

5. U.S. note 20(ddd)(19) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified by deleting “(described in statistical reporting number 6307.90.9889)” and inserting “(described in statistical reporting number 6307.90.9889 prior to July 1, 2020; described in statistical reporting number 6307.90.9891 effective July 1, 2020)” in lieu thereof.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2018–0010]

National Transit Database Reporting Changes and Clarifications AGENCY: Federal Transit Administration (FTA), Transportation (DOT).

ACTION: Final notice; response to comments.

SUMMARY: This notice responds to comments received and finalizes proposed changes and clarifications to the National Transit Database (NTD) reporting requirements published in the **Federal Register** on April 9, 2019 (ID: FTA–2018–0010).

DATES: FTA will implement some changes and clarifications in Report Year 2019 and will implement other changes in Report Year 2020 or Report Year 2021.

FOR FURTHER INFORMATION CONTACT: John D. Giorgis, FTA Office of Budget and Policy, (202) 366–5430 or john.giorgis@dot.gov.

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A. Background and Overview

Pursuant to 49 CFR 630.4(a), each applicant for and beneficiary of FTA assistance must comply with the applicable National Transit Database (NTD) reporting requirements, as set forth in the current editions of the NTD Reporting Manuals and Uniform System of Accounts (USOA) (<https://www.transit.dot.gov/ntd/uniform-system-accounts-usoa>). These reference documents are subject to periodic revision.

Pursuant to 49 CFR 630.4(b), the Federal Transit Administration (FTA) published a notice in the **Federal Register** on April 9, 2019 (84 FR 14189) seeking public comment on several changes and clarifications to the NTD reporting requirements contained in these reference documents. The comment period closed on June 10, 2019. FTA received seventy-three (73) comments from twenty-nine (29) unique commenters.

FTA intended to implement the proposed changes in Report Year 2019; however, due to the timing of the notice’s publication, FTA will implement some changes finalized in this **Federal Register** notice in Report Year 2019, and will defer others to Report Years 2020 or 2021. Implementation details are included within the responses. Following is a summary of the comments received with FTA responses.

This document on its own does not have the force and effect of law and is not meant to bind the public in any way. This document is intended to provide clarity to the public regarding

existing requirements under the law. In addition, FTA will update the NTD Policy Manual to include appropriate guidance disclaimer language, pursuant to 49 CFR 5.29.

B. Additional Types of Service

a. New Type of Service To Distinguish Demand Response Taxi Service

Two comments expressed concern about how the new proposed types of service would impact Americans with Disabilities Act (ADA) or paratransit reporting. Both commenters stated that the new taxi type of service must account for ADA/paratransit taxi trips. One commenter stated that “the definition of taxi service in the proposed changes. . . must be clarified to ensure that taxi paratransit trips. . . can continue to be reported through the NTD.” Another commenter expressed concern that the “proposed revisions suddenly eliminates [sic] transit-sponsored taxi-based subsidy programs” for ADA paratransit customers from reporting to the NTD.

FTA Response: FTA reiterates that it is not changing any reporting eligibilities or requirements. If a transit system uses a partnership with a taxi company to provide ADA complimentary paratransit service, then that service can be reported to the NTD through the new type of service. However, taxi-based subsidy programs are already excluded from the NTD, as they do not meet the definition of *public transportation*, as they are not *shared-ride*.

b. New Type of Service Classification for Demand Responsive Service Provided by Transportation Network Companies

FTA received 19 comments on the proposal to create two new types of service. Five commenters supported the changes as proposed. One commenter stated that collecting these data will help all levels of government develop a better understanding of the role transportation network companies (TNCs) play in transit service, how effective they are in delivering first mile/last mile service, and whether TNCs augment or compete with traditional public transit service.

Three commenters directly opposed the inclusion of service provided by TNCs in the NTD. All three commenters expressed concerns about the impact on FTA's formula funding programs. One commenter expressed "serious concerns that the FTA is setting the table to normalize the use of transportation network companies in cooperation with or as a substitute for public transportation without fully considering the effects of this policy on safety, the fair distribution of federal funds, and ensuring a level playing field for workers." The commenter further stated that FTA should not implement this change "without accounting for the limitations of the service (TNCs) provide and the true costs of those services when compared to transit buses." Two commenters stated that the vehicle revenue miles provided by TNCs should not be counted in the same way as bus vehicle revenue miles in the federal formula programs. The commenters further asserted that FTA should not implement this change until Congress deliberates reauthorization of the surface transportation programs.

