PART 101-41—AUDIT OF TRANSPORTATION PAYMENTS

Correction

In FR Doc. 75-27591 appearing at page 47941 as the Part III of the issue of Friday, October 10, 1975, the following changes should be made:

1. In the Table of Contents appearing in the first column on page 47943:

a. The fourth entry now reading "101-41.210-1 Use of redemption of unused tickets, SF 1170" should read "101-41.-210-1. Use of Redemption of Unused Tickets, SF 1170".

b. The eighteenth entry reading "101-41.214 Billing and payment of pas-" should be deleted.

2. In the third column on page 47947, the entry now reading "§ 101-41.210-1 Use of redemption of unused tickets, SF 1170" should read "§ 101-41.210-1 Use of Redemption of Unused Tickets, SF 1170".

3. In the middle column on page 47951, the twelfth line of § 101-41.303-4 should be deleted and the following should be inserted in lieu thereof: "already been completed, the recovered".

4. On page 47953, delete "at destinatioin" appearing in the third line of § 101-41.309-2(b)(1) and insert "trailers) shipped" in place of.

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-1161]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Chicago Regional Office

Order—Proceeding terminated. In the matter of amendment of Parts 0 and 1 of the Commission's rules to effect the transfer of the Chicago Regional Office operating element to the Safety and Special Radio Services Bureau.

1. On June 12, 1975, the Commission adopted the Report on Restructuring the Spectrum Management Task Force, dated June 6, 1975, and ordered that the operating element of the Chicago Regional Office, Spectrum Management Task Force, as defined in the Report, be transferred from the Office of the Chief Engineer to the Safety and Special Radio Services Bureau.

2. In view of the operational status of the licensing functions and automated processing programs, the Commission decided that the public interest would be served by the transfer of all operating elements, with the exception of the Spectrum Utilization (Monitoring) Section. This group will remain under the control of the Spectrum Management Task Force in the Office of the Chief Engineer for research and development activities related to the enhancement and improvement of the land mobile Spectrum Management Program; it will also continue to incorporate current, valid monitoring data into the existing data base to support the operational functions. After the monitoring procedures in Chicago have been tested and proven, the Commission will consider the transfer of this group to the Safety and Special Radio Services Bureau.

3. Certain additional authority has been delegated to the Chief, Safety and Special Radio Services Bureau, to permit the continued licensing of remote pickup broadcast stations in the Chicago Region and to authorize Chicago to make decisions regarding the construction, marking and lighting of antenna towers and supporting structures. This additional delegation does not expand the authority of the Bureau Chief outside of designated Regions.

4. Authority for adopting this order is contained in section 5(d) of the Communications Act of 1934, as amended. Since it relates to internal Commission management, practice, and procedure, and because the early implementation of these changes will result in more efficient operation, compliance with the notice and effective date provisions of 5 U.S.C. 553 is not required.

5. *Accordingly, it is ordered,* That, effective October 28, 1975, §§ 0.132 and 1.61 of the rules are amended, and that § 0.334 is added, in the manner set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

Adopted: October 15, 1975.

Released: October 21, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Secretary.

Parts 0 and 1 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

A. In Part 0—Commission Organization:

1. Section 0.132 (d) and (e) are amended, and a new paragraph (f) is added to read as follows:

§ 0.132 Units in the Bureau.

The detailed operations of the Bureau are performed within six major units, as follows:

* * * * *

(d) Aviation and Marine Division;

(e) Amateur and Citizens Division; and

(f) Regional Management Staff.

2. Section 0.334 is added as follows:

§ 0.334 Additional Authority delegated to the Chief, Safety and Special Radio Services Bureau.

Insofar as the operation of the regional center is concerned, the Chief of the Safety and Special Radio Services Bureau is delegated authority to exercise the following functions:

(a) In accordance with applicable rules, authority to act on all applications filed in a region in the Remote Pickup Broadcast Service (shared frequencies only) for construction permits, station licenses, modification of station licenses, renewal of station licenses, and special temporary authorizations.

(b) Except as otherwise provided in § 1.61 of this chapter, with respect to the construction, marking and lighting of antenna towers and supporting structures, authority as set forth in Part 17 of this chapter to exercise the functions of the Commission in designated Regions.

