



December 6, 2010

U.S. Department of Transportation
Docket Operations
1200 New Jersey Avenue, SE
West Building, Ground Floor
Room W12-140,
Washington, DC 20590

RE: Docket Number FTA-2010-0027

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the, Federal Transit Administration's (FTA) Notice of Proposed Amendments to the 2011 National Transit Database Urbanized Area Annual Reporting Manual and to the Safety and Security Reporting Manual, published October 5, 2010, at 75 FR 61553.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

General Comments

Since its inception the National Transit Database (NTD) has been regularly amended. Given the piece-meal nature of many of these changes, APTA suggests that, with regard to "II. Proposed Changes in the 2011 Annual Manual," the NTD Annual Reporting Manual be left as it is for one year in order for the FTA to undertake a substantive review of the NTD with the cooperation of the transit industry, interested government agencies, and other data users. There is a growing sense in the transit industry of a need to launch a comprehensive and stake-holder-wide effort to reassess and improve the NTD for data providers and data users.

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APTA is concerned that the proposed amendments to the NTD, which have significant and substantial impacts for data collection, data analysis, and federal funding apportionments, were proposed without sufficient interaction between the FTA, the transit industry, and other data users. These are complex proposals that can be expected to have complex, and possibly unforeseen, impacts. APTA and its members have had a central role in the development of transit data collection systems, first in cooperation with the former Interstate Commerce Commission (ICC) and later with the FTA. Continued involvement of the transit industry in oversight of the reporting system would help to maintain the quality and focus of the NTD. Moreover, with the Census Bureau actively considering changes to its own procedures, waiting to initiate changes will help to avoid inadvertently skewing of the products.

Historical Perspective

APTA predecessor organizations were instrumental in the development of early standardized accounting systems. For example, in his introduction to the 1914 Issue of the *Uniform System of Accounts for Electric Railways*, Fred Sweny, Chief Examiner of Accounts of the ICC states that

"In the preparation of the revision of the accounting rules contained in this system of accounts for electric railways the Commission has had the cooperation of the Committee on a Standard Classification of Accounts of the American Electric Railway Accountants' Association."¹

The American Electric Railway Accountants' Association (AERAA) was a unit of the American Electric Railway Association (AERA), a direct predecessor of APTA. Electric railways are what are now called light rail and heavy rail transit systems. APTA predecessors developed the standard motor bus accounting system and assisted in early Bureau of the Census publications of street railway data. APTA predecessors were also the primary compilers and publishers of transit data. While the NTD was begun in 1979, APTA has been publishing an annual report of transit operating data since 1925.

The NTD, when first developed, fulfilled the requirements of Section 15 of the Urban Mass Transit Act of 1964, now at 49 USC 5335. NTD reporting is based on the Uniform System of Accounts (USOA) proposed in the *Project FARE-Task V, Urban Mass Transportation Industry, Uniform System of Accounts and Records and Reporting System* prepared by Arthur Anderson & Co. in cooperation with the Project FARE Industry Control Board (ICB) and private consultants under FTA, then the Urban Mass Transit Administration (UMTA), sponsorship.

The ICB was composed of transit agency, local government, and state government representatives. Arthur Anderson asserted the key involvement of the industry, stating that existing APTA *Transit Operating Report* and other financial reports had limitations, which the industry recognized could best be improved with a federal accounting system.

"For many years, the American Public Transit Association (APTA) has been collecting financial and operating statistics from its membership. This reporting system has been the main source of comparative information for transit system operators, the research

¹ Interstate Commerce Commission. *Classification of Accounts for the Use of Electric Railways Prescribed by the Interstate Commerce Commission and Adopted as a Standard by the American Electric Railway Accountants' Association*. New York: American Electric Railway Association, 1914. Page 7.

community and governmental planning and programming agencies and has been the basis for national estimates of operating deficits, transit passengers and other general measures of the status of the industry.

"This system has limitations which have been recognized by the Association and industry users for many years. In fact, the main impetus for the development of a new system has come from the industry, not the federal government."²

Arthur Anderson further described a goal of restraint in the Project FARE system development and the strong role of the transit industry in that development.

"Although there is a clear need for vast amounts of public transportation information, there is also a need to minimize the burden on the information suppliers. Fortunately, in this case the suppliers are likely to be major users of the output of the system so that high levels of cooperation can be expected.

