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Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties should also send a copy of their filings to Randy Clarke, Pricing Policy Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-A266, 445 12th Street, SW., Washington, DC 20554, or by e-mail to Randy.Clarke@fcc.gov. Parties shall also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, (202) 488-5300, or via e-mail to fcc@bcpiweb.com.

Documents in CC Docket No. 01-92 will be available for public inspection and copying during business hours at the FCC Reference Information Center, Portals II, 445 12th St, SW., Room CY-A257, Washington, DC 20554. The documents may also be purchased from BCPI, telephone (202) 488-5300, facsimile (202) 488-5563, TTY (202) 488-5562, e-mail fcc@bcpiweb.com.

To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented generally is required. 47 CFR 1.1206(b)(2). Other requirements pertaining to oral and

written presentations are set forth in § 1.1206(b) of the Commission's rules. 47 CFR 1.1206(b).

Authority: 47 U.S.C. 152, 153, 154, 155. Federal Communications Commission.

Kirk S. Burgee,
Chief of Staff, Wireline Competition Bureau.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 630

[Docket No: FTA-2007-27319]

RIN 2132-AA94

National Transit Database: Amendment To Reporting Requirements and Non-Substantive Technical Changes

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking (NPRM) provides interested parties with the opportunity to comment on proposed changes to the Federal Transit Administration's (FTA) National Transit Database (NTD) Uniform System of Accounts and Reporting System. The proposed changes will require recipients of formula grants for other than urbanized areas (Nonurbanized Area Formula Grants) to report annual transit data to the NTD. As mandated by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), this proposed rule will also require the annual reporting of rural transit data as a condition for receiving grant awards under the Nonurbanized Area Formula Program.

Currently, FTA requires recipients of FTA Urbanized Area Formula Grants to provide an annual report to the Secretary of Transportation via the NTD using a uniform system of accounts and reporting system. This proposed rule will not affect existing mandatory reporting requirements for recipients of Urbanized Area Formula grants.

In addition, this proposed rule makes non-substantive changes, technical corrections, and conforming amendments to 49 CFR part 630, "Uniform System of Accounts and Reporting System." Technical corrections and conforming amendments are needed to update the regulation and make certain provisions clearer. These changes will have no

substantive effect on the regulated public.

DATES: Comments must be received on or before April 25, 2007. Late filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments by any of the following methods:

Federal Rulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: 202-493-2251.

Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, PL-401, Washington, DC 20590-0001.

Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: When submitting comments electronically to the Department's Docket Management System (DMS) Web site located at <http://dms.dot.gov>, you must use docket number 27319. This will ensure that your comment is placed in the correct docket. If you submit comments by mail, you should submit two copies and include the above docket number. Note that all comments received will be posted, without change, to <http://dms.dot.gov> including any personal identifying information. This means that if your comment includes any personal identifying information, such information will be made available to users of DMS. You may review the Department's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: For program issues, Nancy Ody, Office of Budget and Policy, (202) 366-0177 (telephone); (202) 366-7989 (fax); or nancy.ody@dot.gov (e-mail). For legal issues, Shauna Coleman, Office of the Chief Counsel, (202) 366-4011 (telephone); (202) 366-3809 (fax); or shauna.coleman@dot.gov (e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The National Transit Database (NTD) is the Federal Transit Administration's (FTA) primary national database for statistics on the transit industry. Section 3033 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) [Pub.

L. 109–59 (August 10, 2005)] amended the National Transit Database provisions under 49 U.S.C. 5335 to establish annual reporting requirements for grantees under 49 U.S.C. 5311, Formula grants for other than urbanized areas (Nonurbanized Area Formula Grants), while maintaining existing NTD annual reporting requirements for grantees under 49 U.S.C. 5307, Urbanized Area Formula grants. This rule proposes to revise 49 CFR part 630, the Uniform System of Accounts and Reporting System, to conform with 49 U.S.C. 5335, as amended by section 3033 of SAFETEA–LU.

