private automobile travel with other transportation modes.

(2) For portions of the NPS transportation system within transportation management areas (TMAs), the NPS transportation planning process shall include a CMS that meets the requirements of this section. By agreement between the TMA and the NPS, the TMA's CMS coverage may include the transportation systems serving NPS facilities, as appropriate. Through this agreement(s), the NPS may meet the requirements of this section.

(3) If a TMA's CMS does not provide coverage of the portions of the NPS transportation facilities within the boundaries of the TMA, the NPS shall develop a separate CMS to cover those facilities within the boundaries of the TMA. Approaches may include the use of alternate mode studies and implementation plans as components of the CMS.

(4) A CMS will:

(i) Identify and document measures for congestion (*e.g.*, level of service);

(ii) Identify the causes of congestion;

(iii) Include processes for evaluating the cost and effectiveness of alternative strategies;

(iv) Identify the anticipated benefits of appropriate alternative traditional and nontraditional congestion management strategies;

(v) Determine methods to monitor and evaluate the performance of the multi-modal transportation system; and

(vi) Appropriately consider strategies, or combinations of strategies for each area, such as:

(A) Transportation demand management measures;

(B) Traffic operational improvements;

(C) Public transportation improvements;

(D) ITS technologies; and

(E) Additional system capacity.

[FR Doc. 03–102 Filed 1–7–03; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 971

[FHWA Docket No. FHWA–99–4969]

RIN 2125–AE55

Federal Lands Highway Program; Management Systems Pertaining to the Forest Service and the Forest Highway Programs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The Transportation Equity Act for the 21st Century (TEA–21), requires the Secretary of Transportation and the Secretary of each appropriate Federal land management agency to develop, to the extent appropriate, safety, bridge, pavement, and congestion management systems for roads funded under the Federal Lands Highway program (FLHP). The Secretary of Transportation has delegated the authority to the FHWA to serve as the lead agency within the U.S. DOT to implement the FLHP. The roads funded under the FLHP include Park Roads and Parkways, Forest Highways, Refuge Roads, and Indian Reservation Roads. This rulemaking proposes to provide for the development and implementation of safety, bridge, pavement, and congestion management systems for transportation facilities providing access to and within the National Forests and funded under the FLHP.

DATES: Comments must be received on or before March 10, 2003.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Bini, Federal Lands Highway, HFPD–2, (202) 366–6799, FHWA, 400 Seventh Street, SW., Washington, DC 20590; office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. For legal questions, Ms. Vivian Philbin, HFL–16, (303) 716–2122, FHWA, 555 Zang Street, Lakewood, CO 80228. Office hours are from 7:45 a.m. to 4:15 p.m., m.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS): *http://dmses.dot.gov/submit.* Acceptable formats include: MS Word (versions 95 to 97), MS Word for Mac (versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII) (TXT), Portable Document Format (PDF), and WordPerfect (versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

Section 1115(d) of the TEA–21 (Public Law 105–178, 112 Stat. 107, 156 (1998)) amended 23 U.S.C. 204 to require the Secretary of Transportation and the Secretary of each appropriate Federal land management agency, to the extent appropriate, to develop safety, bridge, pavement, and congestion management systems for roads funded under the FLHP. A management system is a process for collecting, organizing and analyzing data to provide a strategic approach to transportation planning, program development, and project selection. Its purposes are to improve transportation system performance and safety, and to develop alternative strategies for enhancing mobility of people and goods.

The roads funded under the FLHP include, but are not limited to, Park Roads and Parkways, Forest Highways, Refuge Roads, and Indian Reservation Roads. The Secretary of Transportation delegated to the FHWA the authority to serve as the lead agency within the U.S. Department of Transportation to administer the FLHP (see 49 CFR 1.48 (b)(29)). This rulemaking action addresses the management systems for the Forest Service (FS) and the Forest Highway (FH) program.

On September 1, 1999, the FHWA issued an advance notice of proposed rulemaking (ANPRM) to solicit public comments concerning development of this proposed regulation pertaining to the FS and the FH program (64 FR 47744). The ANPRM requested comments on the feasibility of developing a rule to meet both the transportation planning and management systems requirements of

the TEA–21. Therefore, comments made to the docket addressed both transportation planning and management systems issues. However, the FHWA has decided to separate the NPRM's for transportation planning and management systems. For this reason, this NPRM concerns only the development of the management systems. This NPRM includes responses to the comments submitted to the docket on the ANPRM that addressed the proposed development of the four management systems. Those comments on the ANPRM that addressed transportation planning will be addressed at a later date. The FHWA received comments addressing the management systems from various State Transportation Departments and the Oregon Association of County Engineers and Surveyors. These comments are summarized below. Specific comments may be obtained by reviewing the materials in the docket.

Based on the comments on the ANPRM, the FHWA has developed this NPRM to provide for the development and implementation of pavement, bridge, safety, and congestion management systems for transportation systems providing access to and within the National Forests and Grasslands, and funded under the FLHP. Separate NPRMs on management systems have also been developed for the Fish and Wildlife Service (FWS) and the Refuge Roads program, the National Park Service (NPS) and the Park Roads and Parkways program, and the Bureau of Indian Affairs (BIA) and the Indian Reservation Roads program. The other three related NPRMs are published elsewhere in today's **Federal Register**.

