

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Expanding the Economic and Innovation) GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)
Auctions)

To: The Wireless Telecommunications Bureau and Office of Engineering and Technology

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.

The Rural Telecommunications Group (“RTG”)¹ hereby files these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) *Notice of Proposed Rulemaking* regarding the first-ever broadcast spectrum incentive auction (“Incentive Auction”).² These comments focus on processes proposed for the forward auction phase of the Incentive Auction and the subsequent licensing of the new 600 MHz band.

I. Licensing the 600 MHz Band on the Basis of CMAs Would Promote Deployment of Advanced Services to Rural Areas While Protecting Incumbent Operations.

RTG supports the Commission’s proposal to adopt a geographic licensing approach for the 600 MHz band. RTG agrees that geographic licensing is essential for the deployment of fixed and mobile services and is consistent with the licensing of other bands that support mobile broadband services in rural areas. However, by proposing to license the 600 MHz band on an

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education. RTG’s members have joined together to speed delivery of new, efficient, and innovative communications technologies to the populations of remote and underserved sections of the country. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RTG’s members serves less than 100,000 subscribers.

² See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, FCC 12-118 (rel. October, 2, 2012) (“Incentive Auction NPRM”). See also *Expanding the Economic and Notice of Proposed Rulemaking Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Order, FCC 12-1916 (rel. November 29, 2012).

Economic Area (“EA”) basis, the Commission is giving undue emphasis to the creation of a “manageable” number of licenses. Any benefits of administrative ease that may result from the adoption of larger license areas would be greatly outweighed by the harm to competition that would result from the use of such license areas.

a. Licensing on a CMA Basis Would Create Economic Opportunities for Small and Rural Carriers as Required by Section 309(j) of the Act and Would Create Greater Flexibility for Auction Participants.

RTG opposes the licensing of the 600 MHz band on the basis of EAs because this licensing approach would inherently shut out rural companies in violation of Section 309(j) of the Communications Act of 1934, as amended (“Communications Act” or “Act”). EAs often include densely populated urban areas and typically cover larger geographical areas than the rural areas that rural carriers serve. Instead of larger EAs, RTG supports licensing of the 600 MHz band on the basis of Metropolitan Statistical Areas (“MSAs”) and Rural Service Areas (“RSAs”) (collectively Cellular Market Areas (“CMAs”)). RTG supports licensing on a CMA basis because smaller license areas would create economic opportunities for small and rural carriers to deploy competitive wireless broadband service in rural areas consistent with the objectives of the Middle Class Tax Relief and Job Creation Act of 2012 (“Spectrum Act”)³ and the National Broadband Plan⁴ and Section 309(j) of the Act.

Section 309(j) of the Communications Act provides that in designing systems of competitive bidding, the Commission must ensure the “development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in residential areas” and promote economic opportunity and competition “by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants,

³ See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §§ 6402, 6403, 125 Stat. 156 (2012).

⁴ See generally Federal Communications Commission, Connecting America: The National Broadband Plan (2010) (“National Broadband Plan”).

including small businesses [and] rural telephone companies.”⁵ Section 309(j) further requires the Commission to adopt regulations that promote “economic opportunity for a wide variety of applicants, including small businesses [and] rural telephone companies...” and “ensure that small businesses [and] rural telephone companies... are given the opportunity to participate in the provision of spectrum-based services.”⁶ Licensing the 600 MHz band on a CMA basis (as opposed to an EA basis) is consistent with these statutory mandates because it would facilitate the licensing of 600 MHz spectrum to small and rural carriers.

Licensing the 600 MHz band on the basis of smaller license areas would also result in greater auction and market efficiency because it would allow bidders to tailor their auction strategy and spectrum acquisitions to meet a wider variety of business plans. Licensing based on smaller license areas will also yield greater revenues to the federal treasury. For example, B Block CMA licenses in Auction 73 (700 MHz spectrum) commanded a higher price on a net price per population basis than the EA and Regional Economic Areas Groups (REAG) based licenses in the same auction.

b. CMA Based Licenses Would Attract More Small And Rural Bidders Than EA Based Licenses.

Broadcast stations are assigned to Designated Market Area (DMAs) based on the location of their community of license rather than transmission facilities. EAs are more likely than CMAs to cover only partial DMAs in certain states. CMAs, particularly in rural areas and larger states, are smaller and better conform to the boundaries of the DMAs from which 600 MHz licenses would originate, making them more attractive to small rural carriers who are more likely to serve substantially the same geographic areas. Because the license contours would be smaller

⁵ 47 U.S.C. § 309(j)(3)(A) & (B).

⁶ 47 U.S.C. § 309(j)(4)(C) & (D).

and more consistent with preexisting license areas of small rural carriers, the license inventory in rural areas would be more attractive to small and rural carriers.

