(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) Routinely maintaining and upgrading safety appurtenances including highway-rail crossing warning devices, signs, highway elements, and operational features, where appropriate;

(ii) Identifying and investigating hazardous or potentially hazardous transportation elements and systems, transit vehicles and facilities, roadway locations and features;

(iii) Establishing countermeasures and setting priorities to address identified needs.

(3) A process for communication, coordination, and cooperation among the organizations responsible for the roadway, human, and vehicle safety elements;

(d) While the SMS applies to appropriate transportation systems serving NPS facilities 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 road and number and types of transit and other vehicles operated by the NPS.

§ 970.214 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 NPS transportation system outside the boundaries of TMAs, the NPS shall:

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

(2) Have CMS coverage for all transportation systems serving NPS facilities that meet minimum CMS needs criteria, as appropriate, funded through the FLHP.

(b) The NPS shall consider the results of the CMS when selecting congestion mitigation strategies that are the most time efficient and cost effective and that add value (protection/rejuvenation of resources, improved visitor experience) to the park and adjacent communities.

(c) In addition to the requirements provided in § 970.204, the CMS must meet the following requirements:

(1) For those NPS transportation systems that require a CMS, in both metropolitan and non-metropolitan areas, consideration shall be given to strategies that promote alternative transportation systems, reduce private automobile travel, and best integrate 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 congestion exists at a NPS facility within the boundaries of a TMA, and the TMA's CMS does not provide coverage of the portions of the NPS transportation facilities experiencing congestion, the NPS shall develop a separate CMS to cover those facilities. 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. 04–4052 Filed 2–26–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 971

[FHWA Docket No. FHWA–99–4969]

FHWA RIN 2125–AE55

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

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This final rule provides 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 Grasslands and funded under the Federal Lands Highway Program (FLHP) as required by the Transportation Equity Act for the 21st Century (TEA–21). The roads funded under the FLHP include Park Roads and Parkways, Forest Highways, Refuge Roads, Indian Reservation Roads, and Public Lands Highways. These management systems provide a strategic approach to transportation planning, program development, and project selection.

EFFECTIVE DATE: March 29, 2004.

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

This final rule, the ANPRM, the NPRM, and all comments received by the U.S. Docket Facility, Room PL–401, may be viewed through the Docket Management System (DMS) at *http://dms.dot.gov*. 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 this 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.archives.gov* and the Government Printing Office's Web site at: *http://www.access.gpo.gov/nara*.

Background

Section 1115(d) of the TEA–21 (Pub. L. 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 by rule safety, bridge, pavement, and congestion management systems for roads funded

under the FLHP. The roads funded under the FLHP include, but are not limited to, Park Roads and Parkways, Forest Highways, Refuge Roads, Indian Reservation Roads, and Public Lands Highways. 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. Separate final rules 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 final rules are published elsewhere in today's **Federal Register**.

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. 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. Subsequently, the FHWA decided to publish a separate rule for the management systems, and address transportation planning at a later date.

On January 8, 2003 (68 FR 1088), the FHWA issued the notice of proposed rulemaking (NPRM) seeking comments on its proposal to develop and implement management systems. These comments are summarized in the "Summary of Comments'' section. Based on the comments received to the docket, the FHWA has developed this final rule 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, which are funded under the FLHP. There are instances where reference is made to transportation planning because the management systems serve as a guide to planning activities; however, this final rule only implements the development of management systems.

During the rulemaking process, other elements were considered because of their relationship to the management systems, including the need for an environmental management system (EMS). The FHWA is supporting and participating in the development of the American Association of State Highway and Transportation Officials' Center for Environmental Excellence in which EMSs, particularly as they relate to transportation, are a major component. This is consistent with the FHWA's priority on environmental stewardship and streamlining. The FHWA continues to demonstrate environmental stewardship by promoting the use of EMSs in the construction, operation, and maintenance of transportation facilities. As implementation plans are developed for the management systems, the FHWA will promote coordination of the transportation management systems with individual agency plans to implement an EMS. At a minimum, this would provide an opportunity to link existing environmental data to the transportation management systems using a common geographic information system. The FHWA decided not to address EMSs as part of this rulemaking action, but recognizing the importance of EMS initiatives, the FHWA believes EMSs are most appropriately pursued as part of sound business planning of each individual agency.