On April 21, 2000, then President Clinton issued Executive Order (EO) 13148, Greening the Government Through Leadership in Environmental Management. This EO requires all Federal agencies to implement an environmental management system (EMS) to ensure that agencies develop strategies to support environmental leadership in programs, policies, and procedures and that senior level managers explicitly and actively endorse these strategies. The EO requires that agencies implement an EMS no later than December 31, 2005. Furthermore, in an April 1, 2002, letter, the Bush Administration encouraged all agencies to promote the use of EMS in Federal, State, local, and private facilities and directed the Environmental Protection Agency (EPA) to report annually on how well each agency has done in promoting EMS.

The FHWA has already begun working toward establishing an EMS. Additionally, the FWHA is working with the American Association of State Highway and Transportation Officials' (AASHTO) Center for Environmental Excellence to include EMS as part of an environmental stewardship demonstration project. The FHWA is currently providing technical and financial assistance to the Center, which in turn supports States that have initiated EMSs.[1] Furthermore, the FHWA continues to demonstrate environmental stewardship by encouraging the use of EMS in the construction, operation, and maintenance of transportation facilities.

Although an EMS may have some overlap with the four management systems that are the subject of this proposed rulemaking, the FHWA has decided not to incorporate the EMS in this rulemaking. The FHWA believes that great progress has been made on the EMS and promoting the use of EMS by the States. In addition, the FHWA has a long-standing working relationship with the Federal Land Management Agencies (FLMAs) through the Federal Lands Highway Program. The natural resource conservation and preservation missions of these agencies have led to the development of a jointly held environmental ethic that pervades transportation project decision-making through the use of context sensitive design, best management practices, and a heightened sensitivity to environmental impacts. This relationship provides a strong foundation for the FHWA to encourage the use of environmental management systems by the FLMAs. For example, the National Park Service currently has an initiative underway to implement a service-wide EMS approach. The FHWA and the NPS can evaluate ways to coordinate the use and development of the EMS with the transportation management systems through the joint development of the management system implementation plan called for in this rulemaking. A similar approach can be used with all of the FLMAs.

Any EMS developed by the FHWA, or by a FLMA, will not have an adverse effect on any of the management systems in this proposed rulemaking. Instead, such an EMS may help foster a movement toward the use of a comprehensive asset management system that incorporates EMS, along with the transportation management systems proposed in this rulemaking, and others not covered in this proposed action, such as a maintenance management system. The role of the EMS in a more comprehensive approach would demonstrate a commitment to environmental stewardship that goes beyond the individual project level or the development of a multi-project transportation program. The EMS should be a fundamentally important business tool that pervades all aspects of FLMA transportation decision-making. The FHWA will continue to advance its EMS and promote the EMS initiatives of the FLMAs through implementation planning for the transportation management systems. In addition, the FHWA will continue to promote the use of EMSs in the construction, operation, and maintenance of transportation facilities.

In developing the management system implementation plans, the need for data elements that address the environmental performance measures can be evaluated in relationship to individual agency plans to implement an EMS. This could provide an opportunity for the ongoing collection of environmental information, if appropriate and necessary. At a minimum, this would provide an opportunity to link existing environmental data to the transportation management systems using a geographic information system common to both systems.

From the FHWA's stewardship perspective regarding the Federal Lands Highway Program, EMS is most appropriately pursued as part of sound FLMA business management planning. Thus, the FHWA has decided not to address the EMS requirement in this proposed rulemaking action.

Summary of Comments Received on the ANPRM Pertaining to the FS and the Forest Highway Programs

The following discussion summarizes the comments received on the ANPRM and the FHWA's response to these comments. This discussion provides the public a general sense of the issues addressed in the comments. As previously stated, this NPRM is intended for the development of management systems. Therefore, this summary contains only comments and responses related to the management systems. There are instances where reference is made to transportation planning issues because the management systems serve as a guide to planning activities.

Rule Development

Comments: The majority of comments supported the FHWA's proposal to develop ''separate rules'' pertaining to the FS and the FH programs, the NPS

[1] More information on how EMS applies to transportation organizations can be found on the AASHTO's Center for Environmental Excellence website at the following URL: *http://itre.ncsu.edu/AASHTO/stewardship.*

and the Park Roads and Parkways program, the FWS and the Refuge Roads program, and the BIA and the Indian Reservations Roads program. The commenters in favor of this proposal point out the fact that transportation planning functions for the different Federal lands highways are performed by various Federal, State, Tribal and local entities, depending on ownership of the roadways and responsibilities for constructing and maintaining the facilities.

The Wisconsin DOT and the Kentucky Transportation Cabinet offered an opposite view. These two State DOTs requested that we develop only one general rule applicable to all four agencies. The Wisconsin DOT suggested that this rule be flexible so that it recognizes the different approaches used by the States. The Kentucky Transportation Cabinet recommended that the rule should require the Federal land management agencies (FLMAs) to develop Memoranda of Understanding or Agreements that would address the consistency between Federal land transportation planning procedures and those required under 23 U.S.C. 134 and 135. The Kentucky Transportation Cabinet was concerned that the additional rules might jeopardize existing procedures already in effect.

Response: Following the recommendations from the majority of commenters, the FHWA, in consultation with each appropriate Federal land management agency, developed a separate rule pertaining to each agency: the FS, the NPS, the FWS, and the BIA. The variance among the rules allows for the significant differences in the ownership, jurisdiction, and maintenance responsibilities that the FLMAs exercise over the subject roadways addressed in the rule. To ensure uniformity, the FHWA coordinated the development of each NPRM, so that similar text and format are contained in each of the rules.