1. In § 1.61, paragraph (a) is amended to read as follows:

§ 1.61 Procedures for handling applications requiring Special Aeronautical Study.

(a) Except for those services and in those areas being managed by the Regional Management Staff of the Safety and Special Radio Services Bureau, antenna surveys are conducted by the Antenna Survey Branch of the Regional Services Division, Field Operations Bureau.

* * * * *

[FR Doc.75-28675 Filed 10-23-75;8:45 am]

[1] Commissioner Reid absent.

[Docket No. 18262; FCC 75-832]

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

PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

PART 73—RADIO BROADCAST SERVICES

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Land Mobile Services

Memorandum opinion and order—Terminating proceeding. In the matter of an inquiry relative to the future use of the frequency band 806-960 MHz; and amendment of Parts 2, 18, 21, 73, 74, 89, 91, and 93 of the rules relative to operations in the land mobile services between 806 and 960 MHz, Docket No. 18262.

1. We have before us for consideration pleadings filed by a number of parties to this proceeding [1] seeking reconsideration of certain orders adopted by us in this rule making. "Land Mobile Radio Service, Second Report and Order," Docket No. 18262, 46 FCC 2d 752 (1974), 39 FR 16831 (May 10, 1974), "on reconsideration, Land Mobile Radio Service, Memorandum Opinion and Order," Docket No. 18262, 51 FCC 2d 938 (1975), 40 FR 14451 (March 31, 1975) and corrected at 40 FR 17130, April 16, 1975. The issues raised by these parties are all related; and we will review and dispose of them together in this opinion.

2. First, Airsignal, GTESC and NARS ask that we reconsider a number of findings and conclusions as to our regulatory plan for cellular, trunked and conventional systems of communication. They want these matters decided in a different way; and advance reasons and arguments in support of the positions they take. However, upon review, we find that the issues they raise and the arguments they advance in support of their positions are substantially the same, if not identical, to those previously raised and were disposed of in our previous opinions and orders in this proceedings. Nevertheless, since some changes were made in our original decision, we have considered these arguments, but we are not persuaded to modify our orders on the questioned points; and accordingly, we affirm the Second Report and Order as modified on prior reconsideration by the referenced Memorandum Opinion and Order of March, 1975.

3. In addition, General Electric and NARS ask that we clarify our orders with respect to possible licensing of "community repeaters" at 900 MHz.[2] Both General Electric and NARS feel that authorization of such "mobile relay" systems under existing "multiple licensing" practices would be contrary to our announced regulatory scheme for "conventional" and "trunked" facilities in this band, with NARS also contending that "multiple licensing" would be in conflict with the Court's stay order in this case.[3]

4. As to these matters, we want no confusion as to the licensing policies to be followed at 900 MHz; and we would not, of course, take any action which we believed would be inconsistent with the referenced mandate of the Court of Appeals. Thus, we will grant the relief General Electric and NARS ask to the extent of clarifying our orders in the areas to which these parties direct our attention.

5. Parenthetically, as to "multiple licensing," we would point out that the term simply denotes the administrative practice followed by us for many years in authorizing certain types of sharing arrangements in the Public Safety, Industrial, and Land Transportation Radio Services. Under these arrangements, an "eligible user" is issued an individual license to "time share" a particular radio transmitter with other "eligible users" (who are also individually licensed) in situations in which it is feasible for him to do so.

6. In such cases, each "user" (eligible) is the "licensee." He, thus, is the person upon whom we confer the "right to operate" on the "assigned frequency or frequencies." He is the one who is held responsible to us for employing the system only for authorized purposes. He may use it only to transmit "permissible communications;" and he may operate the "RF" device licensed to him only in ways that are consistent with the "service" in which his station is licensed.

7. The equipment company involved in the arrangement [4] has no parallel rights or privileges. It cannot operate the system. It is not entitled (as the "licensee" is) to "use" the "assigned" portion of the "radio spectrum" for any purpose, i.e., the rights of the "licensee" do not extend to the third-party equipment company. And, significantly we think, should the "licensee" abandon the "use" of the supplier's radio gear, the "assigned spectrum" follows the "licensee" and the equipment company has no residual rights insofar as its "use" is concerned. Thus, statutory rights pertaining to renewal of licenses do not apply to it. Those dealing with modification of licenses are not ones that it can resort to. Nor do the provisions of Section 312 of the Act (revocation) afford such a business entrepreneur procedural recourse of any kind. In summary, then, in the "private" land mobile radio services, particularly in the environment in which those services have been constituted, the role of the equipment supplier is just that, i.e., a person who supplies equipment.