Section 3013(b) of SAFETEA–LU amended 49 U.S.C. 5311(b)(4) to require that each grant recipient receiving Nonurbanized Area Formula Program Grants submit an annual report containing information on capital investment, operations, and service provided with grant funds from this program. The information contained in the report must include the following: total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type, and related facilities; revenue vehicle miles; and ridership. Section 5335(b) now requires that each recipient of assistance of Section 5311 funds, or any person that will receive benefits directly from these funds, be subject to these reporting requirements. The mandatory reporting criteria will assist FTA to understand the effectiveness of Nonurbanized Area Formula Grants in improving rural public transportation. These data are similar to those already collected by FTA for recipients of Urbanized Area Formula Grants (Section 5307) but are streamlined for rural recipients. Section 5335(b) continues to require reporting from recipients and beneficiaries of assistance under Section 5307.

On November 30, 2005, FTA published in the **Federal Register** (70 FR 71950, November 30, 2005) the procedures and start dates for mandatory annual reporting that State departments of transportation must follow when submitting rural transit data to FTA. These rural transit data reporting procedures and the mandatory reporting dates remain in effect for Fiscal Year (FY) 2007. The 2006 NTD Rural Data Reporting Manual and reporting instructions can be reviewed on the NTD Web site, <http://www.ntdprogram.gov>. FTA updates the Reporting Manual annually and based the 2006 Reporting Manual on a voluntary model developed in coordination with State departments of transportation. FTA is currently revising the 2007 Reporting Manual, in

consultation with the State departments of transportation, to reflect States' experiences in using the voluntary rural reporting module in 2006, and to incorporate additional data points required in SAFETEA–LU. FTA will propose changes to the reporting requirements in the **Federal Register** for notice and comment in the spring of 2007.

As previously stated, the information requested from recipients and beneficiaries of Nonurbanized Area Formula Grants is similar to data collected by FTA for Urbanized Area Formula Grants. Section 5335(a) authorizes FTA to request and receive appropriate information from any source to include in its reporting requirements for recipients of Urbanized Area Formula Grants and Nonurbanized Area Formula Grants. As stated in the Conference Report accompanying SAFETEA–LU, Congress expected that the data collection requirements for NTD would be “tailored to the smaller size of the typical public transportation system in rural areas, while still providing enough information to judge the condition and performance of our Nation’s network of rural public transportation systems.” (H.R. Rep. No. 109–203, at 943 (2005) (Conf. Rep.)). FTA seeks to follow Congressional direction in our rural data collection efforts.

FTA recognizes that many recipients and beneficiaries of Section 5311 program funds believe that the newly-enacted reporting requirements are onerous. To address these concerns, FTA would like to offer an explanation as to why these reporting requirements are requested and how they will be used regarding current and future funding of rural public transportation. First, SAFETEA–LU significantly increases the annual apportionment amounts for the Nonurbanized Area Formula Grant program beyond TEA–21 enacted funding levels. In order to determine the effectiveness of program apportionment increases, FTA will use the information on rural public transportation programs to gauge how the increased apportionments affect recipients and beneficiaries of Section 5311 grants. Second, the collection of reporting data for this program will help FTA measure progress in addressing rural public transportation service needs. Only limited information on rural public transportation needs currently exists, and it cannot be used to analyze trends over time. The information required by Section 5311(b)(4) will allow FTA to better assess the needs of rural transit services. These data will be used to identify the sources of revenue used by

rural transit providers, how they are being expended, the services that they are providing and the performance of these services in providing rural transportation.

FTA is accepting comments on substantive amendments that would implement the annual reporting requirements for Nonurbanized Area Formula grant recipients and beneficiaries. The proposed rule also contains technical corrections and conforming amendments, such as changes to the statutory references. Pursuant to 5 U.S.C. 553(b)(3)(A), such changes are “interpretative” in nature and, as such, FTA is not required to accept or consider comments on them. Therefore, the public should refrain from commenting on these interpretative changes to 49 CFR part 630.

Regulatory Process Matters

Executive Order 12866

Executive Order 12866 requires agencies to regulate in the “most cost-effective manner,” to make a “reasoned determination that the benefits of the intended regulation justify its costs,” and to develop regulations that “impose the least burden on society.” This proposed rule would amend the NTD reporting and recordkeeping requirements to require recipients of Nonurbanized Area Formula Grants to report annual transit data to the NTD following previously established guidelines for a voluntary State-based rural data module developed in consultation with State departments of transportation.