Addressing the Management Systems Requirements

Comments: Many States believe that the management systems should only be developed as needed and should relate to systems that are already implemented by States and local agencies. It was recommended that the FHWA encourage the Federal agencies to explore and use the States' existing systems. The States also recommended the systems be tailored to fit local conditions, and be applicable solely to the portion of the Federal lands highways owned and maintained by Federal agencies. Many of the States are concerned that the implementation of the management systems may affect the current working relationships among State, Tribal, local, and Federal agencies. The Wisconsin DOT encouraged the FHWA to work with the FLMAs and State Transportation Departments to clarify ownership discrepancies between Federal and State data. They suggested that the FLMAs have accurate data reflecting the amount of mileage the agencies own by location. Further, these data have to agree with data reported by States in the Highway Performance Monitoring System (HPMS) database.[2]

Response: The stakeholders' concerns presented above were considered in the development of this NPRM. Each of the proposed management system rules calls for the FHWA, in cooperation with the FLMA, to develop an implementation plan or implementation procedures for each of the management systems. In addition, flexibility is provided to determine criteria for the need and applicability of each of the FLMA's management systems. These implementation plans will provide the opportunity to relate the FLMA management systems to systems already implemented by States and local agencies. It will also allow the management systems to be tailored to fit a broad range of local conditions, and to avoid inefficient duplication of management systems already in use by the States. Development of the implementation plans will provide an opportunity to strengthen the working relationships among Federal, State, Tribal and local agencies, as well as define responsibility for and ownership of data. In fact, throughout the proposed regulation, we use the term ''tri-party partnership'' to refer to the joint, cooperative, shared partnership among the Federal Lands Highway Division, the State Department of Transportation and the Forest Service that carry out the FH program.

Comments: The Wisconsin DOT also stated that the FHWA should clarify that this rule and the National Highway System (NHS) Designation Act of 1995, Public Law 104–59, 109 Stat. 568, do not make the implementation of management systems mandatory.

Response: While it is correct that the Public Law 104–59 made the management systems optional for States and Metropolitan Planning Organizations (MPOs), except for the congestion management systems in MPOs with a population greater than 200,000, section 1115(d) of TEA–21 applies to the Federal land management agencies, not directly to the States; however, the States may be requested to provide information. The TEA–21, enacted on June 9, 1998, amended 23 U.S.C. 204 to specify, ''The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.'' Therefore, the development and implementation of the management systems, where appropriate, is mandated by law for the Federal land management agencies.

Approach to Structure of Proposed Regulation

In the development of this proposed rule, the FHWA has attempted to minimize the level of data collection and analyses required. The FHWA now solicits comments on the extent to which this strategy has been achieved. Any comments suggesting that the strategy has not been successful should identify the specific reasons why requirements and/or provisions are burdensome. Suggestions to lessen burdens are welcome.

Section-by-Section Analysis

Subpart A

Section 971.100 Purpose

This section states that subpart A provides definitions for terms used in this rule.

Section 971.102 Applicability

This section states that the definitions in subpart A are applicable to this rule.

Section 971.104 Definitions

This section incorporates the terms defined in 23 U.S.C. 101(a), 49 U.S.C. 5302, and 23 CFR part 450. It also includes additional definitions for terms used in this part.

The phrase ''Federal lands'' or ''Indian lands,'' as applicable, would be added to the definitions of ''bridge management system (BMS),'' ''congestion management system (CMS),'' ''pavement management system (PMS),'' and ''safety management system (SMS)'' to indicate the distinction between the Federal or Indian lands, and Federal-aid management systems (refer to 23 CFR part 500 for definitions of the Federal-aid management systems). The

[2] The HPMS was developed in 1978 as a national highway transportation system database. It includes limited data on all public roads, more detailed data for a sample of the arterial and collector functional system, and certain summary information for urbanized, small urban and rural areas. Additional information about this database is available online at the URL: *http://www.fhwa.dot.gov/ohim.*

management system definitions also specify their applicability to the BIA, FS, FWS and NPS, as appropriate.

Subpart B

Section 971.200 Purpose

This section states the purpose of this proposed regulation, which is to fulfill the requirements set forth by the TEA–21.

Section 971.202 Applicability

This section defines the applicability of the management systems.

Section 971.204 Management Systems Requirements

This section sets forth general requirements for all four management systems. Additional requirements applicable to specific systems are in §§ 971.208 through 971.214.

Paragraph (a) states that the tri-party partnership shall develop, establish, and implement the management systems as described in this subpart. In addition, paragraph (a), along with paragraph (d), provides flexibility in the development of the management systems. To ensure the management systems are developed, implemented, and operated systematically, paragraph (b) requires the development of procedures that will include the following: Consideration of management system results in the planning process; system analysis; a description of each management system; operation and maintenance of management systems and databases; and data collection, processing, analysis, and updating. Paragraph (c) ensures that the database has a geographical reference system so that information can be geolocated. Paragraph (e) requires a periodic evaluation of the effectiveness of the management systems, preferably as part of the transportation planning process. Paragraph (f) ensures that transportation investment decisions based on management system results would be used at the State area level.