8. While we have recognized some problems with our "multiple licensing" practices, those are being reviewed in our rule-making proceeding in Docket No. 18921. "Multiple Licensing—Safety and Special Radio Services," Docket No. 18921, 24 FCC 2d 510 (1970), 35 FR 12007 (July 25, 1970). There we are studying the matter in the full light of the comments filed by the parties to that proceeding with a view toward possible strengthening our regulatory procedures applicable to that practice. However, we made it clear in that Docket that we intended to continue the practice as one which is "not unlawful" and which is "often necessary and desirable" in the public interest. "Multiple Licensing—Safety and Special Radio Services," supra, at p. 518. In these circumstances, we do not believe we should foreclose the benefits of "multiple licensing" at 900 MHz, particularly in light of our determinations in that proceeding.

9. In short, while there are some "similarities" between the sharing arrangements authorized under our licensing practices for "community repeaters" and those that are to apply to Specialized Mobile Radio Systems, to be "licensed"

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[1] Petition for Reconsideration and Suggestion for Suspension of Effective Date, filed April 30, 1975, by the National Association of Radiotelephone Systems (NARS); Petition for Partial Reconsideration, filed April 30, 1975, by GTE Service Corporation (GTESC), and Comments by Airsignal International, Inc. (Airsignal), filed April 30, 1975, Response to Petition for Reconsideration, filed May 23, 1975, by the General Electric Company (General Electric). And additionally, Petition for Clarification Or, Alternatively, for a Declaratory Ruling and Supplement to Petition for Clarification, filed by General Electric on May 23, 1975, and June 23, 1975, respectively. And lastly, Petition to Refrain from Granting Licenses Pursuant to Applications filed for Authorization in the 900 MHz Band Involving Entrepreneurial Community Repeater Operations, submitted June 19, 1975, by NARS, and the responsive pleadings directed the NARS petition and to General Electric's Supplemental Request of June 23, 1975.

[2] "Community repeater" operation is described in some detail in our notice in Docket No. 18921. We rely on that description and will not redefine the arrangement here. See Multiple Licensing—Safety and Special Radio Services, Docket No. 18921, infra, at para. 8.

[3] See Order, June 10, 1975, United States Court of Appeals for the District of Columbia Circuit, National Association of Regulatory Utility Commissioners, et al. v. Federal Communication Commission, et al., Case Nos. 74-1585, 74-1659, and 74-1696. In pertinent part, the Order recites: "* * * that the FCC order under review is stayed pending appeal to the extent that it authorizes the assignment or operation of radio spectrum space to Specialized Mobil Radio Systems;"

[4] In every case, whether it involves an arrangement in the "private" services or a common carrier operation, there must be some third party to manufacture and supply and, at times, to maintain the physical radio gear used in systems of radiotelecommunication, i.e., in systems in which messages are transmitted through space by means of radiated energy of electromagnetic waves. And this is so regardless of whether the generator (transmitter) of electromagnetic waves is shared or not.

under § 89.604(c) of the new Subpart S,[5] we do not view them as substantive likenesses which require the conclusion NARS suggests. It should be emphasized that under § 89.604(c) an entrepreneur, who need not be otherwise eligible for licensing as a user, would be assigned ("licensed to use") a portion of the radio spectrum to provide radio service to eligible users. This is not the case with the "community repeater" arrangements we refer to.

10. Thus, we looked upon SMRS licensing as "an important additional option for eligibles in" the Public Safety, Industrial, and Land Transportation Radio Services (Land Mobile Service, Memorandum Opinion and Order, Docket No. 18262, supra, at p. 956), and "multiple licensing" was not specifically excluded. However, we acknowledge that the practice may have limited application at 900 MHz. There we plan to assign frequencies on a "first-in" "first-out" basis and there will also be "vertical" loading. These features will for practical reasons restrict "multiple licensing" of "community repeaters." But, to be clear, "multiple licensing" is not barred under our new Subpart S regulations; nor do we feel the Court intended its mandate to extend to this established administrative practice. We do not so construe the Court's order.