FTA has preliminarily determined that this action is not a significant regulatory action under section 3(f) of Executive Order 12866, and anticipates that the direct economic impact of this rulemaking would be minimal. Section 5335, as amended by SAFETEA–LU, mandates the additional requirement that recipients and beneficiaries of Nonurbanized Area Formula Grants report annual transit data to the NTD. FTA considers this proposal as a way to clarify existing regulatory requirements, and believes that the proposed changes would not adversely affect, in any material way, any sector of the economy. In addition, the proposed changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs.

Executive Order 13132

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial, direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. FTA has analyzed this proposed action in accordance with the principles and criteria contained in Executive Order 13132, and FTA has determined that this proposed action would not have sufficient implications to warrant the preparation of a federalism assessment. FTA has also determined that this proposed action would not preempt any State law or State regulation or affect States' abilities to discharge traditional government functions. FTA invites State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific proposals may have on State or local governments.

Executive Order 13175

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that significantly or uniquely affect Indian communities and that impose "substantial and direct compliance costs" on such communities. This proposed rule would require tribes that are recipients to report to the NTD. In addition, this proposed rule would require tribes that are subrecipients to report NTD data to the State. However, FTA has analyzed this proposed rule under Executive Order 13175 and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial direct compliance costs on Indian tribal governments; and would not preempt tribal laws. Therefore, a tribal impact statement is not required. We invite Indian tribal governments to provide comments on the effect that adoption of specific proposals may have on Indian communities.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), FTA must consider whether a proposed rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations under 50,000. If your business or organization is a small entity, and if adoption of proposals contained in this notice could have a significant economic impact on your operations, please submit a comment to explain how and to what extent your business or organization could be affected.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (Pub. L. 104-13, 109 Stat. 163), FTA may not conduct or sponsor, and a person is not required to respond to or may not be penalized for failing to comply with, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number.

FTA paperwork collection number 2132-0008 covers the information collection requirements of this proposed rule. OMB approved an extension without change of the collection number. The new expiration date of this collection number is August 31, 2008.

Unfunded Mandates Assessment

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$128.1 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, FTA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

National Environmental Policy Act

The National Environmental Policy Act of 1969, (42 U.S.C. 4321-4347), requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. The proposed action would not have any effect on the quality of the environment under the National Environmental Policy Act of 1969.

Privacy Act

Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, or labor union). You may

review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

List of Subjects in 49 CFR Part 630

Accounting, Uniform System of Accounts.

For the reasons discussed in the preamble, the Federal Transit Administration proposes to revise 49 CFR Part 630 as follows:

PART 630—REPORTING AND RECORDKEEPING REQUIREMENTS**Subpart A—General**

- Sec.
- 630.1 Purpose.
 - 630.2 Scope.
 - 630.3 Definitions.
 - 630.4 Requirements.
 - 630.5 Failure to report data.
 - 630.6 Late and incomplete reports.
 - 630.7 Failure to respond to questions.
 - 630.8 Questionable data items.
 - 630.9 Notice of FTA action.
 - 630.10 Waiver of reporting requirements.
 - 630.11 Data adjustments.
 - 630.12 Display of OMB control numbers.
- Appendix A—Overview and Explanation of the FTA National Transit Database Uniform System of Accounts and Reporting System

Authority: 49 U.S.C. 5301-5340 and 49 CFR 1.51.

§ 630.1 Purpose.

The purpose of this part is to prescribe requirements and procedures necessary for compliance with the National Transit Database Uniform System of Accounts and Reporting System mandated by 49 U.S.C. 5335, and to set forth the procedures for addressing a reporting agency's failure to comply with these requirements.

§ 630.2 Scope.

This part applies to all applicants and any person that receives benefits directly from a grant under 49 U.S.C. 5307 or 5311.

§ 630.3 Definitions.

(a) Except as otherwise provided, terms defined in 49 U.S.C. 5301 *et seq.* are used in this part as so defined.

(b) Terms defined in the current edition of the National Transit Database Uniform System of Accounts and the annual Reporting Manual are used in this part as so defined.

(c) For purposes of this part:

Administrator means the Federal Transit Administrator or the Administrator's designee.

Applicant means an applicant for assistance under 49 U.S.C. 5307 or 5311.

Assistance means Federal financial assistance for the acquisition, construction, or operation of public transportation services.

Beneficiary means any organization operating and delivering transit services that receives benefits from assistance under 49 U.S.C. 5307 or 5311.