Section 971.206 Funds for Establishment, Development, and Implementation of the Systems

This section provides that the funds available for the FH program can be used for development, establishment, and implementation of the management systems in accordance with legislative provisions for the funds.

Section 971.208 Federal Lands Pavement Management System (PMS)

Paragraph (a) defines the applicability of the PMS. Paragraph (b) permits the use of the American Association of State Highway and Transportation Officials' (AASHTO) ''Pavement Management Guide'' [3] as a guide for the development of the PMS. Paragraph (c) provides flexibility for the development of the PMS.

This section further sets forth components that must be included in a PMS. They include requirements for a basic framework composed of data collection and maintenance, network level analysis, and reporting requirements.

Section 971.210 Federal Lands Bridge Management System (BMS)

Paragraph (a) defines the applicability of the BMS. Paragraph (b) permits the use of the AASHTO's ''Guidelines for Bridge Management Systems'' [4] as a guide for the development of the BMS.

The section sets forth components that must be included in a BMS. They consist of data collection and maintenance, network level analysis, investment analysis, and reporting requirements.

Section 971.212 Federal Lands Safety Management System (SMS)

Paragraph (a) defines the applicability of the SMS. Paragraph (b) permits the use of the FHWA publication entitled ''Safety Management Systems: Good Practices for Development and Implementation.''[5]

Because of the strong emphasis the TEA–21 has on safety, paragraph (c) requires the SMS to be used to ensure that safety is considered and implemented as appropriate in all phases of transportation planning, programming and project implementation. Paragraph (d) states that the level of complexity of a SMS depends on the nature of the facilities involved.

Paragraphs (e) and (g) set forth components that must be included in a SMS. They include data collection and maintenance, identification and correction of potential safety problems, coordination, and reporting.

To provide flexibility, paragraph (f) states that the extent of SMS requirements set forth in this proposed rule for low volume roads may be tailored to be consistent with the functional classification of the roads. However, each functional classification should include adequate requirements to ensure effective safety decisionmaking.

Section 971.214 Federal Lands Congestion Management System (CMS)

This section defines congestion and addresses the criteria and the need for CMS coverage for portions of the FH network outside the boundaries of transportation management areas (TMAs). In addition, it specifies that the tri-party partnership shall consider CMS results in selecting implementation strategies to address congestion. Paragraph (c)(1) requires consideration of strategies that reduce automobile travel and improve the efficiency of the existing transportation system.

Paragraph (c)(2) further sets forth components to be included in a CMS. They include the following: identification and documentation of measures for congestion; identification of the causes of congestion; development of evaluation processes; identification of benefits of congestion management; determination of methods to monitor and evaluate performance of the overall transportation system after strategies are implemented; and consideration of example strategies provided in the proposed rule.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination using the docket number appearing at the top of this document in the docket room at the above address. The FHWA will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

[3] ''Pavement Management Guide,'' AASHTO, 2001, is available for inspection as prescribed at 49 CFR part 7. It may be purchased on line at *http://www.transportation.org.publications/bookstore.nsf* or mail addressed to the American Association of State Highway and Transportation Officials (AASHTO), Publication Order Dept., P.O. Box 96716, Washington, DC 20090–6716.

[4] ''Guidelines for Bridge Management Systems,'' AASHTO, 1993, is available for inspection as prescribed at 49 CFR part 7. It may be purchased on line at *http://www.transportation.org/publications/bookstore.nsf* or mail addressed to the American Association of State Highway and Transportation Officials (AASHTO), Publication Order Dept., P.O. Box 96716, Washington, DC 20090–6716.

[5] ''Safety Management Systems: Good Practices for Development and Implementation,'' FHWA and NHTSA, May 1996, may be obtained at the FHWA, Office of Safety, Room 3407, 400 Seventh St., SW., Washington, DC 20590, or electronically at *http://safety.thwa.dot.gov/media/documents.htm.* It is available for inspection and copying as prescribed at 49 CFR part 7.

Executive Order 12866 (Regulatory Planning and Review) and U.S. DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that the proposed rule would be a significant regulatory action within the meaning of Executive Order 12866, and under the regulatory policies and procedures of the U.S. Department of Transportation, because of the substantial public interest anticipated in the transportation facilities of the National Forests and Grasslands. The FHWA anticipates that the economic impact of any action taken in this rulemaking process will be minimal. Any changes proposed here are not anticipated to adversely affect any sector of the economy in a material way. Though the proposed action here will impact the FS, it will not likely interfere with any action taken or planned by the FS or another agency, or materially alter the budgetary impact of any entitlement, grants, user fees, or loan programs.

Based upon the information received in response to this proposed action, the FHWA intends to carefully consider the costs and benefits associated with this rulemaking. Accordingly, comments, information, and data are solicited on the economic impact of the proposal described in this document or any alternative proposal submitted.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. Commenters are encouraged to evaluate any options addressed here with regard to the potential for impact.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose a mandate that requires further analysis under the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, March 22, 1995, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local and Tribal Governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). This rulemaking proposes to provide for the development and implementation of pavement, bridge, safety, and congestion management systems for transportation systems providing access to and within the National Forests and Grasslands. These roads are funded under the FLHP; therefore the proposed rule is not considered an unfunded mandate. Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and Tribal Governments and the private sector.

