DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: This notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public’s awareness of, and participation in, this aspect of FAA’s regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 3, 2008.

ADDRESSES: You may send comments identified by Docket Number FAA–2008–0906 using any of the following methods:

• Government-wide rulemaking Web site: Go to http://www.regulations.gov and follow the instructions for sending your comments electronically.

• Mail: Send comments to the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

• Fax: Fax comments to the Docket Management Facility at 202–493–2251.

• Hand Delivery: Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• Docket: To read background documents or comments received, go to http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

DEPARTMENT OF TRANSPORTATION
Federal Transit Administration

National Transit Database: Natural Disaster Adjustments for Urbanized Area Apportionments

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Final Natural Adjustment Policy for Urbanized Area Apportionments.

SUMMARY: This notice announces the Federal Transit Administration’s (FTA) National Transit Database (NTD) policy on natural disaster adjustments for data used in urbanized area apportionments. On August 14, 2008, FTA proposed a new policy allowing transit systems suffering a marked decrease in transit service data due to a natural disaster to use their transit service data from a prior year in the urbanized area apportionments. FTA received three comments on this policy change and is now formally adopting the new policy.

DATES: Effective Date: November 13, 2008.

FOR FURTHER INFORMATION CONTACT: For program issues, John D. Giorgis, Office of Budget and Policy, (202) 366–5430 (telephone); (202) 366–7989 (fax); or john.giorgis@dot.gov (e-mail). For legal issues, Richard Wong, Office of the Chief Counsel, (202) 366–0675 (telephone); (202) 366–3809 (fax); or richard.wong@dot.gov (e-mail).

SUPPLEMENTARY INFORMATION:

I. Background

The National Transit Database (NTD) was established by Congress “to help meet the needs of * * * the public for information on which to base public transportation service planning * * *” (49 U.S.C. 5335). To support this goal, recipients or beneficiaries of Urbanized Area Formula Grants (Section 5307) or Other Than Urbanized Area Formula (Section 5311) Grants are required to report to the NTD. Some other providers of transit service in urbanized areas report voluntarily to the NTD for purposes of benefitting their local urbanized area in the urbanized area apportionments. Currently, over 650 transit agencies in urbanized areas report to the NTD through an Internet-based reporting system. Each year, performance data from these submissions are used to apportion over $6 billion of FTA funds under the Urbanized Area Formula Grants and Fixed-Guideway Modernization Grants Programs. These data are also used in the annual National Transit Summaries and Trends report, the biennial Conditions and Performance Report to Congress, and in meeting FTA’s obligations under the Government Performance and Results Act.

FTA currently allows a transit provider that is severely impacted by a natural disaster to request a waiver from reporting to the NTD for the current year. This policy is based on the NTD Rule (49 CFR Part 630.10), which provides for a waiver from the mandatory NTD reporting requirements if reporting to the NTD would cause “unreasonable expense or inconvenience.” When FTA grants such
II. Comments and FTA Response to Comments

On August 14, 2008, FTA published a notice in the Federal Register (73 FR 47641) inviting comments on its proposed policy for natural disaster adjustments. FTA received three comments on this proposed policy change. One commenter supported the proposed policy change. Two commenters also supported the policy change and requested that FTA expand this policy to include not just natural disasters, but also man-made disasters, such as terrorist attacks, criminal activity, forest fires, or disruptions to utilities. These commenters also requested that the policy be made applicable for multiple years, rather than only the year in which the disaster occurs.

Response: FTA agrees to make this policy applicable to all disasters, both natural and man-made. FTA also notes that it always intended for its proposed policy to be applicable for multiple years, at FTA’s discretion, and will clarify this in the final policy below.

III. Final Policy

If a transit provider suffers a marked decrease in transit service due to a natural or man-made disaster, either the transit provider or the designated recipient for an urbanized area may make a request to be “held harmless” in the apportionment of formula grants for urbanized areas. If FTA approves the request, FTA will use data for the affected providers from the NTD report year before the disaster occurred in place of data for the current report year in the urbanized area apportionments. FTA would continue to use data from the current NTD report year for all other transit providers in the urbanized area apportionment.

This adjustment would not be automatic and must be requested in writing. FTA will approve or deny each request at its discretion based on the following factors: (1) Whether a Federal disaster declaration was in place for all or part of the current report year, for either all or part of the transit provider’s service area; (2) whether the request demonstrates that the decrease in transit service from the report year before the disaster is in large part due to the ongoing impact of the disaster; and (3) whether the request demonstrates that the decrease in transit service reasonably appears to be temporary, and not reflective of the true transit needs of the urbanized area. FTA will not grant adjustment requests that do not address all three factors. Adjustment requests should include sufficient documentation to allow FTA to evaluate the request based on these factors. FTA may request additional information from an applicant for an adjustment to evaluate the request based on these factors. A request for an adjustment may only be made for one year at a time. Requests for adjustment related to the same disaster may be made in subsequent years, provided that the applicant can continue to support its request based on the above factors. If the adjustment request is granted, the NTD data in all publicly-available data sets and data products would remain unadjusted, and would reflect the actual NTD submission for the transit provider. The only adjustment would be in the data sets used for the apportionments of formula grants for urbanized areas.

This policy will take effect for the 2007 NTD Report Year, which is the data used in the FY 2009 apportionments of formula grants for urbanized areas. This policy will remain in effect for the 2008 NTD Report Year, which has already begun, and will be included in the NTD Annual Manual for the 2009 Report Year.

Issued in Washington, DC, this 31st day of October 2008.

James S. Simpson, Administrator.

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