Chief Executive Officer (CEO) means the principal executive in charge of and responsible for the reporting agency.

Current edition of the National Transit Database Uniform Systems of Accounts and the Reporting Manual means the most recently issued edition of the reference documents.

Days mean calendar days.

Public Transportation Agency or transit agency means an agency authorized to transport people by bus, rail, or other conveyance, either publicly or privately owned, and which provides to the public general or special service (but not including school, charter, sightseeing service or intercity bus transportation or intercity rail transportation provided by the entity described in 41 U.S.C. Chapter 243 (or a successor to that entity) on a regular and continuing, scheduled or unscheduled basis. Transit agencies are classified according to the mode of transit service operated. A multi-mode transit agency operates two or more modes, which are defined in the current editions of the National Transit Database Uniform System of Accounts and the Reporting Manual.

Reference Document(s) means the current editions of the National Transit Database Uniform System of Accounts and the Reporting Manual. These documents are subject to periodic revision. Beneficiaries and applicants are responsible for using the current editions of the reference documents.

Reporting agency means the agency required to submit a report under 49 U.S.C. 5335.

§ 630.4 Requirements.

(a) *National Transit Database Uniform System of Accounts.* Each applicant for and beneficiary of Federal financial assistance under 49 U.S.C. 5307 or 5311 must comply with the applicable requirements of 49 U.S.C. 5335, as set forth in the current edition of the “National Transit Database Uniform System of Accounts”; the “Reporting Manual”; Circulars; and other reference documentation.

(b) *Reporting system.* Each applicant for, and beneficiary of, Federal financial assistance under 49 U.S.C. 5307 or 5311 must comply with the applicable requirements of 49 U.S.C. 5335, as set forth in the current edition of the “National Transit Database Uniform

System of Accounts”; the “Reporting Manual”; Circulars; and other reference documentation.

(c) *Copies.* Copies of reference documents are available from the National Transit Database Web site located at <http://www.ntdprogram.gov>. These reference documents are subject to periodic revision. Revisions of reference documents will be posted on the National Transit Database Web site and a notice of any significant changes in these reference documents will be published in the **Federal Register**. On an annual basis, FTA will mail reporters a CD containing a copy of the most recent version of the Reporting Manual along with copies of other NTD data publications.

§ 630.5 Failure to report data.

Failure to report data in accordance with this part will result in the reporting agency being ineligible to receive any section 5307 or 5311 grants directly or indirectly (e.g., a public agency receiving FTA funds through another public agency rather than directly from FTA). This ineligibility applies to all reporting agencies without regard to the size of the urbanized area served by the reporting agency.

§ 630.6 Late and incomplete reports.

(a) *Late reports.* Each reporting agency shall ensure that its report is received by FTA on due dates prescribed in the annual Reporting Manual. A reporting agency may request an extension of 30 days after the due date. FTA will treat a failure to submit the required report by the due date as failure to report data under § 630.5.

(b) *Incomplete reports.* FTA will treat any report or submission that does not contain all the necessary reporting forms, data, or certifications for services directly operated by the reporting agency in substantial conformance with the definitions, procedures, and format requirements set out in the National Transit Database Uniform System of Accounts and Reporting System as failure to report data under § 630.5. FTA will treat the submission of a report with incomplete data or missing forms for services provided under contract to the reporting agency by private or public carriers as failure to report data under § 630.5 provided that the reporting agency has exhausted all possibilities for obtaining this information.

§ 630.7 Failure to respond to questions.

FTA will review each section 5335 report to verify the reasonableness of the data submitted. If any of the data do not appear reasonable, FTA will notify the

reporting agency of this fact and request written justification to document the accuracy of the questioned data. Failure of a reporting agency to make a good faith written response to this request will be treated under § 630.5 as failure to report data.

§ 630.8 Questionable data items.

FTA may enter a zero or adjust any questionable data item(s) in a reporting agency's section 5335 report used in computing the section 5307 or 5311 apportionment. These adjustments may be made if any data appear inaccurate or have not been collected and reported in accordance with FTA's definitions and/or confidence and precision levels, or if there is lack of adequate documentation or a reliable recordkeeping system.

§ 630.9 Notice of FTA action.

Before taking final action under §§ 630.5, 630.6, 630.7, or 630.8, FTA will transmit a written request to the reporting agencies to provide the necessary information within a specified reasonable period of time. FTA will advise the reporting agency of its final decision in this regard.