Six comments were submitted related to the proposed data structure. One commenter suggested that service provided by a TNC should be reported as a new mode rather than as a new type of service. Two commenters suggested that the two proposed types of service should be consolidated into one new type of service. Three commenters recommended including microtransit such as scooters and bikeshares in NTD reporting. Two commenters suggested that microtransit should be added as a new type of service.

FTA Response: In response to comments opposing the proposal, FTA clarifies that it did not propose changing the reporting eligibility for demand response services. Rather, FTA proposed a new data structure for collecting information on demand response services that are already eligible to be reported to the NTD under existing law. The NTD collects data on services that meet the definition of public transportation in Federal law (49 U.S.C. 5302(14)). These data on public transportation services are then used in the apportionment of formula grants by FTA. FTA intends to permit service provided by TNCs that meets the statutory definition of public transportation to be reported to the NTD and included in the data sets used for the apportionment of formula grants.

Likewise, because all public transportation service funded through the Urbanized Area Formula Program must be reported to the NTD pursuant to 49 U.S.C. 5335(b), FTA cannot

prohibit these services from being reported to the NTD without also prohibiting the use of Urbanized Area Formula Program funds on these services. Thus, FTA does not believe that it is prudent to defer this issue until Congress debates a new surface transportation reauthorization bill. These services are being provided now, and FTA believes that the NTD must have an appropriate means of accounting for these services in the present.

Further, there is no statutory basis for including microtransit services in the NTD for inclusion in the formula programs, as they do not meet the statutory definition of *public transportation* as they are not *shared-ride* services. Additional information about demand response services provided by TNCs that meet the definition of *public transportation*, and thus may be reported to the NTD, can be found in Appendix E of the NTD Policy Manual. (<https://www.transit.dot.gov/ntd/manuals>).

FTA does not have the statutory authority to count TNC vehicle revenue miles different from other bus vehicle revenue miles. Current law divides all public transportation vehicle revenue miles into either "bus vehicle revenue miles" or "fixed guideway vehicle revenue miles." See 49 U.S.C. 5336. The category of "bus vehicle revenue miles" already includes miles operated by the fixed-route bus mode, as well as the demand response mode and the vanpool mode. FTA doesn't have a statutory basis for treating a demand response vehicle revenue mile operated through an agreement with a TNC any differently than a demand response vehicle revenue mile operated by a transit agency's own employees.

After considering the comments received, FTA continues to believe that creating two new types of service is the best way to collect and track service provided by taxi companies and TNCs. Creating two new types of service will allow data users to quickly identify and compare these services across transit agencies and will also provide a clear basis for comparison among traditional directly-operated and contracted demand response services. These two new types of service will be implemented in report year 2020 (beginning in September 2020).

Two commenters requested additional clarification on when TNC-provided service is considered public transportation and may be reported to the NTD. One commenter stated that NTD reporting should continue to be done by the transit agencies and not by the TNCs.

FTA Response: FTA reiterates that it is not changing any reporting eligibilities or requirements. When a transit agency enters into a purchased transportation agreement with a TNC, it is the transit agency that reports the service. If the TNC is providing public transportation service on its own, without a purchased transportation agreement with a transit agency, then the TNC reports the service on its own. The definition of a purchased transportation agreement can be found in the existing NTD Policy Manual.

FTA also received several comments that were related to this proposal but were not directly relevant to the request. In several cases, these comments misstated current NTD reporting requirements. For the sake of clarity, a summary of these comments and any necessary clarifications are included in this response.

Three commenters expressed concerns over differing safety requirements for TNC providers versus traditional public transit providers. One commenter expressed concern that the taxi exemption will "create an environment in which transit operators are held to a different safety standard than operators contracted under TNC service." A second commenter requested clarification on the taxi exemption as it relates to drug testing for TNC services. The commenter further asserted that when TNCs "clearly stand in the shoes of the transit provider, they should be subject to Part 655 requirements."

FTA Response: This notice does not impact safety standards or requirements. FTA is not providing an "exemption" to TNC providers. This notice simply articulates how a transit agency that partners with a TNC to provide public transportation service can meet its NTD reporting obligation for that service.

One commenter challenged FTA's current interpretation of "shared-ride" service. FTA currently requires all demand response modes to use a dispatch service to attempt to share all ride requests. 49 CFR 630.4(a). The commenter argued that FTA should "adopt a more holistic approach . . . for demand responsive services by designating the performed services, rather than the potential for sharing of the dispatch system, as the fundamental standard for evaluating NTD reporting eligibility." In other words, all trips sponsored by a public transit agency should be reportable to the NTD even if they are trips on a subsidized single-occupancy taxi service used for first-mile/last-mile service.