Executive Order 13132 (Federalism)

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999. The FHWA has determined that this proposed action would not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that the proposed action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. However, commenters are encouraged to consider these issues, as well as matters concerning any costs or burdens that might be imposed on the States as a result of actions considered here.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposed rule contains a requirement for data and information to be collected and maintained in the four management systems that are to be developed. In order to streamline the process, the FHWA intends to request that the OMB approve a single information collection clearance for all of the data in the four management systems at the time that the requirements in this proposal are made final. The FHWA is sponsoring this proposed clearance on behalf of the U.S. Forest Service.

The FHWA estimates that a total of 8,900 burden hours would be imposed on non-Federal entities to provide the required information for the FS management systems. Respondents to this information collection include State Transportation Departments, Metropolitan Planning Organizations (MPOs), Tribal governments, regional transportation planning agencies, and county and local governments. The Forest Service would bear the burden of developing the management systems in a manner that would incorporate any existing data in the most efficient way and without additional burdens to the public. The estimates here only include burdens on the respondents to provide information that is not usually and customarily collected.

Where a substantial level of effort may be required of non-Federal entities to provide management system information, the effort has been benchmarked to the number of miles of State or locally owned roads or the number of State or locally owned bridges within the jurisdiction of the FS. This approach has been applied to the PMS, BMS and SMS. Since a substantial portion of the FS system is State or locally owned roads, considerable effort may be required of States, and county and local governments in providing pavement, bridge and safety information. The total annual burden estimate for these three systems is 6,100 hours. Burden estimates are 2,200 hours per year for the PMS; 1,700 hours per year for the BMS; and 2,200 hours per year for the SMS.

For implementation of the CMS, the non-Federal burden, if applicable, would likely fall to the MPOs, and represents the need for the FS to coordinate its management systems with the MPOs for that portion of its transportation system that is within an MPO area. For estimating purposes, approximately 70 MPOs nationwide may be burdened by the proposed regulation. Forty hours of burden were assigned to each of the 70 MPOs, resulting in a total annual burden estimate of 2,800 hours attributable to the FS CMS.

The FHWA is required to submit this proposed collection of information to the OMB for review and approval and, accordingly, seeks public comments. Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the performance of the functions of the FHWA, including whether the information has practical utility; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the information collected.

National Environmental Policy Act

The FHWA has analyzed this proposed action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this proposed action would not have any effect on the quality of the environment. An environmental impact statement is, therefore, not required.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed action under Executive Order 13175, dated November 6, 2000, and believes that the proposal will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal government, and will not preempt tribal law. The requirements set forth in the proposed rule do not directly affect one or more Indian tribes. Therefore, a tribal summary impact statement is not required.

Executive Order 12988 (Civil Justice Reform)

This proposed action meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not economically significant and does not involve an environmental risk to health and safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This proposed rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13211 (Energy Effects)

This proposed rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Effect Energy Supply, Distribution or Use. The FHWA has determined that it is not a significant energy action under that order because, although this proposed action is considered a significant regulatory action under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution or use of energy.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 971

Bridges, Grant programs—transportation, Highway safety, Highways and roads, National forests, Public lands, Transportation.

For reasons set forth in the preamble, the Federal Highway Administration proposes to amend chapter I of Title 23, Code of Federal Regulations, as set forth below.

Issued on: December 20, 2002.

Mary E. Peters,

Federal Highway Administrator.

1. Add part 971 to subpart L to read as follows:

PART 971—FOREST SERVICE MANAGEMENT SYSTEMS

Subpart A—Definitions

Sec.
971.100 Purpose.
971.102 Applicability.
971.104 Definitions.

Subpart B—Forest Highway Program Management Systems

971.200 Purpose.
971.202 Applicability.
971.204 Management systems requirements.
971.206 Funds for establishment, development and implementation of the systems.
971.208 Federal lands Pavement Management System (PMS).
971.210 Federal lands Bridge Management System (BMS).
971.212 Federal lands Safety Management System (SMS).
971.214 Federal lands Congestion Management System (CMS).

Authority: 23 U.S.C. 204, 315; 42 U.S.C. 7410 *et seq.*; 49 CFR 1.48.

Subpart A—Definitions

§ 971.100 Purpose.

The purpose of this subpart is to provide definitions for terms used in this part.

§ 971.102 Applicability.

The definitions in this subpart are applicable to this part, except as otherwise provided.

§ 971.104 Definitions.

Alternative transportation systems means modes of transportation other than private vehicles, including methods to improve system performance such as transportation demand management, congestion management, and intelligent transportation systems. These mechanisms help reduce the use of private vehicles and thus improve overall efficiency of transportation systems and facilities.

Elements means the components of a bridge important from a structural, user, or cost standpoint. Examples are decks, joints, bearings, girders, abutments, and piers.

Federal lands bridge management system (BMS) means a systematic process used by the Forest Service (FS), the Fish and Wildlife Service (FWS) and the National Park Service (NPS) for collecting and analyzing bridge data to make forecasts and recommendations, and that provides the means by which bridge maintenance, rehabilitation, and replacement programs and policies may be efficiently and effectively considered.

Federal lands congestion management system (CMS) means a systematic process used by the FS, FWS and NPS for managing congestion that provides information on transportation system performance, and alternative strategies for alleviating congestion and enhancing the mobility of persons and goods to levels that meet Federal, State and local needs.

Federal Lands Highway program (FLHP) means a federally funded program established in 23 U.S.C. 204 to address transportation needs of Federal and Indian lands.