§ 630.10 Waiver of reporting requirements.

Waivers of one or more sections of the reporting requirements may be granted at the discretion of the Administrator on a written showing that the party seeking the waiver cannot furnish the required data without unreasonable expense and inconvenience. Each waiver will be for a specified period of time.

§ 630.11 Data adjustments.

Errors in the data used in making the apportionment may be discovered after any particular year's apportionment is completed. If so, FTA shall make adjustments to correct these errors in a subsequent year's apportionment to the extent feasible.

§ 630.12 Display of OMB control numbers.

All of the information collection requests in this part have been approved by the Office of Management and Budget under control number 2132-0008.

Appendix A to Part 630—Overview and Explanation of the FTA National Transit Database Uniform System of Accounts and Reporting System

A. Introduction

Title 49 U.S.C. 5335 provides for establishment of two information-gathering analytic systems: the National Transit Database Uniform System of Accounts, and a Reporting System for the collection and dissemination of public transportation financial and operating data by uniform

categories. The purpose of these two systems is to provide information on which to base public transportation planning and public sector investment decisions. FTA administers the section 5335 Reporting System.

The National Transit Database Uniform System of Accounts consists of:

- Various categories of accounts and records for classifying financial and operating data;
 - Precise definitions as to what data elements are to be included in these categories; and
 - Definitions of practices for systematic collection and recording of such information.
- While a specific accounting system is recommended for this recordkeeping, it is possible to make a translation from most existing accounting systems to comply with the section 5335 Reporting System, which consists of forms and procedures:
- For transmitting data from transit agencies to FTA;
 - For editing and storing the data; and
 - For FTA to report information to various groups.

Under the terms of section 5335, all applicants for, and beneficiaries of, Federal assistance under sections 5307 or 5311 must comply with the Reporting System and the National Transit Database Uniform System of Accounts to be eligible for Federal grants. It should be noted that separate and complete section 5335 reports must be submitted by or for each purchased transportation service provider that operates 100 or more revenue vehicles for the purchased service during the maximum service period.

B. Purpose of This Appendix

This appendix presents a general introduction to the structure and operation of the two Systems. It is not a detailed set of instructions for completion of a section 5335 report or establishment of a System of Accounts and Records. Persons in need of more information should refer to the current editions of the National Transit Database Uniform System of Accounts and the Reporting Manual, available from the NTD Web site, <http://www.ntdprogram.gov> under the section titled *NTD Publications and Reference Materials*.

FTA periodically updates these reference documents or supplements them to revise or clarify section 5335 definitions, reporting forms, and instructions. Section 630.4 makes clear that reporting agencies must use the most recent edition of reference documents and reporting forms to comply with the section 5335 requirements. FTA therefore encourages local officials to check with FTA before completing a section 5335 report to avoid unnecessary efforts and delays.

C. Special (Reduced) Reporting Requirements

Certain information collection and recording requirements were tailored to accommodate the unique characteristics of certain transportation modes. Reduced requirements were permitted during limited time periods to ease transition to complete reporting for these modes. Reduced reporting requirements for commuter rail systems and vanpool services ended in the 1987 report

year. In addition, the reduced reporting requirements for private subscription and private noncontract conventional bus service is eliminated for the 1992 report year. At the direction of Congress, the NTD began to use new forms for reporting after 2001.

D. A Single Required Level of Section 5335 Reporting and Recordkeeping

FTA has developed a single required reporting format for use by all transit agencies. The single required level accommodates variations in size, local laws, and modes of transport.

The National Transit Database Uniform System of Accounts also contains additional detailed financial and operational data that can be submitted at the reporting agency's option. Because the optional subcategories of data can be aggregated to the required level, these subcategories define the more aggregated data. The definitions for data reported at the required level are consistent with, and summarized from, those for the more detailed optional data.

E. The National Transit Database Uniform System of Accounts

The National Transit Database Uniform System of Accounts consists of a financial accounting and operational recordkeeping system designed for public transportation managers and planners. Its uniformity permits more thorough and accurate comparisons and analyses of different transit agencies' operating costs and efficiencies than if each had a unique recordkeeping and accounting system. The National Transit Database Uniform System of Accounts establishes various categories of accounts and records for classifying public transportation operating and financial data, and includes precise definitions of transportation terminology to ensure that all users share a common understanding of how to use and interpret the collected data.