FTA Response: FTA disagrees. FTA has a long-standing policy that vouchers

or subsidies for single-person taxi service are not *public transportation* because they are not shared-ride services, even when provided by an operator of public transportation services. The same principle would apply to vouchers of subsidies for single-person TNC service. *Public transportation* is defined in Section 5302(14) as being “shared-ride” service, and FTA cannot change this definition administratively.

After considering the comments received, FTA will adopt the proposed changes to create the two new types of service. These changes will be implemented in Report Year 2020 (beginning in September 2020).

C. Changes to the A–30 Revenue Vehicle Asset Forms

a. Add New Data Element To Identify Automated Vehicles

FTA received four comments related to reporting automated vehicles. Two commenters supported this change as proposed. One commenter noted that the SAE standard referenced in the notice is “copyrighted by SAE and distribution within an organization is prohibited without special license.” The commenter suggested that FTA should provide a more comprehensive definition in the NTD glossary to “avoid misinterpretation.” A final commenter stated that automated bus service should only be reported as “fixed guideway” service to the NTD if it is operated in dedicated right-of-way.

FTA Response: FTA concurs that the use of an automated vehicle does not impact whether the fixed-route bus service should be reported as “fixed guideway” or not. In response to the comment noting that the SAE standard is under copyright by SAE, FTA amends the definition of *automated vehicle* to align with the description of SAE Level 4 automation provided by the National Highway Traffic Safety Administration (NHTSA): A vehicle that can itself perform all driving tasks and monitor the driving environment in certain circumstances. FTA will adopt these changes effective in Report Year 2019; effective August 31, 2019.

b. New Reporting on Safety Equipment on Rail Transit Vehicles

FTA received three comments related to reporting on safety equipment on rail transit vehicles. One commenter asked for a clarification on whether these reporting criteria apply to commuter rail modes regulated by the Federal Railroad Administration (FRA). A second commenter stated that this reporting would be a significant burden because

their data is not currently kept at this level of detail. The third commenter noted that the American Public Transportation Association (APTA) Standards identified in the notice have changed. The commenter requested clarification on how FTA will account for changing standards for NTD reporting in the future.

FTA Response: FTA clarifies that these reporting requirements will not apply to rail modes that are regulated by the FRA.

In response to the request for clarification regarding changing APTA Standards, FTA will clarify in each edition of the NTD Reporting Manual the date of the APTA Standard that is in effect at the time the NTD Reporting Manual is published. Transit systems can then report whether their vehicles carry this equipment based on the date of the APTA Standard listed in the Reporting Manual. FTA believes that keeping track of the safety equipment present on rail vehicles is a sound business practice and believes that the cost of tracking safety equipment will ultimately be de minimis, as the NTD will retain this information year after year. FTA will implement these changes to the asset inventory for the 2020 Report Year.

D. Changes to the A–20—Adjust the Reporting Categories for Special Trackwork

FTA received three comments related to adjusting the reporting categories for special trackwork. All commenters supported updating the special trackwork categories. One agency requested clarification on whether special trackwork reporting only applies to main line track. A second commenter requested that special trackwork categories be modified to align with the naming conventions used by their agency.

FTA Response: FTA clarifies that all special trackwork, including main line, yard, and pocket track, are reportable to the NTD.

After consultation with industry experts, FTA believes that the proposed categories represent the most common track-naming conventions used in the industry. FTA will implement this change, as proposed, effective immediately.

E. Changes to the D–10—New Reporting on the Use of Automatic Passenger Counters

FTA did not receive any comments on the proposed change regarding reporting on the use of automatic passenger counters (APC). FTA will implement its proposal and begin capturing the use of

APCs on the D–10 effective immediately.

F. Changes to the FFA–10—New Reporting on Vehicle Revenue Miles by State for Urbanized Area Reporters

FTA received two comments on the proposal to collect vehicle revenue miles (VRM) by state for urbanized area reporters. One transit agency expressed concern that reporting VRM by state may impact its funding. The commenter further stated that reporting in this manner would require a route by route analysis and requested that this reporting be considered “optional.”

A second agency stated that reporting VRM by state would be a significant burden because most of its service is operated within a single state. The agency requested that FTA provide an exemption for agencies that are primarily operating within a single state with only a negligible amount of service in a second state.