"In recognition of the need to minimize the reporting burden as well as to improve the data base, industry participation in the design of the systems has been at a very high level. In both the original and current FARE projects, an Industry Control Board (ICB) consisting of industry operating managers, financial administrators, and representatives of metropolitan and State planning agencies carefully reviewed the system design and actively participated in its development. In addition, operators not represented by the ICB have been briefed on the system and their views have been incorporated wherever feasible."³

In the interest of completeness, we are making comments on each of the individual proposed amendments. APTA provides these comments based on its long history of data collection and analysis, and over a century of assistance to federal agencies in the development and collection of transit statistics. These principles reflect the industry's longstanding position that the National Transit Database (NTD) should present an accurate description of the industry and those NTD data items used to apportion federal formula funds should be collected and used in a manner consistent with the intent of legislation establishing those funding programs.

Eligibility of Vanpools for the NTD (Section II.1)

APTA supports the inclusion of all vanpool services providing true public transportation service in NTD reports. Privately operated vanpool service is analogous to privately operated bus services that currently report data for the NTD on a voluntary basis, these vanpools contribute to the commuting options and congestion mitigation in a region. It is consistent with current FTA policy related to privately operated bus services that these vanpools be reported in an NTD submission. The meaning of the provision that "any vans that are restricted *a priori* to particular employers" are excluded from reporting is unclear. APTA believes that all services operated for public transportation agencies should

² Simon, M. et al. *Project FARE-Task V, Urban Mass Transportation Industry, Uniform System of Accounts and Records and Reporting System*. Washington: Arthur Anderson & Co. for the Urban Mass Transit Administration, July 1, 1976. Volume I, Page 1-6.

³ Ibid. Page 1-9.

be considered for inclusion in NTD reports. Individual vans may be restricted in service but part of a larger service for the entire community.

Notwithstanding this position, the inclusion of additional vanpool service may have an impact on apportionment of funds under 49 USC 5307. Requiring all vanpool services to recertify for the 2011 Report Year (RY) may be impractical in that data collection for many RY 2011 reports may have been started. Additional analysis and clarification of this section are needed before it is put into effect.

New Modes (Section II.2)

The introduction of four additional modes for NTD reports further complicates the reporting process without improving the analytical quality of NTD data. The proposed new modes are Bus Rapid Transit (RB), Commuter Bus (CB), Streetcar Rail (SR), and Hybrid Rail (YR).

These modes would be self-determined by the reporting agency with no clear definitional guidelines. Many services have characteristics of these and current modes. According to the proposal the "FTA expects that many systems reporting these new modes will make a transition of 100% of their service from the existing Motorbus (MB) or Light Rail (LR) modes to the new mode." This is highly unlikely since many agencies operate service that spans two or three modes. Differentiating these services will be very difficult. Even when compiled, the new data may be of little value in differentiating costs of service given the dearth of definitional guidance.

It is reasonable to expect that many agencies will need to report Motor Bus, Bus Rapid Transit (hereafter termed BRT), and Commuter Bus data. Disaggregating data when vehicles may operate over two types of service will be particularly difficult. Isolating operating costs associated with depot operations, road control, and other supporting activities will be particularly problematic. These decisions will alter the values for these services and make comparisons among the bus modes questionable.

This proposal may further marginalize transit in comparisons with other modes of surface transportation. The practice in overall travel and commutation reports is often to compare non-transit modes to each individual transit mode, rather than to transit as a whole. If current transit modes are further subdivided, the comparisons will become even more biased.

Based on current rules it appears that an agency with bus, commuter bus, and bus rapid transit will need to triple the size of its passenger mile sample. This sampling increase will result in a significant cost increase for transit agencies while they are facing already severe budget situations.

Definition Clarifications (Section II.3)

The reclassification of Aerial Tramway as a Rail Mode is more representative of aerial tramway service and operation characteristics than is its current classification as a Non-Rail Mode. Combining Monorail (MO) and Automated Guideway (AG) into a single mode Monorail/Automated Guideway (MG) will not impact data use and will eliminate an arbitrary differentiation of those modes.

Reporting Requirements for Small Systems (Section II.4)

The proposed changes in reporting requirements for small systems alter two current requirements.

First, waivers are currently granted on request to systems that operate a total of 9 or fewer vehicles in maximum service and do not operate fixed-guideway service. The cut-off for granting a waiver will be increased to 30 or fewer vehicles in maximum service with no fixed-guideway operation.

Second, systems that currently receive waivers report virtually no data. The proposal will require waived systems, both those currently waived and newly waived agencies, to begin reporting data at the level of detail now required from rural transit agency reporters.