(1) Use of the Accounts and Records System

Beneficiaries of, and applicants for, Federal assistance are not required to use the National Transit Database Uniform System of Accounts in keeping their own records. If an applicant or beneficiary chooses not to use the National Transit Database Uniform System of Accounts, however, it must nevertheless be able to translate its accounts and records system to the accounts prescribed in the National Transit Database Uniform System of Accounts. The accounting system that the reporting agency uses must permit preparation of financial and operating data that conform to the National Transit Database Uniform System of Accounts directly from its records at the end of the fiscal year, and must be consistent with the following:

- (i) The data must have been developed using the accrual method of accounting. Those transit systems that use cash-basis accounting, in whole or in part, must make work sheet adjustments in their account books to record the data on the accrual basis.
- (ii) Reporting agencies must follow or be able to directly translate their system to the accounting treatment specified in the publication "National Transit Database Uniform System of Accounts."

(iii) The reporting agency's accounting categories (chart of accounts) must be correctly related, using a clear audit trail, to the accounting categories prescribed in the National Transit Database Uniform System of Accounts.

(2) General Structure of the National Transit Database Uniform System of Accounts

In the National Transit Database Uniform System of Accounts, operating expenses incurred by the transit system are classified by transit mode. FTA developed expense classifications in two dimensions for uniformity and to enhance the usefulness of the data collected under section 5335. The classifications are typical of those of most transit accounting systems. The two dimensions are:

- (i) The type of expenditure (expense object class); and
- (ii) The function or activity performed.

Operating expenses can be identified either in function or object class categories, or cross-classified, allowing identification using both categories. The National Transit Database Uniform System of Accounts also categorizes expenditures by four basic functions submitted by all reporting agencies. A limited number of additional details are optional. All reporting agencies are required to use a single set of object class categories.

The National Transit Database Uniform System of Accounts has a single set of revenue object classes to be used by all reporting agencies, and provides a limited number of additional details that are optional.

The National Transit Database Uniform System of Accounts provides a classification for sources and uses of capital to be submitted by all reporting agencies. These classifications replace capital information previously required on the balance sheet and capital subsidiary schedule.

The National Transit Database Uniform System of Accounts also includes collecting and recording of certain operating data elements.

Details and definitions of the expense object classes, functions, revenue object classes, sources and uses of capital, and operating data elements are contained in the current edition of the "Reporting Manual," which FTA updates annually, and the National Transit Database Uniform System of Accounts reference documents.

F. The Reporting System

(1) The section 5335 Reporting System consists of forms and procedures for transmitting data from transit agencies to FTA. These forms are available in the annual Reporting Manual on the NTD Web site, <http://www.ntdprogram.gov>, under the section titled *NTD Publications and Reference Materials*. All beneficiaries of Federal financial assistance must submit the required forms and information in order to allow FTA to: (1) Store and generate information on the Nation's transportation systems; and (2) calculate apportionment allocations for the section 5307 formula grant program (for urbanized areas of 200,000 or more inhabitants), or the section 5311 formula grant program. Agencies submitting

section 5335 reports may only submit data for transit services that they directly operate and purchase under contract from public agencies and/or private carriers.

Separate and complete section 5335 reports must be submitted by or for each purchased transportation service provider that operates 100 or more revenue vehicles for the purchased service during the maximum service period. The reporting requirements include the following major segments, which are based on information assembled through the National Transit Database Uniform System of Accounts:

1. Capital report.
2. Revenue report.
3. Expense report.
4. Nonfinancial service and operating data reports.
5. Miscellaneous auxiliary questionnaires and subsidiary schedules.
6. Vehicle Fleet Data.
7. Data Declarations.

(2) The section 5335 Reporting System includes two data declarations.

(a) The Chief Executive Officer (CEO) Certification.