Summary of Comments

The FHWA received three comments to the docket on the NPRM. Of these three, two were individual submissions from the California (Caltrans) and Wyoming (WYDOT) State Departments of Transportation (State DOTs). The other was from a five-State coalition that included the State DOTs from Idaho, Montana, North Dakota, South Dakota and Wyoming (the State DOT coalition). The following discussion summarizes the specific comments received on the NPRM and the FHWA's response to the comments.

Rule Development

Comment: Caltrans, the WYDOT, and the State DOT coalition provided supportive comments. Caltrans supports the FHWA's efforts to develop management systems for transportation facilities on Federal lands.

WYDOT proposed that State DOTs serve as advisors in the development and implementation of the database that will support the management systems.

The State DOT coalition expressed support for the use of the existing tri-party partnership, consisting of the Forest Service, the FHWA, and the applicable State DOT, for the development and implementation of the management systems. The State DOT coalition specifically requested that the final rulemaking notice confirm that the States have such a role in implementing the rule.

Response: The FHWA is committed to the continued success of the tri-party partnership in delivering the FH program and to the use of the partnership in determining how the management systems will be developed and implemented. The tri-party partnership is specifically defined in the rule. Section 971.204 of the final rule, entitled "Management system requirements,'' delegates several responsibilities for the implementation of the management systems to the tri-party partnership. The States are given an integral role in the implementation of the management systems as reinforced in 23 CFR 660(b), which indicates that a State's existing management systems shall fulfill the requirements of this rule, to the extent that they are applicable. The FHWA also supports efforts of State DOTs to serve as advisors to the process and encourages all State DOTs to provide assistance, if requested.

Implementation—Process and Coordination Issues

Comment: Caltrans and the State DOT coalition suggested that Federal agencies should use existing systems to avoid redundancy and assure compatibility with existing State systems.

The WYDOT expressed concern that the proposed rule did not clearly identify the role of each tri-party agency in developing and implementing the management systems. The WYDOT also suggested that the FS maintain and update the database, and have personnel, as required, to oversee the data to make the management system a viable decision-making tool.

The State DOT coalition further suggested options to achieve this by either coordinating with the State DOTs that currently have management systems in place or pooling resources with other Federal land management agencies. The State DOT coalition also indicated that management systems should be implemented efficiently to control costs. This could include limiting the data collected to the minimum amount necessary to achieve the goals and objectives of the FH program. They further noted that the judicious determination of the extent of the requirements for the new management systems could preserve program funds for actual projects. Additionally, the State DOT coalition suggested including a provision in the rule that excludes from the management

system any roads that are already the responsibility of a State.

Response: Section 971.204 of the final rule, entitled "Management system requirements,'' calls for the tri-party partnership to develop implementation procedures for each of the management systems. In addition, flexibility is provided in the final rule to determine criteria for the need and applicability of each of the management systems. These implementation plans will provide the opportunity to relate the FH 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 procedures and resulting management systems will provide an opportunity to strengthen the working relationship of the tri-party partnership, as well as define the roles for each agency and the responsibilities for data. The tri-party partnership is responsible for determining an appropriate role for the FS in maintaining and updating the databases, and assuring that they are used as effective tools to improve the FH program. The results of this process can then be used to update existing memorandums of understanding that govern the tri-party process for administering the FH program in each State. This process will provide States with the ability to directly influence how the final rule is implemented, and avoid undue burden.

Implementation—Management System Structure and Data Standards

Comment: The WYDOT expressed concern that the proposed rulemaking is more prescriptive than 23 CFR Part 500, Subpart F in terms of the guidance under which the WYDOT is presently operating its management systems. Other concerns expressed by the WYDOT included uncertainty about the accuracy and completeness of bridge data currently collected by the Federal land management agencies, uncertainty about the number of additional bridges to be inventoried, and difficulty in coordinating databases due to dissimilar formats. Because of this, the WYDOT suggested that the Federal Lands bridge management system should be operated completely independently of State systems.

The State DOT coalition indicated that the inclusion of unpaved roads might make the development of a pavement management system for all roads too costly.

Response: The definitions of management systems in the final rule mirror very closely the definitions of management systems in 23 CFR Part 500. In addition, the management system requirements in the rule further enumerate the types of information and processes necessary to create effective management systems as anticipated by 23 CFR Part 500, consistent with FHWA and AASHTO guidelines. The tri-party partnership has considerable latitude to tailor the management systems to meet FH program goals, policies, and needs under the rule, by using professional engineering and planning judgment in determining the required nature and extent of the management systems. In that regard, concerns over the accuracy and completeness of Federal land management agency data, problems with data format, and the effective interface between systems can be resolved through the cooperative development of the management system implementation processes and procedures by the tri-party partnership.