APTA supports the effort the FTA is making to ease the reporting burden for small agencies that operate 30 or fewer vehicles in maximum service by giving them the option of seeking a reporting waiver. These agencies often have limited administrative staff and the expense of full reporting is potentially a burden to their limited budgets and resources. There are, however, potential negative impacts from the proposal as it is currently written.

State Departments of Transportation (DOT) use NTD data for allocations and for other purposes. The FTA should consult with State DOTs to determine the impact this proposal will have on their processes and the resulting impact on small transit agencies.

Expanding the amount of data reported by currently waived systems, those operating 9 or fewer vehicles in maximum service could place a significant burden upon them. Many of them are extremely small with very small staffs and many are currently facing service cutbacks due to shrinking budgets. Placing additional reporting burdens on these small agencies will likely result in the need to further reduce service as these agencies reallocate scarce staff resources to gather, track and report additional information. Rural systems (systems which receive funding from the Other than Urbanized Area Formula Program) currently report to their state Department of Transportation and receive filing assistance from that agency. Waivered agencies in Urbanized Areas, however, would report on their own without the assistance of the State DOT. The rural reporting form for General Public Transit Service (RU-20) has a minimum of 68 data elements to be filled in. If an agency owns more than one fleet, vehicles built to the same design in the same year, then 8 data elements must be filled in for each additional fleet.

The NTD should also conduct and publish a pre-implementation analysis of the impact of the expanded waivers on national derivative data. The operational characteristics of small systems may vary significantly from larger systems. The elimination of small agency data from national total calculations may alter those data and reflect changes in overall data performance that are artifacts of the change in the sample of systems reporting complete data to the NTD, not in the actual performance of the transit industry.

Agencies which would be eligible for a waiver in UZAs with populations less than 200,000 may face a dilemma. Those UZAs are currently eligible for Small Transit Intensive Cities formula funds (STIC). One-half of the STIC qualifying categories of data are based on passenger mile data

calculations. The waived agencies would not report passenger mile data and would thus be ineligible for these funds. If an agency that would otherwise seek a waiver wishes to compete for these funds, they would be required to give up their waiver and make a full NTD report. For those agencies which would have been eligible for a 30 or fewer waiver in 2008 and reported data to the 2008 NTD, 86 urbanized areas did not qualify for STIC funding and 36 received STIC funds. Of the 36 that received STIC funds, 17 received funds from formulas that used passenger mile data.

Among those systems with 30 or fewer vehicles in maximum service, excluding fixed-guideway mode systems, which reported data to the NTD in 2008, 85 were in UZAs with populations of 200,000 or more and of those 48 were in UZAs with populations of 1,000,000 or more. These agencies are eligible for their data to be used in calculating amounts for the Bus Basic Formula Tier at 49 USC 5336(c)(1)(A)(i) for UZAs with populations of 1,000,000 or more and at 49 USC 5336(c)(1)(B)(i) for UZAs with populations of 200,000 to 999,999 and for the Bus Incentive Tier at 49 USC 5336(c)(2) for UZAs with populations of 200,000 or more. The Bus Basic Tier for UZAs with populations of 1,000,000 or more is about 40 percent of the entire Urbanized Area Formula Program and 58 percent of UZA Formula Bus Tiers. The Bus Basic Tier for UZAs with populations from 200,000 to 999,999 is about 15 percent of the entire urbanized Area Formula Program and 21 percent of UZA Formula Bus Tiers. The Bus Incentive Tier is about 5½ percent of the entire Urbanized Area Formula Program and 8 percent of all UZA Formula Bus Tiers. With a requirement that waived agencies report rural level data, these agencies would continue to report data used for the Bus Basic Tier but would not report passenger mile data used for the Bus Incentive Tier.

Consideration should be given to allowing waived agencies the option to, but not be required to, supply passenger mile data in addition to optional reporting of rural level data without being required to submit a complete NTD report.