The CEO of each reporting agency is required to submit a certification with each annual section 5335 report. The certification must attest:

- To the accuracy of all data contained in the section 5335 report;
- That all data submitted in the section 5335 report are in accord with section 5335 definitions;
- If applicable, that the reporting agency's accounting system used to derive all data submitted in the section 5335 report is the system set forth in the National Transit Database Uniform System of Accounts and that a section 5335 report using this system was certified by an independent auditor in a previous report year;
- If applicable, the fact that the reporting agency's internal accounting system is other than the National Transit Database Uniform System of Accounts, and that its: (i) Accounting system uses the accrual basis of accounting, (ii) accounting system is directly translated, using a clear audit trail, to the accounting treatment and categories specified by the National Transit Database Uniform System of Accounts, and (iii) accounting system and direct translation to the National Transit Database Uniform System of Accounts are the same as those certified by an independent auditor in a previous reporting year; and
- That a 100% count of trips and passenger mile data for each mode/type of service meets FTA requirements.

(b) Auditor Statement on Section 5335 Financial Data Reporting Forms and Section 5307 or Section 5311 Data.

Reporting agencies must submit with their section 5335 report a statement signed by an independent public accountant or other responsible independent entity such as a state audit agency. This statement must express an opinion on whether the financial data reporting forms in the section 5335 report present fairly, in all material respects, the information required to be set forth therein in accordance with the National Transit Database Uniform System of

Accounts. The statement shall also indicate whether any of the reporting forms or data elements do not conform to the section 5335 requirements, and describe the discrepancies. The statement must consider both required and optional data entries.

Each agency is required to file an Auditor Statement unless it received a written waiver from FTA. The criteria in either Condition I or Condition II for granting a financial data waiver are:

Condition I. The reporting agency (1) has adopted the National Transit Database Uniform System of Accounts and (2) has previously submitted a section 5335 report that was compiled using the National Transit Database Uniform System of Accounts and was reviewed by an independent auditor; or

Condition II. The reporting agency (1) uses an internal accounting system other than the accounting system prescribed by the National Transit Database Uniform System of Accounts, (2) uses the accrual basis of accounting, (3) directly translates the system and accounting categories, using a clear audit trail, to the accounting treatment and categories specified by the National Transit Database Uniform System of Accounts, and (4) has previously submitted a section 5335 report that was compiled using the same internal accounting system and translation to the National Transit Database Uniform System of Accounts and was reviewed by an independent auditor.

For agencies that have received a waiver, the CEO annual Certification must verify that the financial data meet one of the above two conditions.

Additionally, all reporting agencies that are in or serve urbanized areas with populations of 200,000 or more and whose report covers 100 or more vehicles in annual maximum service across all modes and types of service must have an independent auditor review all section 5335 data used in the section 5307 formula allocation. The statement should discuss, by mode and type of service: Directional route miles, vehicle revenue miles, passenger miles, and operating cost, and include both directly operated and purchased service. The independent, certified public accountant shall perform the verification in accordance with the "Statements on Standards for Attestation Engagements" issued by the American Institute of Certified Public Accountants. The specific procedures to be reviewed are described in the most recent Section 5335 Reporting Manual.

Issued in Washington, DC, this 20th day of March, 2007.

James S. Simpson,
Administrator.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018-AV10

Migratory Bird Permits; Removal of Migratory Birds From Buildings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose changes in the regulations governing migratory bird permitting. We propose to amend 50 CFR part 21 to allow removal of migratory birds (other than federally listed threatened or endangered species, bald eagles, and golden eagles) from buildings in which the birds may pose a threat to themselves, to public health and safety, or to commercial interests.

DATES: Send comments on this proposal by May 25, 2007.

ADDRESSES: For detailed instructions on submitting comments, please see "Public Participation" below.

FOR FURTHER INFORMATION CONTACT: George T. Allen, Wildlife Biologist, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 703-358-1825.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is the Federal agency delegated the primary responsibility for managing migratory birds. The delegation is authorized by the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*), which implements conventions with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (Russia). Raptors (birds of prey) are afforded Federal protection by the 1972 amendment to the Convention for the Protection of Migratory Birds and Game Animals, February 7, 1936, United States-Mexico, as amended; the Convention between the United States and Japan for the Protection of Migratory Birds in Danger of Extinction and Their Environment, September 19, 1974; and the Convention Between the United States of America and the Union of Soviet Socialist Republics (Russia) Concerning the Conservation of Migratory Birds and Their Environment, November 26, 1976. A list of migratory bird species protected by the MBTA can be found at 50 CFR 10.13.

To simplify removal of migratory birds from buildings in which their presence may be a threat to the birds, to