The rule anticipates that, by definition, all paved roads would be included in the pavement management system. The choice of including unpaved roads in the system for future planning purposes would be at the option of the tri-party partnership.

Section-by-Section Analysis

After careful consideration of the comments received, the FHWA has modified the final rule to address the concerns of the commenting States for flexibility in implementation of the management systems. This section-by-section analysis describes the change.

Section 971.204

Comment: The WYDOT and the State DOT coalition indicated a need for the tri-party partnership to have flexibility in determining how to best structure the management systems to meet the intent and requirements of the rule, yet implement the systems in a cost effective and efficient manner. In addition, the WYDOT and the State DOT coalition expressed uncertainty regarding the data requirements for the management systems and the roles of the tri-party partnership agencies in implementing the management systems.

Response: The FHWA supports the need for the tri-party partnership to have flexibility in developing and implementing procedures for the development, establishment, implementation and operation of the management systems. In addition, the FHWA has attempted to clarify and reinforce the role of the States in developing, implementing and operating management systems as a member of the tri-party partnership. To do this, the FHWA has amended § 971.204(a) by adding a new sentence that reads, "If a State has established a management system for FH that fulfills the requirements in 23 U.S.C. 303, that management system, to the extent applicable, can be used to meet the requirements of this subpart consistent with 23 CFR 660.105(b). In addition, to provide the necessary flexibility for the tri-party partnership in implementing the management systems, the FHWA has modified the third sentence of § 971.204(a) by inserting the following after the word needs "* * * using professional engineering and planning judgment to determine the required nature and extent of systems coverage consistent with the intent and requirements of this rule.''

Additionally, the FHWA is revising the definition of "Forest highway'' to be consistent with definition of Forest highway in 23 U.S.C. 101. The definition in the NPRM was drafted to recognize the substantial role of the States in developing, establishing, and implementing the Forest highway program management systems and in the designation of Forest highways. Although the definition in the NPRM was accurate, the FHWA reconsidered the use of a definition of "Forest highway'' that was different from the statutory definition. To avoid confusion and for consistency, the definition of "Forest highway'' is changed to the definition that appears in 23 U.S.C. 101.

Conclusion

The FHWA anticipated public interest in this rulemaking and the comments to the docket have helped raise awareness about the roles and responsibilities of all of the entities involved in the implementation of the final rule, which will be important to consider in the development of the implementation procedures by the tri-party partnership. These implementation procedures can be an effective tool in avoiding duplication and redundancy, minimizing the burden on States and other non-Federal entities, and determining the required extent of management systems coverage. The FHWA believes that the resulting change in the final rule addresses the commenting States' concerns, as members of the tri-party partnership, for flexibility and will yield enhanced cooperation and coordination in its implementation.

Rulemaking Analyses and Notices

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

The FHWA has determined that this final rule is 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 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, and that the final rule will not adversely affect any sector of the economy in a material way. Though this action will impact the FS, it is unlikely that it will 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.

The FHWA has considered the costs and benefits associated with this rulemaking and the information provided in response to the proposed rule and believes that the benefits outweigh the costs. Information provided by the management systems will enhance transportation investment decisions for the FH program and improve the overall efficiency of the FS transportation system. In addition, management system information will assist the FHWA in its stewardship and oversight roles. The benefits of this information will be significant in relationship to the costs of implementation.

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.

Unfunded Mandates Reform Act of 1995

This final rule will not impose a mandate that requires further analysis under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). This final rule will not result in the expenditure by State, local, and Indian 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 final rule provides 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 that are funded under the FLHP. Therefore, this action is not considered an unfunded mandate.

Executive Order 13132 (Federalism)

This final 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 action will not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. The FHWA has also determined that this final action will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

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 final 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 requested that the OMB approve a single information collection clearance for all of the data in the four management systems at the time the final rule is published. The FHWA is sponsoring this clearance on behalf of the 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), regional transportation planning agencies, and county and local governments. The tri-party partnership has a responsibility to develop 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 for 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 pavement management system (PMS), bridge management system (BMS), and safety management system (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 congestion management system (CMS), the non-Federal burden, if applicable, would likely fall to the MPOs. The burden represents the need for the FS to coordinate its management systems with the MPOs for that portion of its transportation system within an MPO area. This results in a total annual burden estimate of 2,800 hours for the FS CMS.