11. In view of the foregoing: *It is ordered*, That the referenced petitions for reconsideration filed by the National Association of Radiotelephone Systems, GTE Service Corporation, and Airsignal International, Inc., on April 30, 1975, are denied.

12. *It is further ordered*, That the "Suggestion for Suspension of Effective Date," filed April 30, 1975, by the National Association of Radiotelephone Systems, is denied.

13. *It is further ordered*, That the Petition for Clarification Or, Alternatively, for A Declaratory Ruling, filed May 23, 1975, by the General Electric Company, and the Petition to Refrain from Granting Licenses Pursuant to Applications filed for Authorization in the 900 MHz Band Involving Entrepreneurial Community Repeater Operations, filed June 19, 1975, by the National Association of Radiotelephone Systems, to the extent indicated in the opinion above, are granted.

14. *It is further ordered*, That the Supplement to Petition for Clarification, filed June 23, 1975, by the General Electric Company, is dismissed as moot.

15. *It is further ordered*, That this proceeding is terminated.

Adopted: July 16, 1975.

Released: July 18, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-28677 Filed 10-23-75;8:45 am]

[5] Section 89.604(c) pertains to "eligibility" for "licensing" and reads: "Any person or entity * * * proposing to provide, on a commercial basis, base station and ancilliary facilities for the use of persons or entities eligible under Part 89, 91, or 93 of this chapter." It creates a "new" eligibility classification; permits "operation" of a "new" class of radio station; and extends our "licensing" processes to a "new" type of arrangement created under and structured through our "new" 900-MHz allocation and assignment and licensing processes and procedures and practices.

[6] Commissioners Wiley, Chairman; Reid and Washburn concurring in the result.

[Docket No. 20490; FCC 75-1073]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Various Procedural Requirements for the Domestic Public Radio Services

Correction

In FR Doc. 75-27158 appearing at page 47496 in the issue of Thursday, October 9, 1975, the fifth line of the second column on page 47500 reading "amended as appropriate and shall not" should read "answered as appropriate and shall not".

[Docket No. 19784]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities in Md.

First report and order. In the matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations, (Grasonville, Leonardtown, and Lexington Park, Maryland), Docket No. 19784, RM-1995, RM-2036.

1. The Commission has before it for consideration the *notice of proposed rulemaking* released herein on July 9, 1973 (38 FR 18689) inviting comments on alternative proposals to amend the FM Table of Assignments, § 73.202(b) of the rules, in response to petitions of Edward Mason De Maso (De Maso), Grasonville, Maryland (RM-1995) and of Sound Media, Inc. (Sound Media), licensee of AM Station WKIK, Leonardtown, Maryland (RM-2036), for the assignment of first FM channels to Grasonville and Lexington Park, Maryland. These alternative proposals, which would provide either Grasonville (Proposal I) or Lexington Park (Proposal II) or both communities (Proposal III) with a first FM assignment, are as follows:

City	Channel No. Present	Channel No. Proposed
PROPOSAL I (DE MASO, RM-1995)		
Grasonville, Md.		276A
OR PROPOSAL II (SOUND MEDIA, RM-2036)		
Leonardtown, Md.	249A	276A
Lexington Park, Md.		249A
OR PROPOSAL III (DE MASO COUNTERPROPOSAL, RM-2036)		
Grasonville, Md.		276A
Lexington Park, Md.		240A

2. Proposal I, advanced by De Maso to provide Grasonville with a first FM assignment for which it could apply, conflicts with Proposal II,[1] advanced by Sound Media to resolve the conflict between its application for the Leonardtown Channel 249A assignment and the mutually exclusive application of Key Broadcasting Corporation (Key), licensee of AM Station WPTX, Lexington Park, for use of Channel 249A for a first FM station at Lexington Park in accordance with the "10-mile" rule,[2] by providing both communities with an assignment.[3] Proposal III, advanced by De Maso as a counterproposal to Sound Media's proposal II to resolve the conflict between Proposal I and Proposal II and enable all three communities to have an FM assignment for local use, presents a technically feasible way of providing both Grasonville and Lexington Park

[1] The conflict between Proposal I and Proposal II exists because mileage separation requirements prevent Channel 276A from being assigned to both Grasonville and Leonardtown.