By way of example, in New Mexico the Albuquerque-Santa Fe DMA fully covers four CMAs (MSA 86 – Albuquerque; RSA 553 New Mexico 1 – San Juan; RSA 555 New Mexico 3 – Catron; and RSA 557 New Mexico 5 Grant) whereas the same DMA fully covers only one EA (EA 139 – Santa Fe). In Oklahoma, the Oklahoma City DMA fully covers five CMAs (MSA 45 – Oklahoma City; MSA 302 – Enid; RSA 597 Oklahoma 2 – Harper; RSA 600 Oklahoma 5 – Roger Mills; and RSA 602 Oklahoma 7 – Beckham) but does not fully cover any EAs and covers only partial EAs. In Kansas, the Wichita-Hutchison Plus DMA fully covers eight CMAs (MSA 89 – Wichita; RSA 428 Kansas 1 – Cheyenne; RSA 433 Kansas 6 – Wallace; RSA 434 Kansas 7 – Trego; RSA 435 Kansas 8 – Ellsworth; RSA 439 Kansas 12 – Hodgeman; RSA 440 Kansas 13 – Edwards; and RSA 441 Kansas 14 – Reno) but does not fully cover any EAs and covers only partial EAs. Indeed, this pattern is evident throughout many other Midwestern and Western states, as illustrated in the maps provided as Exhibits A & B, which overlay DMAs with EAs and CMAs, respectively.⁷

Additionally, Licensing on a CMA basis would result in a greater number of small license areas in rural areas that likely would be affordable and unencumbered by television broadcast stations, which would be attractive to small and rural providers. Indeed, the Commission recognized the benefits of smaller license areas in the Incentive Auction NPRM when it noted that licensing on a CMA basis “could support much greater variation in the amount of reclaimed spectrum.”⁸

As for the Commission’s concern that more licenses could complicate potential bidders’ efforts to plan for and participate in the auction and subsequent roll-out of service, smaller areas

⁷ See Exhibits A & B.

⁸ Incentive Auction NPRM at ¶ 147.

and more licenses would actually facilitate bidders' planning and roll-out efforts. Large providers would benefit from a larger inventory of CMA licenses because it would allow them to acquire spectrum in densely populated urban areas without having to acquire licenses in rural areas. Conversely, a larger inventory of smaller (and likely more affordable) licenses would attract the small and rural providers that best know and can best serve these rural areas.

Previously, in the context of licensing AWS-1 spectrum, the Commission observed that "RSAs and MSAs allow entities to mix and match rural and urban areas according to their business plans and that, by being smaller, these types of geographic service areas provide entry opportunities for smaller carriers, new entrants, and rural telephone companies" consistent with the mandate set forth in Section 309(j) of the Act.⁹ Those Americans who live, work and travel in rural areas would greatly benefit from the adoption of smaller license areas that segregate rural and urban areas because such licensing will allow those carriers that focus on serving rural areas to acquire licenses that target those geographic areas and have the greatest likelihood of being unencumbered by broadcast licensees.

Lastly, the Commission's belief that EA licensees would adjust their geographic coverage through auction or through secondary markets is misplaced. The redistribution of spectrum throughout geographic areas should not be contingent on large carriers entering into secondary market arrangements with small entities or giving up unused spectrum. The secondary market is not a panacea for getting coverage to rural areas.¹⁰ Rather than delaying the economic benefit to small entities, through secondary market arrangements or potential later auctions, the Commission should license this spectrum directly to the small and rural carriers that can generate

⁹ See *Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands*, Order on Reconsideration, WT Docket No. 02-353, FCC 05-149 ¶ 14 (rel. August 15, 2005).

¹⁰ See generally National Broadband Plan.

more efficient deployments in areas where advanced wireless broadband services are most needed now.

c. CMA Based Licensing Would Better Protect Existing Broadcast Operations.

Broadcast licenses that are not voluntarily surrendered for the Incentive Auction will continue to be afforded protection from interference. Though wireless service areas generally are based on specific geographic locations, broadcast service areas generally radiate from a center point, resulting in an imperfect somewhat circular shape.¹¹ The adoption of smaller license areas would result in a greater number of licenses and maximize the number of licenses that do not interfere with the adjacent broadcast operations that remain. For this reason, it makes greater sense to license the 600 MHz spectrum on a smaller geographic basis to ensure that new licensees are able to better focus on providing service around these protected areas. The Commission acknowledged this benefit in the Incentive Auction NPRM when it noted that “it is more likely that [the Commission] can license more wireless spectrum that is not encumbered by potential interference with nearby remaining broadcast television spectrum.”¹² Accordingly, RTG urges the Commission to adopt CMA based licensing.

d. 600 MHz Licenses in Alaska Should Be Licensed on a CMA or Smaller Basis Regardless of the License Areas Adopted for the Continental U.S.

The FCC specifically seeks comment on whether and how to modify its proposals with respect to licensing areas outside of the continental United States, including Alaska.¹³ On behalf of RTG’s Alaska-based members, RTG proposes that the Commission permit licensing of the 600 MHz band on the basis of the Alaska Boroughs, which divide the state based on population

¹¹ OET Bulletin No. 69, Longley-Rice Methodology for Evaluating TV Coverage and Interference (Feb. 6, 2004) *available at* http://transition.fcc.gov/Bureaus/Engineering_Technology/Documents/bulletins/oet69/oet69.pdf (last visited January 24, 2013).