This proposal also appears to contradict a reason stated for the proposal in Section II.6 *Revision of Rules for Urbanized Area Allocations* of this Notice. Section II.6 includes reasons for requiring agencies to report data used for Urbanized Area Formula funding apportionments separately for each urbanized area and the rural area to which service is provided. The section reads "FTA proposes to change its policy for three reasons. First, FTA wishes to provide a more accurate representation of the distribution of transit service among various urbanized areas and rural areas to our data users." This purpose, from Section II.6, is contradicted by the proposal in Section II.4. Waived systems in UZAs currently report to their state DOT data for their service outside of the UZA for rural service. Under this proposal "Transit systems receiving such a waiver will report directly to the NTD Annual Module (Urbanized Area Reporting) through reporting forms that closely mirror the RU-20 Form used for the Rural NTD. As such, State DOT's will not be required to complete an RU-20 on behalf of subrecipients that are already reporting directly to the urbanized area modules of the NTD." Thus, Section II.6 is proposed because more differentiation between UZA and Rural service is sought but Section II.4 reduces the differentiation between the same areas.

Financial Balance Sheet Reporting (Section II.5)

Financial balance sheet reporting may be burdensome to many transit agencies. Assets may be property of other government agencies which require financial reports to conform to their individual accounting systems. Moreover, creating separate data recording and analysis systems to support balance sheet reporting will be labor intensive.

Requiring reporting of balance sheet data for RY 2011 is not appropriate given that many systems are already collecting RY 2011 data. This requirement should be reconsidered and input sought from transit agencies, Metropolitan Planning Organizations (MPO), and other stake holders on the value of these data and their costs of collection before this amendment becomes effective. APTA is not aware of any demand for these data and suggests the need for them be clarified so that the correct data are collected and published.

Revisions of Rules for Urbanized Area Allocations (Section II.6)

The amendments propose to change the way operating data is allocated on the FFA-10 reporting form for agencies that operate both in an urbanized area with a population of 200,000 or more (large UZA) and other areas, either urbanized areas with a population of less than 200,000 (small UZA) or outside of an urbanized area (rural area). Following current NTD guidance, the typical situation allows agencies providing service in a single large UZA and small UZAs and/or rural areas to report all operating data for the large UZA. More complex situations allow some or all of the operations outside of the large UZA to be reported for the large UZA dependent upon a number of characteristics of the service area. The Amendments propose to require that all data be reported where the service occurs, with separate allocations of data to the large UZA, the small UZA, or the rural area.

The proposed policy would severely impact the apportionment of Section 5309 Fixed-Guideway Modernization and Section 5307 Urbanized Area Formula funds. The proposed policy contradicts established apportionment policies and legislation. The proposal also is a disincentive for agencies in large UZAs to provide service to rural areas or small UZAs.

The proposed change would contradict the provisions of 49 USC 5336(c)(1)(A)(i), a tier of the bus funding apportionment formula for UZAs with populations of 1,000,000 or greater which states "50 percent of the 73.39 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas" and 49 USC 5336(c)(1)(B)(i), a tier of the bus funding apportionment formula for UZAs with populations from 200,000 to 999,999 which states "50 percent of the 26.61 percent apportioned under this subparagraph multiplied by a ratio equal to the total bus revenue vehicle-miles operated in or directly serving the urbanized area divided by the total bus revenue vehicle-miles attributable to all areas." In each case it is specifically stated that bus revenue vehicle miles "directly serving" the UZA are to be counted with the UZA.

The proposed change would also contradict a similar provision for data collected for the allocation of fixed-guideway apportionment data. 49 USC 5336(b)(2)(A)(i) states that the "60 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway revenue vehicle-miles attributable to the area, as established by the Secretary of Transportation, divided by the total number of all fixed guideway revenue vehicle-miles attributable to all areas" and 49 USC 5336(b)(2)(A)(ii) states that the "40 percent of the 95.61 percent apportioned under this subparagraph multiplied by a ratio equal to the number of fixed guideway route-miles attributable to the area, established by the Secretary, divided by the total number of all fixed guideway route-miles attributable to all areas." These sections provide for the Secretary of Transportation to establish a policy for attribution of revenue vehicle-miles and route miles. 49 USC 5336(b)(2)(C) presents an expectation of this policy where it states "Under subparagraph (A) of this paragraph, fixed

guideway revenue vehicle- or route-miles, and passengers served on those miles, in an urbanized area with a population of less than 200,000, where the miles and passengers served otherwise would be attributable to an urbanized area with a population of at least 1,000,000 in an adjacent State, are attributable to the governmental authority in the State in which the urbanized area with a population of less than 200,000 is located. The authority is deemed an urbanized area with a population of at least 200,000 if the authority makes a contract for the service." This paragraph is clearly written with the expectation that the normal attribution of fixed-guideway vehicle revenue-miles and route miles would be to the larger of the urbanized areas served by the fixed-guideway service.