The State DOT coalition and WYDOT provided comments on the proposed data collection indicating that the management systems should be implemented in a way that does not burden States or adversely affect the funding or other resources available for the State programs. The State DOT coalition's comments encouraged a cooperative process using approaches that would avoid redundancy and duplication in implementing the management systems.

WYDOT also expressed concern about the uncertainty of the number of additional bridges to be inventoried due to previous problems in effectively including federally owned bridges in the WYDOT bridge inventory system.

The FHWA anticipated some burden on States and MPOs in the burden estimates prepared as part of the rulemaking. The State DOT coalition or WYDOT did not question the need for management systems or the FHWA's burden estimates. The FHWA believes that the value of the management systems information for transportation decision-making outweighs the burden of collecting it. The FHWA has tried to

keep the data collection burden to the lowest level possible, while providing for the necessary data and the FHWA believes the burden estimates to be fair and equitable. The tri-party partnership has the responsibility to develop the management systems in a manner that would incorporate any existing data in the most efficient way and without additional burdens to the public.

National Environmental Policy Act

The FHWA has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that this final rule will 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 action under Executive Order 13175, dated November 6, 2000, and concluded that this final rule 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 final 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 final rule 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)

Under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, this final 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 final 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 final rule has been analyzed under Executive Order 13211, Actions Concerning Regulations That Significantly Affect 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, the final rule 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, Congestion management, Grant program—transportation, Highways and roads, Management systems, National forests, Pavement management, Public lands, Safety management, Transportation.

■ For reasons set forth in the preamble, the Federal Highway Administration amends chapter I of title 23, Code of Federal Regulations, as set forth below.

Issued on: February 18, 2004.

Mary E. Peters,

Federal Highway Administrator.

■ 1. Add a new part 971 to subchapter L to read as follows:

PART 971—FOREST SERVICE MANAGEMENT SYSTEMS

Subpart A—Definitions

Sec.

Subpart B—Forest Highway Program Management Systems

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 mean the components of a bridge that are 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 forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

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) and 23 U.S.C. 204.

Forest Highway program transportation improvement program (FHTIP) means a staged, multiyear, multimodal program of transportation projects in a State area consistent with the FH transportation plan and developed through the tri-party FH planning processes pursuant to 23 U.S.C. 204, and 23 CFR 660 subpart A.

Forest Service transportation plan means the official FH multimodal, transportation plan that is developed through the tri-party FH 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 decision-making 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 FS 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 50 States, the District of Columbia, or Puerto Rico.

Transportation facilities mean 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). It also must be officially designated by the Administrators of the Federal Highway Administration (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 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 the extent appropriate, to develop by rule 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 FS, the Federal Highway Administration, 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. If the State has established a management system for FH that fulfills the requirements in 23 U.S.C. 303, that management system, to the extent applicable, can be used to meet the requirements of this subpart consistent with 23 CFR 660.105(b). The management systems may be tailored to meet the FH program goals, policies, and needs using professional engineering and planning judgment to determine the nature and extent of systems coverage consistent with the intent and requirements of this rule.

(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 is 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 decision-making 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 level.

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

The 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 may 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 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, subpart C);

(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

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

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

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.

(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) Where appropriate, routine maintenance and upgrading of safety appurtenances including highway rail crossing safety devices, signs, highway elements, and operational features,

(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 TMAs, 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 meet 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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[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.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 972

[FHWA Docket No. FHWA–99–4970]

FHWA 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: Final rule.

SUMMARY: This final rule provides 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 Federal Lands Highway Program (FLHP) as required by the Transportation Equity Act for the 21st Century (TEA–21). The roads funded under the FLHP include Park Roads and Parkways, Forest Highways, Refuge Roads, Indian Reservation Roads, and Public Lands Highways. These management systems will provide a strategic approach to transportation planning, program development, and project selection.

EFFECTIVE DATE: March 29, 2004.

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

This final rule, the ANPRM, the NPRM, and all comments received by the U.S. Docket Facility, Room PL–401, may be viewed through the Docket Management System (DMS) at *http://dms.dot.gov.* The DMS is available 24 hours each day, 365 days each year.