[2] Section 73.203(b) of the rules. This rule permits application to be made for use of a Class A assignment in a community not listed in the FM Table of Assignments (such as Lexington Park) when the Class A assignment sought is assigned to a listed community within ten miles of the unlisted community (such as Lexington Park is with respect to Leonardtown since they are about 9 miles apart).

[3] The competing Sound Media and Key applications for the Leonardtown Channel 249A assignment were designated for consolidated hearing by Order, released February 1, 1972 (FCC 73-78). Following hearing, the Administrative Law Judge released an Initial Decision on March 11, 1974 (FCC 74D-18), proposing to grant the Key application (BPH-6540, Docket No. 19410) and to deny the Sound Media application (BPH-6886, Docket No. 19411). Following oral argument before the Review Board on exceptions to the Initial Decision filed by the parties, on January 2, 1975, the Review Board released a Decision which reversed the Initial Decision on these competing applications by granting the application of Sound Media for a Leonardtown Channel 249A facility and denying the competing Key application for a Lexington Park Channel 249A facility. (50 F.C.C. 2d 337) In its Decision the Board disagreed with the finding in the Initial Decision that Key did not warrant disqualification on two misrepresentation issues. The Board stated that the evidence under the misrepresentation issues against Key "demonstrates that Key has not met the standards of candor and accuracy which the Commission expects of its licensees, and that its application for an additional broadcast facility therefore must be denied." The Board also stated that since the competing applicant, Sound Media, was fully qualified, its application would be granted. By Memorandum Opinion and Order, released April 17, 1975 (FCC 75R-162), the Review Board also denied a petition for reconsideration of its Decision filed by Key. An application for Commission review, filed by Key on May 14, 1975, is awaiting action.

with first FM assignments without disturbing the Leonardtown Channel 249A assignment or other existing assignments.

3. Both petitioners, De Maso and Sound Media, support Proposal III in their comments. Since the Proposal III plan for Lexington Park (240A) and Leonardtown (249A) would not conflict with his Grasonville Channel 276A proposal, De Maso urges that the Grasonville Channel 276A proposal be separated and removed from this proceeding and acted upon. Key, the only other commenting party, takes no position on any of the three proposals but states that it does not necessarily oppose Proposal III, which would assign Channel 240A to Lexington Park, provided that in thus making Lexington Park a "listed community" in the FM Table of Assignments, its competing application for the Leonardtown Channel 249A assignment in the proceeding discussed in footnote 4, supra, would remain valid and in "protected status". Since "character issues" against it are involved, it contends that justice requires this.

4. Since only Proposal III of the proposals before us has potential for providing FM assignments at Grasonville, Leonardtown and Lexington Park, and it also has the support of both petitioners and is unopposed by Key, we may dispense with further consideration of conflicting Proposals I and II and limit our consideration to Proposal III. In this First Report, however, besides denying Proposals I and II, we consider and dispose only of the proposal in Proposal III to assign Channel 276A to Grasonville. The assignment proposed for Lexington Park in Proposal III (Channel 240A) will be considered and acted upon in another document after the Leonardtown Channel 249A adjudicatory proceeding is finally concluded. (See footnote 2, supra.) This procedure is appropriate and desirable, we believe, since, in view of the technical compatibility of the FM assignments proposed for Grasonville and Lexington Park in Proposal III, these proposals need not be considered jointly, and, while we feel that consideration of the Lexington Park assignment proposal should be deferred until final resolution of the Leonardtown Channel 249A proceeding since Key is the only party to express interest in establishing an FM station at Lexington Park, there is no reason to also defer consideration and action on the unopposed Grasonville assignment proposal.