¹² *See Id.*

¹³ Incentive Auction NPRM at ¶ 150.

density and are smaller than CMAs. These smaller license areas would best promote competition in Alaska by allowing more carriers to acquire more spectrum which would, in turn, allow greater penetration throughout the state.

In no event, however, should the Commission adopt any license area larger than CMAs in Alaska, regardless of the type of licensing adopted for the 600 MHz band in the continental United States. Though still extremely large, the four CMAs in Alaska (MSA 187 – Anchorage; RSA 315 Alaska 1 – Wade Hampton; RSA 316 Alaska 2 – Bethel; and RSA 317 Alaska 3 – Haines) better correspond to the three DMAs there (Anchorage, Juneau and Fairbanks) than EAs. EA based licensing would be impracticable because the entire state of Alaska comprises the lone Alaska EA (EA 171 - Anchorage).¹⁴ If the Commission were to adopt EA based licensing, Alaska carriers would be limited to substantially fewer licenses, thereby stifling competition in the state. If Borough or even CMA based licensing were adopted, then Alaska carriers would be better positioned to acquire a variety of licenses covering the various Boroughs or CMAs that correspond to their service areas. Maps illustrating Alaska’s Boroughs, DMAs, CMAs and its lone EA are attached as Exhibit C.¹⁵

II. To Advance the Goals of Section 309(j) of the Act, the Commission Should Award Additional Bidding Credits To Carriers Meeting Certain Public Interest Objectives.

Citing similarities with the licensing of the 700 MHz band, the Commission proposes to adopt for the 600 MHz band the same small business size standards and bidding credits the Commission adopted for prior 700 MHz and AWS auctions. Accordingly, the Commission proposes to provide (1) small businesses (entities with average annual gross revenues for the preceding three years not exceeding \$40 million) with a bidding credit of 15 percent and (2) very

¹⁴ Exhibit C includes an illustration showing the enormity of the state of Alaska. If positioned over the continental U.S., Alaska would stretch from the Atlantic Ocean across the continent to the Pacific Ocean.

¹⁵ See Exhibit C.

small businesses (entities with average annual gross revenues for the preceding three years not exceeding \$15 million) with a bidding credit of 25 percent.¹⁶ Though RTG generally supports the adoption of bidding credits as it has in prior spectrum auctions, RTG urges the Commission to promote participation by rural telephone companies in the Incentive Auction by adopting revised and additional bidding credits. Specifically, the Commission should award bidding credits to carriers that meet certain public interest objectives associated with delivering mobile broadband to unserved and underserved areas. In addition to the small and very small business credits proposed in the *Incentive Auction NPRM*, RTG supports additional rural service bidding credits to carriers that currently provide mobile wireless service to rural areas, have a history of offering telecommunications services to rural markets, or are now seeking to serve unserved areas. For example, bidding credits could be awarded as follows:

- *Enterprise Bidding Credit.* Enterprise bidding credits would be awarded to carriers with average gross revenues not exceeding \$75 million for the preceding three years. Such entities would receive a 10% bidding credit.
- *Rural Subscriber Coverage and Length of Service Bidding Credit.* Bidding credits would be awarded to carriers already providing service to rural areas. The size of the credit should increase with the proportion of rural coverage area and the length of time the carrier has served the area (e.g., 100% rural receives the largest credit, 75-99% rural receives the next largest credit, 51-74% rural receives the next largest credit, etc.). Additionally, the size of the credit would increase based on the number of years of service (e.g., 5% bidding credit for 1-5 years of service, 10% bidding credit for 6-10 years of service, etc.).
- *Unserved Areas Bidding Credit.* Bidding credits would be awarded to carriers who seek to serve unserved areas (e.g., areas where there is no 3G or better service).

Consistent with the mandate to disseminate licenses to small business and rural telephone companies, Incentive Auction participants should be permitted to use any and all of these public interest bidding credits that apply.

¹⁶ See 47 C.F.R. § 1.2110(f)(2).

III. Package Bidding Would Discourage Participation by Small and Rural Providers.

The Commission has asked for comment on bid collection procedures in the forward auction phase that include package bidding (i.e., bidders could be permitted to indicate a single, all-or-nothing bid amount that would apply to a group of licenses, such as more than one block in a geographic area or the same block in multiple geographic areas). The Commission believes package bidding could be helpful to all bidders that face a risk of winning certain licenses but losing complementary licenses they consider essential to their business plans. However, package bidding would be helpful only to nationwide carriers seeking broad swaths of spectrum and decidedly unhelpful to small carriers.

RTG opposes the adoption of package bidding in the forward auction phase of the Incentive Auction because it would fundamentally disadvantage small and mid-sized companies, especially if the Commission were to adopt larger license areas such as EAs. Small or mid-sized carriers may place more value on individual pieces of rural spectrum than national carriers, but this higher valuation by the smaller carrier can be completely undercut by a national carrier that is able to include that piece as part of a much larger package bid that includes urban areas. Package bidding is also inconsistent with Section 309(j) of the Act which prohibits unjust enrichment through competitive bidding, and can create significant market distortions in an auction setting. In Auction 73, for instance, Verizon Wireless enjoyed a substantial windfall when it was able to use package bidding in conjunction with very large license areas to acquire Upper 700 MHz C Block licenses for less than one-third of the cost of comparable B Block CMA licenses on average. Package bidding creates discrepancies that muddle the value of the individual licenses. In the context of the Incentive Auction in which the Commission seeks to incentivize broadcasters to participate, the spectrum must be put to its highest valued use.