FTA Response: FTA is sensitive to concerns about increasing reporting burden. Both respondents indicated that reporting their service by state would require them to change their current data collection methods. As such, FTA withdraws this proposal and will not implement it. Therefore, FTA will not revise reporting to include VRM by state.

G. Changes to Safety Event Reporting

a. Clarification of Reportable Attempted Suicide

FTA received four comments on the proposed clarification of the definition of reportable attempted suicides. One agency expressed concern about the requirements that both the attempt and the intent must be verified by a third party. It stated that it is “unlikely to have a police report to provide in a timely manner.” A second agency recommended including “apparent” or “perceived” before “intention” and “intent” in the clarification of attempted suicide. A third commenter stated that an agency “may not even notice, rendering it difficult if not impossible to report” on events resulting in an individual being transported for mental health evaluation. A fourth commenter stated that attempted suicides should only be reported if there is an injury; incidents of an individual being transported for mental health evaluation should not be reported to the NTD.

FTA Response: FTA clarifies that under this proposal, a major event report is only necessary for an attempted suicide that results in a physical injury. 49 CFR 630.4(a). FTA further clarifies that third-party

verification of the event may be in the form of eyewitness statements; a police report is not required.

In response to the request to include “apparent” or “perceived” before “intention” and “intent,” FTA amends the definition of *attempted suicide* as follows: Self-inflicted physical harm where death does not occur, but the intention of the person was to cause a fatal outcome. Per regulation, the person’s attempt and intent, whether perceived or stated, must be accounted for by a third party in the form of police reports, security personnel reports, or other eyewitness statements. The NTD report should identify the actions of the person in carrying out the apparent suicide attempt.

If a person is transported away from the scene for mental health evaluation following an event meeting this definition of *attempted suicide*, then per regulation a major event report in the NTD is required, even if the physical injuries alone were not sufficient to require medical transportation away from the scene. On the other hand, if a person is transported away from the scene for mental health evaluation without any self-inflicted physical harm occurring, then per regulation the event only needs to be reported on the Non-Major Monthly Summary Report. FTA will implement this change effective immediately.

b. Modify Data Collection on Vehicles Involved in Reportable Safety Events

FTA received two comments related to modifying data collection on vehicles involved in reportable safety events. One agency supported this proposal but suggested that individual vehicles should not be identified. A second agency noted that it would be unable to link vehicles that have not yet been included in the asset inventory.

FTA Response: FTA clarifies that this change would not necessarily identify individual vehicles. Rather, this change would indicate the reported vehicle fleet that contains the vehicle involved in a major safety event. The individual vehicle would be identifiable only if the reported vehicle fleet in the vehicle inventory only contains a single active vehicle. In instances where a vehicle is involved in a major safety event, but the fleet has not yet been added to the asset inventory, agencies would indicate that the fleet does not yet exist in the inventory, and they would be prompted to enter the basic vehicle information currently captured in the major events safety form. FTA will implement this change effective immediately.

c. Add Information on Drug and Alcohol Post-Accident Testing

FTA received four comments related to the proposal to include information on drug and alcohol post-accident testing. Only three of these comments are directly salient to this proposal and are included in this response. One professional association stated that this proposal is duplicative and burdensome. One agency supported this proposal so long as no personal information is included. One agency stated that the burden to report this data would be negligible.

FTA Response: FTA recognizes that this reporting is duplicative with existing drug and alcohol post-accident testing reporting requirements and will not implement this change.

H. Clarification on Reporting Service Information on a Temporary Bus Bridge

FTA received two comments related to reporting on temporary bus bridge service. One commenter restated the requirement and noted how it may apply to its agency. The second commenter stated that this proposal is too burdensome and that it does not support this change.

FTA Response: FTA restates that the proposed clarification of reporting a temporary bus bridge is not a change to current policy. Rather, it is a clarification of existing policy. The policy is intended to reduce the burden of reporting temporary bus bridge service by allowing agencies the option to report this information as a capital cost rather than creating a new mode or type of service for temporary bus bridge service. FTA will implement this clarification effective immediately.

I. Clarification of Incidental Use for Transit Asset Reporting

FTA received four comments on the clarification of incidental use for reporting administrative and maintenance facilities to the NTD. All four commenters agreed that FTA should define *incidental* as meaning less than 50 percent of the space. One commenter requested that this definition should also be applied to passenger facilities.

FTA Response: FTA disagrees with the suggestion that the 50 percent definition should be applied to passenger facilities. FTA confirms that all passenger facilities used in public transportation are reportable to the NTD asset inventory. Agencies must only conduct a condition assessment of passenger facilities for which they have direct capital replacement

responsibility. See 49 CFR 625.25(b); 49 U.S.C. 5335(c). Accordingly, the definition of *incidental use* does not apply to the reporting of passenger facilities. FTA will implement this clarification effective immediately.