The current NTD guidance for attribution of service operated between large UZAs and small UZAs and rural areas is the 2010 Annual Reporting Manual Federal Funding Allocations Statistics Module. The manual includes several question and answer scenarios which spell out that data should be reported to the large UZA when an agency operates between a large UZA, a small UZA, or a rural area. Two examples, taken from Page 270, are:

"Scenario 2: One end of the vehicle trip is in UZA B with fewer than 200,000 populations and the other trip end is in UZA A with 200,000 or more population.

Solution 2: All statistics for the formula allocations can be reported for the larger UZA A with 200,000 or more population because one trip end is located in UZA A."

"Scenario 3: One end of the vehicle trip is in a non-UZA and the other trip end is in UZA A with 200,000 or more population.

Solution 3: All statistics for the formula allocations can be reported in UZA A with 200,000 or more population because one trip end is located in UZA A."

The earliest NTD annual reporting manual available on the NTD web site is for 2006. That manual has similar directions which state the idea that is in Scenario 2 above as "If one end of the vehicle trip is in a UZA less than 200,000 population and the other trip end is in a UZA greater than or equal to 200,000 population, then the larger area is served. All statistics for the formula allocations can be reported for the larger UZA." and states the idea in Scenario 3 above as "If one end of the vehicle trip is in a non-UZA and the other trip end is in a UZA greater than or equal to 200,000 population, then the larger area is served. All statistics for the formula allocations can be reported for the UZA.

This indicates that the allocation of rural area and small UZA area to a large UZA where service originates or terminates has been accepted practice for an extended period.

The proposal states that this action is being taken for reasons which include "the current policy does not properly allocate transit service data to small UZAs for use in calculating the apportionment of funds under the Small Transit Intensive Cities (STIC) Program." This view is incorrect. The STIC Program was created to direct additional funding to small UZAs which operated significantly more local service than the typical small UZA. If small UZAs with lesser amounts of local service receive STIC funds because they are allocated operating data from long-distance service which is operated and funded by a transit agency outside of the small UZA, it could significantly skew the allocation of STIC funds, contrary to the intent of the program.

UZA Formula funds for rail operations can only be apportioned to UZAs with populations of 200,000 or more as provided at 49 USC 5336(b)(2)(A) "95.61 percent of the total amount apportioned

under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to" and at 49 USC 5336(b)(2)(B) "4.39 percent of the total amount apportioned under this subsection shall be apportioned so that each urbanized area with a population of at least 200,000 is entitled to receive an amount equal to." Any service provided outside these areas to rural or small UZA stations would not be counted for rail apportionments. This could skew distribution of rail formula tier funds. Because service outside of large urbanized areas would no longer be considered in apportionments, this amendment may result in reduction of service outside of the UZA, thereby paradoxically reducing transit service for small UZAs and rural areas rather than improving it. The factors calculated for rail tier apportionments are also used in the apportionment of Fixed-Guideway Modernization funds.

It should be noted that 49 USC 5335 defines which agencies are required to report NTD data. It does not explicitly restrict those reports to specific geographic portions of those agencies' service areas.

Special Procedures for New Urbanized Area Definitions From the 2010 Census (Section II.7)

The proposal to require NTD reporters to resubmit forms B-10 and FFA-10 for the FY 2013 apportionment could significantly delay the apportionment if it occurs shortly after the new UZA delimitations are published. Recasting forms B-10 and FFA-10 data, especially given the proposed changes of reporting procedures in Section II.6, may not be possible. Data would have already been collected on existing urbanized area boundaries and could not be reconstructed for new boundaries. The FTA should seek legislative language to continue to use the currently available NTD data until the next year's NTD data are submitted.

Announcement of Suspension of Personal Security Reporting (Section III)

APTA supports this change. This requirement posed challenges for transit providers who rely on third parties, such as local police departments, to provide data needed for the monthly Safety and Security Form. These third parties frequently do not report in the level of detail required by the NTD, so it is problematic to make the transit agency responsible for their compliance.

Conclusion

While we have provided specific individual recommendations for each of the proposed amendments, we remain committed to the wholesale review of the NTD to ensure that needs of the transit industry, federal, state, and local governments, and data users are fully met. We stand ready to make a collaborative effort with the FTA to make the NTD the best possible reporting system to meet the needs of both data suppliers and data users.

We appreciate the opportunity to assist the Department in this important endeavor. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarusch@apta.com.

Sincerely yours,

A handwritten signature in cursive script that reads "William Millar".

William Millar
President

WM/rk