Federal lands pavement management system (PMS) means a systematic process used by the FS, FWS and NPS that provides information for use in implementing cost-effective pavement reconstruction, rehabilitation, and preventive maintenance programs and policies and that results in pavement designed to accommodate current and forecasted traffic in a safe, durable, and cost-effective manner.

Federal lands safety management system (SMS) means a systematic process used by the FS, FWS and NPS with the goal of reducing the number and severity of traffic accidents by ensuring that all opportunities to improve roadway safety are identified, considered, implemented and evaluated as appropriate, during all phases of highway planning, design, construction, operation and maintenance, by providing information for selecting and implementing effective highway safety strategies and projects.

Forest highway (FH) means a State-designated road under the jurisdiction of, and maintained by, a public authority and open to public travel, that provides access to or within a National Forest or Grassland.

Forest Highway program means the public lands highway funds allocated each fiscal year as is provided in 23 U.S.C. 202 for projects that provide access to and within the National Forest system as described in 23 U.S.C. 202(b).

Forest Highway program transportation improvement program (FHPTIP) means a staged, multiyear, multimodal program of transportation projects in a State area consistent with the Forest Highway transportation plan and developed through the tri-party Forest Highway planning processes pursuant to 23 U.S.C. 204.

Forest Service transportation plan means the official Forest Highway multimodal, transportation plan that is developed through the tri-party Forest Highway transportation planning process pursuant to 23 U.S.C. 204.

Highway safety means the reduction of traffic accidents on public roads, including reductions in deaths, injuries, and property damage.

Intelligent transportation system (ITS) means electronics, communications, or information processing used singly or in combination to improve the efficiency and safety of a surface transportation system.

Life-cycle cost analysis means an evaluation of costs incurred over the life of a project allowing a comparative analysis between or among various alternatives. Life-cycle cost analysis promotes consideration of total cost, including maintenance and operation expenditures. Comprehensive life-cycle cost analysis includes all economic variables essential to the evaluation including user costs such as delay, safety costs associated with maintenance and rehabilitation projects, agency capital costs, and life-cycle maintenance costs.

Metropolitan planning area means the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and 49 U.S.C. 5303–5306 must be carried out.

Metropolitan planning organization (MPO) means the forum for cooperative transportation decisionmaking for the metropolitan planning area pursuant to 23 U.S.C. 134 and 49 U.S.C. 5303.

National Forest System means all the lands and waters reported by the Forest Service as being part of the National Forest System, including those generally known as National Forests and National Grasslands.

Operations means those activities associated with managing, controlling, and regulating highway traffic.

Secretary means the Secretary of Transportation.

Serviceability means the degree to which a bridge provides satisfactory service from the point of view of its users.

State means any one of the fifty States, the District of Columbia, or Puerto Rico.

Transportation facilities means roads, streets, bridges, parking areas, transit vehicles, and other related transportation infrastructure.

Transportation Management Area (TMA) means an urbanized area with a population over 200,000 (as determined by the latest decennial census) or other area when TMA designation is requested by the Governor and the MPO (or affected local officials), and officially designated by the Administrators of the FHWA and the Federal Transit Administration (FTA). The TMA designation applies to the entire metropolitan planning area(s).

Tri-party means the joint, cooperative, shared partnership among the Federal Lands Highway Division (FLHD), State Department of Transportation (State DOT), and the Forest Service (FS) to carry out the FH program.

Subpart B—Forest Highway Program Management Systems

§ 971.200 Purpose.

The purpose of this subpart is to implement 23 U.S.C. 204 which requires the Secretary and the Secretary of each appropriate Federal land management agency to develop, to the extent appropriate, safety, bridge, pavement, and congestion management systems for roads funded under the FLHP.

§ 971.202 Applicability.

The provisions in this subpart are applicable to the FHWA, the Forest Service and the State DOTs that are responsible for satisfying these requirements for management systems pursuant to 23 U.S.C. 204.

§ 971.204 Management systems requirements.

(a) The tri-party partnership shall develop, establish and implement the management systems as described in this subpart. The management systems may be tailored to meet the FH program goals, policies, and needs.

(b) The tri-party partnership shall develop and implement procedures for the acceptance of the existing, or the development, establishment, implementation and operation of new management systems. The procedures shall include:

(1) A process for ensuring the output of the management systems are considered in the development of the FH program transportation plans and transportation improvement programs, and in making project selection decisions under 23 U.S.C. 204;

(2) A process for the analyses and coordination of all management systems outputs to systematically operate, maintain, and upgrade existing transportation assets cost-effectively;

(3) A description of each management system;

(4) A process to operate and maintain the management systems and their associated databases; and

(5) A process for data collection, processing, analysis, and updating for each management system.

(c) All management systems will use databases with a common or coordinated reference system, that can be used to geolocate all database information, to ensure that data across management systems are comparable.

(d) Existing data sources may be used by the tri-party partnership to meet the management system requirements.

(e) The tri-party partnership shall develop an appropriate means to evaluate the effectiveness of the management systems in enhancing transportation investment decisionmaking and improving the overall efficiency of the affected transportation systems and facilities. This evaluation is to be conducted periodically, preferably as part of the FS planning process.

(f) The management systems shall be operated so investment decisions based on management system outputs can be accomplished at the State area level.

§ 971.206 Funds for establishment, development, and implementation of the systems.