IV. CONCLUSION

Under Section 309(j) of the Act, the Commission has a congressional mandate to craft auctions that disseminate licenses to small businesses and rural telephone companies. Rural carriers know what it means to provide service to rural areas, and are ready and willing to do so. The Incentive Auction is a golden opportunity to ensure that carriers who have shown a commitment and desire to serve rural America have the opportunity to do so. However, if the Commission licenses this 600 MHz spectrum on too large a basis and implements detrimental measures such as package bidding, these rural carriers will be deterred from participating in the Incentive Auction. The Commission should incentivize auction participation by rural carriers with the proven desire to serve customers who live, work and travel in these rural communities.

Respectfully submitted,

RURAL TELECOMMUNICATIONS GROUP, INC.

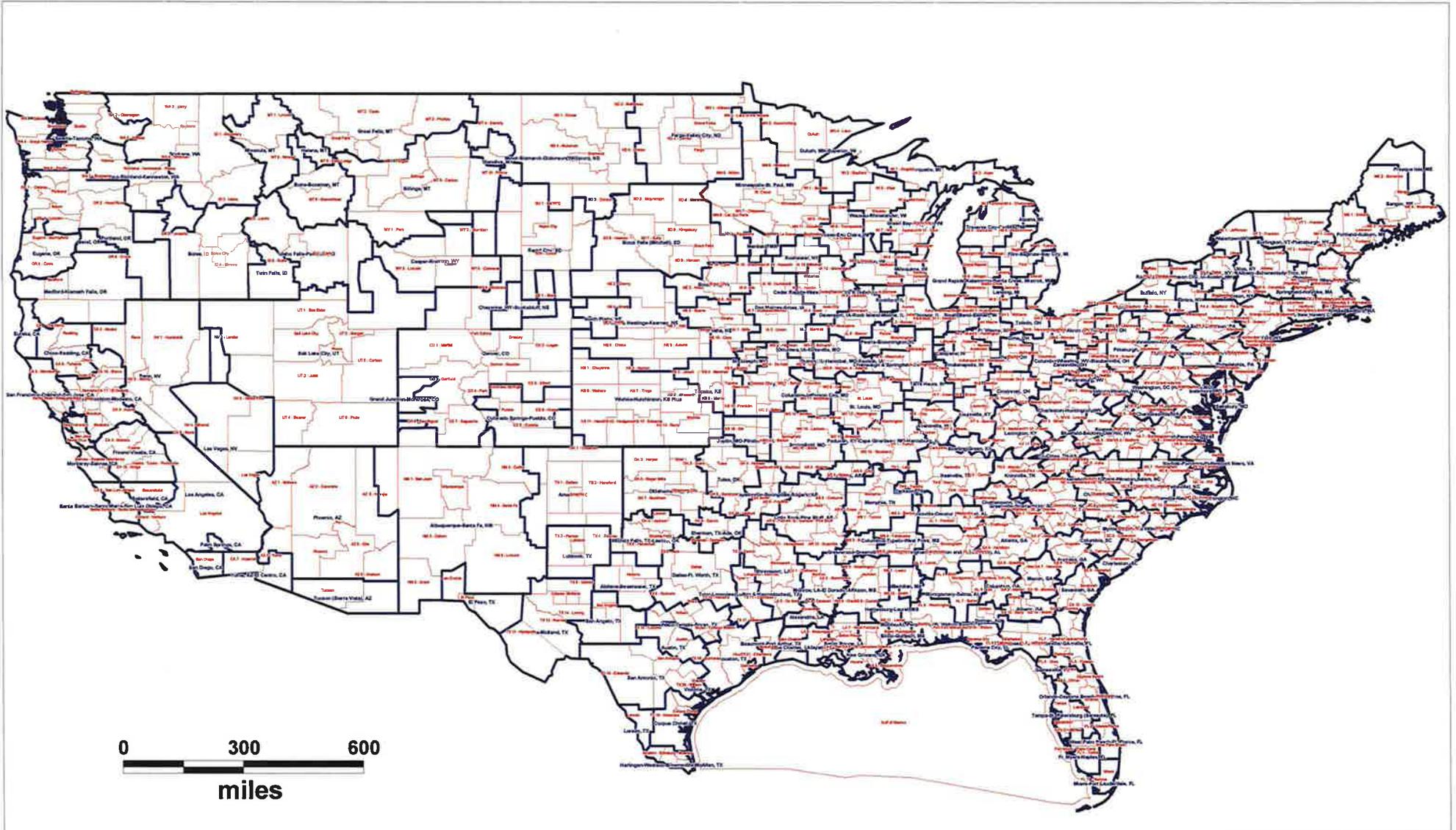
By: */s/ Caressa D. Bennet*

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DMA vs CMA Market Boundary

EXHIBIT A

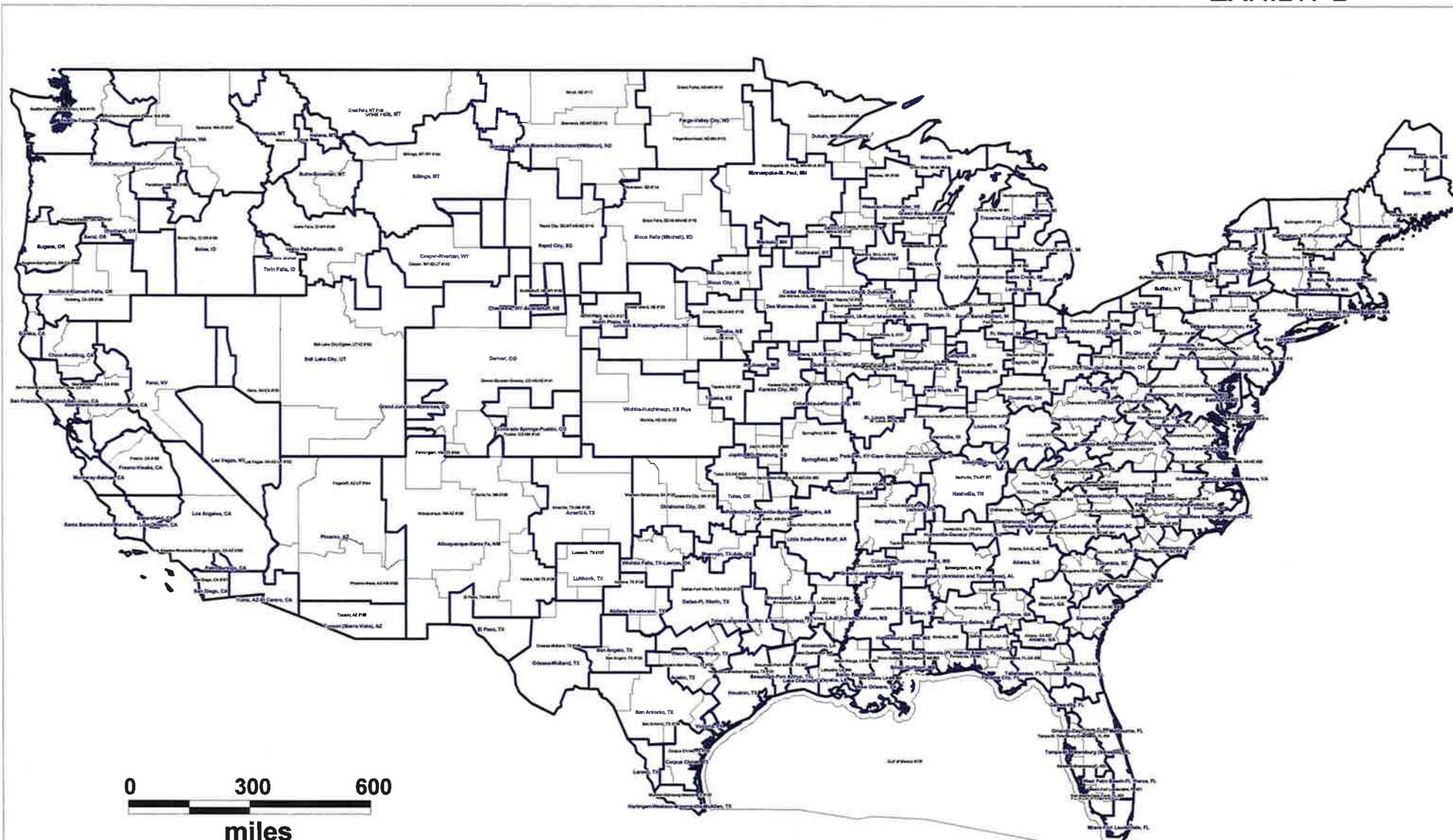


January 10, 2013

- DMA Market Boundary
- CMA Market Boundary

DMA vs BEA Market Boundary

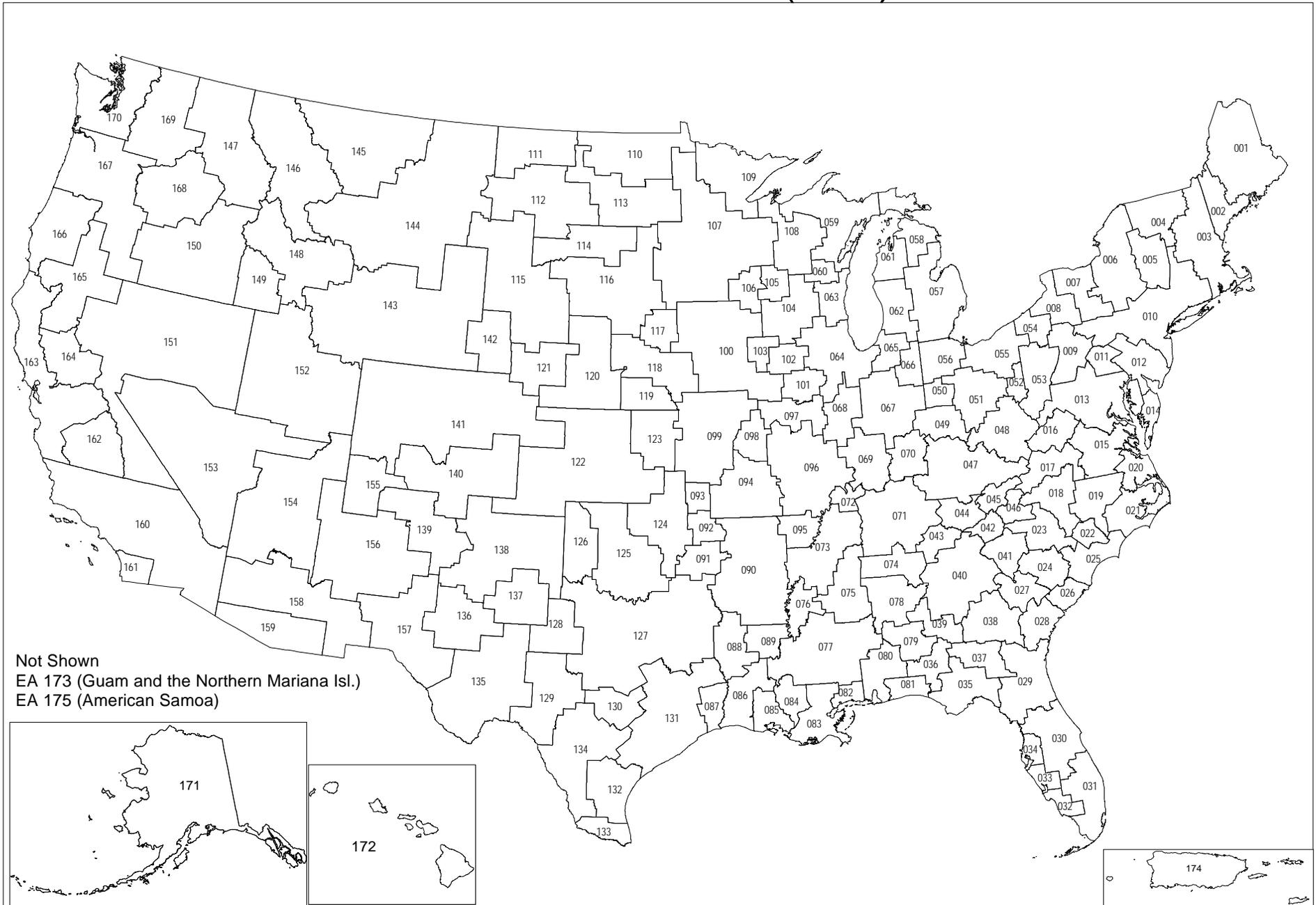
EXHIBIT B



January 10, 2013

— DMA Market Boundary
— BEA Market Boundary

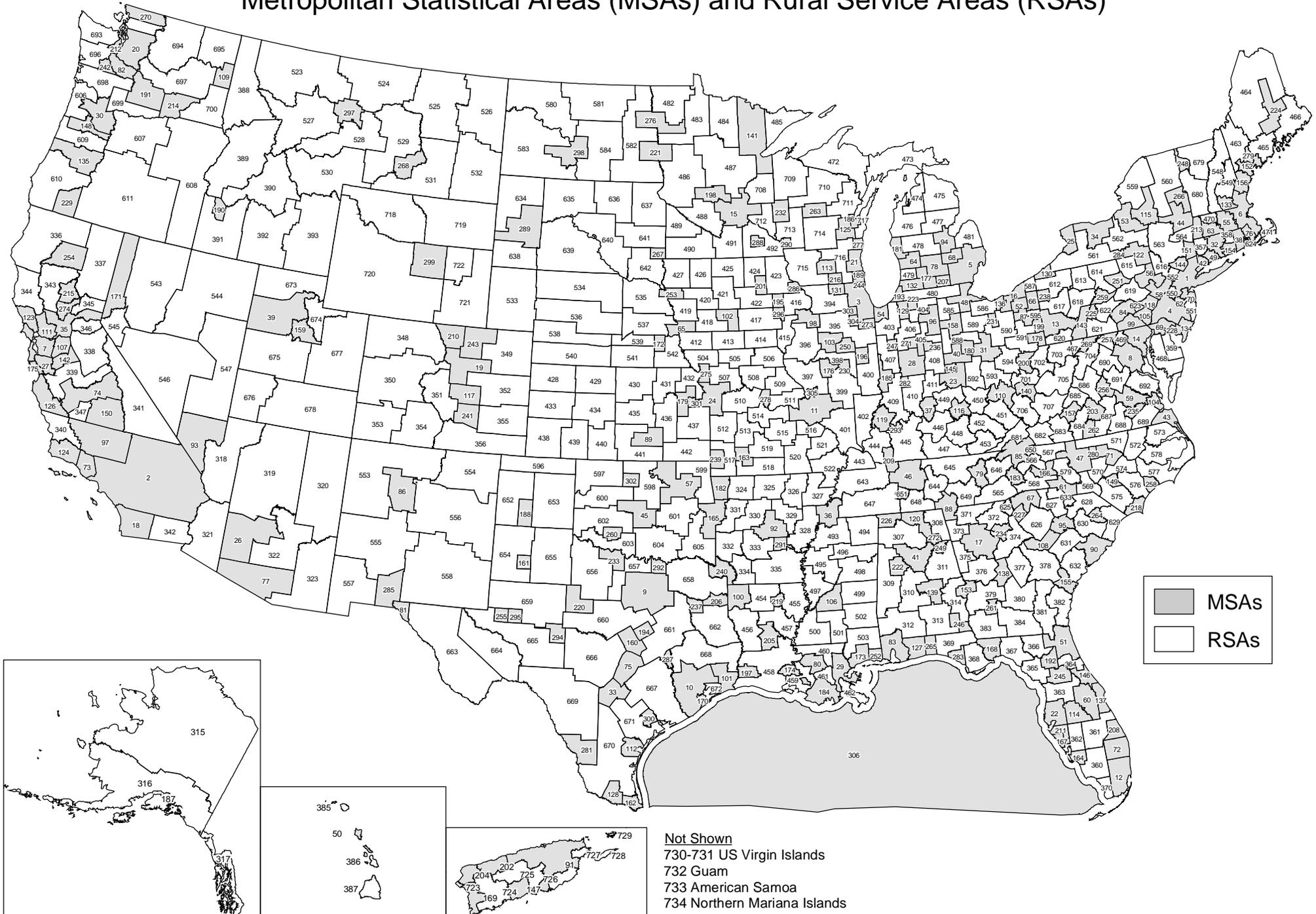
Economic Areas (EAs)