5. Grasonville (population 1,182) is an unincorporated community located in Queen Annes County (population 18,422) on what is commonly known as the Maryland Eastern Shore (east of Chesapeake Bay, approximately 16 miles east of Annapolis, Maryland, the State capital.[4] The community is bisected by Maryland Route 50 and U.S. 301 which are used by tourists to reach eastern seaboard resort areas to the north and south, such as Rehoboth Beach, Delaware, and Ocean City, Maryland, from the parallel Chesapeake Bay bridges. It appears, as De Maso claims, that, because of their geographic location, both Queen Annes County (which stretches from Chesapeake Bay to the Delaware border) and Grasonville have increased growth potential as a result of the second Bay bridge opening in 1973. As the Notice discussed in greater detail, De Maso's prior showing also indicates that Grasonville (formerly called Winchester) has all the indicia of a community, with many thriving businesses and resort facilities, and has become one of the area's largest seafood packing house complexes with eight packing houses.

6. At present there are no aural broadcast stations in Queen Annes County, no FM assignment, and but two weekly newspapers. While Annapolis and Baltimore, Maryland, radio stations, and others located in Delaware, are received in the county, De Maso claims that none of them attempt to meet the needs and interests of Queen Annes County residents. De Maso affirms his intention to apply for use of the requested channel (276A) once it is assigned to Grasonville and, if authorized, to construct and operate a station to serve the area in the public interest.

7. In view of the foregoing, we find it in the public interest to provide Grasonville with a first FM assignment to meet the demand and need shown for a first local FM service in that area. Since Channel 276A is technically suitable for that purpose and may be assigned without disturbing any existing FM assignment or conflicting with the assignment proposed for Lexington Park (240A) in Proposal III, which will be acted upon at a later date, it will be assigned to Grasonville.

8. Accordingly, and pursuant to authority contained in sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission rules, *It is ordered*, That, effective December 1, 1975, the FM Table of Assignments, § 73.202(b) of the rules, is amended to read as follows for the city listed below:

City	*Channel No.*
Grasonville, Maryland	276A

9. *It is further ordered*, That the request of De Maso to sever and act upon the Grasonville portion of Proposal III is granted, and

10. *It is further ordered*, That Proposal I of De Maso and Proposal II of Sound Media are denied.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Adopted: October 16, 1975.

Released: October 21, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28678 Filed 10-23-75;8:45 am]

[4] Population figures are from the 1970 U.S. Census.

[Docket No. 20212; FCC 75-1162]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Eligibility Requirements of Applicants for Public Ship Station Licenses

Report and orders. In the matter of amendment of Part 83—regarding the eligibility requirements of applicants for public ship station licenses.

1. A notice of proposed rulemaking in the above-captioned matter was released on October 25, 1974, and was published in the FEDERAL REGISTER on November 5, 1974, (39 FR 39054). The dates for filing comments and replies have passed.

2. Comments were filed by: American Institute of Merchant Shipping (AIMS), Collins Radio Group (Collins), Great Lakes Dredge & Dock Company (GLDD), Great Lakes Towing Company (GLTC), ITT World Communications, Inc. (ITT), Lorain Electronics Corporation (Lorain), Ogden Marine, Inc. (Ogden), RCA Global Communications, Inc. (RCA), and Sea-Land Service, Inc. (Sea-Land). Reply comments were filed by RCA Global Communications, Inc. All of the commenters are involved in maritime communication and ITT, Lorain and RCA are existing licensees of numerous radio stations on vessels which they do not own, operate or directly control.

3. The commenters objected to the proposed changes, generally, on the grounds that they provide administrative technical or advisory services which the vessel operators or owners are not capable of performing and that the existing arrangement, therefore, is more efficient and effective. Sea-Land listed the functions rendered by communications organizations to include:

(a) Maintaining a valid and current ship station license;

(b) Arranging for required station safety inspections;

(c) Providing required stationery and publications;

(d) Maintaining familiarity with national and international ship station radio regulations;

(e) Making periodic station inspections;

(f) Providing abstracting and accounting services for radio call charges; and

(g) Retaining radio station logs for filing.

4. On the basis of the comments filed, it is clear that there has been a misinterpretation of the proposed amendment of § 83.301(b)(2). Most of the comments are directed to the impact these amendments will have upon organizations rendering service to public ship stations. More specifically, the commenters assume that ITT, Lorain and RCA would or could not, upon adoption of proposed § 83.301(b)(2), continue to provide service to ship radio stations.

5. In fact, the proposed amendment limits licensee eligibility of a public ship station to the owner or operator of the vessel, or to a subsidiary communications corporation of the owner or operator of the vessel. Under the proposed amend-