The FLHP FH program funds may be used for development, establishment, and implementation of the management systems. These funds are to be administered in accordance with the procedures and requirements applicable to the funds.

§ 971.208 Federal lands Pavement Management System (PMS).

In addition to the requirements provided in § 971.204, the PMS must meet the following requirements:

(a) The tri-party partnership shall have PMS coverage of all FHs and other associated facilities, as appropriate, funded under the FLHP.

(b) The PMS may be based on the concepts described in the AASHTO's ''Pavement Management Guide.'' [1]

(c) The PMS may be utilized at various levels of technical complexity depending on the nature of the transportation network. These different levels may depend on mileage, functional classes, volumes, loading, usage, surface type, or other criteria the tri-party partnership deems appropriate.

(d) The PMS shall be designed to fit the FH program goals, policies, criteria, and needs using the following components, at a minimum, as a basic framework for a PMS:

(1) A database and an ongoing program for the collection and maintenance of the inventory, inspection, cost, and supplemental data needed to support the PMS. The minimum PMS database shall include:

(i) An inventory of the physical pavement features including the number of lanes, length, width, surface type, functional classification, and shoulder information;

(ii) A history of project dates and types of construction, reconstruction, rehabilitation, and preventive maintenance. If some of the inventory or historic data is difficult to establish, it may be collected when preservation or reconstruction work is performed;

(iii) A condition survey that includes ride, distress, rutting, and surface friction (as appropriate);

(iv) Traffic information including volumes and vehicle classification (as appropriate); and

(v) Data for estimating the costs of actions.

(2) A system for applying network level analytical procedures that are capable of analyzing data for all FHs and other appropriate associated facilities in the inventory or any subset. The minimum analyses shall include:

(i) A pavement condition analysis that includes ride, distress, rutting, and surface friction (as appropriate);

(ii) A pavement performance analysis that includes present and predicted performance and an estimate of the remaining service life (performance and remaining service life to be developed with time); and

(iii) An investment analysis that:

(A) Identifies alternative strategies to improve pavement conditions;

(B) Estimates costs of any pavement improvement strategy;

(C) Determines maintenance, repair, and rehabilitation strategies for pavements using life-cycle cost analysis or a comparable procedure;

(D) Provides for short and long term budget forecasting; and

(E) Recommends optimal allocation of limited funds by developing a prioritized list of candidate projects over a predefined planning horizon (both short and long term).

(e) For any FHs and other appropriate associated facilities in the inventory or subset thereof, PMS reporting requirements shall include, but are not limited to, percentage of roads in good, fair, and poor condition.

§ 971.210 Federal Lands Bridge Management System (BMS).

In addition to the requirements provided in § 971.204, the BMS must meet the following requirements:

(a) The tri-party partnership shall have a BMS for the FH bridges funded under the FLHP and required to be inventoried and inspected under 23 CFR part 650, subpart C, National Bridge Inspection Standards (NBIS).

(b) The BMS may be based on the concepts described in the AASHTO's ''Guidelines for Bridge Management Systems.''[2]

(c) The BMS shall be designed to fit the FH program goals, policies, criteria, and needs using the following components, as a minimum, as a basic framework for a BMS:

(1) A database and an ongoing program for the collection and maintenance of the inventory, inspection, cost, and supplemental data needed to support the BMS. The minimum BMS database shall include:

(i) The inventory data required by the NBIS (23 CFR 650.311);

(ii) Data characterizing the severity and extent of deterioration of bridge elements;

(iii) Data for estimating the cost of improvement actions;

(iv) Traffic information including volumes and vehicle classification (as appropriate); and

(v) A history of conditions and actions taken on each bridge, excluding minor or incidental maintenance.

(2) A system for applying network level analytical procedures at the State or local area level, as appropriate, and capable of analyzing data for all bridges in the inventory or any subset. The minimum analyses shall include:

(i) A prediction of performance and estimate of the remaining service life of structural and other key elements of each bridge, both with and without intervening actions; and

(ii) A recommendation for optimal allocation of limited funds through development of a prioritized list of candidate projects over predefined short and long term planning horizons.

(d) The BMS may include the capability to perform an investment analysis as appropriate, considering size of structure, traffic volume, and structural condition. The investment analysis may:

(1) Identify alternative strategies to improve bridge condition, safety and serviceability;

(2) Estimate the costs of any strategies ranging from maintenance of individual elements to full bridge replacement;

(3) Determine maintenance, repair, and rehabilitation strategies for bridge elements using life cycle cost analysis or a comparable procedure; and

(4) Provide short and long term budget forecasting.

(e) For any bridge in the inventory or subset thereof, BMS reporting requirements shall include, but are not limited to, percentage of non-deficient bridges.

§ 971.212 Federal Lands Safety Management System (SMS).

In addition to the requirements provided in § 971.204, the SMS must meet the following requirements:

(a) The tri-party partnership shall have an SMS for transportation systems providing access to and within National Forests and Grasslands, and funded under the FLHP.

(b) The SMS may be based on the guidance in ''Safety Management Systems: Good Practices for Development and Implementation.''[3]

(c) The tri-party partnership shall utilize SMS to ensure that safety is considered and implemented, as appropriate, in all phases of transportation system planning, design, construction, maintenance, and operations.

(d) The SMS may be utilized at various levels of complexity depending on the nature of the facility and/or network involved.