J. Allow Separate Mode Reporting for Geographically and Resource Separated Modes

FTA did not receive any comments on the proposal to begin collecting separate mode reporting for geographically and resource-separated modes. After further analysis, FTA has decided to postpone implementation of this change until the 2021 Report Year, to allow for the necessary time to update the online reporting system to accommodate this change.

K. Clarification on Commuter Service Survey Standards

FTA received three comments related to the proposed clarification of commuter service survey standards. Only two of the comments were relevant to the proposal. One agency requested additional clarification on how many times a survey must be conducted over a 12-month period to satisfy the requirement of accounting for seasonal variations. An industry association stated that it would not support a policy defining services of more than 90 minutes of one-way travel time as *intercity services*. The same association also sought clarification on whether this policy applies to new entrants or existing services.

FTA Response: FTA clarifies that there is no policy stating that services of more than 90 minutes will be irrefutably considered *intercity service*. Under existing policy, FTA will generally presume that services with a one-way trip time of less than 90 minutes are *commuter services*. Although FTA will generally presume that a service with a one-way travel time of less than 90 minutes is *commuter service*, FTA may still request that this presumption be confirmed by passenger survey data. FTA will generally not presume that service with a one-way travel time of more than 90 minutes is *commuter service*. In these cases, FTA will consider such a service to be *intercity service* until survey data establishes that more than 50% of the riders make a same day return trip. These standards apply to any new services entering the NTD, as well as to any existing services that FTA chooses to examine in accordance with the NTD Policy Manual.

In response to the request for additional clarification on how many times a survey should be conducted to

account for seasonal variations, FTA clarifies that the survey methodology must be approved by a qualified statistician. 49 CFR 630.4(a). To ensure that a survey methodology is compliant with the requirement for 95% confidence, FTA further clarifies that per regulation, the survey methodology and evidence of an approval by a qualified statistician must be reviewed and approved by FTA prior to conducting the survey. A statistically valid survey will give every passenger on the service for the year an equal chance of selection or will use sample stratification to give every passenger a representative chance of selection. FTA will implement this change effective immediately.

L. Clarification on Reporting Linear Miles and Track Miles to the Asset Inventory

FTA received three comments related to the proposed definitions of linear miles and track miles. One agency supported the clarification as written. One agency suggested that FTA should require the collection of both linear miles and track miles to allow for comparisons across systems. A third agency expressed continued confusion over the distinction between linear miles and track miles.

FTA Response: In response to comments, and to simplify reporting in the future, FTA will remove linear miles from the reporting system. All reporters should report their guideway using the definition of track miles provided in this notice: The cumulative length in miles of all track—including multiple track railways over the same area. This should represent the total length of all laid track. FTA will implement this change in Report Year 2020.

M. Clarification of Rural Financial Data Reporting Requirement

FTA received one comment requesting that the clarification of the rural financial data reporting requirement should be applied to all non-dedicated providers of demand response rides.

FTA Response: FTA clarifies that per 49 CFR 630.4(a), all modes and types of service must be reported to the NTD consistent with the Uniform System of Accounts (USOA), which requires agencies to report the total cost of delivering each mode of transit service, including both direct and shared costs of providing service. FTA will

implement this clarification effective immediately.

K. Jane Williams,

Acting Administrator.

[FR Doc. 2020–15906 Filed 7–22–20; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2020–0090]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel HOOKED UP (Motor Vessel); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirements of the coastwise trade laws to allow the carriage of no more than twelve passengers for hire on vessels, which are three years old or more. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 24, 2020.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2020–0090 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Search MARAD–2020–0090 and follow the instructions for submitting comments.

- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2020–0090, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at www.regulations.gov, including any personal information

provided. For detailed instructions on submitting comments, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email Bianca.carr@dot.gov.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel HOOKED UP is:

- Intended Commercial Use of Vessel: “Sport Fishing Charters in the State of Alaska with 6 or fewer people.”
- Geographic Region Including Base of Operations: “Alaska (excluding Southeast Alaska)” (Base of Operations: Valdez, AK)
- Vessel Length and Type: 30’ motor vessel

The complete application is available for review identified in the DOT docket as MARAD–2020–0090 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD’s regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the vessel name, state the commenter’s interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD’s regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at <http://www.regulations.gov>, keyword search MARAD–2020–0090 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that