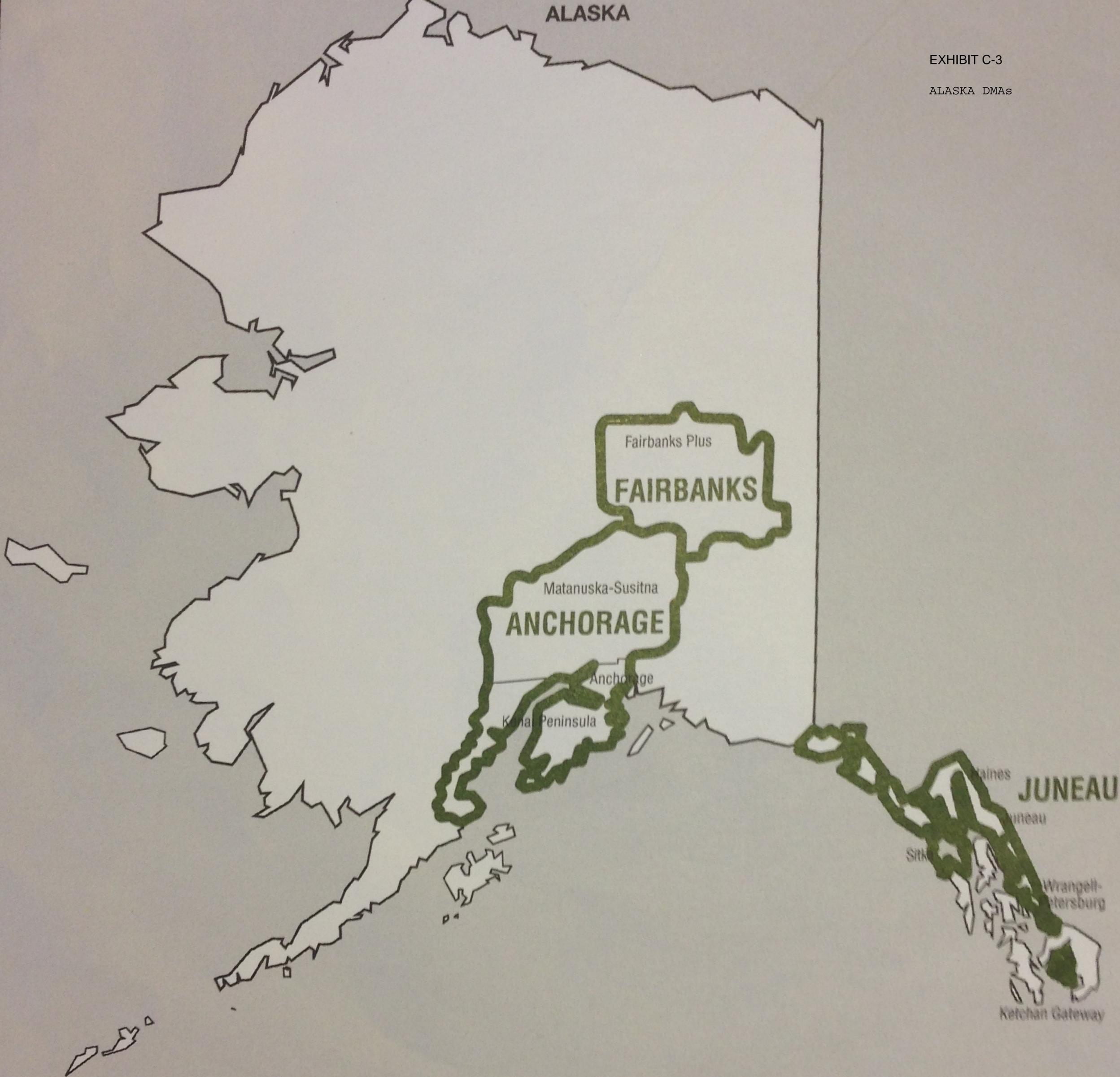


EAs delineated by the Regional Economic Analysis Division
Bureau of Economic Analysis, U.S. Department of Commerce
January 1995

Cellular Market Areas (CMAs)

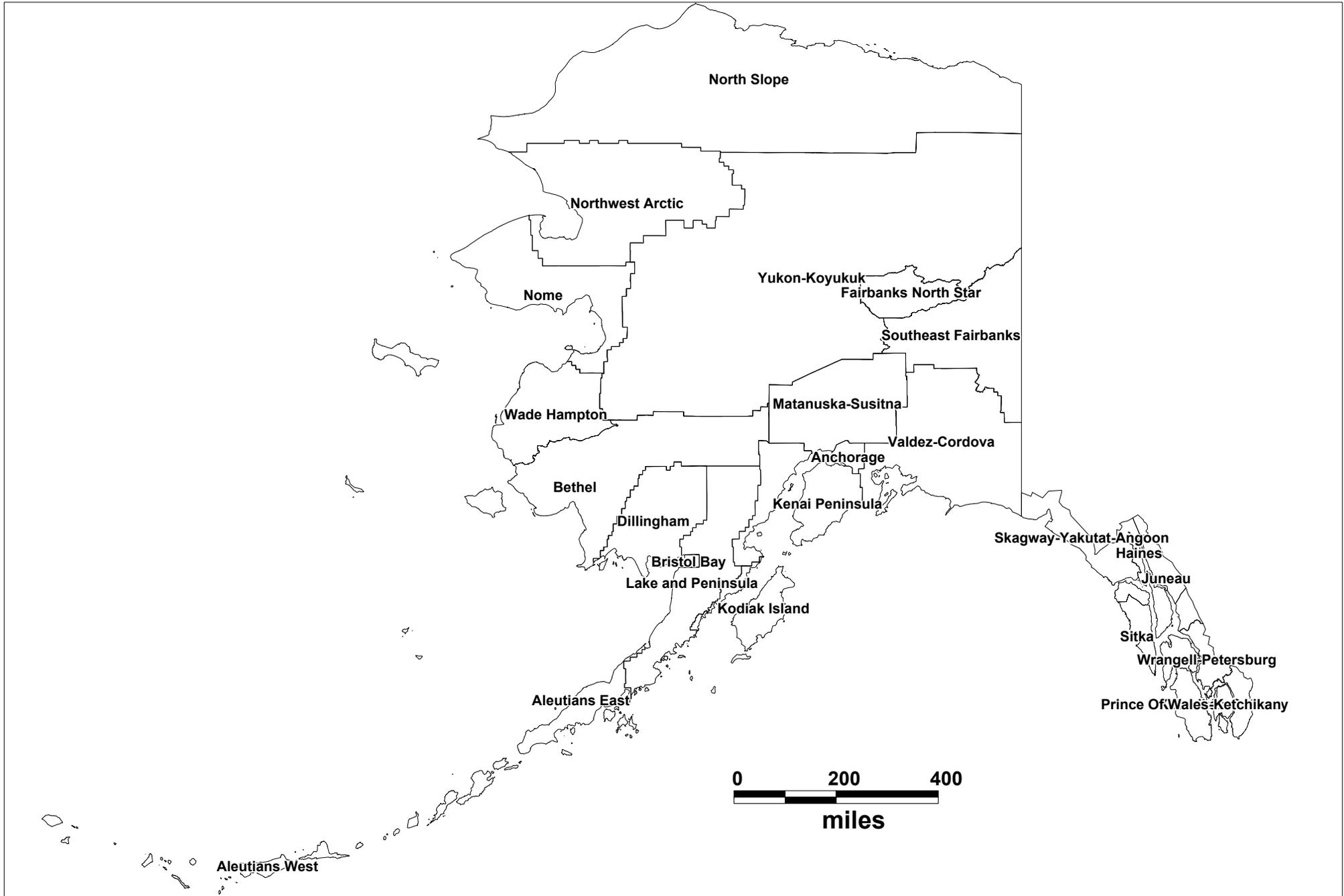
Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs)





Alaska Boroughs

EXHIBIT C-4



Alaska: The Last Frontier

Alaska is such a huge state! If you were to imagine it positioned over the Lower 48, Alaska would stretch from the Atlantic Ocean across the continent to the Pacific Ocean. Try comparing Alaska to individual states!



Compare the size of Alaska to the size of



(comparison based on total state area, land and water)