[1] ''Pavement Management Guide,'' AASHTO, 2001, is available for inspection as prescribed at 49 CFR part 7. It may be purchased online at *http://www.transportation.org/publications/bookstore.nsf* or mail addressed to the American Association of State Highway and Transportation Officials (AASHTO), Publication Order Dept., P.O. Box 96716, Washington, DC 20090–6716.

[2] ''Guidelines for Bridge Management Systems,'' AASHTO, 1993, is available for inspection as prescribed at 49 CFR part 7. It may be purchased on line at *http://www.transportation.org/publications/bookstore.nsf* or mail addressed to the American Association of State Highway and Transportation Officials (AASHTO), Publication Order Dept., P.O. Box 96716, Washington, DC 20090–6716.

[3] ''Safety Management Systems: Good Practices for Development and Implementation,'' FHWA and NHTSA, May 1996, may be obtained at the FHWA, Office of Safety, Room 3407, 400 Seventh St., SW., Washington, DC 20590, or electronically at *http://safety.fhwa.dot.gov/media/documents.htm.* It is available for inspection and copying as prescribed at 49 CFR part 7.

(e) The SMS shall be designed to fit the FH program goals, policies, criteria, and needs and shall contain the following components:

(1) An ongoing program for the collection, maintenance and reporting of a database that includes:

(i) Accident records with detail for analysis such as accident type using standard reporting descriptions (*e.g.*, right-angle, rear-end, head-on, pedestrian-related, *etc.*), location, description of event, severity, weather and cause;

(ii) An inventory of safety appurtenances such as signs, delineators, and guardrails (including terminals);

(iii) Traffic information including volume and vehicle classification (as appropriate); and

(iv) Accident rates by customary criteria such as location, roadway classification, and vehicle miles of travel.

(2) Development, establishment, and implementation of procedures for:

(i) Routine maintenance and upgrading of safety appurtenances including highway rail crossing safety devices, signs, highway elements, and operational features, where appropriate;

(ii) Identifying, investigating, and analyzing hazardous or potentially hazardous transportation system safety problems, roadway locations and features;

(iii) Establishing countermeasures and setting priorities to correct the identified hazards and potential hazards.

(3) Identification of focal points for all contacts at State, regional, Tribal and local levels to coordinate, develop, establish, and implement the SMS among the agencies.

(f) While the SMS applies to appropriate transportation systems providing access to and within National Forests and Grasslands funded under the FLHP, the extent of system requirements (*e.g.*, data collection, analyses, and standards) for low volume roads may be tailored to be consistent with the functional classification of the roads. However, adequate requirements should be included for each roadway to provide for effective inclusion of safety decisions in the administration of the FH program.

§ 971.214 Federal Lands Congestion Management System (CMS).

(a) For purposes of this section, congestion means the level at which transportation system performance is no longer acceptable due to traffic interference. For portions of the FH network outside the boundaries of TMA's, the tri-party partnership shall:

(1) Develop criteria to determine when a CMS is to be implemented for a specific FH; and

(2) Have CMS coverage for the transportation systems providing access to and within National Forests, as appropriate, that meets minimum CMS criteria.

(b) The tri-party partnership shall consider the results of the CMS when selecting the implementation of strategies that provide the most efficient and effective use of existing and future transportation facilities.

(c) In addition to the requirements provided in § 971.204, the CMS must meet the following requirements:

(1) For those FH transportation systems that require a CMS, in both metropolitan and non-metropolitan areas, consideration shall be given to strategies that reduce private automobile travel and improve existing transportation efficiency. Approaches may include the use of alternative mode studies and implementation plans as components of the CMS.

(2) A CMS will:

(i) Identify and document measures for congestion (*e.g.*, level of service);

(ii) Identify the causes of congestion;

(iii) Include processes for evaluating the cost and effectiveness of alternative strategies to manage congestion;

(iv) Identify the anticipated benefits of appropriate alternative traditional and nontraditional congestion management strategies;

(v) Determine methods to monitor and evaluate the performance of the multi-modal transportation system; and

(vi) Appropriately consider the following example categories of strategies, or combinations of strategies for each area:

(A) Transportation demand management measures;

(B) Traffic operational improvements;

(C) Public transportation improvements;

(D) ITS technologies; and

(E) Additional system capacity.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 972

[FHWA Docket No. FHWA–99–4970]

RIN 2125–AE54

Federal Lands Highway Program; Management Systems Pertaining to the Fish and Wildlife Service and the Refuge Roads Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The Transportation Equity Act for the 21st Century (TEA–21) requires the Secretary of Transportation and the Secretary of each appropriate Federal land management agency to develop, to the extent appropriate, safety, bridge, pavement, and congestion management systems for roads funded under the Federal Lands Highway program (FLHP). The Secretary of Transportation has delegated the authority to the FHWA to serve as the lead agency within the U.S. DOT to implement the FLHP. The roads funded under the FLHP include Park Roads and Parkways, Forest Highways, Refuge Roads, and Indian Reservation Roads. This rulemaking proposes to provide for the development and implementation of safety, bridge, pavement, and congestion management systems for transportation facilities serving the National Wildlife Refuge System (Refuge System) funded under the FLHP.

DATES: Comments must be received on or before March 10, 2003.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Bini, Federal Lands Highway, HFPD–2, (202) 366–6799, FHWA, 400 Seventh Street, SW., Washington, DC